



Canadian Television Fund

## CTF Default Policy – 2006-2007

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### 1. Default of a company

It is not a project that is in default but rather the applicant company (“Applicant”) that has entered into a licence fee top-up (“LFP”) or equity investment program (“EIP”) financing agreement (“Financing Agreement”)\* with the Canadian Television Fund (the “CTF”) or Telefilm Canada (“Telefilm”). This includes an Applicant who has entered into a Financing Agreement directly with the CTF for LFP and/or EIP financing and an Applicant who has entered into a Financing Agreement with Telefilm in its administration of EIP financing either on its own behalf or on behalf of the CTF.

An Applicant that is in default under a Financing Agreement for one project is automatically deemed to be in default with respect to all of the Applicant’s other projects receiving CTF funding, whether LFP or EIP. Further, the CTF shall deem all related parties (as defined in Chapter 3840 of the *Canadian Institute of Chartered Accountants Handbook*) (“Related Party”) to be in default vis-à-vis the CTF.

### 2. Events of default

Financing Agreements include a section entitled “Events of Default”. Following is a summary of the most common Events of Default that arise:

- (a) The Applicant’s project fails to meet the CTF’s Guideline eligibility requirements, including without limitation, the Essential Requirements, genre requirements and minimum threshold requirements and/or, for projects funded prior to 2004, fails to maintain the ranking points awarded when the project was originally assessed;
- (b) The Applicant fails to report on or pay revenues owed to the CTF or Telefilm;
- (c) The Applicant fails to complete and/or deliver the project to the triggering broadcaster(s);
- (d) The Applicant fails to deliver all required Phase II documentation to the CTF by the expiry date set out in the Financing Agreement;
- (e) The Applicant fails to repay in full any amounts (including interest) owing to the CTF or Telefilm in connection with any Financing Agreement;
- (f) Fraud and/or misrepresentation by the Applicant or a Related Party;
- (g) Insolvency or bankruptcy of the Applicant or a Related Party;
- (h) The Applicant ceases to carry on business; and/or
- (i) Any action is taken to remove control of the project from the Applicant or to seize any elements of the project (subject to the rights of a bona fide completion guarantor).

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\* Financing Agreement also means a Deal Memo entered into with the CTF in the year 2002-2003 or 2003-2004. All references herein to a Financing Agreement shall be deemed to include a Deal Memo, where applicable. Failure to repay any amount owing under a Deal Memo is considered an Event of Default for the purposes of this policy.

### **3. The CTF's default rights**

If the CTF determines that an Event of Default has occurred under a Financing Agreement, the CTF may do any or all of the following (without limiting or precluding any other rights and remedies that the CTF may have at law or in equity):

- (a) Reduce the LFP and/or EIP contribution and require the Applicant to immediately repay any portion of the reduced amount previously advanced to the Applicant, plus interest;
- (b) Withhold any payment due to the Applicant or to any Related Party under any Financing Agreement;
- (c) Refuse to accept any future application for CTF funding from the Applicant or a Related Party; and
- (d) Terminate the Financing Agreement by giving the Applicant 10 days written notice, and if the default is not cured within the 10-day period, require the Applicant to immediately repay all amounts received by the Applicant under the Financing Agreement, plus interest.

### **4. Interest**

The CTF charges interest on all repayment amounts at the rate of prime (as set by the CTF's bank) plus 1% per annum, compounded monthly, calculated and payable from the date of advance both before and after demand, default or judgment.

### **5. 2006-2007 CTF applications from Applicants in default**

As of 2006-2007, all CTF project financing file administration will be performed by Telefilm, on the CTF's behalf. Telefilm is therefore authorized to represent and act for the CTF for the purposes of this policy.

Following Telefilm's receipt of a complete application for CTF funding from an Applicant in default with the CTF, the CTF or Telefilm, on behalf of the CTF, will notify the Applicant in writing that it has 30 days to resolve the default. Telefilm's assessment of the application will not be completed until the default with the CTF is resolved. If the default with the CTF is not resolved within the 30-day period, the application will be rejected.

### **6. Disclaimer**

This policy is for informational purposes only. The CTF reserves the right to modify this policy at any time. The policy does not limit in any way the rights and remedies that the CTF has under its Financing Agreements or otherwise.