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BRITISH COLUMBIA PRODUCER CONTROL INDICATORS

For the purposes of this document, "non-British Columbia entity" shall refer to an individual that is not BC-Based, and/or a corporation or control group that is not BC-Controlled as defined in Part 5 – Film and Television Tax Credit of the Income Tax Act (British Columbia) and Regulations (collectively, the "Act"). All other definitions are as set out in the Act.

Section 80(1)(d) of the Act states "the producer of the production, or, in the case of an interprovincial co-production or a treaty co-production, the producer of the British Columbia portion of the production, is at all times during the production of the production, a BC-based individual who is a Canadian."

Pursuant to the Regulations, "producer", in relation to a film or video production, means the individual who

- (a) controls and is the central decision maker in respect of the production,
- (b) is directly responsible for the acquisition of the production, story or screenplay and the development, creative and financial control and exploitation of the production, and
- (c) is identified in the production as being the producer of the production;

If there is evidence of substantial financial or creative control, or control in any other area which British Columbia Film considers to be material, by a person other than a BC-based Producer, the requirements for the basic film tax credit may not be met. Evidence of one or more of the following, jointly or severally, may indicate that a BC-based Producer does not have sufficient financial or creative control over the Production in order to be deemed eligible by the certifying authority for Film Incentive BC:

1. *Evidence that seventy-five percent (75%) or more of the total budget/final cost of production is financed (or interim financed) by a single non-British Columbia entity (or through a combination of related, associated or affiliated non-British Columbia entities), but specifically excluding lending institutions;*
2. *Evidence that a non-British Columbia entity owns and controls distribution and/or exploitation rights to the U.S. and an economically significant portion of the rest of the world;*
3. *Evidence that the BC-Based Producer and/or BC-Controlled Production Corporation does not retain an effective share of profit participation equivalent to at least twenty-five percent (25%) of the value worldwide excluding Canada;*
4. *Evidence that the BC-Based Producer and/or BC-Controlled Production Corporation does not have at least a first right of negotiation, or option rights, for subsequent cycles of a television series, sequels and spin-offs based on the specific rights acquired;*
5. *Evidence that a non-British Columbia entity, whether a producer, broadcaster, distributor, funding agency, completion guarantor or any other party involved in the production, has been granted significant controls and/or approvals that are over and above those consistent with standard industry practice and has been granted controls and/or approvals that are consistent with those generally held by a producer*. The non-British Columbia entity may not, through the receipt of (but not limited to) weekly expense statements, daily rushes, rough cuts, exercise undue control or require changes (at a cost or at no cost to the Producer) save to conform to pre-approved elements, or in the opinion of the BC-based Producer and/or the BC-Controlled Production Corporation, enhance the production. (*Exception: in the case of an inter-provincial and international co-production whereby the principal decisions concerning the co-production are to be made jointly by BC-Based Producer and/or BC-Controlled Production Corporation and non-BC-Based producer and/or non-BC-Controlled production corporation.);*

6. *Evidence that a non-British Columbia entity, which is normally involved in the business of producing, distributing, broadcasting or similar endeavours (excluding the business of providing completion guarantees), is providing a completion guarantee to the production with standard take-over rights;*
7. *Evidence that the producer fees and corporate overhead payable to the BC-Based Producer and/or BC-Controlled Production Corporation are less (in the aggregate) than the total paid to all other non-BC-Based producers and other related executive production positions (senior executive, executive in charge of production, supervising producer, production supervisor, executive producer, etc.). This item does not apply in the case of inter-provincial co-productions;*
8. *Evidence that the BC-Based Producer and/or BC-Controlled Production Corporation does not initially (i.e. after the purchase of underlying rights) and beneficially own 100% world copyright and distribution rights prior to any agreements being entered into or negotiations proceeding with the subsequently contracted investors, financiers, broadcasters and distributors.*