# FDS SUISSIMAGE SFP

Association of Film Directors Swiss Authors’ Rights Cooperative Swiss Association

and Scriptwriters Switzerland for Audiovisual Works of Film Producers

##### GARP

Authors’, Directors’

Producers’ Group

This model contract is recommended by the organisations mentioned above. You may, of course, amend the contract as required. If you do, however, make amendments to the model contract which go beyond any proposed modifications or selection of variations, you may no longer list the above-mentioned organisations on the contract.

# Involving a co-author to further develop a script - treatment

Contract between

.....................................................................................................................................

 - Producer -

and

...........................................................................................................................................

member of the collective management organisation:

 - Author 1 -

and

............................................................................................................................................

member of the collective management organisation:

 - Author 2 -

regarding the script with the working title: ..........................................................................

based on the contract for scriptwriters dated ....................... between Producer and Author 1, the following shall be agreed in addition:

**1. Subject matter of the contract**

1.1.

Author 1 has written the script / the treatment (please delete as applicable) with the title .................................................................................. (draft of ....................).

1.2.

Producer and Author 1 decided to involve Author 2 as a co-author to further develop this script (work). Author 2 undertakes to contribute to the further development of this script and within the scope of item 3 assign the right to the Producer to use this work for the creation of a cinematographic work.

1.3.

The Producer undertakes to pay Author 2 the compensation for this as agreed in the following.

**2. Work and editing**

2.1.

The script / the treatment (please delete as applicable) is available in draft (date/number)................. .

The Parties agree to further develop it in the following respects: ................................................................................................................................................................................................................................................................................................................................................................................................................................................

2.2.

Authors 1 and 2 jointly edit the available draft of the script further and thus become co-authors of the new versions.

2.3.

When it comes to creating the work, the authors must adhere to the following framework conditions

* content: .............................................................................................................
* genre: .............................................................................................................
* scope: ...........................................................................................................
* playing time: .......................................................................................................
* budget: ..................................................................................................
* other:

(Please make reference to a separate description, where applicable):

2.4.

Authors 1 and 2 will deliver the edited work on the following dates:

* first draft by ...........................................................(date)
* second draft by .......................................................(date)
* ........................................................................................
* Final version by............................................................(date)

2.5.

Authors 1 and 2 undertake to revise the work in individual points after delivery of the final version at the Producer’s request, insofar as this is reasonable and the requested changes are within the agreed framework conditions. The Producer must notify the authors of the respective revision requests within 30 days after delivery of the final version and grant them a period of at least .......... days.

2.6.

Changes to the delivered work (final version) that go beyond the agreed content-related framework conditions, are only possible with the consent of the Authors and they are entitled to make these changes themselves. The Authors are entitled to additional compensation for this work.

2.7.

The Producer may only refuse to accept the work (final version) if it has considerable qualitative defects or if the agreed framework conditions have not been met. In this case, the Authors must be given an adequate period to remedy the defect. A justified notice of defect must be given within 30 days of delivery of the work at the latest. After the expiry of this period, the work shall be deemed accepted.

2.8.

If the Producer renounces in writing on the exploitation of the delivered work, the Authors are entitled to use the work before the period mentioned in item 3.4 for other purposes. In this case, the Producer is entitled to a reimbursement of half of the compensation pursuant to item 4.1 of this contract and pursuant to item 4.1 of the original contract with Author 1. The reimbursement is due to each Author for their share at the time the contract is concluded, but no later than when filming begins.

**3. Rights in the work**

3.1.

The Authors assigns to the Producer the exclusive right, unlimited in time and space and for the duration of 15 years after delivery/after signing the contract, under preservation of the moral rights and subject to the rights and/or remuneration rights assigned to a collective management organisation, to publish the work (script) to be created by them, to produce a cinematographic work from it and to translate and reproduce the script for this purpose. This right does not include the authorisation to create another work of a similar type (“remake”) after the cinematographic work has been published.

When creating the cinematographic work, the Producer is entitled to edit the script to the extent required by the special features of an audiovisual work. In particular, the title of the cinematographic work does not have to correspond to the title of the script. However, the message and character of the work must not be impaired in the process. If possible, any editing should be carried out with the agreement of the Authors.

3.2.

The Parties agree that: *(Please delete inapplicable variation/s)*

1. The direction of the film will be transferred to .................................................
2. The Producer is free to choose the director.
3. ......................................................................................................................

3.3.

With regard to their rights contained in the cinematographic work, the Authors assign to the Producer the right, unlimited in time and space, under preservation of the moral rights and subject to the rights and/or remuneration rights/compensation claims assigned to a collective management organisation:

1. to edit the cinematographic work (production of versions);
2. to translate the cinematographic work from the original language by means of dubbing or subtitling;
3. to reproduce the cinematographic work on audiovisual recordings or data carriers of any kind;
4. to offer, sell or otherwise distribute the cinematographic work;
5. to perform, present or otherwise make available the cinematographic work;
6. to broadcast and retransmit the cinematographic work by television or similar means and to make the broadcast production perceptible;
7. to use the characters, images etc. contained in the cinematographic work for merchandising purposes;
8. to incorporate the cinematographic work into a multimedia product and to market such a product.

In other respects, the rights in the work shall remain with the Authors.

3.4.

The Producer is not obliged to exercise the rights assigned to her/him under this contract. If the Producer has, however, not at least made use of the right to use the work for the creation of an audiovisual work (cinematographic work) within five years after delivery of the final version to the extent that filming has begun, all rights assigned with this contract for both Parties shall revert to the Authors without payment of compensation.

The Producer is entitled to extend this period to a maximum of eight years. If she/he wishes to make use of this right, she/he has to notify the Authors in writing prior to the expiry of the five-year-period. In this case, the Producer shall owe the Authors an additional remuneration amounting to 10% of the original remuneration per extension year.

3.5.

Author 2 is entitled to be mentioned as a co-author together with Author 1 in the usual form and order in the opening and/or closing credits of the cinematographic work and in the entire advertising campaign for this production.

**4. Compensation**

4.1.

The Producer undertakes to pay Author 2 the fee of CHF .......................... .

Said compensation will be due for payment as follows:

* on conclusion of the contract: CHF ..............................
* on delivery of the first edited version: CHF ..............................
* on acceptance of the final version: CHF................................

Author 2 shall also be reimbursed for the following expenses:

........................................................................................................................................

........................................................................................................................................

........................................................................................................................................

Financial entitlements of Author 1 (please delete inapplicable variations; in case of doubt, variation a) shall apply):

a) remain unaffected

*or*

b) are reduced as follows: ...............................................................

*or else*

c) for further cooperation, Author 1 receives an additional CHF .............................

4.2.

With the payment of this compensation, all rights assigned as mentioned in item 3 of the contract shall be deemed settled, subject to the following provision:

4.3.

The Authors shall also be entitled to the royalties collected by the collective management organisations (SUISSIMAGE, ProLitteris, SSA etc.) provided that the Authors are entitled to them on the basis of the respective membership agreements and distribution regulations.

In the case of television sales in Switzerland/Liechtenstein, France, Belgium, Bulgaria, Estonia, Canada, Italy, Latvia, Luxembourg, Monaco, Spain, Poland and Argentina, the Producer shall make the corresponding reservation (so-called “reservation clause” or “clause de réserve”) with regard to the broadcasting rights to be settled via the collective management organisations, if necessary.

The same applies for the making available of a work independently of place and time (VoD) in those countries where such rights are ordinarily managed by collective management organisations.

Both Authors shall participate in the remuneration collected by the collective management organisations with respect to the share attributable to the script as follows:

Author 1 with ....% and

Author 2 with .... %.

4.4.

In the case of any further exploitation proceeds, Author 2 is entitled to a share of ......% of the net proceeds, insofar as the total net proceeds exceed the uncovered production cost share and the amount by which the production costs attributable to the Producer are proven to have exceeded the production cost budget. For the purposes of this provision, net proceeds shall be deemed to be the monies collected by the Producer, less:

* the copyright royalties paid via a collective management organisation for the production;
* any sales commission of a maximum of 25% to an agent or a world distributor;
* stated costs for copying, subtitling or dubbing;
* stated costs for transport, insurances, customs and fiscal charges;
* the Producer’s stated costs for sales-related advertising;

If the Producer also acts as a sales agent, it may claim the sales commission.

The shares of Author 1 (please delete inapplicable variations; in case of doubt, option a) shall apply)

a) remain unaffected

*or*

b) are decreased to .........%

*or else*

c) are increased to .....%.

4.5.

If the Authors publish a derivative work in book form on the basis of the script created within the framework of this contract, the Producer is entitled to a fifth of the net proceeds. A publication is only possible after the cinematographic work has been released. Item 3.3 remains reserved.

4.6.

Awards and prize monies which are expressly granted for the script, shall be apportioned to Author 1 with ......% and to Author 2 with ..........%.

4.7.

At the end of each calendar year, the Producer shall draw up an account of the expenses and income generated by the exploitation of the cinematographic work. She/he shall send this account statement to the Authors without being requested to do so and shall transfer to them any share of the proceeds due to them by the end of March of the following year at the latest. The Producer undertakes to keep proper accounts for the exploitation of the production and to grant the Authors or a trust agency instructed by them access to the books and receipts upon request.

**5. Further provisions**

5.1.

The Parties mutually undertake to provide each other with the documents required to enforce the claims existing on the basis of this contract.

5.2.

Changes to this contract must be made in writing in order to be valid.

5.3.

The possible invalidity of a provision of this contract shall not affect the validity of the remaining contents of the contract.

5.4.

The contract shall be governed by Swiss law. In the absence of any agreement to the contrary, the provisions of Article 363 ff. OR [Swiss Code of Obligations] on the contract for work and services shall be applicable.

5.5.

The exclusive place of jurisdiction for all disputes arising from this contract is ....................................... (as a rule, the registered office of the Producer).

Place and date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

#### Author 1 Author 2 Producer

#### Executed in triplicate

*Suissimage January 2023*