

Memorandum of Settlement

Between

The Alliance of Canadian Cinema, Television and Radio Artists (ACTRA), and
the Institute of Communication Agencies (ICA), and
the Association of Canadian Advertisers (ACA)
(known collectively as “the Parties”)
with respect to the 2017-2020 National Commercial Agreement (NCA)

The following constitutes the Settlement reached between the ICA/ACA and ACTRA for the renewal of the National Commercial Agreement. This Settlement is subject to ratification by the Parties and is also subject to final editing. The revised terms and conditions of the Agreement become effective upon ratification. The respective bargaining committees agree to unanimously recommend ratification and to seek ratification as quickly as practicable.

1. **Term and Rates**

Three (3) year Agreement commencing upon ratification and expiring on June 30, 2020.

Effective as of date of ratification – **2% general increase** in minimum fees and rates, excluding Digital Media Use and Pilot Project;

Effective July 1, 2018 – **2% general increase** in minimum fees and rates, excluding Digital Media Use and Pilot Project;

Effective July 1, 2019 – **2% general increase** in minimum fees and rates, excluding Digital Media Use and Pilot Project.

2. 406 ID - Delete

3. **NEW 512 Performers exercising their rights** (replaces current 3401)

A Performer shall identify to the ACTRA representative any perceived breach of this Agreement in order that the ACTRA representative may give the Engager 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 Engager or the Engager’s representatives against any Performer for legitimately exercising their rights under the Agreement or for identifying to the ACTRA representative any perceived breach of the Agreement.

4. 907 **Callback Audition Fee**

- a) A Performer may be called back for a second or subsequent audition in which case the Performer will receive \$50.00 per diem per callback audition as reimbursement for their expenses incurred. Any additional time spent beyond one hour in a second or subsequent audition will be paid in half hour increments at the hourly per diem rate of \$50.00 up to a maximum of \$200.00 or 4 hours. Additional time spent beyond four (4) hours will be paid at the Additional Work Time rate and will be subject to I & R contributions.

b) Stet

c) Stet

5. 1202 **Session Fee: National Television**

<u>Group Background Rate</u> <u>Per Performer</u>	<u>Daily</u> <u>Rate</u>	<u>Hourly</u>	<u>AWT</u>	<u>O/T</u>	<u>Recall</u>
<u>Up to 30 per day</u>	<u>288.00</u>	<u>\$35.50</u>	<u>\$47.00</u>	<u>\$54.00</u>	<u>\$144.50</u>
<u>31 & over</u>	<u>120.00</u>	<u>15.00</u>	<u>19.50</u>	<u>22.50</u>	

6. 1217 **Accident on Set Insurance** Where the provision of Workers' Compensation for Performers is not mandated by law, the Engager will contribute 1% of Performers' gross Session Fees toward ACTRA's accident on set insurance program, which includes emergency medical travel insurance while outside of the country. ACTRA will ensure that payroll services will not apply any administration charges to that contribution.

7. 1703 **Stunt Performance and Fee**

- a) Stet
- b) Stet
- c) Stet first 3 paragraphs. Add: If a Stunt Performer is only engaged to perform that stunt and no other role, but is recognized while performing the stunt, she/he will not be categorized and paid both as a Stunt and SOC, but rather as a Stunt Performer only, with residuals.
- d) Stet
- e) Stet

8. 1810 **French/English Commercials**

ICA/ACA and ACTRA will commit to on-going meetings with Uda regarding double shoots in Canada in order to make national commercials more financially viable.

9. 1820 ~~New Media Commercials~~ **Digital Media Commercials** This section applies to all commercials made for or designed for exhibition on ~~New Digital~~ Media, defined as digital, electronic, or any other type of delivery platform including, but not limited to, commercials delivered via Internet podcasts, mobile phones, and other digital electronic media. The term ~~New Digital~~ Media is intended to be all-inclusive of digital, electronic or any other type of delivery platform, whether now known or unknown.

~~(a) Commercials Produced for New Digital Media~~

~~A Contract Service Fee of seventy-five dollars (\$75.00) for video or thirty-five dollars (\$35.00) for audio, per commercial, shall be paid.~~

~~Performers shall be contracted and paid not less than the minimum Session Fees per Sections 12. Moved to Section 29~~

Add in: Work Permit fees for Apprentice Members and non-ACTRA Performers shall be 50% of the Work Permit fees specified in Addendum #4.

Commercials used in Digital Media shall be paid Use Fees as follows:

[Replacing existing tables]

Performance Category	1 Year Digital Media Versions under 1902(b) to apply	6 Months Digital Media Limited to 5 versions	45 day* Digital Media Limited to 5 versions
Principal	\$ 1250	\$ 700.00	\$ 425.00
SOC/Stunt	\$ 1250	\$ 700.00	\$ 425.00
VO	\$ 900	\$ 495.00	\$ 306.00
GS	\$ 375	\$ 206.25	\$ 127.50

*The 45 day Digital Media Use option may only be used once.

Audio	1 Year	6 months	45 days
Single Voice	\$900.00	\$495.00	\$306.00
Multiple Voice	\$375.00	\$206.25	\$127.50

Note: Unless negotiated, use fees are not applicable to the following performer categories: Stunt Coordinator, Demonstrator, Background Performer, Group Background Performer.

For each subsequent three hundred and sixty-five (365)–day use period, the Engager must

- (i) re-contract the Performer(s) in residual categories; and
- (ii) make a payment to each Performer in residual categories equal to not less than the Performer’s contracted ~~Session Fee~~ Digital Media Use fee.

If a commercial made for ~~New~~ Digital Media is moved over to broadcast television, radio, or Other Media, Performers must be re-contracted and paid an amount no less than the ~~equivalent of two (2) applicable minimum Session Fees, less the amount paid as a New Media use fee. R the~~

residual fees for the category of performance in the appropriate media medium. ~~shall also be paid.~~

If however, the Digital Media commercial is concurrently being used in television or radio, and the applicable use fees for television or radio have been paid, no additional fees will be required. See Article 1818 (a).

Performers must be advised, prior to auditioning, of the proposed use of the commercial. Product conflicts do not apply to ~~commercials made for New~~ Digital Media commercials.

(b) Broadcast Commercials Used in New Digital Media ~~(Move-over)~~

(i) The advertiser involved in the production of a commercial produced for broadcast on television or radio may use that commercial on one of the advertiser's websites that it owns or controls and on the advertiser's unpaid Digital Media at no additional cost.

(ii) A commercial produced for broadcast use may be used in Digital Media upon payment of Use Fees as set out in 1820 (a). Performers in residual categories must be re-contracted for this use.

iii. For each subsequent three hundred and sixty-five (365) day use period, the Engager must

(1) re-contract the Performer(s) in residual categories; and

(2) make a payment to each Performer in residual categories equal to not less than the Performer's contracted ~~Session~~ Digital Media Use Fee. However, the Performer shall be deemed to have a product conflict for only as long as the commercial continues to be considered an "active" commercial for television purposes.

(c) Internet Use - Stet

(d) Unauthorized Use - Stet

10. 1821 ~~Videocassettes/Video Discs (DVDs), CD-ROMs~~ Delete all references to Videocassettes.

11. 1824 ~~ID~~ - Delete

12. 1902 Alternate Versions

(a) A television or radio commercial may be edited to make ~~three (3)~~ five (5) additional versions of that commercial, provided the material added was shot and/or recorded at the Performer's original session. The footage added must not materially change the nature or setting of the original commercial message. A soundtrack may be recorded to fit such a commercial for timing and synchronization purposes. However, a Performer required to record

such additional soundtrack at a separate work session shall be paid an additional Session Fee. Re-performance by a Principal Performer in order to create a new soundtrack, without requiring the re-performance of other on-camera Performers, may also be permitted upon payment of an additional Session Fee to that Principal Performer. ~~Three (3)~~ five (5) versions of the same commercial made under this clause may be broadcast in the same cycle, upon payment of the appropriate cycle for one commercial. If, however all ~~four (4)~~ six (6) versions of the commercial are broadcast in the same cycle, Performers shall receive cycle payments for two (2) commercials.

(b) **NEW Digital Media:** A Digital Media commercial may be edited without creating a new commercial provided that all edited on and off camera Performer work comes from the original session. For clarity, edits may be made to conform to platform specifications or to capitalize on targeting opportunities of the digital platforms included in the media buy. Edits may include, but are not limited to, formatting, sequencing and length changes, changes to or additions of supers, product placements and subtitles. These edits may not create a new commercial as defined in Article 402 however, Articles 1904, 1905, 1906 and 1907 will apply. Where additional soundtrack is required at a separate work session that Performer will be paid an additional session fee.

13. 2203 **Stock Footage** Stock footage, stock stills, or library footage of persons, scenes or events is not covered by this Agreement. Stock footage, library footage or stock stills are shot apart from and in advance of a commercial and do not directly advertise the product or service. Professional sports footage, authentic historical footage, and authentic news footage are similarly not covered by this Agreement. Voice-Over and Solo Singers used in a commercial that is entirely comprised of stock footage will be paid Principal Performer session and residual fees. Where it is established that such footage has been used for purposes other than those described above, all persons appearing in the footage shall be qualified and paid in accordance with this Agreement or, alternatively, the commercial shall be withdrawn from use.

14. 2901 **Contract Service Fee Amount**

(a) stet

(b)(i) The contract service fee shall be the lesser of \$300.00 per television commercial, plus GST, HST or QST, as applicable; \$150.00 per radio commercial, plus GST, HST or QST, as applicable. For Digital Media commercials a contract service fee of seventy-five dollars (\$75.00) for video or thirty-five dollars (\$35.00) for audio, per commercial, shall be paid. If a commercial is moved over from New Media to television, radio, or Other Media (Article 1818), the Contract Service Fee for such commercial shall be upgraded to the appropriate amount specified in Section 29

or

Any commercial with gross performer session fees of one thousand dollars (\$1,000.00) or less shall be subject to a Contract Service Fee of \$100.00.

(c) stet change references to New Media to Digital Media

(d) stet

(e) stet

(f) stet

15. ~~3401 Relationship to be Unaffected~~ Engagers agree that Performer exercising their rights under the provisions of this Agreement do so without prejudice to their relationship with such Engagers and with the Sponsors who may be clients of such Engagers.

16. **NEW Side Letter No. 7 - ACTRAonline Opportunity Pilot Project**

Digital Media Only – New side letter that will expire upon expiration of NCA unless renewed.

Objective:

To increase work opportunities for ACTRA Performers in low budget, digital media commercials.

To enable signatory Engagers to be in a position to compete effectively for low budget, digital media productions.

Term:

The Parties recognize and agree that the ACTRAonline Opportunity Pilot Project is a Side Letter that forms part of the NCA. The Pilot Project will expire at the end of the term of the NCA.

Qualifications and Conditions:

For smaller productions in respect of which the Engager and the Advertiser have executed and delivered to ACTRA a declaration (in the form attached hereto) certifying that the production budget is \$75,000 or less, the Engager may access the ACTRAonline Opportunity Pilot Project. The production budget presented shall consist of production, post-production, talent and audio (inclusive of music) costs.

This ACTRAonline Opportunity Pilot Project will involve the following:

- Will apply to Digital Media productions only;
- This pilot project does not include distribution on SVOD;
- The Engager will post, either through agents, or through ACTRA online once it is operational, opportunities to Performers;
- The posting shall include the nature of the commercial, time and date of the shoot, requirements for the job and the length of time that the Performer is expected to work [this shall constitute the Intent to Produce];

The minimum rates per commercial, inclusive of both session and Use fees (but exclusive of I&R and taxes) for 365 consecutive days Digital Media Use in accordance with 1902 (b) are:

<u>Category</u>	<u>Use Period</u>	<u>Session and Use</u>	<u>Incl.W/T</u>
Principal Performer	1 year	\$1000.00	8 hours
Silent On Camera	1 year	\$1000.00	8 hours
Voice Over	1 year	\$700.00	4 hours
Demonstrator		\$350.00	8 hours
Group Singer	1 year	\$300.00	2 hours

Background Performer	\$288.00	8 hours
Group Background Performer	\$143.00	8 hours

- In the event that an additional session day is needed for the same commercial under this pilot project, no additional use fees are payable, however, the Performer will be paid the lesser of the day session fee under the NCA or the all-in fee for the Performer set out above.
- Except where the provisions of this Pilot Project provide otherwise, the provisions of the NCA shall apply;
- A second year of Use can be secured with the payment of a step-up to NCA Digital Media Use fees for residual Performers with the written permission of the Performer;
- Additional session days for VO under 1902(b) for work under this Pilot Project will be compensated in accordance with the rates above;
- No stunt performances permitted;
- The Pilot Project is limited to Canadian resident performers;
- Versions in accordance with 1902(b) will be permitted;
- There will be no traditional casting, however, Performers may upload an audition (*via* ACTRAonline once available);
- The posting will be open to both ACTRA and non-ACTRA members, however, preference of engagement will be given to ACTRA members;
- In the event that a non-ACTRA member is selected under the Pilot Project, a work permit will be issued. ACTRA undertakes to ensure that permit fees are reasonable but in no case will fees exceed \$100.00.
- Payment for the project will be made within 15 business days;
- There shall be no Contract Service Fees;
- Product conflicts do not apply;
- Engagers shall not request Performers to disclose any commercials in which they have been previously engaged;
- There will be no move over to television unless thereafter, applicable TV rates, conditions and upgrades are applied, and written permission of the Performer is received;
- The Parties agree that the Project will be an appropriate topic for discussion at their quarterly meetings;

- The Engager who is making the Production must be a direct signatory to the NCA. To be clear, in accordance with Article 401, this Pilot Project is only available to Engagers in respect of Digital Media commercials created by the Engager.

17. **NEW Side-Letter #8: Letter of Understanding – Stunt Performance**

The Parties agree that health and safety of cast and crew is a primary concern when Risk Performance and/or Stunts are to be performed in a commercial. In the 2017 negotiations, ACTRA and ICA/ACA discussed a number of proposals relating to Stunt and Risk Performance under Section 17, and particularly an issue with respect to Stunt Coordinators performing as Stunt Performers on the same day, which issue the Parties agree needs further consultation and study. In order to promote better understanding of the Parties with respect to health and safety issues, the Parties commit to discussion, education and review of Risk and Stunt Performance issues at NCA Quarterly Interpretation meetings during the life of this Agreement.

18. The Parties agree to negotiate a **Global Use option** following conclusion of NCA negotiations in conjunction with the NCA Local & Regional Addendum negotiations in Vancouver.
19. The Parties agree that the issue of commercials being used on **SVOD, AVOD, and Internet Broadcasters** will be subject to Article 1822 New Technologies.
20. Throughout the NCA references to “New Media” shall be changed to “Digital Media”.

Agreed to by:

Association of Canadian Advertisers (ACA) by Ron Lund, President & CEO

Signature: _____ Date: _____

Alliance of Canadian Cinema, Television & Radio Artists (ACTRA) by Stephen Waddell, National Executive Director

Signature: _____ Date: _____

Alliance of Canadian Cinema, Television & Radio Artists (ACTRA) by Sue Milling, Executive Director

Signature: _____ Date: _____

Institute of Communication Agencies (ICA) by Scott Knox, President & CEO

Signature:  _____ Date: 4th August 2017