

## Membership Agreement

May 2003

### Definitions:

1.1 “Audiovisual Rights” means any rights in respect of copyright, rights of equitable remuneration and rights arising due to authorship in an Audiovisual Work (or any Underlying Work related thereto), whether such rights now exist in whole or in part or are hereafter acquired, excluding any rights administered under any collective agreement or other industry-wide agreement, such as the Writers Independent Production Agreement;

“Audiovisual Work” means a work consisting of a series of related images, whether or not accompanied by sound, whether or not incorporating other elements, produced by whatever method and upon whatever medium, which is intended to be perceived, reproduced or communicated by means of a device;

“CSCS” means the Canadian Screenwriters Collection Society;

“Remuneration” has the meaning ascribed thereto in Article 2.1(a)

“rightsholder” means a person entitled to Audiovisual Rights.

“Underlying Work” means a work embodied in an Audiovisual Work or from which an Audiovisual Work or any work embodied in an Audiovisual Work has been derived including, without limitation, any script material.

### Grant of Rights: Collection

2.1 The undersigned as a rightsholder (the “Rightsholder”) grants CSCS the power and authority to administer, on the Rightsholder’s behalf, any and all Audiovisual Rights of the Rightsholder relating to any and all Audiovisual Works or Underlying Works in which the Rightsholder has an interest (whether created before or after the execution of this Agreement), including the authority to:

- (a) collect, allocate and distribute secondary use payments, fees, royalties, levies and other remuneration or payments (“Remuneration”) which CSCS believes may be due to the Rightsholder in respect of the Rightsholder’s Audiovisual Rights throughout the world;
- (b) to exercise on behalf of the Rightsholder legal rights and remedies in relation to the use of the Rightsholder’s Audiovisual Rights.

- 2.2 Audiovisual Rights include, but are not limited to, rights in respect of private copying, rental, lending and cable retransmission of Audiovisual Works, in Europe and elsewhere, whether payable by collecting societies or otherwise.
- 2.3 The Rightsholder acknowledges that CSCS shall administer only such of the Audiovisual Rights as determined by the CSCS board of directors from time to time.

### **Grant of Rights: Negotiation**

- 3.1 The Rightsholder grants CSCS the power and authority, but not the obligation, at CSCS's sole and absolute discretion, to negotiate, rescind, vary or alter from time to time any agreements respecting the Rightsholder's Audiovisual Rights, to take any necessary action to collect any amounts which may be payable to the Rightsholder arising from such Audiovisual Rights, to institute and prosecute proceedings against any persons infringing the Audiovisual Rights, and to release, compromise or settle any disputes, differences or conflicting claims in relation to such rights.

### **Revenue Distribution:**

- 4.1 All collection, allocation and distribution of Remuneration that CSCS makes to Rightsholder will be made pursuant to Distribution Rules made by CSCS's Board of Directors in effect from time to time. The Rightsholder acknowledges and accepts that CSCS may from time to time vary the Distribution Rules in its sole and absolute discretion.
- 4.2 The Rightsholder agrees that CSCS may deduct from the Remuneration such sums as CSCS may from time to time decide, pursuant to policies consistently applied, in reimbursement of its costs and in respect of the provision of its services to the Rightsholder.
- 4.3 CSCS shall provide the Rightsholder prior to December 31, in any year in which CSCS has received any remuneration that is payable to the Rightsholder (the "accounting date") an accounting of the Remuneration which CSCS has received and is satisfied is due and owing to the Rightsholder.
- 4.4 CSCS may from time to time change the accounting date.
- 4.5 If CSCS collects the Remuneration but does not have sufficient information to distribute it according to the Distribution Rules, CSCS's Board of Directors has the right to approve any other way of distributing such Remuneration that it considers fair, taking into account all such factors as it considers relevant.
- 4.6 If an overpayment is made to the Rightsholder by CSCS for whatever reason, the Rightsholder undertakes to refund such overpayment to CSCS within 30 days of receiving notification from CSCS of such overpayment. CSCS may in its sole and absolute discretion set off all or part of such overpayment against future payments to the Rightsholder.

- 4.7 CSCS shall use its reasonable efforts prior to payment of Remuneration to ascertain that it is properly due and owing to the Rightsholder. Neither CSCS nor its officers or directors shall be held liable for any acts or omissions provided CSCS acted reasonably and in good faith.

### **Warranty and Proof:**

- 5.1 Prior to the payment or distribution of Remuneration to the Rightsholder, CSCS may require from the Rightsholder such evidence of entitlement to payment of the Remuneration as it may decide is necessary.

- 5.2 CSCS may require the Rightsholder to warrant that:

- (a) the Rightsholder; or
- (b) where the Rightsholder is an estate, the deceased,

performed the services which give rise to the Rightsholder's claim for entitlement in respect of an Audiovisual Work for which Remuneration is payable, and as such is solely and beneficially entitled to the Remuneration.

### **Indemnification:**

- 6.1 The Rightsholder hereby indemnifies and holds harmless CSCS, its officers and directors, employees and agents, from and against liabilities, expenses, costs or fees (including legal fees) which arise from any claims or demands made against CSCS as a result of any breach by the Rightsholder of any of the warranties provided by the Rightsholder to CSCS hereunder, or pursuant to any other document provided by the Rightsholder to CSCS.
- 6.2 CSCS shall not have any obligation or liability to the Rightsholder in the event of any act or omission on the part of CSCS, its directors or officers, employees or agents if they acted reasonably and in good faith, or where such act or omission is caused by matters outside the reasonable control of CSCS.
- 6.3 The Rightsholder agrees and acknowledges that in the event that any of the information provided herein by Writer is erroneous, false or misleading in any manner whatsoever, or in the event that Writer, for whatever reason, is not entitled to any portion or all of the Payment made to Writer hereunder, Writer will return all of such Payment (or appropriate portion thereof) to CSCS within 30 days of receiving written notification from CSCS.

### **Term:**

- 7.1 This agreement shall terminate upon the termination of the membership of the Rightsholder in CSCS in accordance with the By-laws of CSCS. A Rightsholder may terminate this Agreement upon ninety (90) days prior written notice to CSCS at any time, whereupon the Rightsholder's membership in CSCS shall cease effective at the end of this ninety (90) day notice period. The Rightsholder remains liable to pay any outstanding indebtedness due and unpaid to CSCS at such time. Any monies accrued prior to the

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Rightsholder's termination of membership in CSCS shall be collected and distributed to the Rightsholder by CSCS following the deduction of administrative fees.

- 7.2 CSCS may terminate this Agreement on written notice to the Rightsholder at any time upon ninety (90) days prior written notice to the member. However, such termination is subject to any accrued rights of the Rightsholder to Remuneration in accordance with the By-laws of CSCS.

### **Notices:**

- 8.1 All notices, requests, consents and amended Schedules or Credit Sheets permitted or required under this Agreement must be in writing and sent by mail or facsimile to CSCS at its office or, in the case of a member of CSCS, to the last address of that member as recorded on the books of CSCS.

### **Amendments to Agreements:**

- 9.1 No amendment to the principal part of this Agreement will take effect unless it is in writing and signed by all parties.
- 9.2 The Rightsholder will send updates to Membership and Rightsholder Information as required and submit Credit Sheets when necessary to update the list of the Rightsholder's Audiovisual Works covered by this Agreement.

### **Dispute Resolution:**

- 10.1 Any dispute arising out of this Agreement will be referred to arbitration, in which case the Arbitration Act, S.O. 1991, c.17 will apply.

### **Letters Patent and By-Laws:**

- 11.1 The Rightsholder agrees to be bound by the Letters Patent and By-laws of CSCS, as well as all resolutions and any applicable agreement to which CSCS is or may become a party. Any member shall be entitled to view the By-laws of CSCS on request.

### **Fees:**

- 12.1 The Rightsholder hereby agrees that CSCS shall deduct all necessary administration costs prior to the disbursement of any monies to the Rightsholder.
- 12.2 A 15 percent (15%) administration fee shall be levied on all payments to CSCS members.
- 12.3 A 25 percent (25%) administration fee shall be levied on all payments to non-CSCS members.

12.4 Writers with produced film and television credits who are not members of the WGC and who apply to join CSCS may join upon payment of a one-time initiation fee of \$150.

**Governing Law:**

13.1 This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Ontario and of Canada.

**Succession and Assigns:**

14.1 This Agreement will be binding upon and ensue to the benefit of CSCS and its successors and assigns and the Rightsholder and the Rightsholder’s heirs, executors and personal representatives.

**Authority of Signatures:**

15.1 The persons whose signatures appear below confirm that they have the authority to sign this Agreement.

**Rightsholder**

**Canadian Screenwriters Collection Society**

\_\_\_\_\_  
Name of Rightsholder

\_\_\_\_\_  
Signature of Authorized Signing Officer

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date