

AGREEMENT TO RECORD FOR PUBLICATION

THIS AGREEMENT IS MADE BETWEEN:

WARLPIRI MEDIA ASSOCIATION INC
(here after called WMA) of Yuendumu via Alice Springs, NT.

AND

(thereinunder called the Company)

of

AND WHEREAS

- A.** The Company wishes to make a film/recording on or about the Warlpiri Lands.
- B.** The Company has discussed its proposed recording operations with Warlpiri Media Association (WMA) and has requested WMA's agreement to carry out such operations in accordance with the proposal attached hereto at Annexure 'A'.
- C.** WMA is also the agent for the Warlpiri Tribal Council which has requested that specific conditions govern the operations and storage and screening or broadcast of any recorded materials.
- D.** The Company will be permitted to carry out recording operations on Warlpiri Lands subject to the specific terms and conditions of this Agreement .

IT IS HEREBY AGREED between the parties as follows:

1. Interpretation

'Alcoholic liquor' means liquor as defined in the Liquor Act (NT).

'Site of Significance' means an area of land or site which is of cultural, social or spiritual significance to an Aboriginal person traditionally responsible for that area or site.

'Production crew' means all persons employed or engaged by the Company from time to time in connection with the making of the recording on location and includes the Director.

'Broadcast' means any screening whether on or off the Yuendumu Community on video player, television or cinema to members of the public

'Recording' means the film, video, digital, sound recording or text recording intended for commercial use proposed to be made by the Company as referred to in Annexure A hereof.

'Rough Cut' means the edited material (audio/visual) of the recordings on the Warlpiri Lands and any records existing prior to the agreement of places or people or objects, however recorded or reproduced, which is being considered for inclusion in the final version of the program.

'Final Cut' means the final version for broadcast (subject to any subsequent notification of any objections to any part of the Film pursuant to sub-clause 3.6 hereof) of the Film that includes Film shot on Warlpiri Land.

'Traditional Owner' means an Aboriginal person who has in accordance with Aboriginal tradition, social, economic and spiritual affiliations with, and responsibilities for Aboriginal Land at Yuendumu or any part of them.

‘Secret/Sacred Material’ means any place or object, either natural or man-made artefact, relating to Aboriginal culture or tradition, ceremonial dancing or singing or stories which Aboriginal people wish to restrict access to, or any sound, written description or photographic record thereof.

‘Warlpiri Lands’ means all the land to which the title is held by the Yuendumu Aboriginal Land Trust and such other areas in the region serviced by the town of Yuendumu as are agreed and included in the Proposal (Annexure ‘A’).

Words importing the singular number shall include the plural and vice versa.

2. Approval by WMA

The Company/Individual has made application the Central Land Council and WMA for proposed filming operations;

Warlpiri Media has reviewed the application from the Production Company to record on Warlpiri Lands and has approved the application/notified, and recommended that the Central Land Council issue a permit to carry out filming operations.

The Production Company will be permitted to carry out Filming operations on Warlpiri Lands to the specific terms and conditions of this Agreement governing material which may be filmed, content of the Film, storage and broadcast or screening of the Film

3. Obligations of the Company

3.1 The Company shall prior to the commencement of recording furnish to WMA a treatment and/or script for the recording, the proposed market for the program (including any presales with broadcasters), and a list of persons or companies with whom they have entered into contracts for the production release and sale of the said program.

3.2 The Company shall provide a production schedule outlining the proposed activity (including interviewees), intended recording dates (if they are not already set out in Annexure A), and location of shooting as soon as practicable following the execution of this Agreement.

3.3 Whilst on the Warlpiri Lands, the Company shall ensure compliance with the following requirements:

- a) The production crew shall attend the briefing referred to in Clause 4.2 hereto.
- b) At all times when recording the production crew shall be accompanied by the designate of WMA and shall not record contrary to a direction of the designate.
- c) The production crew shall not record any Aboriginal person who has not consented to being recorded.
- d) No member of the production crew shall be in possession of or consume alcoholic liquor.
- e) No person on the production crew shall give or sell to any person on or about the Warlpiri Lands any alcoholic liquor.
- f) No payments other than payments authorised in this agreement shall be made to WMA or any member of WMA or to any other person in consideration for recording on the Warlpiri Lands.
- g) No member of the production crew shall enter, photograph or make visual record of any site of significance or other area on or about the Warlpiri Lands designated as prohibited by WMA and notified as such to the production crew prior to the commencement of recording, in the course of the recording, or at any time following completion of recording.
- h) **The Aboriginal Land Rights Act (NT) 1976 and the Sacred Sites Protection Act 1978 (NT)** with respect to the protection of sacred sites.

3.4 The Company agrees to provide, free of charge, to WMA a copy of all material recorded whilst on Warlpiri Lands if requested.

3.5 The Company shall as soon as practicable after execution of this Agreement and not later than the date it commences recording, provide to WMA a copy of any recordings or records

existing prior to the Agreement of the places or people or objects however recorded or reproduced which is or are being considered for inclusion in the program if requested.

- 3.6 The Company agrees that not less than fourteen (14) days before the first public broadcast or release of the program within Australia it will provide free of charge to WMA a copy of the rough cut of the program.
- 3.7 The Company shall not use in the finally edited version of the program any recordings which are objected to by WMA on the grounds it contains secret/sacred material, a site of significance, the sound/image of a deceased person, or amounts to an invasion of privacy. Such objection to be communicated to the Company by WMA within seven days of having received the material referred to in clause 3.6 above or any other material pertaining to Aboriginal people, artefacts, sites of significance which have not previously been provided to WMA in accordance with subclause 3.6 hereof. The Community agree that the Company may make minor variations to the Final Cut shortly prior to transmission provided there are no substantive changes.
- 3.8 The Company shall provide WMA with a final edited version of the program to be received by WMA not less than three (3) clear days before the program is to be broadcast in Australia for the first time and shall not broadcast the program if WMA notifies it that the program still contains material objected to pursuant to subclause 3.7 of this Agreement.
- 3.9 The Company shall notify WMA of any broadcast dates prior to the program being broadcast in Australia. The Company agrees to keep a record of all copies made of the program and to produce such record on request from WMA.
- 3.10 The credits shall include an acknowledgement in the following terms:
'Portions of this program were recorded at Yuendumu in Central Australia. The assistance of the Warlpiri Media Association Inc and the Yuendumu Community is gratefully acknowledged' or words to that effect.
- 3.11 The Company shall ensure that all containers of recordings pertaining to Aboriginal persons, artefacts, or sites, which are not used in the final edited version of the program are clearly labelled as to their contents and to the effect that they should not be used or reproduced by any person or organisation without the prior agreement of WMA and the Company shall use its best endeavours by whatever other means to ensure that such recordings shall not be so used.
- 3.13 The Company shall not use or permit to be used in any publication based on the program any material objected to under subclause 3.7 and recordings not used in the finally edited version of the program shall not be reproduced in any form whatsoever (subject to subclause 3.12 hereof).
- 3.14 The Company agrees that notification of any objections to the material does not require WMA or the Community to specify which category of objection, simply that a particular segment of Film contains objectionable material.
- 3.15 The Company agrees that any Film shot on location pursuant to the terms of this Agreement and edited out by the Film Company under instructions from WMA or the Community in accordance with this Clause will be destroyed immediately by the Film Company and not retained in any form whatsoever.
- 3.16 The Company shall notify WMA in writing of the sale of the program or rights to the program to any Australian person or Company as soon as such contract for sale is agreed upon.
- 3.17 The Company shall use its best endeavours to draw the attention of those persons or organisations entering into a contract of purchase for the program or the rights in such program and who intend to distribute such program in Australia that they should notify

WMA when the program is to be distributed for telecast in Central Australia and the dates of such telecast.

4. Obligations of WMA

In consideration of the facility fee as set out hereunder:

4.1 The production company will organise their own permits.

4.2 WMA shall:

- a) prior to the commencement of the recording hold a briefing meeting for the production crew to explain the Community's wishes regarding the location and recording of sites of significance, secret/sacred material, privacy of residents, and to answer any questions by the production crew concerning the same.
- b) provide a person to accompany the production crew whilst recording on the Warlpiri Lands ('the designate').
- c) arrange on request Aboriginal interpreters. This Agreement does not cover interpreter's fees.

4.3 WMA shall secure from the Warlpiri Tribal Council or any other persons with knowledge thereof decisions on whether:

- a) material proposed to be recorded relates to prohibited sites of significance or secret/sacred material and/or
- b) the material is otherwise offensive to Aboriginal people or amounts to an invasion of privacy of any individual group or groups.

5. Fees, Expenses, etc.

5.1 The Company shall pay the sum of \$200 per day (two hundred dollars AUS) to WMA as a consultancy/location fee.

5.2 The Company shall pay the WMA designate for his or her services a fee of \$150 per day and shall provide food and transport for such designate.

5.3 The Company shall pay any Aboriginal interpreter, not being a WMA designate, for his or her services a fee of twenty dollars (\$20) per hour and shall provide food and transport for the interpreter.

5.4 Benefits to be provided by the Company other than payments:

5.5 The Company shall indemnify the WMA, its designate, its members and employees, and such other persons as may be engaged by the WMA pursuant to this Agreement, against all or any liability arising from any loss, damage or injury which may occur as a result of it's or their activities pursuant to this Agreement or otherwise in connection with the making of the program.

6. Licensing of Copyright

6.1 The Company agrees that the copyright in the program shall not be assigned to any third party but may be licensed to a third party only upon the written consent of WMA.

6.2 If consent as aforesaid is granted, then the Company agrees to pay to WMA 1% (1 PerCent) of any gross fees that may be received by the Company for any such licensing of the copyright in the program.

6.3 Insurance

The Company shall indemnify and keep indemnified WMA and their members and employees from and against any claim, demand, action, suit, or proceeding or may be made or brought by any person against WMA and their members or employees or any of them for or in respect of personal injury to, or the death of any person or loss or damage of any property or any other loss or damage whatsoever arising out of or as a consequence any act or negligence by the Film Company in the performance of activities authorised by this Agreement. This indemnity shall also extend to any costs or expenses that may be incurred with any such claim, demand, action, suit, or proceeding.

6.4 Grant of Rights

The Company provides to WMA the right to use the raw material in WMA productions and to broadcast the material on our PAW TV and Radio Networks.

7. General Terms

7.1 Incorporated Provisions

This Agreement incorporates the relevant conditions specified in the Permit.

7.2 Alterations

This Agreement shall not be altered except by agreement between the parties and any alteration will have no effect unless it is in writing and signed by all the parties.

7.3 Governing Law

This Agreement is governed by the laws of the Northern Territory of Australia.

7.4. Dispute Resolution

In the event of a dispute between any two or all of the parties to this Agreement, WMA shall appoint a mediator agreed upon by the parties to the dispute. If the dispute is not resolved, the parties in dispute shall utilise the law dealing with commercial conciliation and/or arbitrations as it operates in the Northern Territory from time to time.

8 Notices

8.1 Any notice, communication, recording, to be given to either party under this Agreement shall unless the contrary intention appears herein be sufficiently given or made if posted by pre-mail post to the addresses for the parties as set out below and all such notices, communications, recordings, shall be deemed to have been received in the normal course of post.

8.2 The address for WMA shall be:

CMB Yuendumu
via Alice Springs NT 0872

The address for the Company shall be:

In witness whereof the parties have executed this Agreement in the manner hereinafter appearing.

The COMMON SEAL of
WARLPIRI MEDIA ASSOCIATION INC

was affixed hereto this
day of 20

pursuant to a Resolution of the Committee

Signed for WMA

by Signature

on the day of 20

Witness:

The COMMON SEAL of:

was affixed hereto this
day of 20

Signed for:

by Signature

on the day of 20

Witness: