



## ACTRA MEMBER INITIATED PRODUCTION PROGRAM RULES

### Preamble:

The MIP Program is designed to stimulate the desire of ACTRA members to come together and create original works of art without having the financial resources to pay established daily fees to performers. It is also intended to encourage ACTRA members to advance their skills as actors, and allow them to develop their skills in other key creative areas.

Under this Program, the role of the ‘producer’ is played by the members who come together. ACTRA’s role – through ACTRA PRS – is to represent performers’ interests in the commercial exploitation of the project in the market place.

### The Ground Rules:

1. The individuals participating (collectively, the “Participants”) in the project (the “Project”) will negotiate and enter into a production agreement (the “Agreement”) using the MIP Production Agreement as a starting point. Additional information may be inserted when required, as long as it complies with the Program Rules in effect from time to time.
2. The Agreement will set out what each Participant’s entitlement in the Project will be in terms of his or her share of the ownership and any applicable daily fees. Any changes to that structure will require the unanimous consent of all Participants.
3. ACTRA members must – collectively – retain at least 55% ownership of the copyright of the Project.
4. An individual ACTRA member may achieve majority ownership of the copyright of the Project, but may not own more than 60% of the copyright of the Project.
5. Non-members may be included in the Agreement. These non-members can be either passive investors or hands-on creators like writers, directors or DOPs. No individual non-member may own more than 40% of the copyright of the Project.
6. ACTRA PRS shall be granted ownership of the 5% of the copyright in each Project. All matters pertaining to the exploitation of the Project will require ACTRA PRS approval.

Alliance of Canadian Cinema, Television and Radio Artists

**ACTRA Alberta**  
812, 7015 MacLeod Trail SW Calgary, AB T2H 2K6  
Tel (403) 228-3123 • Toll Free 1 (866) 913-3123 • Fax (403) 228-3299  
Email: alberta@actra.ca  
Web: www.actraalberta.com

Affiliated with the Canadian Labour Congress (CLC)  
and the International Federation of Actors (FIA)  
**Branch Offices:** Vancouver, Regina, Winnipeg,  
Toronto, Ottawa, Montreal, Halifax, St. John’s  
Web: www.actra.ca

### **Qualifying Criteria:**

1. Final approval of the Project will rest with the Branch Representative.
2. Commercials and corporate productions are not eligible under the Program.
3. Application to this Program must be made to the local branch of ACTRA 30 days prior to the commencement of principal photography. Each application must include:
  - a) A copy of the script, budget, along with a cast and crew list.
  - b) Confirmation of financing sufficient to meet budgetary requirements including post-production.
  - c) An executed ACTRA Security Agreement along with the appropriate registration fee.
  - d) Chain of Title report acceptable to ACTRA.
  - e) Undertaking to register copyright of the final project in Canada and the United States;
  - f) The production must be insured to protect performers in the event of an accident on-set or resulting from their engagement in the production. (Either through WCB or the ACTRA Fraternal Benefits Society Accident On-Set Insurance program. The AFBS program currently costs \$10/ Performer/ day of engagement.)
4. All performers in the Project must be ACTRA members.

### **Procedure:**

1. All regulations covering the working conditions of performers in the IPA must be adhered to.
2. All performers must receive a credit, either front end or in the crawl.
3. The ACTRA logo must appear in the end credits.
4. Any and all revenue generated by the exploitation of the Project will be collected by ACTRA PRS, who will in turn disburse them amongst the Participants, as stipulated by the Agreement.

## Various Options

### *Scenario #1: Equal Ownership*

A comedy troupe of five ACTRA members write and produce a short film. Because this is truly a collaborative and egalitarian endeavour, they determine that each is entitled to an equal share in the Project;

- Five Participants @ 19 % each; for a total of 95%.
- ACTRA PRS 5%.

### *Scenario #2: Unequal Ownership*

An ACTRA member writes a script for a 15 minute short. This member also intends to direct the short and act in it. S/he requires five other performers. (Two performers – including the initiating member - will work four days each, and the remaining four performers will work one day each, for a total of twelve work-days.) The six ACTRA members enter an Agreement on the following terms;

- For writing and directing the short, the initiating member will receive 35% of the ownership. (15% for writing the script and 20% for directing)
- 5% will go to ACTRA PRS.
- The Participants decide to divide the remaining 60% amongst the six Participants according to days worked, using the following formula;

Total # of workdays=12     12:1 as 60:x     x=5

The two performers with four days will receive 20% each; for a total of 40%.

The four performers with one day will receive 5% each; for a total of 20%.

(Note that by performing for four days and thus receiving an additional 20% of ownership, the initiating member brings her total up to 55%.)

### *Scenario #3: Project Involving Non-Members*

Four members who wish to create an experimental film, come together and decide that the contribution of each is equal. They then decide to bring on two non-members as Participants; an experienced DOP as well as a minor equity investor who agrees to put up \$10,000 to finance the film but does not intend to play a creative role. The four members decide to grant these two non-members a share of the ownership structure and strike the following agreement;

- Each of the four member Participants receives 15%; for a total of 60%.
- 5% will go to ACTRA PRS.
- 15% is granted to the DOP non-member Participant.
- The remaining 20% is given to the passive investor who contributed \$10,000.

## General Provisions

These MIP Program Rules govern the production of the project and its exploitation. By filing an application and entering into the Agreement, the Participants and Non-Participants agree to be bound by these Rules.

## ACTRA MEMBER INITIATED PRODUCTION PROGRAM PRODUCTION AGREEMENT

### **WHEREAS:**

ACTRA seeks to stimulate the desire of its members to come together and create original works of art without having the financial resources to pay established daily fees to performers. It also wishes to encourage its members to advance their skills as actors, and allow them to develop their skills in other key creative areas;

To further its goals, ACTRA has created the Member Initiated Production Program (the “Program”);

The undersigned (collectively, the “Participants” and individually, a “Participant”) wish to participate in the Program to facilitate the production of \_\_\_\_\_ entitled “\_\_\_\_\_” the “Project”);

This Agreement sets out the basic framework with respect to the Participants’ rights, responsibilities and obligations in relation to the Project;

In consideration of the mutual obligations set out in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Participants agree as follows:

### **NATURE OF THE PRODUCTION**

The Project shall be the result of the joint efforts of the Participants, in accordance with the specifications set out in Schedule A to this Agreement.

Principal photography of the Project shall commence no later than \_\_\_\_\_ or such later date as shall be agreed in writing by the Participants and ACTRA).

The Participants agree to negotiate in good faith and agree to a delivery schedule for the elements for which each is responsible so as to ensure delivery in accordance with the requirements of any broadcasters, financiers and distributors of the Project.

### **OWNERSHIP OF THE PRODUCTION**

All rights in and to the Project (including copyrights and any other rights arising as a result of producing and related to exploiting the Production) shall be owned, held and acquired by the Participants and ACTRA Performers’ Rights Society (“ACTRA PRS”) as tenants in common in the percentages set out in Schedule A. All of the profits earned in relation to the Project or any exploitation of the Project in any and all media shall be divided according to the percentages set out in Schedule A.

## **FINANCIAL MATTERS AND DECISION MAKING**

The financing structure, recoupment schedule, budget, cash flow, and Project schedule are each subject to approval by a 75 per cent majority of the Participants.

The Participants shall keep accurate books and records in relation to all costs incurred in relation to the Project and the exploitation of the Production. ACTRA PRS shall be entitled to inspect the records during normal business hours upon reasonable notice, no more frequently than twice in any twelve (12) month period. If any such inspection discloses a shortfall or overpayment in the amounts due to a Participant or ACTRA PRS, the appropriate party shall reimburse the other party or parties for the full amount of such shortfall or overpayment. Should the audit discover a shortfall in the amounts payable which have a value of more than ten percent (10%) with respect to any particular year being audited, the appropriate party shall reimburse ACTRA PRS for the costs of such audit.

Decisions relating to financing, production, delivery and distribution of the Project shall be made a 75 per cent majority decision of the Participants. If, within a 24-hour period during principal photography, or within a 72-hour period at any other time, the Participants fail to reach a 75 per cent majority decision on any particular matter, then that matter shall be decided by \_\_\_\_\_.

No Participant shall pledge the credit of any of the other Participants or hold himself or herself out as an agent of any of the other Participants in any of his or her dealings in connection with the Project or otherwise.

Each Participant shall promptly advise the other Participants and ACTRA of the occurrence of any event or the existence of any condition which will or might adversely affect the Project or of any material claims or material proceedings threatened or commenced against that Participant and shall keep the other Participants regularly informed of the progress of such events, claims or proceedings and shall immediately notify the other Participants of any judgment or settlement in respect of the same.

## **REPRESENTATIONS AND WARRANTIES**

The Participants represent and warrant to one another and to ACTRA and ACTRA PRS that:

- a) He or she has full legal capacity and authority to enter into this Agreement and, to the extent applicable, has not sold, assigned or licensed to any other person, or in any manner encumbered, any of his or her rights in the Project and the underlying rights thereto;
- b) His or her contribution to the Project does not and shall not infringe any copyrights, include or be based upon any material in respect of which he or she does not hold the rights, or infringe any other right, contain any libel or slander or invade the privacy or violate the publicity rights of any person, and is and shall be wholly original and not based upon or contain parts of any other production;
- c) He or she shall, when so required by the other Participants, ACTRA or ACTRA PRS, produce written documentation showing his or her title to any rights

acquired and held in connection with the Project, and supply copies of such documentation and do all such things as the other Participants, ACTRA or ACTRA PRS shall reasonably think necessary for perfecting such title; and

- d) He or she shall comply with the terms and conditions of the Program and this Agreement.

## **TERMINATION**

This Agreement may be terminated or a Participant expelled from further participating in the Project:

- a) If a Participant (the “Defaulting Participant”) commits a material breach of his or her obligations under this Agreement.

In the event such a material breach occurs, the other Participants and ACTRA (collectively, the “Non-Defaulting Participants”) acting together shall give written notice to the Defaulting Participant specifying the nature of the breach (the “Default Notice”).

If the breach remains unremedied for a period of 10 days following the delivery of the Default Notice, the Non-Defaulting Participants shall be entitled to give written notice (the “Termination Notice”) of their desire to:

- i) terminate this Agreement; or
- ii) to require the Defaulting Participant to withdraw from further participation in the Project;

and such will become effective upon delivery of the Termination Notice to the Defaulting Participant.

- b) Immediately if a Participant becomes insolvent. For the purposes of this Agreement, a Participant shall be deemed to have become insolvent if there is deterioration in his or her financial circumstances which materially affects or threatens to affect the ability of that Participant to perform his or her obligations under this Agreement and completion of the Project.

Upon termination in accordance with the preceding paragraph, the Defaulting Participant’s title and interest in the Project shall so far as legally possible be immediately transferred to the Non-Defaulting Participants and the Defaulting Participant shall execute all confirmatory documents reasonably required by the Non-Defaulting Participants to effect the transfer.

## **ASSIGNMENT**

No assignment of this Agreement shall be permitted without the prior written consent of the Participants and ACTRA.

**NOTICE**

Any demand, notice or other communication (a “Notice”) required or permitted to be given in connection with this Agreement shall be given in writing and may be delivered by personal delivery, registered mail, addressed to the recipient at the address provided in Schedule A of this Agreement, or such other address as may be designated by written notice to the other party. A Notice delivered by personal delivery or registered mail shall be deemed to have been given on the date of receipt.

**GENERAL PROVISIONS**

Any provision of this Agreement which is determined by the courts to be illegal, invalid or unenforceable in any jurisdiction shall be deemed to have been severed and shall not affect the legality, validity or enforceability of the remaining provisions of this Agreement.

This Agreement may be signed in counterparts, with each such counterpart constituting an original document. All counterparts, when taken together, shall constitute one and the same instrument. The parties hereto acknowledge and agree that facsimile copies hereof shall be treated as originals, fully binding and with full legal force and effect, and hereby waive any rights they may have to object to said treatment.

Any controversy or claim arising out of or relating to this Agreement or any breach thereof shall be settled in accordance with the Grievance Provisions set out in ACTRA’s Independent Production Agreement in effect at the time the controversy or claim arose.

The recitals shall form part of the Agreement.

Each of the Participants undertakes and agrees to comply with the rules governing the Program as established by ACTRA from time to time.

All of the terms and provisions of this Agreement shall be binding upon and endure to the benefit of the parties hereto and their respective heirs, executors, legal representatives, successors and permitted assigns as the case may be.

This Agreement shall be governed and interpreted in accordance with the laws of the Province of Alberta and of Canada applicable therein.

The Participants have signed this Agreement which is effective as of and from the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
Legal Name (Print Clearly)

\_\_\_\_\_  
Signature

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Legal Name (Print Clearly)

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## SCHEDULE "A"

### MANDATORY INFORMATION

Total Production Budget: \_\_\_\_\_ CAD

Languages: \_\_\_\_\_

Final Length: \_\_\_\_\_

Delivery format: \_\_\_\_\_

### PARTICIPANTS (OWNERSHIP OF PROJECT)

LEGAL NAME	% OF OWNERSHIP	ROLE	ADDRESS	RESIDENCY
ACTRA PRS	5%	Union Representative	300, 625 Church Street Toronto, ON M4Y 2G1	ONTARIO, CANADA

### NON PARTICIPANTS

NAME	ROLE	ADDRESS (if not set out above)	RESIDENCY (if not set out above)

### OPTIONAL MATTERS (delete if not applicable to your Project):

Errors & Omissions Insurance: Required? \_\_\_\_\_

Not Required? \_\_\_\_\_

## ACTRA MIP OWNERSHIP AGREEMENT

We, the undersigned, have come together to produce the project entitled:

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under the ACTRA Member Initiated Production Agreement.

We agree to abide by all of the terms and conditions of the MIP Program.

We have also agreed on the following distribution of ownership of the project:

LEGAL NAME	MEMBER #	FUNCTION	SIGNATURE	OWNERSHIP %

NB: The percentages listed above should equal 95%, as 5% of the ownership goes to ACTRA PRS.

Signed at \_\_\_\_\_, Alberta, on \_\_\_\_\_, 20 \_\_\_\_\_.