

Actor Agreements

Negotiating & Drafting
Film, Television and New Media Deals

Overview of Negotiations

- The Actor's "Team": Manager, Agent, Lawyer
- Studio/Producer/Casting Director have interest in actor. An offer is made to the agent/attorney (generally some conversations are had prior to the offer being made to gauge interest)
- Agent or attorney conveys offer to the actor and team (and potentially script)
- If actor is interested, agent or attorney calls producer or producer's rep
- Reps for producer and for actor negotiate and close on main deal terms
- Generally, a draft of the agreement is then sent by the producer (test option deals can run at different pace)
- Actor's rep makes comments and requests changes to language
- Other deal terms are negotiated throughout drafting and redrafting
- Agreement is recommended for signature by actor
- Producer countersigns

Items to Consider When Entering Negotiations

- Prior quotes
- The actor's bio
- Prominence of role
- Who else is up for the role?
- Initial exhibition (Theatrical, TV, New Media, etc.)
- Likelihood of success of the project (potential for bonuses, increased exposure, accolades, opening doors)
- Who is the studio/producer?
- Understanding what a deal generally looks like from that studio/producer
- Who else is attached?
- Other opportunities on the horizon
- Scheduling/Ability to take on other engagements
- Deal points most important to the actor
- Setting precedent
- How does this role fit within the strategy for the client?
- Other macro and micro factors

Main Deal Terms – Compensation

- Compensation Amount
 - Analyze the opening offer
 - If producer is a signatory to the SAG-AFTRA Guild:
 - Minimums based on budget and type of role played and listed online at SAGAFTRA.org
 - PHW/Residuals per applicable SAG Agreement
 - New Media Deals
 - Number of Days
 - Pre-Production, Production, Post-Production, Publicity
 - Payments over the course of production
 - Exception: advances
 - Exclusive Period/Overages
- Compensation Type
 - Guaranteed
 - Run of Show (ROS)/Schedule F deals for principal or featured actors
 - Weekly rates
 - Daily rates
 - Contingent
 - Bonuses – amounts and definition (Box Office Bonuses, Negative Cost Bonuses, Sale Bonuses, etc.)
 - Backend:
 - Gross v Net Participations– amount and definition
 - Negotiating definitions, riders, and MFN provisions

Main Deal Terms – Options

- Different Types of Options
 - Test Options
 - Length of hold period
 - Pace of a test option deal vs. a straight hire
 - Options for subsequent seasons/sequels and/or additional services
 - Limiting the number of options
 - Option windows/position/preemption
 - Attachment to subsequent productions (ex. New media short as initial project)

Main Deal Terms – Exclusivity

- Exclusivity during pre-production, production, post-production
- What can an actor do during non-production periods (TV, New Media)?
 - Cameo appearances
 - Restricted networks/channels/platforms
 - Non-theatrical/TV
 - Endorsements
- Exclusivity applied to publicity windows/services

Main Deal Terms – Credit

- Name and level of role
 - Star role, supporting role, featured extra
- How Actor will be credited
 - Professionally known as (p/k/a) or Legally known as (l/k/a)
- Credit Types
 - On screen in “mains” or “mains on end”
 - Paid Ads, Excluded Ads, Artwork
- Credit Positions
 - First, second, etc.
 - Adjacent to or grouped with
 - Single vs. shared cards
 - Credit ties (size/style/duration, appearance, placement)

Other Deal Terms – Perqs

- Air travel to location (class, additional tickets)
- Accommodations/Living expenses
- Per Diem
- Ground transportation to/from airports, hotel and sets
- Rental Car
- Cell Phone reimbursement
- Trailer / Dressing Room
- Assistant, Personal Trainer, Personal Make-Up and/or Hair Stylists
- Premiere tickets, guest, travel and accommodations
- Festival tickets, guest, travel and accommodations
- DVD or Blu-Ray copies

Other Deal Terms – Approvals & Consultations

- Name/Voice/Likeness/Bio approvals
- Publicity stills and number of passes
- Behind-the-scenes and blooper photos and videos
- Name and likeness for merchandising or commercial tie-ins
- Non-photographic likeness approvals
- Notice of press on set
- Material changes to the role from the script actor read
- Appearance of the role, i.e. hair, makeup, wardrobe and “feel” of character
- Director hired or replacement of current director
- Casting of other principal cast members
- Nudity or suggested nudity/sex scenes or suggested or simulated sex scenes
- Marketing campaigns for the film
- Participation compensation that reduces actor’s participation or pay
- Budget increases that reduce actor’s participation or pay

Other Deal Terms – Publicity/Social Media

- Publicity Services
 - Required, specific services vs. “prior contractual commitments in the entertainment industry”
 - Scheduling publicity services in a new media landscape
 - Publicity compensation/bonuses
- Leveraging the actor’s social media network

Miscellaneous

- Dubbing & ADR – actor only, actor dubs in certain foreign language(s)
- Soundtrack – permission for use of lines and royalty payments
- Merch participations/re-use provisions
- Named insureds on E&O and General liability insurance policy
- Producer's indemnity
- Notices & Payments
- Check Authorizations to agent or YOU

Contract Language Unique to Entertainment

- Loanouts vs. Direct Hire & f/s/o
- Quotes & Precedents
- Conditions Precedent
- Chain of Title
- Cut-Throughs
- Certificates of R&P, Employment
- A+ Riders & Nudity Riders
- Actor Options – film sequel/prequel
- Test Options
- Tolling for Outside Services
- First Position for Services
- Perquisites
- Approvals & Consultations
- Minor Player
- Double or Triple Banger Pop-Outs
- Turnaround Times
- Start Date & Stop Date
- Pay or play provisions
- No obligation to use
- Collection Accounts for Indie Films

Q & A

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For more info, visit www.sagaftra.org