NOTICE OF AVAILABILITY OF SUPPLEMENT
to the Motion Picture Agreement

AVAILABILITY OF SUPPLEMENT TO THE MOTION PICTURE AGREEMENT
FOR THE USE OF INDEPENDENT FILMMAKERS MAKING
TEN OR FEWER MOTION PICTURE PRINTS

The following excerpt is taken from Volume 51, Number 135 of
the Federal Register for Thursday, July 15, 1986 (pp.25620-25621)

SUPPLEMENTARY INFORMATION: Under 17
U.S.C. 407, the owner of copyright, or of
the exclusive right of publication, in a
work published with notice of copyright
in the United States is required to
deposit two copies of the work in the
Copyright Office for the use or
disposition of the Library of Congress.
Section 408 requires deposit of two
copies of published works in connection
with applications for copyright
registration. By establishing deposit
requirements, Congress intended to
provide a useful record of the
copyrighted work that meets both the
practical needs of depositors and the
needs and wants of the Library. In
keeping with this policy, the statute
authorizes the Copyright Office to issue
regulations liberalizing the deposit
requirements. With respect to motion
pictures, the regulations permit the
deposit of only one copy.

In addition to reducing the number of
copies to be deposited, a long standing
solution to the hardship posed by the
deposit of motion pictures at a time
when demand for prints is most urgent
has been the Motion Picture Agreement.
The Agreement, available since 1946
except for a short period during initial
implementation of the 1976 Copyright
Act, provides that a motion picture may
be returned to the depositor in exchange
for a promise to deposit, upon recall, a
best edition copy of archival quality.

Although the Agreement continues to
work well with the film community at
large, it fails to resolve the deposit
problems of independent filmmakers
who often are operating on tight
budgets. In late 1983, the Office became
aware of the hardships the deposit
requirements impose on independent
filmmakers. Representatives of
independent filmmakers pointed out that
for an independent producer with only one or
two existing prints of a work, the requirement
to surrender a 'best edition' print to the
Copyright Office can impose a substantial
hardship. Moreover, for independent
distributors who are willing to distribute
films of artistic merit but marginal
commercial potential, the additional cost of
an archive print can make the difference
between distributing the work or not. Films
which cannot be distributed are least likely to
be made. The adverse impact of the deposit
requirement, then, is real and significant to
the fragile economy of independent
filmmaking. (Letter of November 30, 1983
from Lawrence Sapadin, Executive Director,
Association of Independent Video and
Filmmakers, Inc.)

The Copyright Office has held
meetings with interested parties,
representatives of the Association of
Independent Video and Filmmakers,
Inc., and Library officials to determine
the best way to both alleviate the
financial hardship on small filmmakers,
and meet the acquisition needs of the
Library. After extensive discussion, the
Library has decided that the severe
financial hardship that these filmmakers
experience in fulfilling normal deposit
requirements merits making available a
Supplement to the Motion Picture
Agreement. This Supplement allows
APPENDIX

Motion Picture Supplement

For the Use of Independent Filmmakers Making Ten or Fewer Motion Picture Prints

Whereas the undersigned Depositor has entered into a Motion Picture Agreement ("MPA") with the United States of America, acting through the Librarian of Congress, executed on ____________

Whereas the Depositor has produced a motion picture ("Motion Picture") entitled ____________, which has been published in ___ mm. film print and desires to deposit or register the Motion Picture under Section 407 or Section 408 of the Copyright Law:

Whereas the Depositor is an independent film producer as that term is commonly understood in the trade, and has made ten (10) or fewer film prints of the Motion Picture:

Now Therefore, the parties hereto agree to the following MPA Supplement;

1. The Depositor may deposit an archival quality 8½-inch videotape ("Videotape") of the Motion Picture. The Librarian will accept the Videotape for deposit, on the understanding that title transfers to the United States at the time of deposit pursuant to Section 704 of the Copyright Act and that the Videotape will not be returnable to the Depositor under the MPA.

2. If the Videotape is deposited under either Section 407 or 408 and the Depositor requests deposit at any time within five (5) years of a "best edition film print" under the MPA, at its own expense the Depositor will make additional deposit of the same within ninety (90) days after deposit of the Videotape; provided that if the Librarian does not request deposit of such a "best edition film print" before expiration of the five year period, the Depositor shall have no further obligation thereafter.

3. If more than ten (10) film prints of the Motion Picture are made before the five year period has expired, the Depositor agrees to notify the Librarian by sending written notice to the Deposits and Acquisitions Division of the Copyright Office within ten (10) days after the eleventh (11th) print is made. If the Library wishes to obtain the motion picture for its collections, the Librarian will request deposit within thirty (30) days after receipt of notice from the Depositor. Within ninety (90) days of the date of the Librarian's request for deposit under this paragraph, the Depositor agrees to deposit a "best edition film print" of the Motion Picture.

4. Throughout the five year period, the Depositor shall maintain in its custody or control either one film stock release-print of "archival quality" as defined in the MPA, or alternatively the original or a duplicate negative from which such "archival quality" film print can be produced. In the event that the Depositor sells, assigns or transfers the Motion Picture during the five year period, the Depositor will ensure that the purchaser, assignee or transferee executes an appropriate undertaking to assume the Depositor's obligations hereunder within ninety (90) days thereafter.

If, in the Librarian's judgment, there is a serious risk that the Depositor will fail to continue to comply with its foregoing obligations under paragraph 4 throughout the said five year period, the Librarian may reduce the five year period to three (3) years by so notifying the Depositor at least ninety (90) days prior to the end of the third year.

Deposit of the best edition film print must then be made within ninety (90) days of the date of the notice from the Librarian.

In Witness Whereof the parties hereto have duly executed this Supplement.

Depositor

By ____________________________________________
Officer of Corporation

Date

Typed or Printed Name and Office Held

Approved:

The Librarian of Congress

Date

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