

EMPRESA DE CINEMA E AUDIOVISUAL DE SÃO PAULO S.A.

Electronic bidding process no. 8610.20___/0000___

ANNEX 15
DRAFT SPCINE CONTRACT

CONTRACT No. ___/20___/SpCine

CONTRACT FOR PARTIAL REIMBURSEMENT OF
PRODUCTION/SHOOTING EXPENDITURE FOR THE AUDIOVISUAL WORK
PROVISIONALLY ENTITLED "XXXXX".

The **PARTIES**:

EMPRESA DE CINEMA E AUDIOVISUAL DE SÃO PAULO S.A., enrolled in the Brazilian National Corporate Taxpayers' Registry of the Ministry of Finance (*Cadastro Nacional da Pessoa Jurídica do Ministério da Fazenda - "CNPJ/MF"*) under no. 21.278.214/0001-02, with with head office at Rua Libero Badaró, 293, 22nd floor, Suite 22B, Centro, São Paulo-SP, ZIP ZIP c 01009-907, herein duly represented by its corporate bylaws by its undersigned Directors, hereinafter referred to as SPCINE; and, on the other side,

(**INFORM TENDERER'S DATA**), hereinafter referred to as **CONTRACTOR**;

(**INFORM ASSOCIATED FOREIGN PRODUCTION COMPANY'S DATA**), hereinafter referred to as **INTERVENING/CONSENTING PARTY**;

Whereas:

a) The selection process provided for in the Public Notice No. 10/2022/SpCine - **The City and the State Government of Sao Paulo Film Attraction Program** (PUBLIC NOTICE), approved pursuant to the electronic bidding process no. 8610.20___/00___, in which **CONTRACTOR** was contemplated according to the result of the selection published in the Official Gazette of the City on _____;

b) **CONTRACTOR** and/or **INTERVENING/CONSENTING PARTY** holds or will acquire the rights necessary for the production of the audiovisual work called _____ (**WORK**);

c) **CONTRACTOR** maintains a contract or co-production agreement or contract or agreement outlining its responsibility for the foreign audiovisual production in the Brazilian territory with **INTERVENING/CONSENTING PARTY**;

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The **PARTIES** agree to enter into this contract (**CONTRACT**), which shall be governed by the **PUBLIC NOTICE**, the applicable law, in particular, where applicable, Federal Laws 13303/2016 and 10406/2002 and, secondarily and where applicable, Municipal Law 13278/2002 and Municipal Decree 44279/2003, as well as by the clauses and conditions below.

1. CLAUSE ONE – OBJECT

1.1. The object of this **CONTRACT** is to regulate the support of the São Paulo City Hall/Municipal Culture Office and the São Paulo State Government/São Paulo State Culture and Creative Economy Office, both through the **SPCINE**, to the production/shooting of the **WORK** in the City and State of São Paulo through partial reimbursement of eligible production expenditure (**CASH REBATE**) as detailed in Annex 01 of the **PUBLIC NOTICE**.

1.2. CONTRACTOR shall be solely responsible before the **SPCINE** for ensuring the performance of the object pursuant to the **PROPOSAL** submitted and approved according to the **PUBLIC NOTICE (PROPOSAL)**, as well as for assuring to the **SPCINE** the fulfillment of the compensations and other obligations provided for in the **PUBLIC NOTICE**, regardless of the division of responsibility and obligations provided for in the contract or co-production agreement or contract or agreement outlining the responsibilities for the international production in the Brazilian territory maintained between **CONTRACTOR** and **INTERVENING/CONSENTING PARTY**.

1.3. The **PUBLIC NOTICE** and its annexes are considered an integral part of this **CONTRACT**, regardless of transcript. The **PROPOSAL** is also an integral part hereof, regardless of transcript.

1.4. CONTRACTOR shall, during the term of this **CONTRACT**, maintain all the licensing and qualification conditions provided for in the **PUBLIC NOTICE**, in particular those detailed in Annex 02 (Qualification Matrix).

Paragraph 1 - Any significant change to the **PROPOSAL** shall be immediately informed and submitted to the **SPCINE** pursuant to the provisions of clause 13 of the **PUBLIC NOTICE** and shall be submitted to a new evaluation by the Evaluation Committee.

Paragraph 2 - The **PROPOSAL** submitted and approved according to the provisions of Annex 02 (Qualification Matrix) is an essential obligation of this **CONTRACT**, and changes to its elements without the communication and approval of the **SPCINE** comprise a contractual violation, subject to the applicable administrative penalties and termination of the contract, without prejudice to the recalculation of the **CASH REBATE** amount to which the **TENDERER** is entitled under the terms of item 14.8 of the **PUBLIC NOTICE**.

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2. CLAUSE TWO – FINAL PRODUCT

2.1. CONTRACTOR shall deliver to the **SPCINE** the set of documents and products provided for in item 14.6 of the **PUBLIC NOTICE**, within the deadlines set forth in its item 14.7.

Sole paragraph. Any extensions of the term as provided for in item 14.7 of the **PUBLIC NOTICE** do not require an amendment to the **CONTRACT**, being the express approval of the **SPCINE** sufficient, in compliance with the procedural formalities.

2.2. CONTRACTOR is solely responsible before the **SPCINE** for obtaining all the rights and financial resources required to make the approved **PROPOSAL** viable, and **CONTRACTOR** is not responsible for the fulfillment of the obligations and compensations set out in the **PUBLIC NOTICE** and in this **CONTRACT** to the possible need to obtain production resources and/or distribution.

3. CLAUSE THREE – CONTRIBUTION BY THE SPCINE

3.1. The **SPCINE** will make a contribution in the amount of BRLXX.XX (in full), which will be paid by bank deposit to **CONTRACTOR**'s bank account, as follows:

Bank Name:

Branch: XXXX

Checking Account No.: XXXXX

Sole paragraph. The financial contribution will be in the form of **CASH REBATE** for the partial reimbursement of eligible production/shooting expenditure in the City and State of São Paulo.

3.2. The **FUNDING** will be released in accordance with the provisions of clause 12 of the **PUBLIC NOTICE**.

4. CLAUSE FOUR – APPLICATION OF THE BRANDS AND COMPENSATIONS

4.1. CONTRACTOR hereby undertakes to display the credits from the **PROGRAM TO ATTRACT FILMING TO THE CITY AND STATE OF SÃO PAULO** in the **WORK**, according to the "Branding Instruction Book" as per Annex 16 of the **PUBLIC NOTICE** and pursuant to Clause 5 of the convening instrument.

4.2. The brands and logos shall be requested by **CONTRACTOR** to the **SPCINE**.

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4.3. CONTRACTOR also undertakes to comply with and ensure the other compensations as provided for in clause 5 of the **PUBLIC NOTICE**.

5. CLAUSE FIVE – TERM

5.1. This **CONTRACT** shall enter into effect as from its execution and shall remain in effect for twenty-four (24) months from the date of the first **ELIGIBLE EXPENDITURE**, or up to thirty-six (36) months in the case of animation **WORKS**, which may be extended until the effective fulfillment of its object and of the obligations and compensations set forth in the **PUBLIC NOTICE**, and without prejudice to the obligations set forth herein which, by their nature or as expressly established, must survive the termination of the **CONTRACT**.

5.3. This **CONTRACT** may be early terminated in the cases specifically provided for herein and in the **PUBLIC NOTICE**.

6. CLAUSE SIX – INSPECTION AND AUDITING

6.1. The **SPCINE** may, through its employees or through a specialized firm hired by it, examine or audit the bookkeeping and other **CONTRACTOR**'s documents referring to the performance of the **PROPOSAL**, upon prior notice of ten (10) days.

Paragraph 1 - In case the **SPCINE** identifies, as a result of the audit, irregularities in the documentation according to the **PUBLIC NOTICE** and this **CONTRACT**, the **SPCINE** may notify **CONTRACTOR** to immediately remedy such inconsistencies.

Paragraph 2 - In case the impact of irregularities is greater than five percent (5%) of the amount of the financial contribution granted under the terms of clause 3 of this **CONTRACT**, whether due to material error or not, **CONTRACTOR** shall bear the costs of the audit, without prejudice to the applicable administrative penalties as per clause 16 of the **PUBLIC NOTICE**.

7. CLAUSE SEVEN – CONTRACTOR'S RESPONSIBILITIES REGARDING THE PROPOSAL

7.1. **CONTRACTOR** shall be, before the **SPCINE**, solely responsible for the performance aspects of the **PROPOSAL** and for obligations of any nature whatsoever to third parties related to such activities, including those stated in this **CONTRACT** and, in this regard, exempts the **SPCINE** from any liability.

7.2. **CONTRACTOR** is solely and exclusively responsible before the **SPCINE** for regulating and obtaining the authorizations for use, contracts, assignments and/or licenses of any copyrights, neighboring rights and

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image rights related to the **PROPOSAL**, regardless of the division of responsibilities that may exist with the foreign production company (if any), ensuring that it has the right to enter into this **CONTRACT** and that the respective execution does not violate third party rights and that it has obtained or will obtain, until the delivery of the final product:

I- All contracts, licenses, authorizations, and assignments of those who participated in any way in the performance of the **PROPOSAL**.

II- All licenses for synchronization of copyrighted musical works in the **WORK**.

III- All licenses of any and all property copyrights and neighboring rights related to the **PROPOSAL**.

7.3. CONTRACTOR states that, where applicable, it hired professionals under the terms of the labor law, exempting the **SPCINE** from any labor, social security and occupational accident claims related to the performance of the **PROPOSAL**, in any territory.

7.4. CONTRACTOR states that it has provided and paid or will provide and pay, on its own behalf, all expenses and costs of equipment, materials, insurance, technical and artistic services, as well as any corresponding tax, labor, social security, copyright and any other charges related to the performance of the **PROPOSAL**.

7.5. CONTRACTOR hereby releases the **SPCINE** from any liability whatsoever and shall reimburse the **SPCINE** in the event that **CONTRACTOR** is charged or ordered to pay any moneys related to the responsibilities stated in this **CONTRACT**.

7.6. In the event the **SPCINE** is sued in or out of court for any violation of third party rights resulting from the production, publication, distribution, marketing or economic exploitation or not of the **PROPOSAL**, **CONTRACTOR** undertakes to defend the interests of the **SPCINE** and to request its immediate exclusion from the defendant party of the lawsuit, being obliged to indemnify the **SPCINE**, preferably through extrajudicial means, in case of any damage of such nature attributed to the **SPCINE**. In such case, the **SPCINE** shall notify **CONTRACTOR**, in writing, within forty-eight (48) hours, so **CONTRACTOR** may take all necessary measures, bearing the costs, as well as hiring professionals of its trust.

7.7. CONTRACTOR's responsibilities before the **SPCINE** shall be observed regardless of any right of recourse that **CONTRACTOR** may have before **INTERVENING/CONSENTING PARTY**.

8. CLAUSE EIGHT – RENDERING OF ACCOUNTS

8.1. CONTRACTOR shall account for the proper use of the **SPCINE's** funds within the terms and according

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to the forms established in clause 14 of the **PUBLIC NOTICE**.

8.2. The irregular use of the funds subjects **CONTRACTOR** to civil, administrative and criminal liability, which are independent under the terms of the civil, administrative and criminal law in force, as well as the **CONTRACT** sanctions, being the **SPCINE** responsible, in case any irregularity is verified, for adopting the due legal and contractual sanctions and, in case of suspicion of crime, for notifying the relevant authorities for proper investigation.

8.3. In case of conflict between the provisions of the Rendering of Accounts Ordinance and this **CONTRACT** or the **PUBLIC NOTICE**, the provisions of the latter shall prevail.

9. CLAUSE NINE – NON-FULFILLMENT TERMINATION AND SANCTIONS

9.1. The non-fulfillment, non-performance or total or partial violation of the **PUBLIC NOTICE**, the **CONTRACT** or the applicable law will subject **CONTRACTOR**, without prejudice to any indemnity for losses and damages judicially or administratively determined, to the sanctions established in the applicable law, in particular in Articles 82 to 84 of Federal Law 13.303/2016, as well as, as the case may be, the termination of the **CONTRACT** with the need for full or partial refund of the **SPCINE**'s resources, duly corrected from the date of the determination until the effective payment.

9.2. The applicable administrative penalties are those provided for in clause 16 of the **PUBLIC NOTICE**.

9.3. All amounts resulting from obligations under this **CONTRACT**, if not paid on the relevant maturities, may be subject to collection and/or enrollment in the Municipal Public Sector Credits (CADIN) and collected via judicial execution plus, in any event, the corresponding charges and fines incurred, in compliance with the legal formalities.

9.4. In addition to the provisions above, the parties may terminate this **CONTRACT** by giving written notice in the following cases:

I- If either party violates any of its representations, obligations, warranties or undertakings contained in this **CONTRACT** and such violation is not remedied within thirty (30) days from the date it receives written notice from the other party to such effect.

II- In case of bankruptcy, judicial reorganization, dissolution, or judicial or extrajudicial liquidation, requested or approved by the parties, in case they prevent the performance of the object.

10. CLAUSE TEN – GENERAL PROVISIONS

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10.1. The **PARTIES** shall observe all applicable laws and regulations when performing their obligations under this **CONTRACT**, and shall cause all their employees, collaborators, agents, and any other persons they hire to comply therewith, and the failure of any such individuals to do so shall not exempt the parties from their obligations.

10.2. Except for the solidarity expressed above, this **CONTRACT** does not set any form of joint or several dependency, organization, association, partnership or joint or several liability between the parties, nor is there any degree of hierarchical subordination or economic dependency, and except as otherwise expressly contained in this **CONTRACT**, neither party shall have or assert to third parties that it has any powers or authority to act on behalf of the other.

10.3. None of the parties may assign or transfer the rights and obligations relating to this **CONTRACT** without the prior express written consent of the other party, except for the assignment or transfer of rights to companies within the same economic group.

10.4. This **CONTRACT** constitutes the entire agreement between the parties and any and all changes must be the object of a formalized and executed amendment.

10.5. The invalidity or unenforceability of any provision contained in this **CONTRACT** shall have no effect as to the validity of any other provision contained herein, and, if any provision shall be held invalid or illegal in any way, this **CONTRACT** shall remain in force and shall be construed as if the invalid or illegal provisions did not exist, and the **PUBLIC NOTICE** and law shall apply to supersede such provisions.

10.6. The failure or tolerance of either party to require the other to fulfill any obligation under this **CONTRACT** shall not be construed as a waiver of such right, and shall be understood as a mere liberality, not producing the effect of novation, modification, waiver or loss of the right to demand the fulfillment of the respective obligation at any time.

10.7. This **CONTRACT** is irreparable and binds the parties by themselves, their legal successors and assignees.

10.8. The headings and titles contained in this **CONTRACT** are for convenience only and under no circumstances shall be used to define, limit or describe the scope of the provisions contained herein.

10.9. Any provisions of this **CONTRACT** that are inconsistent or not applicable according to the dynamics and nature of the performance of the **PROPOSAL** shall not make the instrument null or void, and the **PUBLIC NOTICE** and the law shall be applied to supply such provisions.

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10.10. If any misstatement is detected in the information and/or documents submitted by **CONTRACTOR** pursuant to the **PUBLIC NOTICE**, during the course of the hiring and the term of this **CONTRACT**, such misstatement will cause its immediate termination, without prejudice to the application of the sanctions provided for by law and in this **CONTRACT**.

10.11. The **SPCINE** shall publish an abstract of this instrument in the Official Gazette of the City of São Paulo.

10.12. For the performance of this **CONTRACT**, none of the parties may offer, give or undertake to give to anyone, or accept or undertake to accept from anyone, either on its own account or through a third party, any payment, donation, compensation, financial or non-financial advantages or benefits of any kind that constitute an illegal practice or corruption, whether directly or indirectly in relation to the object of this **CONTRACT**, or otherwise not related to it, and shall also ensure that its agents and employees act in the same manner (Municipal Decree 56.633/2015).

11. CLAUSE ELEVEN – GOVERNING LAW AND JURISDICTION

11.1. The parties agree to the Brazilian law as the only applicable to this **CONTRACT** and acknowledge the Brazilian jurisdiction as the only relevant jurisdiction for any claim related thereto.

11.2. The courts of the city of São Paulo/SP, to the express to the exclusion of any other, however privileged it may be, are hereby elected settle any issues or pending matters arising from this **CONTRACT**.

In witness whereof, the parties undertake to faithfully comply with all the clauses and conditions of this **CONTRACT**, and hereby sign it in three counterparts of equal content and form in the presence of the two (2) witnesses named and signed below.

São Paulo, , 20___.

EMPRESA DE CINEMA E AUDIOVISUAL DE SÃO PAULO S.A. - SPCINE

By: _____

Name: _____

Title: Chief Executive Officer

By: _____

Name: _____

Title: Managing Director

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CONTRACTOR

By: _____

Name: _____

Title: _____

INTERVENING/CONSENTING PARTY

By: _____

Name: _____

Title: _____

WITNESSES:

Name:
Individual Taxpayers' Registry (CPF) no.:

Name:
Individual Taxpayers' Registry (CPF) no.:

THIS SIGNATURE PAGE IS THE LAST PAGE OF THE CONTRACT, WITHOUT PREJUDICE TO ITS ANNEXES, TRANSCRIBED
OR INTEGRAL REGARDLESS OF TRANSCRIPT.