

From PLI's Course Handbook

Counseling Clients in the Entertainment Industry 2005

#6004

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TELEVISION

Kenneth M. Kaufman

Skadden, Arps, Slate, Meagher & Flom LLP

Lisa Williams-Fauntroy

Senior Vice President, Legal Affairs

Discovery Communications, Inc.

Karen J. Levinson

John Silberman Associates PC

JOINT VENTURE AGREEMENT

THIS AGREEMENT is made this ___ day of _____, 2005, by and between TELEVISION COMPANY, LTD., a _____ corporation having its principal place of business at _____ (hereinafter referred to as "Company"), and TELEVISION PRODUCTIONS, INC., a _____ corporation having its principal place of business at _____ (hereinafter referred to as "Productions"). The parties hereby agree as follows:

1. Company and Productions (sometimes hereinafter referred to as the "Joint Venturers") hereby form a joint venture (hereinafter referred to as the "Joint Venture") to: (a) develop, produce and distribute a television series on the subject of _____ (hereinafter referred to as the "Series"); and (b) to dispose of subsidiary and ancillary rights in the Series, including, without limitation, rights relating to merchandising, home video, publishing, computer programs and sound recordings.

2. It is contemplated that the Series will consist of (a) a television pilot and (b) weekly half-hour episodes photographed on film which will be intended for initial exhibition on a broadcast television network.

3. The name of the Joint Venture shall be _____. All business of the Joint Venture shall be conducted under that name and under such variations as the Joint Venturers may deem appropriate.

4. The Joint Venture's principal place of business shall be at _____, unless the Joint Venturers shall mutually determine otherwise. The Joint Venturers may establish such additional places of business as they deem appropriate.

5. The Joint Venture shall commence as of the date hereof and shall continue in full force and effect until _____, unless it is dissolved sooner as provided herein.

6. The Joint Venturers shall contribute the following cash contributions and receive the respective percentage interests designated opposite their names (hereinafter referred to as the "Percentage Interest(s)"):

<u>Joint Venturer</u>	<u>Contribution</u>	<u>Percentage</u>
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Interest

Company	\$___	_%
Productions	\$___	_%

7. In addition to its cash contribution to capital, each Joint Venturer shall contribute to the Joint Venture, at no cost to the Joint Venture, the following elements: Company shall contribute _____; and Productions shall contribute _____.

8. Company and Productions shall each own its respective Percentage Interest in the Joint Venture and in all rights (including without limitation all copyrights) in the Series, and shall have the same respective Percentage Interest in the profits and losses of the Joint Venture. Profits and losses shall be determined in accordance with generally accepted accounting principles consistently applied.

9. In the event that from time to time the Joint Venture requires funds by reason of any contractual or other obligations of the Joint Venture, or for internal operations as mutually agreed upon by the Joint Venturers, each Joint Venturer shall provide the Joint Venture with its respective Percentage Interest of the applicable monies or other assets required. Said sums shall be either contributions to capital or loans to the Joint Venture, as mutually determined by the Joint Venturers in consultation with the certified public accountant retained by the Joint Venture. If no agreement is reached, they will be considered contributions to capital.

10. The profits of the Joint Venture shall be distributed to the Joint Venturers on an annual basis in proportion to their Percentage Interests. Before making any profit distribution, the Joint Venturers shall determine that portion of the profits to be kept in reserve to meet working capital requirements of the Joint Venture. Any profits not required for working capital purposes shall be distributed as provided herein.

11. All business and creative decisions made by the Joint Venture shall be subject to the mutual approval of the Joint Venturers. They shall each conduct the affairs of the Joint Venture to the best of their ability in a good and businesslike manner, and shall use reasonable efforts to reach agree-

ment on decisions to be made by the Joint Venture. Each Joint Venturer shall devote so much of its time and attention to the activities of the Joint Venture as may reasonably be required in overseeing and carrying out its responsibilities to the Joint Venture.

12. The Joint Venturers shall jointly select the attorneys for the Joint Venture and a certified public accountant to handle the Joint Venture's accounting and tax functions and to prepare an annual tax return. Unless authorized by the other Joint Venturer, neither Joint Venturer shall, on behalf of the Joint Venture: borrow money in the Joint Venture's name; use Joint Venture property as collateral; convey any Joint Venture property with value in excess of \$___; pledge or transfer in any manner its interest in the Joint Venture (except as provided in paragraph 18 herein); confess a judgment; sue in the name of the Joint Venture; enter into any contract or agreement on behalf of the Joint Venture; or admit new Joint Venturers.

13. Subject to the provisions of this paragraph, each Joint Venturer shall be free to pursue other business interests and the other Joint Venturer shall have no interest in those activities. Each Joint Venturer warrants and represents that it will not, after the date of this agreement, directly or indirectly acquire, own, operate, or provide services that compete, directly or indirectly, with the services undertaken by the Joint Venture as set forth herein, and that any such services with respect to the subject matter of the Series shall be undertaken exclusively on behalf of the Joint Venture. This prohibition shall remain in effect so long as the original Joint Venturers are participants in the Joint Venture and for ___ years thereafter so long as either Joint Venturer is involved in the continued ownership or operation of the business of the Joint Venture.

14. The Joint Venture may enter into agreements with entities affiliated with either Joint Venturer for the performance of services or the furnishing of facilities or materials for the Joint Venture's business. The terms of all such agreements shall be at least as favorable to the Joint Venture as might be expected in the ordinary course of business with unrelated outside parties.

15. Each Joint Venturer shall keep an itemized record of its out-of-pocket travel and other expenses on behalf of the Joint Venture and shall

be reimbursed for all such reasonable expenses which were incurred in accordance with this agreement.

16. The Joint Venture's books and records shall be maintained at its principal place of business. Each Joint Venturer shall have access to and may inspect and copy the books and records during normal business hours.

17. The Joint Venture shall maintain such bank accounts as the Joint Venturers shall determine. All funds received by the Joint Venture shall be deposited into said accounts.

18. The sale or assignment of either Joint Venturer's interest in the Joint Venture shall be restricted as provided in this paragraph (and any purported sale or assignment in violation hereof shall be null and void). In the event a bona fide written offer is received from a third party to purchase the Joint Venture, or a Joint Venturer's interest therein, and a Joint Venturer desires to sell its interest to such prospective purchaser, it shall provide the other Joint Venturer with written notice thereof, by personal delivery or certified mail (return receipt requested), and shall include a copy of the bona fide written offer to purchase signed by the prospective purchaser. Said offer to purchase shall commit the prospective purchaser for a period of not less than ____ days to acquire the other Joint Venturer's interest in the Joint Venture on the same terms and conditions.

Within __ days of its receipt of such written notice, the non-presenting Joint Venturer shall elect in writing either to (a) accept the offer of the prospective purchaser to acquire both Joint Venturers' interests in the Joint Venture, (b) acquire the presenting Joint Venturer's interest in the Joint Venture on the same terms and conditions as the prospective purchaser is willing to do, or (c) waive its rights under this paragraph as to only the proposed transaction (and not future transactions) and thereby permit the prospective purchaser to become a substitute Joint Venturer in place of the selling Joint Venturer and pursuant to all the terms and conditions hereof. If no written election is made and delivered (by personal delivery or certified mail, return receipt requested) within the applicable time period, the responding Joint Venturer is deemed to have waived its rights as to only the proposed transaction.

19. Each Joint Venturer warrants and represents that it is free to enter into this agreement and to fully perform its obligations and provide the services and materials to be provided by it hereunder; that it is the sole and exclusive owner of all rights, including without limitation all copyrights, in all services and materials to be furnished by it hereunder; and that its furnishing of the services and materials to be provided by it hereunder will not violate or infringe upon the rights of any third party. Each Joint Venturer shall defend, indemnify and hold harmless the Joint Venture and the other Joint Venturer from and against any and all claims, actions, liabilities, damages, costs and expenses (including reasonable attorneys' fees and costs) arising from or in connection with a breach or alleged breach of its aforesaid representations and warranties.

20. Any breach of a material provision of this agreement by one of the Joint Venturers, which Joint Venturer does not take reasonable steps to cure such breach within ___ days of its receipt of written notice thereof from the other Joint Venturer, shall be cause for the non-breaching Joint Venturer to dissolve the Joint Venture (without limiting its other rights or remedies), by written notice given ___ days in advance. The failure of the non-breaching Joint Venturer to do so shall not operate as a waiver thereof on the happening of a subsequent breach. In addition, the Joint Venture may be dissolved by unanimous consent of the Joint Venturers. Upon dissolution, the Joint Venture's business shall be wound up and liquidated as rapidly as business circumstances permit. The assets shall be applied as follows: (a) to pay or provide for all amounts owing to creditors, other than the Joint Venturers, and for expenses of dissolution; (b) to pay or provide for all amounts owing to the Joint Venturers other than for capital and profits; (c) to pay or provide for all amounts owing to the Joint Venturers for capital; and (d) any remaining amounts or assets shall be distributed to the Joint Venturers in proportion to their respective Percentage Interests.

21. Any controversy arising out of this agreement or the alleged breach thereof shall be settled exclusively by arbitration to be held in _____ in accordance with the then current rules of the American Arbitration Association. Judgment upon the award rendered may be entered in a court of competent jurisdiction.

22. All notices to any party hereunder shall be in writing and shall be sent by personal delivery or by certified mail, return receipt requested, to

the address for such party indicated above, or to such other address as such party may indicate by notice duly given. A copy of all notices to Company shall be sent to _____, Attn: _____, Esq., and a copy of all notices to Productions shall be sent to _____, Attn: _____, Esq. This agreement constitutes the entire understanding between the parties relating to the subject matter hereof and supercedes all prior agreements between the parties. No amendment to or modification of this agreement shall be binding unless signed by both parties hereto. This agreement shall be governed by the laws of the State of _____ applicable to agreements entered into and wholly to be performed therein, without regard to principles of conflicts of laws.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first set forth above.

TELEVISION COMPANY, LTD.

By: _____

Title: _____

TELEVISION PRODUCTIONS, INC.

By: _____

Title: _____

SHORT-FORM WRITER'S AGREEMENT

_____ PRODUCTIONS, INC.

[address]

_____, 200_

Mr./Ms. _____

[address]

Dear Mr./Ms. _____:

This will confirm the understanding and agreement between _____ Productions, Inc. ("we" or "us") and you, as follows:

1. We hereby engage you, and you accept said engagement, to render the services for us, and grant us the rights, set forth in this agreement.

2. We have provided you with a theme, concept and other elements more fully described in Exhibit "A" hereto (collectively the "Concept").

3. (a) You shall prepare a treatment suitable for a two (2)-hour television movie of the week (the "Treatment") based on the Concept, in accordance with our instructions, and shall deliver the Treatment to us no later than _____, 200_.

(b) If we so advise you by _____, 200_ or by ____ weeks following our receipt of the Treatment, whichever is later, you shall prepare such revisions to the Treatment as we may specify and shall deliver a revised version thereof to us no later than ____ weeks after our request to you to make such revisions.

4. (a) If we so advise you by _____, 200_ or by ____ weeks following our receipt of the Treatment (including any revisions thereto), whichever is later, you shall prepare a teleplay suitable for a two (2)-hour television movie of the week (the "Teleplay") based on the Concept and the Treatment and shall deliver the Teleplay to us no later than ____ weeks after our request to you therefor.

(b) If we so advise you by _____, 200_ or by ____ weeks following our receipt of the Teleplay, whichever is later, you shall prepare such revisions to the Teleplay as we may specify and shall deliver a revised version thereof to us no later than ____ weeks after our request to you therefor.

(c) If we so advise you by _____, 200_ or by ____ weeks following our receipt of the revised Teleplay (if any), whichever is later, you shall prepare such further revisions to the Teleplay as we may specify and shall deliver a further revised version thereof to us no later than ____ weeks after our request to you therefor.

5. You shall render your services hereunder as an independent contractor and not as an employee or agent of us.

6. All services to be rendered by you hereunder shall be rendered as, and all results and proceeds of your services shall be, a "work made for hire" specially ordered or commissioned by us for use as a part of a motion picture or other audiovisual work, in accordance with Section 101 of the Copyright Law of the United States. We shall be the sole and exclusive owner of all rights, including without limitation all copyrights, in and to all such services and the results and proceeds thereof from their creation in perpetuity throughout the universe in all media. In the event that for any reason your services and the results and proceeds thereof should not be considered a work made for hire, then you hereby assign to us all your right, title and interest therein in

perpetuity throughout the universe in all media and in all languages.

7. All your services hereunder shall be performed strictly in accordance with our instructions, on a timely basis, it being understood that time is of the essence. All results and proceeds of your services hereunder (including without limitation the Treatment, the Teleplay, and any revisions thereto) shall conform to television industry custom and practice; and, without limiting our rights therein, we and/or our designee(s) shall have the right to make any changes therein as we and/or our designee(s) may determine in our sole discretion. In addition, we and/or our designee(s) shall have the right to use your name, likeness, biographical information and/or voice in and in connection with any and all television programs and/or other works which incorporate, utilize or relate to any of the results and proceeds of your services hereunder and in advertising and publicity connected therewith.

8. In full consideration of all services to be performed by you hereunder and the results and proceeds thereof and of all rights granted by you hereunder, we shall pay you, subject to the performance of your obligations hereunder, the applicable sum(s) set forth on Exhibit "B" attached hereto, at the time(s) indicated therein. Inasmuch as your services have been and/or shall be rendered as an independent contractor, you shall be responsible for all tax filings, withholdings, and deductions with respect thereto.

9. In the event that a television MOW is produced and exhibited based upon the Treatment and/or the Teleplay to be prepared by you hereunder, you shall receive credit therein as provided in Exhibit "C" attached hereto. No casual or inadvertent failure to accord such credit shall be deemed a breach of this agreement.

10. In the event that this agreement should be subject to any union or guild agreement that may be applicable (including, without limitation, the Writers Guild of America Minimum Basic Agreement), then (a) any and all sums paid or payable pursuant to this agreement shall apply, to the maximum extent possible, toward the payment of any and all sums which may be payable under said union or guild agreement (which shall be at the minimum union or guild rates); and (b) we shall have the

maximum rights and benefits permitted under said union or guild agreement.

11. You represent and warrant to us that you have the right, power and authority to enter into and fully perform this agreement and that all material created, written, prepared and/or delivered by you hereunder will be original and will not violate or infringe upon the copyright, trademark rights, right of privacy, contractual rights, or any other rights of any third party. You shall indemnify and hold harmless us and our officers, directors, employees, licensees, agents and attorneys from and against any and all claims, actions, liabilities, losses, damages, costs and expenses (including reasonable attorneys' fees and costs) arising from or in connection with any claims or actions which are inconsistent with your warranties, representations and agreements set forth herein. Each party shall promptly notify the other of any such claim. The provisions of this Paragraph 11 shall survive the expiration or termination of this agreement.

12. This agreement constitutes the entire agreement between the parties, and supersedes any prior agreements, with respect to its subject matter. It may only be modified by a writing signed by both parties hereto. This agreement shall be construed according to the laws of the State of _____ applicable to agreements entered into and wholly to be performed therein, without reference to conflicts of laws principles. A waiver of any breach of any provision of this agreement by either party shall not operate as a waiver of any subsequent or preceding breach. This agreement shall be binding upon, and inure to the benefit of, the parties and their respective heirs, administrators, executors, personal representatives, successors and assigns; provided that the services to be performed by you hereunder are personal to you, and you may not assign or transfer any of your rights or obligations hereunder without our prior written approval.

Please sign where indicated below to confirm your agreement to the above terms and conditions.

Very truly yours,

_____ PRODUCTIONS, INC.

By: _____

Title: _____

ACCEPTED AND AGREED TO:

(Signature)

(Printed Name)

(Social Security No.)

EXHIBIT "A"

[Description of Concept]

EXHIBIT "B"

[Description of compensation arrangements]

EXHIBIT "C"

[Description of credit]

TELEVISION ACTOR AGREEMENT

This agreement executed as of _____, between
 (“Producer”) and _____ (“Artist”).

In consideration of the covenants and conditions herein contained and other good and valuable consideration, the parties agree as follows:

1. Warranties and Services.

1.1 Producer hereby engages, upon the terms and conditions herein specified, the services of Artist in connection with the portrayal of the role of {insert name} in the feature length motion picture for television tentatively entitled [insert name] (the “Program”). Artist shall perform all of the services customarily performed by an Actor in the motion picture and television industry and shall perform such services to the best of Artist’s ability, as instructed by Producer in all matters. Artist shall render services wherever and whenever Producer shall require and shall promptly and faithfully comply with all instructions and directions of Producer.

1.2 The engagement of services hereunder is subject to Artist’s providing the requisite documents required by the Immigration Reform and Control Act of 1986 (“IRCA”) and completion and signing by Artist of the required form I-9 pursuant to IRCA Section 274a.2.

2. Term and Locale of Employment.

The term of the Artist’s exclusive services hereunder shall commence on or about [date] (the “Start Date”) and shall continue on an exclusive basis to Producer until the completion of all services required of Artist in connection with the principal photography of the Program (the “Term”). Artist shall report to such location or locations as Producer shall designate for the rendition of his services.

3. Compensation.

Subject to all of Producer's rights hereunder, and provided that Artist shall not be in default and shall fully perform all of his obligations hereunder, Producer agrees to pay Artist, and Artist agrees to accept the following in full consideration of all services rendered and all rights granted hereunder:

3.1. On condition that Artist fully performs all material services hereunder, and in consideration of all rights now or hereafter acquired by Producer, Producer shall pay Artist as follows:

3.1.1 As basic compensation for services during the Exclusive Period (as defined in Section 4.2 below) (\$000), payable in equal weekly installments during principal photography;

3.1.2 Producer shall not be obligated to compensate Artist for any services rendered by him during the Preproduction Period (as defined in Section 4.2.1), the Additional Principal Photography Period (as defined in Section 4.2.3) and/or the Free Days (as defined in Section 7);

3.1.3 If Artist's services shall be required during the Additional Period (as defined in Section 8), or for more than one week during the Additional Principal Photography Period, the daily rate payable hereunder to Artist shall be (\$000)

3.2. It is fully understood that Artist has no right, title or interest of any kind in or to the Program or in or to any gross receipts or net profits, nor shall he have, it being agreed that Artist's compensation shall be computed, determined and paid in the manner herein provided, but that it shall not in any way constitute a lien or claim on or against the Program or its gross receipts or net profits, or an assignment or transfer thereof or of any part thereof or of any interest therein.

3.3 Artist's services are being furnished as a "deal performer" subject to Schedule F of the Screen Actors Guild Television Agreement currently in effect and applicable to this Agreement (the "SAG Agreement") and Artist shall not be entitled to receive any compensation in

addition to that provided in Section 3.1 in respect of any services, except as expressly required pursuant to the SAG Agreement. Except as otherwise provided herein, Artist's compensation shall be deemed to cover the maximum period of services permitted by the SAG Agreement, and for such purpose, Artist shall be deemed compensated hereunder at the minimum weekly rate provided for in the SAG Agreement. Artist will grant "rest period" waivers and other waivers when requested by Producer to the maximum extent permitted under the SAG Agreement. No increase or additional compensation shall accrue or be payable to Artist by reason of the fact that any of his services are rendered at night or on Saturdays, Sundays or holidays or after the expiration of any particular number of hours of service in any period. Except as expressly provided to the contrary herein, Producer shall be entitled to the maximum benefits and acquire the maximum rights permitted under the SAG Agreement. If, with respect to any other distribution or other exploitation of the Program by Producer in any medium, the SAG Agreement requires the payment of compensation to Lender in addition to that provided for in this Agreement, such additional compensation shall be paid at the minimum rate required by the SAG Agreement.

3.4 Pension and Welfare: Producer agrees to make the pension, health and welfare payments that are payable by reason of the engagement of Artist hereunder under the applicable collective bargaining agreement of the union or guild having jurisdiction.

4. Exclusive Period

4.1 Producer shall be entitled to Artist's services exclusively hereunder during the Exclusive Period, and Artist shall not render acting services for any party other than Producer during such period of time without Producer's prior written consent.

4.2 The Exclusive Period shall include, but not be limited to, the following:

4.2.1 A period of up to one week for rehearsal, make-up and wardrobe purposes immediately prior to the commencement of principal photography (the "Preproduction Period");

4.2.2 A period of not less than _____ consecutive weeks during principal photography (the “Minimum Period”); and

4.2.3 One additional free week of principal photography of the Program (“Additional Principal Photography Period”)

4.3 During the Term hereof, Artist shall not consent to any other person advertising, announcing or making known directly or indirectly, by any method, that Artist has contracted to do or perform any act or services contrary to the provisions of this agreement. To prevent such acts, or any of them Producer is hereby granted the right to institute any legal proceedings in Producer’s name.

5. General Services.

Throughout the Term hereof, Artist agrees that it shall at all times keep Producer advised of his whereabouts so that he may be reached at any reasonable hour of the day or night, and Artist shall render his services for Producer as set forth in Section 4 above and at all times required by Producer (provided Producer gives Artist notice that is reasonable in light of the exigencies of production), including nights, Saturdays, Sundays and holidays. Artist shall promptly and faithfully comply with all reasonable instructions, directions, requests, rules and regulations made or issued by Producer, and perform and render his services conscientiously and to the full limit of his ability at all times when and wherever required or desired by Producer and as instructed by Producer in all matters, including those involving artistic taste and judgment. Without limiting the generality of the foregoing, Artist agrees that he shall, if, as and to the extent requested by Producer, perform and render services as an actor, record his voice and other sound effects for use in the Program and for use in connection with the advertising, publicity and exploitation of the Program, and render any other services incidental to the rendition of the services enumerated in this Section 5 and in Sections 6, 7 and 9 hereof.

6. Preliminary and Ancillary Services.

In addition to Artist’s services in the portrayal of Artist’s role in the Program, Artist shall throughout the Term hereof report to such studio and/or other place(s) as Producer may designate for the rendition of Art-

ist's services in connection with rehearsals, tests, pre-recordings, consultations, and discussions, wardrobe fittings, and other preliminary and preparatory activities in connection with Artist's services hereunder. Such services shall be rendered without any additional compensation inasmuch as the compensation payable to Artist pursuant to the provisions of Section 3 shall be deemed to include payment for such services.

7. Retakes and Other Additional Services.

During the Term hereof, Artist shall render such services as Producer may desire in making retakes, added scenes, transparencies, close-ups, sound track (including dubbing and looping), process shots, trick shots or trailers for, changes in or foreign versions of the Program (collectively "additional services") Subject to Section 8 below, Artist shall render such additional services as and when Producer may require. Compensation for such additional services during the Additional Period (as defined in Section 8 below) shall be payable for the days on which Artist actually renders such additional services, or reports for such services at Producer's request, ready, willing and able to render such services, at the daily rate provided for in Section 3.1.3 above. However, no compensation shall be payable for such additional services to the extent they are rendered during the Exclusive Period, nor shall compensation be payable for the first five (5) days (the "Free Days") (not necessarily consecutive) of such additional services, for soundtrack (including dubbing and looping), for which compensation would otherwise be payable under this Section 7.

8. Additional and Incidental Services Other Than During the Exclusive Period.

At any time other than during the Exclusive Period hereof (the "Additional Period"), Artist's additional services pursuant to Sections 6, 7 and 9 hereof may be required at such times as do not conflict with any of Artist's then existing good faith, written, professional contractual commitments, and Artist shall cooperate fully with Producer in making such services available. Written notice of any additional or incidental services may be served on Artist at any time before the date on which such services are required and Artist shall perform such services on the date(s) specified in such notice(s), subject, however, to such good faith, written

professional contractual commitments existing on the date(s) of such notice(s) which preclude Artist from so commencing such services in which event Artist shall immediately notify Producer and arrange for the performance of his services at the earliest possible days thereafter.

9. Publicity.

Artist shall, if, as and to the extent requested by Producer, cooperate with Producer in such manner as it deems necessary or desirable for the purposes of advertising and exploiting the Program and/or the name and/or the voice and/or photographs and/or physical likenesses of Artist; provided, however, that the services to be rendered by Artist in this connection shall be subject to Artist's reasonable prior approval. The services provided for in this Section 9 shall be rendered by Artist without any additional compensation.

10. Transportation, Etc.

10.1 If Producer requires Artist to render services at a place more than one hundred (100) miles from Artist's principal place of residence, Producer agrees to furnish, or pay the cost of, Artist's round-trip transportation (first-class and by air, if available) from Artist's principal place of residence to such place or places in which Producer may require Artist to render Artist's services hereunder. In addition, if Artist is required to be away from his principal place of residence for more than three (3) consecutive weeks, Producer shall furnish up to four (4) additional first-class transportation for Artist's family (an an available and if-used basis).

10.2 Producer shall reimburse Artist for his actual and reasonable first-class living expenses for hotel, meals, ground transportation and similar [not to exceed \$0000 per week, pro-rated in the case of partial weeks].

10.3 Artist shall be provided with exclusive first-class ground transportation to and from the sites of principal photography at the beginning and end of each working day.

10.4 Artist shall also be provided with a first-class dressing facility (if reasonably available) for Artist's exclusive use, equipped with heating and air conditioning, a private bathroom, VCR/DVD player and a telephone (but Artist shall be responsible for long distance charges).

11. Credit.

Provided (i) Artist completes all services and fulfills all of his duties and obligations hereunder, (ii) Artist is not in default of this Agreement, and (iii) the Program is released, Producer shall accord to Artist credit as follows:

11.1 On screen in size at least One Hundred percent (100%) of the type used for the title of the Program. Artist's credit shall appear in a single frame in not less than third position among all cast members, above the title of the Program in the main titles on a separate card.

11.2 Artist shall also receive credit in paid advertisements in not less than third position among cast members before the title in the billing block of any item of paid advertising controlled by Producer; subject to Producer's customary exclusions; provided further that Artist's credit will appear wherever credit is accorded to [names] in paid advertising except for award and congratulatory advertisements naming only the individual honored. Artist's credit in paid ads shall be not less than one hundred percent (100%) of the size of the regular title of the Program and not less than 25% of the size of the artwork title of the Program.

11.3 If the likeness of any other performer appearing in the Program is used in a paid advertisement issued under the control of Producer (other than award and congratulatory ads in which only the honoree's likeness appears), Artist's likeness shall also be used in such advertisement and shall be substantially equal in size.

11.4 Subject to the foregoing, Producer shall determine in its discretion the manner and mode of presenting Artist's credit. Promptly following written notice in reasonable detail from Artist specifying failure to comply with the credit provisions hereof, Producer agrees to use reasonable efforts, if not unduly expensive, to cure prospectively such failure with respect to future prints and/or advertisements, as applicable. No

casual or inadvertent failure to comply with the provisions of this paragraph by Producer nor the failure of any third parties to comply shall constitute a breach of this agreement. Artist shall not be entitled to injunctive or other equitable relief for any breach by Producer of the provisions of this Section 11.

12. Rights Granted.

Artist grants to Producer all rights described in this agreement of every kind whatsoever, whether now known or unknown, exclusively and perpetually, in and to his services performed pursuant to this agreement and in and to all the results and proceeds thereof. Without limiting the generality of the foregoing, and in part in addition thereto, Artist makes the following additional grant of rights to Producer.

12.1 Photography and Recordation and Their Use.

Artist grants to Producer the sole, exclusive and perpetual rights to photograph or otherwise reproduce, by any present or future method or means, all or any part of Artist's performances, act, poses, plays and appearances of every kind and nature made or done by Artist in connection with the Program as Producer may determine in its sole discretion; to record, reproduce, re-record or transmit, by any present or future method or means Artist's voice and all musical, instrumental or other sound effects produced by Artist, either separately or in conjunction with such performances, acts, poses, plays and appearances as Producer may determine in its sole discretion to exhibit, transmit and reproduce, and license others so long as such license is in compliance with this agreement to exhibit, transmit and reproduce by any present or future methods or means any such reproductions, recordations and transmissions of the Program or portions thereof or the advertising or exploitation thereof. All results and proceeds of Artist's services hereunder constitute a "work made for hire" within the copyright laws of the United States.

12.2 Advertising and Exploitation.

Artist also grants to the Producer the perpetual right to use, and to allow others to use, Artist's name, pictures, photographs and likeness, biographical data concerning the Artist, and reproductions of Artist's voice, in and in connection with the advertising and exploitation of the Program.

Producer will not, without Artist's written consent, consent to advertisements or announcements that Artist endorses or uses particular products.

12.3 "Double" or "Dub".

Producer shall have the right to substitute the voice of another or others for the Artist's voice and the right to use a "double" in lieu of Artist (1) when necessary to meet expeditiously the requirements of foreign exhibition; (2) when necessary to meet expeditiously censorship requirements, both foreign and domestic; (3) when, in the opinion of the Producer, the failure to use a "double" for the performance of hazardous acts might result in physical injury to the Artist; or (4) when the Artist is not available as required by this agreement after having been requested to be available. Artist agrees that under any of the foregoing conditions, Producer shall have the right to "double" and/or "dub" in the English language not only the acts, poses, plays and appearances of the Artist but also the voice of the Artist, and all instrumental, musical and other sound effects to be produced by the Artist, to such extent as may be required by Producer in its sole discretion. Artist shall be given the first opportunity to dub his voice in English, provided he is available to do so on not less than seven (7) days notice. Producer shall in any event have the right to "dub" the voice of Artist in languages other than English whenever and to such extent as may be required by Producer in its sole discretion.

12.4 Literary Material.

All material, works, writings, ideas, business or dialogue composed, submitted or interpolated by Artist in connection with the preparation or production of the Program shall automatically become the property of the Producer, which shall for this purpose be deemed to be the author thereof. Artist acknowledges and agrees that the name and characterization of the role to be portrayed by Artist in the Program, the title of the Program and all material performed by Artist hereunder belong exclusively to Producer, that Artist has no right, title, or interest whatsoever therein or thereto nor any right to make any use thereof (whether in the employ of another or on his own behalf) without written authorization from Producer. Producer reserves to itself all rights in and to the foregoing material. Artist shall, at the request of Producer, execute such assignments, certificates or other instruments as Producer may from time to time

deem necessary or desirable to evidence, establish, maintain, protect, enforce or defend its right or title in or to any such material.

12.5 Control of Production.

Producer shall have complete control of the production of the Program, including but not limited to all artistic controls and the right to cut, edit, add to, subtract from, arrange, rearrange, and revise the Program in any manner in its sole discretion. All rights granted or agreed to be granted to Producer hereunder shall vest in Producer immediately and shall remain vested in Producer, its successors and assigns, whether this agreement expires in normal course or is terminated for any cause or reason.

12.6 Merchandising.

Artist hereby grants to Producer the perpetual right to use, and to allow others to use, Artist's name, picture, photograph and/or likeness in connection with merchandising and/or so-called commercial tie-ins (as such terms are commonly known and used in the motion picture industry) of any kind related to the Program including, without limitation, on posters and/or in connection with any publications based in whole or in part upon the Program. In full consideration of the rights granted in this Section 12.6, Producer agrees to pay Artist and Artist agrees to accept the following with respect to merchandising and commercial tie-in uses in which Artist's name, picture, photograph or likeness shall appear: Five percent (5%) of "Producer's net merchandising receipts" (as such term is defined below); provided, however, that if any other person's name, picture, photograph or likeness shall appear in any such use, the aforesaid royalty shall be reducible to that portion of 5% of the net receipts which one bears to the total number of persons (including Artist) whose name, picture, photograph or likeness is used. (i.e. if the names, likenesses etc of Artist and four other performers are used together, Artist will receive one-fifth of 5% (or 1%) of such net receipts). As used herein, the term "Producer's net merchandising receipts" shall mean one hundred percent (100%) of the gross receipts derived by Producer in connection with such merchandising and commercial tie-in uses, less any and all expenses of Producer in connection therewith, including, without limitation, commissions paid to any agent in connection therewith, and a standard distribu-

tion fee of 50% of gross receipts and all expenses incurred by Producer and Producer's licensees.

12.7 Compensation.

Except for the rights granted in Section 12.6 above, Artist shall not be entitled to any additional compensation for the rights granted in this Section 12 inasmuch as the compensation payable to Artist pursuant to the provisions of Section 3 shall be deemed to include payment for such rights.

13. Incapacity or Change.

If the Artist shall become incapacitated or shall be prevented from fully performing in accordance with the terms hereof by reason of illness, accident, disfigurement, impairment of voice, mental or physical disability, or any other cause rendering such non-performance excusable at law (each of the foregoing being herein referred to as "incapacity"), or if the facial or physical appearance or the voice of the Artist shall be materially changed (each of the foregoing being herein referred to as "change"), then Producer shall have the right, at its option, to suspend Artist's services hereunder during the period of such incapacity or change by written notice to Lender. If any such incapacity or change continues for a period of three (3) consecutive days or an aggregate period of seven (7) days during the time when Artist is rendering or is obligated to render services hereunder, then Producer shall have the option to terminate this agreement by giving Artist written notice thereof during the continuance of such incapacity or change or within three (3) days after the cessation thereof. During any period of suspension based on incapacity or change, Artist shall not render services of any kind to or for another person, firm or corporation or on his own behalf. In the event of termination on account of incapacity or change, Producer shall be released from all further obligations to Artist whatsoever, except that Artist shall be entitled to receive such compensation, if any, as may have become due and been unpaid prior to such termination. If the Artist alleges during the term hereof that he is incapacitated from performing services hereunder, Producer shall have the right, at its election, to have medical examinations made of Artist by such physician or physicians as Producer may designate, and Artist

shall submit to such examinations and tests as such physician or physicians may deem desirable to verify Artist's claim of incapacity.

14. Failure; Refusal; Neglect.

If Artist fails, refuses or neglects, other than because of incapacity or change as defined in Paragraph 13 hereof, to perform any of Artist's services required hereunder to the full limit of Artist's ability as, when and where required by Producer, or if Artist or Lender fail, refuse or neglect to keep and perform any of Artist's or Lender's obligations and agreements hereunder (such failure, refusal and neglect being hereinafter referred to as a "default") then Producer shall have the option, by written notice to Lender, to suspend Artist's services during the period of such default and thereafter until Artist shall personally report to Producer in good faith, ready, willing and able to resume the rendition of Artist's services and obligations hereunder, and/or until Artist notifies Producer in good faith that Artist is ready, willing and able to resume the performance of Artist's obligations and agreements hereunder, and for such additional period, not exceeding one (1) week after such default has been cured, as may be necessary to prepare for the actual utilization of Artist's services. Producer shall have the option to terminate this agreement by giving Artist written notice thereof at any time during the continuance of such default or during the period of one (1) week after the cessation thereof. During any period of suspension based on default, Artist shall not render services of any kind to or for any person, firm or corporation or on his own behalf. In the event of termination because of default, Producer shall be released from all further obligations to Artist whatsoever, and the compensation, if any, which has theretofore been paid Artist hereunder shall be payment in full to Artist under this agreement. Artist, however, shall be liable to Producer for the damages (which shall include, without limitation, compensation paid to Artist hereunder) caused to Producer by any such default, and in addition to any other rights or remedies, Producer may deduct the amount of such damage from any compensation payable to Artist hereunder.

15. Force Majeure.

If during the time when Artist is rendering or is obligated to render services hereunder, Producer is prevented from or hampered or inter-

rupted or interfered with in any manner whatever in preparing or producing the Program by reason of any present or future statute, law, ordinance, regulation, order, judgment, or decree, whether legislative, executive or judicial (whether or not constitutional), act of God, earthquake, flood, fire, epidemic, accident, explosion, casualty, lockout, boycott, strike, labor controversy (including but not limited to threat of lockout, boycott or strike) , riot, civil disturbance, war or armed conflict (whether or not there has been an official declaration of war or official statement as to the existence of a state of war) act of a public enemy, embargo, delay of a common carrier, inability without fault on Producer's part to obtain sufficient material, labor, transportation, power or other essential commodity required in the conduct of its business, or by reason of any other cause or causes of any similar nature; or if the production of the Program is suspended, interrupted or postponed by reason of any such cause or similar cause, or the death, illness, disfigurement or incapacity of a principal member of the cast of the Program or the death, illness, or incapacity of any star, producer, director or director of photography of the Program, (each of the foregoing being herein referred to as an "event of force majeure"), then, as a result of any such event of force majeure, Producer shall have the right, at its option, to suspend Artist's services hereunder during such period or periods of time as such events of force majeure exist, by written notice to Artist. If any such event of force majeure continues for a period or periods of four (4) weeks in the aggregate during the term hereof, Producer may elect to terminate this agreement by giving written notice to Artist. If Artist's services hereunder are suspended for any such events of force majeure for a period or periods of four (4) weeks in the aggregate during the term hereof, Artist may elect to terminate this agreement by giving written notice to Producer; provided, however, that such termination by Artist shall not become effective if Producer within three (3) days after the actual receipt of such notice from the Artist gives Artist written notice that Producer elects to resume the use of Artist's services hereunder and the payment of compensation, if any, is or becomes due, therefor and the Artist's services hereunder have been resumed, effective on or before the expiration of the said three (3) day period, and in such event this agreement shall not be terminated by Artist but shall continue in full force and effect; subject, however, to the right of Producer to suspend or terminate Artist's services thereafter for other proper cause, including but not limited to the occurrence of an event of force majeure in accordance with the provisions of this agreement. During any period of suspension based on any event of force majeure, Artist shall be free to render his services to or for any other person, firm, or corporation or on

his own behalf, providing that Artist is not then in default under any of the terms and conditions of this agreement, and providing, further, that Producer shall have the absolute right to recall Artist to render Artist's services hereunder on two (2) days' notice, in which event Artist shall report to Producer to render Artist's services hereunder at the expiration of such notice period. In the event of termination based on any event of force majeure, Producer shall be released from all further obligations to Artist whatsoever, except that Artist shall be entitled to receive such compensation, if any, as may have become due and been unpaid prior to such termination.

16. General Provisions Applicable to Suspension and Termination.

In addition to the provisions contained in paragraphs 13, 14 and 15 hereof, the provisions of this paragraph 16 shall apply equally to any suspension or termination provided for in said paragraphs. Artist shall not be entitled to receive any compensation for or during any period of suspension; and if Producer pays Artist any compensation for or during any period of suspension, Producer shall not be deemed to have waived any of its rights hereunder and it may apply such compensation against any compensation thereafter accruing or becoming due hereunder or may demand repayment of such compensation. Any period of suspension hereunder shall be deemed to have expired upon the cessation of the cause for such suspension (except as otherwise provided in paragraphs 14 and 15 with respect to suspension based on default and force majeure), but in no event prior to the date upon which Artist shall report to Producer ready, willing, able and available to render all of his required services hereunder; provided, that if such suspension is based on any event of force majeure, Producer shall notify Artist promptly of the cessation of the cause of such suspension. Producer may, at its election, by written notice to Artist, terminate any suspension hereunder at any time prior to the time herein specified except that Producer may not require Artist to render services during the actual continuance of Artist's illness which incapacitates or prevents Artist from rendering such services. Producer's rights of termination hereunder are in addition to and are not dependent upon the exercise of any of Producer's rights of suspension. The Exclusive Period, the Additional Principal Photography Period and the Additional Period shall automatically be extended for any period during which this agreement shall be suspended pursuant to paragraphs 13, 14 and 15 hereof. Nothing contained in this agreement shall be deemed to affect Producer's right to

terminate Artist's services at any time during any extension of the term of Artist's services after the expiration of the Exclusive Period. The rights granted to Producer are irrevocable and without right of rescission by Artist or reversion to Artist under any circumstances whatsoever. The expiration or termination of this agreement on whatever ground and by whomsoever effected shall not affect or impair the ownership by Producer of any of the results, proceeds or benefits of services theretofore rendered by Artist hereunder. In connection with the foregoing, it is expressly understood and agreed that in the event Producer terminates or cancels (or purports to terminate or cancel) this agreement or any other agreement entered into by and between Producer and Artist, concurrently herewith or as part of the same transaction (and even if it is ultimately determined by a court that such termination or cancellation was without proper or legal cause or that Producer committed a material breach of this agreement) the damage (if any) caused Artist thereby is not irreparable or sufficient to entitle Artist to injunctive or other equitable relief. Consequently, Artist's rights and remedies, if any, in any such event shall be strictly limited to a prayer for damages, and Artist shall not have any right to rescind this agreement.

17. Right to Injunction; Remedies Cumulative.

The services to be rendered by Artist hereunder and the rights and privileges granted to Producer by Artist are of a special, unique, unusual, extraordinary and intellectual character which gives them a peculiar value, the loss of which cannot be reasonable or adequately compensated by damages in an action at law. Accordingly, a material and continuing breach by Artist of any of the provisions hereof will cause Producer irreparable injury and damage. Artist expressly agrees that Producer shall be entitled to seek injunctive and other equitable relief in the motion picture field if such relief is available in the applicable jurisdiction to prevent a breach of this agreement by Artist. Resort to such equitable relief, however, shall not be construed to be a waiver of any other rights or remedies which Producer may have for damages or otherwise. No waiver by Producer or Artist of any breach of any term or provision of this agreement shall be construed to be a waiver of any preceding or succeeding breach of the same or any other term or provision. The various rights and remedies of Producer or Artist under this agreement shall be construed as being cumulative, and, no one of them shall be exclusive of any other or of any right or remedy allowed by law. Without waiving any of Producer's rights

or remedies under this agreement or otherwise, Producer may from time to time recover, by action, any damage arising out of any breach of this agreement by Artist and may institute and maintain subsequent actions for additional damage which may arise from the same or other breaches. The commencement or maintaining of any such action or actions by Producer shall not constitute an election on the part of Producer to terminate this agreement unless Producer shall expressly so elect by written notice to Artist. The pursuit by Producer of any remedy under this agreement or otherwise shall not be deemed to waive any other or different remedy which may be available under this agreement or otherwise, either at law or in equity.

18. Approvals

18.1 Artist will have the right to approve (such approval not to be unreasonably withheld) all still photographs of Artist for use in connection with the advertising or exploitation of the Program; provided, however, that Artist must approve not less than fifty percent (50%) of each group of stills submitted. In addition Artist will have the right to one hundred percent (100%) approval (not to be unreasonably withheld) of all non-photographic likenesses.

18.2 Artist shall have a right of reasonable approval, not to be unreasonably withheld, regarding the personnel employed in connection with the principal photography of the Program who will be responsible for Artist's hair and makeup.

19. Premiere.

Provided Artist is not in default of this Agreement and has fully performed all services hereunder, Company agrees to invite Artist and a guest to all major U.S. celebrity premieres, if any, of the Program. Artist and guest shall be provided with first class air transportation (if available and if used) and first class hotel and a per diem consistent with Company's policy.

20. Videocassette/DVD

Provided Artist is not in default of this Agreement, Company shall furnish to Artist one videocassette and one DVD copy of the Program if and when the same are manufactured and are commercially available to the general public. Artist hereby agrees that such copies may be used only for personal, library and reference purposes and further agrees to execute Company's standard "private use" letter in connection therewith.

21. Representations and Warranties: Indemnity

21.1 Artist warrants and agrees that he is free to enter into this agreement and is not subject to any obligation or disability which will or might prevent Artist from, or interfere with Artist, fully completing and performing all of the covenants and conditions to be kept or performed by Artist hereunder; and that Artist has not made, nor will he make, any grant or assignment of rights which will or might conflict with or impair the complete enjoyment of the rights and privileges granted to producer hereunder. Artist is and will remain during the full term of this Agreement, a member in good standing of any labor unions having jurisdiction over Artist's services with which Producer may have an agreement lawfully requiring such union membership. All material furnished by Artist is and shall be wholly original (except to the extent it is taken from material furnished by Producer or in the public domain) and will not contain any language or material which is obscene, libelous, slanderous or defamatory and will not violate, infringe upon or give rise to any adverse claim with respect to any common law or any other right whatsoever (including, without limitation, any copyright, patent, trademark, service mark, literary, dramatic, comedic, musical right, right of privacy or publicity or contract right) of any person, firm or corporation or violate any other applicable law.

21.2 Artist will indemnify and hold harmless Producer, its successors, licensees and assigns, from and against all damages, liability or expense, including reasonable attorneys' fees, resulting from any breach or alleged breach by Artist of any warranty or agreement made by Artist in this agreement.

21.3 Producer will indemnify and hold harmless Artist, his successors, licensees and assigns, from and against all damages, liability or expense, including reasonable attorneys' fees, resulting from any breach or alleged breach by Producer of any warranty or agreement made by Producer in this agreement or any claim arising out of the development, production and exploitation of the Program, other than those covered by Artist's indemnity in Section 21.2 above.

22. Negative Covenants; Publicity; Air Transportation.

Artist will not, without Producer's prior written approval, issue or authorize the publication of any news stories or publicity relating to the Program, or to Artist's services hereunder. Without limiting the foregoing, Artist shall not at any time or under any circumstances utter or publish any advertisement, publicity or statement critical or derogatory of the Program, or engage a publicity representative or form in relation to the Program or Artist's services hereunder, provided that Artist shall have the right to issue publicity that is primarily of a personal or biographical nature that only incidentally mentions the Program and is not derogatory thereto and does not reveal confidential information. From the date hereof until the completion of all services required of the Artist in connection with the production of the Program, Artist shall not travel in an airplane or any other vehicle which travels in the air, other than a recognized scheduled airline. In the event of a breach of the terms of this paragraph, Producer, in addition to any other right or remedy, may terminate this Agreement.

23. Insurance.

Producer may secure, in its own name or otherwise and at its own expense, life, accident, health, cast, preproduction and other insurance covering Artist, and Artist shall not have any right, title or interest in and to such insurance. Artist shall assist Producer to procure such insurance by submitting in a timely fashion to the usual and customary medical and other examinations and by signing such applications and other instruments in writing as may be required by the insurance company involved. Artist shall have the right to have his own doctor present at any such medical examination and Artist's sole cost and expense. If Producer is unable to obtain such insurance on Artist at standard rates in connection with cast insurance coverage on Artist and, with respect to cast and preproduction

insurance, without any exclusions or medical or other restrictions of any kind, and without requirement of compliance with extraordinary conditions or nonstandard conditions, of any kind, imposed because of Artist's mental or physical condition, Producer shall have the right to terminate this agreement without liability or obligation to Artist by giving Artist written notice of termination within ten (10) days after Producer acquires knowledge that Artist shall have failed to pass a physical examination for such insurance, or otherwise qualify for such insurance without such conditions.

24. General Provisions

Time for performance by Artist hereunder is of the essence hereof. Nothing in this agreement contained shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provision of this agreement and any statute, law, ordinance or regulation contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the provision of this agreement affected shall be curtailed and limited only to the extent necessary to bring it within the requirements of the law. This agreement in all respects shall be subject to the laws of the State of New York relating to agreements executed and wholly performed within the limits of such State.

25. Assignment and Lending.

Producer may transfer or assign this agreement or all or any part of its rights hereunder to any person, firm or corporation, and this agreement shall insure to the benefit of Producer, its successors and assigns; provided, however, that Producer shall remain secondarily liable with respect to any of its obligations hereunder unless this Agreement is assigned to a major or established independent motion picture production or distribution company, a television network or any other financially responsible third party approved by Artist (such approval not to be unreasonably withheld). Neither this Agreement nor Artist's obligations hereunder may be assigned by Artist to any other person or entity.

26. No Obligation to Produce or Release Program.

Producer shall not be obligated actually to utilize the services of Artist, or to include all or any of Artist's performances in the Program, or to produce or to release or to continue the distribution or release of the Program once released. Nothing contained in this paragraph shall be deemed to relieve the Producer of its obligation to pay Artist the compensation payable to Artist pursuant to this agreement (and subject to all the provisions hereof) for the Exclusive Period as herein provided.

27. Notices.

All notices, requests, documents or payments (referred to herein as "notices") which either party is required or may desire to give to the other party under or in connection with this agreement shall be in writing and shall be delivered personally or sent by registered or certified mail (postage prepaid) or by telegraph or cable (toll prepaid) to such party at the address of such party given above, or at such other address as such party shall have designated by notice duly given in the manner above provided. In all situations in which actual receipt of notice is required under any provision of this agreement, notice shall not be deemed served until actual receipt by the party to whom notice is being given.

28. Entire Agreement.

28.1 This agreement constitutes the entire agreement between the parties and shall supersede any and all prior written or oral agreements between the parties relating to the subject matter hereof and cannot be modified or amended except by written instrument signed by Artist and by Producer. Artist acknowledges that he has not executed this agreement in reliance on any representation or promise made by Producer or any of its representatives other than those expressly contained in this agreement.

28.2 Headings of paragraphs, sections and other subdivisions of this agreement are for convenient reference only. They shall not be used in any way to govern, limit, modify or construe this agreement or otherwise be given any legal effect.

28.3 Terms used herein in the masculine gender include the feminine and neuter genders, and terms used in the singular number include the plural number, if the context may require.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.