

**SIDELETTER ON LITERARY MATERIAL WRITTEN FOR
PROGRAMS MADE FOR NEW MEDIA**

As of February 13, 2008
Revised as of May 2, 2011

Carol A. Lombardini
Alliance of Motion Picture & Television Producers, Inc.
15301 Ventura Boulevard, Building E
Sherman Oaks, California 91403

Re: Literary Material Written for Programs Made for New Media

Dear Carol:

This Sideletter confirms the understanding of the WGA and the Companies concerning the application of this Basic Agreement (hereinafter “the MBA”) to literary material written for exhibition on the Internet, mobile devices (such as cell phones or PDAs) or any other new media platform known as of February 13, 2008 (hereinafter collectively referred to as “new media”), but not including methods of distribution addressed in other provisions of the MBA such as free television, basic cable, pay TV, videodisc/videocassette and radio, even if digital. With respect to literary material written under employment, or acquired from a professional writer, which is intended for initial use on new media, the parties agree as follows:

1. **Recognition** The Company recognizes the Guild as the exclusive bargaining representative of writers of literary material written under employment, or acquired from a professional writer, intended for use in motion pictures of the type traditionally covered under the MBA which are intended for initial exhibition in new media, but excluding news and “Experimental New Media Productions” as defined in the following paragraph.

Coverage shall be at the Company’s option with respect to “Experimental New Media Productions.” An “Experimental New Media Production” is defined as any Original New Media Production (1) for which the actual cost of production is: (a) \$15,000 or less per minute of program material as exhibited, and (b) \$300,000 or less per single production as exhibited, and (c) \$500,000 or less per series of programs produced for a single order; and (2) the literary material for which has not been written under employment by, or acquired from, a “professional writer,” as that term is defined in Article 1.C.1.b. of the MBA.

The actual cost of the Experimental New Media Production shall consist of all direct costs actually incurred in connection with the Production. The only costs excluded in determining the actual cost of production shall be development costs (other than writing costs), overhead charges, financing costs (*i.e.*, loan origination fees, gaps fees, legal fees, and interest), contingency of up to ten percent (10%), essential elements insurance costs, the cost of the completion bond, marketing expenses, contingent payments to talent or other parties which are based on the proceeds derived from the exploitation of the Production, and delivery items required by sales agents, distributors or sub-distributors (*i.e.* delivery materials beyond the answer print, NTSC Video Master if the Production is delivered on videotape, or the digital equivalent if the Production is delivered in a digital format).

Notwithstanding the foregoing, if the Company intends that the project fall within the budget parameters of an Experimental New Media Production, but the actual cost of the Experimental New Media Production exceeds those parameters, then the sole remedy shall be that all writers employed on the project, or any professional writer from whom literary material was acquired for the project, shall be retroactively covered under the terms and conditions for Original New Media Productions set forth in Paragraph 3 of this Sideletter.

2. **Terms and Conditions for “Derivative New Media Productions”**

A “Derivative New Media Production” is a production for New Media based on an existing television motion picture that was produced for “traditional” media – *e.g.*, a free television, basic cable, or pay television motion picture (the “Original Production”) – and is otherwise included among the types of motion pictures traditionally covered by the MBA.

a. **Initial Compensation**

The Company shall pay the writer compensation for a Derivative New Media Production separate from compensation for writing services for the Original Production.

The minimum initial compensation for a Derivative New Media Production shall be the rate applicable to a two (2) minute program, as indicated below. For programs longer than two (2) minutes, the minimum per minute rate over two (2) minutes shall be added to the two (2) minute minimum as shown below.

	5/02/11 - 5/01/12	5/02/09 - 5/01/13 ¹	5/02/13 - 5/01/14 ¹
New Media Productions Derivative of Dramatic Programs (other than Daytime Serials)	\$675 for programs up to two minutes in length, plus \$338 for each minute or portion thereof in excess of two minutes	\$687 for programs up to two minutes in length, plus \$344 for each minute or portion thereof in excess of two minutes	\$699 for programs up to two minutes in length, plus \$350 for each minute or portion thereof in excess of two minutes
New Media Productions Derivative of Comedy-Variety Programs and Daytime Serials	\$394 for programs up to two minutes in length, plus \$197 for each minute or portion thereof in excess of two minutes	\$401 for programs up to two minutes in length, plus \$201 for each minute or portion thereof in excess of two minutes	\$408 for programs up to two minutes in length, plus \$204 for each minute or portion thereof in excess of two minutes
All Other Types of Derivative New Media Productions	\$338 for programs up to two minutes in length, plus \$169 for each minute or portion thereof in excess of two minutes	\$344 for programs up to two minutes in length, plus \$172 for each minute or portion thereof in excess of two minutes	\$350 for programs up to two minutes in length, plus \$175 for each minute or portion thereof in excess of two minutes

b. **Other Terms and Conditions**

All terms and conditions of employment (other than credits as provided in subparagraph (3) below) are subject to negotiation between the Company and the individual writer.

- (1) **Applicable Provisions of the MBA.** The following provisions of the MBA are incorporated herein. To the extent the provisions herein are inconsistent with the MBA, the provisions of this sideletter control.
- (a) Article 6, "Guild Shop (General)."
 - (b) Article 7, "No Strike No Lock-out Clause (General)"
 - (c) Article 10, "Grievance and Arbitration"
 - (d) Article 11, "Grievance and Arbitration Rules and Procedures"
 - (e) Article 12, "Court Proceedings"

¹ See footnote 2 at page 69.

- (f) Article 13.B.9., “Time of Payment”
- (g) Article 17, “Pension Plan and Health Fund”
- (h) Article 35, “Recognition of Agreement (General)”

Except as provided herein, no other terms of the MBA shall apply to the employment of such writer, or to the sale of such literary material, unless agreed in writing between the writer and the Company.

- (2) **Written Contract of Employment.** The Company shall tender a written contract of employment to the writer within ten (10) days following the commencement of his or her employment and shall send a copy to the Guild within one (1) week after receipt by Company of the executed contract.
- (3) **Screen Credit.** The Company will submit a Notice of Tentative Writing Credits to the Guild and participating writers for each covered program produced for new media as soon as practicable upon completion of principal photography. The parties agree to discuss further whether modifications to the WGA credit determination process should be made based on the nature of the program writing, production and distribution. The Company shall be required to accord screen credit to the writer if any other person receives screen credit on the New Media Production. The writing credit shall be in the form “Written by” for dramatic programs and in the form “Writer(s)” for all other programs and must be accorded in the same size and style of type as any other personal credit. Credits may appear in the corner of the screen. “Click-through” credits may be used.
- (4) **Residual Compensation.**
 - (a) Initial compensation for a Derivative New Media Production shall constitute payment for thirteen (13) consecutive weeks of use on all free to the consumer advertiser-supported platforms transmitted via new media (hereinafter “advertiser-supported platforms”), commencing with the first day that the Derivative New Media Production is available for exhibition on any advertiser-supported platform, and for a separate twenty-six (26) consecutive week period of use on any consumer pay new media platform (hereinafter “consumer pay platform”), commencing with the first day that the Derivative New Media Production is available for exhibition on any consumer pay platform.
 - (b) Use on Advertiser-Supported Platforms Within One Year Following Expiration of the Thirteen Consecutive Week Period
 - (i) If the Company desires to use the Derivative New Media Production on advertiser-supported platforms beyond the thirteen (13) consecutive week period, but commencing

within one (1) year after expiration of the thirteen (13) consecutive week period, then the Company shall make a residual payment equal to three and one-half percent (3.5%) of the amounts set forth in subparagraphs (A) through (E) below, as applicable, as modified by subparagraph (F) below, to the extent applicable, as consideration for a twenty-six (26) consecutive week period of use, commencing with the first day that the Derivative New Media Production is available for use on any advertiser-supported platform following the expiration of the thirteen (13) consecutive week period. The foregoing payment is an aggregate payment, to be allocated among all credited writer(s). In no event shall any payment be less than \$20.00.

- (A) For a Derivative New Media Production that is derivative of a dramatic television motion picture covered by the MBA, other than a serial covered by Appendix A, Article 13.B.5., the percentage shall be applied to the “bargain rate” in Article 13.B.7.c. for a program of the same length as the Derivative New Media Production.
- (B) For a Derivative New Media Production that is derivative of a serial covered by Appendix A, Article 13.B.5., the percentage shall be applied to the script fee set forth in Appendix A, Article 13.B.5.a.(2) for a program of the same length as the Derivative New Media Production.
- (C) For a Derivative New Media Production that is derivative of a comedy-variety program covered by Appendix A, Article 13.B.2., the percentage shall be applied to the minimum compensation per program set forth in Appendix A, Article 13.B.2.a. for a program of the same length as the Derivative New Media Production.
- (D) For a Derivative New Media Production that is derivative of a quiz and audience participation program covered by the MBA, the percentage shall be applied to the rate applicable to a writer employed solely to write questions, answers and/or ideas for stunts under a term contract guaranteeing thirteen (13) weekly units as set forth in Appendix A, Article 13.B.4.b.(1).
- (E) For a Derivative New Media Production that is derivative of a non-dramatic program covered by

Appendix A, Article 13.B.6.a. or b., the percentage shall be applied to the applicable minimum compensation set forth in Appendix A, Article 13.B.6.a.(1)(a) (depending upon whether it is derivative of a prime time program or a non-prime time program) for a program of the same length as the Derivative New Media Production.

- (F) If the lowest base figure in subparagraphs (A) through (E) above for a particular type of program covers programs up to ten (10) or fifteen (15) minutes in length, then the base shall be prorated for a Derivative New Media Production ten (10) minutes or less in length in five (5) minute increments, to a five (5) minute rate for programs 0-5 minutes in length and to a ten (10) minute rate for programs more than five (5) minutes in length, but not exceeding ten (10) minutes.
- (1) For example, for a Derivative New Media Production five (5) minutes in length that is derivative of a network prime time dramatic television motion picture, the residual payment is calculated by multiplying the “bargain rate” applicable minimum in Article 13.B.7.c. for a high budget dramatic program 15 minutes or less in length, prorated to five (5) minutes because the Derivative New Media Production is five (5) minutes or less in length (e.g., \$2,386 as of May 2, 2011) by 3.5%.
- (2) As a further example, for a Derivative New Media Production three (3) minutes in length that is derivative of a comedy-variety program, the residual payment is calculated by multiplying the minimum compensation per program set forth in Appendix A, Article 13.B.2.a. for a five (5) minute program (e.g., \$1,703 as of May 2, 2011) by 3.5%.
- (ii) If the Company desires to use the Derivative New Media Production on advertiser-supported platforms for all or any part of the twenty-six (26) consecutive week period immediately following the twenty-six (26) consecutive week period described in subparagraph (4)(b)(i) above, but commencing within one (1) year after expiration of the thirteen (13) consecutive week period, then the Company shall make a residual payment equal to three and one-half percent (3.5%) of the amounts set forth in subparagraph

(4)(b)(i)(A) through (E) above, as applicable, as modified by subparagraph (F) above, to the extent applicable, as consideration for a twenty-six (26) consecutive week period of use, commencing with the first day that the Derivative New Media Production is available for use during such twenty-six (26) consecutive week period.

- (iii) None of the aforementioned twenty-six (26) consecutive week periods shall cover a period that is more than one (1) year after the expiration of the thirteen (13) consecutive week period. In the event that use of the television motion picture on advertiser-supported platforms is commenced on a date that does not allow for the full twenty-six (26) consecutive week period of use within one (1) year of the expiration of the thirteen (13) consecutive week period, then the payment for that period shall be prorated in weekly units to cover the shorter use period.

For example, suppose that the Company uses a television motion picture on advertiser-supported platforms during the thirteen (13) consecutive week period and then does not use the motion picture on advertiser-supported platforms again until thirty-nine (39) weeks after the expiration of the thirteen (13) consecutive week period. Since only thirteen (13) weeks remain within the one (1) year period, a payment of one-half of the payment that would otherwise be due for the twenty-six (26) consecutive week period would be payable for use during the remaining thirteen (13) week period.

(c) Use on Advertiser-Supported Platforms More Than One Year Following Expiration of the Thirteen Week Period

Upon expiration of the one (1) year period following expiration of the thirteen (13) consecutive week period, if the Company desires to use the Derivative New Media Production on advertiser-supported platforms, then it shall pay residuals at the rate of two percent (2%) of “accountable receipts,” as defined in Paragraph 3 of the Sideletter on Exhibition of Motion Pictures Transmitted Via New Media.

(d) Use on Consumer Pay Platforms

For use of a Derivative New Media Production on new media platforms for which the consumer pays (e.g., download-to-own, download-to-rent, paid streaming), the Company shall pay a residual equal to 1.2% of the “accountable receipts,” as defined in Paragraph 3 of the Sideletter on Exhibition of Motion Pictures

Transmitted Via New Media, attributable to the period beyond the twenty-six (26) week period of use.

(e) Use in Traditional Media

The Company shall pay residuals for the use of a Derivative New Media Production in “traditional media” (e.g., free television, basic cable, pay television, home video) as a supplemental use under existing MBA formulas.

(i) Free Television Exhibition

- (A) Except with respect to exhibition of Derivative New Media Productions that are more than fifteen (15) minutes in length in network prime time, residual payments for free television exhibition of Derivative New Media Productions shall be computed as follows:

The new media exhibition of the Derivative New Media Production shall constitute the first run for purposes of calculating residual payments in free television. The base figure used to compute the residual payment shall be the base amounts set forth in subparagraphs (4)(b)(i)(A) through (E) above, as applicable, as modified by subparagraph (F) above, to the extent applicable, for a program of the same category and length as the Derivative New Media Production. The base figure shall be multiplied by the percentage applicable to the run in question, except that payments for network prime time shall be paid according to the percentages for network non-prime time, and the resulting product shall be the residual payment.

If the lowest base figure for a particular type of program covers programs up to ten (10) or fifteen (15) minutes in length, then the base shall be prorated for a Derivative New Media Production ten (10) minutes or less in length in five (5) minute increments, to a five (5) minute rate for programs 0-5 minutes in length and to a ten (10) minute rate for programs more than five (5) minutes in length, but not exceeding ten (10) minutes.

The foregoing payment is an aggregate payment, to be allocated among all credited writer(s).

- (1) As an example, suppose that a five (5) minute Derivative New Media Production that is derivative of a high budget dramatic program is exhibited for the first time in network prime time. The applicable base is the “bargain rate” applicable minimum used for high budget dramatic programs fifteen (15) minutes or less in length, prorated to five (5) minutes because the Derivative New Media Production is five (5) minutes or less in length (e.g., \$2,386 as of May 2, 2011). That figure will be multiplied by 50%, the percentage applicable to a second run on a network in other than prime time, for a total residual payment of \$1,193.
 - (2) If the same Derivative New Media Production were exhibited a second time on the network, that run would generate a residual payment of \$954 ($\$2,386 \times 40\%$).
 - (3) As a further example, suppose that a three (3) minute Derivative New Media Production that is derivative of a comedy-variety program is exhibited for the first time on a network, but not in prime time. The base is the minimum compensation per program set forth in Appendix A, Article 13.B.2.a. for a five (5) minute program (e.g., \$1,703 as of May 2, 2011). That figure will be multiplied by 50%, the percentage applicable to a second run on a network in other than prime time, for a total residual payment of \$852.
- (B) The formula for reruns in network prime time of Derivative New Media Productions more than fifteen (15) minutes in length is as follows: The new media exhibition of the Derivative New Media Production shall constitute the first run for purposes of calculating residual payments for use on free television. The residual payment shall be the amount payable under the MBA for a rerun in network prime time of a free television motion picture or program of the same type and length as the Derivative New Media Production. For dramatic programs, other than a serial covered by Appendix A, Article 13.B.5., the residual payment shall be one hundred percent (100%) of the “bargain rate” applicable minimum, as set forth in Article 13.B.7.c.,

for a program of the same length as the Derivative New Media Production. The foregoing payment is an aggregate payment, to be allocated among all credited writer(s).

(1) For example, if a Derivative New Media Production twenty (20) minutes in length that is derivative of a high budget dramatic program is shown once in network prime time, the residual payment applicable to that exhibition is \$13,114 (as of May 2, 2011), the same payment applicable to the rerun of a thirty (30) minute network prime time program in network prime time. If the Derivative New Media Production were run a second time in network prime time, the same payment would be due (\$13,114).

(2) As another example, if a dramatic Derivative New Media Production forty-three (43) minutes in length were exhibited once in network prime time, the residual payment applicable to that exhibition is \$23,837 (as of May 2, 2011), the same payment applicable to the rerun of a sixty (60) minute network prime time program in network prime time. If the Derivative New Media Production were run a second time in network prime time, the same payment would be due (\$23,837).

(ii) Exhibition on Pay Television, Home Video, Basic Cable and in an Interactive Program

For exhibition on pay television, the Company shall pay residuals equal to 1.2% of Company's "accountable receipts" pursuant to Article 51.C.1.a. of the MBA. For home video exploitation, the Company shall pay residuals pursuant to Article 51.C.1.b. of the MBA. For exhibition on basic cable, Company shall pay pursuant to the provisions of Article 58 of the MBA. For use of a Derivative New Media Production in an "interactive program," as defined in Article 64.A., the provisions of Article 64 shall apply.

(5) **Separated Rights**

If the writer of a Derivative New Media Production introduces a new character in the Derivative New Media Production, and the characterization of that character is fully developed and fully described in the material written by the writer, and from such development and

description the character appears to be unique and the principal creation of the writer, and if the Company uses that character as the central character in a new television series, the provisions of Article 16.B.1.d. will apply.

3. **Terms and Conditions for “Original New Media Productions”**

a. **Initial Compensation**

Initial compensation will be subject to negotiation between the Company and the individual writer.

b. **Other Terms and Conditions**

All terms and conditions of employment (other than credits as provided in subparagraph (3) below) are subject to negotiation between the Company and the individual writer.

(1) **Applicable Provisions of the MBA.** The following provisions of the MBA are incorporated herein. To the extent the provisions herein are inconsistent with the MBA, the provisions of this sideletter control.

- (a) Article 6, “Guild Shop (General).”
- (b) Article 7, “No Strike No Lock-out Clause (General)”
- (c) Article 10, “Grievance and Arbitration”
- (d) Article 11, “Grievance and Arbitration Rules and Procedures”
- (e) Article 12, “Court Proceedings”
- (f) Article 13.B.9., “Time of Payment”
- (g) Article 17, “Pension Plan and Health Fund”
- (h) Article 35, “Recognition of Agreement (General)”

Except as provided herein, no other terms of the MBA shall apply to the employment of such writer, or to the sale of such literary material, unless agreed in writing between the writer and the Company.

(2) **Written Contract of Employment.** The Company shall tender a written contract of employment to the writer within ten (10) days following the commencement of his or her employment and shall send a copy to the Guild within one (1) week after receipt by Company of the executed contract.

(3) **Screen Credit.** The Company will submit a Notice of Tentative Writing Credits to the Guild and participating writers for each covered program produced for new media as soon as practicable upon completion of principal photography. The parties agree to discuss further whether modifications to the WGA credit determination process should be made based on the nature of the program writing, production and distribution. The Company shall be required to accord screen credit to the writer if any other person receives screen credit on the New Media Production. The writing credit shall be in the form “Written by” for dramatic programs and in the form “Writer(s)” for all other programs and must be accorded in the same size and style of type as any other personal credit. Credits may appear in the corner of the screen. “Click-through” credits may be used.

(4) **Residual Compensation.**

(a) What Initial Compensation Covers

Initial compensation for an Original New Media Production shall constitute payment for a twenty-six (26) consecutive week period of use on any consumer pay new media platform (hereinafter “consumer pay platform”), commencing with the first day that the Original New Media Production is available on any consumer pay platform, and all uses on free to the consumer advertiser-supported platforms transmitted via new media (hereinafter “advertiser-supported platforms”).

(b) Use on Consumer Pay Platforms

- (i) No payment shall be due for any use on consumer pay platforms for an Original New Media Production budgeted below \$25,000 per minute of actual program material as exhibited.
- (ii) For all uses of an Original New Media Production budgeted at or above \$25,000 per minute of actual program material as exhibited on consumer pay platforms (e.g., download-to-own, download-to-rent, paid streaming) beyond the twenty-six (26) consecutive week period, the Company shall pay a residual equal to 1.2% of the “accountable receipts,” as defined in Paragraph 3 of the “Sideletter on Exhibition of Motion Pictures Transmitted Via the Internet,” attributable to the period beyond the twenty-six (26) consecutive week use period.
- (iii) Subparagraph (a) above shall apply to an Original New Media Production initially released on a consumer pay platform which is subsequently released on an advertiser-supported platform or vice versa.

(c) Use in Traditional Media

The Company shall pay residuals for the use of an Original New Media Production in “traditional media” (e.g., free television, basic cable, pay television, home video) as a supplemental use under existing MBA formulas.

(i) Free Television Exhibition

- (A) Except with respect to exhibition of Original New Media Productions that are more than fifteen (15) minutes in length in network prime time, residual payments for free television exhibition of Original New Media Productions shall be computed as follows:

The new media exhibition of the Original New Media Production shall constitute the first run for purposes of calculating residual payments in free television. The base figure used to compute the residual payment shall be the base amounts set forth in subparagraphs (4)(b)(i)(A), (C), (D) or (E) above, as applicable, as modified by subparagraph (F) above, to the extent applicable, for a program of the same category and length as the Original New Media Production. The base figure for all dramatic Original New Media Productions shall be as provided in subparagraph (4)(b)(i)(A) above. If the program category has both a high budget and a low budget rate, then the base shall be the base applicable to the low budget category. If the program category has both a prime time and a non-prime time rate, then the residual base shall be the base applicable to the non-prime time category. The residual base shall be multiplied by the percentage applicable to the run in question, except that payments for network prime time shall be paid according to the percentages for network non-prime time, and the resulting product shall be the residual payment.

If the lowest base amount for a particular type of program covers programs up to ten (10) or fifteen (15) minutes in length, then the base shall be prorated for an Original New Media Production ten (10) minutes or less in length in five (5) minute increments, to a five (5) minute rate for programs 0-5 minutes in length and to a ten (10) minute rate for programs more than five (5) minutes in length, but not exceeding ten (10) minutes.

The foregoing payment is an aggregate payment, to be allocated among all credited writer(s).

- (1) As an example, suppose that a five (5) minute dramatic Original New Media Production is exhibited for the first time in network prime time. The applicable residual base is the “bargain rate” applicable minimum used for other than network prime time low budget dramatic programs fifteen (15) minutes or less in length, prorated to five (5) minutes because the Original New Media Production is five (5) minutes or less in length (\$2,027 as of May 2, 2011). That figure will be multiplied by 50%, the percentage applicable to a second run on a network, for a total residual payment of \$1,014.
 - (2) If the same Original New Media Production were exhibited a second time on the network, that run would generate a residual payment of \$811 (\$2,027 x 40%).
 - (3) As a further example, suppose that a three (3) minute comedy-variety Original New Media Production is exhibited for the first time on a network, but not in prime time. The residual base is the minimum compensation per program set forth in Appendix A, Article 13.B.2.a. for a five (5) minute program (\$1,703 as of May 2, 2011). That figure will be multiplied by 50%, the percentage applicable to the second run on a network, for a total residual payment of \$852.
- (B) The formula for reruns in network prime time of Original New Media Productions more than fifteen (15) minutes in length is as follows: The new media exhibition of the Original New Media Production shall constitute the first run for purposes of calculating residual payments for use on free television. The residual payment shall be the amount payable under the MBA for a rerun in network prime time of a free television motion picture or program of the same type and length as the Original New Media Production.

For dramatic programs, the residual payment shall be one hundred percent (100%) of the “bargain rate”

applicable minimum, as defined in Article 13.B.7.c., for a program of the same category and length as the Original New Media Production.

(1) For example, if a dramatic Original New Media Production twenty (20) minutes in length is shown once in network prime time, the residual payment applicable to that exhibition is \$13,114 (as of May 2, 2011), the same payment applicable to the rerun of a thirty (30) minute network prime time program in network prime time. If the Original New Media Production were run a second time in network prime time, the same payment would be due (\$13,114).

(2) As another example, if a dramatic Original New Media Production forty-three (43) minutes in length were exhibited once in network prime time, the residual payment applicable to that exhibition is \$23,837 (as of May 2, 2011), the same payment applicable to the rerun of a sixty (60) minute network prime time program in network prime time. If the Original New Media Production were run a second time in network prime time, the same payment would be due (\$23,837).

(ii) Exhibition on Pay Television, Home Video, Basic Cable and in an Interactive Program

For exhibition on pay television, the Company shall pay residuals equal to 1.2% of "Company's accountable receipts" pursuant to Article 51.C.1.a. of the MBA. For home video exploitation, the Company shall pay residuals pursuant to Article 51.C.1.b. of the MBA. For exhibition on basic cable, Company shall pay pursuant to the provisions of Article 58 of the MBA. For use of an Original New Media Production in an "interactive program," as defined in Article 64.A., the provisions of Article 64 shall apply.

(5) Separated Rights

(a) If the Company acquires literary material from a writer or employs a writer to write literary material for exhibition on new media and subsequently employs that writer to write a television or theatrical motion picture based on such literary material, the writer shall not be disqualified from having separated rights under Article 16.A. or

16.B. of this Basic Agreement solely because the motion picture was based on literary material originally written for new media.

- (b) For any Original New Media Production to which separation of rights would apply if written for free television, the writer shall retain the television and theatrical motion picture rights specified in Article 16.B.2 and 16.B.3 of this Basic Agreement. The Company has the right to negotiate directly with the writer at any time to acquire these rights. The rights acquired after negotiation shall be set forth either in the acquisition or employment contract with the writer or in a separate contract and a separate consideration (other than the consideration for the original employment or purchase) shall be stated for such rights.

In the event that the writer of an Original New Media Production to which separation of rights applies later qualifies for separated rights pursuant to subparagraph (a) above, then the writer's rights under this subparagraph (b) shall be extinguished and shall be replaced by the rights set forth in Article 16.A. or Article 16.B., as applicable.

Should the writer desire to sell, license or otherwise dispose of the television or theatrical rights, the Company shall have a right of first refusal thereof as follows: At such time as writer shall receive from a third party a *bona fide* offer, and the writer desires to sell, license or otherwise dispose of the rights involved on the terms of such offer, writer will, by written notice to the Company, advise the Company of the rights involved and of such terms. Within seven (7) days (excluding non-business days as provided in Article 43) after receipt of such notice, Company may, by written notice to the writer, elect to purchase, license or otherwise acquire the rights involved on the terms set forth in writer's notice, in which case Company and writer will enter into an agreement upon such terms. If, within the seven (7) day period, Company notifies the writer that it does not elect to exercise its right of first refusal, or fails to give writer any written notice, the writer shall be free to enter into an agreement with such third party, but may not do so on terms more favorable to the third party than those set forth in the notice to the Company without again submitting the more favorable terms to the Company for first refusal, as herein provided.

- (c) For any Original New Media Production to which separation of rights would apply if written for free television, if the actual cost of production is above \$25,000 per minute of program material (as exhibited) and the length of each program, as exhibited on new media, is twenty (20) minutes or longer, the writer of the literary material shall be entitled, in addition to the rights set forth in subparagraph (b) above, to series sequel payments in the amount

of \$1,118 (\$1,138 effective May 2, 2012² and \$1,158 effective May 2, 2013²) for each Original New Media Production that is twenty (20) minutes or longer that is produced based on the Original New Media Production.

4. Television Rights/Sequel Rights

For purposes of this Sideletter, clarify that television rights, series sequel rights and MOW sequel rights in Article 16.B.2. include new media rights.

Sincerely,

WRITERS GUILD OF AMERICA, WEST, INC.,
on behalf of itself and its affiliate,
WRITERS GUILD OF AMERICA, EAST, INC.

By: /s/ David J. Young
David J. Young
Executive Director

ACCEPTED AND AGREED:

The respective companies represented by the
ALLIANCE OF MOTION PICTURE & TELEVISION PRODUCERS, INC.

By: /s/ Carol A. Lombardini
Carol A. Lombardini
President

² See footnote 2 on page 69.