

# **DEED OF RELEASE**

**Seven Network (Operations) Limited**

**(ABN 65 052 845 262)**

**AND**

**Seven West Media Limited**

**(ABN 91 053 480 845)**

**AND**

**Ms Amber Harrison**

# STRICTLY PRIVATE AND CONFIDENTIAL

## DEED OF RELEASE

**DATE** 14 November 2014

### PARTIES

- 1** **Seven Network (Operations) Limited** (ABN 65 052 845 262) of 38-42 Pirrama Road, Pyrmont, 2009 New South Wales (**Company**);
- 2** **Seven West Media Limited** (ABN 91 053 480 845) of 50 Hasler Road Osborne Park Western Australia 6017 (**Seven West**); and
- 3** **Ms Amber Harrison** of [REDACTED]

### RECITALS

- A** The Employee was employed by the Company and Pacific Magazines Pty Ltd, a related entity of the Company, since 1 July 2009 (**Employment**), most recently under a contract of employment with the Company dated 23 October 2013 (**Contract**).
- B** On 30 July 2014, the Employee informed Ms Melanie Allibon, Group Executive, Human Resources of Seven West Media Limited (**Ms Allibon**), that she had been having an inappropriate consensual relationship with a senior executive officer of Seven (**Relationship**).
- C** On 1 August 2014, the Employee and the Company entered into a confidential Deed of Release (**First Deed**), under which the Company agreed, amongst other things, to continue to employ the Employee in a new production or creative role (**Position**).
- D** The Employee has claimed that as a result of conduct during the course of the Employment (and prior to and in no way connected with the termination of the Employment) the Employee has been subjected to treatment and has suffered damage, including personal injury in the form of psychological harm, loss of professional standing and reputation, pain and suffering, stress and humiliation and dislocation of life.
- E** On 25 September 2014, Deloitte Touche Tohmatsu provided the Company with a report in which it concluded that it was likely that the Employee had incurred approximately \$262,000.00 of unauthorised personal expenditure on her corporate credit card (**Expenses**).
- F** The Company is conducting a restructure of its operations (**Restructure**) and has determined that the Position is no longer required for operational reasons (**Redundancy**).
- G** As a result of the Restructure, the Employment is terminated on the grounds of redundancy on and from the date of this Deed (**Termination**).
- H** The Employee and the Company, without admitting liability, have reached agreement on the terms set out in this Deed.

### THE PARTIES AGREE

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#### **1 Definitions and Interpretation**

##### **1.1 Definitions**

**Beneficiaries** means each of the Group Members and each of their current and former directors, officers, representatives, agents and employees.

**Business Day** means a day other than a Saturday, Sunday or public holiday, in the state of New South Wales.

**Claims** includes all present and future actions, applications, causes of action, claims, complaints, demands, suits, proceedings, liabilities, sums of money, damages, debts due, determinations, inquiries, judgments, verdicts and costs arising, whether directly or indirectly from or in any way related to:

- (a) the matters recited;
- (b) the Contract or any previous contract, agreement or understanding between the parties;
- (c) the Employment;
- (d) the Expenses;
- (e) the terms of Employment;
- (f) the Position;
- (g) the Redundancy;
- (h) the Relationship;
- (i) the Restructure;
- (j) the Termination; and
- (k) the Disputed Expenses,

whether at law, in equity, arising under any statute, regulation or other legislative instrument or any award, enterprise agreement or other instrument made or approved under any law, except for claims for workers' compensation under applicable workers' compensation legislation from which the Employee cannot give a release under this Deed.

**Company** includes the Company's successors, transferees and assigns.

**Company Property** includes:

- (a) any property of the Group (including property leased by the Group) including all machine readable material, software, computers, iPads or tablets, laptops, passwords and other access codes, credit cards, keys, mobile telephones, security passes and vehicles; and
- (b) any document (including any form of electronic record such as screen shots and photographs) which includes any Confidential Information.

**Confidential Information** includes all confidential information, including, but not limited to:

- (a) any information (whether written, oral or in electronic form) concerning the Company or any of the other Beneficiaries, or any of its Related Bodies Corporate including but not limited to information of a commercial, operational, marketing and sales, technical, accounting or financial type (including client and contact lists, research results and analysis, price lists, data bases, source codes and methodologies, trade secrets, proprietary systems and know-how) of which the Employee is aware of or has generated in the course of, or in connection with the Employment (including confidential information belonging to a third party);
- (b) any information developed, created or otherwise arising from the information in paragraph (a) above; and
- (c) all copies, notes and records based on incorporating the information referred to in paragraphs (a) to (b) above,

except where such information has come into the public domain other than by breach of confidentiality involving the Employee.

**Employee** includes the Employee's heirs, successors, personal representatives, permitted assigns, estate executors or administrators.

**Group** means the Company and all Related Bodies Corporate of the Company from time to time, jointly or severally and **Group Member** means any member of the Group.

**Mr Kite SC** includes any other person agreed to by the parties as an alternative to Mr Kite SC from time to time.

**Related Bodies Corporate** has the meaning given to it in the *Corporations Act 2001* and includes the successors, transferees and assigns of each Related Bodies Corporate.

## 1.2 Interpretation

In this Deed, unless a contrary intention appears:

- (a) words or expressions:
  - (i) importing the singular include the plural or vice versa;
  - (ii) denoting individuals include corporations, firms, unincorporated bodies, authorities and instrumentalities; and
  - (iii) given meanings in the Recitals have the same meaning in the body of this document;
- (b) where a word or phrase is defined or given meaning, any other part of speech or grammatical form has a corresponding meaning;
- (c) a reference to a clause number is a reference to a clause of this document unless otherwise specified;
- (d) a reference to includes or including must be construed without limitation;
- (e) a reference to a document or agreement, including this Deed, includes a reference to that document or agreement as altered or replaced from time to time; and
- (f) headings are for convenience only and do not affect the interpretation of this document.

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## 2 Obligations of the Employee

### 2.1 Obligations of the Employee

The Employee must:

- (a) not, either directly or indirectly, give any interviews to any medium or media or make, authorise or procure any public statement, publication, off the record comment, background information, publications, press releases, press conferences or participate in social media, about the Company, any of the Beneficiaries or any of the other Group Members, the Termination, the Employment, the Relationship, the Expenses or the First Deed;
- (b) take all reasonable steps to ensure that any persons with whom she has discussed the Relationship, the Expenses, the First Deed, the Termination or the Expenses (or any part of them) also comply with the restrictions on publicity contained in this clause;
- (c) not, whether by herself or otherwise, make any statement publicly or otherwise about the Termination, the Relationship, the First Deed, the Expenses, the Company, any of the Beneficiaries or any of the other Group Members;



- (d) not make any adverse statement about, publicly disparage or otherwise bring into disrepute the Company, any of the Beneficiaries or any of the other Group Members;
- (e) not, whether directly or indirectly, cause, permit, solicit, induce or encourage any other person to make any adverse statement, whether publicly or otherwise, or publicly disparage or otherwise bring into disrepute the Company, any of the Beneficiaries or any of the Group Members;
- (f) not make any complaint about, or volunteer to disclose any information about the Company, any of the Beneficiaries or any of the other Group Members or any of their respective officers and employees, to any trade union, trade union official or officer, government department, commission, authority, agency or inspector, except strictly to the extent required by statute;
- (g) take all steps necessary to give effect to this Deed, including but not limited to executing all further documents required by the Company;
- (h) subject to clause 3.1(a)(i), bear her own costs (if any);
- (i) keep confidential all Confidential Information and not copy or reproduce any Confidential Information;
- (j) comply with the Undertakings set out in Schedule 1 to this Deed to the Company at the time of entering into this Deed; and
- (k) return all Company Property by the date of this Deed.

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### **3 Obligations of the Company**

#### **3.1 Obligations of the Company**

Subject to the Employee complying with her obligations under this Deed and in particular clauses 2, 4 and 5, the Company will:

- (a) by 5pm on 18 November 2014, pay to the trust account of Harmers Workplace Lawyers account number 687551027, BSB 082-001, account name Harmers Workplace Lawyers on behalf of the Employee:
  - (i) a gross amount of \$50,000, being a payment in lieu of notice of termination and redundancy pay, taxed as a genuine redundancy payment;
  - (ii) a gross amount of \$100,000, being payment by way of compensation for alleged injury, including loss of professional standing and reputation, pain and suffering, stress and humiliation, and dislocation of life as a result of events during the Employment;
  - (iii) a gross amount of \$8,749.84 in lieu of accrued but unused annual leave, less applicable tax; and
  - (iv) a gross amount of \$7,807.54 in lieu of accrued but unused long service leave, less applicable tax;
- (b) pay \$50,000.00, in respect of her legal costs of Harmers Workplace Lawyers incurred by the Employee, within 7 Business Days of receipt by the Company of a tax invoice for such costs;
- (c) pay the Employee \$150,000, being a further payment by way of compensation for alleged injury, including loss of professional standing and reputation, pain and suffering, stress and humiliation, and dislocation of life as a result of events during the Employment, each month over the 12 month period commencing on or about 14 December 2014 and then on the 14<sup>th</sup> day of each month up to 14 December 2015;

- (d) take reasonable steps to ensure that its directors, the Chief Executive Officer, the Chief Financial Officer and the Chief Operating Officer of Seven West Media Limited, Ms Inthachanh, Susan Wood, Warwick Lynch and Ms Allibon do not, and do not cause, permit, induce or encourage any other person to, whether publicly or otherwise, make any adverse statement, publicly disparage or otherwise bring into disrepute the Employee;
- (e) pay for any legal costs associated with any services provided by Mr Kite SC, in accordance with clause 6;
- (f) provide the Employee with all Spendvision records regarding the Expenses, by 5pm on 17 November 2014 and such other records as are reasonably requested in writing by the Employee in respect of the Expenses and any Disputed Expenses within a reasonable time after receipt of the request; and
- (g) pay the Employee a sum of any general damages calculated in accordance with the process set out in clause 6 of this Deed.

### **3.2 Acknowledgement**

It is acknowledged by the Company and the Employee that the sums of general damages payable under this Deed relate to matters claimed by the Employee to have arisen in the course of the Employment as referred to at recital D, are in no way connected to the termination of the Employment and would be claimed to be an entitlement of the Employee regardless of whether the Employment continued or ceased.

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## **4 Release**

### **4.1 Release by the Employee**

The Employee releases absolutely and forever discharges the Company, the Beneficiaries and the Group Members from and against, all Claims that the Employee has now or may have had in the future if the parties had not executed this Deed, except for any claims to enforce this Deed or any of its terms.

### **4.2 Release by the Company and Seven West**

To the extent permitted by law, the Company and Seven West absolutely and forever releases and discharges and does unconditionally release and discharge the Employee from all Claims that the Company and Seven West have now or may have had against the Employee in the future if the parties had not executed this Deed.

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## **5 Confidentiality**

The Deed and the contents of it (including the matters recited) are confidential and the parties must not disclose the existence of the Deed or its contents to any person other than where disclosure:

- (a) is required by law;
- (b) is made for the purpose of or in connection with enforcement of this Deed;
- (c) in the case of the Company:
  - (i) in the ordinary course of business; and
  - (ii) in connection with any threatened or actual Claims;
- (d) in the case of the Employee, is made in connection with any claim or demand regarding the operation of this Deed where the extent of its operation is an issue in any such proceedings; or
- (e) is made with the prior written consent of the other party.



## 6 Expenses

The Company and the Employee agree to take undertake the following process in regard to the Expenses:

- (a) within 7 Business Days of this Deed, the Employee and Ms Allibon and each of their nominated legal representatives will meet to allow the Employee to provide a full explanation of the Expenses and any receipts, tax invoices or other relevant documents regarding the Expenses (**Meeting**);
- (b) if the Company determines, at its absolute discretion, which discretion will not be exercised unreasonably and must be exercised within 7 Business Days of the Meeting, that any of the Expenses are legitimate business expenses incurred in the course of the Employment (**Approved Expenses**), the Company will:
  - (i) notify the Employee of any such determination in writing; and
  - (ii) make a payment to the Employee equivalent to the amount of any such Approved Expenses, by way of compensation for alleged injury, including loss of professional standing and reputation, pain and suffering, stress and humiliation, and dislocation of life as a result of events during the Employment,

within 7 Business Days of any such determination;
- (c) if the Company determines that, at its absolute discretion, which discretion will not be exercised unreasonably and must be exercised within 7 Business Days of the Meeting, that any of the Expenses are not legitimate business expenses incurred in the course of the Employment (**Disputed Expenses**), the Company will:
  - (i) notify the Employee of any such determination in writing within 3 Business Days;
  - (ii) within 3 Business Days refer any of the Disputed Expenses to Mr Kite SC, which the Employee notifies the Company in writing are legitimate business expenses within 5 Business Days of the date of receiving the notification in clause 6(c)(i), for independent determination as to whether the Disputed Expenses are not legitimate business expenses incurred in the course of the Employment;
  - (iii) make a payment to the Employee equivalent to the amount of any such Disputed Expenses which Mr Kite SC determines are legitimate business expenses, by way of compensation for alleged injury, including loss of professional standing and reputation, pain and suffering, stress and humiliation, and dislocation of life as a result of events during the Employment, within 7 Business Days of any such determination by Mr Kite SC;
  - (iv) Mr Kite SC must use his best endeavours to make the determination in clause (c)(iii) above within 7 Business Days of referral of the Disputed Expenses under clause (c)(ii) above, but only after providing the Employee and the Company either directly or through their legal representatives with a reasonable opportunity to present submissions concerning the Disputed Expenses; and
  - (v) for the purposes of the submissions at clause (c)(iv) above the Company will provide to the Employee within 3 Business Days of any reasonable request for same, such other records as are required by the Employee in respect of the Disputed Expenses.
- (d) payments made under clause 6 of this Deed will be deemed to be made under clause 3.1 (g).

## **7 Miscellaneous**

### **7.1 Absolute Bar**

This Deed may be pleaded as an absolute bar to any Claim, demand or action arising out of, touching on or concerning the matters referred to or contained in this Deed by the Company.

### **7.2 Assigns and Transfers**

It is agreed that this Deed endures for any successor, or assign of the parties.

### **7.3 Severance**

In the event that any part of this Deed becomes void or unenforceable, then that part should be severed from this Deed. All parts of this Deed which do not become void or unenforceable shall remain in full force and effect to be unaffected by any severance.

### **7.4 Warranty and Indemnity**

The Employee warrants that:

- (a) she has not assigned or otherwise dealt with any right, Claim, liability or cause of action that she now has, or but for the execution of this Deed she may at any time have had against the Company, or any of the other Group Members, and indemnifies the Company and the other Group Members against any action, suit, cause of action, claim, liability, costs or expenses that may arise as a result of a breach of this warranty;
- (b) she has obtained independent legal advice concerning the nature, effect and extent of this Deed;
- (c) she is aware of and understands the consequences of entering into this Deed including, in particular, the consequences of providing the release and indemnity contained in clause 4;
- (d) she has entered into this Deed voluntarily and without any duress;
- (e) the background recited in this Deed is true and accurate;
- (f) she is aware that the Company and each of the Group Members are relying on these warranties in executing this Deed;
- (g) she has returned all Company Property within her possession, custody or control, including but not limited to the mobile telephone, iPad and laptop computer provided to her by the Company;
- (h) the Company and the other Group Members have not made any promise, representation or inducement or been a party to any conduct material to the Employee entering into this Deed other than as set out in this Deed; and
- (i) she has not commenced any proceedings against the Company or any other Group Member.

### **7.5 Acknowledgements**

The Employee acknowledges that:

- (a) the Company's agreement recorded in this Deed is not an admission of liability by the Company, any of the Beneficiaries or the other Group Members;
- (b) subject to receiving the payments provided for in clause 3 of this Deed, the Employee will have received all legal and statutory entitlements arising out of or in connection with the Employment or the Resignation including but not limited to claims for remuneration flowing



from her employment, notice of termination or a payment in lieu of notice, severance pay and any other compensation, payments and benefits whatsoever;

- (c) the Employee has ongoing obligations regarding Confidential Information which continue to apply;
- (d) the Employee has ongoing obligations under the Contract, however to the extent of any inconsistency with the Contract this Deed will prevail;
- (e) to the extent permitted by law this Deed may be used by the Company as a complete bar to any Claims; and
- (f) the Employee has entered into this Deed freely and voluntarily, understanding and accepting:
  - (i) the consequences for the Employee of doing so;
  - (ii) the Employee's rights and obligations under this Deed; and
  - (iii) that the Company and the Group are relying on these acknowledgements.

## 7.6 Warranty and Indemnity

The Company warrants that:

- (a) it has not assigned or otherwise dealt with any right, Claim, liability or cause of action that it now has, or but for the execution of this Deed she may at any time have had against the Employee, and indemnifies the Employee against any action, suit, cause of action, claim, liability, costs or expenses that may arise as a result of a breach of this warranty;
- (b) it has obtained independent legal advice concerning the nature, effect and extent of this Deed;
- (c) it is aware of and understands the consequences of entering into this Deed including, in particular, the consequences of providing the release and indemnity contained in clause 4;
- (d) it has entered into this Deed voluntarily and without any duress;
- (e) the background recited in this Deed is true and accurate;
- (f) it is aware that the Employee relying on these warranties in executing this Deed;
- (g) the Employee has not made any promise, representation or inducement or been a party to any conduct material to the Company entering into this Deed other than as set out in this Deed; and
- (h) it has not commenced any proceedings against the Employee; and
- (i) to the best of its knowledge and belief it is not aware of any additional unusual expenses or any other issue whatsoever concerning the Employee and/or the Employment.

## 7.7 Acknowledgements

The Company acknowledges that:

- (a) The Employee's agreement recorded in this Deed is not an admission of liability by the Employee;
- (b) to the extent permitted by law this Deed may be used by the Employee as a complete bar to any Claims; and
- (c) the Company has entered into this Deed freely and voluntarily, understanding and accepting:

- (i) the consequences for the Company of doing so;
- (ii) the Company's rights and obligations under this Deed; and
- (iii) that the Employee is relying on these acknowledgements.

#### **7.8 Governing Law**

- (a) The law of this Deed is the law of the State of New South Wales.
- (b) The parties:
  - (i) irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of New South Wales;
  - (ii) waive any rights to object to any proceedings being brought in the courts of New South Wales; and
  - (iii) agree that any dispute arising out of or in connection with this Deed may be litigated in the State of New South Wales.

#### **7.9 Entire Agreement**


This Deed is the entire agreement between the parties as to its subject matter. It supersedes all prior agreements, representations, conduct and understandings.


#### **7.10 Counterparts**

This Deed may be executed in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same Deed.


**EXECUTED** as a Deed


**EXECUTED** by Seven Network )  
 (Operations) Limited (ABN 65 052 845 )  
 262) in accordance with section 127 of the )  
*Corporations Act 2001* by: )

  
 .....  
 Mr Bruce McWilliam, Director

  
 .....  
 Name  
 (BLOCK LETTERS)


**EXECUTED** by **SEVEN WEST MEDIA** )  
**LIMITED** (ABN 91 053 480 845) in )  
 accordance with section 127 of the )  
*Corporations Act 2001* by: )


  
 .....  
 Mr Bruce McWilliam, Director


  
 .....  
 Name  
 (BLOCK LETTERS)

**SIGNED SEALED AND DELIVERED** )  
 as a Deed by Amber Harrison in the )  
 presence of: )  
 )

  
 .....  
 Signature of Witness

  
 .....  
 Name of Witness  
 (BLOCK LETTERS)

  
 .....  
 Signature of Amber Harrison


  
 .....  
 Name  
 (BLOCK LETTERS)



## Schedule 1 – Undertakings

I, Amber Harrison of C104, 23 Colgate Avenue, Balmain, 2041, in the State of New South Wales, undertake, for the benefit of Seven Network (Operations) Limited and its Related Bodies Corporate (**Seven**), that I:

1. have deleted or left in the custody of my lawyers, Harmers Workplace Lawyers as a confidential component of my file, all Confidential Information (which includes any such information related to or giving rise to the Allegations, as defined in the Deed), and includes but is not limited to text messages, email communications, photographs, and all other forms of electronic and physical documents and communications (whether original or copied) including 'screen dumps' and whether sent to or by me, that remained in my possession or control as at the Termination Date (**Information**);
2. subject to 1 above have returned all Seven's records or documents in my custody, possession or control;
3. subject to 1 above and other than for the purpose of obtaining legal or professional advice and to make a complaint to the Company, have not, whether by myself or through partners, employees, agents or others acting on my behalf or on my instruction or with my encouragement or in any other way, used, reproduced or disclosed to any person, corporation or other entity:
  - a) the whole or any part of any Information (including attachments), including any hard or soft copy of those documents; and
  - b) the whole or any part of any document or information which I obtained as a consequence of my employment with Seven, including any hard or soft copy of those documents;
4. other than to the extent it is necessary to do so to obtain legal, financial or professional advice, will not, whether by myself or through partners, employees, agents or others acting on my behalf or on my instruction or with my encouragement or in any other way, use, reproduce or disclose to any person, corporation or other entity:
  - a) the whole or any part of any Information (including attachments), including any hard or soft copy of those documents; and
  - b) the whole or any part of any document or information which I obtained as a consequence of my employment with Seven, including any hard or soft copy of those documents;
5. will comply with:
  - a) the post-employment restrictions in the Contract other than clause 14.1 (b) of the Contract (as set out in the Deed); and
  - b) the confidentiality obligations in the Deed, including in clauses 2 and 5 respectively;
6. allow access by an independent information technology expert, on request by the Company, to any equipment or records on which the Information has been recorded or stored for the purpose of ensuring that I comply with my obligations in 1 above.



Amber Harrison

14.11.14

Date



Witness name

14.11.14

Date

MICHAEL HARMER

## Contents

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Witness signature