

MEMORANDUM OF UNDERSTANDING

This memorandum is made on the 3rd day of April 2018 ("**Commencement Date**")

between:

Screen Producers Association of Australia (SPA)

AND

Media, Entertainment & Arts Alliance (MEAA)

("the parties")

THE PARTIES AGREE AS FOLLOWS:

TITLE: The TV Animation Voiceover MOU 2018

1. PREAMBLE

- 1.1. SPA and MEAA wish to reach agreement about the particular terms and conditions of engagement for performers working as voice artists for television and online animation productions.
- 1.2. It is acknowledged that the industry standard applying to television animation until this MOU is ATRRA 2000. SPA and MEAA agree to update those ATRRA 2000 animation arrangements to reflect ATRRA 2016. Additionally, the parties have agreed to some further beneficial terms and conditions to apply for voice artists engaged on animation programs. This MOU outlines the updated arrangements to apply to television animation programs which shall now also extend to online animation programs.
- 1.3. This MOU outlines the minimum terms and conditions of engagement for performers engaged as animation voice artists on a television or online program (referred to as the Artist in this MOU). The Artist and/or their agent shall be entitled to negotiate superior provisions where appropriate to the circumstances.
- 1.4. This agreement applies to and is binding upon Screen Producers Australia and its members and the Media, Entertainment & Arts Alliance and its members.
- 1.5. The parties intend this MOU to create a legally binding agreement between them.

1.6. This MOU shall be read in conjunction with the *Actors' Television Programs Agreement 2013 (ATPA)* and the *Actors' Television Repeats and Residuals Agreement 2000* as varied as applicable to animation voiceover by the *Actors' Television Repeats and Residuals Agreement Terms of Settlement 2004* (combined referred to as **ATRRA**) and the *MEAA / SPA ATRRA 2016 MOU (ATRRA 2016)* and the *MEAA / SPA Memorandum of Understanding Pay Television Addendum 2017 (Pay Television Addendum)*. Where there is any inconsistency between this MOU and the ATPA or ATRRA or ATRRA 2016 or the Pay Television Addendum, the terms of this MOU apply.

1.7. This MOU and attached standard contracts are the intellectual property of Screen Producers Australia and the MEAA.

2. DEFINITIONS

ADR:	Means recording over the original production recording of part of an Artist'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 the recording of wholesale characters or recording an accent, dialect or language different from the accent, dialect or language used by the performer in the original production recording. For the avoidance of doubt, ADR does not include an Australian Voice Record or the full re-recording of a character by a new Performer.
Australian TV License Fees:	Means license fees paid by Australian free to air and subscription television networks for the rights to transmit the program
Australian Voice Record	Means the recording of the performer's voice for use solely in the territories of Australia and New Zealand. Producers' will require that licensees geo-block release of an Australian Voice Record Program so the Program's release is confined to these territories.
Bit Player	Means a performer called to record a Bit Part which is a Part (other than a First or Second Lead Character) of not more than six lines of dialogue or fifty words in any Episode. Bit Players may also do Incidental Sounds. A Bit Player may not be engaged unless a performer is engaged on the Program on a voice artist rate. A Bit Player may be engaged to do more than one Bit Part provided a loading of 100% of the BNF is paid for each such additional Bit Part. A Bit Player is engaged on a 3 hour call. The intention of the parties is not that Producers will engage multiple Bit Players to voice a program instead of principal cast, and in so doing erode opportunities for voice artists to be engaged on the principal rate. MEAA reserves the right to call for a limit on the number of Bit Players engaged per program in future if the agreement is found to be operating in a manner inconsistent with this intention.
Episode:	Up to one (1) commercial half hour which may be comprised of any

number of self-contained segments all of which add up to no more than thirty (30) minutes in respect of programs classified P for ACMA or identified as Pre-School by any network not subject to ACMA classification, and twenty four (24) minutes for all other programs.

Final Draft Report	Means in respect of an Episode, the character report/s for that character issued by the Final Draft program showing the number of lines and words spoken by each character in that Episode
Incidental Sounds:	An Artist may record incidental sounds as part of the episode fee. Incidental sounds include crowd scenes, utterances, background noises, vocal sound effects and incidental characters provided that in the case of words being spoken the incidental characters speak single phrases only or no more than one Line of Dialogue.
Line of dialogue	Means a line identified as such in the Final Draft Report.
First Lead Character:	The named main characters for the Program which shall be provided to the Artist on engagement.
Second Lead Character:	Means a character that is not a First Lead Character but that has more than 10 lines of dialogue in the relevant Episode.
Third Lead Character:	Means a character that has more than 1 but up to and including 10 Lines of Dialogue in the Episode.
Co-production	Means a program where key creative decisions relating to the story line, casting, direction and other aspects of production are shared by Australian and overseas managerial personnel or companies and where the voice of the Artist is used in both co-producing countries' first release.
Usage rights and residuals:	Means the acquisition of rights from the Artist as per the attached Rights schedule for the usage of the program in Australia and throughout the World on the terms specified in this MOU.

3. TERMS

Hours of work

- 3.1 Except in the case of ADR, an Artist shall receive a minimum payment for their call of one Episode rate. The maximum ordinary call shall be 6 hours per day.
- 3.2 The Artist shall be entitled to take a 10 minute rest break every hour at times agreed by the Artist and the producer. These rest breaks shall be included in the 6 hour call.

- 3.3 The Artist will also be allowed an unpaid meal break of between 30-60 minutes at a time agreed which shall not be counted as time worked.
- 3.4 Time worked in excess of six hours (not accounting for the meal break as outlined above) shall be overtime. All overtime worked shall be calculated up to the nearest 30 minutes and paid at 150% of the hourly BNF (that is, the BNF divided by 6 multiplied by time and a half).
- 3.5 ADR for Episodes already recorded may be done during another recording session for no extra fee but for no more than one hour per day. Alternatively, if the Artist is required to come into the studio on a day which is not a recording session, the Artist will be paid an hourly ADR rate for working a call no longer than 4 hours (inclusive of ten minute rest breaks per hour). The ADR rate shall be \$215 for a minimum 2.5 hour call and then \$86 per hour thereafter.

Pay and usage

- 3.6 The Artist will be engaged on a per Episode rate for recording each commercial half hour episode as defined. The Artist will not be required to record more than two Episodes in one day although the Artist and the Producer may agree to record more than two Episodes in one day where circumstances require, e.g. the Artist's availability or schedule changes. Overtime is not payable where the Artist requests to record more than 2 Episodes in one day.
- 3.7 It is acknowledged that the maximum residuals payable on TV animation under ATRRA on Australian ancillary and ROW is 20% and 90% of BNF respectively, some of which is included in the upfront fee. For co-productions, these amounts are 20% and 52.5% of BNF respectively. It is agreed in this MOU that the Producer will pay the full residuals capable of being paid under ATRRA upfront rather than on a deferred basis. It is also the purpose of this MOU to apply ATRRA 2016 to Australian television rights and repeats on a TV animation program other than where inconsistent with this MOU.
- 3.8 Consequently, on signing of this MOU, the following provisions in ATRRA are replaced by this MOU:
- Repeat fees – clauses 3 and 4
 - Australian Ancillary Usage Fees – clause 5
 - New Zealand and Elsewhere residual fees – clause 7.3, 7.4 and 7.5
 - Rates of Pay and Additional Loadings for Clause 2B(b)(ii) Programs – clause 9
 - Residuals Fee and Ancillary Usage Fees for Clause 2B(b)(ii) Programs
- 3.9 The parties update the above usage rights and residuals fees in accordance with this MOU as follows:

Pay Rate and Rights Schedule for Voice Artists and Bit Players	Schedule A
Pay Rate and Rights Schedule for Australian Voice Record only Programs	Schedule B
Character and other loadings	Schedule C

Australian usage

- 3.10 Where a Program is commissioned for initial broadcast on free television, payment of 70% of the Artist's BNF purchases 12 Plays within the Initial Licence Period (as defined under ATRRA 2016). A Play on free television is defined as a broadcast of the Program on three exhibition days, and as defined in ATRRA for pay television.
- 3.11 Where the Program is commissioned for initial broadcast on pay television, payment of 70% of the Artist's BNF purchases 6 Plays within the Initial Licence Period or 9 Plays within the Extended Initial Licence Period, as the case may be and as defined in the Pay Television Addendum. A Play on pay television is as defined as a broadcast of the Program on ten exhibition days in accordance with ATRRA, and as defined in clause 3.10 of this MOU for free television.
- 3.12 Where an Artist is engaged on a Program commissioned for initial broadcast on pay television under an Extended Initial Licence Period as per clause 3.10 of ATRRA 2016 set out in the Pay Television Addendum, the Artist will receive an additional 10% of BNF in their Episode fee.
- 3.13 Where SVOD is the commissioning platform, the terms of clause 3.5(a) and (b) of ATRRA 2016 shall apply to the SVOD uses, and otherwise the terms of this Agreement shall apply,
- 3.14 Under ATRRA 2016, the streaming loading is 10% of BNF. In recognition of the particular nature of audience viewing for animation programs, the streaming loading, if any, to apply to animation is 30%. This loading shall form part of the upfront fee rather than being deferred as per ATRRA 2016.
- 3.15 Additional free television Plays may be purchased during the Initial Licence Period on payment to the Artist of a repeat fee of 10% of BNF for each group of 4 Plays, and additional pay television Plays shall be acquired, defined and paid under ATRRA.
- 3.16 Artists in the program will be paid a royalty of 10% of the entire gross license fee for all Australian TV License Fees entered into after the Initial Licence Period which shall be distributed in accordance with the formula contained at clause 11 of the ATRRA.

- 3.17 The Australian ancillary residuals of 20% of BNF under ATRRA shall be included in the fee.

World usage

- 3.17 The "World All" rights loading of 90% included in Schedule A is payment for the exploitation of the program by any and all means throughout the World (other than Australia) up to the existing maximum residuals payable under ATRRA for "Elsewhere".
- 3.18 This loading for World All does not include usage on a US Network for which an additional amount is payable. If the program is sold to a US Network, the loading in ATRRA will apply.
- 3.19 MEAA reserves its rights to advance the claim of uncapped residuals for animation in subsequent negotiations.

Additional Voice loadings

- 3.20 All performers are entitled to additional voice loadings as applicable in accordance with Schedule C.
- 3.21 The producer will provide to the Artist a list of all the First Lead Characters for the series, namely those considered by the creators of the program to be Lead characters. Each production with audible dialogue must have at least one First Lead Character or one performer engaged on a voice artist rate.
- 3.22 In the event there is a disagreement about which characters are First Lead Characters, the producer will provide on request to the Artist or MEAA a written explanation of the rationale for why certain characters are or are not First Lead Characters. Should disagreement remain, the producer and MEAA will hold good faith discussions in an attempt to resolve the matter directly having regard to:
- Whether the character is a core character essential to the story without which there would be no program;
 - In what percentage of episodes the Artist would be required to perform that voice;
 - Whether any character is the titular character or the main protagonist;
 - Whether the program is genuinely an ensemble performance and so not driven by First Lead Characters.
- 3.23 In the event that the producer and MEAA acknowledge that the character loadings in this MOU do not properly suit the particular type of animation program (for example, because the Artist would be entirely voicing 'incidental' characters), the producer and MEAA may enter an agreement which departs from this MOU for the benefit of the Artist.
- 3.24 In the event there is a disagreement between an Artist and the producer on whether additional voices are Second Leads or Third Leads or whether a Bit Player has been properly engaged as such, the Artist or MEAA shall be

entitled to request the Final Draft Report on the Episode, and the producer shall provide the Final Draft Report within 7 days of request.

Character can be Third Lead or Bit Part

3.25 For the avoidance of doubt, a character is deemed to be:

- (a) a Third Lead if the performer is called to perform 2 to 10 lines of Dialogue for an additional character in the Episode where the Performer is otherwise engaged at the daily rate; or
- (b) a Bit Part if a performer is called only to perform between 2 and 6 lines but no more than 50 words for the same character and is only otherwise performing Bit Parts during the call. Where the character is deemed to be a Bit Part, the performer is engaged pursuant to the definition of Bit Player.

Co-production loading

3.26 Artists engaged as animation voice over artists working on a Co-Production will be entitled to an additional rights loading of 52% where applicable. The loading shall not apply to a co-production between Australia and New Zealand.

4. DURATION OF MEMORANDUM OF UNDERSTANDING

This MOU shall operate and have full effect from the date of signing until terminated by agreement between the parties or replaced with another agreement.

5. DISPUTES IN RELATION TO THIS MOU

- 5.1. SPA and MEAA agree to work together in good faith in relation to the operation of this MOU.
- 5.2. Should any dispute arise in relation to this MOU the parties agree that the dispute procedure contained in the ATPA shall apply as though the terms of this MOU were incorporated into the ATPA.

6. EFFECTIVE DATE AND GRANDFATHER CLAUSE

- 6.1. This MOU shall commence on the Commencement Date, and will apply prospectively to all Programs except those grandfathered in this clause.
- 6.2. For the avoidance of doubt, all Performers' contracts entered into before the Commencement Date are exempt from the provisions of this MOU and will be contracted on the ATRRA 2000, unless otherwise agreed with the Producer, the Performers and MEAA.

6.3. After the Commencement Date, the following Programs will also be exempt from this MOU and be grandfathered as continuing to operate on the ATRRA 2000 at the election of the Producer:

(a) For a period of 12 months after the Commencement Date Programs that:

- (i) have been granted development or production funding; or
- (ii) have signed financing documents; or
- (iii) have a commitment from a financier or broadcaster.

Provided that, if requested, the Producer will provide sufficient evidence to the satisfaction of SPA and MEAA that there is an expectation to use the ATRRA 2000; and

(b) At the election of the Producer prior to the completion of contracting of the Program, a subsequent series for an existing Program contracted under the ATRRA 2000.

7. TERM OF THIS MOU

7.1 This MOU will operate on and from the Commencement Date and remain in force [A] until varied or replaced by agreement OR [B] until either party provides written notice of termination (notice of which shall be no less than three months and be provided no earlier than 12 months after Commencement). The parties will undertake a review within 6 months after the expiry of this MOU having particular regard to the remuneration of artists performing multiple leads across multiple episodes during a single call. SPA will provide the MEAA with such evidence as is made available to it during the 12 month period of the MOU being in operation to facilitate a swift review. The parties agree to conduct the review in an open and transparent manner, including by using all reasonable endeavours to disclose and/or facilitate access to information which is relevant to the review. The parties then agree to commence good faith negotiations for any changes to this MOU having regard to this review.

Schedule A – Pay rate and rights schedule (as at January 2018)

VOICE ARTISTS PAY RATE & RIGHTS BUY FOR EACH EPISODE Other than Australian Voice Record and Bit Part fee	Usage Loadings %	Performer Class 2 Per Episode \$
ATPA performer 'engaged by the day' rate applies for animation voice artist (as a minimum) for day call		266.91
PERSONAL MARGIN		0.00
BASIC NEGOTIATED FEE (BNF)		266.91
RIGHTS LOADINGS		
Aust TV (12 plays for 3 years) *	70%	186.84
Aust streaming	30%	80.07
Australian Ancillary	20%	53.38
World All rights	90%	240.22
Plus Character Loadings	Schedule C	
COMPOSITE RATE		827.42
FRINGES		
Holiday Pay @ 8.33%		68.92
Superannuation 10.5%		94.12
TOTAL PAYMENT for each episode (before characters)		990.46

Notes:

* amend if pay television depending if 3 year or 5 year licence period and add 10% BNF loading if 5 year licence period

* Performers to record a maximum of 2 episodes per day subject to clause 3.6

BIT PART FEE PAY RATE & RIGHTS BUY FOR EACH EPISODE Other than Australian Voice Record Programs	Usage Loadings %	Performer Class 2 Per Ep \$
Bit Player for first Bit Part (minimum three hour call)		133.46
PERSONAL MARGIN		0.00
BASIC NEGOTIATED FEE (BNF)		133.46
RIGHTS LOADINGS		
Aust TV (12 plays for 3 years) *	70%	93.42
Aust streaming	30%	40.04
Australian Ancillary	20%	26.69
World All rights	90%	120.11
Loading of 100% of the BNF for each additional Bit Part		
COMPOSITE RATE		413.72
Holiday Pay @ 8.33%		34.46
Superannuation 10.5%		43.44
TOTAL fee		\$491.62

* amend if pay television depending if 3 year or 5 year licence period (add 10% BNF if 5 year licence)

Schedule B – Pay rate and rights schedule for Australian Voice Record only

VOICE ARTISTS	Usage	Performer
PAY RATE & RIGHTS BUY FOR EACH EPISODE	Loadings	Class 2
Australian Voice Record Programs	%	Per Ep \$
ATPA performer 'engaged by the day' rate applies for animation voice artist (as a minimum) for day call		266.91
PERSONAL MARGIN		0.00
BASIC NEGOTIATED FEE (BNF)		266.91
RIGHTS LOADINGS		
Aust TV (12 plays for 3 years) *	70%	186.84
Aust streaming	30%	80.07
Australian Ancillary	20%	53.38
ROW – not bought		
Plus Character Loadings	Schedule C	
COMPOSITE RATE		587.20
FRINGES		
Holiday Pay @ 8.33%		48.91
Superannuation 10.5%		66.79
TOTAL PAYMENT for each episode (before characters)		702.90

Notes:

*amend if pay television depending if 3 year or 5 year licence period and add 10% BNF if 5 year licence

* Performers to record a maximum of 2 Episodes per day subject to clause 3.6

BIT PART FEE	Usage	Performer
PAY RATE & RIGHTS BUY FOR EACH EPISODE	Loadings	Class 2
Australian Voice Record Programs	%	Per Ep \$
Bit Player for first Bit Part (minimum three hour call)		133.45
PERSONAL MARGIN		0.00
BASIC NEGOTIATED FEE (BNF)		133.45
Aust TV (12 plays for 3 years) *	70%	93.42
Aust streaming	30%	40.04
Australian Ancillary	20%	26.69
ROW – not bought	-	
Loading of 100% of the BNF for each additional Bit Part		
COMPOSITE RATE		293.60
FRINGES		
Holiday Pay @ 8.33%		24.45
Superannuation 10.5%		33.40
TOTAL PAYMENT		351.47

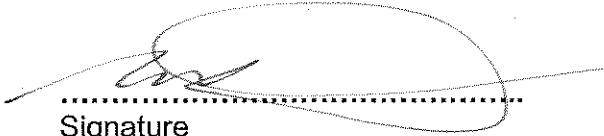
* amend if pay television depending if 3 year or 5 year licence period and add 10% BNF if 5 year licence

Schedule C – Additional Loadings


ADDITIONAL LOADINGS	% add to BNF
Character engaged to perform	0%
Incidental sounds and incidental characters (as defined)	0%
Each additional character which is a First Lead Character	100%
Each additional character which is a Second Lead Character	50%
Each additional character which is a Third Lead Character	25%
Additional Bit Part (only applicable where performer is engaged as a Bit Player)	100%
Co-production	52%

SIGNATURES

I am authorised to sign this Animation Voiceover MOU on behalf of Screen Producers Australia ("SPA")



Signature


 (CEO)

Print name and title

Address:

Suite 2, Level 1, 36 Fitzroy St,
Surry Hills NSW 2010

In the presence of:



Signature of witness




Print witness name

3 April 2018

Date

I am authorised to sign this Animation Voiceover MOU on behalf of Media,
Entertainment & Arts Alliance ("MEAA")

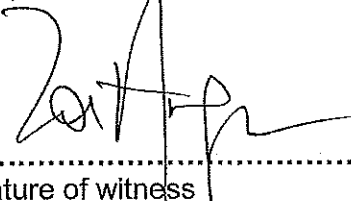

.....
Signature

PAUL MURPHY - CHIEF EXECUTIVE
.....
Print name and title

Address:

245 CHALMERS STREET
REDFERN NSW 2016

In the presence of:


.....
Signature of witness

28E ANGUS
.....
Print witness name
Direct Equity

22 March 2018
Date