

**RUM BUM  
FILM PRODUCTION AGREEMENT**

**THIS FILM PRODUCTION AGREEMENT** ("Agreement"), is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 201 \_\_, by and between RUM BUM FILMS & HIGH DEFINITION STUDIOS, LLC (hereinafter referred to as the "PRODUCER"), a Florida limited liability company, located at 128 N.W. 25<sup>th</sup> Street, Miami, Florida 33127, and \_\_\_\_\_, and located at \_\_\_\_\_ (hereinafter referred to as the "CLIENT"). The PRODUCER and the CLIENT are sometimes hereinafter collectively referred to as the "Parties."

**RECITALS**

**WHEREAS**, PRODUCER, is in the business of production of film, video, audio-visual, and/or internet production;

**WHEREAS**, this Agreement confirms the understanding between the Parties with respect to production of \_\_\_\_\_ (the "Film Project"). The Film Project has a final (working)(tentative) title of " \_\_\_\_\_";

**WHEREAS**, CLIENT is the owner of certain exclusive concepts and/or related content to be used in the production of the Film Project; hereinbelow described; and

**WHEREAS**, CLIENT desires to grant exclusive rights to and for such concepts and content to be used in the Film Project;

**NOW, THEREFORE**, in consideration of the mutual covenants, conditions, terms and promises set forth in this Agreement, the Parties agree as follows:

**1. Recitals**: The foregoing Recitals are true and expressly are incorporated herein, by reference.

**2. The Film Project**: The Film Project is to be approximately \_\_\_\_ hours \_\_\_\_ minutes in length. The Film Project is described as: \_\_\_\_\_.

**3. Engagement**:

(a) CLIENT engages PRODUCER, and PRODUCER accepts such engagement, to direct and shoot the Film Project.

(b) The Film Project is to be shot at the following location: \_\_\_\_\_

(c) The PRODUCER of the Film Project shall be: \_\_\_\_\_

(d) The Director of the Film Project shall be: \_\_\_\_\_

(e) PRODUCER shall have the right to use the Film Project in connection with the promotion and advertising of PRODUCER's business activities.

**4. Term of the Agreement**: The term of this Agreement shall commence as of the Effective Date hereof and continue until the completion of PRODUCER's services hereunder.

**5. Credits**:

(a) PRODUCER shall receive the title of "Executive Producer" on any and all final distributed and released edits of the Film Project, in any and all analog, digital and/or electronic format now in use, or hereafter devised.

(b) CLIENT shall receive credit as the "Creator" of the Film Project.

(c) All video and audio tapes that result from the editing of the Film Project shall be the exclusive property of CLIENT, upon full and final payment(s) to PRODUCER.

(d) Luis Bacardi and Craig Whitaker also shall receive credit as "Executive Producers."

**6. Compensation:**

(a) The grand total of the production budget for this Film Project, as approved by the CLIENT is \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (U.S.).

(b) This total amount of compensation is payable to PRODUCER, by CLIENT, as follows:

\*50%, or \$\_\_\_\_\_ (U.S.) deposit to confirm the Film Project;

\*25%, or \$\_\_\_\_\_ (U.S.) upon script approval (or "upon completion of principal videography"); and

\*Balance of final 25%, plus any agreed-upon additions, or \$\_\_\_\_\_, upon delivery to CLIENT of the finished Film Project.

(c) All payments shall be in U.S. Dollars.

**7. Additional Compensation:**

The Parties understand and agree that editing, script-writing, revisions, procuring data, documents or information, preparing or procuring releases, making efforts to arrange for the sale or offering, for sale of the Film Project, or recruiting, advertisers or sponsors, and any other services not specifically herein enumerated are not covered by this Agreement. In the event that the CLIENT wishes to engage the PRODUCER to attend to or undertake any or all of such other services, then, the Parties need to mutually agree, in writing, to the respective amounts of compensation payable to PRODUCER therefor.

**8. CLIENT's Obligations:**

(a) The Parties have agreed to undertake certain responsibilities with respect to the Film Project, including those related to pre-production, development, supervision of production, post-production and editing, and delivery of the completed Film Project.

(b) The CLIENT shall provide production capital for the Film Project.

"Production Capital" shall mean and refer to the following:

(i) Pre-Production (assembly, screening, transfers, dubbing, dramatizations, scripting, storyboards, voiceovers, etc.)

(ii) Production (editing, tape costs, mastering)

(iii) Production fees

(iv) Travel expenses

(v) Phone, Postage, Fed Ex, Cartage, Copying, etc.

(vi) Music and video footage licenses

(vii) Contingency Reserve (accounting, legal, etc.)

The total amount of the budget and amounts needed for production capital shall be set forth in Paragraph 6 of this Agreement.

(c) CLIENT shall be solely responsible for obtaining all clearances, consents, permissions, and licenses.

(d) CLIENT represents and warrants that there shall be no liens or encumbrances on the Film Project.

(e) CLIENT shall indemnify and hold PRODUCER harmless from and against any and all claims, demands, causes of action, loss, liability, damage, and expense (including attorneys' fees and court costs) in connection with, or resulting from, a breach of any agreement, representation or warranty made hereunder, or related hereto, by CLIENT.

**9. PRODUCER's Obligations:**

(a) PRODUCER warrants that the production shall cost no more than the grand total on the said budget without prior written consent of the CLIENT. CLIENT reserves the right

to increase, not decrease, said budget at any time after budget approval.

(b) PRODUCER shall submit a production schedule to the CLIENT for approval. Once said production schedule is approved, in writing, any deviation or delay therefrom which is caused by the CLIENT shall be considered unreasonable and any costs for said delay shall be charge to the production budget over and above the original grand total of said budget.

(c) PRODUCER shall deliver and furnish to CLIENT \_\_\_\_\_(\_\_\_\_) copies of rough cuts of the Film Project, for review and approval purposes, by no later than \_\_\_\_\_, 201\_\_.

(d) Once approved, PRODUCER shall provide a finished version of the Film Project to the CLIENT within a reasonable time frame, but in no event later than \_\_\_\_\_, 201\_\_, at the CLIENT's place of business which is located at \_\_\_\_\_:

(e) PRODUCER shall also contemporaneously provide to CLIENT \_\_\_\_\_ (\_\_\_\_) viewing copies of the final version of the Film Project.

**10. Client's Warranties:** CLIENT warrants, represents, and agrees that: CLIENT is the sole owner of all rights, licenses, and privileges herein conveyed and has full authority to do so; none of the rights, licenses, or privileges granted hereunder have been encumbered, conveyed, or otherwise transferred or disposed of, and have not been diminished, diluted, limited or impaired; there are no claims or lawsuits pending, or litigation threatened, related to the Film Project, or to the concept, or to the content; full use of the Film Project, as herein authorized, will not infringe upon or violate any rights, or constitute a libel or defamation, invasion of privacy, of any party whomsoever.

**11. Intellectual Property Rights:** Nothing contained in the Agreement shall grant to the PRODUCER any right, title, or interest in the intellectual property rights of the CLIENT in and to the Film Project including, but not limited, to any trademarks, trade names, service marks, logos, or other rights owned by CLIENT. Sole and exclusive legal right, title and interest to the Film Project shall, at all times, remain with CLIENT. The Copyrights and/or marks in or associated with the Videos shall remain with CLIENT, and copyright notices, mark notices, etc., in the name of CLIENT, shall be placed on all copies of the Film Project.

**12. Names, Images and Likenesses:** PRODUCER shall be allowed to use the names, (still or moving) images, likenesses, photographs, or interviews, of, or with, CLIENT, together with any biographical material concerning it, them, or either of them in, or for, the Film Project, as well as in any advertising, distributing, marketing, promotion, or sales of the Film Project. CLIENT warrants and represents that it has all necessary authority, power and permission, to grant the foregoing authorization to the PRODUCER.

**13. Arrangements:** Non-commercial, public performance of the Film Project is permitted. A public performance is any performance which occurs outside of the home, or at any place where people are gathered who are not family members, such as in a school, library, business or group meeting.

**14. Content Restriction:** The Parties shall ensure that the Film Project complies with all applicable state and federal regulations, and in compliance with any rules of the Motion Picture Association of America. The PRODUCER may remove content that is deemed objectionable, based on illegal content, invasion of personal privacy, pornography, obscenity, hate or incitement of violence, graphic violence, and/or violations of

copyrights, service marks, or trademarks of others.

**15. Taxes:** CLIENT shall pay, initially, any taxes or other charges imposed by any governmental body upon the exhibition of the Film Project, or its use of the Film Project. Any amounts paid for taxes shall be added to CLIENT's costs and expenses.

**16. Quality Control:** CLIENT shall have the right to edit the Film Project, both for content and/or artistic reasons, in the exercise of its discretion.

**17. Indemnification:** The Parties agree to indemnify and hold the other party harmless from and against any claims, demands, causes of actions, and damages of any kind, including reasonable attorney's fees and costs, arising from or relating to any material breach of any of the terms and conditions required to be performed under this Agreement. This clause survives termination.

**18. No Guaranty of Revenue:**

It is anticipated by the Parties that revenues received from the Film Project may be profitable to all parties hereunder. However, all Parties acknowledge and agree that any business has risks and, moreover, that there are no guarantees of revenue. Accordingly, the Parties agree to hold each other harmless from any and all financial losses in the event the Film Project fails to generate any revenue, or less revenue than anticipated.

**19. Relationship of the Parties:** The Parties agree and acknowledge that the relationship between the Parties is that of Independent Contractors. This Agreement shall not be deemed to create a partnership or joint venture, and neither party is the other's agent, partner, employee, or representative.

**20. Termination:** Either party may terminate this Agreement, upon not less than thirty (30) days notice to the other party, upon any one (1) or more of the following events: (1) failure of a party to fulfill or perform any of the material duties, obligations, or responsibilities hereunder, which failure is not cured within ten (10) business days of written notice; (2) any unauthorized assignment, or attempted assignment, by a party, of any interest in this Agreement; (3) failure of a party, for any reason, to function in the ordinary course of business; (4) any assignment for the benefit of creditors; (5) any petition in bankruptcy is filed by, or against, a party; or (6) any party is convicted of a felony.

**21. Obligations upon Termination:**

(a) Upon termination of this Agreement, all further duties, rights, and obligations of the Parties shall cease, except as may be otherwise herein provided.

(b) The Parties shall not be relieved of their obligations: (A) to pay any monies due, or to become due, on or after the date of termination; or (B) to attend to any duties or obligations, set forth in this Agreement, which survive termination.

(c) Neither party shall be liable to the other because of any such termination for any claims of compensation, reimbursement, or damages on account of the alleged loss of prospective licensing fees, profits or anticipated sales.

**22. Acknowledgments:** The Parties hereby acknowledge that no other representations or statements have been made, or exist and, that in entering into this Agreement, each party has not relied on anything done, or said, or on any presumption, in fact or in law. The Parties acknowledge that they have had the opportunity to show this Agreement to legal counsel of their own choice, and have entered into this Agreement freely and voluntarily. The Parties further acknowledge that the terms and conditions of this Agreement are

reasonable, fair, and equitable.

**23. Integration:** This Agreement constitutes the entire and final understanding between the Parties and, thus, supersedes any and all prior understandings, oral or written.

**24. No Assignments:** This Agreement constitutes a personal contract. Neither this Agreement, nor any interest in or rights under this Agreement, may be assigned, or transferred, to any person, or other entity, unless mutually agreed to by the Parties, as evidenced by a writing, signed by all of the Parties, of subsequent date hereto.

**25. Binding Agreement:** This Agreement shall be binding upon the assigns, heirs, executors, personal representatives, administrators, and successors of the Parties.

**26. Notices:** Any notice required by this Agreement, or given hereunder, shall be in writing and shall be provided to the other party, by personal delivery, certified mail, postage prepaid, or overnight delivery service (*to wit*, Fed Ex, UPS, or USPS), as follows:

**IF TO PRODUCER:**

RUM BUM FILMS & HIGH DEFINITION STUDIOS, LLC  
128 N.W. 25<sup>th</sup> Street  
Miami, FL 33127  
Att: Mr. Craig Whitaker

with a copy to:  
Ira Cohen, Esq.  
18001 Old Cutler Road, Suite 600  
Miami, FL 33157  
Tel.: (305) 377-8802  
Fax: (305) 377-8804  
Email: [icohen@floridalegal.net](mailto:icohen@floridalegal.net)

**IF TO CLIENT:**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Attn.: \_\_\_\_\_

With a copy to: \_\_\_\_\_

**27. Governing Law:** This Agreement shall be construed and enforced in accordance with the laws of the State of Florida, United States of America.

**28. Severability/Survival:** If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then, this Agreement, including all of the remaining terms, shall remain in full force and effect as if such invalid or unenforceable term had never been included. The terms set out in this Agreement which, either expressly, or by their nature, shall survive the termination of this Agreement, shall be binding upon the other party.

**29. Force Majeure:** If at any time during the term hereof, by reason of any act of God, fire, earthquake, flood, explosion, strike, labor disturbance, civil commotion, act of Government, its agencies or officers, any order, regulation, ruling or action of any labor union or association of actors, artists, musicians, composers or employees affecting the Parties, their subsidiaries or affiliates or the industry in which they are engaged or any

shortage of or failure or delays in the delivery of materials, supplies, labor or equipment or any other cause or causes beyond the control of PRODUCER, any affiliate or subsidiary, whether of the same or any other nature (individually and collectively called a "Force Majeure Event"):

(a) The enjoyment, by PRODUCER, or its subsidiaries or affiliates, of any material rights privileges or benefits hereunder, including, without limitation, the production of audiovisual presentations or the manufacture, sale or distribution of videograms is materially delayed, hampered, interrupted or interfered with, or otherwise becomes impossible or impracticable; or

(b) The performance of PRODUCER's obligations hereunder is materially delayed, hampered, interrupted or interfered with, or otherwise becomes impossible or impracticable, then, PRODUCER may, upon notice to CLIENT, suspend the terms of this agreement for the duration of any such contingency. The duration of the suspension shall be equal to the total of all such days of suspension and the delivery of the Film Project shall be postponed accordingly.

**30. Captions/Headings:** Any Captions and/or Headings utilized in this Agreement are provided for convenience only, and shall not be used to construe any meaning or intent.

**31. Good Faith:** The Parties hereto shall act in good faith and engage in fair dealing when taking any action under, or related to, this Agreement.

**32. Waiver:** The failure by either party to enforce at any time, or for any period, any one or more of the terms or conditions of this Agreement, shall not be a waiver of them, or of the right, at any time subsequently, to enforce all terms and conditions of this Agreement.

**33. Confidentiality:** The existence and terms and conditions of this Agreement are confidential to the Parties, and shall not be disclosed to any other entity or individual, without the other party's prior, written consent. This clause shall survive termination.

**34. Alternative Dispute Resolution:** The Parties hereby unconditionally and irrevocably agree that any and all claims, controversies, or disputes between them, arising out of or in relation to this Agreement, shall be exclusively and mandatorily resolved by binding arbitration, pursuant to the Commercial Rules of the American Arbitration Association ("AAA"), and shall be held in Miami, Florida, U.S.A. The Parties agree to pre-arbitration hearing discovery. The prevailing party shall be entitled to an award of reasonable attorneys' fees and costs. Notice of demand for arbitration shall be made, in writing, to the other party and filed with the AAA. One (1) arbitrator shall preside. The award rendered by the arbitrator shall be final, and binding, and a Judgment may be entered on it, in accordance with applicable law, in any Court having jurisdiction. Any and all appeals are waived. The losing party shall pay the arbitrator's fees and costs, as well as all AAA costs.

**35. Amendments:** This Agreement cannot be amended, modified, or supplemented, in any respect, unless evidenced by a later written instrument, executed by the Parties.

**36. Counterparts:** This Agreement may be executed in counterparts, each of which shall be deemed to be an original of this Agreement and all of which, when taken together, shall be deemed to constitute one and the same Agreement.

**37. Facsimile E-mail Execution:** A facsimile signature or a signature scanned and sent by e-mail shall be valid as an original.

**38. Representations/Warranties:** Each Party represents to the other that it has the full power and authority to enter into, and fully perform its obligations under this Agreement.

**39. Effective Date:** The Effective Date of this Agreement shall be the date first hereinabove written.

**IN WITNESS WHEREOF**, the parties hereto have set their hands hereto on this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_.

**RUM BUM FILMS & HIGH DEFINITION STUDIOS, LLC,**  
a Florida limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Authorized Representative  
Date: \_\_\_\_\_, 201\_\_\_\_

Witness: \_\_\_\_\_  
Witness: \_\_\_\_\_

**READ, UNDERSTOOD AND AGREED TO BY:**

**Name of Individual or Entity:** \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_, 201\_\_\_\_

Witness: \_\_\_\_\_  
Witness: \_\_\_\_\_