

ARTICLE 29.

MINIMUM SALARIES AND RESIDUAL COMPENSATION FOR DIRECTORS OF PROGRAMS PRODUCED MAINLY FOR THE PAY TELEVISION AND VIDEODISC/VIDEOCASSETTE MARKET

SECTION A. APPLICABILITY OF THIS ARTICLE

1. Covered Programs

This Article is applicable to the employment of Directors for programs produced mainly for the "pay television" and/or the "videodisc/videocassette" market, as the quoted terms are defined below, except that the following types of programs produced mainly for such market are covered only by Section I., Paragraph 5. of this Article 29: industrial and religious programs, commercials, advertising shorts and trailers, educational, informational and instructional programs and documentaries. A program to which this Article is applicable is referred to herein as a "covered program," but such term does not include programs covered only by Section I., Paragraph 5.

2. Videodisc/Videocassette

The term "videodisc/videocassette," as used in this Article, shall mean disc, cassette, cartridge and/or other device serving a similar function which is sold or rented for play on a home-type television screen in the home.

3. Pay Television

The term "pay television," as used in this Article, shall mean exhibition on a home-type television screen by means of a telecast, cable, closed circuit, satellite to home or CATV when a majority of licensed systems meet the following tests:

- (a) a separate channel is provided for which the subscriber pays a separate fee (which fee is a substantial charge relative to other charges made to the subscriber) for that channel;

and/or

- (b) the subscriber pays for the program or programs selected (except that a program or programs selected for which only a token charge is made shall not be considered pay television);

and/or

- (c) the subscriber pays a fee for an encoded telecast, which fee is a substantial charge relative to other fees paid for encoded telecasts.

The foregoing tests cover those types of services and systems which exist in the industry today and are commonly understood in the industry today to be pay television services or systems.

4. Service and Subscribers

The term "service," as used in this Article, refers to a television service, such as HBO or Showtime, which licenses systems to exhibit programs on a pay television basis; in addition, the term "service" includes systems which have been licensed to exhibit the program on a pay television basis other than through such a service. For the purposes of this Article 29, the term "subscribers" includes only pay television subscribers to services which make payments for the pay television exhibition of the covered program: (a) to the Employer, (b) to those acting pursuant to authority derived from the Employer, or (c) to an entity authorized by law to receive payment for the Employer. Only paying subscribers are counted in determining the number of subscribers for any purpose under this Article 29.

5. Exhibition Year

A service's "first exhibition year," as that term is used in this Article, is a one year period commencing on the date of the first pay television exhibition by that service on a non-pay-per-view basis. A service's

"subsequent exhibition year," as used in this Article, is a one year period commencing on the date immediately following the date the prior exhibition year ends. There may or may not be an exhibition of the program during a subsequent exhibition year. Notwithstanding the foregoing, if the number of subscribers, calculated as prescribed in Article 29, Section D.2., is fewer than six million (6,000,000) for the first exhibition year of a covered program, then a service's "subsequent exhibition year" is a one (1) year period commencing on the date of such first exhibition on a non-pay-per-view basis after the expiration of the prior exhibition year.

The exhibition year is utilized in determining subscriber residuals for non-pay-per-view exhibitions of a covered program (including sports and non-staged events), but is not applicable to pay-per-view exhibitions (including pay-per-view exhibitions of sports and non-staged event programs).

SECTION B. DIRECTORS' MINIMUM SALARIES

1. Initial Minimum

The initial minimum salary applicable to a Director employed in the making of a covered program shall be determined in accordance with the provisions of this Section B.

(a) Network Prime Time

The initial minimum salary for a covered program of a type generally produced for network prime time television shall be as follows:

- (i) Fewer than one and one-half million (1,500,000) subscribers -- fifty percent (50%) of the applicable free television minimum. (This minimum is also applicable if there are no license agreements for the pay television exhibition of the program at the time the Director is employed.)

- (ii) One and one-half million (1,500,000) subscribers or more but fewer than two million (2,000,000) subscribers -- seventy percent (70%) of the applicable free television minimum.
- (iii) Two million (2,000,000) subscribers or more but fewer than three million (3,000,000) subscribers -- eighty percent (80%) of the applicable free television minimum.
- (iv) Three million (3,000,000) subscribers or more -- one hundred percent (100%) of the applicable free television minimum.

The foregoing references to "applicable free television minimum" are to the minimum salary set forth in the Tape Agreement for a network prime time program of the same type and length. The number of subscribers is determined, as of the time the Director is employed, by the number of subscribers to all services which have contracted for the pay television exhibition of the program other than on a pay-per-view basis, plus the number of subscribers, if any, who have contracted to view the program on a pay-per-view basis.

(b) Other Than Network Prime Time - Excluding Local Distribution

The initial minimum salary for a covered program of a type not generally produced for network prime time shall be one hundred percent (100%) of the applicable minimum salary set forth in the Agreement for an other than network prime time program of the same type and length, unless the program is intended for local pay television distribution only.

If such minimum is higher than the minimum would be if it had been computed pursuant to subparagraph (a) above, then the applicable minimum shall be computed in accordance with subparagraph (a), using the network prime time rate and the applicable number of subscribers.

(c) Local Distribution

If the program is intended for local pay television distribution only, then the initial minimum salary shall be determined in accordance with the schedule set forth in subparagraph (a) above except that the references to "applicable free television minimum" shall be to the minimum salary set forth in the Agreement for an other than network prime time program of the same type and length. The term "local distribution," as used in this Article, means exhibition in no more than two (2) markets.

(d) Multiple-Times-Per-Week

The multiple-times-per-week formula set forth in the Agreement shall be applicable to programs of a type which are generally produced for multiple-times-per-week broadcasts in free television. This test shall substitute for the intended and actual broadcast pattern.

2. Adjustments of Initial Minimum

If the Employer has paid the Director less than one hundred percent (100%) of the applicable free television initial minimum salary, the Employer shall pay adjustments in the Director's initial salary according to the terms of this Paragraph 2. Nothing in this Agreement shall be interpreted to prevent the prepayment of adjustments in the initial minimum.

If videodiscs or videocassettes of a program are released for sale or rental to consumers prior to the commencement of the term of a pay television license, the initial minimum salary shall be adjusted to one hundred percent (100%) of the applicable free television minimum.

If a program intended only for local pay television distribution at the time the Director is employed is distributed in more than two (2) markets, the initial minimum salary shall be adjusted to the amount which would have been applicable had the program not been intended for local distribution.

The Director's initial minimum salary shall also be adjusted if the number of subscribers increases to a level requiring a greater percentage under Paragraph 1. of this Section B. For example, if the number of subscribers was fewer than one and one-half million (1,500,000) at the time the Director was employed and the Employer paid the Director fifty percent (50%) of the applicable free television minimum, the Employer must pay an adjustment to make the Director's salary seventy percent (70%) of the applicable free television minimum if the number of subscribers later increases to one and one-half million (1,500,000) (*i.e.*, the Employer must pay an additional 20% of such minimum).

For the purpose of determining if an adjustment in initial minimum salary is due and the amount of such adjustment, the number of subscribers previously counted for purposes of initial compensation and adjustments in initial compensation shall have added to it: (a) the number of subscribers to services which contract for the first time to exhibit the program on pay television, other than pay-per-view, after the Director was employed; (b) any increases in the number of subscribers at the beginning or end of a service's subsequent exhibition years (but not a service's first exhibition year); and (c) the number of subscribers who paid to view the program on a pay-per-view basis to the extent that such number is in excess of the number who had contracted for such viewing at the time the Director was employed.

A pay-per-view subscriber is counted each time the subscriber pays to view the program. If a pay-per-view subscriber who pays for the program once is thereby given the right to view the program more than once, or at any one of several alternate times, the subscriber is counted only one time.

If an adjustment in minimum compensation required by this Paragraph increases the applicable initial minimum compensation to an amount exceeding the initial compensation which the Director received, payment of such excess shall be made within thirty (30) days following the end of the calendar quarter during which the adjustment became due. Payment shall be by check payable to the order of the Director entitled thereto (or the Director's loan-out company) and shall be delivered to the Guild for forwarding to such

Director and compliance herewith shall constitute payment to the Director.

SECTION C. RESIDUAL COMPENSATION FOR PAY TELEVISION AND VIDEODISC/VIDEOCASSETTE EXHIBITION

1. The various methods of computing residual compensation for pay television and videodisc/videocassette exhibition are set forth in the following Sections:

- (a) Section D., pay television exhibition excluding (i) pay-per-view and (ii) sports and non-staged event programs;
- (b) Section E., pay television exhibition (including pay-per-view) of sports and non-staged event programs;
- (c) Section F., pay-per-view exhibition other than sports and non-staged event programs;
- (d) Section G., videodiscs/videocassettes.

2. Time of Payment

Notwithstanding any provision to the contrary elsewhere in this Agreement, all residual payments required under this Article 29 shall be sent to the Pay Television and Videodisc/Videocassette Fund Administrator (herein "Pay TV Fund Administrator"), established pursuant to Exhibit "B" attached hereto, not later than thirty (30) days following the end of each calendar quarter during which such payments become due.

3. Prepayment of residuals is allowed only to the extent expressly permitted in the following paragraph.

An Employer may negotiate with the Director of a two hour or longer program for the right to prepay residuals due under Article 29 of this Agreement only by crediting or offsetting against overscale initial compensation exceeding the greater of two hundred twenty-five thousand dollars (\$225,000), or five thousand dollars (\$5,000) for all

guaranteed days (plus additional days worked), provided that: (a) only five-sixths of any residual payment may be prepaid; (b) the one-sixth not prepaid shall be paid to the Pay-TV Fund Administrator when required by Article 29; and (c) the check for the prepaid residuals shall be made payable to the Director (or the Director's loanout company), not combined with any other payment and sent to the Director in care of the Guild. The overscale compensation threshold amounts set forth herein shall increase each year in the same manner and amount as the increase in salary rates for Directors of network prime time programs.

No prepayment of residuals will be permitted unless set forth in the "deal memorandum" in the specific amounts which are to be prepaid.

SECTION D. RESIDUAL COMPENSATION FOR PAY TELEVISION, EXCLUDING (i) PAY-PER-VIEW AND (ii) SPORTS AND NON-STAGED EVENT PROGRAMS

Residual compensation for pay television exhibition, other than pay-per-view, of covered programs other than sports and non-staged events shall be computed in accordance with this Section D.

1. Subscriber Residual for Services With Six Million (6,000,000) or More Subscribers for the First Exhibition Year of a Covered Program

A subscriber residual for a service with 6,000,000 or more subscribers for the first exhibition year of a covered program becomes due if there is an exhibition on pay television in the United States or Canada (excluding "the exempt run") during any exhibition year. Employer shall make a subscriber residual payment calculated by multiplying the number of subscribers to services which completed the first six (6) months of an exhibition year by the per subscriber rate.

If an exhibition (excluding "the exempt run") occurs during the first six (6) months of an exhibition year, the residual payment is

calculated at the end of the six (6) months and paid within thirty (30) days following the calendar quarter in which the calculation is to be made. If there is an exhibition in the second six (6) months of an exhibition year and no exhibition (excluding "the exempt run") in the first six (6) months, the residual payment is calculated at the end of the exhibition year and paid within thirty (30) days following the calendar quarter in which the calculation is to be made.

(a) The Exempt Run

For the purpose of calculating the subscriber residual, the exhibitions of a program during one "run" (hereinafter called "the exempt run") on each pay television service are excluded. "The exempt run" is defined as an unlimited number of exhibitions within a twenty-four (24) hour period, but is limited to one exhibition between the hours of 6:00 p.m. and 11:00 p.m. The twenty-four (24) hour period shall be measured separately on each system licensed by a service. If a system is licensed by more than one (1) service to exhibit the same program, there shall be an exempt run on such system for each such service.

(b) Pay-Per-View Exhibition

If a program covered by this Section D. is also exhibited on a pay-per-view basis, the pay-per-view subscribers shall not be counted for the purpose of calculating the subscriber residual.

(c) Counting Subscribers

A determination as to the number of subscribers for each service shall be made six (6) months after the beginning of each exhibition year of such service and that number shall constitute the number of subscribers for that year for that service.

In making each such determination, if the Employer and the Guild agree as to the number of subscribers, that number shall be used. Otherwise, the latest issue of a generally recognized authoritative publication, selected by agreement of the Guild

and the AMPTP, shall be used; absent such agreement, "The Kagan Census of Cable and Pay TV" shall be utilized for determining the number of subscribers.

(d) Per Subscriber Rate

The per subscriber rate applicable to a service's first exhibition year is one hundred percent (100%) of the applicable free television minimum divided by thirty million (30,000,000), except for a covered program which is a "high budget pay television program." The applicable free television minimum is determined in the same manner as in Section B., Paragraph 1. A "high budget pay television program," as the term is used in this Article 29, is defined as a program which is eighty (80) minutes or longer and is budgeted at, or in excess of, five million dollars (\$5,000,000), except for multi-part closed-end series in the genre of *Shogun*, *Roots* and *Masada*. For "high budget pay television programs," the theatrical minimum in the Directors Guild of America Basic Agreement, rather than the free television minimum, is used for determining the per subscriber rate. (The minimum initial salary for such programs is not affected by this subparagraph.)

The per subscriber rate for any exhibition year following the first exhibition year shall be a percentage of the per subscriber rate for the first exhibition year as shown in the schedule below:

Exhibition Year	Subscriber Factor
2	70%
3	50%
4	30%
5	25%
6	20%
7	15%

(continued)

(continued)

Exhibition Year	Subscriber Factor
8	10%
9	10%
10	10%
11 and each subsequent year	5%

A table is attached hereto as Exhibit "C" - Part II setting forth the per subscriber rates for the various types of programs.

(e) One Year's Unlimited Exhibitions

The compensation set forth in this Paragraph 1. shall entitle the Employer to an unlimited number of non-pay-per-view exhibitions during the exhibition year for which such compensation is paid. (As provided in Section E., this subparagraph (e) is applicable to non-pay-per-view exhibition of sports and non-staged event programs.)

(f) Subscriber Residual Ceiling

Notwithstanding anything to the contrary above, no single exhibition year's residuals for a particular "covered program" shall exceed the Director's applicable minimum initial compensation for the program.

2. Subscriber Residual For Services With Fewer Than Six Million (6,000,000) Subscribers for the First Exhibition Year of a Covered Program

A subscriber residual shall be due, to the extent required by this Article 29, if the "aggregate" number of subscribers to services which exhibit the program, calculated as provided in subparagraph (e) herein, exceeds the subscriber window.

(a) Subscriber Window

The "subscriber window" is an aggregate of three million (3,000,000) subscribers.

(b) The Exempt Run

For the purpose of determining if the subscriber window is exceeded and for the calculation of the subscriber residual, the exhibitions of a program during one "run" (hereinafter called "the exempt run") on each pay television service are excluded. "The exempt run" is defined as an unlimited number of exhibitions within a twenty-four (24) hour period, but is limited to one exhibition between the hours of 6:00 p.m. and 11:00 p.m. The twenty-four (24) hour period shall be measured separately on each system licensed by a service. If a system is licensed by more than one (1) service to exhibit the same program, there shall be an exempt run on such system for each such service.

(c) Pay-Per-View Exhibition

If a program covered by this Section D. is also exhibited on a pay-per-view basis, the pay-per-view subscribers shall not be counted for the purposes of determining if the subscriber window is exceeded or for calculating the subscriber residual.

(d) Counting Subscribers

A determination as to the number of subscribers for each service shall be made six (6) months after the beginning of each exhibition year of such service and that number shall constitute the number of subscribers for that year for that service.

In making each such determination, if the Employer and the Guild agree as to the number of subscribers, that number shall be used. Otherwise, the latest issue of a generally recognized authoritative publication, selected by agreement of the Guild and the AMPTP, shall be used; absent such agreement, "The

Kagan Census of Cable and Pay TV" shall be utilized for determining the number of subscribers.

(e) Calculating Number of Subscribers for Payment of Subscriber Residual

The number of subscribers on which the subscriber residual shall be paid shall be calculated as follows:

- (i) At the end of each calendar quarter, the number of subscribers (computed as in subparagraph (d) above) to services which completed the first six (6) months of an exhibition year during that quarter shall be added to the total of such numbers for all prior quarters in which a service completed the first six (6) months of an exhibition year. The sum so calculated is the "aggregate" number of subscribers. This procedure shall continue until the aggregate number of subscribers exceeds the subscriber window.
- (ii) During the quarter in which the aggregate number of subscribers exceeds the subscriber window, a subscriber residual shall become due for the number of subscribers by which such window is exceeded.
- (iii) During subsequent quarters, a subscriber residual shall become due for subscribers to services which completed the first six (6) months of an exhibition year during such quarter.
- (iv) The computation provided for in (iii) above shall continue until the conclusion of the "program's first exhibition year" or until the "accountable receipts plateau" is reached, whichever is later. (The quoted terms in the preceding sentence are defined in Paragraph 3. of this Section D.)

(f) Calculation of Subscriber Residual Payment

The amount of the subscriber residual payment is calculated by multiplying the number of subscribers for which such payment is due by the per subscriber rate.

The per subscriber rate applicable to a service's first exhibition year is one hundred percent (100%) of the applicable free television minimum divided by fifteen million (15,000,000), except in the case of a covered program which is a "high budget pay television program." The applicable free television minimum is determined in the same manner as in Section B., Paragraph 1. A "high budget pay television program," as the term is used in this Article 29, is defined as a program which is eighty (80) minutes or longer and is budgeted at, or in excess of, five million dollars (\$5,000,000), except for multi-part closed-end series in the genre of *Shogun*, *Roots* and *Masada*. For "high budget pay television programs," the theatrical minimum in the Directors Guild of America Basic Agreement, rather than the free television minimum, is used for determining the per subscriber rate. (The minimum initial salary for such programs is not affected by this subparagraph.)

The per subscriber rate applicable to a service's subsequent exhibition years shall be seventy percent (70%) of the rate applicable to the service's first exhibition year, whether or not a subscriber residual payment was due for such first exhibition year.

A table is attached hereto as Exhibit "C" - Part I setting forth the per subscriber rates for the various types of programs.

(g) One Year's Unlimited Exhibitions

The compensation set forth in this Paragraph 2. shall entitle the Employer to an unlimited number of non-pay-per-view exhibitions during the exhibition year for which such compensation is paid. (As provided in Section E., this subparagraph (g) is applicable to non-pay-per-view exhibitions of sports and non-staged event programs.)

(h) Subscriber Residual Ceiling

Notwithstanding anything to the contrary above, no single exhibition year's residuals for a particular "covered program" shall exceed the Director's applicable minimum initial compensation for the program.

3. Percentage Residual

A percentage residual shall be due, to the extent required by this Paragraph 3., only for services with fewer than six million (6,000,000) subscribers for the first exhibition year of a covered program.

(a) Accountable Receipts

The Employer shall pay a percentage residual equal to two percent (2%) of the "accountable receipts" which exceed the "accountable receipts plateau," except as otherwise provided in this Paragraph 3.

In determining whether the accountable receipts plateau has been reached, the following receipts shall be included: (i) accountable receipts from pay (other than pay-per-view) television (including receipts for the exempt run) and (ii) fees or other income received by the Employer as producer from videodisc/videocassette sales or rentals.

Once the accountable receipts plateau is reached, only accountable receipts from pay television (other than pay-per-view) are included in accountable receipts for the purpose of calculating the percentage residual. However, as described in subparagraphs (d) and (e) below, accountable receipts are exempt from assessment of the percentage residual if such receipts are:

- (i) allocable to the "first year's receipts exemption;" or
- (ii) allocable to any service's exhibition year (other than an exhibition year the receipts of which are allocated as in

(i) above) the first six (6) months of which are completed prior to the program reaching the accountable receipts plateau.

(b) Accountable Receipts Plateau

The "accountable receipts plateau" shall be as follows:

(i) For "high budget pay television programs," as defined in this Article 29:

Production Cost	Accountable Receipts Plateau
\$5,000,000	\$10,000,000
Over \$5,000,000	\$10,000,000 plus \$1,000,000 for each additional \$1,000,000 of production costs over \$5,000,000

(ii) For programs of a type generally produced for prime time network television:

Program Length	Accountable Receipts Plateau
0-30 minutes	\$1,000,000
31-60 minutes	\$2,000,000
61-90 minutes	\$3,000,000
91-120 minutes	\$4,000,000
Over 120 minutes	\$1,000,000 for each additional one-half hour or fraction thereof

- (iii) For programs other than those covered by (i) or (ii) above: when the applicable minimum initial compensation for a program is less than the minimum initial compensation for a program of the same length covered by (ii) above, the accountable receipts plateau shall be proportionately reduced in accordance with the following formula:

$$\frac{\text{Applicable Free Television Minimum Initial Compensation for Program Covered by Subparagraph (iii)}}{\text{Applicable Free Television Minimum Initial Compensation for Program of Same Length Covered by Subparagraph (ii)}} = \frac{\text{Accountable Receipts Plateau for Program Covered by Subparagraph (iii)}}{\text{Accountable Receipts Plateau for Program Covered by Subparagraph (ii)}}$$

The accountable receipts plateaus for such types of programs are set forth in Exhibit "D" attached hereto and have been computed in accordance with the foregoing formula.

(c) Program's First Exhibition Year

A "program's first exhibition year" is a one (1) year period commencing with the first exhibition of the program on pay television, other than on pay-per-view, on any service.

(d) First Year's Receipts Exemption

The accountable receipts from a service with an exhibition year which is completed during the program's first exhibition year shall be exempt from the payment of the percentage residual, provided that if the license is for more than one (1) year, a portion of the accountable receipts from the license shall be allocated arithmetically to that portion of the license falling within such exhibition year of the service. If such license should provide for an option and such option is exercised, neither the period covered by the exercise of such option nor the accountable receipts resulting from such exercise shall be included in the foregoing computations. (Exemption of

accountable receipts pursuant to this subparagraph is referred to as "the first year's receipts exemption." Accountable receipts from pay-per-view exhibitions are excluded from calculations of accountable receipts under subparagraphs (d) and (e) herein.)

(e) Exhibition Year Exemption

Any exhibition year of a service which reaches its six (6) month point prior to the program reaching the accountable receipts plateau shall have an amount allocated to such exhibition year which shall be exempt from the payment of the percentage residual. Such amount shall be determined in the same manner as under subparagraph (d) above. To the extent that receipts are exempt under subparagraph (d) above, no additional exemption for such receipts shall be taken under this subparagraph (e).

(f) Accountable Receipts -- Pay Television

The term "accountable receipts," as used in this Paragraph 3., means the worldwide total gross receipts derived by the distributor of a covered program (who may be the Employer or a distributor licensed by the Employer) from licensing the right to exhibit the program (referred to in subparagraphs (f) and (g) herein as "such program") on pay television; provided, however, that in the case of any such program which is produced outside of the United States, if such program is subject to this Agreement and if the production is under an arrangement (herein referred to as a "foreign production deal") pursuant to which a foreign producer or distributor provides or guarantees any of the financing for the production of such program or furnishes any other consideration for production and a foreign distributor acquires one or more foreign territories for the distribution of such program in pay television, then no monies from any such distribution in any such foreign territory shall be included in the gross receipts except to the extent such foreign producer or foreign distributor is obligated to account to Employer or the distributor of such program for such monies, and except for gross receipts

received by such foreign distributor from such distribution in the United Kingdom.

If the distributor of such program does not distribute the program directly in pay television, but employs a subdistributor to so distribute such program, then gross receipts shall be the worldwide total gross receipts derived by such subdistributor from licensing the right to exhibit such program in pay television. In case of an outright sale of the pay television distribution rights, for the entire world, or any territory or country, the income derived by the seller from such sale, but not the income realized by the purchaser or licensee of such rights, shall be the "accountable receipts." If any such outright sale shall include pay television exhibition rights and other rights, then (but only for the purpose of the computation required hereunder) the Employer shall allocate to the pay television exhibition rights a fair and reasonable portion of the sales price which shall, for the purpose hereof, be the "accountable receipts." In reaching this determination, Employer may consider the current market value of pay television exhibition rights in comparable programs.

If the Guild shall contend that the amount so allocated was not fair and reasonable, such claim may be determined by submission to arbitration as herein provided; and in the event the Arbitrator shall find that such allocation was not reasonable and fair, he or she shall determine the fair and reasonable amount to be allocated. If the outright sale includes pay television distribution rights to more than one program, Employer shall likewise allocate to each such program a fair and reasonable portion of the sale price of the pay television rights; and if the Guild contends that such allocation is not fair and reasonable, the question may be determined by submission to arbitration as above provided. If the Arbitrator shall find that such allocation was not fair and reasonable, the Arbitrator shall determine the fair and reasonable amount to be so allocated to each such program. Nothing with respect to the price received on the outright sale of only pay television distribution rights in a single such program shall be subject to arbitration except that, in the event of a dispute, there may be

arbitrated the question of whether the price reported by the Employer to the Guild as having been received by the Employer on such outright sale is less than the amount actually received by the Employer on such outright sale.

Accountable receipts shall not include sums required to be paid or withheld as taxes, in the nature of turnover taxes, sales taxes or similar taxes based on the actual receipts of such program or on any monies to be remitted to or by the Employer, but there shall not be excluded from accountable receipts any net income tax, franchise tax or excess profits tax or similar tax payable by the Employer or such Distributor on its net income for the privilege of doing business.

- (g) Employer's obligation shall accrue hereunder only after accountable receipts are received by Employer, but as to foreign receipts, such obligation shall accrue only when such receipts can be freely converted to U.S. dollars and are remitted to the United States and, until such time, no frozen foreign receipts shall be included in accountable receipts.

Upon the Guild's request, and if permitted by the authorities of a foreign country which has frozen receipts, the Employer will transfer the applicable residual to the Pay TV Fund Administrator, in the currency of such foreign country, provided the recipient will bear any costs involved; and such transfer shall be deemed to be payment of an equivalent number of U.S. dollars at the then current free market rate for blocked funds of that category as determined by the Employer. Concurrently with such transfer, the recipient will pay to the Employer in U.S. dollars the total amount the Employer is required to withhold from such payment under all applicable laws. If the Employer utilizes frozen foreign currencies derived from exhibition of such program on pay television by conversion thereof to properties that may be freely exported and turned to account, the amount so utilized by the Employer shall be deemed to have been converted to U.S. dollars at the then current free market rate for blocked funds of that category determined as above provided. Frozen foreign receipts from pay television exhibition shall be deemed to be released on a

"first-in, first-out basis," unless the authorities of the foreign country involved designate a specific period that would render such basis inapplicable. Such released funds shall be allocated between such program and other programs distributed by the distributor on pay television in the same ratio that receipts derived from the distribution of such program on pay television within the foreign country bear to the total receipts derived from the distribution of such program and all other programs on pay television within the foreign country during the applicable period, unless the authorities of the foreign country involved require another method of allocation, in which case such other method shall be used. Foreign receipts shall be accounted for in U.S. dollars at the rate of exchange at which such receipts are actually converted and remitted, and should any discounts, taxes, duties or charges be imposed in connection with the receipt or remittance of foreign funds, only so much of such funds as remains thereafter shall be included in accountable receipts. Employer shall not be responsible for loss or diminution of foreign receipts as a result of any matter or thing not reasonably within the control of the Employer. The Guild and the Employees shall be bound by any arrangements made in good faith by the Employer or for its account, with respect to the deposit or remittance of foreign revenue. Frozen foreign receipts shall not be considered trust funds and the Employer may freely commingle the same with other funds of the Employer. No sums received by way of deposits or security need be included in accountable receipts until earned, but when the Employer is paid a non-returnable advance by a distributor, such advance shall be included in the accountable receipts.

- (h) If any license or outright sale of exhibition rights to such program on pay television includes as a part thereof any commercial or advertising material, the Employer shall be permitted to allocate a reasonable amount (in accordance with then current standard charges in the industry) to such commercial or advertising material, and the amount so allocated shall not be included in the accountable receipts.

4. Foreign Pay Television Residuals

Residuals for pay television exhibition outside of the United States and Canada shall be two percent (2%) of “accountable receipts,” as defined in Article 29, Section D.3.(f)-(h), except that for services with fewer than six million (6,000,000) subscribers for the first exhibition year of a covered program, such residuals shall be calculated according to Article 29, Sections D.2. and D.3.

SECTION E. RESIDUAL COMPENSATION FOR PAY TELEVISION EXHIBITION (INCLUDING PAY-PER-VIEW) OF SPORTS AND NON-STAGED EVENT PROGRAMS

Only subscriber residual payments and not percentage residual payments shall be applicable to pay television exhibitions (including pay-per-view) of sports and non-staged event programs. A non-staged event program is a program of an event which would have occurred whether or not the event was being recorded or broadcast, provided that the event is not substantially altered for the purpose of such recording or broadcasting. Paragraph 3. of Section D. shall not be applicable to such programs.

1. For services with six million (6,000,000) or more subscribers for the first exhibition year of a covered program, Paragraph 1. of Section D. shall be applicable with the following exceptions:
 - (a) for sports event programs, the base for determining the subscriber residual shall be \$25,108 (\$25,861 effective July 1, 2015 and \$26,637 effective July 1, 2016) rather than the free television minimum as provided in subparagraph 1.(d);
 - (b) for pay-per-view exhibitions of sports and non-staged event programs, subparagraphs 1.(a) ("The Exempt Run"), 1.(b) ("Pay-Per-View Exhibition") and 1.(e) ("One Year's Unlimited Exhibitions") shall not be applicable. A pay-per-view subscriber shall be counted each time the subscriber pays to view the program. If a pay-per-view subscriber who pays for

the program once is thereby given the right to view the program more than once, or at any one of several alternate times, the subscriber is counted only once.

2. For services with fewer than six million (6,000,000) subscribers for the first exhibition year of a covered program, Paragraph 2. of Section D. shall be applicable with the following exceptions:
 - (a) the subscriber residual cut-off in subparagraph 2.(e)(iv) shall not be applicable;
 - (b) for sports event programs, the base for determining the subscriber residual shall be \$25,108 (\$25,861 effective July 1, 2015 and \$26,637 effective July 1, 2016) rather than the free television minimum as provided in subparagraph 2.(f);
 - (c) the subscriber window for sports event programs shall be in the same ratio to (but not more than) the subscriber window set forth in subparagraph 2.(a) as the free television minimum is to \$25,108 (\$25,861 effective July 1, 2015 and \$26,637 effective July 1, 2016) (minimum salaries, which are computed pursuant to Section B., are not affected by this subparagraph (c)); and
 - (d) for pay-per-view exhibitions of sports and non-staged event programs, subparagraphs 2.(b) ("The Exempt Run"), 2.(c) ("Pay-Per-View Exhibition") and 2.(g) ("One Year's Unlimited Exhibitions") shall not be applicable. A pay-per-view subscriber shall be counted each time the subscriber pays to view the program. If a pay-per-view subscriber who pays for the program once is thereby given the right to view the program more than once, or at any one of several alternate times, the subscriber is counted only once.

SECTION F. RESIDUAL COMPENSATION FOR PAY-PER-VIEW EXHIBITION OTHER THAN SPORTS AND NON-STAGED EVENT PROGRAMS

Only the percentage residual payments and not the subscriber residual payments are applicable to pay-per-view exhibition of other than sports and non-staged event programs, regardless of the number of subscribers to a service for the first exhibition year of a covered program. The percentage residual shall be payable on "accountable receipts," as described in subparagraph 3.(a) of Section D., from pay-per-view licensing received after the accountable receipts plateau has been reached.

In determining whether such accountable receipts plateau has been reached, only accountable receipts from pay-per-view licensing shall be included. That the pay-per-view receipts reach the accountable receipts plateau does not affect residual payments for non-pay-per-view exhibitions; that the non-pay-per-view receipts reach the accountable receipts plateau does not affect residual payments for pay-per-view exhibitions.

SECTION G. RESIDUAL COMPENSATION FOR VIDEODISCS/ VIDEOCASSETTES

1. For sales and for the licensing of rentals in the videodisc/ videocassette market, the Employer shall pay two percent (2%) of the fee or other payment actually received by the Employer as producer from the "net unit sales," as defined below, in excess of 100,000 units in the aggregate; except that if a covered program is exhibited on pay television other than pay-per-view prior to being released for sale or rental in the videodisc/videocassette market, the Employer shall commence paying two percent (2%) of such fees or payments from net unit sales either when the accountable receipts from such television exhibitions and the receipts received by the Employer as producer from videodiscs/videocassettes combined exceed the accountable receipts plateau or when net unit sales exceed 100,000 units, whichever occurs earlier.
2. The term "disc," as used in this Section, shall refer to both videodiscs and videocassettes. The term "unit" shall refer to the disc or

aggregate discs in each package released by the Employer for sale or rental. "Net Unit Sales" shall mean sales of units which are released by the Employer or its distributor for sale and are not returned, or are released by the Employer or its distributor for rental purposes.

3. It is recognized that some Companies hereunder may act both as producers and as distributors of disc units in covered sales and/or rentals. In such a case, the payment set forth above shall be based on either: (a) the fee or other payment received by the subsidiary, division or other department of the Employer which serves as the production branch, as distinguished from the subsidiary, division or other department of the Employer which serves as the distribution branch, or (b) when no separate subsidiary, division or other department serves as the production branch, a reasonable allocation of the gross receipts of the Employer from covered sales and/or rentals attributable solely to fees or other payments which would be made to a production subsidiary, division or other department of the Employer if one existed, or would be made to an outside producer. The reasonableness of such allocation in (b) above, or of the fee or other payment received by the production subsidiary, division or other department in (a) above, shall be determined by its license fee payments to outside producers for comparable disc units or, in the absence of such practice, by generally prevailing trade practice in the videodisc industry.

SECTION H. RESIDUAL COMPENSATION FOR EXHIBITION OF COVERED PROGRAMS IN OTHER MARKETS

This Section provides for the residual payments which are due for the exhibition of covered programs in markets other than the pay television and/or videodisc/videocassette market.

1. Free Television Exhibition of Covered Programs⁷
 - (a) If a covered program (other than a "high budget pay television program") is broadcast on free television, the Employer shall

⁷ See modifications to this Article 29.H.1. in Sideletter 18 re: License of Free Television, Basic Cable or Pay Television Motion Pictures to Secondary Digital Channels.

pay compensation as and when required pursuant to Article 7 of this Agreement and shall send to the Guild reports of such exhibitions as and when required by Article 7. For purposes of the payments required under this subparagraph (a), the first domestic telecast of a covered program on free television shall be deemed the second run. For services with six million (6,000,000) or more subscribers for the first exhibition year of a covered program, the “accountable receipts plateau” is disregarded and Employer shall be entitled to a discount of payments required under this subparagraph (a) of ten percent (10%) in perpetuity. For services with fewer than six million (6,000,000) subscribers for the first exhibition year of a covered program, the discount shall be twenty percent (20%) until the “accountable receipts plateau” is reached.

- (b) If a "high budget pay television program" is broadcast on free television, Employer shall make payments in an amount computed in accordance with Article 24 of the Agreement as though the "high budget pay television program" were a free television program distributed in "supplemental markets." No amount of the 1.2% of accountable receipts shall be paid to the Pension Plan.
- (c) As an alternative to the foregoing, for licenses of a pay television program for exhibition in syndication only in Canada, Employer shall have the option to elect to pay to the Director thereof four percent (4%) of the “Employer’s gross” (as defined in Article 24) derived therefrom, in lieu of any other compensation required under this or any prior Agreement, as applicable, and such exhibition shall not count as a “run” for purposes of calculating residuals under this Section H.1.(c) The foregoing applies to television programs, whether produced under this FLTTA or any prior FLTTA, as to which free television residuals would otherwise be payable.

2. Basic Cable Exhibition of Covered Programs

If a covered program is licensed for exhibition on domestic basic cable (other than as part of domestic free television licensing), the

Employer shall pay two percent (2%) of accountable receipts derived from such exhibition computed in accordance with Article 24. Exhibitions of a covered program on foreign basic cable are considered free television.

3. Theatrical Exhibition of Covered Programs

Article 23, Section B., Paragraph 1. of this Agreement shall be applicable to covered programs. If a covered program is exhibited theatrically, payment therefor shall be due and payable on the date the Employer releases the program for such exhibition.

4. Supplemental Market Exhibition of Covered Programs

If a covered program is licensed for exhibition in other supplemental markets (such as "in-flight"), Employer shall make payments in an amount computed in accordance with Article 24. No amount thereof shall be paid to the Pension Plan.

5. Other Exhibition of Covered Programs

Article 23, Section B., Paragraph 3. of this Agreement shall be applicable to covered programs exhibited other than on television or in supplemental markets.

SECTION I. MISCELLANEOUS PROVISIONS

1. License Covering More than One Program

If a license agreement includes the right to exhibit more than one program in the pay television and/or videodisc/videocassette market, the Employer shall allocate a fair and reasonable portion of the fees from such license agreement to each covered program. If the Guild contends that such allocation was not fair and reasonable, such claim may be determined by submission to arbitration. In the event that the Arbitrator shall find that such allocation was not reasonable and fair, the Arbitrator shall determine the amount to be so allocated.

2. License Covering More than One Market

If a license agreement includes the right to exhibit a covered program in more than one market, the Employer shall allocate a fair and reasonable portion of the fees from such license to each such market. For this purpose, videodiscs/videocassettes, pay-per-view and non-pay-per-view are treated as separate markets. If the Guild contends that such allocation was not fair and reasonable, such claim may be determined by submission to arbitration. In the event that the Arbitrator shall find that such allocation was not reasonable and fair, the Arbitrator shall determine the amount to be so allocated.

3. Reports

Within thirty (30) days following any calendar quarter in which residual compensation or adjustments of initial compensation become due and payable under this Article 29, the Employer shall furnish or cause to be furnished to the Guild a written report showing the amount of compensation which became due and how such amount was determined.

Concurrently with the furnishing of each such report, the Employer will make the payments shown to be due by such report. All payments shall be sent to the Pay TV Fund Administrator, and compliance herewith shall fully discharge Employer's obligations to make any such payments. No such payment need be made for any program until the amount due for the respective covered program has accumulated to an amount equal to or more than one hundred dollars (\$100). An inadvertent failure to comply with the reporting provisions of this Section shall not constitute a default by the Employer hereunder, provided such failure is cured promptly after notice thereof from the Guild is received by the Employer.

4. Availability of Records

The Guild shall have a continuous and continuing right to audit, to inspect and to photocopy records maintained by the Employer relating to the program which the Guild deems necessary to inspect and photocopy for the purpose of assuring compliance with the provisions

hereof. If the Guild requests that it be sent an extract of the financial terms of the license of the program and if such information is not extensive in nature, the Employer will forward such information or extract without making it necessary for the Guild to send a representative to the offices of the Employer. In general, the Employer will cooperate in furnishing such information to the Guild by mail or telephone, when doing so is not unreasonable or burdensome.

The Employer shall keep or have access: (a) to complete records showing all pay television services to which a covered program has been licensed and the dates of exhibition by such services insofar as such dates are pertinent to determining payments under this Article 29; and (b) to records reflecting all pertinent receipts. If a covered program is released in free television, the Employer shall keep or have access: (a) to complete records showing all cities in the United States and Canada in which the program has been telecast on free television and the number of such telecasts in each such city, the television stations on which such telecast occurred and the dates thereof; and (b) to records reflecting all pertinent gross sums collected from free television exhibition outside of the United States and Canada. The Employer shall keep or have access to complete records showing the release or sale of covered programs for theatrical use.

5. Future Negotiations

With respect to production by the Employer of the types of programs covered only by this Paragraph 5., as provided in Section A., Paragraph 1., *i.e.*, industrial and religious programs, commercials, advertising shorts and trailers, educational, informational and instructional programs, and documentaries (herein referred to as a "Program" or "Programs"), the following provisions shall apply:

- (a) With respect to hiring after July 1, 2014, and pending agreement on other conditions pursuant to subparagraph (b) below, the employment of any person to perform duties (which if performed by that person for free television would be covered by the Agreement) for a Program produced within the

metropolitan areas of Los Angeles or New York, or any such person hired within such areas and sent therefrom to another location to perform such duties on a Program, shall be subject only to the Guild Shop provisions of this Agreement. The Guild agrees to make appropriate accommodations in its initiation fees in recognition of the economics of such programming. Company shall give the Guild notice at least ten (10) days prior to commencement of production of any Program to be produced within the metropolitan areas of New York or Los Angeles or of any Program for which a person(s) is hired within the metropolitan areas of New York or Los Angeles and is sent to another location to perform duties which, if performed by that person for free television, would be covered by this Agreement.

- (b) (i) Not earlier than sixty (60) days after July 1, 2014, either the Guild or Employer may notify the other that it wishes to bargain concerning rates and other conditions of employment to be applicable to Programs. The parties agree to commence such negotiations within thirty (30) days of receipt of such notice.
- (ii) Any agreement reached pursuant to subparagraph (a) above shall not be retroactive and, except with respect to initial compensation, shall not modify the terms of employment under individual contracts then existing.
- (iii) If no agreement is reached within sixty (60) days after bargaining has commenced, the Guild may, upon written notice to Employer, instruct its members to refuse to render services with respect to Programs. In such event, subparagraph (a) hereof shall no longer be applicable.

6. Charge for Late Payment

If Employer fails to pay an Employee's initial compensation when due, interest at the rate of ten percent (10%) per annum shall accrue for a thirty (30) day period after payment is due. Thereafter, if the Guild provides written notice of delinquency and Employer fails to

remit payment, interest at the rate of eighteen percent (18%) per annum shall accrue until payment is made. If written notice is not given, no further late payment charges shall accrue.

If the Employer has failed to make such payment because the executed contract was not delivered by the Employee to the Employer, or because of a *bona fide* dispute as to the amount due, then no such interest is due. If the contract is not so delivered by the Employee because of a dispute as to the terms of the contract, and the Employer shall be held to be wrong, or if the *bona fide* dispute is resolved in favor of the Employee, the foregoing interest payments shall be applicable.

If the Employer fails to pay any residual compensation when due under this Article 29, interest shall accrue at the rate of one and one-half percent (1.5%) per month from the date payment is due.

7. Excerpts From a Pay Television Program

If an excerpt from a pay television program is used on television or videodiscs/videocassettes, and such use falls under Article 23, Section B., Paragraph 4. or within the exceptions in subparagraph (a) of Paragraph 2. thereof, the Employer shall pay the amount, if any, provided in such applicable provision. If use of the excerpt does not fall within such provisions or if such excerpts are otherwise within said subparagraph (a), but the aggregate running time of such excerpts from a single program exceeds the maximum applicable time limits, the Employer shall pay the following:

- (a) Ten (10) seconds or less of excerpts from the program -- \$390 (\$402 effective July 1, 2015); or
- (b) Over ten (10) seconds but not more than two (2) minutes of such excerpts -- \$1,166 (\$1,201 effective July 1, 2015); or
- (c) Over two (2) minutes of such excerpts -- \$1,166 (\$1,201 effective July 1, 2015) for the first two (2) minutes and \$194 (\$200 effective July 1, 2015) for each minute or fraction thereof in excess of two (2) minutes.

The maximum length of excerpts from a program produced mainly for the videodisc/videocassette market that can be used for promotional purposes without payment of excerpt fee(s) is ten (10) minutes during the time period prior to the release of the motion picture in the home video market and within sixty (60) days thereafter.

For the use of an excerpt in a documentary or magazine program, the excerpt fee is six percent (6%) less than the above rates.

The provisions of this Paragraph 7. apply to the use after July 1, 2014 of an excerpt from any program produced at any time mainly for the pay television and/or the videodisc/videocassette market.

The actual production company which produces the program containing the excerpt requiring payment is obligated to make the payment required under this Paragraph, provided the company is signatory to this Agreement. Employer shall otherwise remain liable for the payment due.

If two (2) or more Directors are entitled to share any payment provided in this Paragraph, the Guild shall determine the allocation among the Directors.

If an excerpt is used in a local program and the program is broadcast in no more than one market, the payment for such use shall be fifty percent (50%) of the amount provided in this Paragraph 7. If the program is broadcast later in another market, the Director shall be paid the remaining fifty percent (50%).

Notwithstanding the foregoing, no excerpt fee shall be payable to the Director of the program in which the excerpt is used if:

- (a) the program is part of a series order of no fewer than thirteen (13) episodes and the Director has directed, or has a commitment to direct, ninety percent (90%) or more of the series order;
- (b) the program is an episode of a show such as "*Letterman*" or "*Oprah*," and the Director has been continuously employed on

the show for at least one (1) year before production of the episode; or

- (c) the Director is either a credited Executive Producer or Producer of the program and the credited Director of the program from which the excerpt is derived.

SECTION J. APPLICATION OF FREE TELEVISION PROVISIONS

Unless stated otherwise in this Article 29 or in this Section J., all other provisions of this Agreement applicable to free television programs shall apply to covered programs.

1. As the terms are used in Article 6, a Network Prime Time program or show means a program of a type generally produced for network prime time television; a Non-Network or Network Non-Prime Time program or show means a program of a type not generally produced for network prime time. Section M., Paragraph 2. and Section N. of Article 6 do not apply to covered programs.
2. The provisions of this Agreement do not apply to industrial and religious programs, commercials, advertising shorts and trailers, educational, informational and instructional programs and documentaries produced mainly for the pay television and videodisc/videocassette market except to the extent set forth in Section I., Paragraph 5. of this Article 29.
3. Article 7 does not apply to a covered program except as set forth in Paragraphs 1.(a) and the last sentence of Paragraph 2. of Section H. of this Article 29. However, the same tests applicable to free television programs under Article 7 shall be applicable to covered programs in determining directors entitled to residual compensation.
4. Article 29, Section I., Paragraph 7. shall be applicable in lieu of Article 23, Section B., Paragraph 2. for the use of an excerpt from a covered program.

5. Article 24 does not apply to a covered program except to the extent and in the manner specifically provided elsewhere in this Article 29.