

**ACTRA and CFTP/PA/APFTQ  
IPA 2007/09  
MEMORANDUM OF SETTLEMENT  
(subject to editing)**

**PAY INCREASES**

First year as of February 19, 2007	3% increase in all rates and fees 1% increase in Producer contribution to Retirement, per Article A3802
Second year as of January 1, 2008	3% increase in all rates and fees
Third year as of January 1, 2009	3% increase in all rates and fees

**TERM OF AGREEMENT**

The IPA expires December 31, 2009. The IPA 2004/2006 remains in force until the 2007/2009 IPA is ratified, at which time it becomes effective, except that new rates are effective as of the date hereof.

**NEW MEDIA SECTION**

Producers may proceed under either Option A or Option B of this New Media section. In order to access Option B, the Production must be guaranteed by an Approved Distribution Guarantor as per Article A518 (b).

For the purposes of this Section, New Media is defined as all media currently known in the marketplace, other than those listed in Article A444.

**Advance Negotiation of New Media:** At the request of either Party, this section of the IPA may be negotiated in advance of the expiry of the IPA, but no earlier than January 1, 2009. Notwithstanding the foregoing, no strike or lockout shall occur prior to the expiry of the IPA. For greater clarity, advance negotiation of new media issues cannot trigger Appendix 2, nor can it prevent the usual application of Appendix 2.

**Consultation Committee:** Terms of reference agreed (see page 4) .

**Shared Cost for Expert(s):** The Associations and ACTRA will share the cost of the expert(s) equally, meaning 50/50 between ACTRA and the Associations.

**Sunset Clause:** The New Media section shall sunset upon the expiry of the 2007/2009 IPA. Notwithstanding the foregoing, any Productions commenced or any Performer contracts entered into during the term of this agreement shall remain in force or have the ability to rely on the terms of this agreement notwithstanding the agreement to a Sunset Clause.

**New Media Option A:**

**Use of Conventional Productions in New Media:** For Productions that have elected either the Prepayment Option (B501 a) or the Advance Option (B501 b) and that wish to make Use of the Production in any New Media, the Producer shall pay the amount of 3.6% of DGR as a separate revenue stream from first dollar.

**Retrospective Application:** To the extent additional consent is necessary, if requested by the Producer, ACTRA and ACTRA PRS agree to use diligence in order to secure the consent of Performers appearing in Productions made under previous collective agreements to apply the terms of the New Media provision (per the 2007/09 IPA) to the Use of those existing Productions in all New Media. ACTRA agrees the IPA shall not bar such retrospective application. By paying 3.6% of DGR the Producer may use Productions produced under a predecessor IPA on any New Media platform.

**Content Made for New Media Platforms:**

1. **Dramatic Production:** With respect to dramatic Production(s), for initial exhibition in the New Media, the Producer may select one of the following options:

Producer Option #1:

- The minimum daily fee permits up to 5 Productions to be produced in one session i.e. one work day.
- Such Productions must be held together by the same title, trade name or mark, identifying devices or common characters.
- For each additional Production(s) produced beyond the 5, the Producer shall either
  - i) pay an additional 25% per Production;
  - or
  - ii) pay an additional minimum daily fee which shall allow the Producer to produce up to 5 additional Productions in that same session.

- OR -

Producer Option #2:

- Where the Producer wishes to produce a single Production 5 minutes or less in duration at a session, the Performer shall be paid at least 50% of the daily minimum fee for a four (4) hour work call. The hourly rate shall be paid for each additional hour up to and including the 8<sup>th</sup> hour. Thereafter the overtime provisions of the IPA shall apply.

2. For all Productions other than dramatic Productions, the minimum daily fee is to be negotiated on a case-by-case basis between the Associations, the Producer and ACTRA.

**3. Use of “Made for” Content:**

- a) Upon payment of the minimum fees, the Producer is entitled to 6 months Use worldwide in any New Media.
- b) Following the Declared Use period, the Producer shall pay 3.6% of DGR for Use in New Media.
- c) Conversion of Made for Content to a conventional Use: A Producer wishing to Use content originally made for New Media may elect the Advance or Prepayment Option prior to making conventional Use of the Production(s). Notwithstanding the foregoing, 3.6% of DGR continues to be paid for any ongoing New Media Use. Where the Prepayment Option is elected, the four-year Use period starts as of the date of Use on the conventional platform. Conventional Use shall mean those Uses outlined in Article A444.

4. **Excerpts:** Content from one Production may be used in another Production as per Article A3301.

5. Producer may edit material at a session to create a new Production upon payment of an additional 25% per Production. It is confirmed that, for the purposes of this Section and consistent with past practice under the IPA, “versioning” i.e. the editing of a Production for length does not constitute a new Production.

### **New Media Option B:**

**Conventional Content Re-Purposed in the New Media:** Producers may exhibit any Production in the New Media provided they agree to retroactively compensate ACTRA/PRS on behalf of Performers who appear in these Productions for Use Fees ultimately negotiated between ACTRA and CFTPA/APFTQ following any advance negotiation of the New Media Section of the IPA.

**Content Made Initially for New Media Use:** The Producer, the Association(s) and ACTRA may negotiate the terms of engagement and Use in respect of Productions made initially for Use in the New Media provided that the Producer agrees to retroactively compensate the Performer(s) in respect of any Use Fees including conversion of Use to traditional (A444) media in accordance with any advance negotiation of the New Media Section of the IPA referenced above, in so far as those newly negotiated provisions are superior.

**Retrospective Application:** To the extent additional consent is necessary, if requested by the Producer, ACTRA and ACTRA PRS agree to use diligence in order to secure the consent of Performers appearing in Productions made under previous collective agreements to apply the terms of the New Media provision (per the 2007/09 IPA) to the Use of those existing Productions in all New Media. ACTRA agrees the IPA shall not bar such retrospective application.

Producers may exhibit any Production in the New Media provided they agree to retroactively compensate ACTRA/PRS on behalf of Performers who appear in these Productions for Use Fees ultimately negotiated between ACTRA and CFTPA/APFTQ following any advance negotiation of the New Media Section of the IPA.

**Record Keeping and Disputed Use:** The Producer shall ensure that records are maintained so as to ensure that such retroactive compensation, if any, is payable.

In the event that ACTRA wishes to dispute a Use that is made under this New Media Option, it shall notify the Producer. During the currency of this Section, there shall be no grievances filed in respect of any disputed Use. Any disputes that remain unresolved following any advance negotiation period may be referred to arbitration in accordance with Article B7; ACTRA, the Associations and the Producer shall not raise time limits under the IPA as a bar to any such referral. Notwithstanding the foregoing, in order to be considered valid, notice of dispute shall be served on the Association(s) and the Producer not more than sixty (60) days from the date on which ACTRA knew of the facts giving rise to the dispute.

**Interest on Retroactive Payment, if any:** It is understood that any monies deemed to be owing following the negotiation with regard to retroactive payments shall be paid at the agreed rate plus interest fixed at a rate of prime plus 1% as calculated on the monthly posted Bank of Canada rate. For greater clarity, retroactivity, if any, shall be owing for Use made following ratification of the 2007/2009 IPA and shall be calculated from first Use in the New Media, which occurs post-ratification.

## **New Media Committee**

1. The Parties agree to establish a joint committee and engage a jointly agreed shared-cost expert(s) to assist the Parties to research and monitor new media issues such as emerging technologies, platforms, geo-fencing, tracking new media revenue, licensing and distribution arrangements, and privacy concerns. If requested by both Parties, on a without prejudice basis, the committee may also make recommendations regarding ways in which disputes regarding New Media may be resolved.
2. The Committee shall meet quarterly or more frequently, if needed. It is preferable for the Committee to meet in person, however, if necessary the Committee may be convened by conference call.
3. The Committee will present a report at a time to be determined by the Committee.

For the 2007/2009 IPA only, Article A524 regarding Internet Production and related sections are superseded by the New Media sections, and the IPA will be revised accordingly.

## **PROMOTION**

**Amendments to Article A3203:** With respect to promotional material produced on a day on which the Performer is not otherwise engaged, the Performer shall be paid as per Article A3203, with the deletion of the thirteen (13) week limitation. The fee for a Performer pursuant to Article A3203 shall be increased from the current \$283.75 to \$424.31 for four (4) hours included work time.

### **Conversion of Promotional Content Produced under Article A3202 to a Use:**

- a) Conversion of Promotional Content to a New Media Use: 3.6% of DGR from the first dollar.
- b) Conversion of Promotional Content to a conventional platform Use: Prior to Use, the Producer shall elect either the Prepayment or the Advance.
- c) Conversion of Promotional Content to both a New Media and a conventional platform Use: The New Media Use shall be provided for as in part a) above and the conventional Use shall be provided for as set out in part b) above.

**Promotion in General:** As concerns new media, the Parties confirm that promotion does not attract Use Fees. Any disputes related to this matter will be referred to the Committee.

## **OTHER AGREED AMENDMENTS (by Article):**

### **A2 - EXCLUSIONS**

**A203 (e) (New) Persons appearing as themselves, including ACTRA members, except when they are performing a role.**

**A205 (New) Tribute Documentaries: A Performer is entitled to waive any applicable interview fee required under the agreement at his or her discretion. A copy of the waiver is to be provided to ACTRA.**

### **A3 – PERFORMER DEFINITIONS**

**A317 Principal Actor** means a Performer engaged to speak, **sign** or mime six (6) ~~or more~~ Lines of Dialogue, or an Actor engaged to perform a major Role without dialogue (e.g., screenplay for Johnny

Belinda Gigot in “The Wool Cap”).

## **A5 – OBLIGATIONS OF PRODUCERS**

### **A502 Equal Opportunity Policy**

(a) The Producer will not discriminate against any Performer because of age, race, sex, creed, colour, sexual orientation, disability, or national origin. In accordance with this policy the Producer will make every effort to cast Performers belonging to all groups in all types of Roles, so that the composition of Canadian society may be portrayed realistically. The Performer agrees that the Performer will not discriminate against any Producer or fellow Performer or refuse to work for any Producer or with any Performer because of age, race, sex, creed, colour, sexual orientation, disability, or national origin. **In light of the foregoing, the Producer is committed to inclusive casting policies that are based on ability and the requirements of a particular Role.**

A502 (d) **Affirmative Action for Disabled Performers with Disabilities** - In respect of any available Roles that requires a Performer to portray a ~~disabled or physically challenged~~ person **with a disability**, the Producer will liaise with ACTRA prior to casting these Roles with a Performer who **does not have a disability** ~~is not disabled or physically challenged~~. The Producer will take appropriate steps to ensure that ~~disabled or physically challenged~~ Performers **with disabilities** have a reasonable opportunity to audition for such Roles. The Producer will provide ACTRA with the information set out in Article A506(r).

**(i) Casting or production facilities which are barrier-free for Performers with disabilities shall be used when such facilities exist and are available.**

**(ii) In respect of any Role that requires a Performer to portray a character with a disability, the Producer agrees to include these facts in the casting breakdown, if known, so as to enhance the opportunity for Performers with similar disabilities to audition for the role.**

### **A503 Freedom From Personal Harassment**

(e) When an aggrieved Performer (“Complainant”) believes that this Article has been breached in any way, the Complainant shall immediately **inform the Producer or its representative and** may at his or her discretion make his or her disapproval known to the individual whose conduct is in question (“Respondent”), **but in any case shall and also** report the incident to a representative of ACTRA. The ACTRA representative shall **immediately** make the complaint known to a representative of the Producer, who shall meet with the Respondent and ask for an explanation.

**(i) ACTRA, the CFTPA, the APFTQ, and the Producer agree to work cooperatively with each other so that the principles of this section are honoured.**

### **A506 Production Information**

(r) any roles that require Performers to portray ~~disabled or physically challenged~~ characters **with disabilities**, the name of each Performer cast for such Role, and whether the Performer cast **has a disability** ~~is disabled or physically challenged~~.

### **(New) LETTER OF UNDERSTANDING – WORKING CONDITIONS:**

**The Parties agree to meet quarterly in order to review issues including but not limited to fundamental working conditions such as those items listed below:**

- (a) Failure to provide access to a supply of pure drinking water, per Article A2001(a)(i)**
- (b) Failure to provide a suitable seat for each Performer during rest periods when Performers are not permitted to return to their holding area, per Article A2001(a)(ii)**

- (c) Failure to provide breaks to background performers during inclement weather, per Article C410
- (d) Failure to provide separate dressing rooms for male and female performers and for male and female minors per Article A2001(a)(iv) and (v)
- (e) Failure to provide a secure area with facilities for the proper safekeeping of Performer's clothing and valuables during working hours, per Article A2001(a)(vi).
- (f) Failure to provide suitable footwear to performers required to traverse wet or muddy areas per Article A2001.
- (g) Failure to provide either transportation or an escort to the nearest public transportation when a Performer completes a call between the hours of 22h00 and 6h00 per Article A2005.
- (h) Failure to provide appropriate rest breaks for minors per Article A2707.
- (i) Failure to ensure that Minors leave the set within 30 minutes of the end of the working day when the Producer is required to provide transportation, per Article A2705(e)
- (j) Failure to ensure that Work Reports are filled out for wardrobe calls or ADR sessions, per Article A514
- (k) Failure to report an injury to a Performer to ACTRA at the earliest opportunity, per Article A521
- (l) Failure to ensure contracts are provided to performers before work commences, per Articles A802 and A803
- (m) Failure to have the Producer sign all contracts before they are provided to the performer, per Article A802
- (n) Failure to provide basic sanitary conditions – i.e. using same hair or make up brush for multiple performers without sanitizing these brushes between uses, per Articles A2001 and A2609 (specific reference to applicable provincial guidelines)
- (o) Failure to provide clean and accessible toilets and washrooms, per Article A2001(a)(vii)
- (p) Failure to provide laundering of Performer's wardrobe, per Article A1604
- ~~(q) Failure to complete Remittance Statements correctly, per Article A2407~~
- (r) Alteration of contract or voucher after the Performer has signed, per Articles A802 and C402
- (s) Failure to provide Performers with clean and comfortable facilities with reasonable temperature, per Article A2001(b)
- (t) Failure to apply safety guidelines per Article A2609
- (u) Failure to comply with the provisions of Article A28, Auditions and Interviews. The parties agree to respond to one another regarding such issues as these set out above within 24 hours. The committee may also consider any other matters of importance between the parties in furtherance of harmonious labour relations.

**NB: The parties agreed that one of the quarterly meetings be dedicated to casting issues.**

**(New) Article: The Parties agree that where available, Workers' Compensation Insurance coverage, or equivalent, shall be provided to all eligible Performers. Where such protection is not available the Producer shall provide workplace accident / injury insurance coverage.**

## **A6 – OBLIGATIONS OF ACTRA AND PERFORMERS**

**A603 Failure to Fulfill Engagement** When a Performer does not fulfill a contracted engagement, which causes a cancellation, postponement, or delay of production, subject to the Grievance procedure the Performer may be required to forfeit the Performer's fee, except where the Performer's failure to fulfill such an engagement is caused by illness (subject to Article A1909) or other reason beyond the control of the Performer. **Valid and verifiable** Certification of illness must

be supplied if requested by the Producer. The Producer shall not withhold any of the Performer's fee pursuant to this Article, but may pay the disputed amount to ACTRA in trust, pending determination by the Joint Standing Committee of whether there has been a breach of contract by the Performer. The Joint Standing Committee will meet within seven (7) days of a dispute arising under this Article

A607 A Performer shall identify to the ACTRA Steward any perceived breach of this Agreement in order that the ACTRA Steward may give the Producer the opportunity to respond to such perceived breach at the earliest opportunity in the spirit of this Agreement. **There shall be no retaliation by the Producer or the Producer's representatives against any Performer for exercising their rights under the Agreement or for identifying to the ACTRA Steward any perceived breach of the Agreement.**

A608 **Injury Reports** The Performer must advise the Producer at the earliest opportunity of any injury and or any inability to fulfill contracted obligations. **The Producer shall notify ACTRA as soon as possible of any accident, incident or injury to a Performer in the workplace and shall send to ACTRA within one (1) business day, a report setting forth the circumstances of the nature of the injury. A copy of the WSIB accident report and the daily production report shall also be sent to ACTRA.**

#### **A7 – QUALIFICATION OF PERFORMERS**

A701 **Preferential Engagement of ACTRA Members** In accordance with Article A501, preference of engagement shall be given to ACTRA members. However, after making reasonable efforts to comply and having established that a person who is not a member of ACTRA is required in a Production, an application shall be made for a work permit at the local ACTRA office at least forty-eight (48) hours prior to commencement of work, and the following procedure will apply for the issuance of work permits:

(a) Principal Performers who are Canadian citizens or landed immigrants shall pay \$130.00 for the first week of production on any Production for which the Performer is engaged. For the second and each subsequent week for which Performer is engaged, a work permit fee of \$65.00 shall be paid by the Performer. The Producer shall not be required to pay work permit fees hereunder. **During the life of this agreement ACTRA may amend the work permit fee with 90 days notification**

(b) Other Performers (except Performers in Background Performer categories) who are Canadian citizens or landed immigrants shall pay \$105.00 for the first week of production on any Production for which the Performer is engaged. For the second and each subsequent week, a work permit fee of \$45.00 shall be paid by the Performer. The Producer shall not be required to pay work permit fees hereunder. During the life of this agreement ACTRA may amend the work permit fee with 90 days notification.

A706 **Co-productions** Where a Production is a co-production governed by an official co-production treaty between Canada and another country (or countries), the application of Articles A704 or A705 may shall be subject to the terms of the relevant international co-production treaty. **For greater clarity, work permits shall only be payable with respect to Performers from third party countries as defined under the relevant, official international co-production treaty and engaged by the foreign co-Producer.**

#### **A19 – CANCELLATIONS AND POSTPONEMENTS**

A1909 **Illness** Should illness or other physical or similar cause prevent the Performer from carrying on the Performer's individual contract, the Performer shall provide a **valid and verifiable** medical certificate. If the Performer is absent by reason of illness for more than one day, the Producer may (a) terminate the engagement forthwith upon payment to the Performer of monies accrued to the date of the Performer's absence, or

(b) suspend the engagement for the period of absence and, subject to the Performer's other engagements entered into before the beginning of such period, extend the period of first Call by the period of absence.

## **A20 – WORKING ENVIRONMENT**

**A2005 - The parties agree that safety of Performers is a fundamental issue. When a Performer completes an audition or a call between the hours of 22h00 and 6h00, the Producer shall, except when the Performer declines, provide either transportation home or to his/her place of accommodation within the zone or an escort until the Performer has boarded the nearest public transit that will transport the Performer to their home or to his/her place of accommodation within the zone.**

(New) **A2006 – If known at time of contracting, the Performer is to be informed if there are to be airborne special effects (such as fog or smoke), cigarette smoking, or animals on set.**

(New) **A2007 – If known at the time of the audition, Performer is to be informed when smoking is a requirement of the engagement**

## **A26 – STUNT PERFORMANCE AND COORDINATION**

**A2605 Stunt Doubling for Females, and Visible Minorities and Performers with Disabilities**  
Where a Stunt Performer doubles for a Role that is identifiable as female or a visible minority **and/or a Performer with a disability**, and the race and/or sex of the double is/are also identifiable, every effort shall be made to cast qualified persons of the same sex and/or race involved. Where the Stunt Performer is not so identifiable, the Producer shall use best efforts to increase the employment of women and visible minorities **and/or Performers with disabilities with due regard for safety** for such stunts.

### **A2608 Safety and Protection of Performers**

(i) No Stunt Performer shall be rigged with an explosive device of any kind without the presence of a ~~qualified~~ special effects person **qualified in the film and television industry** and a member of the police Emergency Task Force squad or equivalent **(e.g. a member of the Sûreté du Québec) with appropriate special explosives training** on the set. All Performers rigged with an explosive device, ~~(e.g., squibs)~~, shall be considered to be undertaking a Risk Performance.

**A2609 Safety Guidelines** The Producer shall obtain and adhere to all applicable safety guidelines issued by the applicable provincial government ministries. The Producer further agrees to co-operate in disseminating such guidelines and adhering to future addenda and/or changes implemented by such ministries. **When weapons are to be fired, the Producer, through the Stunt Coordinator, shall use best practices to ensure that all Performers directly involved, including those Performers at whom the weapon is aimed or fired are properly trained.**

## **A27 – MINORS**

### **A2705 Workday and Rest Periods (Minors)**

(f) ~~For Minors aged 16 to 18, the overtime provisions of Article A12 shall be applicable.~~ **The work day for minors aged 16 to 18 shall not exceed twelve (12) consecutive hours per day, excluding meal periods but including tutoring time. Rest periods shall be twelve (12) hours between the end of one day and the beginning of the next workday**

### **A2710 Tutoring**

(d) During the course of a Minor's workday the Minor is entitled to tutoring (i.e., educational instruction from a tutor) for a minimum of two (2) hours per Production workday, in blocks of no less



than thirty (30) minutes of tutoring sessions at a time, **commencing when instruction in the classroom actually begins**, provided that the maximum amount of instructional time per day is five (5) hours per day.

(k) (New) **Production timesheets indicating each minor's attendance in the classroom shall be forwarded to the ACTRA steward on a weekly basis**

## **A28 – AUDITIONS**

### **A2805 Preference of Audition**

(b) **It is agreed that it is preferable that Auditions for all roles shall be conducted in the location where the Production is to be filmed, i.e. the production centre serviced by the nearest appropriate branch**

A2807 The Producer shall ~~make reasonable efforts to have~~ **make character breakdowns**, sides and/or scripts available to Performers **no less than** twenty-four (24) hours prior to an Audition.

## **A33 – EXCERPTS**

### **A3301 Excerpts**

(g) (New) For excerpts used in Documentary Productions, the Performer shall be paid a fee of not less than \$100 per excerpt of 30 seconds or less up to the highest originally contracted daily fee or the current daily fee, whichever is greater.

## **A37 – ADMINISTRATION FEE**

### **A3703 Non-member Equalization Payments and Deductions**

(a) in order to equalize the payments and deductions in respect of ACTRA members and non-members, the Producer shall

(i) contribute an amount equal to ~~eleven~~ **twelve** percent (~~11%~~ **12%**) of the Gross Fees paid to each performer who is not a member of ACTRA, including those designated as Apprentice or temporary members, and work permittees (non-members), and

(ii) ~~stet~~

(b) The equalization payments and deductions pursuant to this Article may be used and applied by ACTRA ~~and the ACTRA Fraternal Benefit Society~~ for disposition in such manner and for such purposes as may be determined at ~~their~~ **its** absolute and unfettered discretion

(c) All contributions and deductions made pursuant to this Article shall be payable by cheque to

(i) the Union of British Columbia Performers, in respect of Productions in the province of British Columbia, or

(ii) ~~the ACTRA Fraternal Benefit Society~~, in the case of all other Productions.

~~(d) With respect to non-member equalization payments and deductions received by the ACTRA Fraternal Benefit Society and the UBCP, the Society and the UBCP shall each retain an amount equal to ten percent (10%) of the Gross Fees received, and the balance shall be remitted to ACTRA.~~

### **A3704 Deductions from ACTRA Members' Fees: ACTRA Dues and Assessments**

(a) The Producer shall deduct ~~two percent (2.0%)~~ of **dues at a rate determined by ACTRA** from the Gross Fees (inclusive of Use fees) paid to each Performer who is an ACTRA member and shall remit such amount to ACTRA. During the life of this Agreement, ACTRA may amend the percentage of this deduction **with 90 days notice to the Associations**.

## **A38 – INSURANCE AND RETIREMENT PLANS**

A3802 **Retirement Plan** For the retirement plan of each Performer who is a member of ACTRA, the Producer shall contribute an amount equal to ~~six~~ **seven** percent (~~6%~~ **7%**) of the Performer's Gross Fees (inclusive of Use fees), subject to Articles A3804 and A3805.

**A3804 Maximum Contributions** With respect to Performers whose Gross Fees (inclusive of any advance against Use fees) from a contract of engagement exceed one hundred thousand dollars (\$100,000.00), the maximum contributions pursuant to Article A38 shall be ~~\$4,000.00~~ **\$5,000** pursuant to Article A3801;

**A3806 Payment Procedure** All contributions and deductions made pursuant to this Article shall be payable by cheque to:

(a) the Union of British Columbia Performers, in respect of Productions in the province of British Columbia, or

(b) ~~the ACTRA Fraternal Benefit Society~~, in the case of all other Productions. All cheques shall be remitted to the local ACTRA office in the location where the Production is being produced and/or administered. All deductions and contributions shall be indicated on the Performer Independent Production Remittance Statement and shall be payable at the same time as, and for the same period covered by, the Production payroll.

**A3809 (New) ACTRA's Insurance and Retirement service provider of record is ACTRA Fraternal Benefit Society.**

## **B5 – USE FEES**

### **B502 Limitation of Selection of 25% Advance**

a) The only circumstance that will allow a Producer to select Option 4 above, and therefore make a twenty-five percent (25%) Advance payment under Article B501(b), is if there ~~is~~ **are** only ~~one~~ exclusively Canadian presale(s) ~~in one (1) media~~ as of the first day of principal photography of the Production, which presale(s) includes one of the declared Uses as defined in Article B301. Unless the Production presale(s) fulfills these conditions, the Producer shall not be entitled to exercise Option 4. In the event that prior to the completion of principal photography of a Production or a Series there is a non-Canadian sale, the Producer shall immediately and retroactively increase the Advance payment to at least fifty per cent (50%).

### **(New) APPENDIX: DECLARATION RESPECTING OPTION FOR 25% ADVANCE**

*Prior to electing the 25% Advance Option, the Producer shall execute a Declaration in the form as provided below, and deliver same to ACTRA and ACTRA PRS.*

#### **DECLARATION**

I, \_\_\_\_\_, ("the Producer") in respect of the  
production of \_\_\_\_\_ ("the Production").

solemnly declare to:

- (a) Notify ACTRA and ACTRA PRS of all Canadian presales prior to the first day of principal photography of the Production;
- (b) Notify ACTRA and ACTRA PRS of all non-Canadian sales prior to the completion of principal photography of a Production, Series or the commencement of principal photography of the next cycle of the Series;
- (c) Full copies of licence and distribution agreements will be provided, if such disclosure is ordered by an arbitrator upon such terms as the arbitrator deems

appropriate in his/her full discretion. Rulings for disclosure may be obtained on an expedited basis by telephone conference call.

I understand that ACTRA and ACTRA PRS are relying on this Declaration in order to permit the selection of Article B502(a).

**Producer**

Per \_\_\_\_\_  
(signature)

\_\_\_\_\_  
(print name and title)

**ACTRA Branch**

**ACTRA Performers' Rights Society**

Per \_\_\_\_\_  
(print name and title)

Per \_\_\_\_\_  
(print name and title)

Date \_\_\_\_\_  
(month/day/year)

**B6 – DOCUMENTARY**

B601 Documentary Programs (New): **All Performers participating on or off camera in a Documentary Program shall be entitled to Use Fees of 50% of the total Net Fees paid to the Performers for which the Producer is entitled to unlimited Use of the Production in all countries for five (5) years. At the expiry of each 5 year period, the Producer would have the choice of clearing another 5 year period or paying the 3.6% DGR. The election must be made prior to the end of the relevant 5 year period. Once the 3.6% DGR applies, Production cannot revert back to the 50% for 5 years. Note: for greater clarity, this Use Fee section does not apply to dramatic Productions such as *Exhibit 'A'* or *72 Hours*.**

**PART C: BACKGROUND PERFORMERS**

- 1) For feature films with Budgets over \$35 million, the number of Background Performers in Toronto and Montréal is twenty-five (25).
- 2) Revise Article C501 a) as follows and delete C501 b):
  - 20 ACTRA members in Toronto and Montréal
  - stet 10 for any Production outside of Toronto, Montréal or Vancouver
- 3) For purely Canadian dramatic content Production (i.e. 10/10), the number of Background Performers for any Production regardless of location is a maximum of 10 ACTRA members. The budget ceiling for accessing these terms is the same as those set out in CIPIP. For 10 point Productions in Toronto and Montreal which have budgets which are above theses CIPIP thresholds then a maximum of 15 ACTRA members will be required.
- 4) On CIPIP Productions that qualify as Super-Low-Budget, the requirement to hire ACTRA members as Background Performers is waived.
- 5) Upon the implementation of a renewed agreement, Additional Background Performers shall receive a one-time wage increase of four per cent (4%), representing an amount equivalent to standard vacation pay and shall thereafter receive the general wage increases as negotiated in respect of each of the three (3) years of the IPA term.

## **PART D: ANIMATION**

The CFTPA / APFTQ proposal regarding blended production is withdrawn with the Associations placing ACTRA on notice that Producers have the right to use the Animation section of the agreement for the animated portions of a Production that utilizes blended animation and live action techniques. ACTRA disagrees. The Associations hold on the clarification language proposed regarding repackaging which is consistent with the Memorandum of Understanding reached in the 2003 IPA renewal negotiations.

### **(New) FACT-BASED/LIFESTYLE PRODUCTION SECTION:**

1) **Definition:** Fact-Based / Lifestyle Production is a television Production with an average Budget below \$250,000 per half hour, on a non-fictional theme, excluding drama Productions, Documentaries and game shows. Fact-based / Lifestyle shows include Productions like home renovation, cooking, travel and reality programs. Examples of Productions that fall under this definition include: Lofters (reality program), Meet the Folks (reality contests), Canadian Idol (talent contests), Wedding Story (fact-based reality) and Trading Places (lifestyle reality).

#### **2) Inclusions:**

- a. The host(s) and narrator(s)
- b. Judges or other experts who play an integral role in a Production on three or more Episodes in a calendar year.
- c. Any other distinct, recurring individual who plays an integral role in a Production and appears in at least six (6) episodes. It is understood that once such a person is covered, the individual is not automatically covered on future episodes of a Series unless s/he continues to qualify.
- d. The Producer will supply ACTRA with a list of excluded individuals.

3) **Multiple Episodes:** A Performer (other than Off-Camera Narrators and Commentators) may be contracted at no less than the applicable minimum daily fee to perform in three (3) Episodes to be produced per day of production. For each additional Episode produced on a day of production, the Performer will receive fifty (50%) per cent of the applicable daily fee. For example, minimum performance fees for a Performer who appears in four (4) Episodes on a single day of production will be calculated at 150% of the applicable daily fee.

4) **Use Fees:** All Performers engaged under this section would be entitled to Use Fees of 50% of Net Fees for four (4) years. Prior to the expiry of the four (4) year period, the Producer would have the choice of paying an additional 50% of Net Fees and clearing a 4 year period or paying the 3.6% DGR. The election must be made prior to the end of the relevant Use period. Once the 3.6% DGR applies, the Producer cannot revert back to the 50% formula.

5) **Existing Agreements:** The Associations agree to advise its members that the contracts of Performers who are engaged in this genre under a predecessor to this agreement will be grandfathered.

6) **No Pyramiding:** The Associations agree that there will be no pyramiding of discounts in this section. More specifically, Productions taking advantage of the terms of this section cannot access any fee discount(s) from any other section of this Agreement, including CIPIP.

7) **Preamble to the Fact-based / Lifestyle section:** As this is an emerging genre of production, the parties agree to work together to encourage more production of this type under the IPA.

## **APPENDIX 2 - NEGOTIATION PROTOCOL**

ACTRA and the Producers' Associations (CFTPA and APFTQ) agree that adherence to this Protocol is fundamental to their relationship, especially during the process of bargaining the renewal of the IPA. As such, the terms and conditions of this protocol shall be in effect during the term of the IPA and shall govern the negotiations leading up to a "strike" or "lockout" position.

### **1.0 Agreement to Follow Terms of Protocol**

1.1 ACTRA recognizes each Producers' Association as the sole and exclusive bargaining agent for those of their respective Producer members who (i) are deemed to be Parties to this Agreement pursuant to Article A103(a), or (ii) execute a Voluntary Recognition Agreement appointing one of the CFTPA or the APFTQ as its exclusive bargaining agent, pursuant to Article A103(b), at any time during the term of the IPA.

1.2 The terms of this Negotiation Protocol shall govern the negotiations of the Parties to the IPA for the renewal of this Agreement.

1.3 ACTRA and the Producers' Associations agree that maintaining the integrity of the IPA as a national agreement is the shared goal of the parties.

1.4 Neither ACTRA nor the Producers' Associations will seek to challenge the validity of the IPA or its underlying legal foundation or any terms of this Protocol on any basis, including, without limitation, the following:

- (i) ACTRA's status to represent performers;
- (ii) CFPTA's status to represent Producers in Canada;
- (iii) APFTQ's status to represent Producers in Quebec.

1.5 In accordance with the unique nature of their industry and their historical relationship, ACTRA and the Producers' Associations agree that any dispute arising out of this Protocol shall be resolved only through the dispute resolution mechanisms contained in this Protocol. The parties consider this to be a fundamental agreement and expressly commit to not seek to resolve such disputes through any court, statutory tribunal or conciliation process except as expressly set out herein and except as may be statutorily mandated in the Province of Quebec.

1.6 To provide even greater clarity to Section 1.5 above and without limitation, neither ACTRA nor the Producers' Associations shall raise in any proceeding specifically between these parties, questions such as the following:

- (i) whether performers are or are not independent contractors, dependent contractors or employees;
- (ii) whether or not Producers are employers;
- (iii) whether or not the IPA is a collective agreement as defined by labour relations legislation.

### **2.0 Written Authorization to Bargain**

2.1 Each Producer giving its Association authorization to bargain on its behalf shall, as a condition of giving such authorization, be bound by the decisions made by the Associations on its behalf.

2.2 Once such authorization is given, such member shall be precluded from negotiating separately with ACTRA or from entering into any agreement with ACTRA different from the Agreement negotiated by the Associations and ratified by their members. Similarly, ACTRA shall be precluded from entering into any negotiations or reaching any agreements with respect to any matters that are the subject of negotiations between the Associations and ACTRA with any member of the Associations who has authorized the Associations to act on its behalf.

2.3 As per Article A601 of the IPA, except by prior agreement with the Associations, ACTRA agrees that for the term of the renewed IPA, and for the freeze period set out in Paragraph 5.1 herein, it shall not enter into any agreement with any Producer in independent production at rates or terms more favourable to the Producer than those set forth in the renewed IPA. In the event that ACTRA should enter into such agreement, then the Producer(s) signatory to this Negotiation Protocol shall have the option of replacing the rates or terms so agreed upon for the similar rates or terms contained in the IPA.

2.4 Upon notice being given by either Party pursuant to Article E102, the Associations shall deliver to ACTRA a list of all members on whose behalf they have been authorized to bargain, and ACTRA shall deliver to the Associations a list of Producers that have executed this Protocol. Such list shall be delivered by the Associations within thirty (30) days of such notice having been given.

### **3.0 Negotiating Team**

3.1 ACTRA agrees to recognize the negotiating team appointed by the Associations as the sole bargaining agent for all Producers who have authorized the Associations to act on their behalf in accordance with this Protocol.

### **4.0 Agreement to Bargain in Good Faith**

4.1 The parties agree to meet within forty-five (45) days of notice having been given and to commence to bargain in good faith and to make every reasonable effort to enter into a new Agreement.

### **5.0 Freeze**

5.1 While bargaining continues, and until the right to strike or to lock out has accrued pursuant to this Protocol, the terms and conditions of the current IPA shall continue in full force and effect, and neither party shall threaten to alter any of the terms thereof. In particular, without limiting the generality of the foregoing, the Producers shall not alter any rates or any other term of the current IPA, or any right or privilege of the Performers in the bargaining unit, or any right or privilege of ACTRA until the requirements of Paragraph 7.1 have been met, unless ACTRA consents to the alteration in writing.

### **6.0 Conciliation**

6.1 After notice to bargain has been given, either Party may request the assistance of a conciliation officer. Such a request shall be made by the Party's giving written notice to the other Party or Parties of its desire to obtain the assistance of a conciliation officer. Such notice shall contain the names of three (3) persons whom the Party giving notice is prepared to accept as a conciliation officer. The proposed officers shall be neutral persons who have no direct interest in the subject matter of the negotiations, and who have not acted as employee, agent, or advisor for either of the Parties or for an interested Party in any previous proceedings between the Parties or their members.

6.2 The Party receiving such notice shall within ten (10) days reply in writing accepting the appointment of one of the conciliation officers suggested by the other Party, or shall indicate that

none of the suggested conciliation officers is acceptable. The Party responding may suggest alternative conciliation officers as part of their written response and the party giving original notice of a request for conciliation shall either accept such alternative suggestion or, in the alternative, within ten (10) days of receipt of the notice, shall request the federal Minister of Labour to appoint a conciliation officer. No party shall raise any challenge to such a request of the Federal Minister of Labour. If, for any reason, the Federal Minister of Labour fails or refuses to make an appointment, any party may request an Arbitrator to make the appointment using the process described in Section 8 below.

6.3 Where a conciliation officer has been agreed to by the Parties or appointed by the federal Minister of Labour, such officer shall forthwith confer with the Parties and endeavour to assist them in entering into a new Agreement.

6.4 The Parties agree to co-operate with such conciliation officer and to make every reasonable effort to enter into a new Agreement. No party shall challenge the jurisdiction or authority of a conciliation officer who has been agreed or appointed under Section 6.2 above.

6.5 After the Parties have met with such officer and made every reasonable effort to enter into a new Agreement without success, either Party shall have the right to request a report from the conciliation officer. Such report shall be sent to all Parties and to the federal Minister of Labour and shall advise the Parties that a new Agreement has not been made.

6.6 The Parties agree that the fees and expenses of such conciliation officer, if not paid by the federal Department of Labour, shall be paid equally by ACTRA and the Associations.

## **7.0 No Strike or Lockout**

7.1 The Parties agree that neither ACTRA nor any agent of ACTRA shall declare or authorize a strike against any Producer on whose behalf the Associations have been authorized to negotiate, until the term of the Agreement has expired and until fifteen (15) days have elapsed from the date on which the conciliation officer sent the report to the Parties and the Minister, as set out in Paragraph 6.5.

7.2 The Parties agree that neither the Associations nor any agent of the Associations nor any Producer on whose behalf the Associations have been authorized to negotiate shall declare or cause a lockout, until the term of the Agreement has expired and until fifteen (15) days have elapsed from the date on which the conciliation officer sent the report to the Minister, as set out in Paragraph 6.5.

7.3 The Parties agree that there shall be no strike against any Producer nor any lockout by any Producer on whose behalf the Associations have been authorized to negotiate, unless there is a strike against all Producers or a lockout by all Producers on whose behalf the Associations have been authorized to negotiate. In other words, a strike or lockout called under this Protocol shall be a National strike or lockout affecting all jurisdictions.

7.4 The Parties to this Agreement, the individual members of ACTRA, and all of the Producers who have authorized the Associations to bargain on their behalf agree that ACTRA shall be authorized and permitted to call a strike in compliance with the terms of this Appendix, notwithstanding the fact that ACTRA may not have complied with the statutory provisions of any labour legislation in any of the provinces or territories of Canada, and further agree that ACTRA and its members shall be entitled to legally strike in any such province or territory so long as the provisions of this Appendix have been adhered to. Nothing prevents ACTRA from concurrently, or

subsequently, complying with provincial labour legislation to place itself in strike positions in all jurisdictions in accordance with provincial law should it so choose. The Producers will not impede that process.

7.5 The Parties to this Agreement, the individual members of ACTRA, and all of the Producers who have authorized the Associations to bargain on their behalf agree that the Associations shall be authorized and permitted to declare a lockout in compliance with the terms of this Appendix, notwithstanding the fact that the Producers may not have complied with the statutory provisions of any labour legislation in any of the provinces or territories of Canada, and further agree that the Associations and their members shall be entitled to legally declare such lockout in any such province or territory so long as the provisions of this Appendix have been adhered to. In other words, a lockout called under this Protocol shall be a National lockout affecting all jurisdictions.

7.6 The Parties to this Negotiation Protocol agree that "strike" and "lockout" shall have the same meaning as those terms have under the Canada Labour Code. For further clarity, the Parties agree that a refusal by Performers, in concert, in combination, or in accordance with a common understanding, to enter into contractual relations with a Producer shall constitute a strike within the meaning of this Negotiation Protocol

## **8.0 Enforcement**

8.1 The Parties agree that either party (meaning ACTRA on the one hand and the Producers' Associations on the other) shall have the right to enforce the provisions of this Appendix by reference to arbitration, as set out in and in accordance with Appendix 11. The process for arbitration is as follows:

- (a) The Parties agree that Marilyn Nairn, Mary Ellen Cummings and Louisa Davie are deemed acceptable to the parties with Kevin Whitaker, also being acceptable as an alternative.
- (b) The Party requesting the arbitration shall provide a copy of the list of three arbitrators to the responding party, with one of the names struck out.
- (c) The Responding Party shall have three (3) business days to strike a second name from the list after which time the remaining person shall be deemed to be appointed, subject only to his/her availability to meet the parties within fifteen (15) business days and his/her willingness to accept the appointment.
- (d) If the Responding Party fails to strike a name from the list in the time provided herein, the Party requiring assistance of the arbitrator shall have the right to appoint either remaining name.
- (e) The alternative arbitrator shall replace the three named arbitrators if any are either no longer practicing or willing to accept appointments under this Article 8.
- (f) If, for any reason, the Parties are unable to effect the appointment of an arbitrator as provided herein, then either Party may make written application to the federal Minister of Labour or designate, with copy to the other Party, to request an appointment within ten (10) business days of the date of such application. No party shall challenge the jurisdiction or authority of an arbitrator who has been agreed or appointed under this provision.

8.2 The Parties further agree that a breach of the terms and conditions of this Appendix shall be a breach of the duty to bargain in good faith and an arbitrator appointed as provided for herein shall be entitled to order what action any Party should take or refrain from taking in order to force compliance with this Appendix. The Parties further agree that such arbitrator shall have the power and jurisdiction under this Protocol and Appendix 11 to fashion a remedy appropriate in the



circumstances.

8.3 Following the exhaustion of the conciliation process and the freeze, either party may give written notice to the other party to terminate forthwith the IPA including all appendices and the IPA will thereby be terminated, except that alleged breaches of Articles 7.3 to 7.6 inclusive remain enforceable under Article 8.2 A legal proceeding under the IPA that is commenced prior to the expiry of the IPA will not be affected by the termination of the IPA.

## **APPENDIX 18 – CIPIP**

### **1. Purpose**

(a) The purpose of the CIPIP is to encourage low-budget Canadian film and television projects engaging professional Performers represented by ACTRA.

(b) To this end, Performers' minimum fees under the Independent Production Agreement ("the IPA") may be discounted in CIPIP-qualified projects in accordance with the Schedule of Discounts found below.

**(c) Productions fulfilling the conditions below are automatically eligible to benefit from the provisions of this Appendix.**

**(d) This Appendix is not intended for and not available to foreign service production directly or indirectly through a Canadian line production company or another Canadian agent.**

### **2. Filing Procedure**

(a) Producers wishing to access the CIPIP must first be signatory to the IPA.

(b) In all instances in which the CIPIP is silent, the terms and conditions of the IPA apply.

(c) At least four (4) weeks in advance of principal photography, the Producer will provide to ACTRA filing documents including a copy of the shooting script, detailed and certified Production and cast budgets, ~~outlines of distribution arrangements (both extant and under negotiation), and full disclosure of all sources of financing for the project,~~ together with confirmation of the Producer's intent to access the CIPIP agreement.

### **3. Eligible Qualified Projects**

Those projects that ~~may be eligible~~ qualify for CIPIP shall be of the following nature and type:

(a) **New Projects Only** No projects that are in production or that have previously been in production under the IPA may apply **access the terms contained herein.**

(b) **Canadian Content** Projects must be able to qualify as Canadian content under the requirements of the Canadian Audio-Visual Certification Office (CAVCO) **and/or the CRTC. ACTRA will consider in good faith a request from an official treaty co-production as administered by Telefilm Canada to access CIPIP provided that the total production budget meets the CIPIP budgetary thresholds, and that the Canadian partner holds majority ownership of the Production, with the majority of principal photography taking place in Canada;**

(c) **Certified Budgets** Budgets of qualifying projects must be certified by a bonding company or a public agency such as Telefilm Canada. Where it is not possible to provide a certified budget, the Producer agrees to sign a statutory declaration that the budget submitted is the true and final budget.

(d) **Open Market** Any project seeking qualification under CIPIP cannot have its world distribution rights pre-sold to finance production, i.e., there must be meaningful open markets for distribution of a CIPIP-qualified project. Producers at the time of production shall make full disclosure to the ACTRAPRS in respect of any and all proposed licensing agreements or the like (including territory, term, and the amount of license fees, etc.). Allocation of revenue issues, if any,

shall be determined pursuant to the provisions of Article B509.

(e) **Qualified Producer** To access the CIPIP, the Producer(s) of a project must be CFTPA-qualified or APFTQ-qualified.

**4. Excluded Projects**

The CIPIP does not apply to the following types of projects:

- (a) industrial/corporate videos
- ~~(b) all Productions of any type that are fifteen (15) minutes or less in length~~
- (eb) animated Productions or Series
- (ec) Dubbing
- (ed) Pilot Productions for which the Producer is utilizing Article B206 of the IPA **unless the projected Budget for the Series would qualify the Production for the benefits of this Appendix.**

**5. Series**

Producers seeking ~~qualify~~ **to avail themselves of this Appendix** for television Series must **resubmit** ~~reapply for CIPIP approval~~ for each production cycle or season of such Series. Producers wishing to engage Performers on Series option contracts must conform to the requirements of Article A805 of the IPA for Performers.

**6. Schedule of Discounts of Minimum Fees**

Period*	Budget	All-Canadian Cast Percentage Discount	Other Percentage Discount
<b>Features, Movies of the Week (MOWs), and Each 2 Hours of Mini-Series</b>			
Period 1	Under \$1,500,000.00	35%	25%
Period 2	Under \$1,545,000.00		
Period 3	Under \$1,591,350.00		
Period 1	\$1,500,001.00 to \$2,000,000.00	25%	15%
Period 2	\$1,545,001.00 to \$2,060,000.00		
Period 3	\$1,591,351.00 to \$2,121,800.00		
<b>Super-Low-Budget Features and MOWs [see Note 1]</b>			
Period 1	Under \$250,000.00	45%	35%
Period 2	Under \$257,500.00		
Period 3	Under \$265,225.00		

TV Series on Film/HD (per ½ hour) [see Note 2]			
Period 1	\$150,000.00		
Period 2	\$154,500.00	30%	20%
Period 3	\$159,135.00		
Period 1	\$150,001.00 to \$325,000.00		
Period 2	\$159,136.00 to \$334,750.00	20%	10%
Period 3	\$163,909.00 to \$344,792.00		

TV Series on Film/HD (per 1/2 hour) [see Note 2]			
Period 1	\$325,001.00 to \$450,000.00		
Period 2	\$334,751.00 to \$463,500.00	15%	5%
Period 3	\$344,793.00 to \$477,405.00		

TV Series on Tape (per 1/2 hour) [see Note 2]			
Period 1	Up to \$30,000.00		
Period 2	Up to \$30,900.00	40%	30%
Period 3	Up to \$31,827.00		
Period 1	\$30,001.00 to \$70,000.00		
Period 2	\$30,901.00 to \$72,100.00	30%	20%
Period 3	\$31,828.00 to \$74,263.00		
Period 1	\$70,001.00 to \$135,000.00		
Period 2	\$72,101.00 to \$139,050.00	20%	10%
Period 3	\$74,264.00 to \$143,222.00		

Period 1	\$135,001.00 to \$210,000.00		
Period 2	\$139,051.00 to \$216,300.00	15%	5%
Period 3	\$143,223.00 to \$222,789.00		
TV Drama Specials and One-off Productions (per 1/2 hour and less than 2 hours)			
Period 1	Up to \$340,000.00		
Period 2	Up to \$350,200.00	35%	25%
Period 3	Up to \$360,706.00		
Period 1	\$340,001.00 to \$410,000.00		
Period 2	\$350,201.00 to \$422,300.00	25%	15%
Period 3	\$360,707.00 to \$434,969.00		
Period 1	\$410,001.00 to \$475,000.00		
Period 2	\$422,301.00 to \$489,250.00	15%	5%
Period 3	\$434,970.00 to \$503,928.00		

**Note 1: Limitation on Super-Low-Budget Features and MOWs**

- (a) This limitation will apply to Producers that have not previously produced a feature film or MOW.
- (b) A Producer may produce only one project under this category.
- (c) A minimum of ten percent (10%) of the total Production budget must be apportioned to the cast.
- (d) The following statement must appear directly under the ACTRA logo in the credit roll in all prints of the Production: "This Production was made with the generous support of the ACTRA membership."

**Note 2: Series**

CIPIP discounts will not apply to **dramatic** Series beyond the production of the initial sixty-five (65) Episodes, ~~except in the case of game, talk, panel, exercise, cooking, and similar skill- or craft-oriented programs.~~

**Nota Bene**

- (a) Minimum fees payable to Performers in Background Performer categories may not be discounted. However, the minimum daily requirement for Background Performers may be ten (10) qualified extras. **For Productions that qualify as Super-Low-Budget, the requirement to**

**engage ACTRA members as Background Performers is waived.**

(b) Discounts noted above are to be calculated solely on the minimum daily, hourly, overtime, and weekly fees under the IPA. No other rates or fees (including residual, prepayment, or Use payments, if exercised) in the IPA may be discounted.

(c) The Schedule of Discounts under the "other" category (above) represents the discounts to minimum fees applicable in the event that a Producer wishes to engage a non-Canadian Performer in a CIPIP project. ~~Such non-Canadian Performer may not be paid fees (including deferrals) higher than those of the second-highest paid Performer on the project.~~ **ACTRA will consider in good faith a request that a non-Canadian Performer be the highest paid when such Performer is essential to financing.**

**7. Credits**

(a) Lead Actors will receive up-front credits if the Producer receives such credits, or

(b) each Lead Actor will receive single-card billing in tail credits, or

(c) Lead Actors will receive credit at the end of the Production that is no less prominent than for any other key personnel.

(d) Lead Actors will receive equivalent credit in all print campaigns when any other key personnel receive credit.

(e) The Producer shall include the ACTRA logo on the credit or cast roll.

**8. Prior Notice and Right to Negotiate**

(a) Producers must give notice to Performers at the time of casting (through casting notices) that the Producer is seeking qualification of the project as a CIPIP project. Such notices shall not contain any statement that attempts to restrict the right of any Performer to negotiate terms (including rates and fees) and conditions in excess of the minimum fees, rates, and conditions.

**9. Use Payments**

At the time of production, the Producer shall choose one of the following options that requires payment of a corresponding percentage of Performers' Net Fees as a non refundable Advance against the Performers' participation in Distributor's Gross Revenue:

Option Number	Non-refundable Advance (% of Net Fees)	Participation in Distributor's Gross Revenue
1	100.0%	<del>6.0</del> <b>5.0%</b>
2	75.0%	<del>7.0</del> <b>6.0%</b>
3	50.0%	<del>8.0</del> <b>7.0%</b>
4	25.0%	<del>9.0</del> <b>8.0%</b>
5	0.0%	<del>11.0</del> <b>9.0%</b>
6	0.0%	<del>13.0</del> <b>10.0%</b>

(super-low-budget features and MOWs)

**10. Joint Administration**

The CFTPA and the APFTQ agree to administer the CIPIP in all facets jointly with ACTRA on a principle of equality between ACTRA and the Producer Associations. ACTRA and the Producer Associations will monitor the progress of any CIPIP project and will intervene should there be any default in a CIPIP-produced project. The CFTPA and the APFTQ undertake to work jointly with ACTRA to resolve any problems that may occur on a project and recover any monies that may be owing to Performers.

## 11. Term

~~To monitor~~ **The application and effectiveness of the CIPIP shall be monitored by the quarterly committee, composed of** representatives of ACTRA, the CFTPA, and the APFTQ ~~shall meet periodically, but no less frequently than every six (6) months, during the term of the CIPIP.~~

### **Appendix 21: Provisions Applying to Quebec Only**

Because of the *Act Respecting the Professional Status and Conditions of Engagement of Performing, Recording and Film Artists* (R.S.Q., c. S-32.1) (hereafter "the Act") and the need for some accommodations to the terms and conditions of the IPA, the present Appendix is applicable to Producers who are members of the APFTQ and, as the case may be, to any Producer who would be included in any recognition granted to the APFTQ by the Commission de reconnaissance des associations d'artistes et des associations de producteurs (hereafter "the Commission").

1. As per one of the recognitions by the Commission that came into force on October 15, 1994, ACTRA's exclusive jurisdiction in the province of Quebec pertains to all Performers in the field of film in the English language.
2. For Programs produced simultaneously in the English language and another language (a "double shoot"), the Parties agree to enter promptly into negotiations in good faith with the Union des Artistes ("UDO") to reach an agreement on the terms and conditions that would apply to such Productions.

**(New) The parties also agree that bilingual Productions (French and English e.g. *Bon cop Bad cop*) be treated in the same manner as described in the above paragraph.**

**(New) Contingent on the Uda's approval, the Parties agree to refer the matter to the non-binding mediation process established for double-shoot and bilingual Productions should the talks require assistance to arrive at an agreement.**

~~In the event that no agreement has been reached by October 31, 1999, the Parties shall refer this issue to a private Arbitrator, provided that the UDA's consent has been obtained to this arbitration process.~~

~~———— The Quebec Civil Code procedure applies to this arbitration, but the arbitration tribunal shall be comprised of one Arbitrator only, chosen as follows: ACTRA, the UDA, and the APFTQ will each suggest in writing before November 15, 1999, the names of two Arbitrators. If one name appears on all three lists, this person shall be retained to act as Arbitrator, and if two names are common to the three lists, one name shall be "pulled out of a hat." Failing this, each Party shall suggest one name in writing and one name shall be pulled out of a hat.~~

~~The names of the Arbitrators suggested by the Parties must appear in the list drawn up annually by the Commission de reconnaissance des associations d'artistes et des associations de producteurs as per section 56-6° of the Act.~~

3. It is understood that in the province of Quebec, the IPA, once ratified by the APFTQ, shall bind its members and, as a consequence, such members shall not be required to sign the Voluntary Recognition and Negotiation Protocol.

4. It is understood that for the moment the APFTQ binds only its members to the provisions of the IPA.

When and if the APFTQ is recognized under the Act Respecting the Professional Status and Conditions of Engagement of Performing, Recording and Film Artists (R.S.Q., c. S-32.1), the IPA will also bind all Producers in Quebec in the field of activity established by the Quebec Commission de reconnaissance des associations d'artistes et des associations de producteurs.

Regardless of the field of activity appearing in its recognition, the APFTQ always binds its members to the entire provisions of the IPA.

However, if another group agreement is concluded between ACTRA and another group of Producers for a type of Production covered by the IPA (e.g., industrial programs, video clips, multimedia, etc.), the IPA will cease to be applicable to members of the APFTQ for that type of Production on the day the other group agreement comes into force.

~~ACTRA acknowledges and agrees that, for the moment, pursuant to the applicable law in Quebec, the APFTQ does not represent Producers whose field of activity is solely new media production. Pursuant to the Memorandum of Settlement dated October 26, 2001, the Parties have agreed that ACTRA has jurisdiction over Internet Productions and have established a procedure for negotiating in good faith over the rates, terms, and conditions of engagement of Performers, including Use fees, applicable to Internet Productions.~~

**(New) ACTRA acknowledges and agrees that, for the moment, the APFTQ does not represent Producers whose field of activity is solely new media production (e.g.) interactive video games produced primarily as compact devices.**

*Note: January 19, 2007: agreed based on the understanding that video games produced as compact devices (or footage produced specifically of video games as compact devices) are not covered by the IPA. This understanding shall not be construed in any way as an admission or acknowledgement by ACTRA that ACTRA does not have jurisdiction over video games.*

5. The inclusion of a particular category of Performer in the IPA shall not be deemed an admission on the part of the APFTQ that such Performers are artists within the meaning of the Act.

6. Section A902 must be read as follows in the province of Quebec:

"A902 Producer's Refusal to Abide by or Follow Grievance or Arbitration Procedure or Decision"

Where a Producer does not abide by, or declares his intent not to abide by, the Grievance or arbitration procedure, or refuses to comply with a decision rendered pursuant to Article A10 by a Joint Standing Committee or an Arbitrator, ACTRA may declare such Producer an unfair Producer upon ten (10) days' notice to the Producer concerned and to the Producer's Association."

7. Nothing in the present Appendix shall be interpreted as limiting any exclusive recognition

granted to ACTRA by the Commission. Without limiting the generality of the foregoing, ACTRA may continue to negotiate minimum working conditions or the application of the IPA with any Producer not represented by the APFTQ.

8. (New) **The present Appendix supersedes the terms and conditions of the IPA and any part of the IPA which is in contradiction with this Appendix or with the ACT shall be automatically modified to conform with this Appendix and the Act.**

**B) Other “Quebec matters”**

Swat films (Act of War Production):

- The parties to file to the Superior Court a declaration of settlement out of court (*déclaration de règlement hors cour*) to end the procedures, each party assuming its own cost. “Les parties déclarent ce dossier réglé hors de cour, chaque partie assumant ses frais”.
- ACTRA will send the APFTQ a letter stating that ACTRA will renounce to the effect of the arbitration ruling issued by Mr. Morin as it pertains to finding the APFTQ financially liable.

Article A104 **No parties to the IPA shall be held responsible for any interpretation.**