



PUMA.CREATIVE CATALYST AWARDS

DEVELOPMENT AGREEMENT

AGREEMENT dated [] [February] 2012

BETWEEN

(1) **The BRITDOC Foundation** of 50 Frith Street, London, W1D 4SQ (Attention []) (the "**Foundation**");

- and -

(2) [] [**Productions Limited**] of [] (the "**Producer**").

WHEREAS

- A. The Foundation has been charged with the administration of an international documentary development fund entitled the "**PUMA.Creative Catalyst Award in partnership with Channel 4 BRITDOC Foundation**" (the "**Fund**"). This Fund has been jointly created by PUMA.Creative ("**Puma**") and the Foundation.
- B. The Producer has successfully submitted an application to the Fund in respect of the development of a proposed documentary film provisionally entitled ["NAME OF FILM"] (the "**Film**"), as more particularly specified and defined in the Schedules to this Agreement.
- C. The Foundation wishes to contribute the Development Finance (as defined in Clause 2 hereunder) from the Fund towards the financing of the Development Work (as defined in Clause 3 hereunder) for the proposed Film in accordance with the terms of this Agreement.

THE PARTIES HAVE AGREED AS FOLLOWS:

1. **AGREED SCHEDULES FOR DEVELOPMENT**

- 1.1 In consideration of the Foundation advancing the Development Finance, the Producer agrees to procure that the Development Work is produced in accordance with:
 - 1.1.1 a full and detailed Treatment (including proposed key personnel and contributors (attached hereto as **Schedule 1**); and
 - 1.1.2 a full and detailed Development Budget and Production Schedule (attached hereto as **Schedule 2**).
- 1.2 The attached Schedules have been pre-approved by the Foundation and the Producer shall consult with the Foundation in a timely manner in the event of any subsequent changes to the Schedules.

2. **DEVELOPMENT FINANCE**

- 2.1 The Foundation hereby agrees to advance finance in the sum of €[5,000] (five thousand Euros) (the "**Development Finance**") from the Fund towards the costs of the Development

Work and in accordance with the agreed Payment Schedule (as defined in Clause 4 hereunder).

- 2.2 The Development Finance is exclusive of UK VAT which shall be payable, where applicable, on receipt of the appropriate invoice.
- 2.3 In the event that any taxes or duties or similar deductions are (or may be) required to be paid by the Foundation by any applicable laws, then the Foundation shall be entitled to withhold from the Development Finance such sums as such government or fiscal authority may require to be deducted.
- 2.4 The Producer shall be responsible for converting the Development Finance into the appropriate currency(ies) as required by the Budget, and shall bear any exchange risk.
- 2.3 The Producer undertakes to use the Development Finance solely for the purpose of defraying the Development Work.

3. DEVELOPMENT WORK

- 3.1 The Producer hereby agrees to produce and deliver to the Foundation no later than [] 2012 the following:
 - 3.1.1 a promotional trailer of approximately 5-10 minutes duration (the "**Trailer**") in the form of 2 x DVD's;
 - 3.1.2 a selection of black and white and/or colour stills (the "**Stills**");
 - 3.1.3 an updated Treatment;
 - 3.1.4 a cost report detailing how the Development Finance was applied;
 - 3.1.5 a copy of all signed contributor and location releases for the Trailer; and
 - 3.1.6 a copy of all relevant archive and music licenses (for on-line use) for the Trailer.

(together hereafter referred to as the "**Development Work**")

4. PAYMENT SCHEDULE

- 4.1 The Foundation shall advance the Development Finance to the Producer as follows:
 - 4.1.1 90% (ninety percent) shall be paid following signature of this Agreement; and
 - 4.1.2 10% (ten percent) shall be paid upon full delivery and acceptance by the Foundation of the Development Work.
- 4.2 The Foundation Finance shall be payable by wire transfer to the following account:
 - Name of Bank:
 - Address:
 - A/C Name:
 - A/C No:
 - Sort Code:
 - IBAN No:
- 4.3 Any and all banking costs incurred by the Foundation in advancing the Development Finance to the Producer shall be deducted by the Foundation from the Development Finance.

4.4 All payments shall be made on receipt of a valid invoice.

5. UNDERSPEND/OVERSPEND

5.1 The Development Finance is fixed price and the Foundation shall have no obligation to fund any overspend and/or additional sums for the Development Work.

5.2 In the event that there is any underspend from the Development Finance, such underspend shall be returned to the Foundation within 7 (seven) days from the date of delivery of the Development Work.

6. RECOUPMENT

6.1 The Development Finance is in the form of a grant and accordingly the Foundation does not wish to recoup the Development Finance.

7. REPORTING

7.1 In addition to the Producer complying with Clause 3.1.4 above, the Producer shall retain all receipts and vouchers for all expenditure incurred in delivery of the Development Work for inspection by the Foundation at any time (on reasonable prior notice).

7.2 Further, upon request by the Foundation, the Producer shall supply to the Foundation copies of any documents relating to any expenditure, funding or such other information that it may require relating to the Development Work.

7.3 The Foundation shall, on reasonable prior advance written notice and in any event during office hours, be entitled to audit the Producer's books and records relating to the Development Work which shall be made available to the Foundation at the offices of the Producer.

8. INTELLECTUAL PROPERTY

8.1 For the purposes of this Agreement, the Producer shall retain all rights (including without limitation copyright), title and interest in the Development Work and any resulting Film.

9. CREDITS

9.1 Subject to Clause 9.2 below, the Producer shall include the following logo in the back end titles of (a) the Trailer, (b) any Film based in whole or part of the Film Proposal Concept and/or Development Work and (c) in all related paid advertising:



On signature of this Agreement, the Foundation shall email to the Producer the high-resolution colour logo.

9.2 The Foundation may at any time prior to the online notify the Producer to remove (at the Producer's cost) such credit and/or logo from all copies of the Trailer and/or the Film and/or related advertising with immediate effect.

10. PRODUCER'S OBLIGATIONS AND WARRANTIES

- 10.1 The Producer shall consult with the Foundation in a timely manner in respect of any significant changes to any aspects of the Development Work (including but not limited to editorial, financial and scheduling).
- 10.2 The Producer shall ensure that all appropriate and customary insurances are in place in relation to the development Work.
- 10.2 The Producer shall grant to the Foundation and Puma free of charge, the non exclusive right (but not obligation) to exhibit the Trailer and/or Stills together with information relating to the Film and the Producer on the Foundation and/or any Puma websites, subject always to sensitivity of the content.
- 10.1. The Producer hereby represents and undertakes to the Foundation that:
- 10.1.1 it has the right, power and authority to enter into and fully perform this Agreement;
 - 10.1.2 nothing in the Schedules or Development Work is or will be defamatory of any party or infringe the copyright or any other right of any party;
 - 10.1.3 it shall produce the Trailer in a professional manner and comply with any applicable laws and regulations (including any health and safety requirements) and secure all reasonable and customary insurance cover;
 - 10.1.4 it shall obtain, and pay for, all necessary consents, permissions and clearances to ensure that all materials produced by the Producer may be exploited in accordance with the terms of this Agreement and as part of the Film (when completed) without payment or other obligation to any party; excluding the short materials used only for the non-commercial Trailer;
 - 10.1.5 it shall secure the "in principle" collaboration of such key contributors to the Film and access to any key locations as may be mutually agreed with the Foundation; and
 - 10.1.6 it shall join PUMA.Creatives Art network at <http://www.creativeartnetwork.com>.

11. REMEDIES ON DEFAULT

- 11.1 In the event that the Foundation determines, in its sole discretion and sole opinion, acting reasonably and in good faith that:
- 11.1.1 The Producer is in material breach of any of its warranties, undertakings, representations or obligations under this Agreement;
 - 11.1.2 Work and/or production of the Development Work has ceased prior to and/or during the Production Schedule for any reason;
 - 11.1.3 The Producer is unable to pay its debts as they fall due within the meaning of section 123(i) Insolvency Act 1986 or becomes the subject of a winding up order of any type or an administration order or has an administrative receiver appointed (including under the Law Of Property Act 1925) or compounds with its creditors or enters into a company voluntary arrangement or scheme of arrangement or it ceases or threatens to cease to carry on its business;
 - 11.1.4 An event of force majeure continues or in the Foundation's reasonable opinion is expected to continue for a period exceeding 6 (six) months;

the Foundation may, in addition to any other legal remedies it may have, including the termination of this Agreement, refuse to make any further payments to the Producer, and the Foundation may demand in writing the return of all or part of the Development Finance, which the Producer shall immediately repay to the Foundation.

12. ASSIGNMENT OF BENEFIT

- 12.1. This Agreement is personal to the Producer and shall not be assigned by it to any other person, firm or company without the prior permission of the Foundation.

13. APPLICABLE LAW

- 13.1 This Agreement shall be subject to and construed and interpreted in accordance with the laws of England and Wales and shall be subject to the exclusive jurisdiction of the Courts of England.

14. GENERAL

- 14.1 The headings to Clauses do not form part of and shall not be read into the construction of this Agreement.
- 14.2 This Agreement is neither a joint venture nor a partnership between the parties and no party shall hold itself out as the agent for another party.
- 14.3 Any person, firm or entity who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 (the "Act") to rely upon or enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from the Act.
- 14.4 This Agreement contains the full and complete understanding between the parties and supersedes any and all agreements and understandings, whether oral or written, entered into prior to the date of this agreement and shall not be modified except in writing signed by both parties.
- 14.5 No waiver by either party of any breach of any of the provisions of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other provision.
- 14.6 No variation of any of the terms or conditions hereof may be made unless such variation is agreed in writing and signed by each of the parties hereto.
- 14.7 If any provision of this Agreement shall for any reason be held to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other provision of the Agreement and the Agreement shall be construed as if such provision had not been part of the Agreement.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be entered into on the day and year first before written.

Signed by

.....
Maxyne Franklin
Duly authorized signatory
For and on behalf of
THE BRITDOC FOUNDATION

Signed by

.....
[]
Duly authorized signatory
For and on behalf of
[] **PRODUCTIONS LIMITED**

SAMPLE

SCHEDULE 1

TREATMENT

SAMPLE

SCHEDULE 2

DEVELOPMENT BUDGET AND PRODUCTION SCHEDULE

SAMPLE