

**AGREEMENT**

**BETWEEN**

**THE REPUBLIC OF INDIA**

**AND**

**THE KINGDOM OF SPAIN**

**ON COOPERATION IN THE FIELD OF**

**AUDIO-VISUAL CO-PRODUCTION**

The Republic of India and The Kingdom of Spain (hereinafter referred to as "the Parties")

Seeking to improve cooperation between the two countries in the audiovisual field: aware of the contribution which co-production can make to the development of the audiovisual industry.

Desirous of promoting and facilitating the co-production of films between the two countries, and the development of their cultural and economic exchanges.

Convinced that these exchanges shall contribute to improving relations between the two countries:

Have agreed as follows:

### Article 1

In this Agreement, unless the Agreement otherwise requires:

1. A "co-production" is a film including feature film, documentary, and animation film irrespective of length, on any format *to be shown* in the first place in cinemas, jointly invested in and produced by co-producers made in accordance with the terms of recognition given by the competent authorities of India and Spain under this Agreement. New forms of audio-visual production shall be included in the present Agreement by exchange of notes between the Parties.
2. The Competent Authorities responsible for the implementation of this Agreement shall be :
  - (a) On behalf of the Republic of India, by the Ministry of Information and Broadcasting.

- (b) On behalf of the Kingdom of Spain, by the Instituto de la Cinematografía y de las Artes Audiovisuales (Institute of Cinematography and Audiovisual Arts) **and the Competent Authorities of the Autonomous communities where applicable.**
  - (c) Co-productions falling within the scope of this Agreement shall be subject to the approval of the Competent Authority.
  - (d) The Parties shall inform each other if the Competent Authorities are replaced by others.
3. Subject to the approval of both Competent Authorities, a film co-produced in compliance with this Agreement shall be deemed to be a national film in the territory of each Party and shall thus be fully entitled to all the benefits which are granted under the laws and regulations in force in the territory of each Party.

## **Article 2**

1. The co-producer in either of the two countries shall satisfy themselves about each other's capability, including their professional knowledge, organizational capability, financial backing and professional reputation.
2. The Parties shall in no way be responsible or liable with regard to **credentials** of either of the co-producers.

## **Article 3**

1. Before shooting starts, co-production films shall require approval from both the competent authorities. For this purpose, each co-producer would be required to submit an application, alongwith the information as required in the Annexure, to the Competent Authority. Approvals shall be notified in writing and must specify the conditions according to which the approval is granted.

2. The co-producers of a film shall have their principal office or a branch office in the territory of one of the Parties. None of the co-producers shall be linked by common management, ownership or control.
3. Co-productions falling within the scope of this Agreement shall be subject to the approval of both the Competent Authorities, who would take into consideration their respective policies and guidelines and the requisites laid down in Annexure to this Agreement.

#### **Article 4**

1. On a general basis, in co-productions there must exist an effective contribution of technical, creative and artistic personnel, of the nationality of the participant countries, which must be in proportion to the financial contribution made by each co-producer.
2. Technical and artistic personnel are those persons who, in accordance with the domestic law in force in their own country, are recognized as makers of audio-visual productions, in particular screenwriters, directors, composers, editors, directors of photography, art directors, actors and sound technicians. The contribution of each of these persons shall be evaluated individually.

The contribution by a minority co-producer will include participation of at least two actors and a head of Department in addition to an author (author means director or screenwriter or photography director or music composer).

3. Both the financial contribution and the participation of each of the co-producers in the performing, technical, artistic and creative tasks shall represent at least 20% (twenty percent) of the budget in making the co-production films.
4. As an exception to the contribution rules stated in paragraph 1 & 2 of this Article, both Competent Authorities

shall be able to grant approval to the co-production projects known as "financial co-productions" in which the contribution of one of the co-producers is limited to only financing, in which case financial contribution shall be no greater than 25% (twenty five percent) nor less than 10% (ten percent) of the total cost of the film.

#### **Article 5**

1. When India or Spain maintains an audio-visual co-production agreement with a third country, the Competent Authorities shall, by virtue of this Agreement, be able to approve a co-production project to be produced with the participation of a co-producer from a third party, whose contribution may be no greater than 30%.
2. In the event of multilateral co-productions, the lesser participation may be not lower than 10 percent and the greatest one not higher than 70 percent of the cost of the film.

#### **Article 6**

1. The producers of a co-production shall be Nationals/citizens or legal entity either of India or Spain or permanent residents of Spain subject to any sort of compliance of the obligations created by European Union upon Spain as a member.
2. Participants in the co-production as defined in paragraph 1 must at all times throughout the production retain their national status, and may not acquire or lose such status at any point during the course of production activity.
3. Should the film so require, the participation of professionals who are not citizens of one of the co-producing countries may be permitted, but only in exceptional circumstances, and subject to agreement between the competent authorities of both Parties.

## **Article 7**

The rights, revenues and prizes arising in connection with the co-production shall be shared between the Party Co-Producers in a manner that shall be agreed between the Party Co-producers.

## **Article 8**

1. Live action shooting and animation works such as storyboards, layout, key animation, in between and voice recording must, in principle, be carried out either in India or in Spain.
2. Location shooting of a co-produced film, exterior or interior, in a country not participating in the co-production may, however, be authorized by the Competent Authorities of both countries if the script or the action so requires and if technicians from India and Spain take part in the shooting.
3. The processing and post-production of co-productions shall be done either in India or Spain, unless it is technically impossible to do so, in which case the processing and post-production in a country not participating in the co-production may be authorized by the Competent Authorities of both countries.

## **Article 9**

1. The co-production shall have the original soundtracks either in Hindi, or in other Indian language or dialect, or in Spanish or in any other official languages in Spain, or English language or in any combination of those permitted languages, which can further be dubbed in any of these languages.
2. In the event, if script so desires, any other language can be used for stray dialogues with permission from competent authorities.
3. It will be necessary that the dubbing or sub-titling of the co-production will be done or performed either in India or Spain. Dubbing or sub-titling in Indian languages should be performed in India and dubbing or sub-titling into Spanish or in any other official languages in Spain should be performed in Spain, and dubbing or sub-titling in English could be performed in India or Spain depending upon the agreement between co-producers.

## **Article 10**

1. The co-production film and the promotional material associated with it shall include certain credit titles stating that the film is a "Co-production between India and Spain" or a "Co-production between Spain and India" or, when appropriate credit titles reflecting the participation of India, Spain and the country of a third co-producer.
2. Prizes, grants, incentives and other benefits awarded to the co-produced work may be shared between the co-producers, in accordance with what has been established in the co-production contract and in conformity with applicable laws in force.
3. All prizes which are not in cash form, such as honorable distinctions or trophies awarded by third countries, for co-produced work produced according to the norms established by this agreement, shall be kept in trust by

the majority co-producer or according to terms established in the co-production contract/ agreement.

### **Article 11**

1. When a co-produced film is exported to a country, which has quota limitations:
  - (a) In principle, the co-produced 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-produced film can be included in the quota of the country that can make better arrangements for the export of the film;
  - (c) If difficulties still exist, the co-produced film shall be included in the quota of the country of which the director is a national.
  
2. Notwithstanding paragraph 1, in the event that one of the co-producing countries enjoys unrestricted entry of its films into a country that has quota regulations, a co-production undertaken under this Agreement will be as entitled as any other national production of the above-mentioned co-producing country to unrestricted entry into the importing country if that above-mentioned co-producing country so agrees.

### **Article 12**

For approved co-productions, each Party shall facilitate, in accordance with the domestic law in force in its country:

- (a) Entry into and temporary residence in its territory for technical and artistic personnel of the other Party;
  
- (b) the import into and export from its territory of technical and other film making equipment and materials by producers of the other Party.

### **Article 13**

Permission for public exhibition will be in accordance with local laws in both India and Spain.

### **Article 14**

1. There shall exist a Joint Commission composed of representatives of the Parties, including the Competent Authorities and representatives of the industry.
2. The role of the Joint Commission shall consist of supervising and reviewing the application of this Agreement, making any proposal that is amended necessarily for improving the effect of this Agreement and modifying the appendix hitherto as appropriate.
3. The Joint Commission shall be convened, whether by meeting or otherwise, at the request of either of the Parties, within six months of such a request.

### **Article 15**

This Agreement shall come into force after each Party has informed the other Party through official diplomatic channels that its internal ratification procedures have been completed.

### **Article 16**

This Agreement may be amended by the mutual consent of the Parties through the exchange of notes between the Parties through the diplomatic channel. The change shall take effect on the date specified in the note.

### **Article 17**

Any dispute between the Parties arising out of the interpretation or implementation of this Agreement shall

be settled consensually through consultation and negotiation and shall not be referred for resolution to any national or international tribunal or a third party.

### Article 18

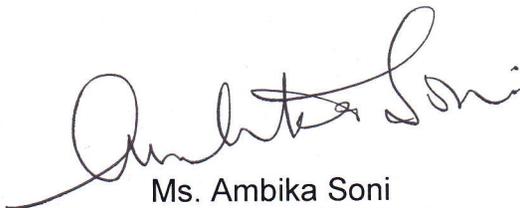
1. This Agreement including the Annex, which forms an integral part of this Agreement, shall remain in force unless terminated in terms of paragraph (2).
2. Either Party may terminate this Agreement by giving six months' written notice in advance of such intention to the other Party through the diplomatic channel.
3. Notwithstanding the provisions of paragraph 1 of this Clause, this Agreement shall continue in force with regard to any co-production film that has received approval from the Competent Authorities and which has not yet been completed prior to its termination.

In witness whereof the undersigned the representatives of the Parties being duly authorized thereto, have signed this Agreement.

Signed in New Delhi on 26 October, 2012 in two original each in Hindi, English and Spanish texts, all three texts being authentic.

For the Republic of India

For the Kingdom of Spain



Ms. Ambika Soni  
**Minister of Information and  
Broadcasting**



José Manuel García-Margallo y Marfil  
**Minister for Foreign Affairs and  
Cooperation**

**ANNEX**

APPLICATIONS FOR APPROVAL OF CO-PRODUCTION  
STATUS UNDER THE AGREEMENT BETWEEN THE  
GOVERNMENT OF THE REPUBLIC OF INDIA AND THE  
KINGDOM OF SPAIN ON AUDIO-VISUAL CO-  
PRODUCTIONS

Applications for the approval of co-production projects under the terms of this Agreement must be submitted to the corresponding Competent Authorities at least 60 days (sixty) before commencement of the film shooting.

In order to benefit from the terms of this Agreement, applications shall be accompanied by the following documents:

- I. Script;
  
- II. Documentary proof of having legally acquired the copyright to produce and exploit the Audiovisual Work;
  
- III. Copy of the co-production contract;

\* The contract must contain the following information:

1. The title of the film.
  
2. The identification of the contracting producers;

3. The full name of the author of the script, or of the adaptor if it is based on a literary source (necessary permission for adapting the literary work into a film from the author/legal heirs shall be attached);
- 4 - The full name of the director;
5. A budget reflecting the percentage of each producer's participation, which must correspond to the financial assessment of their technical and artistic contributions and a breakdown of costs by country;
6. Financial Plan;
7. A clause establishing how markets and any type of receipts will be shared;
8. A clause detailing the respective participation of the co-producers if the costs are higher or lower than anticipated. In principle, such participation shall be proportionate to their respective contributions;
9. Probable date on which shooting will commence;

10. A clause establishing how the royalties will be shared on a basis that is proportionate to the respective contributions of the co-producers;

IV. A list of the creative, artistic and technical personnel, indicating their nationalities and the category of their work; in the case of the actors, their nationality and the roles that they will play, indicating the category and length of the roles;

V. The production schedule, expressly indicating the approximate duration of shooting, the places where the film will be shot and the work plan;

The Competent Authorities of the two countries may request any other documents and additional information that they deem necessary.

The original contract may be modified when necessary, but any amendments must be submitted for approval to the Competent Authorities of the two countries, before the first print of the film is made. A co-producer may only be replaced in exceptional circumstances and with the consent of the Competent Authorities of the two countries.

The Competent Authorities shall keep each other informed about their decisions.

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