



# Terms and Conditions

Please read through these Terms and Conditions carefully. By applying for Membership in Film Plus, you agree to be bound by, and comply with the provisions of, these Terms and Conditions. If your application for Membership in Film Plus is accepted, these Terms and Conditions govern the relationship between Film Plus, and you as a Member. Please treat this document and its contents as Confidential Information, as defined in these Terms & Conditions.

## Operative Clauses

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### 1. Your Capacity

1.1 You represent and warrant to us that:

- (a) you are at least 18 years of age;
- (b) you have legal capacity to enter into legally binding contracts, including agreeing to these Terms and Conditions; and
- (c) if you are a company, partnership, trust, association, or any other type of entity (other than a natural person), the person applying for Membership in Film Plus on your behalf is authorised, and has all necessary powers to enter into, and bind you to, legally binding contracts or agreements, including these Terms and Conditions.

### 2. Applicability of Terms and Conditions

2.1 These Terms and Conditions (and any variation or substitution thereof) applies to govern the relationship between you and Film Plus while you are a Member of Film Plus.

2.2 Film Plus reserves the right to vary these Terms and Conditions at any time at its absolute discretion:

- (a) by giving you one (1) week notice; and
- (b) without the requirement to give you any explanation or justification in relation to such variations whatsoever.

2.3 By continuing to be a Member of Film Plus, and your continued use of the Services provided by Film Plus, you are deemed to have read, acknowledged and have agreed to be bound by any variation to these Terms and Conditions.

### 3. Application for Membership

3.1 An application for Membership by you is an offer by you to Film Plus to become a member of Film Plus.

3.2 Despite any eligibility criteria published or otherwise given to you by Film Plus, Film Plus may accept or reject your application for Membership at its sole and absolute discretion, and without the need to provide any explanation or justification for such acceptance or rejection whatsoever.

3.3 In addition to clause 3.2, whether Film Plus accepts your application will be subject to availability. Where Film Plus does not have the capacity to provide you with the Services selected by you in your

application, Film Plus will endeavor (but without the obligation to do so), to propose other Membership options which are available at the time.

3.4 Film Plus will notify you as to whether:

- (a) your application for Membership has been accepted;
- (b) your application for Membership has been rejected; or
- (c) Film Plus requires further information from you to assess your application for Membership;

by email using the details you have provided in your application for Membership.

3.5 Your Membership will commence immediately upon Film Plus notifying you that your application for Membership has been accepted, unless specified otherwise by Film Plus, in which case Membership will commence on the specified date.

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## **4. Your Membership**

4.1 You must not transfer, assign, sub-license, or otherwise dispose of or deal with your Membership in favor of any third party, except with the consent of Film Plus (which may be given or refused at Film Plus's absolute and sole discretion).

4.2 You must keep your Membership details safe, secure, and you must not disclose such details to any third party, and you must not allow any third party to use your Membership details to gain access to the Services provided by Film Plus pursuant to these Terms and Conditions.

4.3 You will be responsible for any person using your Membership details to gain access to the Services provided by Film Plus pursuant to these Terms and Conditions, and you indemnify and keep indemnified Film Plus for any loss, damage, costs, expenses, Claims or Liability whatsoever Film Plus suffers or incurs arising out of, or related to, any person using your Membership details to gain access to the Services provided by Film Plus pursuant to these terms and conditions.

4.4 If you are a Company, you will be responsible for any employees using your Membership details to gain access to the Services provided by Film Plus pursuant to these Terms and Conditions, including ensuring that the employee is notified of and acts in accordance with these Terms and Conditions and Film Plus Code of Conduct, and you indemnify and keep indemnified Film Plus for any loss, damage, costs, expenses, Claims or Liability whatsoever Film Plus suffers or incurs arising out of, or related to, any person using your Membership details to gain access to the Services provided by Film Plus pursuant to these terms and conditions.

4.5 If Film Plus has reasonable grounds to believe that you have breached any of the terms in this clause 4, Film Plus may, in its sole and absolute discretion, and without notice to you, immediately suspend, terminate or otherwise cancel your Membership.

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## **5. Payment of Agreed Price**

5.1 In consideration for Film Plus providing you with the Services, you agree to pay the Agreed Price in accordance with the appropriate Service Schedule, depending on your Membership Status.

5.2 The Agreed Price will be invoiced to you monthly on the first business day of each calendar month and is payable within seven (7) days. In the event of any broken period of Membership during your Term, the Agreed Price will be apportioned pro rata based upon a standard 30 days.

- 5.3 In addition to clause 2.2, unless you are on a Fixed Term, we may vary the Agreed Price payable by you at our discretion by:
- (a) updating the Service Fees and Add-on Costs published on the Website; and
  - (b) notifying you by email of the change in Service Fee and Add-On Costs at least one (1) week prior to such change;

and your continued Membership, and/or use of the Services and Premises, is deemed to constitute your acceptance of any such changes.

- 5.4 If your Membership Status changes in accordance with clause 6, you are deemed to have agreed to the Service Fees and Add-Ons Costs applicable to your new Membership Status, as in force as at the time such change is affected.
- 5.5 Film Plus will not, under any circumstances, refund any part of the Agreed Price paid by you, including but not limited to, circumstances where you have paid the Agreed Price, but have not used, whether in part or in full, the Services to which such Agreed Price relate.

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## 6. Changing Membership Status

- 6.1 You may apply to Film Plus in writing to change your Membership Status. Film Plus may accept or reject such change request at its sole and absolute discretion, and without the need to provide any reasoning or justification of such acceptance or rejection.
- 6.2 Film Plus will notify you as to whether your requested change has been accepted by email, and if so, such change occurs immediately from the time Film Plus notifies you of such acceptance or from the date Film Plus specifies to you in writing.
- 6.3 If you are on a Fixed Term, you may not change your Membership Status before the Fixed Term ends, without the express written permission of Film Plus.
- 6.4 If your request to change your Membership Status is accepted, on and from the date Film Plus notifies you that such requested change is accepted and your new Membership Status begins, you must pay to Film Plus the applicable Service Fee and Add-On Costs in accordance with clause 5 and the Service Schedule, as if your Film Plus Membership commenced on the date of such notification.
- 6.5 Film Plus agrees that upon Film Plus receiving and accepting a notice pursuant to clause 6.3:
- (a) you cease to be a on a Fixed Membership on the last day of the Service Period in which you gave such notice; and
  - (b) you immediately and automatically move to a Monthly Membership on the day immediately following (a) above.
- 6.6 For the avoidance of doubt, if you cease or change a Membership (pursuant to this clause 6 or otherwise), Film Plus will not refund, or otherwise provide you with a credit for, any Service Fees or Add-On Costs paid by you in accordance with the Service Schedule.

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## 7. Services

- 7.1 We will provide you the Services, including access to the Premises during the Core Hours in each Service Period, until your Membership is cancelled or terminated

- 7.2 Film Plus will provide you with a swipe card to access the Premises during the times that you are entitled to receive the Services, in accordance with this clause 7.1.
- 7.3 You must pay to Film Plus a deposit of \$50.50 inclusive of GST for the swipe card. Half that amount will be refundable upon the termination of your Membership and the return of the swipe card.
- 7.4 If you lose (or damage) your swipe card, you must immediately notify Film Plus. Film Plus will give you a replacement swipe card for \$50.50 inclusive of GST (such amount may be amended at our discretion). For the avoidance of doubt, while you are a member, Film Plus must be holding \$50.50 inclusive of GST as a deposit in respect of the swipe card.
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## **8. General Conduct**

- 8.1 You acknowledge that you have received, or accessed, and read Film Plus's Code of Conduct.
- 8.2 You must at all times comply with the terms of Film Plus Code of Conduct. You agree that a breach of Film Plus Code of Conduct is deemed to be a breach of these Terms and Conditions, and may result in your Membership being terminated.
- 8.3 Film Plus may, at its sole discretion, vary the Code of Conduct at any time by giving you one (1) week written notice. The latest Code of Conduct is accessible on the Website at [www.filmplus.com.au/member-agreements](http://www.filmplus.com.au/member-agreements)
- 8.4 While on the Premises, you must comply with all:
- (a) laws and regulations imposed by any government authority;
  - (b) any rules imposed by the owner of the building in which the Premises is situated;
  - (c) any safety or hazard (including fire) procedures or regulations; and/or
  - (d) any reasonable directions of Film Plus;
- as are applicable, or notified, to you from time to time.
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## **9. Use of Premises**

- 9.1 You must only use the Services (and the Premises) solely for office purposes.
- 9.2 You occupy the Premises as non-exclusive licensee.
- 9.3 You must not:
- (a) conduct a Retail Business from the Premises, or using the Services;
  - (b) store any physical stock on the Premises;
  - (c) use the Services or the Premises:
    - (i) for any purpose that is illegal or unlawful;
    - (ii) for any purpose that is not permitted by these terms and conditions;
    - (iii) for any activity which in Film Plus's reasonable opinion is offensive, dangerous, unlawful, or which is potentially detrimental to Film Plus's reputation; or
    - (iv) in any manner that may cause damage or loss to the Premises, Film Plus's property, or

that of any other members of Film Plus.

9.4 In addition to the above, you must not:

- (a) install any cabling or IT or telecommunications connections at the Premises without the consent of Film Plus (which Film Plus may refuse at its sole and absolute discretion); or
- (b) alter any part of the fit-out or setup of the Premises.

9.5 You must keep any area of the Premises that you use (including desks, kitchen, break-out space, boardroom, common spaces, etc) clean and tidy at all times.

9.6 You will be responsible and liable for the costs of repairing or replacing any damage or modifications caused by you to the Premises (including, for example, any holes in walls or damaged cause by you fitting or installing anything to the Premises or furniture of Film Plus), or any property of Film Plus.

9.7 As part of your 'make good' responsibilities, upon termination of your Membership, you will be responsible and liable for the costs of the following removal and disposal, and cleaning of spaces used as part of your membership, such as desks and offices, to be carried out by professional cleaners:

- (a) Professional cleaning of all desks, windows, walls, glass, locks, keypads, doors and surfaces
- (b) Professional vacuuming of all floors
- (c) Professional steam cleaning of all floors
- (d) Removal and disposal of any signage
- (e) Removal and disposal of personal belongings left in the Film Plus space after termination

9.8 In addition to the above, you acknowledge that you have received, or accessed, and read Film Plus's Schedule of Fees, and you understand that you will be responsible and liable for the costs of any additional services you undertake as covered in that Schedule of Fees

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## 10. Internet and Network Usage

10.1 If you exceed your allocated internet Data Allowance, Film Plus may restrict your internet speed until:

- (a) you purchase additional Data Allowance; or
- (b) your next Service Period.

10.2 You acknowledge that you have been given access to Film Plus's Internet & Privacy Policy as published on the Website at [www.filmplus.com.au/member-agreements](http://www.filmplus.com.au/member-agreements) and agree to comply with all terms and conditions contained therein.

10.3 You must not participate in the creation, production, collaboration, distribution or transmission of any:

- (a) discriminatory, harassing or threatening messages, images, or any other material;
- (b) material or data in violation of any law;
- (c) files that may damage any other person's computing devices or software;

using the Services, or internet provided by Film Plus.

10.4 You must not use the Services, or internet provided by Film Plus, to:

- (a) copy, reproduce or pirate any software, data, or electronic files, or otherwise breach or infringe

upon any Intellectual Property Rights of any person or entity whatsoever;

- (b) attempt to gain unauthorised access to any materials of any other person; or
- (c) otherwise do, or perform any activity, that is, or may be, in breach of any law or regulation whatsoever.

10.5 You acknowledge and agree that:

- (a) Film Plus may, from time to time at its discretion, perform maintenance on Film Plus's network or other facilities, which may cause disruption to your access to internet services;
- (b) Film Plus is not able to provide any service level guarantees or warranties in relation to internet services (as such services are provided by third parties); and
- (c) Film Plus is not able to guarantee or provide any representations or warranties that you will have full, virus-free, access to the network and internet at all times (as these matters are affected by factors outside of Film Plus's reasonable control);

and Film Plus will not be liable to you for any loss or damage due to any disruption to your access to internet services.

10.6 Without limiting the effect of clause 10.5, Film Plus will use its best endeavors to notify you prior to, and keep you updated, in relation to any major outages or disruptions to its internet connection or network.

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## 11. Security

- 11.1 You are responsible for the security and protection of any property you bring into the Premises, and Film Plus will not be liable to you for any theft, loss, or damage to any such property (including any digital content or data).
- 11.2 Film Plus does not make any representations as to the security of Film Plus's network or internet connection. You are responsible for adopting any reasonable security measures (e.g. encryption) you believe to be appropriate for your circumstances.
- 11.3 Film Plus provides basic security measures (such as lockable doors to entrances, accessible by your swipe card), and you agree not to do anything to circumvent, or which might compromise, such security measures (such as wedging doors open).
- 11.4 You acknowledge that Film Plus may install or otherwise employ surveillance cameras inside and outside of the premises, and agree to the recording and filming of activities within, and in the vicinity of, the Premises for security purposes.

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## 12. Limitation of Liability

- 12.1 To the fullest extent permitted by law, Film Plus:
  - (a) disclaims all implied warranties and conditions as to the merchantability and fitness for purpose of the Services provided by Film Plus; and
  - (b) excludes, and is not responsible for, any Liability whatsoever for any loss or damage (whether under tort (negligence), contract, or otherwise), including any indirect or consequential loss including loss of revenue, loss of profits, failure to recognise profits or savings and any other

commercial or economic loss, howsoever caused, arising from your use of the Services provided by Film Plus or your Membership.

- 12.2 To the extent that the Australian Consumer Law cannot be excluded, Film Plus's Liability is limited to, at Film Plus's sole and absolute discretion:
- (a) refunding the Agreed Price paid by you (in respect of the particular period where the Services are defective or insufficient);
  - (b) waiving the Agreed Price for a subsequent period (equivalent to the particular period where the Services are defective or insufficient); or
  - (c) giving you a credit to be applied against future amounts payable by you to Film Plus (equivalent to the Agreed Price paid by you in respect of the particular period where the Services are defective or insufficient).

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### **13. Confidential Information**

- 13.1 Through your use of the Services and the Premises, you may be exposed to Confidential Information of Film Plus, or Film Plus Members.
- 13.2 You must not disclose any Confidential Information, or otherwise use any Confidential Information in any way whatsoever, of Film Plus or another Film Plus member, except with the express authorisation of the person or entity who owns such Confidential Information.
- 13.3 Any breach or default of this clause 13 by you will give Film Plus the right to immediately terminate your Membership.

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### **14. Intellectual Property**

- 14.1 You must not do anything that may infringe, or increase the risk of infringement of, any of Film Plus's or other Film Plus members' Intellectual Property Rights.
- 14.2 You must not copy, reproduce, modify, incorporate, or otherwise use any Intellectual Property (including any material that is subject to copyright) of Film Plus or other Film Plus members, except with their express authorisation of the person or entity who owns such Intellectual Property.
- 14.3 Any Intellectual Property remains the property of its owner, and nothing in these Terms and Conditions, nor your Membership with Film Plus, may be taken as granting you any right or interest in any Intellectual Property of any other person (including that of Film Plus or any other Film Plus member).
- 14.4 Any breach or default of this clause 14 by you will give Film Plus the right to immediately terminate your Membership.

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### **15. Indemnity**

- 15.1 You release, indemnify and keep indemnified Film Plus from and against all costs, expenses, loss, damage, Liability, Claims and demands whatsoever suffered or incurred by Film Plus arising out of, or in connection with:
- (a) you failing to comply with these Terms and Conditions;
  - (b) your use of the Services and the Premises;
  - (c) any action by you or any of your guests resulting in breach of the Headlease; and

- (d) you disclosing or using any Confidential Information, or infringing the Intellectual Property Rights, of Film Plus, other Film Plus members, or any third party.
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## **16. Insurance**

- 16.1 You use the Services and the Premises at your own risk.
  - 16.2 Film Plus insurance policies may not extend to provide any level of cover to you, or in respect of any of your property.
  - 16.3 You must acquire and maintain, for the term of your Membership public liability insurance.
  - 16.4 Film Plus recommends that you acquire and maintain, for the term of your Membership:
    - (a) workers compensation insurance; and
    - (b) personal property insurance;as is appropriate for your circumstances.
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## **17. General Acknowledgements**

- 17.1 You agree and acknowledge:
    - (a) the whole of the Premises remains in Film Plus's possession and control at all times;
    - (b) nothing in these Terms and Conditions (or as a result of your Membership) creates or grants to you a tenancy, leasehold estate, or any other interest with respect to real property in relation to the Premises;
    - (c) to the extent that it is necessary to define your interest with respect to the Premises, Film Plus only grants you a non-exclusive license to access and use the Premises, and the facilities contained therein;
    - (d) in addition to (a) – (c) above, your Membership, and use of the Premises, are not affected by, and do not fall within the operation of, any Leases Legislation;
    - (e) nothing in these Terms and Conditions (or as a result of your Membership) creates any relationship of landlord and tenant, partnership, joint venture, or any other similar relationship, between you and Film Plus; and
    - (f) unless otherwise expressed in these Terms and Conditions, or any other agreement or contract, you are not authorised to, and must not purport to have authority and power to bind Film Plus to any legal agreements or undertakings, or assume any Liability on behalf of Film Plus.
    - (g) Film Plus occupies the Premises as lessee and:
      - (i) when in the Premises, you must ensure that you (and anybody you have allowed onto the Premises) complies with any provision of the Headlease; and
      - (ii) to the extent of any inconsistency between this agreement and the Headlease (including as to the Service Period and the times at which you can occupy the Premises) the Headlease prevails.
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## 18. Privacy

- 18.1 You acknowledge that you have obtained a copy of, and read, Film Plus's Internet & Privacy Policy as published on the Website at [www.filmplus.com.au/member-agreements](http://www.filmplus.com.au/member-agreements)
- 18.2 You consent to Film Plus's storage and use of your personal information in accordance with Film Plus's Internet & Privacy Policy.
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## 19. Termination

- 19.1 If you are not on a Fixed Term, either you or Film Plus may terminate your Membership at the end of a Service Period by giving written notice to the other Party at least 14 days before the end of such Service Period. If a Party gives a notice to terminate your Membership after the date required under this clause 19.1 to terminate at the end of a particular Service Period, your Membership will continue for one (1) more Service Period, and you must pay the Agreed Price in relation to such further Service Period.
- 19.2 Regardless of your Membership Status, if you are in breach of these Terms and Conditions, Film Plus may, by give you written notice of such breach, and requiring you to remedy such breach within seven (7) days. If you do not remedy such breach within seven (7) days of that notice, Film Plus may immediately terminate your Membership.
- 19.3 If you are on a Fixed Term, you may request a renewal or extension of that Fixed Term at any time during that Fixed Term, but such request must be made at least one month prior to the end of such Fixed Term. Film Plus may accept or reject such request at its sole and absolute discretion.
- 19.4 If you are on a Fixed Term with no Special Condition, you or Film Plus may terminate your Membership at the end of such Fixed Term by giving written notice to the other Party at least one (1) month before the end of such Fixed Term, otherwise your Membership will automatically become a Membership without a Fixed Term in accordance with clause 19.5 at the end of such term, and clause 19.1 will apply.
- 19.5 If you are on a Fixed Term with a Special Condition, you may terminate your Membership at the end of such Fixed Term by giving written notice to Film Plus at least one (1) month before the end of such Fixed Term, otherwise your Membership will automatically become a Membership without a Fixed Term in accordance with clause 19.6 at the end of such term, and clause 19.1 will apply. If you are on a Fixed Term with a Special Condition, Film Plus may terminate your Membership at the end of a Service Period by giving written notice to the other Party at least fourteen (14) days before the end of such Service Period. To avoid termination under this clause due to a Special Condition, you may at any time, including on the day of receiving a termination notice by Film Plus, request to have your Special Condition removed by providing at least fourteen (14) days written notice to Film Plus before the end of the next Service Period.
- 19.6 If your Fixed Term is not renewed or extended, or terminated in accordance with clause 19.4, you will automatically move to a Monthly Membership at the end of such Fixed Term, and must pay the monthly Agreed Price applicable to:
- (a) that particular Membership Status as in force at that time; or
  - (b) that you were paying during the Fixed Term;
- whichever is higher.
- 19.7 If clause 19.5 applies, on the last Payment Date before the end of the Fixed Term, we will direct debit

(in accordance with the Service Schedule) an amount equal to one month of the monthly Agreed Price, in accordance with clause 19.5, and such debit will be applied against:

- (a) Service Fees and Add-On Costs with respect to the last Service Period during your Membership with Fixed Term; and
- (b) Service Fees and Add-On Costs with respect to the first Service Period during your Membership without a fixed term (pursuant to clause 19.5);

on a pro-rated basis.

19.8 For the avoidance of doubt, if your Fixed Term Membership granted you a fixed desk or fixed office, and clause 19.5 applies, you will continue to have that Fixed Term for any further period, until your Membership is terminated or varied.

19.9 Film Plus may, but without the obligation to do so, send you a reminder that your Fixed Term Membership is close to expiring.

19.10 Termination of your Membership does not affect:

- (a) any rights or obligations of you or Film Plus that have accrued prior to such termination (including, for example, your obligation to pay any Agreed Price which is payable by you, and which remain unpaid); and
- (b) any of your rights and obligations under these Terms and Conditions which are capable of having effect after termination, or are stated as having effect after your Membership comes to an end.

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## 20. Guests

20.1 If you bring in any guests or other persons who are not members of Film Plus into the Premises, you must sign in such guests at Reception located on ground floor of A Block.

20.2 You are responsible for your guests' actions while they are on the Premises, and:

- (a) you must ensure that your guests comply with these Terms and Conditions, Code of Conduct, or any other reasonable direction of Film Plus (as if they are you);
- (b) you will be responsible, and liable for any act or omission of your guests which contravenes or breaches any provision of these Terms and Conditions, Code of Conduct or any reasonable direction of Film Plus as if you performed such act, or made such omission; and
- (c) you indemnify and keep indemnified Film Plus from all costs, expenses, loss, damage, Liability, Claims and demands whatsoever caused by, or arising out of, any of your guests:
  - (i) not complying with these Terms and Conditions, Code of Conduct, or any other reasonable direction of Film Plus;
  - (ii) doing any act or thing that causes any damage or loss to any part of the Premises, or property belonging to Film Plus or any other person; or
  - (iii) entering the Premises and using the Services whatsoever.

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## 21. GST

- 21.1 Unless expressly stated, all monetary amounts stated in these Terms and Conditions are exclusive of GST.
- 21.2 In relation to any taxable supply made by Film Plus to you, you agree to pay the GST applicable to such taxable supply in addition to, and at the same time, as payment of the consideration for such taxable supply.
- 21.3 Film Plus will provide you with a tax invoice for any taxable supply made by Film Plus pursuant to these Terms and Conditions.
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## **22. Unforeseeable Event**

- 22.1 For the purpose of this clause an Unforeseeable Event means any event or cause beyond the reasonable control of Film Plus and includes:
- (a) strikes and/or lockouts (whether of their own employees or those of others and whether or not the party against whom such action is taken could have avoided the same by acceding to the demands of the employees responsible for such action);
  - (b) acts of God, war, fire, flood, embargo or litigation;
  - (c) acts of government or any agency instrumentality or any political subdivision thereof; and
  - (d) any disruption to network, internet, or other services or connections not caused by Film Plus.
- 22.2 Film Plus will not be liable, or deemed liable, to you for any failure or delay in meeting any obligation due to an Unforeseeable Event.
- 22.3 If Film Plus suffers an Unforeseeable Event, it will:
- (a) be allowed additional time to perform its obligations under these Terms and Conditions equal to the period or periods (as the case may be) for which the Unforeseeable Event has delayed Film Plus's performance of its obligations;
  - (b) use its best endeavors to avoid or remove such causes of non-performance; and
  - (c) continue to perform its obligations with the utmost despatch as soon as such causes have been removed.
- 22.4 Nothing in this clause will be construed as requiring Film Plus to settle any industrial dispute.
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## **23. Notices**

- 23.1 All notices will be sent by email.
- 23.2 A notice sent by email will be deemed to be received email, at the time and on the day shown in the sender's transmission report, if it shows that the whole notice was sent to the person's email address last notified.
- 23.3 You must ensure that Film Plus has been provided with your current email address at all times.
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## **24. Jurisdiction**

- 24.1 These Terms and Conditions are governed by the laws of the Australian Capital Territory.

- 24.2 You irrevocably submit to the exclusive jurisdiction of the courts of the Australian Capital Territory.
- 24.3 You may not object to the jurisdiction of any of those courts on the ground that it is an inconvenient forum or that it does not have jurisdiction.
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## **25. Whole Agreement**

- 25.1 These Terms and Conditions embody the whole agreement between you and Film Plus relating to the subject matter of these Terms and Conditions and supersedes any and all oral and written negotiations and communications between you and Film Plus.
- 25.2 Subject to clause 25.3, you:
- (a) have relied on your own enquiries in deciding to agree to these Terms and Conditions; and
  - (b) have not relied on any warranties, representations, or statements of any kind in deciding to agree to these terms and Conditions.
- 25.3 Clause 25.2 does not apply to the warranties and representations expressly given under these Terms and Conditions.
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## **26. Severability**

- 26.1 If all or any part of any provision of these Terms and Conditions is invalid or unenforceable, then:
- (a) that provision is severed from these Terms and Conditions to the extent necessary to remove the invalidity or illegality; and
  - (b) the remaining provisions of these Terms and Conditions remain valid and enforceable.
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## **27. Survival of Certain Terms**

- 27.1 The terms of these Terms and Conditions which are capable of having effect after your Membership ends continue to have full effect, including clauses in relation to:
- (a) protection of confidential information;
  - (b) guarantees, warranties and indemnities; and
  - (c) obligations to make good or return property.
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## **28. Interpretation**

- 28.1 In these Terms and Conditions, unless the contrary intention appears:
- (a) a reference to these Terms and Conditions or any instrument includes any variation or replacement of any of them;
  - (b) a reference to a person includes a body corporate, joint venture, association, government body, firm and any other entity;
  - (c) a reference to legislation includes any amendments to it, any legislation substituted for it, and any subordinate legislation made under it;

- (d) the singular includes the plural and vice versa;
  - (e) words of one gender include any gender;
  - (f) headings do not affect the interpretation of these Terms and Conditions;
  - (g) reference to a Party includes that Party's personal representatives, successors and permitted assigns;
  - (h) reference to a thing (including a right) includes a part of that thing;
  - (i) if a Party comprises two or more persons:
    - (i) reference to a Party means each of the persons individually and any two or more of them jointly;
    - (ii) a promise by that Party binds each of them individually and all of them jointly;
    - (iii) a right given to that Party is given to each of them individually; and
    - (iv) a representative, warranty or undertaking by that Party is made by each of them individually;
  - (j) a provision must not be construed against a Party only because that Party prepared it;
  - (k) a provision must be read down to the extent necessary to be valid and if it cannot be read down to that extent, it must be severed;
  - (l) if a thing is to be done on a day which is not a Business Day, it must be done on the Business Day before that day;
  - (m) another grammatical form of a defined expression has a corresponding meaning;
  - (n) the word "include" is used without any limitation;
  - (o) the rights, duties and remedies in these Terms and Conditions operate to the extent that they are not excluded by law; and
  - (p) examples are descriptive only and not exhaustive.
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## 29. General Definitions

29.1 Unless the context otherwise requires:

- (a) **Add-On Costs** means the costs for providing the Add-Ons (as specified in the applicable Service Schedule).
- (b) **Add-Ons** means the additional services that you may apply for (and if approved, Film Plus will provide to you), in return for additional fees (known as Add-On Costs), in accordance with the applicable Service Schedule.
- (c) **Agreed Price** means the sum of the Service Fee and Add-On Costs.
- (d) **Australian Consumer Law** means Schedule 2 of the *Competition and Consumer Act 2010* (Cth).

- (e) **Business Day** means a day except a Saturday or Sunday or other public holiday.
- (f) **Claim** means any claim, suit, action, demand, or right.
- (g) **Code of Conduct** means Film Plus's code of conduct as published on its Website at [www.filmplus.com.au/member-agreements](http://www.filmplus.com.au/member-agreements), and amended or varied from time to time in accordance with the terms of these Terms and Conditions.
- (h) **Confidential Information** means any information:
  - (i) which you obtain through your use of the Services, the Premises, or as a result of your Membership of a confidential nature from any person or entity; and
  - (ii) which a person or entity indicates, in writing, as being confidential in nature;but does not include:
  - (i) information that is generally available in the public domain; or
  - (ii) information already known by you prior to receiving the information.
- (i) **Consequential Loss** includes all forms of indirect loss including loss of revenue, loss of profits, failure to recognise profits or savings and any other commercial and economic loss, howsoever caused.
- (j) **Core Hours** means the Core Hours specified pursuant to the appropriate Service Schedule.
- (k) **Data Allowance** means the amount of internet data you may utilise during a particular Service Period, as specified in the appropriate Service Schedule.
- (l) **Fixed Term**, means the term specified in that member's application to become a member (as accepted), specifies that the term of that Member's Membership will continue for a set period of time from the commencement of such Membership, pursuant to the Service Schedule.
- (m) **Film Plus** means the Academy of Interactive Entertainment Limited (ABN 51 084 159 437).
- (n) **GST** has the meaning given in the GST Act.
- (o) **GST Act** means A New Tax System (Goods and Services Tax) Act 1999 (Cth).
- (p) **Headlease** means the lease between the owner of the Premises and Film Plus in respect of the Premises.
- (q) **Intellectual Property** means all existing or future species of industrial and intellectual property, whether registered or unregistered, registrable or not:
  - (i) as defined in Article 2 of the World Intellectual Property Organisation (WIPO) Convention; or
  - (ii) recognised by any statute or any principle of law or equity,including copyrights, patents, designs, trade marks, circuit layout rights, confidential information, trade secrets and the right to register all such intellectual or industrial property rights.
- (r) **Intellectual Property Rights** means all rights arising from any statute, or principle of law or equity in relation to Intellectual Property.

- (s) **Internet & Privacy Policy** means Film Plus’s Internet & Privacy Policy, as published on its Website at [www.filmpius.com.au/member-agreements](http://www.filmpius.com.au/member-agreements) and amended or substituted from time to time.
- (t) **Leases Legislation** means:
- (i) Leases (Commercial and Retail) Act 2001 (Australian Capital Territory);
  - (ii) Retail Leases Act 1994 (New South Wales);
  - (iii) Retail Leases Act 2003 (Victoria);
  - (iv) Retail & Commercial Leases Act 1995 (South Australia); and
  - (v) any similar acts, statutes or legislation in any other State or Territory of Australia;
- including any subordinated legislation or regulations related to such acts, statutes or legislation, and any amendments or substitutions thereof.
- (u) **Liability** means responsibility for any loss (either direct or indirect), damage, or expense and includes liability for Consequential Loss.
- (v) **Membership** means being a member of Film Plus and having access to Film Plus’s Services in accordance with the terms of these Terms and Conditions.
- (w) **Membership Status** means the type of Membership a person holds, and includes:
- (i) Membership without a Fixed Term; and
  - (ii) Membership with a Fixed Term.
- (x) **Party** means a person or entity who executes this Agreement.
- (y) **Parties** mean all the persons or entities who execute this Agreement.
- (z) **Payment Date** means the day in each month that Film Plus will process direct debits for the Agreed Price in relation to Memberships, as specified in the Service Schedule.
- (aa) **Premises** means the premises specified in the appropriate Service Schedule.
- (bb) **Retail Business** means an enterprise of selling goods or delivering services to customers or clients face to face, but does not include, for example, selling software or other goods or delivering goods, electronically.
- (cc) **Service Fee** means the fee(s) payable by you to Film Plus in consideration for the performance of the Services pursuant to the applicable Service Schedule (excluding any Add-Ons, which form part of the Add-Ons Cost).
- (dd) **Service Schedule** means the Service Schedule which applies to Members, annexed hereto and marked “Service Schedule”.
- (ee) **Services** means the services Film Plus will provide to you pursuant to the applicable Service Schedule, in consideration for you paying the applicable Service Fee and Add-Ons Cost.
- (ff) **Service Period** means the period:
- (i) in relation to Members without a Fixed Term:
    - (A) commencing on the date your Membership commences, and ending on the date immediately preceding the first Payment Date after your Membership Commences; and
    - (B) thereafter, commencing on a Payment Date, and ending on the date that is immediately preceding the next Payment Date;
  - (ii) in relation to Members with a Fixed Term:
    - (A) commencing on the date your Membership commences, and ending on the date immediately preceding the first Payment Date after your Membership

- Commences; and
  - (B) thereafter, commencing on a Payment Date, and ending on the date that is immediately preceding the next Payment Date; and
  - (C) the last Service Period will commence on the last Payment Date before the Fixed Term is to expire and ends on the last day of the Fixed Term.
- (gg) **Special Condition** means a special benefit provided by Film Plus to the member specified in the special condition details in the Service Schedule.
- (hh) **Terms and Conditions** means these terms and conditions, and any annexures or schedules to it, and any document or material stated or expressed as forming part of these Terms and Conditions or affecting the relationship between you and Film Plus in relation to your Membership.
- (ii) **Website** means Film Plus's website, being [www.filmplus.com.au](http://www.filmplus.com.au)
- (jj) **You, Your, etc** means you, being the applicant for membership or member, as the case requires.



# Film Plus Code of Conduct

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Please read through this Code of Conduct carefully. As a member of Film Plus, you agree to be bound by, and comply with the provisions of this Code of Conduct. This Code of Conduct will govern your behaviour in relation to Film Plus. Our code is designed to complement relevant professional workplace standards and rules and is not designed to substitute such standards and rules that are considered common sense.

You agree to the following:

- (a) Treat all Film Plus guests, members, staff and their belongings with respect.
- (b) To clean up after yourself and keep Film Plus clean and tidy.
- (c) Food and drink is permissible so long as areas are appropriately cleaned up afterwards and litter is disposed of in the designated rubbish bins.
- (d) No smoking and/or drinking alcohol within Film Plus.
- (e) Consider safety first for all guests, members and staff. For example, exercise caution if liquids are spilled on electronic appliances.
- (f) No sleeping or napping in Film Plus.
- (g) Shoes must be worn at all times in Film Plus.
- (h) Handle all property of Film Plus with care and report any known damage or faults to Film Plus staff via [property@aie.edu.au](mailto:property@aie.edu.au).
- (i) You are responsible for any damages you cause to the facility and/or equipment during your use of Film Plus and you agree to pay on demand without challenge for any damage you (or any of your guests) cause to such property.
- (j) Avoid discussions or other activities that may interrupt other users; discuss matters quietly and remain considerate of other Film Plus members.
- (k) Avoid activities that slow down the internet.
- (l) Illegal downloading of any online content is strictly forbidden within Film Plus.
- (m) Keep swearing to a minimum, as per ordinary professional workplace standards.
- (n) Keep considerate distances from members working on confidential content and refrain from viewing their materials without their consent.
- (o) You are responsible for watching your belongings, items left unattended are not the responsibility of Film Plus staff or other members.
- (p) No stealing generally: inclusive of property, intellectual property, ideas, clients or food.
- (q) Security of Film Plus is everyone's responsibility, pay attention to closed doors for security purposes.
- (r) No pets or animals are allowed in Film Plus area.

- (s) Film Plus has the right to use any picture or media received from you or taken of you in connection with Film Plus and you agree to waive any compensation for such use.
- (t) Any and all works, additions, removals or modifications to Film Plus desks, offices, buildings, surfaces, furniture or other property must be explicitly approved by Film Plus Property Team before being conducted.

# Internet & Privacy Policy

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You agree to the following:

- 1) Film Plus reserves the right to restrict internet speed if members exceed allocated monthly internet usage as stated within service schedule agreed upon.
- 2) Film Plus members must not partake in the distribution or collaboration of discriminatory, harassing, or threatening messages or images on the internet or via Film Plus ICT services (including 3rd party providers which may supply some services).
- 3) Film Plus members must not partake in copying or pirating software and electronic files that are copyrighted without authorisation.
- 4) Unless otherwise stated, our rights to suspend, cancel or restrict the supply of the Service applies regardless of whether the breach or suspected breach was committed intentionally, or by means not authorised by you (such as through Trojan horses, viruses or other security breaches).
- 5) Film Plus members acknowledge that Film Plus may from time to time email you upcoming events, promotions and/or other content.
- 6) Film Plus members must use reasonable endeavors to secure any device or network within your control, including where appropriate:
  - a. The installation and maintenance of antivirus and firewall software;
  - b. The application of operating system and application software patches and updates;
  - c. Protecting your account information and password and taking all-reasonable care to prevent unauthorised access to your service.
- 7) Film Plus members must not use, or attempt to use the Internet:
  - a. For illegal purposes or practices;
  - b. To send, allow to be sent, or assist in the sending of spam;
  - c. For the use or distribution of any software designed to harvest email addresses;
  - d. To breach the Spam Act 2003 or any regulations made under the Spam Act 2003;
  - e. In any way which damages or interferes (or threatens to damage or interfere) with the operation of the internet service or with the efficiency of Film Plus Network or associated Supplier's Network;
  - f. In any way which makes it unsafe or may damage any property, injure or kill any person;
  - g. To access, store, reproduce, distribute, publish or commercially exploit any information or material of any kind that infringes any copyright, patent, trademark, design or other intellectual property right;
  - h. To access, monitor, use or control any other person's equipment, systems, networks or data or to otherwise probe, scan, or test the vulnerability of any other person's equipment, networks, systems or data, without that person's consent;
  - i. To engage in any unreasonable activity which impairs the ability of other people or systems to use Film Plus Services or the Internet. This includes any malicious activity resulting in any adverse effect such as denial of service attacks against another network host or individual user, flooding of a network, overloading a service, improper seizing or

abuse of operator privileges and attempts to harm a system or network.

## **Film Plus Privacy Policy**

In accordance with the Privacy Act 1988, it is Film Plus policy to ensure the privacy of all staff, clients and third parties. Any confidential information obtained by Film Plus will be safeguarded by secure storage and accessed only by designated persons. No confidential information will be disclosed to a third party without the written consent of the client, except as required by law.