

**The CanDance Network Creation Fund
Agreement**

This is a letter of agreement among:

**The Canadian Network of Dance Presenters
CanDance/CanDanse**

Le Réseau canadien des diffuseurs de danse (hereinafter called "The CanDance Network")
55 Mill Street, Case Goods Building (74), #304
Toronto, Ontario, Canada
M5A 3C4 Tel. (416) 204 1082 Fax (416) 204 1085 e-mail: info@candance.ca

and:

Creator-Artist:
Contact person:
Address:
Phone:
Fax:
Email:
Website:

and:

Presenter 1:

Contact person:
Address:
Phone:
Fax:
Email:
Website:

Presenter 2:

Contact person:
Address:
Phone:
Fax:
Email:
Website:

Presenter 3:

Contact person:
Address:
Phone:
Fax:
Email:
Website:

Presenter 4:

Contact person:
Address:
Phone:
Fax:
Email:
Website:

AGREEMENT

1. The statements set out in the Background (Addendum 1) are true and form an integral part of this agreement.

2. The CanDance Network is commissioning the Creator-Artist to create a dance work approximately ____ in length, entitled: _____ (hereinafter called "the Work"), to be premiered at _____ in _____.

3. **Copyright.** The Creator-Artist warrants (1) that the Work will be an original creation; (2) The Creator-Artist has obtained all rights including but not limited to, music, choreography, and design relating to the Work to fulfill the performance obligations under the contract without further payments of fees or royalties.

4. **Payment.**

The Creator-Artist shall receive a total of \$ _____ from The CanDance Network Creation Fund.

- Within 30 days of receipt, the Presenters will each sign this agreement and return it to The CanDance Network along with the sum of \$ _____ made payable to "The CanDance Network."
- The CanDance Network will remit to the Creator-Artist a first instalment of \$ _____ when this agreement has been signed by all parties, funding is received at The CanDance Network office and clears the bank.
- The CanDance Network will remit a second instalment of \$ _____ to the Creator-Artist when the first creation period has been completed, and a certificate to this effect has been signed by _____ and filed with The CanDance Network office.
- The CanDance Network will remit a final instalment of \$ _____ to the Creator-Artist when the premiere has been completed, upon receipt at The CanDance Network office of The Creation Fund Final Report and Documentation/Archival materials.

The CanDance Network shall maintain appropriate records of all transactions, which records shall be made available (on reasonable notice) to the Presenters and/or the Creator-Artist.

5. **Acknowledgment.** The Presenters and the Creator-Artist agree to carry the following acknowledgement in all publicity and house program materials, including but not limited to, posters, flyers, brochures, film and video tapes, television broadcasts and press releases:

_____ a co-production of The CanDance Network Creation Fund, Harbourfront Centre, Canada Dance Festival, Agora de la danse and Vancouver East Cultural Centre, and supported by Dance Section of the Canada Council for the Arts.

The Presenters and the Creator-Artist will use The CanDance Network logo and the Canada Council for the Arts name and symbol on promotional materials for the Work. Artwork for The CanDance Network logo may be requested from The CanDance Network Head Office. Artwork for The Canada Council name and symbol may be downloaded from the Canada Council website at www.canadacouncil.ca

It is understood that all other acknowledgments required by the production such as public and private funders, ministerial aid, sponsors, etc. will be in addition to the logos and acknowledgements above and is the responsibility of the Creator-Artist to negotiate with individual presenting organisations directly.

6. **Role of The CanDance Network.** It is understood that the Creator-Artist by itself or in co-production with persons other than The CanDance Network will be entirely responsible for mounting the production and taking it on tour, and that the billing given to The CanDance Network as co-producer is for publicity purposes only as part consideration for its contribution to production costs, and that The CanDance

Network shall in other respects have no obligation or involvement as a co-producer in the production or presentation of the work.

As part consideration for the contribution by The CanDance Network towards the cost of production of the work contemplated by this agreement, the Creator-Artist agrees that it will not enter negotiations with a third party for the development or production of a recorded or live performance of the work on high definition television, free, cable or pay television, or film, videotape, videocassette or videodisc, without first informing The CanDance Network and allowing The CanDance Network to participate in such negotiations.

7. Schedule of Presentation. The Presenters will work to efficiently schedule performances of the work within 15 months of the premiere.

The Creator-Artist agrees to create the Work so it can be easily adapted to fit each one of the Presenters' spaces. The Creator-Artist can find the technical specifications of each venue in The CanDance Directory, or through contacting the Presenter directly.

8. Residencies and Performances. The Creator-Artist shall negotiate the fees, terms and conditions of performances and any residencies with each individual Presenter.

9. Nothing herein shall be construed to make the Creator-Artist an agent of The CanDance Network nor to authorize the Creator-Artist to act on behalf of or to bind The CanDance Network to any obligation whatever vis-à-vis third parties, and the Creator-Artist will neither represent itself as agent of The CanDance Network nor do any act that may result in any obligation to The CanDance Network other than that of contributing to the costs of creation as set out herein.

10. Cancellation. In the extreme case that the Creator-Artist and the Presenters agree that, following the creation process, the Work is deemed unsatisfactory, inappropriate or not fully realized or if scheduled performances are rendered impossible due to Acts of God or other circumstances beyond the control of the Creator-Artist and the Presenters, then the presentation of that Work may be postponed. The Creator-Artist and the Presenters must attempt in good faith to re-schedule the performance within two future seasons, after which time the commitment to present this specific Work may be cancelled.

11. Dispute Resolution by Mediation. If a dispute arises between any parties relating to this Agreement, they agree to promptly hold a meeting attended by individuals with decision making authority about the dispute, to attempt in good faith to resolve the dispute through negotiation. If, within 30 days of the meeting, the parties have not succeeded in resolving the dispute, they shall submit the dispute to mediation (seeking assistance from a mediator, chosen by a Dance Officer or similar official of Canada Council if necessary) and bear equally the costs of the mediation. They shall participate in good faith in the mediation and related negotiations for 30 days and if the dispute is not successfully resolved through the mediation, then settle the dispute by arbitration in accordance with the (Ontario) Arbitrations Act 1991. The arbitrator's decision including the disposition of costs shall be final and binding and not subject to appeal on a question of fact, law, or mixed fact and law.

12. Law. The law applicable in Ontario shall govern this agreement.

13. Notices. All written notices from one party to another shall be sent to the mailing address or fax number shown on this Agreement or to the new mailing address or fax number contained in a written notice sent by one to the others.

14. Language. All parties have requested that this Agreement and all documents contemplated by it be drawn up in English. Tous les intéressés ont exigé que cette entente et tout autres documents envisagés par cette entente soient rédigés en anglais.

15. Liability. The Creator-Artist will indemnify and hold harmless, dispose of any claim and defend The CanDance Network and The Presenters from and against any loss, damage, liability of expense including legal fees in the event of any claim, demand, action, proceeding or suit for damages, expenses or costs of whatever nature, whether judicial, arbitral, administrative or otherwise, by any person against The

CanDance Network and The Presenters, its officers, servants or agents arising from or in connection with the production, tour or performances of the Work. The Creator-Artist will, throughout the currency of this Agreement, maintain in force:

- a) third party bodily injury and property damage legal liability insurance for an amount of not less than two (2) million dollars;
- b) coverage for loss or damage to their own property; and
- c) such worker's compensation and/or employer's liability insurance as may be deemed necessary;

in amounts sufficient to indemnify The Creator-Artist against any and all claims in respect to the exposures noted. Further, the insuring companies will provide evidence of such coverage and will, by certificate, waive rights of subrogation against The CanDance Network and The Presenters. Certificates attesting to coverage must be provided three (3) weeks prior to the beginning of the creation period.

16. Promotion and Fundraising. The Creator-Artist grants The CanDance Network the right and clearance to use the name, likeness (including but not limited to film, video and still-picture recordings) and biographical materials of the Creator-Artist for fundraising, archival and promotional purposes.

17. Documentation/Archive. The Creator-Artist will provide to The CanDance Network at the Creator-Artist's expense, one (1) copy of an archival film, videotape or DVD and two (2) photographs of the Work, which can be exhibited without payment.

18. Other Agreements. The parties warrant that the execution and performance of this agreement supersedes all prior agreements to which they are a party. All negotiations shall be firm as in this contract. This Agreement may not be changed or modified, nor may any provision be waived except by an Addendum executed by all of the parties. This Agreement contains the entire understanding of all parties. All prior agreement between the parties as they pertain to The CanDance Network Creation Fund, whether oral or written are superseded by this Agreement and any such prior Agreement shall be of no force or effect.

The parties warrant their respective signatories are duly authorized to execute this Agreement on their behalf.

This Agreement may be simultaneously executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument, and shall be deemed to be effective as of the date hereof.

Signed,

for The CanDance Network

Date

for the Creator-Artist

Date

Presenter 1

Date

Presenter 2

Date

Presenter 3

Date

Presenter 4

Date

ADDENDUM 1

BACKGROUND

The CanDance Network. The CanDance Network is an association of specialized dance presenting organizations across Canada that serves dance presenters' needs, and supports their work with the dance community and its marketplace. Commissioning work is a priority for The CanDance Network, along with encouraging the regular dissemination of dance in Canada, coordinating tours of small-scale presentations, sponsoring community outreach through roundtables, and distributing information through a CanDance website and directory. These projects extend, enhance and coordinate members' local activities, which already support Canada's independent choreographers, emerging and established companies through: commissions, performances, series, residencies, workshops, exchanges, mentorships, publications, outreach, animation and archives.

Creation Fund. The CanDance Network initiated the Creation Fund in 1994 with financial assistance from the Canada Council. The Fund is a matching program between a group of Presenters and The CanDance Network to commission and present a new work. The Creation Fund supports creation, connects creator-artists, be they individuals or companies, with a broader public and extends the life of each new dance work.

Currently, The CanDance Network's contribution to the Creation Fund is entirely supported by the Canada Council Dance Section. Therefore, Creation Fund recipients are ineligible to apply to Canada Council Grants to Dance Professionals for additional funding for this creation. However, recipients may apply to Canada Council Production Project Grants in Dance for the same project in the same year.

A group of Presenters who are members in good standing of The CanDance Network may apply for matching funds to support a Creator-Artist they would like to commission to create a new work. The work is intended to be presented in a paid tour of performances in the locales of the commissioning presenters. It is the responsibility of each Creator-Artist to secure any additional funding to defray costs of the touring production.

Not all applicants may be successful as the Creation Fund in each round can support a limited number of creator-artists.

Conflict of Interest. Members of The CanDance Network may not apply to the Creation Fund to commission their own Artistic Director. A group of Presenters may commission the Artistic Director of another member organization, provided that organization is not part of the commissioning group.

Commissioning Policy:

There are two levels of funding for projects available through the Creation Fund Program.

For mid to large scale Creation Fund projects, a minimum of four Presenters each contributing \$5000 cash for a total of no less than \$20,000 may participate.

For small-scale Creation Fund projects, a minimum of four Presenters and a maximum of five, each contributing a minimum of \$2000 cash for a total no less than \$10,000 (e.g. 4 @ \$2500 or 5 at \$2000) may participate.

Donated services, such as rehearsal space, time in a venue or staff time does not equal a cash contribution.

Each Presenter agrees to make an equal cash contribution to be paid directly to The CanDance Network. The CanDance Network will issue its matching contribution upon receiving the Presenters' contributions. The CanDance Network will administer The CanDance Network Creation Fund agreement and release instalments paid directly to the Creator-Artist.

The Canadian Presenters involved in the project may choose to commission a choreographer from Canada or another country.

May 15th is the annual deadline for submissions postmarked, emailed or faxed to The CanDance Network Head Office.

It is understood that some projects, large or small, may take two years to be fully realized.

PROCEDURES

Project Administration:

A Program Manager at The CanDance Network administers the project, with ongoing consultation with the project's Lead Presenter. The group of Presenters will designate one member as the Lead Presenter, who will serve as a liaison between the group of Presenters, the Artist and The CanDance Network. The Lead Presenter is responsible for preparing and submitting the proposal, communicating with and representing the opinions of the participating Presenters on issues as they arise, and regularly checking in with the Artist. The Program Manager is responsible for the administration of The CanDance Network Creation Fund Agreement.

The Creator-Artist will communicate regularly with the Lead Presenter and the Program Manager, and participate in meetings as they are scheduled. The Creator-Artist will manage the budget, the contracting of performers and the creation process. If the project changes substantially from the proposal, the Creator-Artist will immediately notify the Program Manager and the Lead Presenter in writing of the changes.

The Creator-Artist is responsible for negotiating the fees, terms and conditions of performances and any residencies with each individual Presenter. The Creator-Artist will prepare and submit to the Program Manager a final report including a final budget, statistics from each engagement, an artist's feedback form, video documentation of the work, and copies of all publicity materials.

Application Process:

The Lead Presenter will submit a proposal to The CanDance Network that provides the following information:

To be prepared by the Lead Presenter:

- The name of the Creator-Artist proposed
- The names of the participating CanDance members
- Proposed date of premiere
- Proposed tour dates
- A written commitment from each Presenter confirming their financial contribution and stating their intent to present this project within 15 months of the premiere
- If one of the Presenters will serve as Producer, this must be noted in the proposal
- A brief statement of why the Presenters chose the artist

To be prepared by the Creator-Artist /Artist's Management and submitted to the Lead Presenter:

- The contact information of the Creator-Artist and/or the Creator-Artist's Management
- A biography of the Creator-Artist
- A Description of the Piece or Creator-Artist's Statement
- A proposed timeline for creation of the Work
- A creation budget stating all revenue and expenses
- Name of person (Creator-Artist, Manager or Producer) to whom the cheque is payable

Selection Process:

Next deadline: May 15th, 2010

A designated member of the Board of Directors of The CanDance Network will review all applications to ensure that they comply with the Creation Fund guidelines.

The Board will select successful proposals and recommend funding levels. In the event that a board member is also participating in a project, he/she will not be involved in the selection process. The Board shall place priority on choosing a mix of small and mid-large scale projects, from different regions of Canada. Recipients will be notified as soon as decisions are finalized.

In awarding matching support, the Board shall use the following guidelines:

<i>Contribution from Presenters</i>	<i>The CanDance Network Matching Support</i>
\$20,000 (minimum \$5,000 each)	1 to 1 (to a maximum of \$20,000)
\$10,000 (minimum \$2000-\$2500 each)	1 to 1 (to a maximum of \$10,000)

The number and size of requests to the Creation Fund may vary from year to year. The Board will use discretion in awarding matching funds, based on the size of The CanDance Network budget. The Board will not make artistic judgments on the submission, which is up to the Presenters putting forward the proposal. The Board has the authority to postpone the project, if one of the presenters withdraws. If there are three worthy projects, the Board could approve the projects in principle, but fund a specific project in the future.

Once matching support is approved, all who are participating in the commission including the Creator-Artist, Presenters and a representative of The CanDance Network, must promptly sign The CanDance Creation Fund Agreement, which outlines the payment schedule. The signed agreement will be housed at The CanDance Network Head Office.