



**Individual Inclusion Rider Template  
Confidential**

**April 11, 2021**

Reference is hereby made to \_\_\_\_\_ Agreement, dated as of \_\_\_\_\_, by and between \_\_\_\_\_ (“Company”) and \_\_\_\_\_ (“Artist”), collectively the “Parties,” in connection with the [film or television program] currently entitled “\_\_\_\_\_” (the “Picture”).

WHEREAS, the film and television industries continue to fall short in eliminating barriers to opportunity for certain groups, resulting in under-representation both on-screen and behind the camera;

WHEREAS, addressing under-representation includes naming those who have been and continue to be under-represented in film and television: Black, Indigenous, Asian American & Pacific Islander, and other Non-Black People of Color, those of Hispanic or Latino descent, women of all backgrounds and identities, people with disabilities, people over the age of 40, people from certain religious minorities, and LGBTQ+ people;

WHEREAS, addressing systemic under-representation also requires an intersectional lens, fostering particular attention to those who experience intersectional discrimination, discrimination that is the result of multiple, intersecting under-represented identities, including racism, sexism, colorism, sizeism, ageism, ableism, discrimination for being a member of an under-represented religious group, or on the basis of sexual orientation or gender identity;

WHEREAS, the Parties recognize that they have an opportunity to improve hiring practices on their productions and thereby seek to deepen diversity, equity, and inclusion by taking affirmative measures to consider diverse applicant pools, hire qualified individuals from under-represented backgrounds, and to hold themselves accountable by gathering and reporting information and making meaningful contributions to support the hiring of people from under-represented backgrounds;

ACCORDINGLY, The Parties agree to make this inclusion rider (“Addendum”) part of the contract between them on the Picture.<sup>1</sup>

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<sup>1</sup> Important Note: the Inclusion Rider is a template; as such, it is not intended to be used “off the shelf,” but rather should be tailored to fit particular situations, ideally with the advice of counsel.



1. Definition:

a. The term “under-represented group(s)” means people who identify as women of all backgrounds and identities, people who identify as Black, Indigenous, Asian American & Pacific Islander, or other Non-Black people of color, people of Hispanic or Latino descent, people with disabilities, Lesbian Gay Bisexual Transgender or Queer (“LGBTQ+”) people, people over age 40, people from religious minorities, or people having a combination of these identities or attributes.<sup>2</sup>

2. Auditions & Interview Objectives:

a. On-Screen:

i. Script Evaluation: Before the commencement of the casting process, or as early in that process as is feasible, the Company, Director and/or Casting Director shall consider, in consultation with Artist and/or Producer<sup>3</sup> (as needed), where the script presents opportunities for casting qualified individuals from under-represented backgrounds. This shall include consideration of casting of women in roles that were scripted for men, or for which gender is unspecified, as well as a deliberate effort to consider those who have been affected by intersectional discrimination, e.g., Black, Indigenous, or Non-Black women of color. Authenticity of the Picture shall be maintained.

ii. Setting Benchmarks: The Company and Artist and/or Producer (as needed) should set benchmarks or inclusive hiring targets for qualified individuals from under-represented backgrounds. In so doing, the Parties should seek guidance from EXPERT<sup>4</sup> and/or COUNSEL<sup>5</sup> and may consider the geographic

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<sup>2</sup> “Under-represented” is intended to be an expansive term, whose definition can be adjusted to address specific situations, or to include other under-represented groups protected by law.

<sup>3</sup> The Parties should determine at the outset of the process who must be involved, i.e., who are the relevant decisionmakers, to ensure successful implementation of the Inclusion Rider. That might include the Director, Casting Director, Artist, and/or Producer, or others.

<sup>4</sup> In addition to relying on the same Expert who can collect and analyze data, see Paragraphs 4-6, the Parties could also rely upon human resources and DE&I professionals. See Inclusion Rider Studio and Production Company Policy Implementation Guide.



location of filming including local, state, or national demographics, the time period in which the Picture is set, whether the film is based on or adapted from historical or current true events, the composition of the pool of qualified candidates, recent similar productions, and any other relevant factors.<sup>6</sup>

iii. Recruiting Plan: The Director and/or Casting Director shall develop a plan to invite individuals from under-represented backgrounds to seek on-screen roles in the Picture.

iv. Auditions: The Director and Casting Director will audition a pool of candidates that consists of at least 40-50% individuals from under-represented group, for all roles.<sup>7</sup> The audition process should include the good-faith consideration of casting women in roles scripted for men, or for which gender is unspecified, as well as an awareness of intersectional discrimination, as described immediately above, in particular a deliberate effort to seek out and consider individuals from those groups who have been most marginalized or disadvantaged.

b. Off-Screen—Development, Production, Post-Production, Marketing, and Public Relations:

i. Recruiting Plan: Before the commencement of the hiring process for off-screen roles, or as early in that process as is feasible, the Company, and those charged with hiring for off-screen roles, in consultation with Artist and/or Producer (as needed), shall develop a plan to invite individuals from under-represented backgrounds to seek off-screen positions. This may involve outreach to applicable unions and guilds as well as organizations whose mission involves identifying opportunities for crew from under-represented backgrounds<sup>8</sup> and should include a deliberate effort to consider those who have been affected by intersectional discrimination, e.g., Black, Indigenous, or Non-Black women of color.

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<sup>5</sup> As discussed elsewhere, we encourage involvement of counsel to ensure compliance with relevant equal employment and non-discrimination laws.

<sup>6</sup> Benchmarks and inclusive hiring targets are not quotas or set-asides.

<sup>7</sup> A studio or production company has a variety of options for how to undertake this: evaluating the pool for each role, for each production, or across the entire slate of productions on a regular basis.

<sup>8</sup> Examples of these organizations are in the Inclusion Rider Resources.



ii. Setting Benchmarks: Pursuant to this process, the Company and Artist and/or Producer (as needed) should set benchmarks or inclusive hiring targets for hiring qualified individuals from under-represented backgrounds for off-screen roles. In so doing, the Parties should seek guidance from EXPERT<sup>9</sup> and/or COUNSEL and may consider the geographic location of filming, local, state, or national demographics, whether the Picture is relying on crew hired locally or crew being brought in from outside locations, including the composition of the pool of qualified candidates, recent similar productions, and any other relevant factors.

iii. Interviewing: The individual(s) responsible for hiring for off-screen roles will interview individuals from under-represented groups for 40-50% of off-screen positions, encompassing as many roles as possible, and including the following: Writer, Writer Assistant, Casting Director, Physical Production Executive & Producer, Art Design & Direction, Director of Photography/Cinematographer, Production Designer, Sound, 1st Assistant Director, 2nd Assistant Director, Camera Operator, Prop Master, Intimacy Coordinator, Costume Designer, Line Producer, Location Manager, (Unit) Production Manager, Music Supervisor, Composer, Editor, Sound Editor, Key Grip, Gaffer, Post-Production Supervisor, Visual Effects, Script Supervisor, Stunt Coordinator, Makeup Artist, Hair Stylist, Caterer, Colorist, Production Assistant, Marketing, and Public Relations. The interview process should include an awareness of intersectional discrimination, and in particular, a deliberate effort to seek out and consider individuals from those groups that have been most marginalized or disadvantaged.<sup>10</sup>

c. Reasonable Accommodations: All efforts will be made to ensure that reasonable accommodations that do not impose an undue hardship are made for those with disabilities, e.g., individuals who have a mobility disability can access the audition, interview, or meeting location to permit them to appear in person; interpreters are made available as needed; accommodations are made available for those with visual disabilities.<sup>11</sup>

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<sup>9</sup> See n.4.

<sup>10</sup> There may be other roles, whether in production or post-production that deserve consideration.

<sup>11</sup> Efforts to make reasonable accommodations for individuals with disabilities should extend to production locations.



d. Gender-Neutral Facilities: All reasonable efforts will be made to ensure that there are gender-neutral bathroom facilities available at the audition or interview location.<sup>12</sup>

e. Land Acknowledgement: All reasonable efforts will be made to ensure that the production creates the opportunity for a meaningful acknowledgement of Indigenous peoples' past and present relationship to the land on where activity related to the Picture occurs and where the Picture is being filmed.<sup>13</sup>

3. Casting and Hiring Objectives:

a. On-Screen: Consistent with story authenticity and quality,<sup>14</sup> the Director and Casting Director shall affirmatively seek opportunities to cast qualified and available actors from under-represented groups in any role, including the good-faith consideration of casting women in roles scripted for men or for which gender is unspecified, as well as consideration of intersectional discrimination.

b. Off-Screen: The Company shall affirmatively seek opportunities to select qualified and available individuals from under-represented groups for off-screen positions.

4. Data Collection & Reporting: Gathering information about the Company's efforts to deepen diversity on the Picture is central to creating a culture of progress and accountability for advancing diversity, equity & inclusion.<sup>15</sup> Such collection of information must be undertaken in a manner consistent with local, state, and federal law, including Title VII of the Civil Rights Act and the Americans with Disabilities Act.<sup>16</sup>

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<sup>12</sup> The availability of gender-neutral facilities should extend to production locations.

<sup>13</sup> See the Inclusion Rider Resources for resources on meaningful land acknowledgement.

<sup>14</sup> Use of the Inclusion Rider should not impact story sovereignty.

<sup>15</sup> See Inclusion Rider and Production Company Implementation Guide and Inclusion Rider Resources for guidance and resources regarding how to properly invite disclosure of demographic data at the applicant stage.

<sup>16</sup> There are multiple ways that a company might approach the collection and maintenance of data. If Company has internal data-analytics capacity, for example, for reporting to Department of Labor's OFCCP or for EEO-1 reporting, Company can collect and maintain data internally. However, we strongly encourage the Parties to identify an expert, academic, data analyst, or organization to consult on the collection of data and evaluate that data. Independent auditing and analysis of data is important to advancing internal



- a. To that end, the Company should invite all candidates to provide self-identification information, as described below, making clear that (i) providing information is voluntary, (ii) information will be kept confidential and separate from application materials, and (iii) refusal to self-identify will not subject the person to any adverse treatment. Data collection efforts, whether undertaken through surveys or hiring platforms or any other permissible method, should be accompanied by a statement from the Company affirming the value of diversity and explaining the purpose of data collection to enhance diversity and inclusion in Hollywood.
- b. The Company is encouraged to utilize U.S. Census designations for race and ethnicity and gender. Candidates should be given the option to write-in their ethnic or racial background, tribal affiliation, sexual orientation, gender identity, and/or disability status,<sup>17</sup> or to decline to provide this information.
- c. The Company shall provide the following comprehensive data to EXPERT at the conclusion of post-production and/or distribution of the Picture:
  - i. the total number of individuals who auditioned, or interviewed for on-screen or off-screen positions, as defined in ¶12;
  - ii. the number of those who auditioned (on-screen roles) and interviewed (off-screen roles) who self-identified as:
    - (a) women;
    - (b) Black, Indigenous, Latino/a, AAPI or any other people of color;
    - (c) people with disabilities;
    - (d) Lesbian Gay Bisexual Transgender or Queer;
    - (e) people over age 40;
    - (f) a combination of diverse qualities identified in (a-e);
  - iii. the number of individuals from under-represented groups who were cast for on-screen roles;
  - iv. the number of individuals from under-represented groups who were hired for covered off-screen positions; and

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accountability and progress. See Inclusion Rider Resources for experts who may be available to work with the Parties.

<sup>17</sup> Parties should consider using the OFCCP’s Voluntary Self-Identification of Disability Form.



v. documentation of efforts made to identify and recruit qualified individuals from under-represented groups for on-screen or off-screen roles, including emails or records of telephone calls, lists of individuals considered, or memoranda or emails documenting efforts. Company should consider providing, as a matter of course, a short narrative regarding posting, recruiting, and networking for on-screen and off-screen roles.

5. Confidentiality in Collection, Maintenance, and Use of Data: The data collected pursuant to ¶14 shall remain confidential and anonymous in its disaggregated form and should be maintained separate from any job applications. Data may be used by EXPERT to inform research regarding diversity and inclusion in film and television or to advocate for greater inclusion in projects in which COMPANY or ARTIST are involved, in a manner consistent with local, state, and federal law.<sup>18</sup>

6. Compliance: This paragraph provides a mechanism for determining whether the COMPANY has complied with this Addendum's stated purposes of facilitating greater diversity in auditioning/interviewing and casting/hiring qualified individuals from under-represented groups and sets forth suggested actions where terms of Addendum were not satisfied.

a. On-Screen Roles: Whether COMPANY has complied with this Addendum for on-screen roles will be determined by designated representatives of ARTIST<sup>19</sup>, COMPANY, and EXPERT, including EXPERT's analysis of the totality of the data and information gathered through the process set forth in ¶¶2-4, including the benchmarks or inclusive hiring targets established by the Parties, adherence to recruiting plans, data or information regarding the available pipeline of qualified candidates for each position, and any other relevant data or anecdotal information.

b. Off-Screen Roles: Whether COMPANY has complied with this Addendum for off-screen roles is to be determined by designated representatives of ARTIST and COMPANY, and EXPERT, including EXPERT's analysis of the totality of the data and information gathered through the process set forth in ¶¶2-4, including the benchmark or inclusive hiring targets established by the Parties, data or information regarding the available pipeline of qualified candidates for each position, including whether the Picture is bringing crew in from other locations, and any other relevant data or anecdotal information.

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<sup>18</sup> The Parties should discuss the scope of EXPERT's involvement and use of data.

<sup>19</sup> It may be appropriate for the Picture's Producer to be involved in determinations arising in Paragraph 6.



- c. If it is determined that the COMPANY has been unable to satisfy the terms of this Addendum for on-screen and/or off-screen roles, the COMPANY shall make a meaningful monetary commitment to deepening diversity and advancing content from individuals from under-represented groups: **DETAIL COMMITMENT**.<sup>20</sup> The contribution made pursuant to this paragraph shall constitute the complete and exclusive consequence for non-compliance with this Addendum.
7. **Dispute Resolution:** Those terms of the Parties' contract setting forth processes for dispute resolution shall also govern the resolution of disputes pursuant to this Addendum.
8. **Miscellaneous:** This Addendum contains the entire understanding of the Parties hereto, and may not be modified except in a writing signed by the Parties. This Agreement, and its validity, construction, and effect, shall be governed by and enforced in accordance with the laws of STATE.<sup>21</sup>

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<sup>20</sup> The Parties may negotiate a variety of meaningful commitments. For example, COMPANY may agree to contribute up to 1% of the overall budget for Picture, capped at \$100,000, to one of the grassroots organizations described in the Inclusion Rider Resources that are lifting up cast and crew from under-represented groups, or to another 501(c)(3) organization whose mission is to increase representation within the entertainment industry, or to address pipeline shortcomings particularly for off-screen roles. Or COMPANY may undertake an audit to determine best use of resources to address shortfalls in representation on-screen and/or behind the camera. Or, COMPANY may commit to a meaningful internal budgetary commitment for DE&I work including analysis of their slate and pipeline of projects, analysis of their internal demographics, or investment in pipeline development for below-the-line crew. *However, internal investment should be focused on hiring rather than apprenticeship or other programs for temporary work, as research has indicated the priority should be on paid, permanent work.* See Inclusion Rider Resources for ideas on how to make meaningful investments to improve hiring of people from under-represented backgrounds.

<sup>21</sup> With advice of counsel, we encourage the Parties to consider a severability provision, execution in counterparts, and other miscellaneous provisions, consistent with applicable law.