



## SAG-AFTRA 2017 AGREEMENT FOR INDEPENDENT PRODUCERS OF DRAMATIC NEW MEDIA PROGRAMS

This New Media Agreement for Dramatic Programs (“Agreement”) is entered into as of \_\_\_\_\_ (“Effective Date”) by and between Screen Actors Guild-American Federation of Television and Radio Artists (“SAG-AFTRA”) and \_\_\_\_\_ (“Producer”) with respect to the program or episodic series entitled “\_\_\_\_\_”. If an episodic series please identify the season, (if a pilot for an episodic series, insert “pilot”):\_\_\_\_\_.

This Agreement is not intended to cover and specifically excludes motion pictures, animated programs, podcasts, video games, commercials, or any type of production or medium otherwise covered by any other SAG-AFTRA Agreement. The purpose of this Agreement is to cover SAG-AFTRA-represented performers working on *bona fide* entertainment programs made for New Media; it is not intended to be used to circumvent the terms and conditions of any SAG-AFTRA Agreement or membership rule. Whether a Program falls within the scope of this Agreement is at SAG-AFTRA’s sole discretion. Producer agrees to provide any information SAG-AFTRA requires to determine a Program’s eligibility for these special terms and conditions.

Producer has represented to SAG-AFTRA, as a basis for coverage under this Agreement, that the Program is a *bona fide* entertainment production being shot entirely in the United States for both initial and primary exhibition in New Media. Based upon these representations and the representations in the New Media Preliminary Project Sheet submitted by Producer, and in reliance thereon, SAG-AFTRA offers Producer the following special terms and conditions for the Program:

### **Definitions**

For purposes of this Agreement, the following capitalized terms shall be defined as set forth:

“Background Actor” shall have the definition ascribed to it in Schedules X-I and X-II of the Basic Agreement and shall specifically include background actors, special ability background actors and stand-ins.

“Basic Agreement” means the Producer – Screen Actors Guild Codified Basic Agreement in effect as of the date of this Agreement.

“Consumer-Pay Platform” means a platform on which the consumer pays for the program either on a subscription or per-picture basis.

“Free-To-Consumer Advertiser-Supported Platforms” means a platform on which the consumer does not pay for access to the program or the platform, and on which advertising may be presented to the consumer.

“New Media” means the Internet, mobile devices, or any other exhibition platform now known or which hereafter may be devised or adopted and excludes those media covered by a different SAG-AFTRA Agreement.

“Pension and Health Plans” means the Producer-Screen Actor Guild Pension Plan, the Producer-Screen Actor Guild Health Plan, the SAG-AFTRA Health Plan and/or any pension or health plan that is a successor to any of those plans.

“Performer” includes principal performers, singers, stunt performers, stunt coordinators, airplane and helicopter pilots, professional dancers (as distinguished from dancers who would properly be treated as background actors), professional puppeteers, body doubles, narrators and announcers. Background Actors and stand-ins are not considered “Performers.”

“Program” means the made-for-New Media audio-visual entertainment program or episodic series identified above. The Program may be a pilot, short, feature, or episodic series.

“SAG-AFTRA Agreement” means any SAG-AFTRA signatory agreement other than the New Media Agreement. Examples include: SAG-AFTRA Network Code of Fair Practice for Network Television Broadcasting (“Network

Code”); SAG-AFTRA Basic Agreement; SAG-AFTRA Television Agreement; Producers-SAG-AFTRA Codified Corporate/Educational and Non-Broadcast Contract; SAG-AFTRA Infomercials Agreement; SAG-AFTRA Interactive Media Agreement; and SAG-AFTRA Commercials Contract.

“Television Agreement,” means the SAG-AFTRA Television Agreement in effect as of the date of this Agreement.

“Traditional Media” means free television, basic cable, pay television, home video (including, videocassette, DVD, Blu-ray), or theatrical, as those terms are commonly understood.

“Trust Agreements” means the trust agreements establishing the Producer-Screen Actor Guild Pension Plan, the Producer-Screen Actor Guild Health Plan, the SAG-AFTRA Health Plan, and/or any successor pension or health plan.

## **1. Recognitions; Scope; Coverage**

Producer hereby recognizes SAG-AFTRA as the exclusive collective bargaining agent for Performers and Background Actors in connection with the Program.

### **A. Performers and Background Actors Covered**

The provisions of this Agreement shall be applicable to Performers and Background Actors employed on the Program or Episodic Series to the extent such Performers and Background Actors would be covered under the current Basic Agreement or Television Agreement. Producer shall be obligated to cover only the first ten (10) Background Actors employed each day in a Background Zone as defined in the Basic Agreement.

### **B. Agreements Incorporated**

By executing this Agreement, Producer agrees that it is bound by all applicable terms of the Basic Agreement, including the Sideletter Re: New Media Reuse, and the Sideletter Re Programs Made for New Media, the Television Agreement, and the Trust Agreement(s), with respect to the Program. The Basic Agreement and Television Agreement are available at [www.sagaftra.org](http://www.sagaftra.org).

### **C. Episodic Series; Subsequent Seasons**

This Agreement covers the Program and any subsequent seasons of the Program but the special terms and conditions in this Agreement apply only to the above-identified season of the Program and may not extend longer than one (1) year without SAG-AFTRA's written consent.

Producer agrees to notify SAG-AFTRA no less than three (3) weeks prior to beginning production of a subsequent season of the Program. Within five (5) days of notification, Producer shall provide SAG-AFTRA with the information that SAG-AFTRA requests in order to determine if the subsequent season of the Program continues to qualify for the special terms and conditions of this Agreement. Within a reasonable time following request from SAG-AFTRA, the Producer agrees to discuss with SAG-AFTRA the terms and conditions that will apply in the subsequent season and to execute any documents SAG-AFTRA deems necessary for the subsequent season.

### **D. Duration of Agreement**

This Agreement applies only to programs or episodic series that commence production prior to June 30, 2020. The terms of this Agreement will automatically terminate on June 30, 2020 unless extended by SAG-AFTRA.

## **2. Compensation; Initial Release**

### **A. Initial Compensation**

#### **1. Minimum Salaries**

The minimum salary for each Performer employed on the Program is:

All Performers except Stunt Coordinators	\$125 per day (8 hours)
Background Actors (incl. stand-ins)	\$96 per day (8 hours)

Stunt Coordinators Rates for Daily, Weekly and "Flat Deal" Stunt Coordinators are the rates set forth in Schedule K-I, K-II, or K-III of the Basic Agreement that is current at time of photography.

The salary covers only a single role in an individual Program or episode of an episodic Program.

## 2. Overtime

The workday for all Performers and Background Actors will be eight (8) consecutive hours, excluding meal periods. All work beyond the eighth (8th) working hour shall be paid at time and one half for the 9th through 12th working hours or parts thereof, payable in tenth of hour (six (6) minute) units of work time. If a Performer or Background Actor is required to work beyond twelve (12) hours in any day, such Performer or Background Actor will be due overtime at double the straight time rate for any time worked, payable in tenth of hour (six (6) minute) units. Overtime due for work beyond twelve (12) hours in a day may not be deferred.

## 3. Deferred Salaries

Performers' salaries, including overtime, may be deferred as long as the Program is only exhibited on Free-To-Consumer Advertiser-Supported Platforms. Payment may not be deferred for initial exhibition on any Consumer-Pay Platform.

Liquidated damages owed per the Rest Period provisions incorporated in Section 4 herein may not be deferred under this Agreement under any circumstance.

Producer agrees that if a Performer's or Background Actor's performance does not appear in the final version of the Program as released, the Performer or Background Actor is still entitled to receive payment for services performed on the Program.

## B. Release other than Free-to-Consumer

Upon any release to a Consumer-Pay Platform, including download to rent or own platforms, deferred salary payments are immediately due and Producer shall pay all deferred salaries.

If after an initial release on a New Media Platform, Producer exhibits or otherwise offers the Program in Traditional Media, any deferred salary payments are immediately due and Producer shall pay all deferred salaries.

## C. Initial Release in Traditional Media Prohibited

The special terms of this Agreement are intended only for Programs that will have an initial release in New Media. In the event the Program has an initial release in Traditional Media, the program will no longer qualify for these special terms and the Program will be reclassified to the correct SAG-AFTRA Agreement as set forth in Section 8, Ineligibility Under this Agreement.

## D. Payment of Initial Compensation

Producer shall make payment of initial compensation by check, payable to each individual Performer or Background Actor, within five (5) days of the payment becoming due. If payment is not made when due, late payment penalties will accrue as set forth in Section 27 of the Television Agreement.

All terms and conditions of employment that are not set forth in this Agreement are subject to negotiation between the Producer and the individual Performer or Background Actor. At the time of booking, Producer shall set forth in a written employment agreement all agreed terms and conditions for the Performer's services on the Program.

If Producer materially breaches its obligations under this Agreement, SAG-AFTRA reserves the right to withhold the services of the Professional Performers and Background Actors on the Program, except when a *bona fide* dispute exists as to whether Producer has made all payments required under this Agreement and Producer has

placed the amount in controversy in escrow in a manner acceptable to SAG-AFTRA pending arbitration of the dispute in accordance with the applicable provisions of this Agreement.

### **3. Pension and Health Plan Contributions**

Producer shall pay to the Pension and Health Plans a sum equal to seventeen and one-half percent (17.5%) of the gross compensation due each Performer or Background Actor for services performed under this Agreement. Gross compensation includes all salaries and other compensation or remuneration, including any compensation for reuse or residuals.

Producer shall furnish the trustees of each Plan, upon request, the names, job classifications, Social Security numbers and wage information for all persons covered by this Agreement together with other information that may be reasonably required for the proper and efficient administration of the Pension and Health Plans. Within five (5) days of SAG-AFTRA's written request to the Producer, Producer shall also provide the information must to the Union. Producer irrevocably designates and appoints the Alliance of Motion Picture and Television Producers as its attorney-in-fact to select, remove, or substitute representatives or trustees under the Trust Agreements.

Producer shall calculate and make all contributions in accordance with Section 22 of the Television Agreement.

### **4. Additional Provisions: Right to Monitor**

A. The following provisions of the Basic Agreement and Television Agreement are incorporated into this Agreement. To the extent any provisions of this Agreement are inconsistent with the Basic Agreement or Television Agreement, the provisions of this Agreement control.

From the Basic Agreement:

Section 1, "*Recognition and Scope of Agreement*"  
Section 2, "*Union Security*"  
Section 3, "*Strikes*"  
Section 14, "*Preference of Employment*"  
Section 26.A. - D., "*Policy of Non-Discrimination and Diversity*"  
Section 28, "*Injuries to Persons or Property During Performance; Safety*"  
Section 36, "*Term and Effective Date*"  
Section 37, "*Union's Articles and By-Laws*"  
Section 41.C., "*Rules of Construction*"  
Section 43, "*Nudity*"  
Section 50, "*Employment of Minors*"  
Schedule A, Section 10, "*Rest Period*"  
Schedules B & C, Section 14, "*Rest Period*"  
Schedule F, Section 9, "*Rest Periods*"

The following provisions of Schedule X, Part I and Part II of the Basic Agreement shall apply to Background Actors employed on the Program:

Sections X-I, 44(a) – (g) and (i) and X-II, 45(A) – (G) and (I), "*Policy of Non-Discrimination and Diversity*"  
Sections X-I, 45 and X-II, 46, "*Sanitary Provision*"  
Sections 46 and 47, "*Payment Requirements*"  
Sections 54, "*Statute of Limitations*"  
Section 55, "*Grievances*"

From the Television Agreement:

Section 27 "*Production Time Reports, Late Payments, Overwithholding, Payroll and Unemployment Insurance Information*"

3. Section B(5) of the Sideletter Re Programs Made for New Media shall be applicable to Derivative Programs, as the term is defined in the Sideletter.

B. Engagement; Cancellation. A Performer is considered engaged on a program when the performer is given a verbal call by Producer and such performer agrees to report on the commencement date for which

the call is given. In regards to performers employed by the day who are engaged through such verbal call, until noon of the day preceding the commencement date, either the Producer or the Performer may cancel the Performer's employment. If the Producer is unable to reach the Performer personally, either by telephone or otherwise, notice of cancellation may be given to the Performer via electronic mail (email).

C. Right to Monitor. SAG-AFTRA will have, and may not be prevented from exercising, the right to monitor Producer's performance of its obligations under this Agreement, including, but not limited to, full access to sets at all times. SAG-AFTRA observation shall be done in such a manner as not to interfere with production. In addition, within five (5) days of SAG-AFTRA's request, Producer shall promptly provide to SAG-AFTRA copies of all Performers' employment contracts and all documents relating to compensation payable to Performers.

## 5. Financial Assurances

SAG-AFTRA may, in its sole discretion, require financial assurances with respect to the Program, which may include a bond, cash deposit, guaranty, collection account management agreement, security agreement, and/or other forms of financial assurances deemed necessary by SAG-AFTRA for the protection of the Performers and Background Actors employed by Producer. Producer shall timely provide all financial assurances required by SAG-AFTRA prior to the start of principal photography of the Program. Producer's failure to fully and timely comply with SAG-AFTRA's request for financial assurances is a material breach of this Agreement, and SAG-AFTRA will have the right to withhold the services of Performers and Background Actors with respect to the Program until SAG-AFTRA determines in its sole discretion that such requirements are fully satisfied.

Upon the sale, transfer, assignment, license, lease, agreement to distribute or other disposition by the Producer of any of its rights in the Program, Producer shall deliver to SAG-AFTRA the Distributors Assumption Agreement or Buyers Assumption Agreement requested by SAG-AFTRA, fully executed by the transferee.

## 6. Arbitration

All disputes and controversies between Producer and SAG-AFTRA or between Producer and any Performer or Background Actor arising out of or in connection with this Agreement or any contract or engagement (whether overscale or not, and whether at the minimum terms and conditions of this Agreement or better) for the Program, shall be submitted for resolution in accordance with the applicable grievance and arbitration procedures set forth in Exhibit A.

## 7. Reuse (Residuals)

A. "Distributor's Gross," has the definition set forth in Section 4.A of the Sideletter Re: New Media Reuse, with reporting and payments due as described per Section 4.C. of the sideletter. SAG-AFTRA shall have the same rights of inspection as provided in Section 4.B. of the same sideletter.

### 1. Reuse of Original Programs in New Media

If the Program is an original program and not based on an existing Traditional Media property, then:

Payment of initial compensation allows twenty-six (26) consecutive weeks of use on any Consumer-Pay Platform and all uses on Free-To-Consumer Platforms.

Residuals of 3.6% of Distributor's Gross will be due for exhibition on Consumer-Pay Platforms beyond the twenty-six (26) consecutive week period if the Program is budgeted at or above \$25,000 per minute, as exhibited.

### 2. Derivative Programs in New Media

If the Program is a derivative program that is based on an existing Traditional Media property, then:

Payment of initial compensation allows thirteen (13) consecutive weeks of use on all Free-To-Consumer Platforms and a separate twenty-six (26) consecutive weeks of use on any Consumer-Pay Platform.

Continued Exhibition on Free-To-Consumer Platforms (in excess of thirteen (13) consecutive weeks from the date of the initial exhibition): Producer shall pay each Performer a residuals payment in the amount of twenty dollars (\$20.00) for Programs that are ten (10) minutes or less in length (\$25.00 for Programs that exceed ten (10) minutes) ("Fixed Residuals Payment") as consideration for a twenty-six (26) consecutive week period of use. Producer shall pay an additional Fixed Residuals Payment if the

Program is available beyond the twenty-six (26) consecutive week period of use. Neither of the aforementioned residuals payments may cover a period that is more than one (1) year after the expiration of the thirteen (13) weeks of exhibition covered by initial compensation. For exhibition following this period, residuals are due at a rate of 6% of Distributor's Gross.

Continued Exhibition on Consumer-Pay Platforms in excess of twenty-six (26) consecutive weeks from the date of initial exhibition: Residuals are due at a rate of 3.6% of Distributor's Gross.

### 3. Reuse in Traditional Media

Payment for any use of the Program in traditional media is governed by the provisions of the Sideletter on Programs Made for New Media relating to the use of Original New Media Productions or Derivative New Media Productions, as applicable.

### B. Reuse of Photography or Soundtrack

Producer shall not use any part of the photography or sound track of a Performer in any picture other than the one for which he was employed, without reaching an agreement with the Performer regarding such use. Producer may use up to five (5) minutes of photography or sound track for the purpose of promoting the Program. Consent for the use of nude photography or "blooper" excerpts, or use in commercials must be obtained in writing and separately from the Performer's employment contract.

## 8. Ineligibility under this Agreement

If the Program is initially exhibited in Traditional Media or if SAG-AFTRA, in its sole discretion, at any time determines that the Program does not qualify for the special terms and conditions of this Agreement, then the Program will be reclassified to the appropriate SAG-AFTRA Agreement. Producer agrees that the terms and conditions of the applicable SAG-AFTRA Agreement in its entirety, including any provisions related to initial or additional compensation and restrictions on use, will be applicable to the Program. Producer shall execute the additional documents SAG-AFTRA requires to make the reclassification effective.

Within ten (10) days following notification of reclassification, Producer shall pay to the Performers and Background Actors or to SAG-AFTRA for the benefit of the Performers and Background Actors, any additional sums necessary to bring the compensation of the Performers and Background Actors into full and complete compliance with the minimum rates, terms and conditions specified in the then-current applicable SAG-AFTRA Agreement. Producer shall also pay the applicable Pension and Health Plan contributions on any additional compensation.

If Producer fails to comply with any provision of this section, then Producer will have no right to use, and shall immediately cease using, the Performers' performances (notwithstanding any contrary language in this Agreement, in any SAG-AFTRA Agreement a, or in any Performer's individual employment contract) unless and until the Producer has remedied the default. Additionally, it is understood that nothing in this Agreement or any SAG-AFTRA Agreement supersedes or limits any right or remedy a Performer may have at law or otherwise relating to an unauthorized use of his or her name, likeness, image, voice, performance or any other personal attribute.

Any dispute over the meaning or application of this section shall be resolved through the expedited arbitration process set forth in Exhibit A, Section 2. Initiation of the expedited arbitration process by SAG-AFTRA constitutes notice that payment default continues, and therefore late payment penalties will continue to accrue.

## 9. Credit

Producer shall accord Performers credit if any other person receives credit on the Program. "Clickthrough" credits may be used.

## 10. Reports; Required Disclosures

A. Producer shall submit to SAG-AFTRA the following completed reports:

1. Completed Pre-Production Cast List, at least 48 hours prior to the start of principal photography;
2. Copies of employment contracts and/or deal memos for each Performer, within a week of the first day of his or her employment;

3. Production Time Reports, no later than the end of the following week;
  4. Final Cast List, within 30 days from the end of production or, in the case of a series, at the end of production of each episode;
  5. Copy of all payroll reports, within five (5) days of payment becoming due.
- B. Producer shall provide SAG-AFTRA with the name of all public websites and direct URLs where the Program will be initially exhibited within five (5) days from the first day the content is made public.
- C. Program Clips. On the request of any Performer appearing in the Program, Producer must supply or make available to such Performer, no later than six (6) months following completion of principal photography, a program clip of a portion of his/her performance at actual cost.
- D. Producer shall abide by the terms of the New Media Employment Policy, attached hereto as Exhibit B. Any dispute arising under Exhibit B is subject to the expedited arbitration process set forth in Exhibit A, Section 2.
- E. Required Disclosures. Producer understands that eligibility for the special terms and conditions provided under this Agreement is contingent on Producer's truthful representations concerning the nature of the Program. Accordingly, Producer agrees to the following:
1. Producer shall indicate in breakdowns and casting notices which New Media Agreement tier, special agreement is applicable to the Program or if the Program is being produced under negotiable terms.
  2. Prior to hire, Producer and/or Producer's representatives shall disclose to Performers and Performers' representatives (if any), any special and/or negotiable terms applicable to the Program.
  3. Producer shall inform SAG-AFTRA, Performers, and Performers' representatives if the Program has any commercial sponsors.

If Producer fails to make the required disclosures the affected Performers and/or SAG-AFTRA shall be entitled to renegotiate compensation and/or the terms and conditions provided under this Agreement.

#### **11. Protection of Member Information**

Producer shall use best efforts to protect the personal information of Performers, whether in electronic or tangible form, including contact information, social security numbers, employment contracts, and other disclosures, reports, or paperwork that may include personal information. Producer shall handle Performer personally identifiable information (or "PII") in accordance with applicable law.

In the event of any data breach or other loss, theft, or mishandling of Performer personal information, in addition to compliance with applicable law, Producer shall provide prompt notification to SAG-AFTRA, setting forth the actual or approximate date of the incident, the nature of the incident, the number and names of the Performers affected, and any other information SAG-AFTRA reasonably requests.

#### **12. Agreement Non-Precedential**

This Agreement covers only the Program listed above and is non-citable and non-precedential with respect to any other project. Eligibility for the terms and conditions of this Agreement is at SAG-AFTRA's discretion.

#### **13. Prohibitions on Digital Recreations**

Producer may not use any digital scanning techniques to create digital reproductions of any Performer for use in the Program without the union's consent. Producer may not use any digital recreation of an individual, living or deceased, as a character in the Program without the union's consent.

**14. Miscellaneous**

The applicable provisions of this Agreement are deemed incorporated in the employment contract between Producer and each Performer. No provision of this Agreement may be waived or reduced by any Performer.

Section headings are descriptive only and not to be construed in interpreting the Agreement.

Except as otherwise set forth in this Agreement, all notices to Producer will be sent to the address below (or to such other address as the Producer may specify in writing) and may be sent by (a) personal delivery, (b) overnight courier service, (c) certified mail, return receipt requested, (d) first class mail, or (e) facsimile or email, with a copy sent by first class mail. Notice is effective upon the earlier of actual receipt, two calendar (2) days after deposit with an overnight courier service, five (5) calendar days from the date of mailing within the United States, or seven (7) calendar days from the date of mailing across national borders.

Any provisions which by their terms or nature are intended to survive termination of this Agreement will survive any termination of this Agreement.

This Agreement, including the Agreements incorporated herein, represents the complete understanding reached between the parties in connection with the subject matter hereof and supersedes any oral understanding or agreement regarding all such matters. This Agreement may be signed in counterparts, each of which will be deemed an original and all of which together will make one Agreement. Any signature delivered by fax or otherwise transmitted electronically shall be considered valid and binding to the same extent as an original signature.

**PRODUCER  
AGREED AND ACCEPTED:**

**SAG-AFTRA  
AGREED AND ACCEPTED:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Email

\_\_\_\_\_  
Phone

\_\_\_\_\_  
URL (if applicable)



**EXHIBIT A**  
**Dispute Resolution**

**1. Grievance and Arbitration**

With the exception of disputes subject to the expedited procedures described in section 2 of this Exhibit A, the following grievance and arbitration procedures apply to arbitrable disputes:

A. Time Limits:

Proceedings for grievance of a claim will be commenced by the filing of a written grievance within twelve (12) months following the date on which the party bringing the grievance proceeding knew or should have known of the facts upon which the claim is based.

B. Grievance Procedure:

Within ten (10) working days after the filing of a grievance, authorized representatives of the Producer and SAG-AFTRA (or, with the written consent of SAG-AFTRA, the artist concerned) may discuss and attempt to settle the dispute.

C. Arbitration:

A dispute may be submitted to arbitration at any time following the filing of a grievance, whether or not a discussion of the grievance under the grievance procedure has occurred.

(1) Institution of Arbitration

The Union or Producer shall deliver to the other a written demand for arbitration setting forth the basis for the dispute not later than twelve (12) months after initiating the grievance.

(2) Service of Demand

The demand for arbitration will be served upon the other party, by any of the methods set forth in Section 14 of the Agreement, at the party's last-known address. The other party may file a written reply within ten (10) days following the delivery of the demand for arbitration.

(3) Arbitrator Selection

Within fifteen (15) days of the date the arbitration demand is served upon Producer, the parties shall in good faith attempt to mutually agree upon an arbitrator to hear and determine the dispute from the following list or such successor list as may be set forth in the Basic Agreement:

<u>Los Angeles</u> Sara Adler Norman Brand Mark Burstein Joseph Gentile Joel Grossman Fred Horowitz Stuart Mandel Michael Rappaport Sol Rosenthal	<u>New York</u> Ralph S. Berger Noel Berman Andrea Christensen George Nicolau Joan Parker Janet Maleson Spencer Carol Wittenberg
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If the parties cannot agree upon the arbitrator to be appointed, then each party may alternately strike one name from the list until one arbitrator is left. A coin toss will determine the party who is to strike first. The arbitrator who is left will be appointed as the arbitrator in the proceedings. If the Producer fails to participate in the selection process, SAG-AFTRA may unilaterally select the arbitrator from the panel. Failure of the complaining party to initiate arbitrator selection within the times set forth will not constitute a waiver of nor

prejudice any grievance hereunder unless: (i) the responding party provides written notice to the complaining party that it will be materially prejudiced if arbitrator selection does not commence promptly; (ii) the notice provided by the responding party sets forth a date by which to commence arbitrator selection; (iii) the complaining party fails to engage in arbitrator selection by the date set forth in such notice; and (iv) the responding party can demonstrate it was, is, or will be materially prejudiced by such delay.

#### (4) Timing and Place of Hearing

Subject to the availability of the arbitrator, the arbitration hearing will be commenced within sixty (60) days of the date that the arbitrator is selected. The selected arbitrator's inability to schedule the arbitration hearing within sixty (60) days will not disqualify that arbitrator from hearing the dispute.

All arbitrations will be held in SAG-AFTRA's office in Los Angeles, unless the parties agree otherwise; provided that if Producer has its headquarters for the production of Programs in New York and a majority of the witnesses required for the hearing reside regularly in or around the New York area, the arbitration may be held in New York.

#### (5) Exchange of Information

The parties will cooperate in the exchange of information and documents consistent with their obligations under federal labor law prior to any hearing. Not later than thirty (30) days prior to the arbitration hearing, any party may make a written request to the other to produce, on a date not later than five (5) days before the hearing, documentary evidence of the type producible pursuant to a *subpoena duces tecum*. The documents must be produced on the date requested, but the other party may object to the production of the documents to the same extent as if the documents were subpoenaed. The arbitrator shall consider any such objection at the hearing.

#### (6) Award of the Arbitrator

The arbitrator's decision and award will be in writing and will be final and binding on the Producer, SAG-AFTRA, the performer or performers involved and, when applicable, the performer's loan-out company. Judgment upon the award may be entered in any court having jurisdiction. The arbitrator has authority to determine only the dispute presented by the written demand for arbitration, and then only to the extent and in the manner expressly provided by the applicable provisions of this Agreement. Nothing herein gives the Arbitrator the authority, power or right to alter, amend, change, modify, add to or subtract from any of the provisions of this Agreement.

In no case may any arbitration hereunder or any award therein affect any rights of the Producer or performer in or to or with respect to the results and proceeds of the performer's services or in or to or with respect to the use of the performer's name, voice or likeness provided, however, than in addition to all other available remedies, the arbitrator shall have the power and authority to issue injunctive relief with respect to any dispute arising under Section 43 of the Basic Agreement with respect to nudity.

#### (7) Costs and Expenses

Each party will bear its own costs in connection with any arbitration hereunder. SAG-AFTRA and the Producer shall share equally the cost and expenses of the arbitrator.

#### (8) Expiration of this Agreement

Termination or expiration of this Agreement will not affect the application of the arbitration provisions of this Agreement to arbitrable disputes arising on Programs produced during the term of this Agreement.

#### (9) Waiver or Extension of Time Limits

All time limits provided in this Exhibit A may be extended or waived by mutual agreement of the parties. The failure to file a written grievance or written demand for arbitration within the prescribed time frame is not an absolute bar to the grievance, unless the other party can demonstrate it has been materially prejudiced by the delay.

## **2. Disputes Subject to Expedited Arbitration Procedure**

The following procedure applies only to disputes between SAG-AFTRA and the Company concerning the interpretation or application of sections 8 and 10 of this New Media Agreement.

### **A. Commencement of Proceedings**

Complainant shall initiate expedited arbitration proceedings by written notice, setting forth the particulars of the claim, to be sent to the respondent in accordance with the procedures described in Section 1.C.(2) of this Exhibit A.

### **B. Arbitrator Selection**

A single arbitrator shall be selected as set forth in section 1.C.(3) of this Exhibit A, or alternatively, at the Complainant's discretion, in accordance with the Expedited Labor Arbitration rules of the American Arbitration Association (AAA), as modified herein. If the initial arbitrator is not available to hear a dispute within the time set forth herein, the parties may select an arbitrator pursuant to the AAA rules.

### **C. Timing and Place of Hearing**

Subject to the arbitrator's availability, the hearing shall commence within twenty (20) business days following the respondent's receipt of the notice.

All expedited arbitration hearings under this section 2 shall be held in SAG-AFTRA's office in Los Angeles, absent agreement of the parties to another situs.

### **D. Award of the Arbitrator**

Within ten (10) business days following the close of the arbitration hearing or submission of post-hearing briefs, whichever is later, the arbitrator shall issue a written decision and award on the issue presented. The arbitrator's failure to meet the deadline shall not deprive him/her of jurisdiction over the dispute or render the award invalid because it is made thereafter. The award of the Arbitrator shall be final and binding upon all parties to the proceeding and judgment upon such award may be entered by any party in any court having jurisdiction.

Any award so rendered may be cited or offered into evidence by any party in another arbitration proceeding under this Agreement or under the Net Code related to the same Program.

### **E. Equitable and Injunctive Relief Allowed**

In any action under this expedited proceeding, the arbitrator may order injunctive or equitable relief, including enjoining exploitation of the Program pending full payment of all amounts due hereunder.

### **F. Miscellaneous**

Each party will bear its own costs in connection with any arbitration hereunder. SAG-AFTRA and Producer will share equally the cost and expenses of the arbitrator. Termination or expiration of this Agreement shall not affect the application of the arbitration provisions of this Agreement to arbitrable disputes arising on Programs produced during the term of this Agreement. The time limits provided in this Exhibit A may not be extended or waived except by written agreement of the parties.

**EXHIBIT B**  
**New Media Employment Policy**

The purpose of the SAG-AFTRA New Media Agreement is to provide the protections of a union collective bargaining agreement to performers who work on Programs made for initial and primary exhibition in New Media. By becoming signatory to the New Media Agreement, Producer is representing to SAG-AFTRA that the Program is a *bona fide* entertainment production being produced for both initial and primary exhibition in New Media and that Producer intends to provide *bona fide* employment to professional performers on the Program.

Producer acknowledges and agrees to the following:

Please Initial:

- \_\_\_\_\_ It is against SAG-AFTRA policy, and potentially illegal, to personally profit in any way from the promise of SAG-AFTRA eligibility and/or membership, including to use it as a means of attracting performers to work on the Program. The sale or barter of eligibility is expressly prohibited.
- \_\_\_\_\_ It is against SAG-AFTRA policy, and potentially illegal, for employers to require the payment of money or other things of value in exchange for employment. The sale of roles is expressly prohibited, including offering roles in exchange for contributions in connection with crowd-funding campaigns.
- \_\_\_\_\_ Union eligibility and/or membership cannot be used as a form of compensation in any circumstance.
- \_\_\_\_\_ Station 12 cast clearance is not available for the Program.

SAG-AFTRA, at its sole discretion, may audit any production for compliance with this policy.

SAG-AFTRA eligibility is solely between the performer and SAG-AFTRA. Violations of these policies may result in invalidation of a performer's membership eligibility.

Failure to adhere to this Policy is a material breach of the New Media Agreement and may result in a termination of SAG-AFTRA signatory status. Additionally, in the event SAG-AFTRA believes a breach involves fraud and/or violation of law, SAG-AFTRA may seek injunctive relief in addition to any other available remedies.

**Accepted and Agreed:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signatory Company, if applicable

\_\_\_\_\_  
Please type name and title

\_\_\_\_\_  
Title of Production