

MEMORANDUM OF SETTLEMENT

BETWEEN

THE NATIONAL FILM BOARD OF CANADA (NFB)

AND

ACTRA

WITH RESPECT TO THE RENEWAL OF THE NFB-ACTRA AGREEMENT (2011-2013)

The parties have agreed to recommend to their principals the draft agreement concluded between the parties on the 13th of July 2011.

FOR THE NFB:

FOR ACTRA:

Dominique Aubry

Stephen Waddell

Arlette Boghoskhan

Ferne Downey

The articles proposed in the Agreement that are not resolved by the parties are renewed subject to approval of necessary grammatical modifications to remedy any incompatibility with other articles.

Reading Method:

- Modifications to the text or additions are underlined. (i.e. proposal)
- Suggested deletions to the text are stricken. (i.e. ~~proposal~~)

ARTICLE	MODIFIED TEXT
A420	Industrial Program means a Program which is not less than <u>of three (3) minutes in length or longer</u> and which is produced to promote directly or indirectly the image of an organization or to promote the use of its products or services, or to offer training in the use of its products or services, or to provide education or instruction, but is not intended for broadcast on television.
A429	Non-theatrical means the distribution <u>in all formats</u> in all media save for Theatrical, Network Television, Syndicated Television, Pay Television, Cable Television and Compact Device distribution, except Uses contemplated in Article B302 of this Agreement. It includes loans, rentals and NFB direct sales to consumers, institutions, presentation via Ciné-Route <u>the NFB websites</u> or similar way, in NFB theatres or offices, at festivals or in-flight, as special events in Art houses or Repertory Cinema and distribution via NFB partner libraries.
A702	Union des Artistes Members The engagement of <u>issuance of work permits for members of the</u> Union des Artistes will be governed by the reciprocal agreement between ACTRA and <u>the</u> Union des Artistes. <u>However, the terms of their engagement shall be governed by this Agreement.</u>
A3202	Program Excerpt An excerpt of not more than two (2) <u>four (4)</u> minutes in length, may be used as a trailer or promo, including Use in an awards Program for the promotion of a Program or Programs within a Series from which the excerpt has been taken, without additional payment to the Performer. Such excerpts or clips also may be used within a Series from which the footage was taken for recaps, previews or teasers without additional payment.
A3803	Deductions from Performer's Fees: Retirement Plan The NFB shall deduct, for retirement purposes, an amount equal to three percent (3%) of the Gross Fees (inclusive of Use fees) paid <u>to each ACTRA Member Performer.</u>
A3808A	Benefits Administration Fee <u>The NFB shall contribute a Benefits Administration Fee (BAF) of 0.5% of the Performer's Gross Fees, remitted and payable to ACTRA or the Union of British Columbia Performers, as applicable. Such BAF shall be paid on all engagements.</u>
B401	(a) Distribution Rights Upon payment of the minimum fee, the NFB is entitled to world-wide Non-theatrical Use in perpetuity <u>for the term of the copyright</u> and one of the Uses specified in Article B301.
B411	Reporting and Payment Procedure (a) The NFB shall make and deliver to ACTRA reports setting forth the amount of NFB's Gross Revenues in respect of the Production, derived in the applicable accounting period, semi-annually for the first two years and annually thereafter. The reports will be accompanied by the aggregate Use payments payable to Performers and an outline of the method of calculation of the said payment.

ARTICLE	MODIFIED TEXT
B706	<p>Subject to the Performer's consent, Articles B701 and B702 may also apply to Productions produced under ACTRA's jurisdiction prior to the coming into force of the present Agreement, where New Media rights (or Internet or Digital Distribution rights in previous agreements) have not been acquired, as well as new Productions produced under this Agreement. Any renewal of New Media rights for Productions under ACTRA's jurisdiction for which New Media rights were acquired prior to the coming into force of the present Agreement shall be undertaken in accordance with the terms of this Agreement.</p> <p><u>The NFB shall provide to ACTRA PRS, for each Production for which it wishes to acquire New Media rights: the title of the Production(s), the name(s) of the Performer(s), the category(ies) of Performer(s), the breakdown of their respective Net Fees paid under their original contracts and the detailed residual Use Fees and applicable benefits to be paid under Section B701 and/or Section B702, along with the payment. In accordance with Section B415, the NFB shall also pay to ACTRA PRS an administration charge of one percent (1%) of the total amount to be distributed to Performers. ACTRA PRS shall seek the Performer's consent and distribute the residual Use Fees accordingly. Should a Performer refuse to grant consent or wish to negotiate the residual Use Fees, ACTRA PRS will contact the designated NFB representative as soon as possible. The NFB shall then negotiate directly with said Performer or the Performer's representative, and inform ACTRA PRS of the result of its negotiation.</u></p>
Term	Agreement expires on April 30, 2013.
Rate increases	<p>Increase in all fees <i>as follows</i>:</p> <ul style="list-style-type: none"> • 2% upon ratification • 2% on May 1st, 2012
Letter of Agreement 1	<p><u>Subject: Shorter and longer versions of productions</u></p> <p><u>During our recent negotiations, it was agreed that the present letter would confirm the following interpretation.</u></p> <p><u>"Where justified by requirements of the target market, presenting a Production in segments or making a shorter or longer version of it shall be considered as a use of the same Production.</u></p> <p><u>The NFB may group a number of Productions together under the same title without having to pay additional amounts, provided it has acquired the rights for the target markets for each of these Productions."</u></p>

ARTICLE	MODIFIED TEXT
Letter of Agreement 2	<p data-bbox="391 279 678 310"><u>Subject: Versioning</u></p> <hr/> <p data-bbox="391 348 1435 422"><u>During our recent negotiations, it was agreed that we would forward you a letter to confirm the following interpretation.</u></p> <p data-bbox="485 457 1243 646"><u>"When the NFB is versioning a Production, ACTRA agrees it may continue the present practice, which is to pay the Performers according to the fees under Clause B104 of the agreement (Minimum Fees for Off-Camera Narrators and Commentators in Programs).</u></p> <p data-bbox="485 682 1255 871"><u>For the purposes of this letter, versioning means the off-camera simultaneous translation of a performer to match the dialogue of either an on camera performer or narrator in a production which has been originally produced in a language other than English."</u></p>
Letter of Agreement 3	<p data-bbox="391 919 1435 993"><u>Subject: Work permits for non-members engaged in low budget projects specific to training programs</u></p> <hr/> <p data-bbox="391 1031 1435 1178"><u>During our recent negotiations, it was agreed that ACTRA would accommodate the NFB for low-budget Productions designated as specific to emerging filmmakers within the scope of an emerging filmmaker program or a training program (e.g. Hothouse).</u></p> <p data-bbox="391 1213 1435 1402"><u>Specifically, ACTRA understands that these Productions' timelines are shorter than typical projects and has agreed to issue work permits to non-members engaged in these Productions in a shorter delay and without audition requirements, to allow the NFB to meet its project deadlines. The other conditions of the Agreement will apply to the non-members, when applicable.</u></p> <p data-bbox="391 1438 1263 1470"><u>These projects will be submitted to ACTRA on a case by case basis.</u></p>