

PROGRAMME PRODUCTION AGREEMENT

Terms and Conditions

FOOTPRINT TELEVISION LIMITED

Rose Cottage, Tunbridge Road, Chew Magna, Bristol BS40 8SP.
Company Registration No. 6086461.

INTRODUCTION

FTV and Company A have completed their negotiations concerning the commissioning by Company A from FTV of a Programme (as defined below) and now wish to record their agreement in writing.

AGREEMENT BETWEEN THE PARTIES

FTV shall produce and deliver to Company A one or more programme(s), the detail of which is set out in Schedule 2 to this agreement ("the Programme"). Schedule 2 also sets out further details of the terms agreed between the parties. FTV undertakes to produce and deliver the Programme to Company A to the best of its professional skill and expertise as diligently and expeditiously as possible in accordance with the Production Budget, the agreed technical specifications and the Delivery Date and in accordance with and subject to the terms and conditions contained in this Agreement. The Programme's production is ultimately funded by Company A.

Company A shall pay FTV the Production Fee (as defined below) on the terms contained in the production budget set out in Schedule 1 to this agreement ("Production Budget").

This agreement shall take effect from the date pre-production started on the programme or the date of execution of this agreement, whichever is the earlier.

Schedule 1

Production Budget

1. Production Fee

1.1 The Production Fee is a total of £x excluding VAT. A list of the production costs is attached to this agreement ("Production Budget").

1.2 Payment

1.2.1 On signing of this agreement the sum of £x (excluding VAT) is payable by Company A to FTV.

1.2.2 On approval by Company A of the edited rough cut (such approval not to be unreasonably withheld or delayed) the sum of £x (excluding VAT) is payable by Company A to FTV.

1.2.3 On delivery and acceptance of the final master tape/DVD by Company A (together with all unused takes and other film or tape produced for or used in the process of making the Programme) the sum of £x (excluding VAT) is payable by Company A to FTV together with any agreed extra fees, charges and/or disbursements. (For the avoidance of doubt the Production Fee is fixed and no other fees, charges or disbursements shall be charged to Company A, save where specifically agreed in writing by Company A in advance due to exceptional circumstances. Similarly, any over-run against budget shall be for FTV to fund, unless specifically agreed otherwise in writing by Company A in advance – for instance to reflect a material change to the format or creative brief required by Company A.)

1.3 The Production Account

All sums payable by Company A to FTV pursuant to this agreement shall be paid by RBR in cleared funds to the following account:

Bank
Branch
Name of Account
Account Number

2. Contributors and Paid Contributor rights

2.1 FTV shall take primary responsibility for selecting contributors for the Programme and arranging filming dates with contributors.

2.2 Members of the public who appear in the Programme and who require payment for doing so ("Paid Contributors") shall be contracted and paid by Company A outside of this agreement and the Production Fee. FTV will not be responsible for any contractual arrangements with and/or payments to Paid Contributors. It is acknowledged by both parties that the Production Budget makes no provision for any payments to Paid Contributors. FTV will ensure that no Paid Contributors appear in the Programme without the prior written consent of Company A.

Schedule 2

The Programme - Editorial Specification

3.1 Working Title:

3.2 Genre – Factual, Observational Documentary, Factual Entertainment

3.3 No of Episodes x Duration
(including opening and closing credits)

x episode x minutes minimum and x minutes maximum.

4. Creative Brief

4.1 Writer Brief

Scripts to be written by FTV.

4.2 Directorial Brief

Style of direction

4.3 Casting Brief

Number of core cast

Other considerations:

- on-screen portrayal (age, ethnic mix, diversity issues)
- accents

4.4 Music Brief

FTV will acquire the worldwide rights to the full catalogue of music and sound effects available through the Audio Network Production Music Library for this project.

Feel/tone of music:

5. Production Brief:

5.1 Pre-Production

First Day –

Last Day –

5.2 Production

Filming type

5.3 Videotape/film

5.4 Geographical location

5.5 Principal Photography

First Day –

Last Day –

5.6 Post Production

First Day –

Last Day –

6. Post Production Brief

6.1 Edit

- picture grading and sound dub; UK version made to broadcast standard

6.2 Title Sequence

- style and length (if any) to be inserted by FTV at the edit stage

6.3 Graphics & subtitling

- amount & type (if any) to be inserted by FTV at the edit stage

7. Delivery and Technical Requirements

7.1 Delivery Date –

7.2 Delivery format –

7.3 Shooting Ratio –

7.4 Production Credit

Position:

Size: The size of the production credit and FTV's company logo (if any) to be inserted by FTV at the edit stage.

FTV shall be responsible for ensuring that the Programme complies with any legal or regulatory requirements relating to content and post-production. FTV shall ensure that the Programme complies with all technical requirements and standards set by Ofcom and/or by UK broadcasters.

Notwithstanding acceptance by Company A of the final master tape/DVD, if any changes to the Programme are subsequently required by a broadcaster due to Quality Control issues or Ofcom, legal or other regulatory compliance issues, then any such changes shall at Company A's request be carried out promptly by FTV at FTV's own cost.

Company A shall have a right of prior approval over the key elements of the Programme including without limitation locations, writers, presenters, contributors, musical composers and performers and principal production personnel and FTV shall produce the Programme using such agreed elements. In the event that before or during the production of the Programme any one or more of the key elements approved or to be approved by Company A requires replacing or substantially altering, FTV shall seek and obtain the prior written approval of Company A for such replacement or substantial alteration in advance of making any such replacement or alteration.

All agreements with third parties other than contracts agreed in writing between Company A and Paid Contributors relating to the Programme ("Production Contracts"), including but not limited to contracts with contributors, shall be subject to Company A's prior written approval and FTV shall ensure that Production Contracts are freely assignable to Company A. FTV shall ensure that no third party is entitled to payment of any residual, repeat fee, use fee or royalty not covered by the Production Fee other than under the terms of a written contract between a Paid Contributor and Company A.

FTV hereby warrants, undertakes and represents to Company A that:

- (a) it is freely able to enter into this Agreement and comply with the terms hereof and it has not granted and will not grant to any third party rights in the Programme or the Programme format (the "Format") which are or might be inconsistent with or derogate from the rights granted to Company A in this Agreement and that there are and will be no claims liens or encumbrances of any nature affecting the Programme or any part thereof;
- (b) it shall perform all the services usually performed by a first class production company in connection with the production and delivery of television programmes to the best of its skill and ability;
- (c) each of the producer and director of the Programme is and will remain a "qualifying person" for the purposes of the Copyright, Designs and Patents Act 1988 ("the Act") throughout the production of the Programme and the director has assigned to FTV free from encumbrances the director's entire interest in the copyright in the Programme;
- (d) the exercise by Company A, its assignees and/or its licensees of its rights in the Programme or the Format or any part or element thereof will not infringe any personal proprietary or other right of any third party or be in breach of the Act;
- (e) nothing will be included in the Programme in breach of any contract nor will anything in the Programme breach any duty of confidence constitute contempt of court or be a breach of Parliamentary privilege or breach any provision of any statute or statutory instrument including any provision of the Broadcasting Act 1990 and 1996 or the Act;
- (f) nothing contained in the Programme including the title shall be defamatory of any person company or other organisation or be blasphemous or obscene or constitute a malicious falsehood or amount to an infringement of any copyright moral right trademark service mark patent registered design right or other intellectual property right;
- (g) FTV shall secure consents in writing empowering Company A its assignees and/or licensees to issue publicity featuring all contributors other than Paid Contributors and to use, print and publish the names, approved photographs and approved likenesses, logos, approved biographical details and voices of such parties including all images reproduced in the Programme for the purposes of such publicity;
- (h) the Programme does not and will not contain material which will or is likely to expose Company A to any proceedings whatsoever of a civil nature from third parties (including but not limited to proceedings in respect of invasion of or breach of rights of privacy) or to criminal proceedings;

All warranties given by FTV in this Agreement shall be deemed repeated on final delivery of the Programme and on any occasion when the ownership of any items shall vest in Company A. For the avoidance of doubt, Company A shall be under no obligation to ascertain the accuracy or veracity of the warranties given by FTV hereunder.

8. Copyright

8.1 It is the intention of the parties that Company A should be the legal and beneficial owner of all copyrights, designs, get-up, moral rights and/or all other intellectual property rights of whatsoever nature (in each case whether registered or not) and all rights or forms of protection of a similar or analogous nature or having equivalent or similar effect or any other matters which may subsist in any part of the world in relation to the Programme and its format and in all other footage shot by FTV and elements and works created (including but not limited to soundtracks) in the production of the Programme whether or not included in the final version of the Programme ("Intellectual Property Rights").

8.2 Accordingly FTV hereby irrevocably assigns to Company A with full title guarantee all of the Intellectual Property Rights (by way of assignment of present and future rights) for the full duration of such rights throughout the world, together with all rights to sue for past infringement of the Intellectual Property Rights. FTV agrees to sign or execute such further assignments or transfers in relation to all or any of the Intellectual Property Rights in each case as, and in such manner as, Company A may in writing direct and for nil consideration. Notwithstanding Company A's ownership of the Intellectual Property Rights, Company A agrees that it shall not use or exploit any such rights in any way or for any purpose whatsoever or otherwise exercise or purport to exercise all or any of the Intellectual Property Rights without FTV's written consent prior to FTV receiving payment of all sums properly payable to it pursuant to this Agreement (or termination by Company A pursuant to Clause 11, if this occurs prior to that happening provided that Company A pays FTV all sums due and owing as at the date of termination and which remain properly payable under this Agreement (but for the avoidance of doubt Company A shall not in such circumstances have any obligation to pay FTV any amounts that would have become payable after the date of termination)).

8.3 Without prejudice to Clause 2 above, where FTV commissions any material from a third party for use in connection with the production of the Programme or uses any existing material which has been created by a third party, FTV undertakes to use its reasonable endeavors to obtain from the third party an assignment to Company A of such copyright and other rights as may exist in the materials. If an assignment cannot be negotiated on reasonable terms, FTV shall obtain a license on terms to be approved in writing by Company A to use the materials in the Programme. Either way, the costs involved shall be borne by FTV as part of the Production Fee, and the rights secured shall cover all worldwide exploitation of the Programme in perpetuity, in each case unless otherwise agreed in writing by Company A.

8.4 Company A and FTV will each ensure that appropriate permissions are obtained in respect of any copyright or trademarked material supplied by them respectively for inclusion in the Programme.

9. Postponement at Company A's Request

If Company A asks for all or any of the production specification set out in Schedule 2 to be altered the parties will use their best endeavors to agree such new dates and/or other variations or alterations (as the case may be). FTV shall as soon as reasonably practicable provide to Company A a detailed breakdown of any additional costs, fees and expenses that would be incurred in relation to any requested variation. Company A shall reimburse FTV for such additional costs as FTV shall reasonably incur as a result of such variations or alterations, subject in each case to Company A having approved such costs in writing prior to them being incurred.

10. Cancellation by Company A

Company A shall be entitled to cancel the whole or any part of the production for any reason by written notice to FTV. In the event of such cancellation Company A shall pay to FTV an amount in respect of all work carried out up to the receipt of the notice of cancellation together with all other commitments and costs reasonably incurred by FTV in pursuance of this agreement. In no

circumstances shall FTV's entitlement under this clause exceed the Production Budget. Where requested by Company A at any time, FTV shall provide details of the costs and expenses to be met by Company A if Company A were to cancel.

11. Termination

11.1 Company A may terminate this agreement forthwith by written notice to FTV if FTV commits any serious breach of this agreement including without limitation any failure to comply with any of the delivery dates or the completion date.

11.2 FTV may terminate this agreement forthwith by written notice to Company A if Company A commits any serious breach of this agreement including (without limitation) any failure to pay FTV all or any of the sums due and payable to FTV pursuant to this agreement (other than in the event of a bona fide dispute) and fails to remedy such breach within 14 days of being given written notice by FTV requiring remedy and notifying Company A that FTV will exercise its rights under this clause in the event that no remedy is forthcoming.

11.3 Either party may terminate this agreement forthwith by written notice to the other if that other party passes a resolution for winding up (otherwise than for the purposes of a solvent amalgamation or reconstruction) or a court makes an order to that effect or if either party becomes or is declared insolvent or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors or has a liquidator, receiver, administrator, administrative receiver, manager, trustee or similar officer appointed over any of its assets or ceases or threatens to cease to carry on business.

11.4 If Company A terminates this Agreement pursuant to clause 11.1 or clause 11.3, then FTV shall immediately deliver up to Company A all materials and information relating to the Programme (including but not limited to all footage) and shall repay to Company A all Production Budget monies not yet applied or committed under Production Contracts. In such circumstances FTV shall give Company A all reasonable assistance in transferring the benefit of all Production Contracts to Company A or Company A's nominee, and Company A shall be and is hereby irrevocably appointed the agent of FTV for all purposes related to the production of the Programme with power on behalf of FTV to exercise any rights under contract or otherwise to assign or transfer the benefit of any contract or other property and/or to act or refrain from acting in any other way on behalf of FTV.

11.5 If Company A terminates this Agreement pursuant to Clause 11.1 or Clause 11.3 then Company A shall immediately pay to FTV all sums which are properly due and payable to FTV up to and including the date of such termination.

12. Insolvency

Without prejudice to Clause 2 above, in the event FTV goes into liquidation or other such financial arrangement and fails as a result to make any payment to any third party engaged to provide services or materials for the production of the Programme, Company A shall have the right to pay direct to any such third party an amount equal to the sums owed by FTV to such third party for work carried out by the third party for FTV in relation to the production of the Programme, irrespective of any set-off or counterclaim FTV may have or purport to have against such third party. Any such payment by Company A shall be deemed to be a payment by Company A to FTV and shall be deducted from any payment or sum payment to FTV, or, if no further payments are due, shall be a debt due from FTV to Company A which will be paid by FTV to Company A upon first demand in writing by Company A specifying the amount paid to the third party on FTV's behalf.

13. Insurance

FTV will acquire the necessary production insurance to protect the production, the production team, all contributors and members of the public who come into contact with the production and to cover against all such risks as are customarily insured in relation to productions of this nature. FTV will provide a full breakdown of the cover to Company A.

14. Safekeeping and ownership of negative/video tape

14.1 FTV shall be responsible for the safekeeping of any negative, videotape colour master interpositives, colour reversal internegatives and any other derivative material during production of the Programme and during their laboratory processing and at all other times up to the point at which the Programme is completed and FTV has advised in writing where the materials are stored. FTV shall not be responsible for the negative and other items listed in any other circumstances.

Company A is responsible for insuring the negative, videotape and any other derivative material which remains in the safe keeping of FTV after the date of completion of the Programme.

14.2 Ownership of these materials shall remain with FTV until it has received all sums due to FTV from Company A pursuant to this agreement at which point the ownership of these materials shall vest in Company and FTV shall deliver them cut or uncut to Company A or such other place as Company A shall notify FTV in writing.

15. Indemnities

15.1 FTV hereby indemnifies and will keep Company A, its assignees and licensees indemnified from and against all actions, claims, proceedings, costs (including legal costs on an indemnity basis), damages, loss and liability whatsoever and howsoever incurred or awarded and paid directly in respect of, or directly or reasonably foreseeable arising out of, any breach or non-performance of all or any of the agreements, obligations, covenants, warranties and representations whether expressed or implied on the part of FTV contained in this Agreement.

15.2 FTV shall immediately advise Company A of any litigation or threatened litigation or complaint to a regulatory body in relation to the Programme and shall act in accordance with Company A's direction which may include the taking over of any such action by Company A in which event FTV shall procure that all Contributors and employees and directors of FTV co-operate fully with Company A but this shall be without prejudice to any of Company A's rights under this Agreement.

15.3 Without prejudice to any other provision of this Agreement, the indemnity given by FTV in this Clause 15 shall survive any termination of this Agreement.

16. Limitation of liability

The maximum aggregate liability (inclusive of costs and interest) of FTV in respect of all and any claims under this Agreement (including (without limitation) under the warranties and representations in Clause 7.4 and/or the indemnities in Clause 15) shall not exceed £1,000,000.

17. Force Majeure

17.1 An event of Force Majeure shall be defined as any event that is not reasonably insurable including but not limited to strikes (of its own or other employees), insurrection or riots, embargoes or delays in transportation, inability to obtain supplies and raw materials, requirements or regulation of any civil or military authority, any act of terrorism, threat of terrorism, any hostile or warlike action in time of peace or war, the use or threat of use of any weapon or war employing atomic fission or radioactive force, any insurrection or rebellion or revolution or civil war or usurped power or any action taken by any governmental authority in hindering or combating or defending against regulation or confiscation by order of any government or public authority or risks of contraband or illegal transportation of trade, any civil commotion assuming the proportions of or amounting to a popular rising or riot or martial law or the act of any lawfully constituted civil authority (except to the extent that certain acts of civil authority may reasonably be insurable from time to time) and for official days of national mourning.

17.2 Neither party shall be liable for any breach of its obligations under this agreement resulting from causes beyond its reasonable control due to an event of Force Majeure. If default due to an

event of Force Majeure shall continue for less than fourteen days all dates specified in this agreement shall be correspondingly postponed until work on the Programme can be completed. If an event of Force Majeure shall prevent production continuing or being completed for fourteen days or more either party may terminate this agreement. On such termination Company A shall pay FTV the costs they have actually incurred in making the Programme and such part of the total mark-up as is attributable to the work they have done to the date of termination.

18. Confidential Information

The parties acknowledge a duty not during or after the termination of this agreement to disclose without the other's prior written permission any confidential information either concerning the other's business, its business plans, customers or associated companies or any other relevant information about the commercial and the product disclosed as a result of this agreement.

In particular during and after the production FTV acknowledges its responsibility to treat in complete confidence all the marketing and sales information and statistics relating to Company A's businesses, all information relating to the Programme and participants in it and all footage created in the course of the production.

Both parties shall impose obligations in terms equivalent to those above on its own personnel. For purposes of clarification all information involved in the production of the Programme is of a confidential nature and may only be discussed outside of the production/standard production procedures with the express written permission of Company A's representative.

Company A may request additional written assurances from FTV, to whom information has been disclosed, in relation to the duty of confidentiality in order to carry out its obligations under its agreements with its clients.

19. Entire Agreement

This agreement is the entire agreement between the parties relating to the subject matter of this agreement which supersedes all previous communications, agreements and other arrangements (other than those attached to this agreement). No variation of this agreement shall be effective unless it is in writing signed by both parties.

20. Governing Law

This agreement shall be governed by English law and the courts of England and Wales have exclusive jurisdiction over any disputes or claims arising out of or relating to this agreement.

Signed for)
and on behalf)
of Company A by:)
Name:
Print name.....

Signed for)
and on behalf)
of FTV by:)
Name:
Print name.....