



DEED OF GIFT

DONATION OF MATERIALS

FROM

[insert name]

TO

THE NATIONAL FILM AND SOUND ARCHIVE

- A. The National Film and Sound Archive (**the NFSA**) is an Australian Commonwealth statutory body established by the *National Film and Sound Archive of Australia Act 2008* (Cth) (**the Act**) and is based at McCoy Circuit, Acton Australian Capital Territory, Australia 2601.
- B. The NFSA is Australia's living archive of audiovisual and related materials. As custodian, the NFSA is charged with developing, preserving, maintaining, promoting and, as possible, providing access to its collections. As a public institution, the NFSA's vision includes to be relevant, engaging and accessible.
- D. The Donor whose details appear in **Item 1** of the Donation Specific Terms that follow, and which term includes the Donor's agents, administrators, executors and assigns, supports the NFSA's vision and public mission and wishes to gift the material specified in **Item 2** of the Donation Specific Terms to the NFSA.
- E. The NFSA wishes to accept the Material, as set out in this Deed.

DONATION SPECIFIC TERMS

1. Donor (include full name, address, and any ABN/ACN)	
2. Material	
Title (if relevant)	[insert] As further described in Schedule 1.
Short description of Material	[insert – eg. film, video, object, equipment, newspaper clipping or other ephemera, photograph etc]
3. Documentation (if any)	As listed in Schedule 2.
4. Credit Line	[insert eg “Kindly donated by ...”]
5. Does the Donor own or control copyright in the Material or any part of the Material?	<input type="checkbox"/> YES , as ¹ in the components and shares as set out in Schedule 3 <input type="checkbox"/> NO
6. Copyright	To the extent the Donor owns copyright in the Material, the Donor (<i>select one only</i>): <input type="checkbox"/> assigns that copyright to the NFSA so that it may fully use the Material to fulfil its vision and statutory obligations; OR <input type="checkbox"/> licenses the NFSA to use and authorise the use of the Material as further set out in Schedule 4.
7. Does the Material contain any confidential or culturally sensitive material?	<input type="checkbox"/> YES (as further described in Schedule 1) <input type="checkbox"/> NO
8. Capacity in which the Donor is gifting the Material²	
9. Special conditions³	

FOR NFSA USE ONLY:

Date of Deed	
Acquisition number	
Acquisition date	

¹ If yes, state basis of ownership, such as “creator”, “heir” etc.

² State the capacity in which the Donor is signing this Deed – for example, as owner of the Material or as agent of the owner, as trustee of a trust or executor of an estate.

³ If particular clauses of the following standard terms are not to apply, specify this here as “Special conditions”.

GENERAL TERMS

1. GIFT

- 1.1 The Donor donates the Material to the NFSA.
- 1.2 The Donor promises that:
- (a) the Donor is the owner of the Material or is otherwise entitled to make this gift;
 - (b) no other person's consent or permission is required to make this gift, or such other permission as may be needed has already been obtained;
 - (c) to the best of the Donor's knowledge, if the Material has been exported from any country, that export conformed with the laws of such country and its importation into Australia conformed with Australian law;
 - (d) the Donor has received no notice of any claim that may affect any of the promises and warranties the Donor makes in this Deed and, in particular, knows of no adverse claim or notice relevant to ownership of the Material;
 - (e) unless otherwise indicated in **Item 2** of the Donation Specific Terms, the Material is original and authentic; and
 - (f) the Material is free and clear of all encumbrances and restrictions.
- 1.3 Any Documentation in **Item 3** of the Donation Specific Terms is included in the donation, and the Donor promises that, to the best of the Donor's knowledge, the Documentation is true and accurate.

2. PROPERTY

- 2.1 From the date of this Deed, the NFSA owns the Material, to be dealt with in accordance with the Act and with the vision, mission, policies and procedures of the NFSA (as they may apply from time to time).

3. CREDIT LINE

- 3.1 The Donor requests that the NFSA acknowledge the Donor and the donation as set out in **Item 4** of the Donation Specific Terms.

4. COPYRIGHT

- 4.1 To the extent that the Donor is the owner of copyright in the Material, the Donor assigns (or does not assign) or licenses (or does not license) that copyright to the NFSA as set out in **Item 6** of the Donation Specific Terms.
- 4.2 The Donor acknowledges that, while the Material is on display, the NFSA cannot, in practice, stop visitors taking photographs or footage of the Material (including on devices such as smartphones) and that the Donor will not hold the NFSA liable for unauthorised photography or filming, or a visitor's subsequent use of such photographs or footage.

5. MORAL RIGHTS

- 5.1 To the extent that the Donor is the creator of any copyright in the Material, the NFSA will, in line with industry practice, take reasonable steps to attribute the Donor as the creator of the Material when it uses the Material.

6. ADDITIONAL INFORMATION

- 6.1 The Donor will notify the NFSA if the Donor at any time becomes aware of any fact or matter which indicates that the Material and/or the Documentation:
- (a) is not in whole or in part as described in this Deed; or

(b) is not as otherwise stated to the NFSA by the Donor or someone acting on behalf of the Donor.

(For example, the Donor will notify the NFSA if the identity, quality, history, provenance, authenticity, legal status or general character of the Material or the Documentation is not as described or stated).

7. CONSIDERATION

7.1 The Donor confirms that the Material is given to the NFSA as a gift, and that no payment is due to the Donor.

8. GENERAL

8.1 This Deed may be executed and delivered electronically (including by facsimile and email).

8.2 If there is any inconsistency between these General Terms and the Donation Specific Terms (and particularly any terms in **Item 9** of those terms), the Donation Specific Terms prevail to the extent of the inconsistency.

8.3 If the Donor consists of more than one person, this Deed binds each of them separately and any two or more of them jointly, and an obligation, representation or warranty in favour of more than one person is for the benefit of them separately and jointly.

8.4 Where the Material is being donated by a trust, the party signing this Deed is bound both personally and as a trustee of that trust.

8.5 If a provision in this Deed is unenforceable, illegal or void, it is severed. All other provisions remain in force.

8.6 This Deed contains all the terms and conditions of the donation of the Material and supersedes any other agreement, discussion or negotiation between the Donor and the NFSA in relation to the gift.

8.7 Nothing in this Deed is to be construed as excluding the NFSA from relying on any statutory rights it may have, including under the Copyright Act 1968 (Cth).

8.8 This Deed is governed by, and must be construed in accordance with, the law in force from time to time in the Australian Capital Territory, and the parties submit to the jurisdiction of the courts of the Australian Capital Territory.

[use if donor is an individual or signing on behalf of individual]

SIGNED, SEALED AND DELIVERED by the Donor
in the presence of:

Witness

Signature of or on behalf of Donor (who, if signing on behalf of the Donor, also warrants his or her authority to sign on the Donor's behalf)

Full name of Witness

Full name (and, if signing on behalf of the Donor, capacity in which signing)

Date:

[use if donor is a company and signing by authorised person – authorisation may need to be shown]

SIGNED, SEALED AND DELIVERED by the Donor in the presence of:

.....
Witness

.....
Signature of authorised person

.....
Full name of Witness

.....
Full name (print)

.....
Office / Title

Date:

[use if donor is a company and signing by director/secretary]

SIGNED, SEALED AND DELIVERED by the Donor in accordance with s127 of the Corporations Act (Cth):

.....
Signature of Director/Secretary/Sole Director
(select applicable title)

.....
Signature of Director/Secretary
(select applicable title)

.....
Full name (print)

.....
Full name (print)

Date:

Acknowledgement of the Gift on behalf of the National Film and Sound Archive of Australia:

[name]
[position description]
[date]

SCHEDULE 1: DETAILS OF THE DONATED MATERIAL

ITEM 1

Item details

<i>Title</i>	
<i>Alternative title</i>	
<i>Creator/s & role/s</i>	
<i>Place of production</i>	
<i>Creation date</i>	
<i>Sound / audio</i>	
<i>Place made</i>	
<i>Duration</i>	
<i>Description</i>	
<i>Audience classification</i>	
<i>Form</i>	
<i>Genre</i>	
<i>Subject group</i>	
<i>Media / Format(s)</i>	
<i>Language</i>	

Any confidentiality/cultural sensitivity concerns:

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SCHEDULE 2: DOCUMENTATION**ITEM 1**

[list titles/descriptions of any documents referred to in Item 3 of the Donation Specific Terms]

ITEM 2

[list titles/descriptions of any documents referred to in Item 3 of the Donation Specific Terms]

etc

SCHEDULE 3: COPYRIGHT OWNERSHIP

ITEM 1

The Donor owns copyright in the item as follows:

Y/N	component	percentage	owner/co-owner
	script		
	footage		
	music in the soundtrack		
	recordings of music in the soundtrack		
	art and design work (such as for titles, costumes and sets)		
	other		

ITEM 2

The Donor owns copyright in the item as follows:

Y/N	component	percentage	owner/co-owner
	script		
	footage		
	music in the soundtrack		
	recordings of music in the soundtrack		
	art and design work (such as for titles, costumes and sets)		
	other		

SCHEDULE 4: COPYRIGHT LICENCE

(applies only if the relevant box in Item 6 of the Key Commercial Terms is ticked)

The Donor grants the NFSA a perpetual, royalty free and non-exclusive licence to use the Material or any part of the Material on a non-commercial basis as follows:

- (a) **Online:**
 - (i) on NFSA's collection search, in online exhibitions and curated collections as developed by the NFSA from time to time;
 - (ii) on NFSA owned websites (including but not limited to www.nfsa.gov.au); and
 - (iii) in social media postings on NFSA-managed social media sites (whether currently operating or yet to be available);
- (b) **Onsite:**
 - (i) in school programs developed by the NFSA;
 - (ii) in screenings on NFSA premises as part of a program (including to school groups); and
 - (iii) in screenings at FIAF member locations as part of FIAF celebration programs;
- (c) **Promotion of the NFSA:**
 - (i) for promotion of the NFSA's good works including but not limited to NFSA-produced reports and short audiovisual compilations highlighting the NFSA's collection; and
 - (ii) for and in NFSA Engagement Programs.

In relying on this licence, the NFSA will:

- (a) in line with industry practice, acknowledge your assistance in line with industry practice; and
- (b) take reasonable steps to deter potential copyright and moral rights infringement (for example, by watermarking clips used online and by taking steps to limit online uses to streaming).

The NFSA will contact you for any additional permissions it may require, and will refer relevant third-party requests to use the Material to you.

For the purposes of this Schedule 3:

Engagement Programs means activities the NFSA develops and delivers as a way of connecting to audiences (including internationally).

FIAF means the International Federation of Film Archives, of which the NFSA is a member and which has member institutions all over the world and is dedicated to preserving films both as art and as historical documents (see <https://www.fiafnet.org>).