

## **MEMORANDUM OF AGREEMENT FOR THE 2019 SAG-AFTRA-NETFLIX AGREEMENT**

This Memorandum of Agreement is entered into between the Screen Actors Guild-American Federation of Television and Radio Artists (hereinafter referred to as "SAG-AFTRA" or "the Union"), on the one hand, and Netflix Studios, LLC (hereinafter "Netflix" or "Producer"), on the other hand (hereinafter referred to as the "Netflix Agreement").

This Memorandum of Agreement reflects the complete understanding reached between the parties. This Memorandum of Agreement is not contract language, except where the context clearly indicates otherwise.

The provisions of the Netflix Agreement represent modifications to the Producer-SAG-AFTRA Codified Basic Agreement of 2017 ("CBA") and the 2017 SAG-AFTRA Television Agreement ("TVA" and collectively with the CBA, the "2017 SAG-AFTRA Agreements.") Except as modified herein, the terms of the 2017 SAG-AFTRA Agreements shall apply to this Netflix Agreement, subject to conforming changes. Wherever reference in this Memorandum of Agreement is made to "Schedules," such reference shall mean the Schedules appended to the CBA. The Netflix Agreement supersedes and replaces any Agreements for Independent Producers of Theatrical Motion Pictures or Agreement for Independent Producers of Dramatic New Media Programs entered into between Netflix (or any of its wholly-owned subsidiaries) and SAG-AFTRA for productions covered under this Netflix Agreement.

The provisions herein shall be effective as of August 1, 2019 provided Netflix receives written notification of approval by SAG-AFTRA prior to August 1, 2019. Unless specified otherwise, the terms and conditions of the Netflix Agreement shall apply to all pictures or episodes which commence principal photography on or after August 1, 2019.

In consideration of the mutual agreements herein contained, the parties agree as follows:

**1. Term**

The term of the Netflix Agreement shall be for three (3) years, commencing on August 1, 2019 and terminating on June 30, 2022.

**2. Applicability of AMPTP Agreements**

Except as modified by the parties' agreement and subject to Paragraph 24 below, the terms of the 2017 SAG-AFTRA Agreements will apply to all covered performers engaged by Netflix or any of its wholly-owned subsidiaries on scripted dramatic features and live-action, dramatic programs made for new media under this Agreement.

**3. Consecutive Employment**

*Modify the provisions of Schedules A, B, and C of the CBA that pertain to Consecutive Employment as follows:*

- A. A performer engaged by the day on an episode of an episodic series may be recalled for any purpose in connection with performer's work on such episode after

a lapse of ten (10) days without the payment for intervening time. A soft pick-up date for such subsequent call needs to be given at the time of the performer's original employment, and shall operate as follows:

- i. If performer obtains a bona fide offer of employment that would conflict within five (5) days prior to or five (5) days after the soft pick-up date, performer shall promptly notify the Producer and Producer will use best efforts to either guarantee a pick-up date or modify the soft pick-up date so as not to interfere with performer's bona fide offer of employment by the end of the day that performer notifies Producer if the notification occurs before noon or by noon on the following day if the notification occurs after noon on the preceding day, but Producer must in any event exercise its rights, as specified in this subparagraph, within twenty four (24) hours from receipt of the notice.
  - ii. Soft pick-up dates may be utilized up to three (3) times per performer per episode. However, if Producer modifies a performer's soft pick-up date to accommodate a performer (including if a modification is in accordance with subparagraph (i) above), such soft pick-up date shall not count as one of the three (3) soft pick-up dates for such episode.
  - iii. The second soft pick-up date does not need to be provided to performer until the completion of services of the work period associated with the first soft pick-up date. The third soft pick-up date does not need to be provided to performer until the completion of services of the work period associated with the second soft pick-up date.
  - iv. Soft pick-up dates are subject to performer's professional availability.
  - v. If a performer is picked up as a three-day or weekly performer during any of the three (3) soft pick-ups, the performer's negotiated three-day or weekly rate, but no less than the applicable scale rates, and contract provisions for such employment will apply to performer during that employment period.
- B. A freelance performer engaged by the week on an episodic series may be recalled for any purpose in connection with performer's work on such episode after a lapse of ten (10) days without the payment for intervening time. Soft pick-up date(s) per 3.A. above shall apply except only two (2) soft pick-up dates may be used per performer per episode. If performer is recalled on a daily basis, payment for the pick-up date(s) must be paid at the performer's *pro rata* daily rate but not less than daily scale and the contract provisions applicable to a day performer will apply during that work period. If a performer is recalled on a three-day basis, payment for the pick-up date(s) must be paid at the performer's negotiated rate but not less than three-day scale and the contract provisions applicable to a three-day performer will apply during that work period.
- C. "Modified Deal Performer" (applicable to episodic series only): Performers who are guaranteed not less than twenty thousand dollars (\$20,000.00) (which is subject to any general wage increases) per episode may be engaged under a Modified

Deal Performer contract. Under a Modified Deal Performer contract, total work time may not exceed ten (10) days times the number of episodes guaranteed and the overall production period may not exceed thirty (30) calendar days times the number of episodes guaranteed. Additional days beyond the permitted total work time shall be paid at the performer's *pro rata* daily rate but not less than daily scale. Performers may bargain freely with respect work dates within the overall production period and work dates do not need to be consecutive. Unless otherwise provided in the performer's individual contract, the Producer shall have the right to intermingle episodes and require performer to perform in more than one (1) episode in a day. Performers engaged under a Modified Deal Performer contract are governed by Schedule C.

- D. "Flexible Scheduling Fee" (not applicable to theatrical motion pictures): Freelance performers engaged by the week who are paid a "Flexible Scheduling Fee" of five thousand dollars (\$5,000) (which is subject to any general wage increases) (in addition to their negotiated weekly salary) per picture or episode at the time of engagement may be recalled for any purpose without the payment for intervening time during the three (3) weeks following completion of the performer's initial guaranteed period of employment. Any additional days worked during such three (3) week period will be paid at the performer's *pro rata* daily salary but not less than daily scale. Such performers remain in first position on the picture or episode during such time period; however, if performer obtains a bona fide offer of employment during such three (3) week period, performer shall promptly notify the Producer and Producer will use best efforts to either guarantee work date(s) by the end of the day that performer notifies Producer if the notification occurs before noon or by noon on the following day if the notification occurs after noon on the preceding day, but Producer must in any event exercise its rights to guarantee work date(s) within twenty four (24) hours from receipt of the notice or performer is free to accept the other offer of employment.

For up to two (2) subsequent three (3) week period(s) that the performer is needed on a flexible basis on the same picture or episode, Netflix will pay performer an additional five thousand dollars (\$5,000) (which is subject to any general wage increases) Flexible Scheduling Fee for each three (3) week period.

On episodic series, Flexible Scheduling Fees may be used on up to six (6) episodes per performer each season.

Flexible Scheduling Fees are subject to Pension and Health or Health and Retirement contributions, as applicable.

For the avoidance of doubt, this provision will not result in performers being held on an overnight location without being paid for any hold days while performer remains on such overnight location.

*The foregoing is not intended to alter the other exceptions to the Consecutive Employment provisions (e.g., ability to drop and pick-up without the payment of intervening days for a Schedule A day performer on an episodic series engaged at a salary of at least two (2) times the day performer minimum).*

4. **Options**

*Section 24(c) of the TVA ("Options") is modified as follows:*

**"24. OPTIONS**

\* \* \*

"(c) **Option Period Between Seasons**

"Options for an additional contract year with a performer employed under a series contract who is guaranteed less than \$32,000 per week or per episode (or less than \$40,000 per week or per episode for contracts entered into on or after November 1, 2019), on a series for which the principal photography of the pilot or presentation (or the first episode if no pilot or presentation is produced) commences on or after January 1, 2018, shall be subject to the following:

"a) The option period shall commence upon completion of principal photography of the last episode of the season of the series and shall end no later than one (1) year thereafter, unless Producer extends the option period pursuant to subsection b) below.

"b) The Producer may extend the option period no more than two (2) times by a period of up to six (6) months each, by paying the performer an amount equal to the episodic fee specified in the performer's contract for the preceding season for each period of up to six (6) months. The foregoing payment may not be credited against future episodic fees.

"A performer guaranteed \$32,000 or more per week or per episode (or \$40,000 or more per week or per episode for contracts entered into on or after November 1, 2019) under a series contract on a series for which the principal photography of the pilot or presentation (or the first episode if no pilot or presentation is produced) commences on or after January 1, 2018 may bargain without limitation with regard to options for additional contract year(s)."

5. **Exclusivity**

*For contracts entered into on or after November 1, 2019 Sections 23(a)(3) and 23(a)(4) of the TVA ("Exclusivity") are modified as follows:*

1. Increase the money break from \$15,000 per week or per episode for one-half (½) hour programs and \$20,000 per week or per episode for programs one-hour (1) or over in length to \$40,000 per week or per episode for all programs.

2. Increase the three (3) television guest star appearances in each thirteen (13) week period to eight (8) guest star appearances in a television or New Media program in each thirteen (13) week period.
3. Allow five (5) of the eight (8) guest star appearances to be in a recurring or continuing role.
4. Guest star appearances shall be subject to the following:
  - a. Performer will remain in first position on the Netflix series and Netflix will only exercise its first position rights for legitimate work-related reasons.
  - b. Performer must confirm availability/scheduling with Netflix prior to accepting the guest star engagement;
  - c. Guest star appearances may not be in a role that is substantially similar to the performer's role on the Netflix series;
  - d. Performer may not voluntarily make changes to performer's physical appearance (including, but not limited to, length, and color of hair) that are not readily reversible (e.g., temporary hair dye is acceptable, but cutting performer's hair is not) in connection with the guest star role;
  - e. No two series performers on the same Netflix series may be engaged on the same television or New Media program in the same production season of the Netflix series;
  - f. Guest star roles may not parody Netflix, the Netflix series, or the performer's role in the Netflix series;
  - g. Performer may not perform publicity, advertising, or marketing services for the television or other New Media program. Performer may not agree that performer's likeness may be used in any publicity, advertising, or marketing for the television or other New Media program; and
  - h. For recurring or continuing roles, performer's guest star appearances may not be in a television or New Media program made for:
    - i. Pay television;
    - ii. A streaming platform;
    - iii. A linear channel that has the right to exhibit the episode on a streaming platform prior to or within thirty (30) days of its initial airing on the linear channel; or

- iv. A channel, market, or platform that is not known at the time of engagement.

Netflix, however, shall not use the restrictions listed in this subparagraph 4 as an automatic basis for preventing a series regular from accepting an employment offer. Netflix agrees to work cooperatively with the other employer, the performer, the performer's representative, and where appropriate, the Union, to allow the performer to accept the offer whenever possible. In addition, Netflix will maintain a record of such requests, Netflix's response and the reasons for the response and review those records with the Union at least twice per year upon request.

## **6. Security Deposits & Financial Assurances**

- A. Netflix will provide SAG-AFTRA with a "rolling" security deposit in the amount of one million dollars (\$1,000,000) (to be provided within thirty (30) calendar days of August 1, 2019) in lieu of providing individually calculated security deposits for productions produced under this Agreement.
  - i. This rolling security deposit will be held by SAG-AFTRA in an interest bearing Money Market Account. Any interest that accrues on the rolling security deposit is the property of Netflix.
  - ii. SAG-AFTRA may only use the funds in the rolling security deposit to pay for outstanding claims or pay outstanding pension and health or health and retirement contributions (as applicable) in accordance with written authorization from Netflix or an arbitrator's award.

SAG-AFTRA will release all security deposits it is holding on Netflix's productions listed in Appendix A within thirty (30) calendar days of August 1, 2019. In the event that SAG-AFTRA utilizes any portion of the rolling security deposit in accordance with 6.A. above, Netflix will replenish the rolling security deposit up to the one million dollars (\$1,000,000) amount within thirty (30) business days of SAG-AFTRA's request.

- B. The parties agree to meet during the Term to develop a more streamlined process for administering and providing financial assurances, including but not limited to security interests, to SAG-AFTRA for theatrical motion pictures, long-form programs, and multi-part closed-end pictures produced under this Agreement.

## **7. Residuals for Theatrical Films**

- A. For motion pictures made for the theatrical market with a Total Budget under thirty million dollars (\$30,000,000), Netflix will allocate 10% of the "license fee" of each motion picture to the theatrical market. Netflix will pay the SVOD residuals rate of three and six tenths percent (3.6%), inclusive of Pension and Health contributions or Health and Retirement contributions, on the remaining ninety percent (90%) of the "license fee." Such "license fee" will be either (a) the Total Budget if the picture is produced by Netflix under this Agreement or (b) the acquisition cost if produced by a third party.

- B. For motion pictures made for the theatrical market with a Total Budget of thirty million dollars (\$30,000,000) or more, Netflix will pay the SVOD residuals rate of three and six tenths percent (3.6%), inclusive of Pension and Health contributions or Health and Retirement contributions, on a percentage of the “license fee” per the table below. Such “license fee” will be either (a) the Total Budget if the picture is produced by Netflix under this Agreement or (b) the acquisition cost if produced by a third party.

<b>SAG-AFTRA Residuals for Netflix Theatrical Films</b>			
<b>Budget &lt;\$30M</b>	<b>Total Budget/ License Fee</b>	<b>% of Total Budget/ License Fee</b>	<b>SVOD Residuals (global)</b>
\$10,000,000	\$10,000,000	90.0%	\$324,000
\$10,000,000	\$20,000,000	90.0%	\$648,000
\$10,000,000	\$30,000,000	90.0%	\$972,000
<b>Add'l Budget Over \$30M</b>	<b>Total Budget/ License Fee</b>	<b>% of Add'l Budget/ License Fee Band</b>	<b>SVOD Residuals (global)</b>
\$10,000,000	\$40,000,000	80.0%	\$1,260,000
\$10,000,000	\$50,000,000	75.0%	\$1,530,000
\$10,000,000	\$60,000,000	67.5%	\$1,773,000
\$10,000,000	\$70,000,000	60.0%	\$1,989,000
\$10,000,000	\$80,000,000	52.5%	\$2,178,000
\$10,000,000	\$90,000,000	42.5%	\$2,331,000
\$10,000,000	\$100,000,000	32.5%	\$2,448,000
\$10,000,000	\$110,000,000	15.0%	\$2,502,000
\$10,000,000	\$120,000,000	10.0%	\$2,538,000
	Over \$120M	0%	

The calculation of SVOD Residuals calculations in accordance with this Paragraph 7.B. is reflected in the following examples:

**Example #1:** For a motion picture made for the theatrical market with a Total Budget of \$36,000,000, Netflix will pay a SAG-AFTRA SVOD Residuals payment equal to 3.6% of 90% of \$30M (i.e., \$972,000) plus 3.6% of an additional 80% of \$6M (i.e., \$172,800) for a total SVOD Residuals payment of \$1,144,800.

Example #2: For a motion picture made for the theatrical market with a Total Budget of \$95,000,000, Netflix will pay a SAG-AFTRA SVOD Residuals payment equal to 3.6% of 32.5% of \$5,000,000 (i.e., \$58,500) plus the SVOD Residuals payment total from the prior Total Budget band of \$2,331,000 for a total SVOD Residuals payment of \$2,389,500.

Example #3: For a motion picture made for the theatrical market with a Total Budget of \$136,000,000, Netflix will pay a SAG-AFTRA SVOD Residuals payment equal to \$2,538,000 (i.e., the aggregate amount paid for a motion picture with a Total Budget of \$120,000,000.)

C. The SVOD Residuals payments set forth in Paragraphs 7.A. and 7.B. above will be paid per the following payment schedule:

- 30% of the total SVOD Residuals payment is payable sixty (60) days after the close of the quarter in which the motion picture is first exhibited on the Netflix platform;
- 20% of the total SVOD Residuals payment is payable 1 year thereafter;
- 10% of the total SVOD Residuals payment is payable 1 year thereafter;
- 10% of the total SVOD Residuals payment is payable 1 year thereafter;
- 10% of the total SVOD Residuals payment is payable 1 year thereafter;
- 10% of the total SVOD Residuals payment is payable 1 year thereafter;
- and
- 10% of the total SVOD Residuals payment is payable 1 year thereafter.

Should the motion picture be removed from the Netflix platform at any time, any future payments under this payment schedule will be suspended. If Netflix resumes exhibition of the motion picture on the Netflix platform prior to twenty (20) years from the initial exhibition date, Netflix will make any remaining additional payments pursuant to this payment schedule; however, any payments after the initial twenty (20) year period shall be paid pursuant to Paragraph 7.E. below (i.e., a payment that is equivalent to the amount paid for the seventh year of the payment schedule above for each subsequent five (5) year period of exploitation) regardless of whether all payments of the payment schedule above have been made.

D. The only costs excluded in determining the Total Budget of the motion picture made for the theatrical market are:

- i. financing costs (e.g., bank fees, gap fees, legal fees and interest);
- ii. contingency of up to ten percent (10%);
- iii. essential element insurance costs;
- iv. the costs of the completion bond (if any);
- v. marketing expenses;
- vi. contingent payments to talent or other parties;
- vii. delivery items required for distribution (e.g., delivery materials beyond the answer print or the NTSC Video Master if the Theatrical motion picture is delivered on videotape, or the digital equivalent if the motion picture is delivered in digital format); and
- viii. federal, state, and foreign rebates and tax credits up to a maximum amount equal to ten percent (10%) of the gross budget.



- E. The SVOD Residuals payments set forth in Paragraphs 7.A. and 7.B. above shall be for all Netflix exploitation rights for a period of twenty (20) years. Thereafter, if the motion picture continues to be exploited by Netflix, a payment that is equivalent to the amount paid for the seventh year of the payment schedule listed in Paragraph 7.C. above shall be due and payable for each subsequent five (5) year period of exploitation.
- F. For exploitation in other media, e.g. "move over" to basic cable, secondary digital channels, etc., residuals shall be paid pursuant to the terms of the CBA.
- G. The SVOD Residuals payments set forth in Paragraphs 7.A. and 7.B. above will apply to any motion pictures made for the theatrical market for which Netflix has previously assumed residuals obligations. To the extent that any SVOD Residuals payments need to be "caught up" per the payment schedule set forth in Paragraph 7.C., Netflix will remit such SVOD Residuals payments (less any residuals amounts previously paid) within sixty (60) days after the close of the quarter in which Netflix has been notified of approval of this Agreement by SAG-AFTRA.
- H. In consideration of this Paragraph 7, the Union will agree to waive and release any and all claims relating to all residuals or late payment liquidated damages in connection with such residuals for the exhibition of motion pictures made for the theatrical market by Netflix, for pictures that SAG-AFTRA receives timely and/or "catch up" residuals reporting and payments in accordance with the above terms. Notwithstanding the foregoing, the Union specifically reserves the right to pursue existing and/or file new claims in connection with payments to performers unrelated to the above methodology, such as cast list omission(s) and time and salary unit adjustments.

**8. Project Information Sheet**

For all productions produced under this Agreement, Netflix shall furnish a notice in the form attached as Exhibit 1 to SAG-AFTRA at or prior to the time that Netflix clears performers through Station 12 for such production. For episodic series, only one notice needs to be provided at the start of each season.

**9. Diversity & Inclusion**

Subject to legal review, the parties agree to engage in on-going dialogue during the Term to assist Netflix in establishing a voluntary training initiative to bring new performers of diverse backgrounds into the entertainment industry and enhance the training opportunities of aspiring performers with a primary emphasis on providing opportunities to aspiring performers in the following underrepresented categories: women, ethnic minorities, performers with disabilities (defined as those covered under the employment provisions of the Americans with Disabilities Act) and performers in the protected age group (forty (40) years of age and older.)

**10. Looping/ADR of Multiple Episodes or Parts in a Single Session**

On episodic series and multi-part closed-end pictures only, when the performer is recalled for a single session to render looping or ADR services after completion of principal photography for two (2) or more episodes of the same series or two (2) or more parts of a multi-part closed-end picture, the performer will be paid at 100% of the applicable payment for the first episode of each looping or ADR session and 50% of the applicable payment for each subsequent episode or part for the performer's looping or ADR services during the same session. The foregoing is not intended to alter the current exceptions of the TVA in which there is no obligation to pay for looping or ADR services. This provision only applies to performers providing looping or ADR services with respect to their own on-camera performances (e.g., it does not apply to performers in "Loop Groups.")

**11. Holidays**

The parties agree that Martin Luther King, Jr. Day will be observed as a holiday in lieu of Good Friday as listed in all applicable holiday provisions of the 2017 SAG-AFTRA Agreements.

**12. Non-High Budget SVOD Programs**

- A. The applicable provisions of Sideletter No. 21 to the CBA or Sideletter H to the TVA will apply to all Derivative or Original New Media Productions produced under this Agreement that do not qualify as High Budget SVOD Productions as defined in Paragraph E. of such sideletters, except that the applicable minimum salary rates and the turnaround provisions of the 2017 SAG-AFTRA Agreements will apply to such productions.
- B. The applicable provisions of Paragraph C. of Sideletter No. 21 to the CBA or Paragraph C. of Sideletter H to the TVA will apply to all Experimental New Media Productions as defined in such paragraphs, except that the applicable minimum salary rates and the turnaround provisions of the 2017 SAG-AFTRA Agreements will apply to such productions.

**13. Advance Payment of Residuals**

Performers who are guaranteed less than seventy five thousand dollars (\$75,000) per week, per episode or per picture may agree to use up to fifteen percent (15%) of their compensation as an advance payment of residuals in accordance with Sections 18(d), 19(d), and Sideletter H, Section E.4.(d) of the TVA.

Performers who are guaranteed seventy five thousand dollars (\$75,000) or more per week, per episode, or per picture may bargain freely with respect to advance payment of residuals in accordance with Section 18(d), 19(d), and Sideletter H, Section E.4.(d) of the TVA.

**14. Digital Replication of Background Performers**

Digital replication of background performers will not be used in lieu of hiring of background performers necessary to fulfill the applicable coverage minimums for the scene(s) to be photographed.

**15. Unlawful Harassment**

The Union and Netflix agree that everyone should be able to work without fear of harassment or violence. The parties further agree to work cooperatively with each other so that the principles of this paragraph are honored.

(a) The Producer and/or Netflix is committed to maintaining a working environment that is free from unlawful harassment or violence. In addition, the Producer and/or Netflix is committed to protecting employees from retaliation for making claims of harassment. To that end, Producer and/or Netflix and employees shall comply with all applicable obligations pursuant to such laws and regulations and Producer and/or Netflix's applicable policies and employees shall attend applicable training provided by Netflix in connection with such obligations and policies, which shall be conducted on paid time.

(b) When an employee believes that this provision has been breached, such employee should immediately inform the Producer and/or Netflix or its designated representative. Should the employee request the assistance of the Union, the Union will refer the complainant to the Producer and/or Netflix's applicable policies and encourage the complainant to notify the Producer and/or Netflix. When authorized by the complainant, the Union representative shall immediately make the complaint known to a designated representative of the Producer and/or Netflix.

Producer and/or Netflix shall investigate the complaint promptly in accordance with its policies. The parties agree that all employees potentially involved in such claim will cooperate fully in the investigation by the Producer and/or Netflix. Upon conclusion of the investigation, the Producer and/or Netflix will take appropriate action if warranted.

(c) The parties acknowledge the sensitive nature of these types of complaints and shall make reasonable efforts to maintain confidentiality as appropriate.

(d) Unlawful retaliation or reprisals against any employee who, in good faith, raises a bona fide complaint or participates in an investigation pursuant to this provision will not be tolerated.

(e) Violations of this provision or violations of the Producer and/or Netflix's applicable policies shall be deemed misconduct under Section 26 of the Codified Basic Agreement.

(f) The matters covered in this provision are not subject to the applicable grievance and arbitration provisions of the SAG-AFTRA-Netflix Agreement. Producer and/or Netflix and any employee are permitted to negotiate

that any matters covered in this paragraph, may be subject to arbitration pursuant to a personal services agreement to the extent permitted by law.

**16. Auditions In Hotel Rooms**

Producer and/or Netflix shall ensure that no auditions or meetings are conducted in private hotel rooms or residences where the Performer is alone with representatives of production. If there is no reasonable alternative forum for such a meeting, Performers shall be entitled to attend the meeting with a second individual of their choosing who shall be allowed to maintain physical access to the Performer at all times during the meeting.

**17. Overtime For Weekly Stunt Performers on Episodic Series**

On episodic series only, for performers engaged pursuant to Schedule H, Part II, overtime shall be computed and paid pursuant to the provisions of Section 13 of Schedule B which is incorporated herein and made a part hereof, except that all overtime pay shall be based upon the stunt performer's aggregate or adjusted compensation, except on a day on which the performer travels only, the performer's compensation shall be computed and paid on the performer's base compensation without any adjustments.

*The foregoing is not intended to alter the overtime provision under stunt performers engaged under Schedule H-II, Section 8 on all other productions.*

**18. Performance Capture**

Netflix agrees that "Performance Capture Services" are covered under the Netflix Agreement. Performance Capture Services refer to facial or bodily movement undertaken by a performer in order to be recorded or "captured" in digital form by a device so that the recorded data is then processed to create an altered and/or enhanced image of human forms or non-human forms in a film. Reference modeling or kinesthesiology studies shall not be considered covered work under this Netflix Agreement provided that individuals engaged to perform such work are not subject to facial scanning or capture and are not assigned "performances" beyond rendering basic movements. The parties agree that this provision does not apply to fully animated motion pictures; however, they reserve their respective positions with respect to coverage of Performance Capture Services on fully animated motion pictures.

**19. Dubbing**

Netflix agrees to become signatory to the Netflix Dubbing Agreement attached as Exhibit 2 to this Memorandum of Agreement. The Netflix Dubbing Agreement will apply to foreign language motion pictures that commence principal recording of the dubbed sound track on or after November 1, 2019.

**20. Mandatory Serial Assumption**

If Netflix or any of its subsidiaries is the employer of record on a motion picture or executes a "Distributor's Assumption Agreement" or "Buyer's Assumption Agreement" assuming the obligations to pay residuals that may come due pursuant to any SAG or SAG-AFTRA

collective bargaining agreement and another distributor later acquires those distribution rights from Netflix then Netflix shall obtain from such distributor(s) to which it may transfer distribution rights a separate written agreement called the "Distributor's Assumption Agreement," in the form contained in the CBA or TVA, as applicable, by which such Distributor agrees to assume applicable terms of the Netflix Agreement or other applicable CBA in connection with such motion picture and pay amounts required by the Netflix Agreement or other applicable CBA by reason of the distribution of the motion picture in any media when such sums becomes payable, and to obtain similar assumption from each subsequent transferee of Distributor's rights. The Distributor's Assumption Agreement set forth in the CBA or TVA, as applicable, will also include the following: "Distributor agrees to obtain from any party to whom Distributor transfers any of Distributor's right in the Picture a separate agreement in this form.

**21. No-Strike Clause**

The no-strike clause of the 2017 SAG-AFTRA Agreements is expressly incorporated by reference into this Netflix Agreement.

**22. Grievance and Arbitration**

The grievance and arbitration provisions of the 2017 SAG-AFTRA Agreements are expressly incorporated by reference into this Netflix Agreement.

**23. Pension & Health**

Netflix agrees to accept, assume and be bound to the trust agreements establishing the Producer-SAG-AFTRA Health Plan, the SAG-Producer Pension Plan ("SAG-AFTRA Trust Agreements") and the Producer-AFTRA Retirement Fund ("AFTRA Trust Agreement.") Netflix shall make Pension and Health contributions or Health and Retirement contributions, as applicable, and Industry Advancement and Cooperative Fund contributions at the same percentages provided under the CBA or the TVA as applicable for each motion picture produced by Netflix during the Term.

**24. Applicability of Successor AMPTP Agreements**

A. Except as this agreement may otherwise provide, the terms of any successor agreement(s) to the 2017 SAG-AFTRA Agreements negotiated by SAG-AFTRA and the Alliance of Motion Picture and Television Producers ("AMPTP") will automatically become binding upon Netflix and SAG-AFTRA as to the following subjects, including the effective date of any changes:

- i. Wage rates
- ii. Pension & Health and Health & Retirement contribution rates
- iii. Caps on compensation on which Pension & Health or Health & Retirement contributions are due
- iv. IACF contribution rates
- v. Schedule Breaks
- vi. Money Breaks
- vii. Nudity

- viii. Caps on the Total Actual Compensation on which High Budget SVOD residuals are calculated to the extent they apply to all High Budget SVOD programs regardless of the number of subscribers to the SVOD consumer pay platform
- ix. Background performers
- x. Dancers

- B. Notwithstanding the above, to the extent SAG-AFTRA and the AMPTP negotiate any other modifications in the successor agreement(s) to the 2017 SAG-AFTRA Agreements, SAG-AFTRA will give Netflix notice of the terms thereof in writing within seven (7) days of the conclusion of negotiations. If, within twenty (20) days after the date of such notice, Netflix fails to notify SAG-AFTRA in writing that it objects to such terms, and that it wishes to meet and confer with SAG-AFTRA for the purpose of negotiating different terms, or if after a good faith negotiation the parties fail to reach agreement with respect to such terms, then other than those provisions identified in subparagraph N-8.d. below, the agreement reached between SAG-AFTRA and the AMPTP with respect to such terms of the successor agreements shall be binding on Netflix.
- C. In the event that SAG-AFTRA and the AMPTP negotiate modifications in the successor agreement(s) to the 2017 SAG-AFTRA Agreements that adversely affect only Netflix at the time of the effective date of the successor agreements and does not adversely affect other signatories to the successor agreements then such modifications will be outside the scope of this Agreement. If there is a dispute as to whether such modifications do, in fact, adversely affect only Netflix then after SAG-AFTRA and Netflix meet and confer within ten (10) days of notice to the other party the matter will be submitted to arbitration. Only modifications to the 2017 SAG-AFTRA Agreements will be subject to arbitration. While the arbitration is pending this agreement will remain in effect and the application of the disputed provision will be held in abeyance until an arbitrator issues a decision.

## EXHIBIT 2

*This Dubbing Agreement will apply to foreign language motion pictures that commence principal recording of the dubbed soundtrack on or after November 1, 2019.*

### **NETFLIX DUBBING AGREEMENT**

This Agreement (hereinafter the “Netflix Dubbing Agreement”) is made by and between the Screen Actors Guild-American Federation of Television and Radio Artists (herein referred to as “SAG-AFTRA”) and Netflix Studios, LLC (hereinafter “Netflix” or “Producer”) who is engaged in the production of dubbed sound tracks for foreign language motion pictures.

WHEREAS, the Producer and SAG-AFTRA entered into the 2019 SAG-AFTRA-Netflix Agreement (herein referred to as the “Netflix Agreement”) and;

WHEREAS, SAG-AFTRA and the Producer have agreed upon modification of the Netflix Agreement with respect to the employment of Performers and Professional Singers (hereinafter collectively referred to as “Performer(s)”) for the purpose of dubbing English language sound track to be used in connection with motion pictures initially produced in a language other than English or for the dubbing of a new English language sound track to replace an English sound track which lacks the appropriate fluency in English, in accordance and upon the terms and conditions herein set forth:

THEREFORE, in consideration of the mutual agreements herein contained, it is agreed as follows:

#### **1. Work Definition**

a. **Dubbing Defined: Looping Not Included**

The Netflix Agreement is modified as herein set forth, but solely with respect to the employment of Performers for the purpose of dubbing English language sound track to be used in connection with foreign language motion pictures. It is understood that “dubbing” as used in this Agreement refers to the recording of dialogue in English to substitute for dialogue in another language or the replacement of English dialogue because the original performance lacked the appropriate fluency in English. The dubbing Performer must work “to picture”, synchronizing the on and off-camera dialogue of the English language script adaptation. “Looping” is not covered hereunder except, however, in circumstances where a star Performer loops his/her own performance in a foreign produced motion picture in association with dubbing Performers. Otherwise, looping and ADR work are covered by the Netflix Agreement.

b. **Foreign Language Live-Action Motion Picture Defined**

To qualify as a foreign language motion picture for the purpose of applying the terms and conditions of this Agreement, a motion picture must have been produced principally in a language other than English and intended for initial exhibition in a theater, on television or in New Media (as that term is defined in the Netflix Agreement) in a foreign language market. A motion

picture shall not be disqualified from being considered a foreign language motion picture if (i) the motion picture is not fully edited, with post production elements completed so that the motion picture is ready for exhibition in such the foreign language market; (ii) incidental English dialogue exists; or (iii) the dubbed version of the motion picture is exhibited on the same date that the foreign language motion picture is available.

c. Foreign Language TV Cartoons or Animated TV Motion Pictures

This Agreement shall apply to the English language dubbing for a foreign language animated motion picture provided that the work is performed "to picture" and a release quality sound track in a foreign language exists. The dubbing of sound track for any other animated motion picture shall be governed by the Netflix Agreement or other applicable SAG-AFTRA Agreement.

2. **Compensation**

a. Performer (except as set forth in 2.b)

Performers may be employed for the purpose of dubbing sound track on an hourly basis. Performer may perform multiple roles or may render services in connection with more than one episode of the same episodic series (or part for multi-part closed-end pictures) for the compensation set forth below.

The Performer shall be compensated at the following hourly rate for each of the first through eighth hours with a minimum daily guarantee of two hours:

Rate per hour (2 hour minimum guarantee)      \$83.00  
*(subject to any general wage increases applicable to the Netflix Agreement)*

b. Professional Singers (applicable to animated motion pictures only)

A Professional Singer is a person who is employed primarily to sing either as a solo or in a group requiring unison or harmony or a Performer singing along to a track in character where they are also recording that character's voice. For a session not to exceed four consecutive hours in length.

Solo and Duo	\$360.00
Groups 3 - 8	\$321.25
Groups 9 or more	\$276.50
Sweetening with or without overdubbing	100% additional
Overdubbing only	33 1/3% additional
Contractor Fee:	
3 - 8 Singers	\$160.75
9 or more Singers	\$276.50



Step-out rule is also applicable  
See Basic Agreement

The rates above are subject to any general wage increases applicable to the Netflix Agreement.

c. Overtime

Overtime shall be paid based upon the minimum or individually negotiated hourly rate. The ninth and tenth hours shall be paid at time-and-one-half; all hours in excess of ten shall be paid at double-time. Work time shall be calculated in one-fourth (1/4) hour units.

d. Residuals

The Producer shall pay an additional 50% of the performer's initial compensation concurrently with payment for the session to obtain all rights, in perpetuity, to exhibit and distribute the dubbed motion picture worldwide and in all media.

e. Weekend or Holiday Work

A Performer employed hereunder shall be paid at time-and-one-half if such work is performed on a Saturday, or at double-time if such work is performed on a Sunday or a holiday designated in the Netflix Agreement. However, if such work is scheduled on a Saturday or Sunday to accommodate the schedule of the Performer, such Performer shall be compensated at straight time.

f. Crediting Prohibited

Whenever a Performer receives overscale, overtime or other adjustments to the basic wage rate required by the Agreement, such overtime or adjustments shall not reduce the Performer's guaranteed employment or guaranteed compensation. No crediting of such guarantees is permitted against any payment required by this Agreement.

3. **Preference of Employment Not Applicable**

The Preference of Employment provisions of the Netflix Agreement will not be applicable to this Netflix Dubbing Agreement.

4. **Netflix Agreement Applicable**

"Other than as expressly modified herein, all provisions of the Netflix Agreement are to remain in full force and effect and shall be binding upon the parties for the full term of this Agreement.

**5. Producer as Contractor**

Should Netflix engage a contractor to make the sound track for any motion picture, then Netflix shall assume direct responsibility for Performers being hired under the terms of this Netflix Dubbing Agreement or have the contractor sign a Letter of Adherence to this Netflix Dubbing Agreement.

**6. Term of Agreement**

The term of this Dubbing Agreement shall run concurrently with the term of the Netflix Agreement.

**7. Pension and Health**

- a. The Producer is hereby made a party to and is bound by the provisions of the SAG-AFTRA Health Plan and Screen Actors Guild Pension Plan, hereinafter referred to as the "Pension and Health Plans". Each Producer shall contribute to the said Pension and Health Plans and to the Screen Actors Guild-Producers Industry Advancement and Cooperative Fund at the same percentages provided under the Netflix Agreement.
- b. The Producer agrees to execute such further instruments from time to time as the Trustees of either of said Pension and Health Plans may find necessary or desirable to effectuate the purposes of the Pension and Health Plans or the Producer's obligations with respect to them.

**8. Late Payment**

- a. Session payment shall be due by the end of the payroll week following each week during which services are rendered.
- b. In the event the Producer fails to make any payment when the same is due in accordance with the provisions of this Netflix Dubbing Agreement, the following cumulative liquidated damage payment shall be due and payable to the Performer for each day, beginning with the day following the date of default:

\$3.00 per day

up to a maximum damage payment of \$75 (25 days); provided, however, that Saturdays, Sundays and legal holidays which the Producer observes shall not be included, and further provided that the damage shall not be invoked or payable when the Performer is at fault for failure to complete a tendered W-4 form or when the Performer, having been furnished an engagement contract on or before the day of employment, fails to return the signed contract promptly, or where there is a bona fide dispute as to compensation. The Producer must pay any undisputed amount on time.

**9. Standard Form Contract**

A standard employment contract in substantially the same form as Addendum A hereto shall be used for all engagements hereunder and shall be given to the Performer a reasonable time prior to performance. In case of grievances, disputes or alleged disputes hereunder, Netflix will file copies thereof with SAG-AFTRA.

**10. Screen Credits and Billing**

Screen credits and billing for Performers shall be at Netflix's sole discretion except as agreed to between a Performer and Netflix.

**SIDELETTER NO. 1**

As of July 20, 2019

Stephen Carroll  
Director and Head of Labor Relations  
Netflix  
5808 W. Sunset Blvd.  
Los Angeles, CA 90028

**Re: Options**

Dear Stephen,

During the discussions regarding establishing the Netflix Agreement, the parties discussed the Union's concern that series regulars have been economically and professionally damaged by Industry practice surrounding the exercise of series regular options.

Producers have held series regulars exclusive during long periods of delay between the exercise of initial options and the commencement of production, long delays between the end of production of one season and the exercise of subsequent year options and long delays between the exercise of subsequent year options and the commencement of production for subsequent seasons. This has resulted in series regulars losing the opportunity to obtain employment in episodic production for multiple years in exchange for little to no additional compensation.

The Union therefore requested adjustment to the applicable deadlines for executing series regular options. In connection with the Union's request, the parties reviewed Netflix's practice with regard to the exercise of options for series regulars and determined that for self-produced Netflix titles that would be subject to this Netflix Agreement, Netflix appears to have maintained a consistent production schedule that has avoided the worst-case scenarios that the Union has observed with other producers.

The Union therefore agreed to retain the current language on the subject of options on the understanding that Netflix intends to continue this practice. Netflix agrees, however, that in the event that the Union contends that a series regular on a production subject to this Netflix Agreement has been subjected to an unreasonable period of exclusivity as a result of how that series regular's options have been exercised, Netflix agrees to work with SAG-AFTRA in good faith to fashion appropriate relief in the circumstances facing that series regular. Should the Union contend that Netflix's practices with respect to the exercise of series performer options have changed so as to disadvantage series performers on productions covered by this Netflix Agreement, Netflix agrees to meet and confer to reconsider the Union's request(s).

The parties enter into this Sideletter without prejudice to their respective interpretations of contract language and their resulting rights and obligations.

SCREEN ACTORS GUILD-AMERICAN  
FEDERATION OF TELEVISION AND RADIO ARTISTS

By:

\_\_\_\_\_  
David White  
National Executive Director