

SAMPLE Production/Finance Agreement:

\_\_\_\_\_, 20\_\_

Agreement by and between \_\_\_\_\_, (hereinafter Executive Producer "Exec") and \_\_\_\_\_, Inc. (hereinafter "FilmCo") as it relates to the financing, ownership, production and distribution of the hereinbelow described film, do hereby set forth that this document confirms that the undersigned parties have agreed to the following:

1. Funding: Exec hereby agrees to fund US \$ \_\_\_\_\_ of the total itemized budget (Schedule A) for the feature-length motion picture ("Picture") entitled " \_\_\_\_\_ ". The start of Principal Photography is set for on or around December 1, 20\_\_.

2. Term: As used in this Agreement, the "Term" shall mean the period commencing with date of this Agreement and subject to the provisions hereof, continuing thereafter in perpetuity.

3. Compensation: Under this agreement all proceeds will be disbursed according to the following schedule: Exec and FilmCo will receive pari pasu (50/50) from any and all proceeds from the sale of the film from dollar one.

Any payments owing to the Exec will be paid out in a timely manner not to exceed fifteen (15) business days from receipt of funds.

For purposes of this agreement, the term "proceeds" (or gross revenue) shall be deemed to be all amounts actually received by this agreement throughout the Universe in connection with the exhibition and distribution of the Picture. Under this agreement all proceeds will be disbursed in the following manner:

(1) First, all budgetary items not covered by the initial \$ \_\_\_\_\_ investment (Schedule A) will be paid in full beginning with dollar one. These budgetary items shall not exceed \$ \_\_\_\_\_ and shall be paid out of the first \$ \_\_\_\_\_ received in proceeds. It is conceivable that these budgetary items could equate to less than \$ \_\_\_\_\_, in which case they could be paid off sooner.

\* \$ \_\_\_\_\_ (grand total final budget) minus \$ \_\_\_\_\_ initial investment = \$ \_\_\_\_\_ (budget items not covered by initial investment)

(2) Improvements and deferrals above the stated final budget amount of \$ \_\_\_\_\_ (Schedule A) shall not exceed \$ \_\_\_\_\_ and must be mutually agreed to in writing by both parties Exec and FilmCo. If such deferrals are paid, then these productions expenses must be paid off next out of proceeds.

After repayment of (1) and (2), then Exec and FilmCo may begin recoupment on their investment as follows:

(3) Exec and FilmCo will receive fifty percent (50%) pari pasu. Points allowed to acquire talent shall not exceed 5% of the backend. Any points that exceed 5% must be mutually agreed to in writing by both parties Exec and FilmCo. If there are points issued to other parties, then monies will be paid as follows:

By way of example:

If talent is issued 2 percentage points, then pay out from each dollar will be as follows:

- (a) FilmCo gets 49 cents
- (b) Exec gets 49 cents
- (c) Talent gets 2 cents

(4) If no points are issued to acquire talent, then Exec and FilmCo will receive fifty percent (50%) pari pasu.

By way of example:

Pay out from each dollar will be as follows:

- (a) FilmCo gets 50 cents
- (b) Exec gets 50 cents

4. Standards: The Picture will be shot in the English language and mastered on High Definition video tape with an approximate running time of 90 minutes and a rating not to exceed "R" without approval of all parties hereto. The Picture shall be delivered as soon as possible, but not to exceed nine (9) months from the completion of principal photography. Delivery is established by terms set forth in Schedule B.

5. Exec Rights and Obligations:

a. Screen Credits: Upon Completion, FilmCo and Exec will receive shared Executive Producer credits of equal height, prominence and dimension.

b. Exec Funding: Exec will fund \$\_\_\_\_,000 for a Sag Union film with name actor.

6. Refunds: If production has not begun on the picture by February 15, 20\_\_ then Exec will receive a full refund with bank interest of any monies put forth in the picture less any amounts actually paid to a casting director. Once funding is in place and offer to name actor is accepted Exec shall not have the right to any refund of such funds for any reason. In the case of default or force majeure funds will be returned with bank interest less any incurred expenses.

In the case death, injury or sickness of FilmCo which lasts for a duration of more than three (3) months funds will be returned with bank interest less any production expenses actually incurred.

If start of principal photography is halted or delayed by no direct action of FilmCo for a period of twelve (12) weeks, then all rights granted herein to the picture revert solely back to FilmCo and remaining production funds will be refunded to Exec.

7. Ownership: Upon full funding, all parties hereto will be vested with rights to the Picture for the term of this agreement throughout the Universe and shall include all theatrical motion picture rights, all television rights (e.g. free TV, pay TV, pay/cable satellite, and pay-per-view TV), all "home video" rights (e.g. DVD, video cassettes, laser discs), or any other format now known or hereafter devised, stage, merchandising, and radio rights. These rights do not include prequels, sequels, TV Series or remakes, or any remaining rights. Those rights will be solely vested with FilmCo.

8. FilmCo's Rights and Obligations:

a. Assignment: FilmCo or its assignee shall have the exclusive rights in perpetuity to distribute including entering into any sub-distribution agreements for the Picture throughout the Universe in all mediums known or yet to be developed.

b. Overages : Although FilmCo endeavors to produce the film on budget if the budget should exceed Schedule A, FilmCo and Exec will mutually agree on how to obtain additional funds.

c. Control: FilmCo will have sole and exclusive right to all creative and business decisions including: casting, crewing, production, script, distribution, marketing, trailers, and all aspects of the films final cut and mastering. Exec may contribute creative consultation, but all final decisions will rest solely with FilmCo. Exec and FilmCo will agree on the name actor in the film prior to start of principle photography.

d. Accounting and Auditing: Exec has the right to quarterly accountings. Exec may have the right, with ten (10) business days notice, to audit the accountings on the picture. Exec may audit only one time per annum, at Exec's sole expense. Exec has right to a copy of all contracts that FilmCo has access to in regard to the distribution of the film.

e. Copies: Exec will receive five (5) free copies of the final DVD or any other mass manufactured items when the film is completed.

9. Copyright: FilmCo will maintain copyright of the film in perpetuity. FilmCo will maintain the copyright and will make every effort not to let it slip prematurely into the public domain.

10. Reciprocal Indemnifications:

a. FilmCo hereby agrees to indemnify Exec against all costs and damages incurred or sustained by FilmCo as a direct result of any negligence caused by FilmCo and/or any of its assigns or agents (including any sums paid on the advice of Counsel under any settlement or compromise) by reason of actions by any third party.

b. Exec hereby agrees to indemnify FilmCo from and against all costs and damages incurred or sustained as a direct result of any negligence caused by Exec and/or any of its assigns or agents (including any sums paid on the advice of council under any settlement or compromise) by reasons of any actions by any third party.

11. Conflicting Interests: It is understood and agreed that each party hereto is nonexclusive except as otherwise provided herein and such activity shall not constitute a conflict of interest.

12. Warranties: Each of the parties hereto represents and warrants to each other that it has the right to enter into this agreement and to make all of the agreements, representations, warranties and grants of rights made herein.

13. Projections: Producers Net projections are provided in Schedule C. These are only projections and are not binding. Exec and FilmCo by entering into this agreement understand fully that although the projections are derived from surveying similar films in the market actual returns may vary widely from projections.

14. Force Majeure: If during the term hereof FilmCo is hampered, interrupted or interfered with in any manner whatever in the preparation or production of the Picture or in the conduct and operation of its business generally by reason of any judgment or decree, whether legislative, executive or judicial, act of God, earthquake, flood, fire, epidemic, accident, casualty, lockout, boycott, strike, labor controversy, war or armed conflict, or by reason of the death, default, illness, incapacity or disability of any principal member of the cast of the Picture, or of the director of the Picture, or by reason of any cause, thing or occurrence not within FilmCo's control, being herein referred to as an "event of force majeure" FilmCo shall be

relieved of its obligations hereunder. If force majeure continues for more than six (6) months unused funds will be returned to Exec with bank interest.

15. Joint Venture: The parties hereto are entering into this agreement as independent contractors and no partnership or joint venture or other association shall be deemed created by this agreement. No party shall incur any liabilities against the other except as expressly provided herein.

16. Non-Circumvention: The parties hereto acknowledge that each party brings certain elements to this agreement (e.g. FilmCo's production and distribution relationships) and the parties agree not to directly contact those contacts nor conduct independent business with those contacts except as agreed herein.

17. Legal Construction of Agreement: The right of the parties pursuant to this agreement will be subject to the following: This agreement will be governed by and construed under and in accordance with the laws of the State of California, but will be considered operative and in full force and effect throughout the world. In the event of any dispute under or relating to, the terms of this agreement or any breach thereof, it is agreed that the same shall be submitted to binding arbitration to the American Arbitration Association in Los Angeles, California, in accordance with the rules promulgated by said association, and judgment upon any award rendered may be entered in any court having jurisdiction thereof.

18. Notice: Any notice which either party hereto may desire or be required to give to the other party hereto pursuant to this agreement shall be in writing and shall be sent by certified mail, return receipt requested, or personally delivered to such other party at the working address of each respective party, or to such other address as such party may hereafter specify in writing. A courtesy copy is to be sent to Exec's attorney.

19. Captions: The captions used in this agreement are used solely for convenience and are not part of nor shall they be used for the construction of any provision hereunder.

20. Entire Agreement: This agreement is the entire agreement between the parties hereto and supersedes all prior agreements and understandings (whether written or oral) between the parties hereto with respect to the subject matter hereof. This agreement cannot be modified except by in writing signed by the Parties hereto.

IN WITNESS WHEREOF, The parties hereto have executed this agreement as of the day and year first above written

FilmCo Films, Inc.

By: \_\_\_\_\_  
President Date

EXEC

By: \_\_\_\_\_  
Date

