

**FILM AND VIDEO CO-PRODUCTION AGREEMENT**

**BETWEEN**

**THE GOVERNMENT OF CANADA**

**AND**

**THE GOVERNMENT OF THE KINGDOM OF DENMARK**

**THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE KINGDOM OF DENMARK** (hereinafter referred to as the "Parties");

**CONSIDERING** that it is desirable to establish a framework for audiovisual relations and particularly for film and video co-productions;

**CONSCIOUS** that quality co-productions can contribute to the further expansion of the film and video production and distribution industries of both countries as well as to the development of their cultural and economic exchanges;

**CONVINCED** that these exchanges will contribute to the enhancement of relations between the two countries;

**HAVE AGREED** as follows:

**ARTICLE I**

1. For the purpose of this Agreement, a "co-production" is a project, irrespective of length, including animation and documentary productions, produced by independent producers either on film, videotape or videodisc, or in any other format hitherto unknown, for exploitation in theatres, on television, videocassette, videodisc or by any other form of distribution, whether now known or to become known.
2. Co-productions undertaken under the present Agreement must be approved by the following authorities, referred to hereinafter as the "competent authorities":

**in Canada:** the Minister of Communications or, if he so authorizes, Telefilm Canada; and

**in Denmark:** the Danish Film Institute

3. Every co-production proposed under this Agreement shall be produced and distributed in accordance with the national legislation and regulations in force in Canada and in Denmark.
4. Every co-production produced under this Agreement shall be considered to be a national production for all purposes by and in each of the two countries. Accordingly, each such co-production shall be fully entitled to take advantage of all benefits currently available to the film and video industries or those that may hereafter be decreed in each country. However, these benefits accrue solely to the producer of the country which grants them.

## **ARTICLE II**

The benefits of the provisions of this Agreement apply only to co-productions undertaken by producers who have good technical organization, sound financial backing and recognized professional standing.

## **ARTICLE III**

1. The proportion of the respective contributions of the co-producers of the two countries may vary from twenty (20%), for the minority co-producer, to eighty per cent (80%), for the majority co-producer, of the budget for each co-production.
2. Each co-producer shall be required to make an effective technical and creative contribution. In principle, this contribution shall be in proportion to his/her investment.

## **ARTICLE IV**

1. The producers, writers and directors of co-productions, as well as the technicians, performers and other production personnel participating in such co-productions, must be Canadian or Danish citizens, or permanent residents of Canada or Denmark. They can also be nationals of the member states of the European Union provided that the participation of personnel from Canada and Denmark is of obvious importance.
2. Should the co-production so require, the participation of performers other than those provided for in the first paragraph may be permitted, subject to approval by the competent authorities of both countries.

## **ARTICLE V**

1. Live action shooting and animation works such as storyboards, layout, key animation, in between and voice recording must, in principle, be carried out alternately in Canada and in Denmark.
2. Location shooting, exterior or interior, in a country not participating in the co-production (i.e. other than Canada, Denmark or a member state of the European Union) may, however, be authorized, if the script or the action so requires and if technicians from Canada, Denmark or a member state of the European Union take part in the shooting.
3. The laboratory work shall be done in either Canada, Denmark or a member state of the European Union, unless it is technically impossible to do so, in which case the laboratory work in a country not participating in the co-production may be authorized by the competent authorities of both countries.

## **ARTICLE VI**

1. The competent authorities of both countries also look favourably upon co-productions undertaken by producers of Canada, Denmark or a member state of the European Union and any country to which Canada or Denmark is linked by an Official Co-Production Agreement.
2. The proportion of any minority contribution in any multi-party co-production shall be not less than twenty per cent (20%).
3. Each minority co-producer in such co-production shall be obliged to make an effective technical and creative contribution.

## **ARTICLE VII**

1. The original sound track of each co-production shall be made in either English, French or Danish. Shooting in any two, or in all, of these languages is permitted. Dialogue in other languages may be included in the co-production as the script requires.
2. The dubbing or subtitling of each co-production into English and/or French, or into Danish shall be carried out respectively in Canada or Denmark. Any departures from this principle must be approved by the competent authorities of both countries.

## **ARTICLE VIII**

1. For the present purposes, productions produced under a twinning arrangement may be considered, with the approval of the competent authorities, as co-productions and receive the same benefits. Notwithstanding Article III, in the case of a twinning arrangement, the reciprocal participation of the producers of both countries may be limited to a financial contribution alone, without necessarily excluding any artistic or technical contribution.
2. To be approved by the competent authorities, these productions must meet the following conditions:
  - there shall be respective reciprocal investment and an overall balance with respect to the conditions of sharing the receipts of co-producers in productions benefiting from twinning;
  - the twinned productions must be distributed under comparable conditions in Canada and in Denmark;
  - twinned productions may be produced either at the same time or consecutively, on the understanding that, in the latter case, the time between the completion for the first production and the start of the second does not exceed one (1) year.

## **ARTICLE IX**

1. Except as provided in the following paragraph, no fewer than two copies of the final protection and reproduction materials used in the production shall be made for all co-productions. Each co-producer shall be the owner of one copy of the protection and reproduction materials and shall be entitled to use it, in accordance with the terms and conditions agreed upon by the co-producers, to make the necessary reproductions. Moreover, each co-producer shall have access to the original production material in accordance with those terms and conditions.
2. At the request of both co-producers and subject to the approval of the competent authorities in both countries, only one copy of the final protection and reproduction material need be made for those productions which are qualified as low budget productions by the competent authorities. In such cases, the material will be kept in the country of the majority co-producer. The minority co-producer will have access to the material at all times to make the necessary reproductions, in accordance with the terms and conditions agreed upon by the co-producers.

## **ARTICLE X**

Subject to their legislation and regulations in force, the Parties shall:

- (a) facilitate the entry into and temporary residence in their respective territories of the creative and technical personnel and the performers engaged by the co-producer of the other country for the purpose of the co-production; and
- (b) similarly permit the temporary entry and re-export of any equipment necessary for the purpose of the co-production.

## **ARTICLE XI**

The sharing of revenues by the co-producers should, in principle, be proportional to their respective contributions to the production financing and be subject to approval by the competent authorities of both countries.

## **ARTICLE XII**

Approval of a co-production proposal by the competent authorities of both countries does not constitute a commitment to either or both of the co-producers that governmental authorities will grant a licence to show the co-production.

## **ARTICLE XIII**

Where a co-production is exported to a country that has quota regulations:

- (a) it shall in principle be included in the quota of the country of the majority co-producer;
- (b) it shall be included in the quota of the country that has the best opportunity of arranging for its export, if the respective contributions of the co-producers are equal;
- (c) if any difficulties arise with clause (a) and (b), it shall be included in the quota of the country that carries the most favourable arrangement for its export.

#### **ARTICLE XIV**

1. A co-production shall, when shown, be identified as a "Canada-Denmark Co-production" or "Denmark-Canada Co-production" according to the origin of the majority co-producer or in accordance with an agreement between co-producers.
2. Such identification shall appear in the credits, in all commercial advertising and promotional material and whenever this co-production is shown and shall be given equal treatment by each party.

#### **ARTICLE XV**

In the event of presentation at international film festivals, and unless the co-producers agree otherwise, a co-production shall be entered by the country of the majority co-producer or, in the event of equal financial participation of the co-producers, by the country of which the director is a national.

#### **ARTICLE XVI**

The competent authorities of both countries shall jointly establish the rules of procedure for co-productions taking into account the legislation and regulations in force in Canada and in Denmark. These rules of procedure are attached to the present Agreement.

#### **ARTICLE XVII**

No restrictions shall be placed on the import, distribution and exhibition of Danish film, television and video productions in Canada or that of Canadian film, television and video productions in Denmark other than those contained in the legislation and regulations in force in each of the two countries.

#### **ARTICLE XVIII**

1. During the term of the present Agreement, an overall balance shall be aimed for with respect to financial participation as well as creative personnel, technicians, performers, and facilities (studio and laboratory), taking into account the respective characteristics of each country.

2. The competent authorities of both countries shall examine the terms of implementation of this Agreement as necessary in order to resolve any difficulties arising from its application. They shall, as needed, recommend possible amendments with a view to developing film and video co-operation in the best interests of both countries.
3. A Joint Commission is established to look after the implementation of this Agreement. The Joint Commission shall examine if this balance has been achieved and, in case of the contrary, shall determine the measures deemed necessary to establish such a balance. A meeting of the Joint Commission shall take place in principle once every three years, or as necessary, and it shall meet alternately in the two countries. The Joint Commission shall meet within six (6) months following its convocation by one of the Parties.

### **ARTICLE XIX**

1. The present agreement shall be applied provisionally on the date of its signature. It shall come into force when each Party has informed the other that its internal ratification procedures have been completed.
2. It shall be valid for a period of five (5) years from the date of its entry into force; a tacit renewal of the Agreement for like periods shall take place unless one or the other country gives written notice of termination six (6) months before the expiry date.
3. Co-productions which have been approved by the competent authorities and which are in progress at the time of notice of termination of this Agreement by either Party, shall continue to benefit fully until completion from the provisions of this Agreement. After expiry or termination of this Agreement, its terms shall continue to apply to the division of revenues from completed co-productions.
4. This Agreement may be amended by the Parties by written agreement.

**IN WITNESS WHEREOF**, the undersigned, duly authorized by their respective Governments, have signed this Agreement.

**DONE** in duplicate at \_\_\_\_\_, this \_\_\_\_\_ day \_\_\_\_\_ of \_\_\_\_\_, 1997, in the English, French and Danish languages, each version being equally authentic.

**FOR THE GOVERNMENT  
OF CANADA**

**FOR THE GOVERNMENT OF  
THE KINGDOM OF DENMARK**

## ANNEX

### RULES OF PROCEDURE

Application for benefits under this Agreement for any co-production must be made simultaneously to both competent authorities at least thirty (30) days before shooting begins. The competent authority of the country of which the majority co-producer is a national shall communicate its proposal to the other competent authority within twenty (20) days of the submission of the complete documentation as described below. The competent authority of the country of which the minority co-producer is a national shall thereupon communicate its decision within twenty (20) days.

Documentation submitted in support of an application shall consist of the following items, drafted in English or French in the case of Canada and in Danish in the case of Denmark:

- I. The final script;
- II. Documentary proof that the copyright for the co-production has been legally acquired;
- III. A copy of the co-production contract signed by the two co-producers;

The contract shall include:

1. the title of the co-production;
2. the name of the author of the script, or that of the adaptor if it is drawn from a literary source;
3. the name of the director (a substitution clause is permitted to provide for his replacement if necessary);
4. the budget;
5. the financing plan;
6. a clause establishing the sharing of revenues, markets, media or a combination of these;
7. a clause detailing the respective shares of the co-producers in any over or underexpenditure, which shares shall in principle be proportional to their respective contributions, although the minority co-producer's share in any overexpenditure may be limited to a lower percentage or to a fixed amount



providing that the minimum proportion permitted under Article VI of the Agreement is respected;

8. a clause recognizing that admission to benefits under this Agreement does not constitute a commitment that governmental authorities in either country will grant a licence to permit public exhibition of the co-production;
  9. a clause prescribing the measures to be taken where:
    - (a) after full consideration of the case, the competent authorities in either country refuse to grant the benefits applied for;
    - (b) the competent authorities prohibit the exhibition of the co-production in either country or its export to a third country;
    - (c) either party fails to fulfil its commitments;
  10. the period when shooting is to begin;
  11. a clause stipulating that the majority co-producer shall take out an insurance policy covering at least "all production risks" and "all original material production risks";
  12. A clause providing for the sharing of the ownership of copyright on a basis which is proportionate to the respective contributions of the co-producers.
- IV. The distribution contract, where this has already been signed;
- V. A list of the creative and technical personnel indicating their nationalities and, in the case of performers, the roles they are to play;
- VI. The production schedule;
- VII. The detailed budget identifying the expenses to be incurred by each country; and
- VIII. The Synopsis.

The competent authorities of the two countries can demand any further documents and all other additional information deemed necessary.

In principle, the final shooting script (including the dialogue) should be submitted to the competent authorities prior to the commencement of shooting.

Amendments, including the replacement of a co-producer, may be made in the original contract, but they must be submitted for approval by the competent authorities of both countries before the co-production is finished. The replacement of a co-producer may be allowed only in exceptional cases and for reasons satisfactory to both the competent authorities.

The competent authorities will keep each other informed of their decisions.