

## TANKWA TOWN MEDIA AGREEMENT

This TANKWA TOWN Media Agreement (“Agreement”) is effective as of the date of the last signature below and is entered into by and between \_\_\_\_\_ whose contact information is provided in Section 1 below (“Producer”), and Afrika Burns Creative Projects NPC t/a AfrikaBurn, registered as 2007/020812/08 The parties hereto agree as follows:

1. Identification of Producer. Producer represents that Producer’s mailing address and other contact information are as follows:

Name:

Company:

Address:

Telephone:

Email:

Producer represents that other than those persons and/or entities identified as Affiliates in Exhibit A, attached hereto and fully incorporated by reference, Producer is acting on the Producer’s own behalf and has no affiliation with any other person or entity concerning the Production, as defined in Exhibit B, attached hereto and fully incorporated by reference.

2. License to Record Video Footage, Still Photographs, and Audio. Provided that Producer has executed this Agreement, returned it to AfrikaBurn, and remains in compliance with all provisions herein, AfrikaBurn grants Producer a license to enter the site of the \_\_\_\_\_ AfrikaBurn event in TANKWA TOWN, Farm 19, Quaggafontein, Tankwa Karoo, Western Cape (the “Event”) and to record any video footage, still photography, and/or audio at the Event that is reasonably necessary for the Production identified in Exhibit B (the “Recorded Content”).

**The license granted under this Section does not authorise the Producer to make any use of the Recorded Content.**

3. Media Registration. Upon entering the Event site, the Producer must register with AfrikaBurn’s Media Team or representative **before** recording any Recorded Content. The producer or Producer’s designated representative must bring to the Media Team all camera equipment that will be used to record Recorded Content. A Media Team representative will: (i)

issue a media pass or laminate to each member of Producer's crew, which must be displayed at all times that the crew is recording Recorded Content; and (ii) tag each of Producer's cameras with a unique number that must remain attached to the camera at all times at the Event.

4. Equipment for Production. Producer represents that Producer will bring a total of no more than \_\_\_\_\_ video or motion picture cameras, still cameras, digital video cameras, or any other image-capture equipment into the Event site for the purpose of recording Recorded Content. **Use of remote-controlled aircraft (also known as UAVs or drones) to capture recorded content within TANKWA TOWN is forbidden unless operators successfully complete AfrikaBurn's registration process, and receive written permission before the Event, and comply with all legislation and applicable rules of operation.** For more information on AfrikaBurn's policies on remote-controlled aircraft, contact [airspace@afrikaburn.com](mailto:airspace@afrikaburn.com)

5. Representations and Compliance with Guidelines. The Producer represents and warrants that:

- a. Producer has reviewed and will fully comply with AfrikaBurn's Rights and Responsibilities Guidelines for Media/Participants, available at <https://www.afrikaburn.org/event/participation/press-media-shoots/> (the "Guidelines"), which are incorporated by reference and made part of this Agreement;
- b. Producer will not interfere with the personal experiences of others at the Event, will immediately cease filming any participant, artwork or performance upon request of the participant or artist, will record only actual events as they transpire, and will not attempt to film "re-creations" or fictional experiences;
- c. Prior to using any Recorded Content, the Producer will obtain written permissions from any individual whose image or voice is recognisable in the Production authorizing the use of such image or voice; and
- d. No use will be made of any Recorded Content, except as may subsequently be authorised by AfrikaBurn pursuant to Section 8 of this Agreement.

6. Limitations on Types of Recorded Content. The producer agrees that the Production will contain no images or sound of nudity, partial nudity, sexual activity, the use of illicit substances, or any act that might be considered in violation of South African laws.

7. Delivery of the Production to AfrikaBurn. Producer shall, within 15 days of completing the material for the Production described in Exhibit B, provide AfrikaBurn with a

copy of the final proposed Production in digital format for placement in AfrikaBurn’s archives. Producer grants to AfrikaBurn an irrevocable royalty-free worldwide license to reproduce, publicly display, and publicly perform any part or all of the Production or any Recorded Content at AfrikaBurn art shows, in the AfrikaBurn newsletter or other brochures or mailings, at AfrikaBurn events, in a film or video created by or on behalf of AfrikaBurn, in presentations or at conferences, and on websites concerning AfrikaBurn.

8. Use of Recorded Content. **Producer may not display or distribute the Production, or otherwise use any of the Recorded Content, unless (i) the Production or other proposed use of the Recorded Content has first been submitted to AfrikaBurn’s Communications Department, with specific information about the desired method of dissemination to the public; and (ii) AfrikaBurn has provided Producer with written notice approving and licensing such specific use (a “Use License”), which Use License may be denied for any reason in AfrikaBurn’s sole discretion.** This means that, for example, but not limited to these examples, Producer may not publish or display Recorded Content in any book, magazine article, or gallery art show; may not sell Recorded Content or make digital downloads available on any website (including Producer’s personal websites); and may not place Recorded Content with any stock photography agency, unless the Production has been submitted to AfrikaBurn and AfrikaBurn has provided a written Use License. Any Use License issued by AfrikaBurn shall be deemed part of this Agreement and incorporated into the Agreement as a schedule hereto. Producer’s execution of the Agreement constitutes Producer’s consent to be bound by the terms of any incorporated Use License.

9. Review of Records. If AfrikaBurn grants a Use License pursuant to Section 8 of this Agreement, the Producer shall, upon AfrikaBurn’s request, promptly deliver to AfrikaBurn copies of any agreements concerning the display or distribution of the Production or any Recorded Content.

10. Consideration. Producer’s license to record Recorded Content pursuant to Section 2 of this Agreement is royalty-free. In consideration of granting a Use License to Producer pursuant to Section 8 of this Agreement, AfrikaBurn may require the Producer to pay AfrikaBurn a flat fee or a percentage of gross revenues obtained as a result of a licensed use of the Production. Such consideration, if any, will be specified in the Use License.

11. No Assignment, Sublicensing, or Unauthorized Use. **Producer may not assign this Agreement or any licenses granted to Producer pursuant to this Agreement, may not sublicense any rights granted to Producer pursuant to this Agreement, and may not enter into any license agreement with any third party for any Recorded Content, except with the**

**prior written consent of AfrikaBurn, which consent may be withheld for any reason in AfrikaBurn's sole discretion.** Any attempted assignment, license and/or sublicense without AfrikaBurn's prior written consent shall be void and shall transfer no rights to the purported assignee/sublicensee, and upon such attempted assignment and/or sublicense, all licenses granted by AfrikaBurn to Producer under this Agreement shall automatically terminate. Producer assigns to AfrikaBurn a joint ownership in the copyright to all Recorded Content, so that if any third party uses any Recorded Content in a manner not authorised by this Agreement, AfrikaBurn can enforce against the third party any restrictions concerning the use of the Recorded Content. Producer appoints AfrikaBurn as Producer's attorney-in-fact to execute any documents necessary to effectuate such assignment. AfrikaBurn agrees that it will not utilise this joint copyright ownership to enter into any licensing agreements for the Recorded Content or the Production.

12. **Event Attendance.** The producer understands that AfrikaBurn has exclusive control over the Event site; that access to the Event site is not a right, but a privilege subject in part to the terms of this Agreement; and that the Producer's access to the Event may be denied or terminated at any time by AfrikaBurn for any violation of this Agreement, the Guidelines, or Event policies without refund of ticket price.

13. **Breach of Agreement.** If the Producer breaches any term of this Agreement, including the Guidelines and any representations or warranties herein, the licenses granted in this Agreement shall immediately terminate, and the Producer shall have no further right to make any use of any Recorded Content.

14. **Arbitration.** The parties voluntarily agree to submit any dispute arising out of or relating to this Agreement that cannot be resolved by meeting and conferring among themselves to binding arbitration in Cape Town, South Africa, before a single, mutually agreeable arbitrator. Each party shall have the right to be represented by counsel at arbitration, and the prevailing party in any arbitration or lawsuit shall be entitled to recover its reasonable attorneys' fees and costs. Decisions and awards rendered by the arbitrator, including any decision about which party shall pay costs and/or attorneys' fees, shall be final and conclusive and may be entered in any court having jurisdiction thereof as a basis of judgment and of the issuance of execution for its collection. If either party determines in good faith that injunctive relief is needed, it may seek such injunctive relief in provincial or local court located in Cape Town, South Africa, and both parties consent to the personal jurisdiction of those courts.

15. **Governing Law and Integration.** This is a fully integrated Agreement, and shall in all respects be interpreted, enforced and governed under the laws of South Africa without

regard to conflict of laws principles, except that the arbitration provisions in Section 14 shall be governed exclusively by the [Arbitration Act 42 of 1965](#). Parol evidence shall not be admissible to interpret, vary, or modify any of the terms of this Agreement. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties. This Agreement sets forth the entire agreement between the parties with regard to the subject matter hereof.

16. Severability. Should any provision of this Agreement be held invalid or unenforceable by any court of competent jurisdiction, the Agreement shall remain in effect and the offending provision shall be modified to the extent required to make the provision valid and enforceable; provided however that each and all of the provisions in Sections 2 and 7 form the essence of the bargain set forth in this Agreement and are not severable from the remainder of this Agreement. Should any provision of Section 2 or 8 be held invalid or unenforceable, then this entire Agreement shall be void, and the Producer shall have no rights to use any Recorded Content in any manner.

17. Notices. All notices, requests, demands, and other communications under this Agreement (“Notices”) shall be in writing and sent by personal delivery, overnight courier, or email, and shall be deemed to have been given on the date of receipt unless transmitted by email, in which case the Notice shall be deemed to have been given when the recipient acknowledges having received the email. Notices shall be addressed as follows unless otherwise communicated to the other party in writing:

To AfrikaBurn:           Afrika Burns Creative Projects t/a AfrikaBurn  
                                  Attn: Communications Department  
                                  8 Junction Road  
                                  Salt River, Cape Town, 7925  
                                  Email: comms@afrikaburn.com

To Producer:            To Producer’s address in Section 1

18. Release and Indemnification. Producer, for Producer and on behalf of any of Producer’s collaborators, affiliates, employees, volunteers, contractors, funders, representatives, and agents (collectively, “Releasers”), assumes all risk of injury or loss and hereby releases, waives, discharges, and covenants not to sue AfrikaBurn or its officers, directors, employees, collaborators, affiliates, volunteers, contractors, funders, representatives, and agents (collectively, “Releasees”) from all claims and liability, known and unknown, that are or may be owed to Releasers and Releasers’ personal representatives, assigns, heirs, and

next of kin, for any loss or damage of any sort arising out of or relating to the Production, the Recorded Content, and/or Producer's attendance at the Event. If, however, any Releasee files a claim against Releasors, Releasors may file a counterclaim or cross-complaint related to the same facts and circumstances. Releasors expressly agree the release and waiver herein are intended to be as broad and as inclusive as permitted by South African governing law. Nothing in this Section is intended to release any non-performance or breach of this Agreement by AfrikaBurn. Releasors shall indemnify, defend, and hold Releasees harmless from and against any claim, suit, loss, demand, or damage, actual or threatened, valid or invalid, and from any damages, judgments, liabilities, costs, and expenses (including reasonable attorneys' fees), direct or indirect, arising out of or relating to the Production, the Recorded Content, and/or Producer's attendance at the Event.

19. Miscellaneous. This Agreement cannot be amended, waived or superseded, in the whole or in part, except by a written agreement signed by all parties to this Agreement. No delay or omissions on the part of any party to this Agreement shall operate as a waiver of any such right or any other right. Waiver of any one breach of any provision hereof shall not be deemed to be a waiver of any other breach of the same or any other provision hereof.

Section headings are for convenience only and are not part of the Agreement. Producer, if Producer executes this Agreement on behalf of any other person or entity, represents and warrants that Producer has authority to bind such person or entity to this Agreement. This Agreement may be signed in counterparts, which together shall constitute one contract. Faxed or scanned and emailed signatures shall be construed to be as valid as originals.

**IN WITNESS WHEREOF**, the parties understand, agree to, and are bound by all provisions of this Agreement, and have executed the Agreement on the dates below.

Dated: \_\_\_\_\_

PRODUCER

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

Print Name: \_\_\_\_\_

Dated: \_\_\_\_\_

AfrikaBurn

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

Brian Palmer

**Exhibit A**

**Identification of Producer's Affiliate(s)**

Producer represents that Producer is acting with respect to the Production with or on behalf of the persons or entities identified below (each an "Affiliate"), including for each Affiliate: • the full name,

- mailing address,
- telephone number, and • email address.

If Producer has no Affiliates, enter "N/A" below.

## Exhibit B

### Identification of Production

Producer represents that Producer desires to film or record images and/or sound or to take still photographs at the Event for use in the following project or production (the "Production") Proposal documents should also be attached as annexures to this document:

- a. **Media Project Identification No.:**
  
- b. **Type of Recording (e.g., audio, video, etc.):**
  
- c. **Title of the Production:**
  
- d. **Description of the Production:**
  
- e. **Proposed Use/Distribution of Production:**
  
- f. **Proposed Use/Distribution of Production:**