

AGREEMENT BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF INDIA
AND THE
GOVERNMENT OF THE REPUBLIC OF KOREA
ON COOPERATION IN AUDIO-VISUAL CO-PRODUCTION

The Government of the Republic of India (hereinafter referred to as "India") and the Government of the Republic of Korea (hereinafter referred to as "Korea"); hereinafter individually referred to as the "Party" and jointly referred to as the "Parties",

RECALLING Article 9.1 of the *Comprehensive Economic Partnership Agreement between the Republic of India and the Republic of Korea* (hereinafter referred to as "CEPA between India and Korea") signed in Seoul on 7th August 2009, which recognizes the importance of audio-visual co-productions and envisages co-production agreements between the Parties in the audio-visual sector;

FURTHER RECALLING paragraph 2, Article 9.1 of the CEPA between India and Korea which stipulates that such an agreement is an integral part of the CEPA between India and Korea;

DESIRING to expand and facilitate the co-production of audio-visual works in the context of cultural cooperation between the Parties;
and

CONVINCED that such cooperation will contribute to the facilitation of cultural and economic exchanges between the Parties;

HAVE AGREED as follows:

Article 1

Definitions

For the purposes of this Agreement:

(a) **“Audio-visual co-production”** means an audio-visual work such as films, animations and broadcasting programmes made by one or more co-producer(s) of a Party in cooperation with one or more co-producer(s) of the other Party (or in the case of a third country co-production under Article 5, with one or more co-producer(s) of a third country) which is approved by the competent authorities of each Party. New forms of audio-visual co-productions shall be included in this Agreement by an exchange of notes between the Parties;

(b) **“Film”** means a series of images or of images and sound, including animation and documentary productions, produced in any format, which is intended to be shown in a cinema;

(c) **“Co-producer”** means a national or juridical person of Korea or a national or juridical person of India involved in the making of an audio-visual co-production, or, in relation to Article 5, a national or juridical person of a third country;

(d) **“Juridical person”** means any legal entity duly constituted or otherwise organized under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association or society; and

(e) **“National”** means :

(i) for India, a citizen of the Republic of India; and

(ii) for Korea, a Korean as defined in Article 2 of the Constitution of Korea and its laws.

Article 2

Approval of Audio-Visual Co-Productions

1. Applications for the making of an audio-visual co-production shall be submitted to the competent authorities of the Parties. The competent authorities may, subject to this Agreement and the laws and regulations of each Party, approve applications submitted to them prior to the commencement of the shooting for the making of an audio-visual co-production. Approvals granted by the competent authorities shall be in writing and may specify the conditions upon which the approval is granted.
2. When approving an audio-visual work as an audio-visual co-production, the competent authorities shall ensure that none of the co-producers shall be linked, directly or indirectly, through legal entities with common management, ownership or control, except to the extent that it is inherent in the making of the audio-visual co-production itself.
3. The competent authorities of the Parties may, to the extent possible under their laws and regulations, exchange all information concerning the approval, rejection, change or withdrawal of any application for the approval of an audio-visual co-production. In this context, the competent authorities of the Parties may ensure that an

audio-visual work conforms to the provisions of this Agreement. Each competent authority, in deciding whether to approve or refuse an application, shall apply the relevant laws and regulations of that Party.

4. The competent authorities of the Parties may subject the audio-visual co-production to final approval upon completion of the audio-visual co-production and prior to its distribution.

5. The approval of an audio-visual work as an audio-visual co-production by the competent authorities, shall not bind the relevant authorities of either Party to permit the public exhibition or broadcast of the completed audio-visual co-production.

Article 3

Entitlement to Benefits

1. An audio-visual co-production made in accordance with this Agreement shall be fully entitled to all the benefits which are or may be accorded to national audio-visual work by each Party under the laws and regulations of that Party.

2. Any benefits accorded to an audio-visual co-production by either Party shall be administered, including in respect of the co-producer that may apply for, receive, and dispose of such benefits,

in accordance with the laws and regulations of that Party.

Article 4

Contributions

1. The minimum respective financial contributions to a co-produced audio-visual work other than a broadcasting programme (including animation for broadcasting purposes), of the co-producers of each Party shall not be less than 20 percent of the total production cost of the co-produced audio-visual work. With respect to a broadcasting programme (including animation for broadcasting purposes), this contribution shall not be less than 30 percent of the total production cost. Calculation of the financial contribution may include in-kind contributions.
2. The performing, technical and craft contribution (being the "creative" contribution) of each co-producer to a co-produced audio-visual work shall be in reasonable proportion to each co-producers' financial contribution.

Article 5

Third Country Co-Productions

1. Where either Party maintains with a third country an audio-

visual co-production agreement (or arrangement of less-than-treaty status), the competent authorities of the Parties may approve an audio-visual work that is to be made in conjunction with one or more co-producer(s) from that third country as an audio-visual co-production under this Agreement provided that one or more co-producer(s) of Korea and one or more co-producer(s) of India are engaged in that audio-visual co-production.

2. In the case of paragraph 1, both the financial and creative contributions of one or more co-producer(s) of the third country shall, consistent with paragraph 1 of Article 4, account for at least 10 percent of the total financial and creative contribution to the co-produced audio-visual work.

Article 6

Participation

1. Persons participating in an audio-visual co-production shall be nationals of the Parties and in the case of a third country co-production under Article 5, nationals of the third country.

2. Notwithstanding paragraph 1, the competent authorities of the Parties may approve:

(a) where the script or financing dictates, the participation of restricted numbers of performers from other