

ATA COMPREHENSIVE PROPOSAL TO WGA – APRIL 10, 2019

Association of Talent Agents (“ATA”) makes the following proposal for a new Agreement to replace the Artists’ Managers’ Basic Agreement of 1976 (“AMBA”). The proposal addresses the relationship between talent agencies and their agents, and any writer client represented by the Writers’ Guild of America—East (“WGAE”) and Writers’ Guild of America West (“WGAW,” and collectively with WGAE, the “Guild”) in the fields of work covered by the Writers Guild of America Theatrical and Television Basic Agreement (“MBA”), as periodically renegotiated (“Writer”).

The proposal below is in contract language. ATA reserves the right to make additional or different proposals as negotiations progress.

ATA proposes as follows:

RECITALS

Whereas, WGAE is a non-profit New York corporation and WGAW is a non-profit California corporation, and both are labor organizations whose members consist of persons engaged in rendering services as writers in the fields of television or motion pictures (including OTT and other internet-delivered serial motion pictures or motion pictures), and in the sale of literary material; and

Whereas the Guild by agreement of WGAE and WGAW acts as one organization and therefore unless indicated separately in this agreement shall be referred to collectively as the Guild; and

Whereas ATA is a non-profit California corporation whose membership consist of persons, including talent agencies, acting as talent agents (collectively, “Agents”), for various persons, including, but not to limited to, Writers; and

Whereas ATA and the Guild wish to document certain basic provisions by which subscribing Agents shall provide services to their Writer clients;

Now, therefore, the following shall be the agreement between ATA on the one hand and the Guild on the other, and shall also be an agreement with such Agents as may subscribe hereto and by such subscription assume the obligations hereof:

AGREEMENT BETWEEN ATA AND WGA

SECTION 1 – SCOPE

This agreement, including all attachments hereto (“Agreement”), shall be limited to the Agent’s representation of Writers with respect to the option and license, sale or other disposition (hereinafter “Sale”) of literary material or the rendition of writing services in a field of work covered by a Guild collective bargaining agreement (“CBA”). The provisions of the Agreement shall not apply to the Agent’s representation of a Writer with respect to the Writer’s non-writing services or other services not covered by a Guild CBA or as to which the Guild is not the

exclusive bargaining representative, or to the Sale of literary material in a medium not covered by a Guild collective bargaining agreement.

This Agreement shall apply to the ATA and any Agent who elects to subscribe to its terms.

SECTION 2 – SUBSCRIBING TO THE AGREEMENT

An Agent seeking to subscribe to the Agreement shall be in good standing with the pertinent licensing authority(s), and shall sign a form [to be drafted] agreeing to be bound by the terms of this Agreement.

When a talent agency subscribes as an Agent to this Agreement, the terms of the Agreement shall apply to all work performed by the talent agency on behalf of Writers.

Nothing herein shall require the Guild to compel its members to be represented by subscribing Agents, nor shall anything herein require any of ATA's members to become subscribing Agents.

SECTION 3 – STANDING COMMITTEE

A standing committee comprised of not less than 6 members each from ATA (or ATA members) and the Guild shall be appointed to monitor compliance with this Agreement and to recommend any proposed changes, modifications, and amendments hereto. The standing committee shall meet no less than quarterly and shall provide written reports to the boards of the Guild and ATA within a reasonable time after meeting. ATA and the Guild shall meet within the same quarter after receiving any recommended changes, modifications or amendments to consider in good faith whether such recommendations should be implemented.

SECTION 4 – STANDARDS FOR AGENTS IN PROVIDING SERVICES SUBJECT TO THE AGREEMENT

A. AGENT-WRITER RELATIONSHIP

1. Agent shall at all times during the representation of a Writer act as a fiduciary of Writer, and shall comply with all fiduciary duties imposed on the Agent by statute or common law.
2. Agent shall promptly disclose to Writer all bona-fide offers regarding employment or Sale of literary material, unless the Writer has advised, or the Agent knows with reasonable certainty, that the Writer would not consider or be able to accept such an offer given the totality of the circumstances.
3. At the written request of the Writer, Agent shall, as soon as reasonably practicable, following such request:
 - a. provide the Writer, in writing, information stating what active submissions the Agent has made on the Writer's behalf within the past six months;

- b. inform the Writer of the status of all negotiations made on behalf of the Writer within the past six months; and
 - c. provide the Writer with a copy of all executed written agreements (to the extent such agreements are in Agent's possession) with respect to the engagement of or sale of rights by such client.
4. Agent shall use commercially reasonable efforts to maintain the confidentiality of its client's confidential information, and such efforts shall in no event be less than the efforts the Agent uses to maintain its own confidential information. This duty shall be subject to customary and necessary exceptions (*e.g.*, Writer authorizes disclosure, disclosure is required by law, disclosure is required in connection with sale of an agency, etc.), with appropriate precautions taken to prevent the disclosure of confidential information.¹
5. Prior to submitting a Writer for employment on a project, Agent shall notify Writer if the Agent knows the employer or producer has not yet secured underlying rights necessary for the employer or producer to produce the project (*i.e.*, there is no signed agreement and/or the chain of title has not been cleared). If the Agent learns after submitting Writer for employment on a project that the employer or producer had not secured underlying rights, he shall promptly notify Writer. An Agent shall not be required to disclose information the Agent is otherwise required to keep confidential (*e.g.*, confidential information belonging to another client) in order to comply with this provision.
6. Agent shall be responsive and professional in communicating with Writer.

B. DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

1. Agent shall make the disclosures required elsewhere under this Agreement.
2. In addition, Agent shall disclose any actual conflict of interest by the Agency that employs him or her, known by the Agent and not otherwise known by such Writer or addressed in this Agreement, which a reasonable Writer would consider material in evaluating a proposed engagement or sale of rights on the Writer's behalf.
3. Agent's concurrent representation of multiple Writers (and/or a Writer and other clients, such as a director, actor, or producer) employed or submitted for employment on the same project shall not be deemed a conflict of interest prohibited by this agreement. Upon request by a Writer, Agent shall disclose to the Writer the names of other clients represented by Agent who actually are employed on a project.

¹ The exact exceptions can be spelled out in a final negotiated long-term agreement.

C. ENFORCEMENT OF CBA AND WRITER'S INDIVIDUAL WRITING AGREEMENTS

1. Agent shall not encourage Writer to violate any provision of a CBA.
2. During the course of negotiations for potential engagement or sale of rights, Agent shall represent the Writer's best interests and shall use reasonable efforts to:
 - a. timely obtain compensation for the Writer for all services performed by the Writer;
 - b. advise the Writer of the disadvantages of performing uncompensated or speculative services; and
 - c. advise the Writer if the Agent knows of any unlawful hiring or other employment practices by the person or entity engaging the Writer, that reasonably could be expected to materially and adversely affect the Writer or that Writer's interests.
3. Once engagement or Sale of literary rights has been procured for a Writer, an Agent shall use reasonable efforts to:
 - a. monitor the contractual deadline for the payment of compensation to the Writer in connection therewith;
 - b. notify the Writer as soon as reasonably practicable after discovery of any material uncured default in the timing or amount of such payment;
 - c. notify the counterparty of any such default as soon as reasonably practicable following a request therefor by the Writer; and
 - d. timely advise the Writer of his or her right to inform the Guild of any such uncured material breach (and provide such notice to the Guild if the Writer, in writing, requests the Agent do so).
4. Agent shall cooperate fully with the Guild in any investigation or contract enforcement action undertaken on behalf of a Writer, provided the Writer consents. Agent shall not be required to breach legal duties to other clients to comply with this obligation.
5. Agent shall not encourage Writer to violate any Guild rule.

D. ACCOUNTING TO CLIENT

1. All monies payable or otherwise belonging to the Writer which are received by Agent: (i) shall be faithfully accounted for by the Agent; (ii) shall be held in trust on behalf of such Writer in a trust account until disbursed to, or at the express

written direction or authorization of, the Writer; and (iii) shall not be commingled with any monies belonging to the Agent.

2. Monies (other than monies received by the Agent in escrow or which are otherwise to be held by the Agent in accordance with any applicable agreements to which the Writer is a party or that the Agent is legally required to withhold (*e.g.*, wage garnishment or levy)) shall be paid to the Writer or his/her designee as directed or authorized by the Writer in writing as soon as reasonably practicable after receipt thereof by the Agent, provided that the Agent shall be permitted to first deduct from such monies any commission payable to the Agent by such Writer or any other monies owing from such Writer to the Agent.
3. Agent shall provide timely statements of client earnings to Writers.

E. NON-DISCRIMINATION AND INCLUSION

1. Agent shall comply with all applicable anti-discrimination laws in its representation of Writers.
2. Agent shall not refuse to represent any Writer on the basis of such Writer's membership in a protected class, including, but not limited to, race, color, religion, creed, national origin, sex, sexual orientation, gender identification, marital status, military or veteran status, disability or medical condition.
3. Agent shall not, without prior disclosure to Writer, procure any employment where there is a reasonable basis to believe that the Writer will be subjected to a hostile work environment or other forms of workplace harassment. Agent shall not schedule or refer Writer to a meeting regarding potential employment in a hotel room or other location reasonably believed by Agent to pose a threat to Writer's personal safety.
4. Agent shall use good faith efforts to ensure the referral of qualified diverse Writers for any open writing assignment.
5. An Agent who is a talent agency shall consult with its employees and members who represent Writers regarding diversity as an important factor in the selection, representation, and referral of Writers. ATA will establish a standing working group to collaborate with the Guild and other industry leaders to enhance initiatives respecting multiculturalism, diversity, and the inclusion of historically underrepresented groups, and to consider new initiatives in this regard. The working group shall advise the Guild as to the systematic efforts currently undertaken by Agents, and the Guild shall advise the working group respecting the work currently being undertaken by the Guild. ATA membership shall provide meaningful financial and human resources in support of such working group's efforts and this collaboration.

6. Agent shall consult with Writers who are in a position to engage other talent (e.g., showrunners) regarding diversity as a factor to be considered in the Writer's selection of talent.

SECTION 5 – AGENT COMPENSATION

A. COMMISSION COMPENSATION

1. Any commission charged or collected by Agent in consideration for procuring the employment of a Writer shall not exceed ten percent (10%) of Writer's gross compensation, including Writer's profit participation.
2. Other than as permitted by this Agreement, Agent shall not derive any revenue or other benefit from a Writer's employment on a motion picture project, other than a percentage commission based on the Writer's compensation or fee.
3. Nothing in this provision is intended to prohibit Agent from obtaining reimbursement from a Writer for actual out-of-pocket expenses advanced on behalf of the Writer at the Writer's request, or to prevent Agent from receiving compensation for work performed on behalf of clients other than Writers or in areas outside the scope of this Agreement.

B. TELEVISION PACKAGE COMPENSATION

1. Agent shall be permitted to receive compensation from persons other than a Writer in connection with a packaged television program (including OTT and other internet-delivered serial motion pictures). If an Agent receives compensation from, or in connection with, a packaged television program from a studio, producer, or other employer of Writers on a packaged television program, then the Agent shall receive no commissions on the compensation of the Writer for that Writer's writing services or literary ideas or materials supplied to such packaged television program.
2. In the event the Agent receives compensation for a packaged television program as described in (B)(1), the Agent shall not receive commission on the compensation of any other Writer client of the Agent for his or her services on the packaged television program. In addition, the following shall, apply:
 - a. For new television series, which commence series principal photography during the term of this Agreement, Agent will direct 1% of the Agent's portion of back-end television package compensation (if any) on such new series as follows:
 - i. 0.8% to be allocated to lower- and mid-level television Writers not participating in the series' profits [*mechanics around determining vesting, determining which writers will participate, payment administration, and specifics of how compensation shall be allocated, to be determined*]

- ii. 0.2% to industry-wide initiatives targeted to addressing diversity and inclusion of historically underrepresented artists through a third-party fund (with the intent of this specific amount to benefit historically underrepresented Writers specifically) [*mechanics around payment administration, management, and specifics of how compensation shall be allocated, to be determined*]
 - iii. ATA will develop a mechanism to ensure accuracy of accounting of the amounts payable herein.
 - b. ATA member Agents who participate in packaging will collectively contribute \$2 million per year for three years, for a total of \$6 million, to the industry initiatives targeted to addressing diversity and inclusion of historically underrepresented artists. This \$6 million shall not be recoupable against the amounts received pursuant to section 5.B.2.a above.
3. Agent shall be permitted to procure employment for a Writer on a packaged television program so long as:
 - a. The Writer and the Writer's ideas and material are the sole initiating element of the package, and the Writer consents to the program being packaged; or
 - b. Agent adds a Writer as a packageable element to an existing package, and the Writer consents to participation in the packaged television program; or
 - c. Agent adds a Writer as a member of the writing staff to a television program packaged by the Agent, and the Writer consents to participation in the packaged television program; or
 - d. Agent adds a packageable element to an existing television program where the Agent had not previously secured a package, and the Agent informs all Writer clients staffed on the television program of the new package as soon as reasonably practicable after the package is in place.
4. Agent will, upon request, provide a Writer designated to be a packageable element of a packaged television program with the material terms of the agreement containing the terms of the Agent's package agreement.
5. A Writer shall have the right to know all facts known by the Agent that are reasonably necessary for the Writer to make an informed choice as to whether to participate in a packaged television program.
6. Prior to submitting a Writer to a project where the Agent has already been granted a packaging fee at the time of submission, Agent shall:
 - a. Inform the Writer of the existence of the package;

- b. Advise the Writer that she/he may choose whether to be submitted to the packaged project; and
 - c. Receive the Writer's consent to proceed with such submission, but only after informing the Writer of the foregoing.
7. Absent the Writer's specific authorization, no Writer's agreement or pitch will be delayed due to agency package negotiations.

C. MOTION PICTURE SERVICES COMPENSATION

1. Agent shall be permitted to perform motion picture consulting, financing, and sales services and receive fixed and/or contingent compensation therefrom.
2. In the event a Writer retains the Agent to perform these services, the Agent shall fully disclose the relevant fees prior to commencing such services, and the Writer may choose whether to proceed with the Agent's performance of services. On a quarterly basis, Agent shall provide the Guild with a list of motion pictures, if any, that fall within this paragraph 5.C.2, including the name of the Writer and the motion picture project.
3. In instances where Agent is retained to provide services by someone other than the Writer described below (*e.g.*, a third-party producer, financier, production company, or another Writer), Agent shall make the following disclosures to its Writer clients in the following circumstances.
 - a. In the event Agent is retained (by someone other than Writer) to perform these services prior to the engagement of Writer on the motion picture project, the Agent shall fully disclose to the Writer the existing consulting, financing, or sales services arrangement, including the relevant fees payable to the Agent.
 - b. In the event Agent is retained (by someone other than Writer) on a project and Agent represents a Writer on the project as an attached element (*e.g.*, a pitch created by Writer prior to the commencement of writing services, or if a Writer is attached to adapt pre-existing intellectual property, or a pre-existing script owned or controlled by a third party), where the Agent is taking the project to market before the Writer has commenced any work, the provisions of 5.C.3.a., above shall apply.

SECTION 6 – AFFILIATE RELATIONSHIPS

1. Agent shall be permitted to represent a Writer in connection with the engagement by or Sale of rights to an affiliated entity, so long as, prior to the submission of such Writer by the Agent for such engagement or sale of rights:
 - a. the Agent informs such Writer of the existence and nature of the Agent's relationship with such affiliated entity;

- b. the Agent advises such Writer that the Writer has no obligation to be submitted to or accept engagement by or undertake to sell rights to such affiliated entity;
 - c. the Agent advises the Writer of his or her right to have the material or services offered to other bona-fide production entities simultaneously with offering the material or services to the affiliate;
 - d. the Agent advises the Writer that the Writer may seek independent counsel in connection with the applicable project, at any point in the process prior to the Writer entering a transaction with an affiliate; and
 - e. the Writer, after being informed of the foregoing, gives consent to such submission, engagement, or sale transaction.
2. Agent shall not be permitted to represent a Writer in connection with the engagement by or Sale of rights to an affiliated entity unless:
- a. the Agent reasonably believes that such engagement or sale of rights is in the best interests of such Writer;
 - b. the terms of such engagement or sale of rights are negotiated in good faith and on an arm's-length basis;
 - c. the Agent and its affiliated entity are each in compliance with the following:
 - i. the individuals primarily involved in the day-to-day operations of the Agent are different than the individuals primarily involved in the day-to-day operations of the affiliated entity, and vice versa;
 - ii. the Agent, including any individual primarily involved in the day-to-day operations of the Agent, does not participate in any of the affiliated entity's decisions regarding the engagement of or sale of rights other than in the Agent's capacity as a representative of its clients consistent with the fiduciary duties to such clients;
 - iii. the Agent maintains the confidentiality of its clients' confidential information from such affiliated entity, in the same manner it maintains the confidentiality of such information from an unaffiliated entity; and
 - iv. the Agent creates and makes available a written conflicts policy reflecting the above, and has annual training on conflicts for all employees representing Writers.
3. No Writer shall be required (formally or informally) to work with an Agent's affiliates. In the event that a Writer advises the Writer's Agent that the Writer does not want to be submitted to, or be engaged by, or sell rights to, an affiliated entity, the Agent shall follow the Writer's directive, and such election by the Writer shall have no detrimental impact on the Agent's representation of such Writer.

4. Agent may not use the fact that a Guild investigation involves an affiliate of the Agent as a basis for its refusal to cooperate in such investigation.

SECTION 7 – RELATIONSHIP WITH GUILD

A. ATA’S AND SUBSCRIBING AGENT’S OBLIGATIONS TO GUILD

1. Agent shall provide the Guild with copies of all representation agreements with Writer.
2. Pursuant to the consent provided in Rider W, Agents will provide the Guild with copies of final executed contracts exclusively for writer services between Writers and a Guild signatory employer within ten (10) business days of coming into possession of such agreements. For the avoidance of doubt, Agents will not be obligated to obtain these contracts from third parties; the obligation extends only to contracts in the Agents’ possession.
3. Pursuant to the consent provided in Rider W, ATA will work together in good faith with the Guild to develop a mechanism to timely provide the Guild with available data from Agents’ applicable booking information for writer services. The stated goal of the Parties is to develop a commercially reasonable solution, that is appropriate to Agent size and does not impose undue costs, that could automate the sharing of such data from ATA member Agent to the Guild.
4. In developing and administering this Section 7.A, the Parties shall take into account the more limited staffing and recordkeeping capacities of smaller agencies.
5. The obligations in Section 7.A.2 and 7.A.3 do not apply with regard to any Writer who instructed the Writer’s Agent not to provide such information.
6. Insofar as the notifications to the Guild contained in this section 7.A require the provision of confidential information relating to a specific Writer, the Guild shall use reasonable efforts to maintain the confidentiality of the information and such efforts shall in no event be less than the efforts the Guild uses to protect its own confidential information. The Guild shall maintain and use such information subject to its duty of fair representation, provided that nothing in this paragraph shall prohibit the Guild from aggregating the data in a manner that does not disclose the confidential information of a particular Writer.
7. ATA members and the Guild will form a standing committee to meet regularly to share trends in writer contracts, including information regarding new forms of agreements, studio practices, and similar issues of mutual concern, and to address any matters of concern regarding enforcement of the MBA.
8. If requested, ATA and members will continue to actively participate in the Guild’s diversity and inclusion programs.

9. ATA will serve as a resource to assist the Guild in advance of, and in connection with, its collective bargaining negotiations.

B. GUILD'S OBLIGATIONS TO ATA

1. Guild shall encourage its members to engage diverse writers.
2. Guild and ATA shall cooperate to develop annual reporting that is shared both ways (Guild to ATA, and ATA to Guild) regarding diversity efforts and reflecting, through anonymized data, the employment history of Writers, broken down by membership in statutorily protected-classes (to the extent a Writer wishes to be identified within a protected class), represented by the Guild and ATA members, respectively.

SECTION 8 – STANDARD REPRESENTATION AGREEMENT (RIDER W)

Appended to this Agreement as Attachment 1 is the standard representation agreement, referred to herein as “Rider W.” The terms of Rider W shall be deemed to be incorporated into any representation agreement, written or oral, between Agent and Writer. Agent and Writer may negotiate additional provisions in their representation agreement, provided, however, that (A) no term or condition of such negotiated agreement shall be less favorable to Writer than the provisions of Rider W; and (B) in the event of a conflict between the negotiated agreement and Rider W, the provisions of Rider W shall prevail.

SECTION 9 – DISPUTE RESOLUTION

- A. The following controversies between ATA and the Guild shall be resolved by a neutral arbitrator in accordance with the procedures set forth in the Rules Governing Arbitration appended as Attachment 2:
 1. Any dispute arising out of or relating to this Agreement or the obligations of ATA or the Guild thereunder.
- B. The following controversies relating to a dispute between a Writer and a subscribing Agent shall be resolved by a neutral arbitrator in accordance with the procedures set forth in the Rules Governing Arbitration appended as Attachment 2:
 1. Any dispute arising out of or relating to an Agent's performance or breach of its obligations to a Writer or the Guild under this Agreement.
 2. Any claim brought by the Guild to suspend or remove an Agent from the list of subscribing Agents based on an alleged material violation of the Agreement or Rider W.
 3. Any claim between a Writer and an Agent pursuant to Rider W.
- C. An arbitrator or arbitrators selected to hear a dispute under this section shall resolve the entire controversy. In so doing, the arbitrator shall have authority to fashion an

appropriate remedy, which may include, to the extent described and permitted by the Rules Governing Arbitration, the award of damages, injunctive or declaratory relief, or other appropriate penalties or compensation.

- D. The decision of an arbitrator or arbitrators (except to the extent provided in the appellate procedures described in the Rules Governing Arbitration) under this section shall be final and binding, and may be confirmed in any court of competent jurisdiction.

SECTION 10 – MISCELLANEOUS PROVISIONS

- A. This Agreement shall be effective as to each subscribing Agent upon the date the Agent subscribes hereto. This Agreement shall not apply to, nor impair the right of Agent or Agent to receive compensation based on, services rendered by Agency or Agent before such effective date.
- B. The Parties acknowledge that there are substantial differences in opinion between the Guild and the ATA regarding the scope of the Guild's legal authority to regulate Agents, including in areas covered by this Agreement. This Agreement represents a compromise of the Parties' respective positions, and the inclusion or absence of a provision in this Agreement shall not constitute a waiver of each Parties' respective legal positions, which are reserved.
- C. If any provisions of this Agreement are held to be void or unenforceable, all other provisions hereof shall remain in full force and effect.

SECTION 11 – TERM AND TERMINATION

- A. The term of the Agreement shall be four years and shall continue thereafter unless terminated by either the Guild or the ATA.
- B. Termination shall be effective 180 days after written notice of termination is delivered.
- C. In the event that either party gives timely notice of termination, the Guild and the ATA agree to negotiate in good faith for a successor agreement during the period between the notice and the effective date of the termination.
- D. A subscribing Agent shall have the right to terminate its obligations under this Agreement (*i.e.*, withdraw from subscription status) upon written notice to the Guild and ATA. The Agent's termination shall be effective 60 days after its service of such notice.
- E. During the term, no party shall take any step that would, directly or indirectly, affect this contract, Rider W, or any relationship of the parties to this Agreement, or of any subscribing Agent and any Writer, in any way, or which may or will tend to otherwise affect any rights of the Guild, ATA, or any then subscribing Agents to contract or deal freely with one another in connection with the subject matter of this Agreement in any way, or which will in any way subject subscribing Agents to any discrimination or discipline other than as provided by this Agreement. This rule shall apply regardless of

whether the action taken purports to be effective before or after the termination of this Agreement. Neither Guild nor ATA will evade, circumvent, or violate, or seek to do so, the provisions of this paragraph directly or indirectly, and the attempt to do so shall constitute bad faith under this Agreement.

ATTACHMENT 1 TO WGA ATA AGREEMENT

RIDER W

This standard representation agreement, referred to herein as “Rider W,” is attached to and made part of the agreement (“Agreement”) between Writers Guild of America, West, Inc. and Writers Guild of America, East, Inc. (collectively, “Guild” or “WGA”) on the one hand and the Association of Talent Agents (“ATA”), and any subscribing talent agent or talent agency (collectively, “Agent”), on the other hand. This Rider W shall apply to Writers and Agents with respect to the option and sale of literary material or the rendition of writing services in a field of work covered by a WGA collective bargaining agreement (“CBA”).

SECTION 1 – INCORPORATION OF STANDARD TERMS INTO REPRESENTATION AGREEMENT

By operation of the Agreement, the terms of this Rider W shall be deemed to be incorporated into any representation agreement (“Representation Agreement”), written or oral, between Agent and Writer. Agent and Writer may negotiate additional provisions in the Representation Agreement, provided, however, that (A) no term or condition of such negotiated agreement shall be less favorable to Writer than the provisions of Rider W; and (B) in the event of a conflict between the negotiated agreement and Rider W, the provisions of Rider W shall prevail.

SECTION 2 – TERM AND TERMINATION

- A. The term of the Representation Agreement shall not exceed two (2) years.
- B. The Representation Agreement may be terminated by Writer or Agent during its term for any of the following causes:
 1. If Writer is not offered employment which is subject to this Rider W from a responsible employer with respect to services covered hereunder during any period in excess of four consecutive months, during all of which time Writer is ready, able and willing to accept employment. Writer or Agent may exercise this right of termination by written notice served on Agent by certified mail at its best known address. The right of termination under this section shall be deemed waived by Writer or Agent if, after expiration of the four month period but before service of a notice of termination, Writer accepts an offer of employment by a responsible employer;
 2. Any uncured material breach by Agent of the provisions of the Agreement or of Agent’s fiduciary obligations to the Writer;
 3. If Agent, during any strike by WGA, obtains employment or makes the sale or option of any literary material for any Writer with a producer or other person as to whom WGA is on strike;

4. If Agent represents a writer who has been denied membership in WGA or whose membership in WGA has been revoked by reason of acts prejudicial to WGA's welfare;
5. Agent's removal from the list of agents subscribing to the Agreement, provided that such removal is final and all applicable appeal rights have been exhausted.

Termination shall not affect the obligation of the Writer to pay commission to the Agent after such termination as described in Section 3, below.

SECTION 3 – COMMISSIONS

- A. Agent's commission shall be limited to ten percent (10%) of Writer's gross compensation, including Writer's profit participation. In the event a Writer is part of a packaged television program for which the Agent receives package compensation, Agent will not charge the Writer commission for work performed on the packaged television program.
- B. Agent's commission shall be payable when gross compensation is received by or on behalf of the Writer (including Writer's loan out corporation), including receipt by the Agent. If the gross compensation is received by the Agent on behalf of Writer, Agent is authorized to deduct the commission due (and any other monies owing from Writer to the Agent) and shall promptly remit the remaining compensation to Writer. If the gross compensation is received by Writer or Writer's loan-out corporation, Writer shall promptly remit the commission due to Agent.
- C. In the event Writer directs payments of monies to a third party (*e.g.*, the Writer's business manager), Writer shall be obligated to provide the Agent, upon Agent's written request, a statement showing all amounts received by the Writer with respect to a particular engagement or sale of rights procured by Agent in connection with the representation of such Writer.
- D. The following shall apply relating to commissions after an Agent's engagement by a Writer is terminated (whether by expiration of a Representation Agreement or otherwise").
 1. An Agent terminated by a Writer having a right to do so can continue to collect commissions on deals procured and/or substantially negotiated prior to such termination or expiration but not on improvements negotiated after such termination (except to the extent provided in 3.D.2.b.(ii)).
 2. The following shall apply to direct or indirect renewals, substitutions, replacements, extensions or modifications of contracts referred to in 3.D.1.
 - a. In no event, other than as provided in this paragraph 3.D.2, will the terminated Agent be entitled to receive commissions in excess of the amount that would have been paid under the contract as it existed at the time of termination (but

the foregoing sentence shall not apply to Representation Agreements wrongfully terminated).

- b. Agent shall only be entitled to commission renewals, substitutions, replacements, extensions or modifications if:
 - (i) such renewals, substitutions, replacements, extensions or modifications are negotiated terms of the initial contract negotiated by Agent (*e.g.*, the original agreement contained options for extension of the employment term, and those options are exercised after termination), in which case Agent shall be entitled to commission on all employment contemplated by the original agreement; however, Writer's new Agent shall have the right to commission any improvements negotiated by the new Agent, pursuant to D.4 below; or
 - (ii) the Writer's employment terminates within one (1) year after termination of the representation agreement, and the Writer obtains without any break in employment (except for a production hiatus) an extended, renewed, replaced, substituted or modified employment with the same employer ("renewed employment"), in which case Agent shall be entitled to commissions for the shorter of (a) the term of the renewed employment; or (b) one (1) year after the commencement of the renewed employment. If, subsequent to termination of an Agent but within the one-year period set forth in this paragraph, the Writer enters into a representation agreement with a new Agent, which provides for services and commissions with reference to said renewed employment, the former Agent's commission shall be reduced accordingly, but not below five percent (5%).
3. The terminated Agent shall continue to be ready, willing, and able to provide services, with respect to such contracts for which the Agent continues to receive commission pursuant to 3.D.1 and 3.D.2 above, and upon which the Agent's commission is based.
4. If the Writer obtains a new Agent, and the new Agent renegotiates such existing contract, the new Agent shall be entitled to commission on any excess in amount of such contract (with the Writer's former Agent entitled to the commission on the existing contract, prior to any improvement) (except to the extent provided in 3.D.2.b.(ii)).
5. Agent's right, if any, to commissions on profit participations, royalties, and other continuing payments to the Writer, if any, shall continue regardless of the termination of the representation with respect to the contract at the time of the termination.

SECTION 4 – ACCOUNTING

Agent shall not collect monies belonging to Writer unless Agent has prior written authority from the Writer to do so. All monies belonging to the Writer when received by the Agent shall be faithfully accounted for by the Agent and promptly paid over to the Writer or as directed by the Writer, provided, however, that Agent may deduct from such monies any commission payable to Agent as well as any monies owing from the Writer to the Agent whether for past commission or for loans made to the Writer or monies advanced for Writer or for his account. Monies belonging to Writer shall not be commingled with monies belonging to the Agent, but shall be segregated and kept in a separate account which may be known as “client’s account” or “trust account” or an account similar in nature. Agent may have one or more of such accounts and may commingle monies of other clients with the monies of the Writer in such account.

SECTION 5 – DISPUTE RESOLUTION

- A. The following controversies between Writer and Agent shall be resolved by neutral arbitration in accordance with the procedures set forth in the Rules Governing Arbitration appended as Attachment 2 to the Agreement:
 - 1. Any dispute concerning the interpretation of, or the performance of any obligation under, this Rider W;
 - 2. Any dispute concerning the interpretation of, or the performance of any obligation under, the Agreement;
 - 3. Any dispute regarding commission due to Agent.
- B. An arbitrator or arbitrators selected to hear a dispute under this section shall resolve the entire controversy. In so doing, the arbitrator shall have authority to fashion an appropriate remedy, which may include, to the extent described and permitted by the Rules Governing Arbitration, the award of damages, injunctive or declaratory relief, or other appropriate penalties or compensation.
- C. The decision of an arbitrator or arbitrators under this section shall be final and binding, and may be confirmed in any court of competent jurisdiction.

SECTION 6 – CONSENT TO INFORMATION SHARING

Writer hereby consents to Agent sharing with the Guild (a) copies of all final executed contracts exclusively for writer services and (b) data relating to Writer’s bookings, payments, and other compensation information for such writer services to the extent in Agent’s possession. Writer acknowledges that the Guild is entitled to this information pursuant to the MBA and WGA working rules, and that Agent’s sharing of this information of the Guild is appropriate and beneficial to Writer, and Writer agrees that the Guild may request this information directly from Agent. Writer further acknowledges that in accepting the services provided by Agent hereunder, Writer consents to this disclosure and information sharing.

Agent's sharing of information is conditioned upon the Guild's compliance with section 7.A.6 of the Agreement.

Check the box below if you do not agree to Agent sharing information with the Guild.

- I do not consent to Agent sharing my [select one or both] with the Guild.
 - executed writer services contracts
 - bookings, payment and other compensation information

SECTION 7 – MISCELLANEOUS PROVISIONS

- A. This Rider W shall be effective as to each Agent upon the date the Agent subscribes to the Agreement, and shall be deemed to be incorporated into any Representation Agreement then in effect between Agent and any Writer.
- B. If any provisions of this Rider W are held to be void or unenforceable, all other provisions hereof shall remain in full force and effect.
- C. Agent acknowledges that he has complied with all licensing requirements of any state in which he is conducting business.

WRITER AND AGENT HEREBY AGREE TO THE FOREGOING:

DATED: _____ By _____
AGENT

DATED: _____
WRITER

THIS RIDER W TO A REPRESENTATION AGREEMENT HAS BEEN APPROVED AS TO FORM BY THE LABOR COMMISSIONER OF THE STATE OF CALIFORNIA ON

_____.

THIS RIDER W HAS BEEN APPROVED AS TO FORM AND CONTENT BY THE WRITERS GUILD OF AMERICA.

ATTACHMENT 2 TO WGA ATA AGREEMENT

RULES GOVERNING ARBITRATION

The following Rules Governing Arbitration (“Rules”) govern arbitrations arising under Section 9 of the Agent Basic Agreement (“Agreement”) and Section 5 of the Standard Representation Agreement (“Rider W”). The Rules incorporate by reference the Agreement and Rider W, including the terms defined therein.

SECTION 1 – EXCLUSIVITY AND SCOPE OF AUTHORITY

- A. The arbitration procedures established by these Rules shall be the exclusive method for resolving any and all controversies as defined in Section 9 of the Agreement and Section 5.A. of Rider W.
- B. The arbitrator or arbitrators shall have the power to rule on his or her own jurisdiction, including any questions of procedural arbitrability and any objections with respect to the existence, scope, or validity of the arbitration agreement.
- C. The arbitrator or arbitrators shall also have the power to determine the existence or validity of a contract of which the arbitration clause contained in the Agreement, Rider W, or these Rules forms a part. Such an arbitration clause shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitrator or arbitrators that the contract is null and void shall not for that reason alone render invalid the arbitration clause.
- D. The arbitrator or arbitrators shall not have the power to add to, subtract from, or alter in any way the Agreement, Rider W, or these Rules, unless and to the extent that she, he, or they determine that the Agreement, Rider W, or these Rules violate applicable law.

SECTION 2 – CLAIM

- A. A complainant initiates an arbitration under these Rules by serving a Claim on the respondent.
- B. A Claim seeks resolution of a controversy as defined in Section 9 of the Agreement or Section 5.A. of Rider W.
- C. The Claim shall be in writing and contain the following information: (i) the complainant’s name; (ii) the complainant’s address; (iii) a brief written statement of the Claim and the relief sought; and (iv) the name of the respondent.
- D. A Claim must be served on the respondent within 6 months from the date the complainant obtained knowledge of the facts upon which the Claim is based, but no later than two years from the date of the occurrence of the facts upon which the Claim is based.

- E. Any Claim brought by an Agent against a Writer under Section 5.A. of Rider W shall concurrently be served on the Guild. The Guild may but is not required to participate as a party in the proceeding.
- F. Any Claim brought by a Writer or the Guild against an Agent shall be served on the ATA. The ATA may but is not required to participate as a party in the proceeding.

SECTION 3 – COUNTERCLAIM

- A. The respondent may serve a Counterclaim on the complainant, which must be in writing and contain the same information as a Claim. A Counterclaim in all respects will be treated as a Claim, except that the time to bring a Counterclaim will be governed by the Streamlined Procedures or Comprehensive Procedures described below.
- B. Any Counterclaim brought by an Agent against a Writer shall concurrently be served on the Guild. The Guild may but is not required to participate as a party in the proceeding
- C. Any Counterclaim brought by a Writer or the Guild against an Agent shall be served on the ATA. The ATA may but is not required to participate as a party in the proceeding.

SECTION 4 – STREAMLINED AND COMPREHENSIVE PROCEDURES

- A. Claims and Counterclaims governed by these Rules of Arbitration may be governed by Streamlined Procedures or by Comprehensive Procedures.
- B. The following Claims and Counterclaims are subject to Comprehensive Procedures:
 - 1. Any Claim or Counterclaim brought by Guild against ATA.
 - 2. Any Claim or Counterclaim brought by ATA against Guild.
 - 3. Any Claim or Counterclaim seeking to remove an Agent from the list of subscribing Agents to the Agreement.
 - 4. Any Claim or Counterclaim seeking damages of more than \$250,000.
- C. The following Claim or Counterclaims are subject to Streamlined Procedures:
 - 1. Any Claim or Counterclaim seeking less than \$250,000 and/or seeking solely non-monetary relief other than loss of subscription status.
 - 2. Any Claim or Counterclaim in which the parties thereto agree to submit to the Streamlined Procedures.

SECTION 5 – PROCEDURES FOR CLAIMS SUBJECT TO STREAMLINED PROCEDURES

- A. Claims subject to Streamlined Procedures shall be held before a single arbitrator in accordance with the arbitrator selection process in Section 7 below.

- B. Other than the arbitrator selection process, Claims subject to Streamlined Procedures shall be conducted by a single arbitrator, and shall be conducted in accordance with JAMS' Streamlined Arbitration Rules and Procedures in effect as of the date of the Claim.

SECTION 6 – PROCEDURES FOR CLAIMS SUBJECT TO COMPREHENSIVE PROCEDURES

- A. Claims subject to Comprehensive Procedures shall be held before a three-arbitrator panel in accordance with the arbitrator selection process in Section 7 below, and shall be subject to the appeal process described in Section 8 below.
- B. Other than the arbitrator selection process, Claims subject to Comprehensive Procedures shall be conducted by the three-arbitrator panel in accordance with JAMS' Comprehensive Arbitration Rules and Procedures in effect as of the date of the Claim.
- C. Appeals of Claims subject to Comprehensive Procedures shall be conducted by a single arbitrator in accordance with JAMS Optional Arbitration Appeal Procedure in effect as of the date of the Claim with respect to any final award on a Claim subject to Comprehensive Procedures. An appeal arbitrator must be a retired state or federal judge with at least ten years' substantial experience in the entertainment industry.
- D. For any claim seeking exemplary damages or removal of the Agent from the list of subscribing Agents to the Agreement, the following shall apply:
 - 1. The facts supporting exemplary damages or removal of an Agent from the list of subscribing Agents shall be provided by clear and convincing evidence.
 - 2. Exemplary damages may not be more than \$500,000.
 - 3. No Agent may be removed from the list of subscribing Agents unless the arbitrators determine, by clear and convincing evidence, that the Agent has committed multiple and substantial violations of the Agreement including serious breaches of fiduciary duty or acts of moral turpitude, and that no lesser discipline would accomplish justice.
 - 4. In the event that a talent agency is a subscribing Agent, and the arbitrators determine by clear and convincing evidence that employees and/or members of the Agent committed acts warranting removal from the list of subscribing Agents pursuant to section 6.D.3, above, the talent agency may retain its subscription status by both (a) paying any damages awarded in connection with the violation and (b) terminating the employment of all individuals determined by the arbitrators to have committed such violations.
 - 5. Unless the arbitrators unanimously determine that a permanent ban is warranted, any Agent removed from the list of subscribing Agents pursuant to this Paragraph shall be permitted to reapply for admission two (2) years after payment of all damages and completion of any other conditions of the Award.

SECTION 7 – ARBITRATOR SELECTION

A. Selection where Streamlined Procedures are applicable:

1. Within ten (10) days after services of all Claims and Counterclaims, the parties shall each submit the name of a single arbitrator. For purposes of this submission, the Guild and any Writers will be treated as a single party, and the ATA and Agents will be treated as a single party, unless there are Counterclaims among them. Any arbitrator selected by a party must be neutral and unaffiliated with any party, and must have substantial experience in the entertainment industry.
2. With ten (10) days after appointment by the parties, the submitted arbitrators will select a third arbitrator, who shall govern the arbitration as a single arbitrator (the “trial arbitrator”). The trial arbitrator must all be neutral and have substantial experience in the entertainment industry.
3. If the submitted arbitrators are unable to agree upon the trial arbitrator with ten (10) days, the parties shall each submit a list of five acceptable arbitrators within five (5) days thereafter. Within seven (7) days of service by the parties of the list of names, each party may strike (1) name and shall rank the remaining candidates in order of preference. The remaining arbitrator with the highest composite score shall be appointed as the trial arbitrator.
4. JAMS shall have authority to determine if an arbitrator does not meet the qualifications in 7.A.1 or 7.A.2 (*i.e.*, is not neutral or does not have substantial entertainment industry experience).
5. The parties may agree in writing to extend the time period to select the arbitrator. The extension will no longer be deemed effective if either party gives written notice to the other, in which case the parties shall take the steps identified in (A)(1) within ten (10) business days of service of the notice.

B. Selection where Comprehensive Procedures are applicable:

1. Within ten business (10) days after services of all Claims and Counterclaims, the parties shall each submit the name of a single arbitrator. For purposes of this submission, the Guild and any Writers will be treated as a single party, and the ATA and Agents will be treated as a single party, unless there are Counterclaims among them. Any arbitrator selected by a party must be neutral and unaffiliated with any party, and must have substantial experience in the entertainment industry.
2. With ten business (10) days after appointment by the parties, the submitted arbitrators will select a third arbitrator, who must likewise be neutral and have substantial experience in the entertainment industry, and together the three arbitrators will form an arbitration panel.
3. If the submitted arbitrators are unable to agree upon a third arbitrator with ten business (10) days, the parties shall each submit a list of five acceptable arbitrators

within five business (5) days thereafter. Within seven business (7) days of service by the parties of the list of names, each party may strike (1) name and shall rank the remaining candidates in order of preference. The remaining arbitrator with the highest composite score shall be appointed as the third arbitrator.

4. JAMS shall have authority to determine if an arbitrator does not meet the qualifications in (B)(1) (i.e., is not neutral or does not have substantial motion picture experience).
5. The parties may agree in writing to extend the time period to select the arbitrators. The extension will no longer be deemed effective if either party gives written notice to the other, in which case the parties shall take the steps identified in (B)(1) within ten (10) business days of service of the notice.
6. An appellate arbitrator, if any, shall be selected in accordance with JAMS Optional Arbitration Appeal Procedure as provided in section 6(C).

SECTION 8 – HEARING LOCATION

- A. If no Writer is a party to the arbitration, the hearing shall be held in Los Angeles.
- B. If a WGAW or a WGAW-represented Writer is a party to the arbitration, the hearing shall be held in Los Angeles.
- C. If the WGAE or a WGAE-represented Writer is a party to the arbitration, the hearing shall be held in New York City.
- D. Where both WGAW and WGAE Writers are parties to the arbitration, the Writer parties shall decide whether the hearing will be held in Los Angeles or New York City. In the event of a dispute between the Writer parties, the Guild shall decide if it is also a party, and the arbitrator(s) shall decide if the Guild is not a party.

SECTION 9 – DECISION

- A. The final award (including as modified by an appeal) shall be final and binding on the parties.

SECTION 10 – ARBITRATION COSTS

The costs of the arbitration shall be equally split among the parties, unless the award specifies otherwise. The parties shall bear their own attorneys' fees.

SECTION 11 – LAW GOVERNING THE ARBITRATION

- A. An arbitration governed by these Rules shall be subject to California law, unless the arbitration involves an individual Writer or Agent and the arbitrator determines that justice is served by applying the law of the Writer or Agent's home jurisdiction due to a difference in substantive law.

- B. Arbitrations subject to the laws of the State of California shall be held pursuant to Section 1700.45 of the California Labor Code. Accordingly, the complainant shall give reasonable written notice to the California Labor Commissioner of the time and place of the arbitration hearing, and the Labor Commissioner or his or her authorized representative has the right to attend the arbitration hearing. Section 1700.44 of the California Labor Code shall not govern arbitrations subject to these Rules.

SECTION 12 – SERVICE

- A. A Claim or Counterclaim must be served by certified mail or by personal delivery. All other notices or papers shall be served by email.
- B. A petition to confirm, modify, or vacate an arbitration award in any court of competent jurisdiction shall be served upon the respondent by certified mail or personal delivery.