

DATED

2007

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**[Producer's Name]**

-and-

**[Co-Producer's Name]**

## PRODUCTION FINANCING AGREEMENT

For

**[Film Title]**

**THIS [CO-]PRODUCTION AGREEMENT** is made the \_\_\_\_\_ day  
of \_\_\_\_\_ 2007

**BETWEEN:**

- (1) **XXX**, a company limited by guarantee, registered [country of registration] No. xxx whose registered address is xxx ("The Producer"); and
- (2) **YYY** of [address of co-producer] ("The Co-producer");

**WHEREAS:**

- (A) The Producer intends to produce the Film and Producer 2 has agreed to contribute finance towards the production of the Film by the Producer upon the terms and subject to the conditions contained herein.

**NOW IT IS HEREBY AGREED** as follows:

**1. Grant of Rights**

In consideration of the Co-producer contributing to the Producer the sums detailed in **clause 2**, the Producer agrees to produce the Film in accordance with the budget and production schedule attached at schedules 1 and 2 hereto and hereby grants to the Co-producer the following consultation and revenue sharing rights:

**Consultation Rights**

- 1.1 The Producer shall deliver a copy of all of the rushes and the rough cut of the Film to the Co-producer in accordance with the production schedule and The Co-producer shall be entitled to provide comments and suggestions on the rough cut to the Producer within 14 days of receipt of the same. A full copy of the picture and sound rushes, as well as a copy of the fine cut, shall be delivered in the original shooting format. Rough and working/viewing cuts, however, may be delivered on DVD.
- 1.2 The Producer shall take full good faith consideration of any comments and suggestions provided by the Co-producer during the preparation of the rough cut of the Film.
- 1.3 The Producer shall deliver a copy of the final cut of the Film to the Co-producer in accordance with the production schedule and the Co-producer shall be entitled to provide comments and suggestions on the fine cut to the Producer within 14 days of receipt of the same.
- 1.4 The Producer shall take full good faith consideration of any comments and suggestions provided by the Co-producer during the preparation of the final cut of the Film.
- 1.5 The Producer shall deliver one copy of the completed Film in its original, uncompressed shooting format (and one additional copy on DVD) free of any

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subtitles, with a mixed, stereo sound track to the Co-producer in accordance with the production schedule.

- 1.6 The Producer will also deliver a full list of dialogues in the original language of production, a full list of credits and at least three photographs of the film and one of the director in high resolution digital format to the Co-producer in accordance with the production schedule.
- 1.7 Any changes to the production schedule and/or the agreed budget of the Film shall be agreed in writing in advance with the Co-producer.
- 1.8 The parties shall consult in good faith as regards proposed publicity and promotion of the Film and the Producer shall not make any statement or issue any press and/or publicity in relation to the Film and/or submit the film to a festival or any such promotional event without first obtaining the Co-producer's prior written consent which shall not be unreasonably withheld or delayed.

## **Revenue Sharing Rights**

- 1.9 Within fifteen days of completion of the Film, the Producer shall deliver to the Co-producer a full and itemised cost report for the production and completion of the Film in a form to be approved in advance by the Co-producer and the parties shall agree the final cost of completion of the Film ("the Production Costs").
- 1.10 Film Net Revenues shall be defined as any and all revenues received by the Producer and/or the Co-producer arising from the exhibition and/or other exploitation of the Film in all media throughout the world without time limit but expressly excluding any revenues received for the purpose of and necessary to meet the Production Costs.
- 1.11 All Film Net Revenues shall be shared between the parties in proportions pro rata to each party's percentage financial contribution to the agreed budget. For example, a €xx contribution by the Co-producer to the agreed budget of €xx shall entitle the Co-producer to receive one sixth of the Film Net Revenues.
- 1.12 The Producer shall provide The Co-producer with a statement showing Film Net Revenues and copies of all statements received by the Producer from any and all distributors of the Film twice yearly following delivery of the Film to the Co-producer.
- 1.13 The Co-producer shall not have independent right of audit or objection to the statements of account rendered by the Producer but at the Co-producer's sole expense an accountant may within 12 months from receipt of any statement of account examine the records and accounts of the Producer relating to such statement and take copies or extracts therefrom but only insofar as such records and accounts relate to the Film and the accuracy of such statement.

## **2. The Co-producer's Contribution**

- 2.1 Subject to compliance by the Producer with the terms and conditions of this agreement, the Co-producer shall contribute up to €xx (xxx euros) to the

Production Costs. All payments shall be made according to the payment schedule in annexe 3 within thirty days of receipt of proper invoices in writing from the Producer.

- 2.2 Any moneys provided to be paid in accordance with this agreement shall be subject to the laws and regulations in or applicable to any part of the world in which the Producer's services are rendered, including (without limiting the generality of the foregoing) those laws and regulations relating to the imposition of governmental, state or local taxes which may be assessed on such moneys. An amount equal to the amount of tax (if any) so assessed and paid over by the Co-producer to the tax authority concerned may be deducted from the moneys becoming due and payable by the Co-producer under this agreement.

### **3. Warranties**

The Producer hereby warrants, represents and undertakes to the Co-producer that:

- 3.1 The Producer is free to enter into and to perform this agreement and has not entered and will not enter into any professional or other commitment which would or might conflict with this agreement;
- 3.2 the Film including the script and all elements of the Film will be wholly original to the Producer and will not infringe the copyright or any other rights of any third party;
- 3.3 the Film will not contain any defamatory matter or breach any contract or duty of confidence and that the Producer will use the Producer's reasonable endeavours to ensure that the Programme does not incorporate any defamatory matter nor constitute contempt of court nor breach any provision of any statute or any regulations made thereunder;
- 3.4 the rights hereby granted are vested in the Producer absolutely and the Producer has not previously assigned, licensed or in any way encumbered the same so as to derogate from the grant and assignment hereby made nor will the Producer so assign, license or encumber the same without obtaining The Co-producer's prior written consent;
- 3.5 the Producer will provide insurance cover for all aspects of the production including public liability insurance for the Film and will provide The Co-producer with a copy of all such policies at the Co-producer's request.
- 3.6 the Producer will indemnify and keep Foundation fully and effectively indemnified against all actions, costs, losses, claims and expenses of whatsoever kind or nature arising from any breach or non-performance or threatened breach or non-performance of any of the warranties, representations, undertakings or obligations on the Producer's part contained in this agreement.

### **4. Credit**

- 4.1 The Producer agrees to accord the Co-producer credit on all positive copies of the Film and on all publicity materials relating to the Film made by or to the

order of the Producer, its licensees and assigns. The credit shall be substantially in the form: "xxxx." This credit shall be granted in prime position, clearly showing the logos of xx in the format provided by the Co-producer and mutually agreed between the parties

- 4.2 Provided the Producer has notified relevant third parties of the provisions of this clause, no inadvertent failure of the Producer to comply with the provisions of this clause and no failure of such third parties to accord the Co-producer credit in accordance therewith shall constitute a breach of this agreement by the Producer and in no event shall the Co-producer be entitled, by virtue of such failure, to enjoin or restrain the distribution or exhibition of or advertising or publicity for the Film.

## **5. Copyright**

For the avoidance of doubt it is acknowledged and agreed that as between the Co-producer and the Producer, the copyright in the Film shall remain vested in the Producer.

## **6 Entire Agreement**

This Agreement contains the full and complete understanding between the parties and supersedes all prior arrangements and understandings whether written or oral appertaining to the subject matter of this Agreement and may not be varied except in writing signed by all parties.

## **7 No Partnership**

This Agreement shall not be deemed to constitute a partnership or joint venture or contract of employment between the parties.

## **8 Severability**

If any provision of this Agreement shall be prohibited by or adjudged by a court to be unlawful void or unenforceable such provision shall to the extent required be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and shall not in any way affect any other circumstances or the validity or enforcement of this Agreement.

## **9 Assignment**

The parties may assign the benefit of this agreement subject to written notification to the other party and provided always that the assigning party shall remain liable to the other party for its obligations under this Agreement.

## **10. Governing Law/Rights of Third Parties**

10.1 This Agreement shall be governed by and construed in accordance with the laws of England and Wales the courts of which shall be courts of competent jurisdiction.

10.2 A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties ) Act 1999 ("the 1999 Act") to enforce or

rely upon any term of this Agreement, but this does not affect any rights or remedy of a third party which exists or is available apart from the 1999 Act.

**IN WITNESS** whereof this Agreement has been executed on the day, month and year first above written.

.....  
Signed by a duly authorised representative  
For and on behalf of the Producer

.....  
Signed by a duly authorised representative  
For and on behalf of the Co-Producer