

## **ARTIFICIAL INTELLIGENCE & USE OF PERFORMER'S IMAGE/LIKENESS**

### **AGREED SPA/MEAA STATEMENT August 2024**

These existing contract clauses<sup>1</sup> below apply to the engagement of Performers on scripted screen productions and are relevant to the use of Artificial Intelligence.

The core principle is that the Performer's likeness can be used for the production and to promote the production but cannot be used without permission in another production. SPA/MEAA agree that this means that the Performer's likeness (including visual footage or sound recording) cannot be used to create a synthetic image/sound of the Performer either for use beyond the terms of the initial engagement or on another production. Nor can the Performer's likeness be assigned to a third party for this purpose or for the purpose of training AI.

SPA acknowledges MEAA's position that, if the production were to use a synthetic or digital AI version of the Performer *within* the one production because the Performer was incapacitated or deceased, while this usage may not be inconsistent with the applicable Agreement, MEAA's position is that the Performer should be paid what they would otherwise have received for filming that material. Producers should also take all reasonable steps to ensure that the Performer's likeness (visual footage and sound recording) is protected from unauthorised third-party access.

#### **Right to use Performer's image in the Program/Film**

- Producer has the sole and exclusive right, title and interest in any and all recording of whatever nature of any work performed by the Performer in or in connection with the production.
- Producer has the right to use the performance of the Performer in the Program/Film, subject to the terms of the applicable Agreement. The Producer is bound by and must observe the provisions of the applicable Agreement (being ATRRA or AFFCA).
- The applicable Agreement will contain conditions on the use of the Performer's image (such as time limitations and/or residual fees payable for certain usages) that the Producer must comply with.

#### **Right to use Performer's image for promotion of the Program**

- Producer has the right to use the Performer's name, likeness, photograph or biographical material (such biographical material to be approved by the Performer) to publicise, promote, advertise and generally exploit, other than by merchandising, the Program/Film and the Performance of the Performer.
- Producer has the right to use any Footage for promotional purposes, in a historical or biographical documentary about the film or television industry, or in any industry 'Awards' Program without the prior written approval of the Performer.

#### **Performer's image can only be used in that Production and subject to the Agreement**

- All footage featuring the performance of a Performer in the production of a Program (being visual footage or sound recording) shall be used only as part of the Program for which the Performer was originally engaged.
- No Footage shall be used in any other production, without the written approval of the Performer, which approval shall not be unreasonably withheld.
- The Producer shall not assign or otherwise transfer any right of usage of the Program other than such rights of usage as are provided in the Agreement.

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<sup>1</sup> See General Conditions clauses 4 & 13 and Para D of the Performer Standard Contracts, and clauses 14.1 and 20(a) of ATRRA 2004 and AFFCA 2012 respectively.