FILM CO-PRODUCTION AGREEMENT BETWEEN

THE GOVERNMENT OF THE PEOPLE’S REPUBLIC OF CHINA

AND THE GOVERNMENT OF THE REPUBLIC OF MALTA

The Government of the People’s Republic of China and the Government of the Republic of Malta (“the Parties”),

CONSIDERING that the film industries of their two countries will benefit from closer mutual cooperation in the production and promotion of films;


DESIROUS of expanding and facilitating the co-production of films which may be conducive to the film industries of both countries and 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 1
Definitions

1.1 For the purpose of this Agreement:

a) ‘Co-producer’ means one or more nationals of China or one or more nationals of Malta, or one or more production companies of China or one or more production companies of Malta, involved in the making of a co-production film, or, in relation to non-party co-productions under Article 6, includes co-producers from a non-party;

b) ‘Co-production Film’ is a film made by one or more Chinese co-producers in conjunction with one or more Maltese co-producers through joint investment and copyright, and includes a film to which Article 6 applies. A Co-production Film has a minimum creative and financial contribution from each co-producer as set out in the Annex hereto;

c) ‘Film’ means an aggregate of images, or of images and sounds, embodied in any material, including but not limited to animations and digital films, and which is expected to be shown in theatrical cinemas. ‘Film’ also includes films of a like nature to feature films made for television (‘telemovies’) and feature-length documentaries made for television;

d) ‘Nationals’ means:

i) In relation to China, citizens of China

ii) In relation to Malta, citizens of Malta
e) ‘Residents’ means:

i) In relation to China, persons who are not citizens of China but are permanent residents of or established in China

ii) In relation to Malta, persons who are not Maltese citizens but are permanent residents of or established in Malta

f) ‘Competent authorities’ means the authorities respectively designated as such by the Government of the People’s Republic of China and the Government of the Republic of Malta.

ARTICLE 2
Recognition as a National Film and Entitlement to Benefits

2.1 A Co-production Film shall be entitled to the full enjoyment of all the benefits which are or may be accorded in China and Malta respectively to national films subject to the laws and regulations in force from time to time in each country.

ARTICLE 3
Competent Authorities

3.1 The competent authority of each Party shall be set out in the Annex to this Agreement. Notwithstanding Article 14, if a Party wishes to designate another authority as its competent authority, that Party may notify the other Party in writing through diplomatic channels of such changes.

ARTICLE 4
Approval of Projects

4.1 Co-production Films must receive joint provisional approval from the competent authorities before they are put into production. It is the responsibility of the co-producers to provide any documentation required by the competent authorities to enable the competent authorities to
complete their provisional approval processes.

4.2 Co-production Films must be made in accordance with the terms of the provisional approval which has been given by the competent authorities.

4.3 Upon completion of production, it is the responsibility of the Co-producers to submit to the competent authorities the completed Co-production Film (and any documentation required by the competent authorities) to enable the competent authorities to complete their final approval processes before the Co-production Film receives the benefits of final approval, pursuant to Article 2.1.

4.4 In determining both provisional and final approval, the competent authorities shall apply the Annex to this Agreement to Co-production Films.

4.5 The competent authorities shall consult with each other to enable them to determine whether a project conforms with the provisions of this Agreement. Each competent authority, in deciding whether to grant or refuse provisional or final approval, shall apply its own policies and guidelines.

4.6 When approving a Co-production Film, each competent authority may stipulate conditions of approval framed in order to achieve the general aims and objects of this Agreement. In the event of a disagreement between the competent authorities regarding the giving of such an approval or the inclusion of such a condition, the project concerned shall not be approved under this Agreement.

4.7 In relation to China, a Co-production Film will be recognised as having completed the provisional approval process once the Chinese competent authority has granted it the 'Co-production Film Project Establishment Notice'. A Co-production Film will be recognised as having completed the final approval process once the Chinese competent authority has granted it the 'Film Public Screening Permit'.
4.8 In relation to Malta, a Co-production Film will be recognised as having completed the provisional approval process once the Maltese competent authority provides written notification to the Maltese co-producer that provisional approval has been granted. A co-production film will be recognised as having completed the final approval process once the Maltese competent authority provides written notification to the Maltese co-producer that final approval has been granted.

**ARTICLE 5**

**Requirements on Co-producers**

5.1 Co-producers involved in a Co-production Film must be registered in accordance with the laws and regulations of the relevant Party, and obtain any operational permit which is required by the competent authorities.

5.2 Co-production Films must be undertaken by film producers whose technical and financial capacity and professional experience satisfies the requirements of the competent authorities' approval processes.

**ARTICLE 6**

**Co-Production with Non-Parties**

6.1 In cases where China or Malta maintains a film co-production treaty with a non-party, the competent authorities may jointly approve a project for a Co-production Film under this Agreement that is to be made in conjunction with a third co-producer from that non-party.

6.2 Approvals under this Article shall be limited to proposals in which the contribution of the third co-producer from a non-party is no greater than the lesser of the individual contributions of the Chinese and Maltese co-producers.

**ARTICLE 7**
Application for Co-production Status

7.1 The Chinese co-producer is responsible for applying for co-production status in China and doing all that is necessary to ensure that the Co-production Film complies with the requirements of both the Chinese competent authority and the Chinese handling organisation for granting co-production status.

7.2 The Maltese co-producer is responsible for applying for co-production status in Malta and doing all that is necessary to ensure that the Co-production Film complies with the requirements of the Maltese competent authority for granting co-production status.

7.3 Any third co-producer shall fulfill all conditions relating to co-production status which would be required to be fulfilled to produce a film under the terms of the film co-production treaty in force between that co-producer's territory and either China or Malta.

ARTICLE 8

Equipment Import and Immigration Facilitation

8.1 Each of the Parties shall provide, in accordance with their respective laws and regulations, temporary import and export, free of import or export duties and taxes, of any equipment necessary for the making of Co-production Films.

8.2 Each Party shall permit the nationals and residents of the other Party and citizens of the territory of any third co-producer to enter and remain in China or Malta as the case may be, for the purpose of making or exploiting a Co-production Film, subject to the requirement that they comply with the relevant laws and regulations relating to entry and stay.

ARTICLE 9
Double Taxation

9.1 Notwithstanding any other provision in this Agreement, for taxation purposes, the legislation and regulations in force in China and in Malta will apply, subject to the provisions of the Agreement Between the Government of the People’s Republic of China and the Government of the Republic of Malta for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital done at Valletta on the 23rd October 2010 and any subsequent amendments thereto made by mutual written consent.

ARTICLE 10
Quota Regulations

10.1 Where a Co-production Film is exported to a country or region which has quota limitations:

a) In principle, the Co-production Film shall be included in the quota of the country of the majority investment;

b) If both Co-producers have made an equal investment, Co-producers of both sides shall decide the quota in question through mutual consultation, so that the Co-production Film can be included in the quota of the country that can make better arrangements for the export of the film;

c) If any difficulties arise with the application of subparagraphs a) and b) hereof, the Co-production Film shall be included in the quota of the country of which the director is a national.

10.2 Notwithstanding Article 10.1 above, in the event that one of the Parties enjoys unrestricted entry of its films into a country or region that has quota regulations, a Co-production Film undertaken under this Agreement shall be as entitled as any other national production of that country to unrestricted entry into the importing country or region, if that country or region so agrees.
Respect for Laws and Cultural Practices

11.1 The production crews from both Parties shall respect the laws and regulations, ethnic cultures, religious beliefs and local customs and conventions of the country where location shooting takes place.

ARTICLE 12
Permission to Exhibit Publicly

12.1. The approval of a Co-production Film by the competent authorities shall not bind the relevant authorities in either Party to permit the public exhibition of the resulting film in their country.

ARTICLE 13
International Film Festivals

13.1 If both co-producers approve, either one may send a Co-production Film to international film festivals provided that the competent authorities have been informed of this intention 30 days before the event starts.

ARTICLE 14
Status of Annex

14.1 The Annex to this Agreement constitutes an implementing arrangement and is an integral part of this Agreement.

14.2 Subject to Article 3.1, any modifications to the Annex shall be jointly agreed by the competent authorities. No modification to the Annex shall conflict with the provisions of this Agreement. In the event of conflict, the provisions of this Agreement shall prevail.

14.3 Modifications to the Annex shall be confirmed by the competent authorities in writing and
shall take effect on the date specified in such confirmation.

ARTICLE 15
Review

15.1 On the request of any one of the Parties, the Parties shall enter into negotiations to include other forms of co-productions within the scope of this Agreement or a related agreement.

ARTICLE 16
International Obligations

16.1 The provisions of this Agreement are without prejudice to other international obligations of the Parties, including, in relation to Malta, its obligations as a Member State of the European Union.

ARTICLE 17
Entry into Force

17.1 The Parties shall notify each other through diplomatic channels once their internal legal procedures necessary for the entry into force of this Agreement have been completed. This Agreement shall enter into force on the latter date of delivery of these two notifications.

ARTICLE 18
Amendment

18.1. The competent authorities of both Parties shall supervise and review the working of this Agreement and shall strive to resolve any difficulties in its implementation and make any proposals considered necessary for any modification of this Agreement.

18.2 The Parties may amend this Agreement by mutual written consent.

ARTICLE 19
Duration and Termination

19.1 This Agreement shall remain in force for a period of five years.

19.2 Either Party may terminate this Agreement by giving six months’ written notice to the other Party.

19.3 If no written notice is given by either Party six months before the expiration date, at the end of that period, this Agreement shall automatically be extended for a further period of five years, and shall thereafter be renewable for similar periods accordingly.

19.4 A film made in accordance with an approval by the competent authorities under this Agreement but completed after the expiration or termination of this Agreement shall be treated as a Co-production Film and its co-producers shall accordingly be entitled to all the benefits of this Agreement.

IN WITNESS WHEREOF the undersigned, duly authorized by the respective Parties, have signed this Agreement.

This Agreement is done at Beijing, on July 27, 2015, in two original copies in the Chinese and English languages, with both versions being equally authentic.

For the Government of the People’s Republic of China:  

For the Government of the Republic of Malta:  

[Signatures]
ANNEX

IMPLEMENTING ARRANGEMENT TO THE FILM CO-PRODUCTION AGREEMENT BETWEEN

THE GOVERNMENT OF THE PEOPLE’S REPUBLIC OF CHINA
AND THE GOVERNMENT OF THE REPUBLIC OF MALTA

A. Competent Authorities

The competent authorities under the Film Co-Production Agreement Between the Government of the People’s Republic of China and the Government of the Republic of Malta (“the Agreement”) are as follows:

1. The Chinese competent authority is the Film Bureau under the State Administration of Press, Publication, Radio, Film and Television;

The Chinese competent authority designates the China Film Co-production Corporation as the Chinese handling organisation through which Co-production Films are assessed for co-production status.

2. The Maltese competent authority is the Malta Film Commission.

B. Rules Applying to Co-production Films

The following rules of this Annex apply to Co-production Films under the Agreement:

1. The contract or contracts governing the making of the Co-production Films will provide that a co-producer may assign or dispose of the benefits referred to in Article 2 of the Agreement only to a natural or a legal person who is a national or resident of or established in that co-producer’s country.
2. The competent authorities shall satisfy themselves that conditions of work in the making of Co-production Films under the Agreement in each of the countries of the participating co-producers are in broad terms comparable, and that, in the event that location shooting of the films takes place in a country other than that of a co-producer, conditions will be in broad terms no less favourable.

3. None of the co-producers will be linked by common management, ownership or control, save to the extent that it is inherent in the making of the Co-production Film itself.

4. Co-production Films will be made, re-voiced and processed up to the creation of the first release print in China or Malta, and when there is a third co-producer, in that co-producer's territory.

The majority of this work will normally be carried out in the country of the co-producer which has the major financial participation but the competent authorities will have the power mutually to approve other arrangements. The competent authorities will also have the power mutually to approve location filming in a country other than the countries of the participating co-producers.

5. Individuals participating in the making of Co-production Films shall be nationals or residents of China or Malta, or, where there is a third co-producer, citizens of that co-producer's territory.

Where script or financing dictates, performers from other countries may be engaged. The engagement of such performers will be restricted in accordance with the regulations of the contracting parties.

Where the competent authorities have approved location filming in a country other than that of the participating co-producers, citizens of that country may be employed as crowd artists, in small roles, or as additional employees whose services are necessary for the location work to be undertaken.
6. The performing, technical and craft contribution (being the 'creative' contribution) and the financial contribution of each co-producer will be agreed by the co-producers, provided that the performing, technical and craft contribution of each co-producer to a Co-production Film will be in reasonable proportion to each co-producer's financial participation. When assessing the financial contribution of each co-producer, the competent authorities may mutually approve 'in kind' contribution (including, but not limited to, the provision of studio facilities) as part of the financial contribution.

7. In any event, each co-producer will have a financial and creative contribution of not less than twenty per cent (20%) of the total financial and creative contribution for the co-production film, and not more than eighty per cent (80%) of the total.

8. Any music specially composed for a Co-production Film will, subject to any departure from this rule which is approved by the competent authorities, be composed by nationals or residents of China, Malta or where there is a third co-producer, by citizens of that co-producer's territory.

9. At least ninety per cent (90%) of the footage included in a Co-production Film will, subject to any departure from this rule which is mutually approved by the competent authorities, be specially shot for that film.

10. The contracts between the co-producers shall:

   a) provide that a sufficient number of copies of the final production and reproduction material used in the production be made for all the co-producers. Each co-producer will be the owner of a copy of the production and reproduction material and will be entitled to use it to make the necessary reproductions. Moreover, each co-producer will have access to the original production material in accordance with the conditions agreed upon between the co-producers;

   b) set out the financial liability of each co-producer for costs incurred:

      i) In preparing a project which is refused conditional approval; or
ii) In making a film which has been given such conditional approval and fails to comply with the conditions of such approval; or

iii) In making an approved Co-production Film, permission for which public exhibition is withheld in any of the countries of the co-producers;

c) set out the arrangements regarding the division between the co-producers of the receipts from the exploitation of the film, including those from export markets; and

d) specify the dates by which their respective contributions to the production of that film will have been completed.

11. Each Co-production Film shall include either a separate credit title indicating in both Chinese and English that the film is either a “Chinese-Maltese Co-production” or a “Maltese-Chinese Co-production”, or, where relevant, a credit which reflects the participation of China, Malta and the territory of the third co-producer.

12. Over each period of five years commencing on the date that the Agreement enters into force, an overriding aim of the Agreement, monitored by the competent authorities, will be to ensure that an overall balance is achieved as regards:

a) the contribution of each country to the production costs of all Co-production Films;

b) the usage of studios and laboratories;

c) the employment of all performing, craft and technical personnel; and

d) the participation in each of the major performing, craft and technical categories and, in particular, that of the writer, director and lead cast.