

## SUBMISSION AGREEMENT

**Title of Submitted Material:**

\_\_\_\_\_ (the “**Material**” [as such term is defined below])

**Submitter** (Please print name clearly):

\_\_\_\_\_ (the “**Submitter**” or “**I**”)

Pursuant to the official rules (the “**Official Rules**”) for the *ABFF Turner TV Writing Contest* being administered by The American Black Film Festival (“**ABFF**”) and sponsored by Turner Broadcasting System, Inc. (“**Company**” or “**you**”) (such contest being referred to herein as the “**Contest**”), the following terms and conditions (collectively, the “**Agreement**”) shall govern the submission of scripts and other materials, if any (individually and collectively, the “**Material**”), by Submitter to Company in connection with the Contest.

For good and valuable consideration, the receipt and sufficiency of which I acknowledge, by entering into the Contest I hereby irrevocably agree as follows:

1. Representations and Warranties: I represent and warrant that: (a) I am the sole author and owner of the Material (or a member of a team of writers who is the sole author and owner of the Material), and that I have the right and authority to submit the Material to Company in accordance with the Official Rules and on the terms hereof without the consent of any other person or entity; (b) the Material is (i) wholly original with me or otherwise based on material that is in the public domain and (ii) free of any encumbrances whatsoever; (c) I will not enter into any agreement that conflicts in any way with this Agreement without obtaining prior written approval from Company; and (d) the Material does not contain anything which is defamatory, unlawful or otherwise violates any copyright, patent, trademark, rights of privacy, contract, publicity, moral rights or other right of any other party.

2. Indemnification: I agree to indemnify, defend and hold harmless Company and ABFF from and against any claim, loss, obligation, liability or expense including reasonable attorneys’ fees that may be asserted against or incurred by Company or ABFF in connection with, or relating to, any breach of any representation, covenant or warranty made by me hereunder. Company or ABFF shall notify me in writing of any claim for which Company or ABFF seeks indemnification, and shall cooperate with me in connection with any such claim and allow me to control the defense and settlement of such claim; provided, however, that Company and I shall mutually agree on the selection of counsel for the defense of any claim asserted against Company or ABFF, and that I may not settle any such claim without such Company’s prior written consent.

2. Review of Material: I understand and acknowledge that ABFF has administered the review and selection of materials submitted to Company by ABFF for Company's consideration in connection with the Contest. Company's only undertaking, in consideration of my submission, is to accept the Material for review and to review it if and to the extent Company deems appropriate. No other obligations, promises or duties of any kind on Company's part, except as may otherwise be set forth in the Official Rules, shall arise from or be implied by this submission and no confidential or fiduciary relationship is entered into by Company and ABFF on one hand, and me on the other, in connection with my submission or the Material.

3. My Commitments: I will provide any additional information requested by Company or ABFF, including a short summary of my pilot script, an accurate photograph of myself, one-page personal biography, and my contact information (which shall also be considered part of the Material) and I consent to ABFF sharing such Material with Company and agree that none of the Material is subject to any fiduciary or confidentiality obligations on the part of Company or ABFF

4. Use of Material: Company acknowledges that if and to the extent the Material is protected by copyright law, those rights remain with me (subject to any separate agreement between Company and me [including, without limitation, any acquisition agreement that may be entered into between Company and me pursuant to this Paragraph 4]); however, I hereby grant Company and ABFF a non-exclusive right to review, replicate and distribute the Material for the purpose of evaluating such Material. In addition, I acknowledge that Company is not agreeing to compensate me for, nor refrain from, the use of any elements of the Material which are not protected by copyright laws, including, by way of illustration, ideas, historical or factual matters or other public domain elements or aspects of the Material. The foregoing shall apply whether or not Company or ABFF has obtained such ideas and/or other public domain elements from other sources. Furthermore, Company shall have an exclusive right of first negotiation to acquire the Material from me commencing as of the date of this Agreement and continuing through that date which is ninety (90) days following the public announcement of the Contest winner(s) (collectively, the "**First Negotiation Period**"). At any time during the First Negotiation Period, Company may notify me of its desire to acquire the Material and thereafter negotiate with me with respect to the acquisition of the Material. If, after the later of (i) 10 business days from commencement of negotiations or (ii) expiration of the First Negotiation Period, no agreement has been reached, then I shall be free to negotiate elsewhere with respect to the Material.

5. Reservation of Company Rights - Relief Limitations:

- (a) I understand that consideration of the Material by Company or ABFF is not an admission of the originality or my propriety of the Material; and that Company is constantly developing programming and other ideas independently, both internally and with third parties. I also understand that Company and ABFF reserves all rights to develop any ideas and programming conceived independently, both internally and with third parties, without obligation to me, even if such ideas or programming are similar or identical to ideas contained in the Material.

- (b) I understand that no confidential or fiduciary relationship is entered into between Company and/or ABFF on one hand, and me on the other, regarding the Material.
- (c) I understand and agree that in the event of any dispute arising out of or pertaining to this Agreement or the Material:
  - (i) I shall not be entitled to terminate or rescind this Agreement or seek an injunction or any other form of equitable relief (including but not limited to, rescission, termination and/or any temporary restraining order, preliminary injunction, permanent injunction and/or specific performance) that would interfere with, hinder, stop, delay, or impede the development, production, exhibition, distribution, marketing, promotion, or any other exploitation of the Material and/or any programming, production or other works arising therefrom, or any parts or elements thereof, or any other exhibition or exploitation of Company's or ABFF's rights relating thereto;
  - (ii) my sole right and remedy will be an action at law for damages based on Company's or ABFF's alleged unauthorized use of legally protectable portions of the Material; and
  - (iii) any award to me for prevailing in such an action cannot (and any damages I might suffer will not) exceed the minimum rate that would be due under the Writers Guild of America Theatrical and Television Basic Agreement in effect as of the date hereof for a made-for-cable primetime 30- or 60-minute (as applicable) story and teleplay at "bargain rates" (i.e., excluding minimums payable for pilot scripts, backup scripts, spin-offs, etc.).

6. Return of Material: I have retained a copy of the Material. Company and/or ABFF may, but shall not be obligated to, return my Material to me, but Company shall not be liable in any way if it is lost, misplaced, stolen or destroyed.

7. Dispute Resolution: Any and all controversies, claims or disputes arising out of or related to this Agreement or the interpretation, performance or breach thereof (each a "**Dispute**"), including, but not limited to, alleged violations of state or federal statutory or common law rights or duties, and the determination of the scope or applicability of this agreement to arbitrate, except as set forth in subparagraphs B and C, below, shall be resolved according to the procedures set forth in subparagraph A, below, which shall constitute the sole dispute resolution mechanism applicable to any Dispute. The parties further agree that any dispute over the enforceability or validity of this agreement to arbitrate shall be resolved by the arbitrator to the extent permitted by law.

A. Arbitration: All Disputes not mutually resolved between the parties shall be submitted to final and binding arbitration pursuant to the substantive and procedural provisions of the Federal Arbitration Act (“**FAA**”), except to the extent (and only to that extent), if any, that a collective bargaining agreement (for example, the WGA) is applicable and requires that a Dispute be resolved pursuant to the arbitration provisions of that collective bargaining agreement (or expressly permits either party to elect such resolution and such party elects such resolution) in which case such Dispute shall be resolved in accordance with the arbitration provisions of the collective bargaining agreement. The arbitration shall be initiated and conducted according to either the JAMS Streamlined (for claims under \$250,000) or the JAMS Comprehensive (for claims over \$250,000) Arbitration Rules and Procedures, except as modified herein, including the Optional Appeal Procedure, at the Los Angeles office of JAMS, or its successor (“**JAMS**”) in effect at the time the request for arbitration is made (the “**Arbitration Rules**”). The parties agree that the costs of the arbitration will be shared pro rata to the extent permitted by law, including participation, if any, in the Optional Appeal Procedure. The arbitration shall be conducted in Los Angeles County before a single neutral arbitrator appointed in accordance with the Arbitration Rules. The arbitrator shall have the authority to hear and grant motions to dismiss and/or motions for summary judgment/summary adjudication, applying the standards governing such motions under the Federal Rules of Civil Procedure and shall issue written opinions resolving such motions, if submitted. The arbitrator shall follow California substantive law and the Federal Rules of Evidence in adjudicating the Dispute. The arbitrator will provide a detailed written statement of the final decision, which will be part of the arbitration award (“**Award**”), and admissible in any judicial proceeding to confirm, correct or vacate the Award. Any Award favorable to me shall be limited to the fixing of compensation for Company’s use of the submitted Material, which shall bear a reasonable relation to compensation normally paid by you to persons of my present stature and experience for Company’s use of similar material (which in any event shall not exceed the minimum rate that would be due under the Writers Guild of America Theatrical and Television Basic Agreement in effect as of the date hereof for a made-for-cable, primetime, 30 or 60 minute (as applicable) story and teleplay at “bargain rates” (i.e., excluding minimums payable for pilot scripts, backup scripts, spin-offs, etc.). Unless the parties agree otherwise, the neutral arbitrator and the members of any appeal panel shall be former or retired judges or justices of any Los Angeles state or federal court with experience in matters involving the entertainment industry. If either party refuses to perform any or all of its obligations under the final Award (following appeal, if applicable) within thirty (30) days of such Award being rendered, then the other party will have the right to enforce the final Award in any court of competent jurisdiction in Los Angeles County. The party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including, without limitation, reasonable outside attorneys’ fees, incurred in enforcing the Award, to be paid by the party against whom enforcement is ordered. The parties and the arbitrator shall maintain the confidential nature of the arbitration proceeding and the Award, including the arbitration hearing, except as may be necessary to prepare for or conduct the arbitration hearing on the merits or as may be necessary in connection with a court application for a preliminary remedy, a judicial challenge to an

Award or its enforcement, or unless otherwise required by law or judicial decision; in all such cases, the parties shall use reasonable efforts to maintain the confidential nature of the proceedings, including through efforts to secure appropriate protective orders, instruct witnesses as to confidentiality requirements, and submit pleadings under seal. The parties waive the right to seek punitive damages for any claim arising out of or relating to this Agreement to the extent permitted by law. The parties each agree that any dispute resolution proceedings will be conducted only on an individual basis and not in a class, consolidated or representative action.

B. Injunctive Relief: Notwithstanding the foregoing, either party shall be entitled to seek injunctive relief (unless otherwise precluded by any provision of this Agreement) in the state and federal courts of Los Angeles County. In all such cases, the parties shall use reasonable efforts to maintain the confidential nature of the proceedings, as set forth in section A above; provided, however, that the party seeking injunctive relief in any such action may elect to forgo efforts to submit pleadings under seal if, in its/his/her reasonable judgment, this would materially prejudice its/his/her effort to receive prompt or effective relief.

C. Other Matters: Any Dispute or portion thereof, or any claim for a particular form of relief (not otherwise precluded by any other provision of the agreement), that may not be arbitrated pursuant to applicable state or federal law may be heard only in a court of competent jurisdiction in Los Angeles County. The parties hereby consent to personal jurisdiction in said courts.

Without limiting the foregoing, **I understand that I waive a right to a trial, or to any monetary damages other than as expressly provided for in this Paragraph 7.**

8. Company: I understand that for purposes of this Agreement, “**Company**” includes Turner Broadcasting System, Inc., and its parent, subsidiary, affiliated and related entities (including, without limitation, Turner Pages, Inc.), and “**ABFF**” includes all its parent, subsidiary, affiliated and related entities, if any.

9. Miscellaneous: This Agreement shall be governed by the laws of California without regard to conflict of laws provisions that would apply other law. The headings contained herein are for reference only and are not intended to influence the interpretation of any provision. Except as set forth in the Official Rules, this Agreement represents the complete agreement between me and Company regarding the Material and its submission to Company in connection with the Contest, and supersedes all prior or contemporaneous negotiations, agreements, representations or undertakings.

**I HAVE READ, FULLY UNDERSTAND AND AGREE TO THE FOREGOING SUBMISSION AGREEMENT.**

IN WITNESS WHEREOF, I have executed this Agreement to ABFF on \_\_\_\_\_, 2018 as described in the Official Rules.

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Print Name of "Submitter"

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Signature of "Submitter"