

April 26, 2020

Dear Producer,

We are writing to you today as a unified group of producers concerned about the state of the profession. We have joined forces to launch a collective bargaining organization for independent producers — and we want you to be involved.

Why Now?

First and foremost, we hope you are all healthy and safe during this uncertain time. We know that many of you are dealing with unimaginable struggles and for that we have the profoundest sympathy. For all of us, the pandemic crisis has amplified the flaws in the system that we already knew existed.

As producers are shutting down productions, watching finance deals fall apart, navigating a cancelled festival circuit, and having distribution disrupted, the unions and guilds of our fellow creatives have set up relief funds and support systems. Meanwhile, producers have no collective bargaining organization to lean on. Our collaborators have organizations that give them power in numbers, but producers are struggling individually. The lack of protection for producers has never been more obvious, nor more felt than it is right now.

A Seat At The Table

In March, before the coronavirus federal stimulus package passed, the Department for Professional Employees (a coalition of 24 unions representing over 4 million members) lobbied the federal government on behalf of their affiliates, including DGA, SAG, WGA, and IATSE, to pass emergency relief legislation for workers they represent. Producers did not have an organization speaking on their behalf.

More recently, the DGA announced a committee that will collaborate with Hollywood's guilds and unions. The committee will determine when entertainment industry workers will be able to safely return to work. Committee decisions will not only change set operations but will also add costs to our budgets. Producers will be expected to navigate, uphold, and implement new safety standards. This committee will be making decisions that impact all of us, but we literally will have no seat at the table.

An Unsustainable Future

As producers, we have allowed our industry to lower our wages to the point where the average independent producer is not able to sustain a living. We are not compensated during the development process. We are not reimbursed for overhead expenses. We are asked to waive or defer our fees. For all of the compromises we make, success often remains an illusion. On top of that, our professional recognition is bought and sold, diluting our work by offering producing credits to those who can afford them instead of those who earn them. We watch as writers, directors, financiers, agents, studio executives, distributors, and talent profit from our vision and work. As they advance up the ladder, we struggle to pay bills.

The Importance of Producers

Producers are the ultimate champions of independent film. We curate stories and discover talent. It is our vision, our risk-taking, and our persistence that brings an idea from script to screen. Furthermore, our commitment to inclusion and diverse storytelling from unheard voices is imperative to protect.

It is our belief that the role of the independent, creative producer is unique and necessary. Not only for each individual film, but for the overall media landscape. And because of that crucial contribution, producers deserve to make a living wage.

Exploring a Producers Union

These efforts to form a collective bargaining organization began in Fall 2019. Producer Rebecca Green started asking peers if they knew why producers did not have a union. She eventually connected with producer Chris Moore, who had been having a similar conversation about unionizing for several years. Extensive discussions evolved from first asking whether a union was possible, to finally recognizing not only the possibility but the urgency. Their conclusion: We need a union and we need one now.

Rebecca and Chris then formed an Exploratory Committee of 21 producers to identify the key aspects of collective bargaining, including creating a list of *Eligibility Rules*, a *Schedule of Minimums*, *Fair Crediting Guidelines*, and *Creative Rights*.

Together We Are Stronger

We are excited to share the results of these efforts with you now. And, we ask: will you join forces with us? Together we can leverage our power to create a sustainable career path for producers like you and all of us.

Who Is This For?

This Exploratory Committee has decided to start with a focus on producers working on feature-length, scripted motion pictures with budgets that do not exceed \$11 million. We acknowledge that documentary, episodic, and unscripted producers also need the protections of a collective bargaining organization, but for the sake of getting these efforts off the ground, we have honed in on a specific group of producers in order to define and target potential members with a vision to grow our ranks in the future.

In order to have the leverage for real change, we will need a significant number of producers to join with us in these efforts.

Are You In?

All organizing starts with a group of motivated people coming together to establish fair labor practices. This Letter of Intent is the first step in determining whether producers want a collective bargaining organization for their role in the media business.

Following this letter, you will find recommendations for a set of *Eligibility Rules*, a *Schedule of Minimums*, *Fair Crediting*, and *Creative Rights*, the Exploratory Committee has created. They are by no means exhaustive or final, but they represent best practices that a collective bargaining organization representing producers could put into place. A great deal of time,

thought, and debate went into each recommendation to build a proposal that is both fair and reasonable, and protective yet not prohibitive. This proposal is a starting point for what producers could “win” if we were to join forces.

Read through the recommendations thoroughly, and if you believe that producers would be stronger together in a collective bargaining organization, we ask that you lend your name to our cause by signing [HERE](#).

What Happens After I Sign?

By signing this Letter of Intent you are showing support for the formation of a collective bargaining organization for independent producers. Once a critical mass of support has been met, then we move into the next steps of organizing. (Critical mass will be determined by a solid mix of established producers as well as emerging producing representing the breath of the field.)

Our first step will be to nominate a steering committee and then decide how the organization will make decisions and what issues are a priority.

Signing this Letter of Intent does not require formal joining of a union and there are no dues associated with signing this letter. Those who are not able to be actively involved at this time are still welcome to sign.

If you have questions before you sign, please reach out to Rebecca Green at rebeccagreen@me.com.

We know that an effort like this can be daunting, but taking this first step will bring us closer to having the full support of our community as we shape a new future.

Thank you for taking the time to read through our proposal. We hope to see your signature included.

Sincerely,

Rebecca Green, Chris Moore, and Exploratory Committee Members :

Neda Armian
Bettina Barrow
Steven Berger
Liz Cardenas
Karin Chien
Andrew Corkin
Kara Durrett

Gabrielle Nadig
Lucas Joaquin
Jonathan Joseph
Mynette Louie
Julie Lynn
Jordana Mollick
Alysa Nahmias

Chris Ohlson
Kishori Rajan
Laura Rister
Summer Shelton
Avril Speaks
Mayuran Tiruchelvam
Kelly Williams

ELIGIBILITY RULES

This set of rules could govern eligibility for joining the collective bargaining organization.

MEMBERSHIP

Producer applying for membership must:

- Reside in the United States.
- Have received the “Producer” or “Produced By” credit on at least two feature-length, scripted motion pictures, which were commercially distributed with initial release dates within the seven years preceding the date of application; **OR**
- Received the “Producer” or “Produced By” credit on one motion picture per the above specifications AND under the guidance and mentorship of a Producers Union mentor and subject to their recommendation (Union mentorship program details TBD); **AND**
- Performed 90% of the Producer responsibilities detailed in Exhibit A, below, on the picture(s) being submitted for eligibility.

“Feature length” is defined as no less than 70 minutes.

“Commercially distributed” is defined as the Picture being available to rent or purchase by the general public, whether through theatrical, video-on-demand, or streaming.

CONFLICT OF INTEREST

“Producer” and “Produced By” credits submitted by the Producer per the eligibility guidelines above will be considered ineligible if Producer also fulfills one or more of the following roles on the Picture:

- Equity financier, or employee of financier, who is contributing more than 10% of the Picture’s Total Gross Budget.
- Studio executive
- Lawyer
- Distributor
- Sales Agent, even in the case of paying a minimum guarantee.

If a Producer does not qualify per the above guidelines but feels they should be considered, we encourage the Producer to apply and utilize their Producer’s statement (described below) to address reasons why they believe they should be eligible.

APPLICATION

Applicant must submit the following:

- Two (or one under the guidance and mentorship of a Producers Union mentor) motion pictures, per the above specifications. Include title, other producers, writer, director, budget, and details about how the Picture was financed and distributed and whether or not you filled another role on the Picture (i.e. director, writer, actor)
- A Producer’s statement that articulates what producing means to you, how you utilize your platform, your leadership approach, your experiences to date, and how you want to grow as a producer.

- A Producer’s statement that denotes how you implemented your producing philosophy on the pictures submitted for eligibility.
- Description of projects you are currently developing that are not yet completed. Include your role on the project, the team, target budget, and finance and distribution strategy.
- Two letters of recommendation written by producers who are not an established producing partner of the Applicant.
- Two professional references from non-producing colleagues (i.e. directors, writers, department heads, investors, mentors, granting organizations).
- Application fee (TBD).

Selected Applicants will be invited to participate in an eligibility committee interview.

EXHIBIT A: QUALIFYING PRODUCER RESPONSIBILITIES

Applicants must complete the below checklist. All questions are “yes or no” answers based on producing services rendered across the Pictures(s) being submitted per the eligibility guidelines. For example, if one of the functions was performed on one of the Pictures but not the second, the answer is “yes.” Applicants must respond “yes” to at least **90% of the questions**.

DEVELOPMENT/PACKAGING/START-UP PHASE	YES	NO	N/A
Oversaw the Pictures’s legal entity (i.e. LLC) (if applicable)			
Secured the IP to the script, book, or underlying material			
Contributed notes on the script to the writer			
Hired director (if applicable)			
Formulated the finance plan			
Determined viability of actors both creatively and budgetarily			
Oversaw the creation of the budget			
Raised all or partial financing from third parties			
Determined and negotiated finance terms with third party financiers			
Attached lead cast and negotiated talent deals			
PRE-PRODUCTION			
Collaborated with director and casting director on casting decisions			
Approved or mutually approved shooting script			
Approved or mutually approved “locked” budget			
Approved or mutually approved schedule			

Hired line producer			
Acted as the liaison between unions and production company (if applicable)			
Secured bond and acted as the liaison between the bond company and production (if applicable)			
Approved service facilities (i.e. rental houses, stages)			
Attended cost report meetings and signed off on weekly cost reports			
Signed off on key creative production collaborators (i.e. cinematographer, production designer)			
Acted as the point person for all legal affairs and negotiations			
Acted as the liaison between production company and financier			
Worked on location during pre-production weeks			
Attended tech scouts with director and department heads			
PRODUCTION			
Worked on location during production weeks			
Supervised the line producer and production manager's execution of the day-to-day set operations			
Worked in collaboration with the director to make creative decisions with department heads			
Assumed final responsibility of the safety of cast and crew on behalf of the production company			
Supervised the schedule with the first assistant director			
Managed the budget with the line producer			
Problem solved creative issues outside of the scope of the schedule/ budget			
Acted as the liaison between production company and talent agents			
Oversaw script changes if necessary			
Contractually took on responsibility to complete production on schedule and on budget			
Had authority for hiring and firing employees and assumed responsibility for mediating any disputes or claims by cast or crew			
POST-PRODUCTION / DELIVERY			

Approved post production facility including post house, sound, and color			
Signed off on key creative post production collaborators (i.e. editor, composer)			
Reviewed cuts of Picture and provided feedback to director and editor			
Reviewed score cues and provided feedback to the director and composer			
Reviewed VFX and provided feedback to the director and VFX artist (if applicable)			
Attended and approved or mutually approved final sound mix			
Attended and approved or mutually approved final color correction finishing			
Approved or mutually approved final cut of the Picture			
Supervised delivery of the technical assets to distributor(s) and sales agent			
Supervised delivery of the legal assets to distributor(s) and sales agent			
Supervised delivery of necessary documents to fulfill state film incentive (if applicable)			
Oversaw accounting audit if necessary to fulfill state film incentive (if applicable)			
FESTIVALS / SALES / DISTRIBUTION			
Development and/or implemented festival and distribution strategy			
Acted as the liaison between production company and festivals			
Involved in the selection and hiring of domestic sales agent			
Involved in the selection and hiring of international sales agent			
Approved or mutually approved the sale of the Picture to distributor(s)			
Worked with lawyer to negotiate distribution deal			
Oversaw the set up of collection account			
Responsible for filing LLC annual taxes			
Responsible for continual management of LLC			

SCHEDULE OF MINIMUMS

There are currently no rules governing minimum fees for producers. Below is an example of potential minimum payments for members of a collective bargaining organization.

The Schedule of Minimums only applies when a Producer is working in the Producer role (not as executive producer, co-producer, associate producer, line producer etc.) on feature-length, scripted motion pictures the Total Gross Budgets of which do not exceed \$11,000,000.

“Total Gross Budget” of the Picture is defined as all costs related to the production of the Picture, including contingency, non-reducible by state tax incentives or other grants and subsidies.

FEES

Minimum fees are calculated as a percentage of the Total Gross Budget as follows:

5% - In the case of one Union Producer on the Picture

8% - In the case where there are two Union Producers on the Picture (to be split 4% each)

9% - In the case where there are three Union Producers on the Picture (to be split 3% each)

PAYMENT SCHEDULE

Producer shall be entitled to receive compensation payable as follows:

- 20% on a pro rata weekly basis during the weeks of pre-production;
- 60% on a pro rata weekly basis during principal photography;
- 10% upon delivery of the “director’s cut” of the Picture to Signatory; and
- 10% upon final delivery of the Picture to Signatory.

PENSION & HEALTH

Signatory will contribute the following:

- 17% P&H split 6.5% to pension, 10.5% to health (commensurate to DGA percentages).
- A flat P&H contribution of \$1,000 may apply in non-union situations as outlined below.

RESIDUALS

To be paid by Signatory or Distributor:

- Commensurate with DGA residuals, per below chart, to be split evenly amongst the Union Producers on the Picture, but no more than three Producers as described above.

ADDITIONAL GUIDELINES

Signatory agrees that there will be:

- No deferral of Producer fee permitted at any budget level.
- No Producer fee may be used as contingency.
- No more than three Union Producers will be permitted per Picture.

Established producing teams of two and two (ie; a total of four Producers) will be eligible to apply for a waiver to override the three Union Producers guideline, but will not receive more than the 9% allotted fee for three Producers, to be split equally.

WAIVERS TO WORK NON-UNION

Union Producers are permitted to work on a non Producers Union Picture only in the following circumstances:

- When the non-union Picture's Total Gross Budget exceeds \$11,000,000 (we want to encourage upward not downward mobility)
- On non-union Pictures where the Total Gross Budget is under \$11,000,000 and the Producer is working in the capacity of an executive producer, co-producer, associate producer, or line producer etc. and NOT functioning in the Producer role.

In both circumstances, the Picture must pay a P&H contribution of \$1,000 or 17% of the Producer's total fee, whichever is higher.

DGA: How Residuals Work (Basic Agreement)

<i>Re-Use</i> <i>Product</i>	Pay TV	Home Video	Domestic Free TV	Foreign Free TV	New Media: Electronic Sell Through	New Media: Ad-Supported Streaming
Theatrical Feature	1.2% of "Distributor's gross" (DIR, UPM, 1AD, 2AD, Pension Plan)	1.5% / 1.8% of "Employer's gross"* (DIR, UPM, 1AD, 2AD, Pension Plan)	1.2% of "Distributor's gross" (DIR, Pension Plan)	1.2% of "Distributor's gross" (DIR, Pension Plan)	1.8/3.25% of "Employer's gross"*	1.2% of "Employer's gross"
Made for Free TV	1.2% of "Distributor's gross"	1.5% / 1.8% of "Employer's gross"*	Run-based payments	35% of residual base up to a gross receipts plateau; 1.2% of "Distributor's gross" above plateau	1.8/3.5% of "Employer's gross"*	After promotional window: percentage of residuals base; Gross receipts after year one
Made for Basic Cable	1.2% of "Distributor's gross"	1.5% / 1.8% of "Employer's gross"*	Run-based payments	35% of residual base up to a gross receipts plateau; 1.2% of "Distributor's gross" above plateau	1.8/3.5% of "Employer's gross"*	After promotional window: percentage of residuals base; Gross receipts after year one
Made for Pay TV/ Home Video	"Exhibition year" residual based on number of subscribers	2% of gross above 100,000 unit threshold	Run-based payments	35% of residual base up to a gross receipts plateau; 1.2% of "Distributor's gross" above plateau	1.8/3.5% of "Employer's gross"*	After promotional window: percentage of residuals base; Gross receipts after first year

*"Employer's gross" is deemed to be 20% of "Distributor's gross" where the Distributor is affiliated with the Employer.

PLEASE NOTE: If there are any differences between this chart and the BA, the BA prevails

FAIR CREDITING

The goals of the Fair Crediting recommendations is to ensure that Producers are properly credited for their work, that the “Produced by” credit is not improperly used by those not fulfilling Producer responsibilities, and to stimulate employment and career opportunities for Producers with studios, streamers, non-profits (ex: Sundance, Film Independent) and others who are in need of qualified, “hands-on,” Creative Producers.

GUIDELINES

- Signatories must employ at least one (1) Union member as Producer per Picture.
- Only Union Producers are eligible to receive the “Producer” or “Produced by” credit on the Picture. Any additional non-member Producer wishing to receive such credit must submit a formal waiver demonstrating that the non-union Producer fulfilled responsibilities equal to those performed by Union Producers. The responsibilities outlined in the Eligibility Recommendations will be used as the metrics to which Producers are held accountable and to receive the “Producer” or “Produced by” credit.
- Credit will be recognized on-screen, in the main titles (where the “directed by” credit is accorded), among all cards containing Producer credits, in the size of type no smaller than that used to accord credit to any other individual Producer(s).
- Those credited will be recognized in the billing block of paid advertising issued by or under the authority of Signatory, wherever a billing block is used, in accordance with standard industry crediting practice.
- Signatory must bear the union logo in the end credits of the Picture in size and position no less than any other guild or union.

MARK

Producers will receive a MARK that communicates outwardly to the industry that Producer is a member of the Union and to ensure that the Union receives visibility when a Producer is connected to non-signatory projects in a capacity outside of Producer.

- Producer will receive the Union MARK when credited as “Producer” or “Produced by.”
- At their own discretion, Producers will be allowed to use the MARK when also credited as “executive producer” or “co-producer” on union or non-union Pictures.
- MARK to appear on-screen, in the billing block, and recognized on IMDB.
- The MARK will only be accorded to Union Producers.

CREATIVE RIGHTS

The role of a producer is often misconstrued since so many people on a picture take the credit. This list endeavors to clarify and codify creative rights and responsibilities given to a producer.

The following is a summary of a Producer's rights to be upheld by Signatory (in addition to a schedule of minimums) on feature-length, scripted motion pictures the Total Gross Budgets of which do not exceed \$11,000,000.

These are minimum rights granted. Producers may negotiate additional rights in their individual agreement with Signatory.

Anywhere Producers have RESPONSIBILITY, we have to have AUTHORITY.

OVERARCHING RIGHTS

- A. In any area where the Producer is given responsibility, the Producer must have decision-making authority.
- B. Signatory must inform the Producer of (1) the personnel already employed on Picture; (2) any rights of script, cast, and/or personnel approval held by someone other than Producer; (3) the Picture's top sheet (if any); (4) all other commitments related to the Picture.
- C. Producer is always included in decision-making significant to the Picture, including but not limited to creative, administrative, and financial decisions, as well as all decisions regarding the hiring of department heads, even when those department heads are a long-standing member of a director's team. Great deference will be given to significant and longtime creative relationships when important to a director.
- D. Producer has access to all documentation relevant to the Picture.
- E. Producer receives travel, per diem, and housing in a manner no less accommodating than director during pre-production, production, post-production, and the festival and sales portion of the process.
- F. Producer commits, and Signatory commits, to the understanding that the Producer will not sign, and will not be compelled to sign, any personal financial guarantees for unions signatory to the Picture. For clarity, "personal" guarantee encompasses not only an individual's signature, but also the individual Producer signing on behalf of their company lending services.

PRE-PRODUCTION

1 Producer will have access to all drafts of the Picture's script and be included in any material "notes" conversations.

2 Producer is included in all casting decisions and will have access to all audition materials. At least one mutually-agreed upon Producer is invited to all live casting sessions. All Producers must be granted access to any and all online and web-related casting review sites.

3 Producer is included in the decision of the start date of principal photography and selection of all locations such as the base city or region of principal photography, specific locations, and all manner of location decisions creative, financial, and administrative.

4 Producer is included in all decisions pertaining to schedule and budget of the Picture, including allocations for contingency, financing fees, and financier overhead.

PRODUCTION

1 Producer is included in all decisions regarding the course of the day, including those regarding meal penalties and overtime, as well as any and all decisions relating to the day's call-time and schedule.

2 Producer is included in all decisions during principal photography that pertain to significant changes in the shooting plan, including but not limited to personnel (in-front of and behind the camera), location, budget, and script.

3. Producer is welcome on set, at any on-set video monitors, and is given access to dailies on a timeline concurrent with the director.

POST-PRODUCTION

1 Understanding that there are times when the director and editor(s) need space and privacy to do their best work, Producer will have access to the cut of a DGA-signatory Picture no later than 10 weeks after the beginning of the director's cutting period. If the production is a non-DGA Picture, the Producer will have access to the cut no later than any other Producer, including executive producers, and within enough time for the contribution and implementation of substantive notes.

2 If a screening(s) is(are) conducted for Signatory, with an expectation that Signatory will be delivering notes to the creative team, then the Producer will be invited to said screening(s).

3 Producer is included in the final "sign off" on locked picture, sound mix, visual effects, and color correction. This means that the Producer is invited to regular playbacks of editorial cuts, sound mix, and color correction within a time frame that allows for notes

FESTIVALS & SALES

1 If a festival is offering travel and accreditation to the director, then best efforts must be made to match that standard out of any monies remaining in the Picture's budget. If no funds are available, then best efforts must be made by Signatory to provide.

2 Producer is included in the festival and/or sales strategy of the Picture, including mutual approval over the hiring of the sales agent and their fees. Producer will be included in all principal meetings with potential sales agents, publicists, and/or distributors. No final decisions about festival choices or the Picture's distribution will be made without the participation of the Producer.

3 Signatory must make best efforts to cause the distributor to grant meaningful consultation to the Producer on the marketing and release plans for the finished Picture. Signatory must make best efforts to compel distributor to provide travel and accommodations in a manner commensurate with that provided to the director for festivals and premieres that take place after the sale of the Picture.

4 Producer will have access to all documentation related to the sale of the Picture and any and all distributor reports that follow.

5 Producers' rights may not be bargained away by Signatory during the negotiating of a distribution deal.

6 For Pictures budgeted over \$500,000, Signatory commits that all gross receipts will be deposited and administered by a collection agent, pursuant to a collection account management agreement in which the Producer shall be listed as a party.

VESTING OF RIGHTS

1 Producer may not be replaced or removed, except for gross willful misconduct.

2 Producer must be given the opportunity to produce any additional photography and reshoots. In the event that Producer is unavailable, Producer must have the opportunity to consult with the person who produces said additional photography/reshoots.