

DISTRIBUTION CONTRACTS

By Daniel M. Satorius, Esq.

Preliminary Considerations

Before diving into specific provisions of a distribution contract, let's consider a few preliminary matters that may impact the negotiations of a distribution contract.

Due diligence: In the best of circumstances a producer will get multiple offers from distributors. In other circumstances one is lucky to have any offer. In all cases the producer should extensively research potential distributors. The producer should familiarize itself with the distributor's track record and expertise and speak with other producers who have distributed their works through the distributor(s) in question. Attorneys experienced in this field can help the producer evaluate distributors, recommend distributors and, in some cases, introduce the work to distributors.

Split-Rights Deals: No distributor is effective in all markets. Some distributors specialize. The producer's work may benefit from having multiple distributors covering various markets, mediums and/or territories. The producer may even want to reserve some rights that it exploits itself (a note on that in Section N below.) To accomplish the splitting up of rights among distributors, the producer must coordinate the language of all distribution contracts and narrow the scope of the rights granted in each contract. Properly crafting the definitions of terms in the grant of rights provisions is critical. For example, cable networks will want to acquire VOD (video on demand) rights and have a broad definition of that term. Home video and online distributors will also want to acquire VOD rights particularly TVOD (transactional video on demand) and SVOD (subscription video on demand) and will want broad definitions in their contracts. It is easy to run into problems here and an experienced attorney can navigate these waters.

There are three sections in the distribution contract that may be the focus when tailoring the language among multiple distributors in a split-rights situation: rights in media and markets, territory, and duration. (See Sections A, C and D below for a discussion on those provisions.) Another factor for the producer to consider when contemplating splitting rights up among multiple

DISTRIBUTION CONTRACTS

distributors is the producer's own ability to find and lock up those multiple distributors.

Most distributors and almost all independent distributors are middlemen to some extent. They acquire distribution rights in a work from the producer and then license or sub-distribute the work to other distributors. In this regard they are agents or sales-people. For example, they may not distribute in international territories; they may not be broadcasters or cable casters. Likewise, they may not directly sell DVDs to consumers but license those rights to a third party. Most notably, they may not make the work available online but rather license the work to iTunes, Netflix, Amazon, or others, and in that way they act as aggregators. Producers with one title or a small catalog of titles need a middleman distributor to get their work distributed in some markets, especially to these distributors: distributors in international territories, broadcasters and cable networks, and large online distributors such as iTunes, Netflix, and Amazon because these companies deal with aggregators and studios and do not deal directly with independent producers. A discussion of the impact of sub-distribution is found in Section H below.

Bargaining power. The producer's ability to modify the distribution contract depends on its negotiating strength compared to the distributor. So for example, the producer's ability to negotiate a large advance payment, limit the scope of markets or duration of the contract, and improve the financial terms, all depend on the producer's bargaining power. That power can be based on any number of factors including whether there are multiple offers, the size of those offers, the projected commercial success of the work, the perceived value of the elements in the work -including most notably the star-power of the actors.

Picking your battles: This article describes a variety of common issues a producer may want to consider when negotiating the terms of the distribution contract. It is tempting to change or negotiate every provision in the contract that is unfavorable to the producer. Usually it is not advantageous to the producer to argue all possible changes. The best policy is to set goals, prioritize the provisions you want to change, and avoid the temptation to change provisions that are unlikely to matter.

Choosing an attorney: An experienced film, TV and media attorney brings more to the representation of a producer than just knowledge of the law. They have knowledge of the business aspects of the industry, as well as the value of the distribution rights of their clients' works. They have relationships with people in the industry that may impact the negotiations, and they know the standards, customs and special terms of distribution contracts including for example which provisions of the contract need to be changed and which do not.

DISTRIBUTION CONTRACTS

Distribution Contract Provisions

A. Rights granted to the distributor. Many producers would say the money paid to the producer is the most important provision in a distribution contract (see Consideration – section E below.) That is true in many situations, but equally important are the provisions specifying the markets and mediums granted to the distributor. As discussed above, the contract may grant the distributor a broad range of rights to mediums and markets (perhaps all of them) or it may limit the markets and mediums to just one or only a few. What are those markets and mediums?

Theatrical Distribution Rights. The right to exhibit the work in theaters open to the general public on a regularly scheduled basis where admission fees are charged to view films.

Pay Television: Distribution via pay/cable, over-the-air pay TV, master antenna, community antenna, closed circuit, multi-point distribution services and similar means where viewers pay for the right to review the work. This category includes hotel, motel, hospital and the like, but excludes free television distribution.

Free Television: Distribution via television broadcast methods. It includes, for example, network and syndication television broadcasts, transmissions by over-the-air satellite, and similar methods where the consumer is not charged a recurring access fee.

Video-On-Demand: VOD allows the viewer to request, for home or other non-theatrical viewing, a program on a television or viewing screen that is sent via some signal directly to the consumer and not to the general public for viewing at a time and place selected by the consumer. Thus, it is distinguished from pay-for-view where the consumer does not request a particular signal at a particular time.

Transactional-Video-On-Demand: TVOD allows the consumer/purchaser to screen the work for a distinct fee at a time and place determined by the consumer and which is distributed by a platform charging the fee. TVOD includes Electronic-Sell-Through (EST) which allows the consumer to permanently retain a copy of the work. TVOD may also include Pay-Per-View (PPV) in which the consumer purchases a specific work from a pay-per-view platform for viewing at variable times and where the transmission creates temporary copies of the work.

DISTRIBUTION CONTRACTS

Subscription-Video-On-Demand: In SVOD the consumer pays a fee to subscribe to a service that gives the consumer access to a library of works for a period of time for viewing at a time and place selected by the subscriber.

Ad-Sponsored-Video-On-Demand: In AVOD a platform gives the consumer access to a library of works for a period of time for viewing at a time and place selected by the consumer but the platform inserts advertising into the works. Generally, the consumer is not charged a fee for access to the library.

Home Video. Home video involves the rental or sale of tangible/physical copies (videograms) of the work to consumers. Formats may include DVD, Blu-Ray, video tape or other electronic storage devices. The consumer purchases or rents videogram copies for use on home television sets, that is, playback devices directly connected to or forming an integral part of a television receiver or device.

Semi Theatrical, Non-Theatrical, Non-traditional Theatrical. This involves the exhibition of the work to audiences by organizations who are not primarily engaged in the business of exhibiting films to the public and whose purpose is generally educational, cultural, religious, charitable and the like. This includes educational institutions, film societies, film festivals, museums, hospitals, government agencies, and religious institutions. Commonly, the purchase price or rental fee for copies of works sold or rented to the non-theatrical market are higher than video distribution (discussed below) because the fee includes the right to show the work to groups of people in classrooms, auditoriums, etc.

Educational A/V. This includes the sale, lease and rental of works on film or videograms to universities, schools, libraries, museums or similar institutions for exhibition directly to audiences or close-circuit exhibition.

Transportation. This category includes in-flight exhibition, ships at sea, oil rigs, military and the like.

Reserved Rights. Previously, we touched on situations in which the producer may want to limit the distribution rights granted to the distributor. If the producer is not granting all rights to the distributor in a given distribution contract, for example where the producer is, or hopes to, enter into multiple distribution contracts in a split rights arrangement, the distribution contract must describe the rights held back, that is, the reserved rights.

Where the producer is reserving rights, the distributor may want to put limitations on the reserved rights. Let's say for example the distributor is acquiring only theatrical rights. That distributor may insist that the work not be released in other markets (i.e. broadcast/cable, home video, and online markets)

DISTRIBUTION CONTRACTS

until a specified number of months after the theatrical release. Consider another example where the distributor is a cable network who is acquiring broadcast, cablecast and equivalent rights. The cable network may demand that home video distribution be held back until after a period following the first broadcast/cablecast.

In all distribution contracts it serves the producer's interest to include a standard clause specifying that any rights not expressly granted to the distributor are expressly reserved to the producer.

B. Exclusivity. Distributors require exclusivity with respect to the markets, mediums and territories granted to them in the contract. As can be seen from the above discussion, exclusivity is not necessarily exclusivity as to all markets, mediums and territories, but just to those rights granted in the contract. Not only is granting exclusivity with respect to the rights given to the distributor in the contract required by the distributor, in most cases it is advisable because it allows the distributor to develop those markets and territories without fear of running into other distributors working the same title in those same areas.

C. Territory. Many contracts express the scope of the territory as "worldwide" or "the universe". But it is increasingly common for distribution contracts to limit the distributor's rights in terms of the geographic scope (the territory) of the contract. For reasons similar to those discussed above in Section A, the producer should determine the appropriate territory to be granted to the distributor. If the scope of the territory in the distribution contract is less than worldwide, the producer should consider requiring the distributor to use geofiltering technology to determine which customers are entitled to purchase, stream, view or otherwise consume the work, for example.

D. Term/Duration. The duration of the distribution contract is usually between 5 and 10 years. The contract may give the distributor the option to extend the term for an even longer period. It is better for the producer if the renewal of the term is determined on a mutual basis.

Distributor Performance. Producers are often worried about what happens if the distributor fails to adequately perform on the distribution of the work. One solution to this concern is to negotiate a performance requirement in the contract. For example, a provision with a performance requirement may give the producer the right to terminate the contract if the distributor fails to generate specified sales levels within a specified period of time. The distributor may seek to limit the producer's right to terminate until the distributor has recouped its advance (assuming it has given the producer an advance.) Another way to work this performance clause is to specify that those markets in which the distributor has failed to distribute the work revert to the producer after a period

DISTRIBUTION CONTRACTS

of time. This may or may not be an adequate remedy to a producer whose distributor has failed to perform adequately. Often the work is time sensitive. In most cases, interest in a title fades quickly after the release and initial marketing effort. The producer may find at the time of reversion the useful life of the work has expired.

E. Consideration. There are a number of customary ways distributors pay producers for the right to distribute their work. The distributor may pay an advance, a share of revenues, or, in limited cases, a flat buy-out fee (Netflix, for example, often uses the flat fee model.)

Advances. Advances (sometimes called minimum guarantees or “MGs”) are the prepayment of royalties or other revenue sharing payments. The concept is that the producer gets some money upfront (usually upon the signing of the contract) and does not receive another payment until the distributor has paid itself back (“recouped”) the amount of the advance from the producer’s share of revenues collected from distribution.

The producer may come to the negotiations with the distributor with debts owed to third parties for the production of the work. Also, in order to meet the delivery requirements under the distribution contract, the producer may need to incur substantial expense. For example, the producer may have music in the work that needs to be cleared for the markets in the distribution contract. The advance also invests the distributor in the work and demonstrates its commitment. For these reasons, the producer may need to negotiate an advance.

By custom, advances are not repayable to the distributor if the royalties prove insufficient to pay back the advance. Often the timing of the payment of the advance is based on the delivery of the materials specified in the delivery schedule.

Royalties and other ways of revenue sharing. There are a number of ways to divvy up the revenues from the work between the producer and the distributor. One method gives the producer a royalty as a percentage of sales of the work. Another method gives the distributor a percentage of revenues as a distribution fee plus the right to recoup expenses prior to paying the balance to the producer. The royalty formula is used frequently in non-theatrical and home video distribution contracts where revenues are based on copies sold. The distributor fee formula is commonly used in television broadcast, cablecast, foreign distribution and in theatrical distribution.

Formulas for the calculation of royalties or distribution formulas can be complex. This is especially true in determining what can be deducted from gross revenue before calculations are made on a net formulation. For example,

DISTRIBUTION CONTRACTS

definitions of distributor's costs can be extensive and must be scrutinized to make certain the formulation is fair and customary.

Customary ranges for producer's royalties/distribution fees are:

Independent Distributors of Multiple Markets/Mediums: Where the distributor is handling multiple markets, mediums and sometimes territories, it is common for the distributor to take a fee of 20% to 50% of its gross revenues from all sources.

Home Video: Home video distributors pay producers a royalty of 15-30% but flat fee payments are also employed. A home video royalty of 20% is common – based on wholesale or distributor's receipts. A producer with negotiating power might negotiate a 25% royalty or a sliding scale up to 25% with escalators based on quantity sales. Royalty calculations based on retail price run from 10-15%.

Television: The common practice among distributors who sub-distribute to broadcasters and cable networks is to charge a distribution fee of 20% to 40% of the license fees received by the distributor. Fees vary based on the territory and the difficulty in exploiting the markets and territories. Where the producer contracts directly with the broadcaster or cable network the producer receives a guaranteed fixed license fee payable upon delivery or over time.

Theatrical: Distribution fees range from 15% to 40% (or more) of net receipts although other formulations based on adjusted gross may also be employed.

Factors that go into determining the level of the consideration include:

Market. Some markets are harder to exploit than others. If the perceived distribution efforts required in certain markets, such as, for example, foreign theatrical, are high, then a higher distribution fee to the distributor may be warranted.

The amount of the advance. If the distributor is paying a substantial advance to the producer, then the distributor is at greater risk and, therefore, can justify demanding a larger distribution fee (or a lower royalty to the producer.) Also, if the advance is given during the production period prior to the distributor seeing and approving the work (which is uncommon these days), that would also justify lower fees to the producer.

Competition for the work. The producer's bargaining power is strengthened if there are numerous distributors vying for the right to distribute the work. Competition can sometimes be created in festivals and markets where the work is exposed at roughly the same time to many potential buyers.

DISTRIBUTION CONTRACTS

The work itself. Advances and fees increase (or distribution fees decrease) for works with more episodes, higher production values, well-known talent, good performances, large audiences in other markets, successful sequels or popular works such as best-selling novels, and works on topics that are timely.

Precedent. The advances paid by distributors for similar works may influence the advances the producer can get. In recent years, advances for independent features sold during festivals such as Sundance have trended upward but these things are cyclical.

Expenses. Distributors often wish to deduct their expenses out of the first proceeds from the sale of the work to other distributors. The producer should consider specifying a cap on marketing expenses and the right to approve large expenses.

F. Producer's obligations to pay third parties based on usage. The producer may have obligations to pay third parties based on exploitation of the work. This can happen where the producer negotiates contracts that include payments based on sales. This is a common arrangement when music rights are acquired for videogram sales. Other instances in which producers may be obligated to make payments based on exploitation include residuals due to union members under collective bargaining contracts with unions such as AF of M, AFTRA, SAG, and WGA. When the work is subject to such residual payments based on exploitation, the producer will want to negotiate payment of those residuals by the distributor or provide for sufficient minimum royalty payments to the producer so such residuals can be paid.

G. Accounting. Issues regarding the accounting clause are similar to other contracts in the entertainment industry. However, it is worth noting that, in recent years, distributors, especially independent distributors, are notorious for failing to pay on time. Also, frequently, independent distributors come into and go out of business. Because of this situation, it behooves the producer to negotiate terms in the contract specifying that if the distributor fails to make a payment to the producer within a relatively short period of time after it is due, the producer will have the right to terminate the contract and all third party sub-licenses will be assigned to the producer automatically and immediately.

H. Sub-distribution. As discussed above, it is common for the contract to allow distributors to license the work to sub-distributors. Ideally, the distributor has developed favorable financial deals with the companies handling the sub-distribution rights. But as discussed already, the producer should look into the distributor's sub-distribution relationships and consider its own ability to license directly with those other distributors.

DISTRIBUTION CONTRACTS

Several issues to consider with respect to sub-distributors:

The first is the stacking of fees. It is likely that the distributor will wish to charge his or her full distribution fee on the amount received from the sub-distributor. Say for example, the distributor charges a 30% fee and the sub-distributor charges 20% on the same licensing fees. If the fees are stacked, then for every \$100 of revenues, the producer will receive \$56 (\$100 less 20% = \$80 less 30% = \$56.) Whereas if the sub-distributor's fee is inclusive within the distributor's fee, the producer receives \$70 (\$100 less 30% = \$70.) Thus, it is to the producer's advantage to negotiate a reduced fee or an inclusive fee arrangement when revenues are subject to sub-distributor's fees. Agents and their fees present the same concern.

Second, the term of contracts with sub-distributors often exceed the term of the original contract with the distributor. Commonly, the distribution contract will provide that the distributor can enter into sub-distribution contracts whose terms may exceed the distribution contract. Thus, the producer is "stuck" with these sub-distribution contracts for the life of those contracts after the distribution contract expires. This is not necessarily a bad deal for the producer. However, the producer should be aware of the situation. Producers may wish to limit the term of such sub-distribution contracts or limit the distributor's right to receive a fee on those sub-distribution contracts after the expiration of the distribution contract.

Last, direct accounting. If the producer has bargaining power, it may want to negotiate a provision giving it the right to receive accounting statements and payments directly from the sub-distributor. This allows the producer to get payments faster and avoids the risk that the payments will be taken by the distributor's creditors.

I. Cross-collateralization/packaging. Cross-collateralization can occur when the distributor is licensing the producer's work in a package along with a number of other works. In these situations, the costs and advances for all the works in the package are off-set against the revenues from any of the works including the producer's work. To avoid this situation, the producer will want to include language that specifies that the revenues on the producer's work will not be subject to the costs and obligations of other titles in the package (i.e., will not be cross-collateralized against). Cross-collateralization is a concern where the producer's work may be sold in a package to support the sale of weaker titles. If the producer has the bargaining power, the producer may be able to get each market and territory separately accounted so the costs from one market or territory are not applied against the revenues from a different market or territory.

DISTRIBUTION CONTRACTS

J. Delivery. There is usually a long list of material that the producer must deliver to the distributor and those materials are usually spelled out in an exhibit to the contract. Deliverables include the physical elements of the work the distributor needs to manufacture, distribute and market the work. For example, DCPs and Blu-Ray versions, E&O insurance, chain of title documents, copyright registration, promotional photography, and music cue sheets.

This is a part of the contract that should be carefully scrutinized by the producer to make sure the materials to be delivered and the other delivery requirements can be reasonably and affordably delivered by the producer. Often items listed in the delivery schedule are negotiable. If the producer fails to deliver all of the materials in a manner acceptable to the distributor, there are several possible consequences. First, the distributor can create those deliverable materials and charge the expense back to the producer. Secondly, the payment of the advance to the producer is generally dependent upon full delivery of materials to the distributor and acceptance by the distributor and can be withheld until delivery and reduced to cover the costs of deliverables. If there is a concern about the producer's ability to deliver, it is best to work it out before signing the contract.

The contract should also provide for the deliverables to be returned to the producer after the termination or expiration of the contract at distributor's expense. If there is a lab access letter it should be checked to see if the end of the term of the contract provisions are reasonable.

K. Bankruptcy. To avoid problems that can arise when the distributor files for bankruptcy, it is helpful to give the producer the right to terminate the agreement and, if the distributor maintains an inventory of videograms (DVDs, etc.), to specify in the contract that the producer will maintain title to the inventory in distributor's possession until the units are sold.

L. Representations and warranties. Distribution contracts require the producer to represent and warrant that it controls all rights in the work so the distributor's exploitation does not breach third parties' rights. It is common for audio-visual works to incorporate the works of third parties (e.g. music, book rights, life-story rights, and in documentaries, archival footage, photographs, etc.). The producer should check the representations and warranties in the distributions contract to make sure the clauses do not put the producer in jeopardy and the scope of the representations are reasonable. The producer may wish to limit some representations with "to the best of producer's knowledge" or similar modifier.

Also, the producer should check its contracts with third parties who contribute to the work, including, for example, releases, contracts with talent, music rights contracts, and work-for-hire contracts to make sure those contracts

DISTRIBUTION CONTRACTS

do not conflict with producer's representations and warranties specified in the distribution contract. If the producer's contracts with third parties contain restrictions, the distribution contract should contain those same restrictions.

Because acquiring rights for the works of third parties for use in the producer's work is often expensive, rights are often cleared for a limited period of time, limited territory and/or limited media/markets. This is especially true in contracts relating to music rights. Contracts for music rights are negotiated with an eye to acquiring only what is needed (i.e., limited time period, limited territories, and limited markets/medias) to keep the fees for those music rights affordable. What this means for the distribution contract is that the producer should not grant distribution rights that exceed the scope of these underlying rights.

Another area of concern is the use of third party materials in promotional materials. The distributor will want to take excerpts from the work to create trailers and other promotional materials. For example, the trailer may use a scene from the work in which music, trademarks, or people appear; and while the producer may have the rights to use those materials in the work (because those materials are in the public domain, because the producer acquired the rights in a contract, or for reasons of Fair Use) the use of those same materials in promotional materials may be prohibited. Music rights licenses may limit the use of the music to "in-context" use and prohibit using the music out-of-context; the use of the music in marketing materials is out-of-context and therefore require additional payments. Also, the use of the image of a celebrity, for example, within a documentary, may be permissible under the rights of free speech, but if used to promote the work, the celebrity's right of publicity may be violated. For these reasons, the producer will want to include a clause in the distribution contract giving the producer the right to approve the use of scenes and images from the work in promotion and marketing materials.

A note on Performing Rights in Music. Distributor contracts, particularly those for broadcast rights, often require the producer to grant music performing rights to the distributor. Therefore, producers must acquire performing rights in music in their contracts with their composers who score the work and songwriters who contribute songs.

M. Modification to the work. The distribution contract should include limitations on the distributor's rights to modify, edit, make deletions or changes to the work without the producer's consent, including, for example, the addition, alteration or removal of credits. Giving distributors some rights to modify the work may be ok depending on the nature of the work, for example, modification to add the distributor's credits to the work, add subtitles and/or dubbing, shorten the work to fit broadcast time limitations, and comply with local censorship law.

DISTRIBUTION CONTRACTS

N. Producer's right to sell copies of the work. Producers may wish to retain the right to sell copies of the work from their website or in connection with their personal appearances. If the distributor is manufacturing the copies of the work (e.g. DVDs), the producer may want to have the right to purchase copies from the distributor at a favorable discount. These terms may be negotiated in the contract and may be very important to producers.

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DANIEL M. SATORIUS – Satorius Law Firm. PC. Dan's practice focuses on transactions, intellectual property, financing, and the representation of business and individuals. His clients include Academy Award, Emmy Award, and Peabody Award winning and nominated independent producers, directors, writers, and television stations in the film and television industry. Contact Dan at IDS Center, Suite 4900, 80 South Eighth Street, Minneapolis, MN 55402. Phone: (612) 356-4100. Email: dan@satoriuslawfirm.com.

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December 14, 2015

Re: “– CO-SALES AGENT AGREEMENT”

Dear ____:

The following sets forth the terms and our understanding of the Agreement to engage _____ and _____ as the exclusive co-sales agents (collectively, the “Sales Agents”) in the territory (defined below) for the purpose of seeking distribution for the motion picture project presently entitled _____ (the “Picture”).

Term: The term of this Agreement shall commence as of the date of this Agreement and end one (1) year from the date of the first distributor screening of the Picture (currently scheduled for January 14, 2016) (the “Term”). Notwithstanding anything to the contrary contained herein, in the event that any Licensing Agreement (as defined below) is entered into within ninety (90) days following the expiration of the Term with any party with which Sales Agents engaged in substantive negotiations and discussions during the Term, Sales Agents shall be entitled to the applicable fee as set forth below.

Territory: The territory shall be the (i) the United States and Canada, including their respective territories, possessions and assigns, (ii) any additional territory bundled into a United States and Canada sale, and (iii) any additional territory upon mutual agreement and availability (collectively, the “Territory”).

Services:

(a) Sales Agent

During the Term, Sales Agents shall be the exclusive co-sales agents with respect to the licensing and other disposition (collectively, “Licensing”) throughout the Territory of any and all rights in the Picture, in any and all media and by all means and methods, now known or hereafter devised, including, without limitation, theatrical, home viewing, television, non-theatrical, on-line rights, and all other allied and ancillary rights (collectively, the “Rights”). Sales Agents shall negotiate short form distribution agreements with third parties on behalf of Producer in

connection with the sale or Licensing of the Rights (“Licensing Agreements”). The terms of any and all Licensing Agreements shall be subject to Producer’s approval and Sales Agents shall have no right to bind Producer or otherwise enter into any agreement on behalf of Producer without Producer’s final prior written consent in each instance.

(b) Festival Advice

Upon Producer’s request, Sales Agents shall advise and assist in festival strategies and publicity.

(c) Legal Services

Notwithstanding Sales Agents negotiating the material deal terms of any Licensing Agreement on Producer’s behalf (including, without limitation, short form distribution agreements), it is acknowledged and agreed that Sales Agents will not be rendering any legal services in connection with any of its services hereunder, and to the extent that any legal services are required, Producer agrees to engage legal counsel of its choosing, and shall pay any fees and costs associated with such services.

(d) Future Productions

If Producer wishes to produce a prequel, sequel, remake, television production, stage production or theme park attraction based on the Picture, Producer agrees to give Sales Agents first opportunity to represent any such production in connection with financing and / or sales.

Commission: In consideration of the services rendered and/or to be rendered by Sales Agents hereunder, Sales Agents shall receive a sum equal to ten percent (10%) of the gross monies, including guarantees, advances, overages and any contingent compensation, paid and/or payable to Producer or any entity or person on behalf of Producer in connection with any sale of Rights in the Territory (the “Commission”). For the avoidance of doubt, the Sales Agents have no right to Commission any festival prize money or any festival fees not booked through Sales Agents.

Notwithstanding the foregoing, with respect only to sales of the Rights outside the US and Canada (the “Foreign Rights”), if Sales Agents and Producer agree that a third party sales agent (a “Foreign Sales Company”) should sell the Foreign Rights or that an international distributor (an “International Distributor”) should acquire the Foreign Rights, Sales Agents shall be entitled to ten percent (10%) of any advance paid by the Foreign Sales Company or International Distributor, as applicable, to Producer (the “Foreign Sales Advance Commission”).

Comment [GYZ1]: This language was added back in to the agreement because there is a chance that foreign sales may be involved.

Expenses: Sales Agents and Producer shall each bear their own expenses incurred in connection with the negotiation and documentation of this Agreement (if any) including, without limitation, all fees and expenses of their respective agents, representatives, counsel and accountants. Notwithstanding the foregoing, Sales Agents shall not incur any costs or expenses on Producer's behalf without Producer's authorized representative's prior written consent in each instance and Producer shall not be required to reimburse any of Sales Agents' costs and/or expenses in connection with the Picture unless so approved.

Prints, Promotional Materials, Festivals, Screenings, etc.: Producer shall be responsible for creating, servicing, and delivering all prints, promotional and other materials to distributors and other Licensing parties. Producer acknowledges and agrees that in the course of providing the services set forth herein, Sales Agents may provide password protected links to the Picture.

Corporate Credit: Subject to any guild or collective bargaining agreements, Producer will use reasonable efforts to accord to Sales Agents corporate logos and credits following the end credits of the Picture and/or any other production produced under the Licensing Agreements, which shall be in forms approved by Sales Agents. Producer agrees to make it a contractual obligation in all distribution agreements that distributors honor the foregoing provision. Inadvertent failure to accord requested logos and credits shall not be regarded as a material breach hereof.

Accounting: Producer agrees that distributors and licensees shall send all monies from distribution of the Picture in the Territory to ____ directly; ____ shall deduct the Commission and/or the Foreign Sales Advance Commission, send ____ its portion of the Commission and/or the Foreign Sales Advance Commission, and wire all remaining amounts to Producer. As an exception to the foregoing, should a mutually-approved collection account management agreement ("CAMA") be entered into in relation with the Picture in the Territory (____ and ____ are hereby pre-approved), distributors and licensees shall send all monies from distribution of the Picture in the Territory to the collecting agent directly. Sales Agents shall be signatories to the CAMA and shall be paid their Commission in accordance thereto. It is understood and agreed that the payment of the Commission and/or the Foreign Sales Advance Commission to Sales Agents under the CAMA herein shall be subject only to customary collection account fees/expenses and guild residuals. Producer agrees to send Sales Agents accounting and performance statements received by Producer for the Picture.

Representation, Warranties, Arbitration, Assignment, and Miscellaneous:

Sales Agents may take part in any audit Producer makes of any distributor or licensee of the Picture, or if Producer has the right to audit and elects not to do so, Sales Agents may audit such distributor or licensee in Producer's place.

In the event of a sale or outright assignment of any of Producer's rights in the Picture or its related rights, such sale or assignment shall be made subject to this Agreement, and Producer agrees to cause any such purchaser or assignee to assume in writing for Sales Agents' benefit its obligations to Sales Agents hereunder.

This Agreement shall apply to any parent, affiliated, subsidiary, and/or successor company of Producer and any person or entity owned or controlled, directly or indirectly, by Producer, or in which Producer now has or hereafter may acquire any right, title, or interest.

Comment [GYZ2]: These paragraphs cannot be deleted as they go to the heart of our representation of the film.

Producer acknowledges ___ may previously, concurrently with the Term, or after the Term, acted as talent agent and/or representative to other parties that may have an economic interest in the Picture. Producer acknowledges and agrees that (i) ___'s acting as said talent agent and/or representative shall not derogate from this Agreement and shall not disqualify ___ from acting as sales agent hereunder (ii) ___'s actions taken in good faith with respect to its performance as a talent agent and/or representative shall not constitute a violation by it of any of its obligations to Producer hereunder and (iii) Producer has been advised to seek and has had the opportunity to consult with legal representation in connection with this Agreement.

Producer represents that: it has the right to grant the rights granted to Sales Agents herein; it has no contract or commitment which keep it from appointing Sales Agents as its sales agents and representatives herein; it will not hereafter enter into any agreement which will conflict with the terms and provisions hereof.

The interpretation of this Agreement shall be governed by the laws of the State of California applicable to agreements entered into and wholly performed therein. Any controversy or claim arising out of or in relation to this Agreement or breach thereof shall be settled by JAMS arbitration in Los Angeles, California, in accordance with the rules of JAMS and judgment upon the award rendered by the arbitrator(s) may be entered in any court of competent jurisdiction.

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of any executed counterpart of this Agreement transmitted electronically in either a Tagged Image Format File ("TIFF") or Portable Document Format ("PDF") shall have the same force and effect as execution of an original and an electronic signature will be deemed an original and valid signature.

Very truly yours,

By: _____

Its:

By: _____

Its:

AGREED AND ACCEPTED:

By: _____

Its:

DISTRIBUTION AGREEMENT

This Agreement (the "Agreement") dated as of _____, 2014 is by and between _____ ("Licensor") and _____ ("Company"), pursuant to which Licensor hereby grants and assigns to Company the exclusive rights in and to the motion picture entitled _____ (the "Picture") for the term and territory set forth below, in accordance with the following provisions, including, without limitation, the standard terms (the "Standard Terms") annexed hereto as Exhibit A and hereby made a part hereof.

1. Rights. Licensor hereby irrevocably and exclusively grants and assigns to Company on an exclusive basis any and all rights to distribute, exhibit, license, sell and otherwise exploit the Picture throughout the Territory during the Term (as defined below), in all media now known or hereafter devised, including without limitation, the Licensed Rights set forth on Schedule I attached hereto (together with the rights granted in paragraph 1 of the Standard Terms, the "Rights"). The right to distribute DVDs and Blu-Rays shall be non-exclusive.

2. Term. The term of this Agreement (the "Term") shall commence upon the date hereof and shall continue for a period of six (6) years, provided that such Term shall automatically renew for successive one (1) year extension periods unless either Licensor or Company terminates the Term upon prior written notice at least six (6) months prior to the end of the initial Term or any extension period. Notwithstanding the foregoing, all media unexploited within twelve (12) months from the date hereof shall revert to Licensor.

3. Territory. The "Territory" shall mean the United States of America.

4. Distribution Fee. Company will retain a distribution fee of thirty percent (30%) of Gross Receipts (the "Distribution Fee"). "Gross Receipts" means all non-refundable gross monies actually received by Company from the exploitation of the Picture in the Territory less any sales, use, value added, remittance or other taxes (excluding income or profit taxes), bad debts and/or lost sales, and any other future offsets or credits.

5. Licensor Share of Receipts. Company shall credit to Licensor's account a sum equal to one hundred percent (100%) of Net Proceeds received by Company from the exploitation of the rights granted hereunder. "Net Proceeds" shall mean Gross Receipts, less the Distribution Fee (capped at a total sum of \$ _____) and any and all costs and expenses paid or incurred by Company in connection with the Picture (capped at a total sum of \$ _____).

6. Delivery. Licensor shall deliver to Company (at an address designated by Company), of all of the items listed on Exhibit B (the "Delivery Schedule"), attached hereto, and any additional items requested by Company. Delivery shall be completed by no later than sixty (60) days after full execution of this Agreement (the "Delivery Date"). Delivery of the Picture by the Delivery Date is of the essence of this Agreement. At the end of the Term, Company shall return the materials to Licensor in the same general condition as in which they were delivered.

7. Marketing Support. Company shall advise Licensor regarding marketing support and opportunities, and shall work with Licensor to coordinate the marketing initiatives.

8. Key Person. It is of the essence of this Agreement that _____ ("_____") operate as the "key person": in connection with Company's activities undertaken hereunder. Accordingly, _____ will supervise all of Company's activities, and personally and solely will at

all times act as Licensor's consultant. Company will have the right to delegate certain of Company's duties and responsibilities hereunder to members of Company's staff other than _____, provided that _____ will supervise such individuals or entities and be available to consult with such individuals or entities in respect of the services to be provided hereunder. If at any time _____ is no longer employed by Company, is deceased or if, due to disability or for any other reason, _____ ceases to be available or otherwise fails to serve as "key person" as provided herein for a period of ten (10) business days or more, Licensor may suspend this Agreement immediately upon written notice at any time thereafter.

9. Exhibits. This Agreement shall be deemed to incorporate by reference the Standard Terms and the Delivery Schedule. All capitalized terms not otherwise defined herein shall have the meaning set forth in the Standard Terms.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

_____ PRODUCTIONS, LLC	
By: _____ Date: _____	By: _____ Date: _____

EXHIBIT A

Standard Terms

The following sets out certain standard terms and conditions which are deemed incorporated in the principal terms (the "Principal Terms") of the Agreement dated as of _____, 2014 between _____ ("Licensor") and Candy Factory Productions, LLC ("Company").

1. Rights. Licensor hereby irrevocably and exclusively grants and assigns to Company the following additional rights:

(a) To make and/or use dubbed and/or subtitled versions of the Picture and to make and/or use translations of the liner notes or other written material contained on packaging and/or artwork for the Picture, and to exploit such versions in connection with the exploitation of the other rights herein granted to Company.

(b) To advertise, promote and publicize Company's rights in the Picture in any and all media now known or hereafter devised; including, without limitation, through the use of poster art created by, or under the authority of, Licensor and/or Company, and to broadcast, transmit and otherwise use and perform portions or excerpts from the Picture (including, without limitation, by means of trailers created by, or under the authority of, Licensor and/or Company) for the purpose of exploiting, advertising, promoting, and publicizing the rights herein granted to Company.

(c) To use, reproduce, distribute, exhibit and perform any and all musical compositions contained in the Picture and/or recorded in the soundtrack thereof in connection with the advertising and promotion of the Picture; in any and all media, now known or hereafter developed, including without limitation, the Internet.

(d) To use the title of the Picture as Company may designate, in connection with the exploitation of Company's rights hereunder.

(e) To prepare excerpts and/or synopses of the Picture or any elements thereof for advertising, promotional and publicity purposes.

(f) To cut, edit and change the Picture, with Licensor's approval, for purposes of complying with legal and/or censorship requirements, and/or for the purposes of time compression; and/or subject to Licensor's approval, not to be unreasonably withheld, for other purposes.

(g) To use the artwork, packaging and promotional materials to be supplied by Licensor hereunder (including, without limitation, those created by, or under the authority of, Licensor and/or Company) in connection with the exploitation of the Rights hereunder. Without limitation, Licensor represents and warrants that all such materials furnished to Company hereunder are and will be fully cleared for all uses hereunder.

(h) To use and/or include Company's and/or its designees' name and/or logo on or in the Picture and/or otherwise in connection with the exploitation of Rights (including, without limitation, in connection with the packaging, advertising and/or promotion of the Picture).

(i) To use and to authorize other persons to use Licensor's name and trademarks and the names (including any professional names or sobriquets), and any likenesses, whether or not current (including pictures, portraits, caricatures and stills from the Picture), voices, autographs and biographical material (individually and collectively, "Name and Likeness") of or relating to any person or fictional character appearing in, granting rights and/or rendering services in connection with the Picture, for purposes of advertising, promotion, trade and other exploitation in connection with the Picture and the Rights. Licensor warrants and represents that Licensor owns the exclusive rights to so use such Name and Likeness in connection with the Picture and that the use of same will not infringe upon the rights of any Person. Licensor shall provide Company with documentation satisfactory to Company substantiating the foregoing rights; it is expressly understood and agreed that the review by Company of the said documents supplied by Licensor shall in no way limit the representations and warranties set forth in the Agreement.

2. Payments and Accountings. Accountings shall be rendered quarterly. Statements and payments shall be rendered within sixty (60) days after the end of the applicable accounting period. All statements shall be deemed binding and not subject to objection by Licensor for any reason if not disputed in writing by Licensor within one (1) year after the applicable statement is due. During the aforesaid one (1) year period, Licensor shall have the right at its expense to audit the books and records of Company only as same pertain to distribution under this Agreement, not more than once per year (and not more than once with respect to any statement) and upon reasonable

prior written notice. Such audit shall be conducted by an independent certified public accountant approved by Company during Company's normal business hours at Company's regular place of business in the United States where it maintains the books and records to be examined. No action shall be brought against Company in connection with any accounting or payment hereunder unless Licensor commences same within the two (2) year period following the date the statement of accounting was due.

3. Third Party Payments. All third party participations and payments (including, without limitation, all fees, payments, costs or charges to any producer, director, writer, actor, composer, musician or any other Person who performed services or furnished material in connection with the Picture, and/or to any guild, union, performing rights society, publisher or owner of master recordings) are Licensor's responsibility and shall, under no circumstances, be the responsibility of Company. Notwithstanding the foregoing, if Company, in its sole discretion, pays any amounts pursuant to this paragraph or otherwise, then without limiting Company's other rights and remedies, such amounts shall be deemed a pre-payment of royalties hereunder, and shall be chargeable against and recoupable from any and all monies otherwise payable to Licensor hereunder or under any other agreement between Company and Licensor.

4. Remedies.

(a) The rights and remedies of Company as specified in this Agreement are not to the exclusion of each other or of any other rights or remedies of Company; Company may decline to exercise any one or more of its rights and remedies as Company may deem fit, without jeopardizing any other rights and remedies of Company. Notwithstanding the specific rights granted to Company in this Agreement, Company may at any time exercise any right which it now or at any time hereafter may be entitled to as a member of the public as though this Agreement were not in existence.

(b) Without limitation of Company's rights and remedies, if the Picture, or any element thereof, is not delivered in accordance with this Agreement within ten (10) days following the Delivery Date, Company may (i) terminate this Agreement, or its rights with respect to the Picture by written notice to Licensor, and upon such termination Company shall have no obligation to Licensor hereunder and Licensor shall be required to promptly repay to Company the amount of any payment previously paid to Licensor or on Licensor's behalf hereunder, or (ii) create any

elements not so delivered to Company, and deem all expenses incurred by Company in connection therewith a pre-payment of royalties hereunder, chargeable against and recoupable from any and all other monies otherwise payable to licensor hereunder, or under any other agreement between Company and Licensor.

(c) The sole remedy of Licensor for any breach of this Agreement by Company shall be a judgment for money damages, if any. Under no circumstances shall Licensor have the right to rescind or terminate this Agreement or enjoin or otherwise interfere with the exploitation of the rights granted to Company hereunder.

5. Representations & Warranties. Licensor warrants and represents that:

(a) Licensor is a corporation in good standing and formed under the laws of the state of its incorporation. Licensor has the full right, power and authority to enter into this Agreement and to grant the rights herein granted.

(b) Neither the Picture nor any of its contents, nor any other materials or any elements or parts thereof or other materials to be delivered to Company hereunder, nor any use thereof by Company, nor the exploitation by Company of any of its rights hereunder, shall violate or infringe upon the copyright, literary, privacy, publicity, trademark, service mark or any other personal or property right of any Person, nor shall same constitute a libel or defamation of any Person whatsoever.

(c) There are not now and during the Term there shall be no liens, claims, encumbrances, legal proceedings, restrictions, agreements or understandings which might conflict or interfere with, limit, derogate from, or are inconsistent with or otherwise affect any of the provisions of this Agreement, any of Licensor's representations and warranties contained herein or the enjoyment by Company of any rights granted to Company hereunder, including, without limitation the exclusive right to manufacture and distribute Videos and exploit the other rights granted herein.

(d) Licensor is the sole and exclusive owner of the Picture and all rights granted hereunder in and to the Picture and all literary, dramatic and musical material contained therein and Licensor has obtained all licenses and permissions as may be required for the full and unlimited exercise and enjoyment by Company of all of the rights granted to Company. Licensor will, as part of its delivery obligations,

supply to Company all chain-of-title documents regarding literary, dramatic and musical material, and any other material contained in the Picture. It is expressly understood and agreed that the review by Company of the said documents supplied by Licensor shall in no way limit the warranties contained in this clause.

(e) Unless Licensor otherwise notifies Company in writing in advance, all persons and entities connected with the production of the Picture, and all other persons and entities whose names, voices, photographs, likenesses, works, services and materials have been used in the Picture or its exploitation, have authorized the use of their names, voices, photographs, likenesses, performances, and biographical data in connection with the advertising, promotion, trade and other exploitation of the Picture and the rights herein granted to Company in connection therewith.

(f) All obligations with respect to the Picture, and its production, distribution and exploitation, including but not limited to all salaries, royalties, license fees, service charges, laboratory charges and the like, shall have been or will be fully paid by Licensor. Except for royalties payable to Licensor hereunder, Company shall have no obligation for past, current or future salaries, royalties, residuals, deferments, license fees, service charges, laboratory charges or similar payments. All fees, payments, costs and charges, including, without limitation, all fees, payments, costs, charges or payments to any producer, director, writer, actor, composer, musician or any other Person who performed services or furnished material in connection with the Picture, and/or to any guild, union, performing rights society, publisher or owner of master recordings arising by reason of the exercise by Company of any of the rights granted to it hereunder shall be Licensor's responsibility and shall, under no circumstances, be the responsibility of Company. If Company, in its sole discretion, pays any amounts pursuant to this paragraph, then without limiting Company's other rights and remedies, such amounts shall be deemed advances, and may be deducted from all monies otherwise payable to Licensor hereunder.

(g) All necessary synchronization, public performance and other licenses for the use of any musical compositions throughout the Territory for the Picture and the exploitation by Company of its other rights herein have been obtained from the copyright owners. All monies payable under such licenses or otherwise by reason of such uses have been or will be paid by Licensor.

(h) In the production of the Picture, all laws, statutes, ordinances, rules and regulations of each country, state, city or other political entity having jurisdiction have been or shall be satisfied, as well as rules, regulations and requirements of any union or guild having jurisdiction.

(i) The Picture (including all elements thereof) is not in the public domain, and the Picture has been validly registered for copyright. The Picture as delivered will contain all proper copyright notices required or permitted for protection of the Picture under the U.S. Copyright Act and the Universal Copyright Convention.

(j) The credit lists and other materials delivered to Company under this Agreement will be complete and accurate. Further, Company will incur no liabilities to any third parties arising out of its compliance with such lists and use of such materials as delivered, which use is consistent with the provisions of this Agreement and materials supplied by Licensor as part of its delivery requirements hereunder.

(k) Licensor has obtained and shall maintain during the Term hereof, standard producer's (errors and omissions) insurance in respect of the Picture and shall promptly following execution hereof add Company and, upon Company's request, any licensees of Company as additional named insureds thereon. Such errors and omissions insurance shall have limits of not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the aggregate and shall have a deductible of not more than Ten Thousand Dollars (\$10,000) per occurrence. Such insurance policy shall provide that such insurance shall be primary, and that no insurance that may be maintained by Company shall be deemed contributory in any way. Licensor shall, as part of its delivery obligations, deliver to Company on or before the Delivery Date a certificate of insurance evidencing the foregoing.

(l) Licensor has complied and will comply with 18 U.S.C. §§ 2257 and 2257A regarding minors and the depiction of sexually explicit conduct, if any, in the Licensor Content, including, without limitation, the collection and maintenance of individually identifiable information regarding all performers as required.

6. Indemnity.

(a) Licensor will at all times indemnify and hold harmless Company and its officers, employees, licensees, related companies, subdistributors and assigns from and against any and all third party claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses, arising out of or relating to any breach or alleged breach of any warranty, representation, covenant or agreement made by Licensor in this Agreement or any other act or omission by Licensor inconsistent with the provisions hereof. In the event of any such claim, Company will have the right in addition to its other rights and remedies, to withhold monies which would otherwise be payable to Licensor under this Agreement in an amount not in excess of Licensor's potential liability to Company under this paragraph.

(b) Company will at all times indemnify and hold harmless Licensor and its officers, employees, licensees, related companies and assigns from and against any and all third party claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses arising out of or relating to any breach or alleged breach of any warranty, representation, covenant or agreement made by Company in this Agreement.

7. Ownership. Licensor shall own all right, title and interest, under copyright and otherwise, in and to the Delivery materials delivered to Company by Licensor.

8. Confidentiality. Each party shall keep confidential the terms and conditions of this Agreement and all non-public information regarding each party, and shall not disclose such information to any third party.

9. Notices. All notices required to be given to Company shall be sent to Company at its address first mentioned herein, and all royalty statements and payments and any and all notices to Licensor shall be sent to Licensor at its address first mentioned herein, or such other address as each party respectively may hereafter designate by notice in writing to the other. All notices sent under this Agreement shall be in writing and, except for royalty statements and payments, shall be sent by personal delivery or registered or certified mail, return receipt requested, and the date three days after the day of mailing of any such notice, as applicable, shall be deemed the date of the giving thereof (except notices of change of address, the date of which shall be the date of receipt by the receiving party). All notices to Company shall be served upon Company, with a copy to Franklin,

Weinrib, Rudell & Vassallo, P.C., 488 Madison Avenue, 18th Floor, New York, New York, 10022.

10. Miscellaneous.

(a) This Agreement contains the entire understanding of the parties relating to its subject matter, and supersedes all prior agreements, whether oral or written, with respect to its subject matter. No change or modification of this Agreement will be binding unless it is signed by both parties. A waiver by either party of any provision of this Agreement in any instance shall not be deemed to waive it for the future and/or in any other instance. All remedies, rights, undertakings, and obligations contained in this Agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, undertaking or obligation of either party. The captions of the paragraphs in this Agreement are included for convenience only and will not affect the interpretation of any provision.

(c) Company may assign this Agreement and any and/or all of its rights under this Agreement in whole or in part to any party and upon such assignment it will be relieved of any and all obligations and liabilities hereunder. Without limiting the foregoing Company may license, sublicense, grant and/or delegate to any Person any or all rights herein granted to Company.

(d) Licensor shall execute such additional documents and instruments of transfer as Company may reasonably request regarding the rights of Company hereunder. Licensor hereby irrevocably appoints Company to execute any such additional documents or instruments as Licensor's attorney-in-fact. Licensor acknowledges that Company's agency and power are coupled with an interest. Licensor also hereby irrevocably authorizes Company to proceed in Company's name or Licensor's name with any appropriate action necessary to enforce Company's rights hereunder.

(e) This Agreement shall be construed in accordance with the laws of the State of New York applicable to agreements executed and wholly performed within said state. Any controversy or claim arising out of or relating to this Agreement or breach thereof shall be settled by mediation, and if unsuccessful, arbitration in New York State in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. There shall be a single arbitrator, who is an attorney licensed to practice law within New York State, maintains

offices in Manhattan, and has at least ten (10) years of experience in entertainment and/or intellectual property and contract matters. If the parties cannot agree on the selection of the arbitrator, then one shall be selected by a local representative of the American Arbitration Association. The parties agree that the arbitrator shall apply the law of the State of New York to the facts of the case, that the arbitrator shall specify the basis of his award and that a court reporter shall record the hearing and such reporter's record will be the official transcript of the proceeding.

(f) In the event of Licensor's bankruptcy, Licensor and Company acknowledge and agree that the licensed rights hereunder are fundamentally in the nature of "intellectual property" as defined in the Title 11 of the United States Code entitled "Bankruptcy," as now or hereafter in effect, or any successor statute (the "Bankruptcy Code"); that Company's continued enjoyment of all licensed rights is fundamental to the basic license hereunder; and therefore all licensed rights should be deemed intellectual property subject to Company's election under Section 365(n)(1)(B) of the Bankruptcy Code. Licensor and Company agree that the definition of "intellectual property" in Title 11 of the United States Code shall also include trademarks and service marks, as trademarks and service marks are

inextricably linked to the other intellectual property to which rights are granted to Company under this Agreement. Licensor and Company agree that upon any election by Company pursuant to Section 365(n)(1)(B) of the Bankruptcy Code, Company shall be entitled to, on its own or through employees, contractors, agents or otherwise, upgrade, modify and develop derivative works based upon the rights licensed hereunder. In the event of Company's bankruptcy, Licensor agrees that, notwithstanding Section 365(c)(1) of the United States Bankruptcy Code, Company may assume this Agreement and, subject to Paragraph 10(c), above, may assign this Agreement.

(g) "Person" means any natural person, legal entity, or other group of organized persons or entities.

(h) In resolving any dispute or construing any provision hereunder, there shall be no presumptions made or inferences drawn because the attorneys for one of the parties drafted the Agreement, because of the drafting history of the Agreement, or because of the inclusion of a provision not contained in a prior draft or the deletion of a provision contained in a prior draft.

END OF STANDARD TERMS AND
CONDITIONS

SCHEDULE I

LICENSED RIGHTS

"Licensed Rights" shall mean all Digital Rights, Theatrical Rights, Television Rights and Non-Theatrical Rights, Home Video Rights.

"Digital Rights" shall mean the right to transmit the Picture in all forms and formats of electronic, digital and/or data transmissions via downloads, streaming, video-on-demand, subscription video-on-demand, including but not limited to transmissions via the internet, as downloads/transmissions to wireless devices, including but not limited to mobile telephones and other wireless communications devices, or by other means facilitated by wholesalers, distributors or other intermediaries; and other such technologies, both known and unknown, and whether on a free, subscription, pay-per-view, license, rental, sale, or any other basis including, without limitation, distribution for sale or rental, or on a retail, subscription, club, or other direct to consumer basis..

"Home Video Rights" means the right to reproduce, distribute, manufacture, sell, license, lease, rent, advertise, market, publicize, publicly perform, promote and/or otherwise exploit Video(s), by any and all means and methods and in any and all media, whether now known or hereafter developed.

"Non-Standard Television" means any and all forms of television exhibition and display, whether now existing or developed in the future, other than exhibition by Standard Television. Non-Standard Television shall include, without limitation, exhibition by pay cable, "over-the-air pay," television pay per view, subscription television (including any and all forms of regular and occasional scrambled broadcast for taping), cable, master antenna, low power television, closed circuit, hotel, and other institutional service, direct broadcast satellite service (except for theatrical exhibition to paying audiences), transmission via telephone lines, electric power lines, wireless distribution, "video dial tone" and television "video on demand" systems (whether the video dial tone and video on demand are fee based, free, ad supported or any other commercial or non-commercial basis), television "subscription video on demand" systems and electronic publishing.

"Non-Theatrical Rights" means the right to distribute or exploit the Picture by any means or process now known or hereafter devised for exhibitions in schools, colleges, and other educational institutions, libraries, governmental agencies, business and service organizations and clubs, churches and other religious institutions, museums and film societies, prisons, old age homes, hospitals, private camps, student organizations and similar groups, permanent or temporary military institutions, offshore drilling rigs, airplanes, ships, trains and other common carriers and similar kinds of exhibitions.

"Standard Television" means television distributed by a UHF or VHF television broadcast station, the video and audio portions of which are intelligibly receivable without charge by means of standard home rooftop or television set built-in antennas; provided, that for purposes of this Agreement, that broadcasts like those in England by the BBC in which a license fee, tax or similar charge is made for use of a television shall be considered Standard Television.

"Television Rights" means the exploitation of the picture by Standard Television and Non-Standard Television.

"Theatrical Rights" means the exploitation of the Picture using any medium in which audiovisual works are delivered, transmitted or exhibited by any technological means, now or hereafter known, to conventional, drive-in, or like theatres open to the general public where a fee is charged for admission.

"Video(s)" means all electronic, mechanical, magnetic or optical devices, whether now known or hereafter developed, in all formats and sizes, including, without limitation, videocassettes, videodiscs (including, without limitation, laserdisc, DVD, Blu-ray DVD, and CD-ROM), optical discs, hard drives, semi-conductor chips and any other device, substance or technology, on or by which audio-visual recordings may be reproduced, whether now known or hereafter developed. DVD and Blu-Ray shall be on a non-exclusive basis.

EXHIBIT B

Delivery Schedule

Without limitation of the provisions hereof, Licensor shall use best efforts to cause persons rendering services and/or granting rights in and/or in connection with the Picture to be available to Company for participation (at no cost to Company) in and/or in connection with the Rights.

Licensor shall supply to Company the following materials for use in manufacturing, duplicating and advertising of the Picture, including but not limited to:

A) Artwork/Publicity Materials to be Delivered:

Licensor shall, where available, deliver a reasonable quantity of pre-existing photos, slides, advertisements, publicity pieces and promotional materials concerning the Picture (“Artwork/Publicity Materials”). Specifically, and without limiting the generality of the foregoing, such Artwork/Publicity Materials shall include:

1. Key art, to be chosen at Company’s discretion and delivered as a layered, hi-resolution, PSD or EPS file, color RGB. Include all linked images and all fonts and, if available, any layered files. Key art can be no less than 1400x2100 pixels. No Credit blocks, email addresses, URL’s, product tagging, pricing or contact information. All material provided in accordance with this paragraph must be fully cleared (including any talent approvals or other authorizations) for Licensee’s exploitation without any additional clearance costs or other supplemental payments.
2. Licensor must deliver all available color-corrected digital photographs (“Stills”) which must include photographs of principal members of the cast and high resolution screen grabs/screen captures made from the original master. Licensor must deliver such Stills digitally in the highest resolution format possible (at a minimum of 300dpi and no smaller than 8x10 images) as TIFF, JPEG, EPS or RAW files, complete with contact sheets, and photo identification caption list. Captions identifying the person and subject matter depicted licensed shall accompany each image. Any and all talent approvals and/or other authorizations that are required in connection with the use of the delivered photography shall be secured prior to the Delivery Date. Unit photography elements are non-returnable and the property of Company, duplication of original photography is the responsibility of the Licensor.
3. Press Books shall be delivered in the following in digital form: (a) a director’s statement in no more than one hundred fifty (150) words; (b) fully-approved production notes of the Picture including items relating to underlying work (original screenplay, book, etc.), shooting format, shooting ratio, aspect ratio, running time, shooting locations, budget, anecdotes about the production of background of the Picture; (c) biographies of the director (no more than one hundred twenty (120) words), each principal cast member (no more than seventy-five (75) words), each key crew member (no more than seventy-five (75) words), and any key person/subject who appeared in the Picture; (d) distribution history of the Picture including film festival, theatrical, television, digital release history, ratings, awards and nominations, if any; and (e) credit transcript, in the order the Picture’s credits scroll at beginning and end of film, as applicable, inclusive of all logo credits. Copies of all available press articles, reviews, capsule reviews should be delivered electronically as PDF. All such materials shall be in the English language.
4. Other available advertising and marketing materials including one-sheets, sell sheets and all advertising art elements.

B) Technical Delivery Requirements:

1. Digital master delivery of both Picture and Trailer

a) HD Source*

QuickTime

Frame Size: 1920x1080

Frame Rate: 23.98, 24, 25, 29.97, 59.94

Colour Space: ITU-R BT.709

Codec: Apple ProRes 422 (HQ)

10 bit Uncompressed 4:2:2

8 bit Uncompressed 4:2:2

Blackmagic 10 bit

Avid DNxHD

DVCPRO HD

Audio: Stereo: LPCM in either Big Endian or Little Endian,

16-bit or 24-bit, at least 48kHz

Surround: Expected channels: L, R, C, LFE, Ls, Rs, LtRt

Note: Audio levels should not peak higher than -4dB

*Content may NOT be up-converted from SD source assets.

b) SD Source

1) QuickTime: NTSC

Frame Size: 720x486 or 720x480

Frame Rate: 29.97 or 23.98

Codec: Apple ProRes 422 (HQ)

10 bit Uncompressed 4:2:2

8 bit Uncompressed 4:2:2

Blackmagic 10 bit

Audio: Stereo: LPCM in either Big Endian or Little Endian,

16-bit or 24-bit, at least 48kHz

Surround: Expected channels: L, R, C, LFE, Ls, Rs, LtRt

Note: Audio levels should not peak higher than -4dB

2) QuickTime: PAL

Frame Size: 720x576

Frame Rate: 25

Codec: Apple ProRes 422 (HQ)

10 bit Uncompressed 4:2:2

8 bit Uncompressed 4:2:2

Blackmagic 10 bit

Audio: Stereo: LPCM in either Big Endian or Little Endian,

16-bit or 24-bit, at least 48kHz

Surround: Expected channels: L, R, C, LFE, Ls, Rs, LtRt

Note: Audio levels should not peak higher than -4dB

A DCP version of your film will need to be generated with Company's stinger. This can be coordinated during delivery or after.

2. Ten (10) BluRay samples of the Picture that are not copy protected and do not have watermarks, and Six (6) DVDs. The DVDs must contain the final version of the approved and cleared Picture.

3. To the extent created, and if requested by Company, Licensor shall deliver any and all ancillary bonus materials, including, without limitation, (a) behind the scenes footage, (b) edited interviews, (c) any other bonus materials, and (d) audio commentary. In the event audio commentary for the Picture (“Audio Commentary”) exists (and if requested by Company), then Licensor must provide studio quality 24bit/48kHz WAV or AIFF files of narration audio mixed with feature audio or M&E synchronized to the time code for supplied master. For any such HD Extras, Licensor must provide one (1) video master matching the specs in one of the options above. Each Extras’ video master must be fully cleared and approved for use.
4. If any portion of the Picture is in a language that is not English and contains burn-in subtitles, Licensor shall deliver textless elements at the end of the masters delivered. For any masters delivered without burnt-in subtitles, Licensor must deliver separate digital subtitle files and a text document with timecodes. The subtitle files must be .STL files. No more than seven words per line. No more than two lines per shot.
5. Free access to foreign language masters, if and when created.
6. Licensor must deliver closed captioned files.

For content delivered on tape:

HD: CAE-708

SD: CEA-608 (or line 21)

Properly formatted and conformed .scc files

For content delivered digitally, please supply either:

QuickTime 708 closed captioning track in the file

Properly formatted and conformed .scc file

Files that do not line up with the video may be rejected. Company will endeavor to correct problematic files if possible, but extra costs will apply.

- C) **Music Cue Sheet** A final and complete music cue sheet for the Picture and trailer including the title of each composition, the composers, publishers, copyright owners, use (e.g., background, instrumental, vocal, etc.), performing rights society (e.g., BMI, ASCAP), percentages of ownership and/or control, and running time. The music cue sheet must include all music appearing with all logos that appear on screen.
- D) **E&O Insurance Policy and Certificate naming ___ as additional insured.** Upon request (to the extent applicable), a certificate(s) of insurance evidencing the addition of Company’s licensees as additional insureds.
- E) **Chain of Title documents**, all legal documents related to the creation, license, transfer and assignments of rights to the Picture, every release related to all subjects appearing in the Picture, and licenses for all third party materials contained therein including, without limitation music, photographs, clips. All agreements with third parties shall prohibit injunctive relief and all talent agreements shall include work-for-hire language, as well as a Summary of Chain of Title being an accurate list, in chronological order, of all owners of the Picture and the story upon which the Picture is based, if applicable. If there have been no assignments or transfers of ownership, and the Licensor is and always has been the author of the Picture, a signed affidavit indicating same.
- F) **U.S. Copyright Certificate**, fully executed, or in the event the fully executed certificate is not yet received, supply of proof of receipt by the Copyright Office of a fully executed application will suffice.
- G) **Title Report** – A current (within sixty (60) days of the Delivery Date) title report showing that the title of the Picture is available for use without infringing others’ rights. A copy of the title report submitted to the insurer will suffice.
- H) **Guild Statement** – A copy of Licensor’s written statement identifying all guilds and unions whose members rendered services in connection with the Picture.

- I) Dolby License Agreements** – If applicable, a copy of the fully executed Dolby SR and Dolby SRD license agreements. The agreements must be in full force and effect for unlimited distribution of the Picture throughout the Territory during the Term.
- J) MPAA Rating Certificate** – An M.P.A.A. Certificate of Approval and Rating with Rating Reason if applicable.
- K) W-9 form** (Taxpayer Identification Number and Certificate), when fully executed

Licensor shall make full and technically acceptable delivery no later than the Delivery Date, time being of the essence. If Licensor fails to deliver any or all of the materials in a timely manner, Company shall have the right to create such materials as it deems fit and Licensor agrees to reimburse Company for One Hundred Percent (100%) of its out of pocket costs in the creation of such materials.