

payable by the Distributor by virtue of any legislation passed or to be passed after the said thirty-first day of July One thousand nine hundred and thirty by the Parliament of either the Commonwealth of Australia or of the State in which the Exhibitor's said Theatre is situated in respect of the importation delivery lease hire exhibition or use of the films owned or distributed by the Distributor and/or sound records and/or advertising materials and/or accessories or receipts or profits of its business as Distributor of films and/or sound records and/or advertising material and/or accessories or any part of such receipts or profits or otherwise in respect of its business or any part thereof in addition to or in excess of those already levied or imposed upon or payable by the Distributor by virtue of legislation passed by both or either of the said Parliaments prior to the said thirty-first day of July One thousand nine hundred and thirty or if any export or excise duty or charge has been or shall after the said thirty-first day of July One thousand nine hundred and thirty be imposed by the Legislature or other competent authority of the country of origin additional to or in excess of those then payable in respect of films and/or sound records and/or advertising material and/or accessories imported by the Distributor then in each and every such case such new or additional duties taxes charges or impositions shall be paid proportionately by such Exhibitors who having or having had agreements with the Distributor leased hired exhibited used or had delivered to them the films and/or sound records and/or advertising material and/or accessories or any one or more of them or who paid or are liable to pay the moneys or contribute to or are liable to contribute to the receipts or profits or any part of such receipts or profits on or in respect of which such duties taxes charges or impositions have or shall have been imposed and the proportionate amount so referable to the Exhibitor shall unless mutually agreed upon be determined by the Auditor or Auditors for the time being of the Distributor and shall on demand be payable by the Exhibitor to the Distributor as additional consideration. Provided that if by reason of the act of any competent Legislature this clause as applied to any specific duty tax charge or imposition be or be rendered illegal or invalid it is expressly agreed and declared that such illegality or invalidity shall extend only to the application hereof to such duty tax charge or imposition and this clause shall be read as if such duty tax charge or imposition were expressly excepted from the duties taxes charges or impositions a proportionate part whereof the Exhibitor has hereby agreed to pay to the Distributor.

21. If by reason of the burden of any existing or future duties taxes charges or impositions or the award of any industrial arbitration or conciliation court tribunal board or committee or by reason of any legislation or statutory ordinance rule or regulation it should at any time hereafter be in the opinion of the Distributor no longer commercially profitable to carry on its business as a Distributor of films and/or sound records and/or advertising materials and/or accessories either in whole or in part or to perform this Agreement (of which matters the Distributor shall be the sole judge without its decision being subject to review by any court or tribunal) the Distributor may at its option terminate this Agreement on giving thirty days' notice of its intention so to do to the Exhibitor without incurring any liability whatsoever to the Exhibitor by reason of such determination. Such determination shall be without prejudice—

- (a) To the right of the Distributor to recover from the Exhibitor all moneys due and payable by the Exhibitor to the Distributor up to the date of such determination and
- (b) To the right of the Distributor to recover from the Exhibitor damages for any breach of this Agreement committed by the Exhibitor up to the date of such determination and
- (c) To all causes of action which shall have accrued to the Distributor prior to or on the date of such determination.

22. The Distributor agrees to deliver one print only of each film to the Exhibitor who agrees to accept the same and the Exhibitor acknowledges that all film delivered in conformity with this clause shall be deemed to be duly delivered immediately it is handed to him or his representatives or forwarded or consigned to him in the manner hereinafter provided that is to say:

- (a) In the case of City and Suburban Theatres delivery shall be made at the office of the Distributor to the Exhibitor or to some person or persons purporting to represent the Exhibitor. All film so delivered shall unless otherwise instructed by the Distributor be returned to the office of the Distributor not later than 10 o'clock in the forenoon of the day next after the last authorised screening date of each film.
- (b) In the case of Theatres other than city and suburban the film addressed to the Exhibitor at the said Theatre shall be forwarded or consigned to him either by the Distributor or by some other person or persons at the direction of the Distributor and either by rail steamer or other means of carriage conveyance or transport as the Distributor may decide. The Exhibitor shall immediately after his last authorised screening date thereof forward or consign the film together with all accessories supplied for temporary use to the branch of the Distributor indicated by the Distributor or to any person or persons at any place named by the Distributor and for that purpose will engage use or hire such means of carriage conveyance or transport as the Distributor shall direct. All such consignments by the Exhibitor shall be borne to the respective destinations as directed by the Distributor properly and distinctly labelled and addressed so as to be reasonably legible in order to expedite despatch. The Exhibitor shall upon any breach of this clause and without prejudice to any other power conferred in this Agreement upon the Distributor be liable for and shall pay any necessary expense or loss of revenue incurred by the Distributor by reason of such breach in the delivery to a subsequent Exhibitor of the film supplied hereunder.

Provided always and it is hereby expressly agreed and declared that notwithstanding anything in this Agreement to the contrary contained or implied the Distributor shall not be liable in any way to the Exhibitor for any failure or delay in making delivery of any film resulting from any cause not within the control of the Distributor.

23. It is expressly agreed and declared by and between the parties hereto that this Agreement is made upon the express condition that if any moneys payable or to be paid hereunder or any part of such moneys shall not be paid at the time or times hereinbefore stipulated for payment thereof (whether legally demanded or not) or in case the Exhibitor shall make default in or neglect or fail to observe perform or fulfil any of the terms conditions agreements and stipulations contained or implied in this Agreement or in any other agreement or agreements between the parties hereto and which on the part of the Exhibitor are or ought to be observed performed or fulfilled then and in any or either of such cases it shall be lawful for the Distributor immediately or at any time thereafter without further notice or demand to suspend further deliveries of the films and/or other goods and/or accessories contracted for either in this or any other agreement or agreements between the parties hereto until all moneys due and unpaid shall have been paid and/or until any and every breach or default in any of the terms conditions agreements and stipulations on the part of the Exhibitor to be observed or performed is made good by the Exhibitor to the satisfaction of the Distributor or the Distributor at its option may cancel this Agreement and/or all other agreements between the parties hereto and in the event of suspension of deliveries or cancellation the Exhibitor shall be obliged to pay to the Distributor on demand the hire of each film which would but for such suspension of deliveries or cancellation have remained to be delivered under this Agreement without being liable to any claim or action for any loss or damage which the Exhibitor may sustain by reason of such suspension or cancellation. Provided always that any such suspension of delivery shall not release the Exhibitor from his obligation to carry out the terms of this Agreement or of any other agreement or agreements between the parties hereto. Provided further that such