

THE BRITISH ACADEMY OF FILM AND TELEVISION ARTS

CONFIDENTIALITY AGREEMENT

Access to BAFTA voter mailing lists for the EE British Academy Film Awards in 2018

DATE: _____

BETWEEN

1. Company name: _____
Company No: _____
whose registered office is at: _____

(the "**COMPANY**")

2. The BRITISH ACADEMY OF FILM AND TELEVISION ARTS (a company limited by guarantee with No. 617869) whose registered office is at 195 Piccadilly London W1J 9LN, UK. ("**BAFTA**")

WHEREAS

- I In consideration of the sum of £1 (receipt of which is hereby acknowledged) BAFTA agrees to disclose the Restricted Information and the List to the COMPANY to enable it to mail out selected information to the members who will be voting to determine the results of the Awards.
- II BAFTA only allows the COMPANY access to the Restricted Information and the List from the date of the signature of this Agreement until Tuesday 2 January 2018. If the COMPANY has an entry which receives a nomination in the Awards, then access to the list will be extended up to Wednesday 14 February 2018. ("**The Access Period**")

It is hereby AGREED as follows:

1. DEFINITIONS AND INTERPRETATIONS

- 1.1 In this Agreement, unless the context otherwise requires.

"List " means a spreadsheet of the postal and/or email addresses of the members of the British Academy of Film and Television Arts who are eligible to vote in the Awards.

"Losses" means all claims, demands, actions, awards, judgments, settlements, costs, expenses, liabilities, damages and losses (including all interest, fines, penalties, management time and legal and other professional costs and expenses).

"Restricted Information" means the form and any of the contents of the BAFTA Membership List and any information provided by or on behalf of BAFTA in connection with the same (whether oral, written, electronic or in any

other form) which is identified as being of a confidential nature, or imparted in circumstances implying an obligation of confidentiality, or which the COMPANY knows or should reasonably know that BAFTA wishes to keep confidential or private.

"Work" means mailing (by post or email) BAFTA members with information about material entered into the Awards as permitted by the rules of the Awards and any other guidelines provided by BAFTA, on behalf of the COMPANY itself or the company/individual who has entered the material.

"Awards" means the EE British Academy Film Awards in 2018

1.2 Any reference in this Agreement to "writing", and any cognate expression, includes a reference to any communication effected by facsimile transmission, e-mail or similar means.

1.3 Any reference in this Agreement to a statute or any provision of a statute shall be construed as a reference to that statute or provision as amended or re-enacted at the relevant time.

1.4 The headings in this Agreement are for convenience only and shall not affect its interpretation.

2. OPERATIVE PROVISIONS

2.1 In consideration of BAFTA disclosing the List with the COMPANY, and in order to protect the legitimate business interests of BAFTA and the privacy of its members, the COMPANY hereby confirms, warrants, undertakes and agrees that:

2.1.1 except as authorised by BAFTA in writing, the COMPANY shall not, at any time during the Access Period or thereafter, use any Restricted Information or the List otherwise than for the purposes of carrying out the Work, or disclose or communicate any Restricted Information or the List to any other person or entity. The COMPANY shall hold the Restricted Information and the BAFTA Membership List in the strictest confidence using all due care and diligence and shall exercise a degree of care in preventing unauthorised disclosure of the same at least equal to the degree of care which it would use when protecting its own confidential information;

2.1.2 except as provided in paragraph 3 or as expressly authorised in writing by BAFTA, the COMPANY will not at any time make any use of, or disclose to any third party, any of the Restricted Information. For the avoidance of doubt the Restricted Information or the List must not be passed on in any format to any other mailing house or direct marketing companies, or to any other company/individual on whose behalf the COMPANY are conducting the Work.

2.1.3 the COMPANY will procure that its representatives (including its directors, employees, agents, subcontractors and consultants and any person or entity which controls it or which it controls whether through the ownership of voting securities, control of voting rights, through contract or otherwise) who have been granted access to the information by the COMPANY shall be notified in advance to BAFTA and shall comply with the provisions of clauses 2.1.1 and 2.1.2 above as if they were a party hereto and shall if required by BAFTA enter into separate agreements with BAFTA with respect to their access to the Restricted Information or the BAFTA Membership List.

2.1.4 BAFTA will allow the COMPANY to break down the List to send mailings only to members in a specific country, or only to members in specific voting groups as

specified in the rules of the relevant Awards; otherwise all mailings must be sent to all voters except as expressly authorised in writing by BAFTA.

- 2.1.5 BAFTA will issue regular updates to the List and a summary thereof. The COMPANY will make such changes as necessary to ensure that all mailings are sent using the most recent version of the List.
- 2.2 This Agreement shall come into force upon signature and shall continue in force only for the Access Period provided that the obligations of the COMPANY with respect to the Restricted Information and the List shall survive the termination or expiry of this agreement.
- 2.3 The COMPANY undertakes that in its use of the Restricted Information and the List it shall comply fully with all applicable laws and regulation relating to data protection (including the Data Protection Act 1998) with regard to the collection, processing and use of any personal information contained within the List or otherwise provided to the COMPANY under this agreement including putting in place and maintaining at all times during which the COMPANY has access to the List appropriate technical and organisational measures against the accidental, unauthorised or unlawful processing, destruction, loss, damage or disclosure of personal data and adequate security programmes and procedures to ensure that unauthorised persons do not have access to any equipment used to process personal data.
- 2.4 Upon the completion of the Work or its termination for any reason, the COMPANY shall forthwith cease to use, either directly or indirectly, any Restricted Information or the List and shall not at any time thereafter resume any such use, and shall either delete, destroy or return to BAFTA forthwith any documents in its possession or control which contain or record any part of the Restricted Information or the List.
- 2.5 All mailings and items sent to the members should be in accordance with the rules and guidelines of the Awards, as published in the Rule Book of the Awards.
- 2.6 BAFTA shall have the right, exercisable immediately on notice to the COMPANY, to terminate this Agreement if the COMPANY breaches any provision of this Agreement.

3. DISCLOSURE

Nothing in this agreement shall prevent the COMPANY disclosing to any third party, or using, any information disclosed to it either in the discussions, correspondence or visits if it is at the time of being so disclosed or obtained, or becomes at any time thereafter, and through no fault of the COMPANY, public knowledge.

4. OTHER COMPANY

In this document, unless the context otherwise requires, each reference to the COMPANY shall be deemed to include a reference to any other company which is at the relevant time a holding company or subsidiary of the COMPANY or the subsidiary of any such holding company (within the meaning of Section 736 of the Companies Act 1985).

5. GENERAL

- 5.1 Any breach of the confidentiality of the Restricted Information or other contravention of this agreement may result in future lists being withheld from the COMPANY, other penalties relating to the Awards (e.g. disqualification of an entry or restrictions on ticket purchase) and legal action. The COMPANY acknowledges that damages would not be an adequate remedy for any breach by it hereunder and that BAFTA may be entitled to injunctive relief. The COMPANY shall on demand indemnify BAFTA from and against all Losses incurred by BAFTA which may arise from the unauthorised disclosure or use of the Restricted Information or the List by the COMPANY and/or any third party to whom the COMPANY makes such information available in accordance with the provisions of Clause 2.1.3 above.

- 5.2 Any failure or delay in exercising a right, power or privilege hereunder will not constitute a waiver by BAFTA. No waiver by either party of any right under or breach of this Agreement shall be effective unless it is in writing and signed by the waiving party and shall not be deemed to be a waiver of any subsequent or preceding breach or right.
- 5.3 In the event that the COMPANY is required by law, or by any regulator or court of competent jurisdiction to disclose confidential information as covered by this agreement, the COMPANY (if not prohibited by law) shall provide BAFTA with prior written notice of such requirement. Disclosure may only be made as to that portion of the Restricted Information and/or the List which is by and regulator or court of competent jurisdiction required to be disclosed.
- 5.4 The COMPANY acknowledges and agrees that the British Academy of Film and Television Arts Los Angeles Inc ("BAFTA Los Angeles") and the British Academy of Film and Television Arts New York ("BAFTA New York"), both non-profit membership organisation affiliated to BAFTA, may rely upon and enforce the terms of this Agreement with respect to that part of the List that contains details of their respective members.
- 5.5 Except as provided in Clause 5.4 above, the provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this agreement and no term or condition of this agreement shall confer or be construed as conferring any right on any third party.
- 5.6 The COMPANY shall not be entitled to assign or otherwise transfer the burden and/or benefits of the agreement in whole or in part to any third party without the prior written consent of BAFTA.
- 5.7 This agreement (including any non-contractual disputes arising out of or in connection with it) shall be governed by and construed in accordance with English law and the parties submit to the non-exclusive jurisdiction of the English Courts.

IN WITNESS whereof this Agreement has been executed on the day and year written above.

SIGNED by

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For and on behalf of THE COMPANY

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For and on behalf of BAFTA