

This is a co-author agreement that I use as a template when working on a documentary with one or more principal contributors. I offer it *only* as a guide to thinking through the complexities of the issues so that your expectations and communications are clear during all parts of the documentary process. Those parts include joint ownership, credit, derivative works, administration and accounting. To reiterate--this is not a legal document; it is only a guide to thinking through the issues prior to seeking legal advice. I will keep this as a Word document so that you can alter it to reflect your needs.

Peter Thompson

CO-AUTHOR AGREEMENT

This Co-Authorship Agreement ("Agreement") dated this -- day of ---- 20--, by and between (full name) ("last name") and (full name) ("last name") sets forth the agreement between (lat name) and (last name) (collectively, the "Parties") concerning the ownership, completion, distribution and exploitation of the documentary film currently entitled "(title)" (the "Film") together with all raw footage, video, outtakes, work prints, still photographs and other materials used to prepare the Film (collectively, such materials are referred to herein as the "Materials"), and any ancillary or subsidiary rights in and to works based in whole or in part on the Film or the Materials, including the companion study guide (the "Study Guide") and any Revised Film (as defined in paragraph 3(a) below) (collectively referred to herein as the "Additional Works").

Whereas, the Parties have collaborated in creating the Materials, the Film and the Additional Works with the intention that they will be joint-owners of the Film, the Materials and the Additional Works.

Whereas, the Parties now wish to define their respective rights and responsibilities and to memorialize their agreement regarding the ownership of the Film, the Materials and the Additional Works, the administration of such rights and the division of income received from the same.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement and for good and valuable consideration, the sufficiency and receipt of which are hereby mutually acknowledged, the parties agree as follows:

1. **JOINT OWNERSHIP.** The Parties are joint owners, as that term is defined under the Copyright Act, 17 U.S.C. §101 et. seq., of the Film, the Materials, the Additional Works and of the copyrights in and to the Film and the Materials and the Additional Works. The Parties agree that ownership of the Film, the Materials, and the Additional Works and of the copyright in the Film, the Materials, and the Additional Works shall be Fifty Percent (50%) to (name) and Fifty Percent (50%) to (name).

2. **CREDIT.**

a. Material shall be credited as follows:

Still photographs which are included on the photographic contact sheets referenced in Section 4(f) of this Agreement taken by (name) shall be credited as follows:

(name), Photographer. Copyright © (appropriate date) by (name). All rights reserved.

Still photographs taken by (name) for this project shall be credited as follows:

(name), Photographer. Copyright © (appropriate date) by (name) and (name). All rights reserved.

Stills from raw videotape footage shall be credited as follows:

(Name), Cinematographer. Copyright © (appropriate date) (name) and (name). All rights reserved.

b. Credits in the Film shall be accorded as follows:

(i) (name) shall be credited as: Producer, Director, Cinematographer, Editor;

(ii) (name) shall be credited as: Co-Producer, Ethnographer, Interpreter, Content Editor, Subtitles;

(iii) (name) shall be credited as: Co-Producer, Post-Production Supervisor, Additional Editing;

(iv) The copyright notice and inquiry information appearing at the end of the Film will be as follows:

Copyright © 20—(name) and (name). All rights reserved. For inquiries about this Film contact www.-----.com or inquire at your local library.

(Name) hereby represents and warrants that he will accord all of the appropriate credits, as set forth herein, on the ---- website.

(v) All credits under this Section 2(b) shall appear at the end of the Film. Each shall be a single card of equal duration.

c. Videotape stills from the completed Film shall be credited as follows:

From (title). Film copyright © 2010 (name) (name). All rights reserved.

d. Video clips from the completed Film shall be credited as follows:

From (title). Film copyright © 20—(name) and (name). All rights reserved.

e. Articles and other materials published in the Study Guide shall be credited as follows:

For articles and other materials written by (name);
Copyright © (appropriate date) by (name). All rights reserved.

For articles and other materials written by (name):
Copyright © (appropriate date) by (name). All rights reserved.

f. Any Additional Works not covered by the above shall be credited as follows:

From (title). Film copyright © 20—(name) and (name). All rights reserved.

g. The credit on any Revised Film shall be as follows:

(i) (Name), Producer, Director, Cinematographer, Editor;

(ii) (Name), Co-Producer, Ethnographer, Interpreter, Content Editor, Subtitles;

(iii) Copyright © (appropriate date) (name) and (name). All rights reserved.

h. Identification of ---- and his family members in the Additional Works shall be the same as that provided in the Film; however, the actual home addresses of ----'s extended family

members will not be disclosed in any marketing materials, unless the express written consent is given by both Parties, which may not be unreasonably withheld.

i. No inadvertent failure by either Party and no failure of any third party to comply with the credit obligations set forth in this Section 2 subparagraphs a. through g. shall be a material breach of this Agreement. Notwithstanding the foregoing, both Parties agree to use all commercially reasonable efforts to prospectively rectify any inadvertent omission of a Party's credit upon receipt in writing from a Party that such an omission has been made.

3. RIGHT TO ALTER, MODIFY OR EDIT THE FILM, TO CREATE ADDITIONAL WORK AND USE THE SAME.

a. Either Party may alter, modify or edit the Film resulting in a revised film (a "Revised Film"), or create any Additional Works, at his own expense without the prior written permission of the other Party.

b. "Commercial Use" shall be defined as exhibition of the Film or any Additional Work for four or more consecutive days in any single commercial theater (whether or not such use derives revenue to be directed to the "Collection Agent", as defined in Paragraph 6(a) of this Agreement). "Non-Commercial Use" shall be defined as any use of any Additional Work which is not a Commercial Use.

c. (Name) and (name) each may exploit, administer and/or distribute, or any combination thereof, any Additional Work, in all media now existing or hereafter developed and

for all purposes, in perpetuity, whether such use is commercial or non-commercial in nature, without the permission of the other Party. When granting a license to a person residing outside of the United States or to an entity incorporated or having its principal place of business outside of the United States, such right to exploit, administer and/or distribute any Additional Work on a non-exclusive basis includes but is not limited to the right to execute documents on behalf of the other party as may be reasonably requested or required by law or regulation as it directly relates to such exploitation, administration, or distribution; prompt written notice of such execution shall be given to the other party.

d. Each Party must notify the other Party in writing of its plans to distribute, exploit, and/or display any Additional Work prior to such distribution, exploitation, and/or display of the Additional Work. Such notification must include a description of the location, method, and time of such distribution, exploitation, and/or display as well as a copy of the Additional Work.

e. Notwithstanding the other provisions herein, any Additional Work hereunder, whether for a Non-Commercial Use or a Commercial Use, must be submitted to the other Party, so that both parties have the opportunity to request to have his name and/or credit removed. After submission of the Additional Work, the other Party must respond within thirty (30) days. If the other Party does not respond within thirty (30) days, his name and/or credit will not be removed from the Additional Work. Each Party will use his commercially best efforts to submit an Additional Work hereunder to the other Party in sufficient time, so that removal of his name and/or credit is feasible. The Party receiving the request shall not be required to expend funds in order to comply, but shall, if both the removal and the time period for its request prior to the

proposed use are reasonable, inform the other of the costs of such removal. If the Party receiving the request also receives funds equal to that cost of removal and removal is still feasible prior to the proposed use, such removal shall be effected. If such removal is not feasible, the funds shall be promptly returned to the requesting party. No inadvertent failure by either Party to comply with this section shall constitute a material breach of this Agreement.

4. **ADMINISTRATION.**

a. **Completion Of The Film.** The Parties agree that (name) shall have primary day-to-day responsibility for creation, editing, production, and post-production of the Film. Subject to review and approval by the Collection Agent of corresponding itemized invoices and receipts, (name) will be reimbursed for his reasonable fees and expenses incurred and to be incurred relating to his efforts for the completion of the Film, but only from revenue generated by the Film and Additional Works.

b. **Distribution Of The Film.** (i) The Parties agree that (name) shall have primary responsibility for obtaining distribution and for otherwise exploiting the Film. (Name) and (name) may each submit the Film to potential distributors, film festivals, museum showings, film cinematheque or to other Non-Commercial Uses and may enter into agreements regarding such exhibition of the Film in his sole discretion. (Name) may submit any Additional Work that he creates to potential distributors, film festivals, museum showings, film cinematheque or to other Non-Commercial Uses and may enter into agreements regarding such exhibition of the Additional Work(s) in his sole discretion. (Name) may submit any Additional Work that he creates to potential distributors, film festivals, museum showings, film cinematheque or to other Non-Commercial Uses and may enter into agreements regarding such exhibition of the

Additional Work(s) in his sole discretion. In connection with such activities, the parties will provide each other with periodic descriptions of their activities on behalf of the Film and/or any Additional Work no less than two times per year. As provided in Section 7 below, without the other party's written consent, neither party may impose any liability or obligation, whether non-monetary or monetary, on the other party with respect to the Film and/or any Additional Work, except as expressly provided herein. (Name) shall be reimbursed his expenses in accordance with this Agreement.

(ii) The Parties agree that (name) has already incurred \$---- in reimbursable expenses in connection with the festival distribution of the Film and that upon execution of this Agreement, (Name) will pay to (name) the amount of \$---- for these expenses and \$---- may be recouped from revenues generated by the Film, without submitting such request for \$---- to the Collection Agent. Subject to review and approval by the Collection Agent of the corresponding itemized invoices/receipts, (name) will be reimbursed for his reasonable fees and expenses relating to his efforts to distribute and otherwise exploit the Film, but only from revenue generated by the Film and Additional Works.

(iii) (Name) may arrange, but is not primarily responsible for, distribution of the Film, and he may submit the Film, to potential distributors, film festivals, museum showings, film cinemathèque or to other academic or non-profit showings in his sole discretion. Subject to review and approval by the Collection Agent, fees and costs incurred by (name) relating to such activity may be reimbursed but only from revenue generated by the Film and Additional Works.

(iv) Notwithstanding any of the above, from the date of this Agreement forward, neither party may incur more than \$---- at any one time and not more than \$---- per six month period (the first six month period will begin on the date of this Agreement) for which such Party expects

to be reimbursed from revenues generated by the Film without the prior written consent of the other Party. If one party fails to approve the expenditure of such money within 30 days after the receipt of such request, the requesting Party may proceed with such expenditure, but the reimbursement of such money shall be determined by the Collection Agent.

(v) The Parties agree that any exclusive agreement or license with respect to a Commercial Use of the Film shall be subject to the mutual approval of the Parties, which approval shall not be unreasonably delayed or withheld. If the Parties are unable to agree with respect to any such proposed exclusive agreement or license arrangement within 30 days after notice, as provided herein, of the essential terms of such arrangement, then the Parties agree to submit their dispute to an arbitrator as the parties may mutually agree, and the decision of the mutually agreed upon arbitrator shall be final and binding on the Parties.

(vi) Each Party shall send prompt notice to the other of all functions where the Film will be exhibited or screened, including, without limitation, at film festivals, museums, non-profit organizations, film cinematheque, award shows and film societies. In addition, if a Party has been invited to any one of the above described exhibitions or screenings, the invited Party shall request that the other Party be invited.

c. **Study Guide.** (i) The proposed Study Guide for the Film is intended to consist of clips from the Film, the Materials, photographs, databases, transcripts and scholarly writings by the Parties as appropriate.

(ii) The Parties agree that (name) shall have primary responsibility for creation, content, publication and distribution of the Study Guide and that (name) may use the Study Guide not only for the Film but may use it for his own scholarly interests at his own discretion. The existence of the Study Guide is promised in the last credit of the Film; accordingly, a minimum

version of the Study Guide must be presently available. Therefore, as soon as the ---- Site (defined below) is ready, (name) will post at least --- scholarly articles of relevance to the content of the Film of (name's) own choosing on an educational web site hosted by ---- (the "---- Site"), which can be linked to from the ---- website. (Name) represents that he will obtain the permission to post such scholarly articles on the ---- Site. Credit for any element in the Study Guide will be as set forth in Section 2, and specifically, Section 2E, above.

(v) As provided in Section 7 below, without (name's) written consent, (name) may not impose on (name) any liability or obligation, whether non-monetary or monetary, with respect to the Film or the Study Guide or other Additional Works created by (name), except as expressly set forth in this Agreement, but (name) shall be reimbursed his expenses in accordance with this Agreement.

(vi) The parties agree that any exclusive agreement or license with respect to distribution or exploitation of the Study Guide shall be subject to the mutual approval of the parties, which approval shall not be unreasonably withheld or delayed. If the parties are unable to agree with respect to any proposed exclusive agreement or license arrangement within 30 days after notice, as provided herein, of the essential terms of such arrangement, then the Parties agree to submit their dispute to an arbitrator as the parties may mutually agree, and the decision of the mutually agreed upon arbitrator shall be final and binding on the Parties.

d. **Distribution of Revised Film and other Additional Works.** (i) The Parties agree that any exclusive agreement or license with respect to a Commercial Use of the Revised Film or other Additional Works, shall be subject to the mutual approval of the Parties, which approval shall not be unreasonably delayed or withheld. If the Parties are unable to agree with respect to any proposed exclusive agreement or license arrangement within 30 days after notice,

as provided herein, of the essential terms of such arrangement, then the Parties agree to submit their dispute to an arbitrator as the parties may mutually agree and the decision of the mutually agreed upon arbitrator shall be final and binding on the Parties.

(ii) Subject to review and approval by the Collection Agent of the corresponding itemized invoices/receipts, (name) will be reimbursed his reasonable fees and expenses relating to his efforts to distribute and otherwise exploit Additional Works created by (name), but only from revenue generated by the Additional Works created by (name).

(iii) Subject to review and approval by the Collection Agent of the corresponding itemized invoices/receipts, (name) will be reimbursed his reasonable fees and expenses relating to his efforts to distribute and otherwise exploit Additional Works created by (name), but only from revenue generated by the Additional Works created by (name).

e. **Other Uses.** Any commercial use, license, exploitation and/or distribution of the Film, the Materials or Additional Works not otherwise addressed by this Agreement will be by mutual approval of the Parties, which approval shall not be unreasonably withheld. If the Parties are unable to agree with respect to any such proposed commercial use, license, exploitation and/or distribution of the Film, the Materials or Additional works not otherwise addressed by this Agreement within 30 days after notice, as provided herein, of the essential terms of such arrangement, then the Parties agree to submit their dispute to an arbitrator as the parties may mutually agree and the decision of the mutually agreed upon arbitrator shall be final and binding on the Parties. Notwithstanding the foregoing, neither Party may sell, license, or provide any raw footage not included in the Film or any Additional Work to any third party at any time without the express written consent of the other Party.

f. **Payment And Providing For the Film and Materials and Additional Works.**

(i) Either Party may request copies of any version of the Film or the Materials or an Additional Work held by the other Party and the holding Party shall provide the requested copies to the requesting Party as soon as practicable, provided that the requesting Party pays in advance the cost of duplicating, copying or preparing such requested copies.

5. COPYRIGHT. Upon completion of the Film, (name) will file an application to register the copyright to the Film with the U.S. Copyright office in the names of both Parties as joint copyright owners. (Name) will then send an invoice to (name) evidencing the incurred copyright costs. (Name) will pay to (name) fifty percent (50%) of the costs of such copyright registration including legal fees, registration fee and duplication of the Film for filing in the U.S. Copyright Office. If (name) is not reimbursed by (name) within 30 days then (name) may deduct one-half the cost of the copyright registration from revenue from the Film Upon receipt of the registration certificate from the U.S. Copyright Office, (name) or his attorneys will forward to (name) and his attorneys designated in paragraph 17 herein, a copy of the copyright registration certificate for the Film.

6. ACCOUNTING.

a. Collection Agent. (i) All Gross Proceeds from the distribution or exploitation of the Film or the Materials or any Additional Works shall be paid into a collection account that shall be maintained by a mutually selected collection agent ("Collection Agent") based in the Chicago, Illinois area for the benefit of the Parties. The parties agree that one such mutually selected collection agent is:

(ii) The Parties shall engage the Collection Agent when generated receipts from the exploitation of the Film, the Study Guide and/or the Additional Works are sufficient to pay

reasonable fees and reimbursement of expenses in connection with such services, to which such collection agent (the "Collection Agent") shall be entitled.

(iii) The Parties hereby grant the Collection Agent the authority to approve expenses and make payments in accordance with the terms of this Agreement. The Collection Agent shall make all required payments on behalf of the responsible Party in accordance with this Agreement to all person or entities that have an interest in Gross Proceeds, as defined below, or distribution of Net Proceeds, as defined below, resulting from the exploitation of the Film and the Materials and any Additional Works.

b. **Statements and Royalties.** The Parties shall direct the Collection Agent to issue statements and distribute net proceeds, if any, to the Parties within 45 days of the end of the semi-annual periods ending June 30 and December 31, unless there is no material activity to report. Each Party will have the right to receive copies of all accounting statements relating to the exploitation of the Film and the Materials and any Additional Works and any proceeds derived therefrom.

c. **Audit.** The Parties separately or together may audit the Collection Agent with respect to all records relating to the Film and the Materials and any Additional Works, provided that such audit rights shall be exercisable no more frequently than once per calendar year and that any such audit shall be conducted during normal business hours upon reasonable notice.

d. **Gross Proceeds.** As used herein, "Gross Proceeds" shall mean any and all amounts, including non-refundable advances, actually received from and after (date) by either Party or by the Collection Agent from the exploitation of the Film, any Revised Film, Materials and any Additional Works, in any and all manner and media now known or hereafter devised, and from all related subsidiary, derivative and ancillary rights worldwide, in perpetuity.

e. **Net Proceeds.** As used herein, "Net Proceeds" shall mean Gross Proceeds less only the following: (i) reasonable, documented, direct expenses, incurred before or after execution of this Agreement, in connection with the Film or the Materials or any Additional Works and ongoing expenses directly related to exploitation of the Film or the Materials or the Additional Works following completion of each (e.g., Collection Agent fees, reasonable accounting and attorney's fees incurred after the execution of this Agreement, payroll fees); (ii) any amounts required to be withheld by law; and (iii) any reasonable reserve amounts, as determined by the Collection Agent in its good faith business judgment, required to cover anticipated future costs or liabilities.

f. **Application of Net Proceeds.** Net Proceeds shall be applied, on a pro-rata basis, as follows:

(i) -- percent (-- %) to (name);

(ii) -- percent (--%) to (name);

7. **RELATIONSHIP OF THE PARTIES.** This Agreement is not intended to create and shall not be construed as creating between the Parties the relationship of principal and agent, joint venturer, partners, employer and employee, or any other similar relationship, the existence of which are hereby expressly denied by both Parties. Except as may be expressly provided herein, neither Party may bind the other or represent to third parties that one Party may bind the other, and neither Party shall be liable to any third party in any way for any engagement, obligation, commitment, contract, representation or transaction or any negligent

act or omission to act of the other Party, except as may be expressly provided herein.

8. **USE OF LIKENESS AND NAME.** Except where a Party elects to withdraw his name from the credits, the Parties grant to each other the right to use the other Party's name, likeness and biographical material, as submitted or approved by the other Party, in connection with distribution or other exploitation of the Film or the Materials or Additional Works and in publicity, promotional material and advertising concerning the Film or the Materials or Additional Works.

9. **MUTUAL COOPERATION.** The Parties acknowledge the need to work together and agree to cooperate and to share any and all information, subject to the confidentiality provisions contained herein, necessary or helpful to the performance of obligations under this Agreement.

10. **BINDING AGREEMENT.** This Agreement is binding upon the Parties hereto, their respective heirs, successors and assigns.

11. **ASSIGNMENT.** Neither Party shall have the right to assign this Agreement and his obligations hereunder, or sell, assign, transfer, license or otherwise dispose of any of its rights and obligations in whole or in part under this agreement to any person, firm or corporation, without the prior written consent of the other Party. Each Party may assign his right to receive income hereunder.

12. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois applicable to contracts entered into and fully to be performed in Illinois. If any term, provision covenant or condition of this Agreement is held

to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

13. **PREVAILING PARTY.** In the event of any action, arbitration, suit or proceeding arising from or under this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees and cost of said action, suit, arbitration or proceeding.

14. **ENTIRE UNDERSTANDING.** This Agreement represents the entire understanding of the parties relating to the subject matter hereof and supersedes all prior and collateral agreements, understandings, and negotiations of the parties. This Agreement cannot be changed, rescinded or terminated except by a writing signed by all of the parties.

15. **CONSULTATION WITH COUNSEL.** Each Party acknowledges consultation with legal counsel of choice with respect to the contents of this Agreement prior to execution hereof, and has been advised by such counsel with respect to the meaning and consequences hereof.

16. **ADDITIONAL DOCUMENTS.** Each Party hereto agrees to execute any additional documents that may be required or be desirable to fully effectuate the purposes and intents of this agreement or to carry out the obligations of the parties hereunder, provided that they are not inconsistent with the provisions of this Agreement.

17. **NOTICES.** All notices under this Agreement shall be in writing, delivered by confirmed telefax or by overnight courier company or by handu to the individuals and addresses listed below unless a Party subsequently designates a new individual or address in which case notice shall be sent as designated. Notice shall be deemed to have been given: (i) when sent if hand-delivered; (ii) one day after being sent by overnight mail or delivery; (iii) on the date faxed if faxed on a business day, on the next business day if faxed on a weekend or holiday; provided

that such notice is sent to the intended recipient at the following address (or at such other address as the intended recipient shall have specified in a written notice given to the other parties):

If to (name): (contact information)

With a copy to: (lawyer contact information)

If to (name): (contact information)

With copy to: (lawyer contact information)

IN WITNESS WHEREOF, the parties hereto have caused the Agreement to be duly executed this day and year first written above.

(name)

(name)