

**THE BROADCASTING COMMISSION**

**AND**

**[PRODUCTION COMPANY]**

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**LETTER OF VARIATION  
TO THE  
PRODUCTION AND FUNDING AGREEMENT  
FOR**

**“[PROGRAMME]”**

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## PARTIES

- (1) **THE BROADCASTING COMMISSION (NZ On Air);** and
- (2) **[PRODUCTION COMPANY] (Producer).**

## BACKGROUND

- A. On or about [ ], NZ On Air and the Producer entered into a Production and Funding Agreement for a programme provisionally entitled [ ] (**PFA**) whereby, amongst other things, NZ On Air agreed to make \$[ ] of funding available to the Producer and the Producer agreed to use those funds to produce the Programme.
- B. NZ On Air has announced a new recoupment policy that entitles the Producer to a more favourable share of any Net Income received on or after 1 April 2007.
- C. NZ On Air and the Producer now wish to record the terms upon which the PFA will be varied to reflect the changes to the sharing of Net Income that apply on and after 1 April 2007.

## THE PARTIES HEREBY AGREE

1. **Interpretation:** In this Letter of Variation, unless the context otherwise requires, expressions which are defined in the PFA shall have the same meanings when those expressions are used in this Letter of Variation.
2. **Producer's warranty:** The Producer confirms and warrants to NZ On Air that, notwithstanding any provision of the PFA, all Net Income received by the Producer before 1 April 2007 has been distributed in accordance with the Net Income Shares prior to execution of this Letter of Variation.
3. **Amendments to the PFA:** With effect from the date of execution of this Letter of Variation, the PFA is amended as follows.
  - 3.1 Clause [x] is deleted and replaced with the following:

“**Net Income Shares**” means the method of sharing income between the Producer and NZ On Air referred to in paragraph [x] ...of Schedule I to this Agreement is:

- (a) in respect of the Programme Exploitation Rights:
  - (i) until Net Income totals \$[recoupment amount]:

|                                      |       |
|--------------------------------------|-------|
| the Producer (including assignable): | 75.0% |
| NZ On Air:                           | 25.0% |

(ii) thereafter:  
the Producer (including assignable): 90.0%  
NZ On Air: 10.0%

(b) in respect of the Ancillary Rights:

the Producer (including assignable): 90.0%  
NZ On Air: 10.0%.”

3.2 Paragraph [1.1] of Schedule I is deleted and replaced with the following:

“**Ancillary Rights**” means

- (a) the Format Rights; and
- (b) the right to produce and exploit any audio-visual, computer-generated, electronic or mechanical work based on or derived from or inspired by the Programme; and
- (c) all merchandising, stage, music and soundtrack rights in relation to the Programme; and
- (d) subject to paragraph 12.7 of Schedule I to the Agreement, the right to exploit any field footage.”

3.3 Paragraph [1.14] of Schedule I is deleted and replaced with the following:

“**Programme Rights**” means:

- (a) all Programme Exploitation Rights; and
- (b) all Ancillary Rights.”

3.4 The following new definition is inserted in paragraph 1 of Schedule I in the appropriate alphabetical order:

“**Programme Exploitation Rights**” means all rights in the Programme in any medium throughout the world, except the New Zealand Standard Television Rights, the New Zealand Non-Standard Television Rights [~~delete latter if not applicable~~] and the Ancillary Rights.”

4. **Confirmation of PFA:** The parties hereby confirm the terms of the PFA, including those terms as amended by this Letter of Variation.

**EXECUTED** on

2007

Signed on behalf of **THE BROADCASTING COMMISSION**  
by its duly authorised representatives:

\_\_\_\_\_  
Jane Wrightson  
Chief Executive

\_\_\_\_\_  
Name:  
Position:

Signed on behalf of **[PRODUCTION COMPANY] LIMITED**  
by its duly authorised signatory in the presence of:

\_\_\_\_\_  
Signature of Authorised Person

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of Authorised Person

\_\_\_\_\_  
Name of witness

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Office Held

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