

CONFLICT RESOLUTION - PRODUCING “PARTNERS”

ITVS requires all producing “partners” to execute and deliver to ITVS prior to the initiation of pre-production, a document (the Conflict Resolution Agreement) which describes how conflicts between producing “partners” will be resolved. The Conflict Resolution Agreement must also specify the rights, duties, and responsibilities of each producing “partner” and specify the credits, creative and editorial control, ownership and revenue sharing of the program. The Conflict Resolution Agreement is required of producers who produce as a partnership. It is also required when the producer is a corporation. In such case the Conflict Resolution Agreement must be signed by shareholders of the corporation who have producing responsibilities. In the case of the non-profit corporation, those parties having principal producer responsibilities must sign the Conflict Resolution Agreement. And in the case of a limited liability company (LLC) those members having principal producing responsibilities must sign the Conflict Resolution Agreement.

Some producing “partners” have chosen to establish Partnership Agreements, Shareholder Control Agreements (for corporations), or Member Control Agreements for LLC’s. Such documents are generally prepared by an attorney and cover many issues that are not directly related to the production. ITVS will accept those documents in place of the Conflict Resolution Agreement if they specify the rights and responsibilities of each “partner” and describe an acceptable Conflict Resolution process. The legal expense of preparing such documents cannot be paid for with ITVS funds because this is a business set-up cost and not a production cost. However, a Conflict Resolution Agreement is a valid and necessary document that can be paid for out of ITVS production funds.

Although ITVS does not assume that producers will have significant unresolvable conflicts, it does happen occasionally and ITVS cannot mediate between the producing “partners”. Such conflict can cause significant delays in the production process, which is why ITVS requires the Conflict Resolution Agreement.

ITVS has witnessed more than a handful of friendly collaborations go sour because mutual expectations were not clear or specified in advance, in writing. A little groundwork now saves lots of headaches and heartaches later. Any difficulty in discussing things like credit, ownership, and revenue sharing with your collaborators at the start of the production will only worsen as you approach the end. You do not want to find yourself typing up the credits at the end of the production only to find out that the person that you consider the Associate Producer thought all along that they were a Co-Producer. You can avoid this by making everything clear in writing from the start.

Producing “partners” must include a Conflict Statement in the Conflict Resolution Agreement which describes the process that will be undertaken in the case of an unresolvable dispute between producers regarding any issue, be it aesthetic, editorial, financial, credit, or other, that would disrupt or delay the production of the program. A sample Conflict Resolution Statement appears below. Use this statement only if you feel that it applies to your situation. Other agreements may be acceptable. The important thing is that you have a Conflict Resolution process in place.

CONFLICT RESOLUTION STATEMENT

(This is only a small part of a full contract between producing partners)

Any dispute arising during the production of (title) will be discussed between co-producers (name) & (name) in an effort to reach an agreement on the issue. If this dispute cannot be resolved within one week, then the co-producers agree that the dispute will be settled through mediation and, if necessary, arbitration.

The parties shall agree within one week on a third party mediator/arbitrator. If the co-producers cannot agree on a third-party mediator/arbitrator within one week, then they can use either of the following two procedures to select a third-party mediator/arbitrator. Under the first option, each co-producer will select one individual. The two individuals so selected will meet and agree upon the selection of a third-party mediator/arbitrator. In such case, the third-party mediator/arbitrator so selected will act as a single mediator/arbitrator to resolve the dispute between the co-producers as expeditiously as possible, with the target for resolution being within two weeks. The second option, if the co-producers do not agree on the procedure set forth under the first option, or if one of the co-producers refuses to cooperate in the mediation/arbitration process, shall involve a petition for arbitration submitted to any established Alternative Dispute Resolution (“ADR”) organization.

Upon submission of such a petition for mediation/arbitration, the ADR organization shall appoint a mediator/arbitrator, who shall proceed with mediation and arbitration in accordance with the rules of the ADR organization. The allocation of the fees and costs of mediation/arbitration under either of the options shall be determined by the mediator/arbitrator. If no such determination is made, the costs shall be borne equally by the co-producers.

The third-party mediator/arbitrator shall make reasonable attempts to mediate the dispute between the co-producers. If, after reasonable attempts at mediation, it becomes apparent to the third-party mediator/arbitrator that mediation will not be successful, the case shall be converted to an arbitration proceeding and it shall be arbitrated expeditiously. The co-producers agree that, if the case becomes an arbitration case, the decision of the third-party mediator/arbitrator will be binding in resolving such dispute. Co-producers acknowledge and agree that time is of the essence in resolving such a dispute.

AGREED:

(name), Producer

Date

(name), Producer

Date