

# SCREEN QUEENSLAND FUNDING AGREEMENT CORE CONDITIONS

## 1. DEFINITIONS AND INTERPRETATION

1.1. In this Agreement, unless the context otherwise requires, the following definitions apply:

**Activity Report** means the attendance report to be completed by the Applicant in a form reasonably required by Screen Queensland (a template will be provided with the Letter of Approval);

**Agreement** means the Application, these Core Conditions and the Letter of Approval;

**Attendees** means those Attendees set out in the Application and approved in the Letter of Approval;

**Application** means the application for the Funding submitted to Screen Queensland by the Applicant together with all supporting material provided by the Applicant to Screen Queensland in connection with such application;

**Authorised Purpose** means to assist with the costs involved in the Attendees attending the Market;

**Bank Account** means the Applicant's bank account specified in the Application into which the Funding shall be paid, the details of which the Applicant shall include in their tax invoice for each Drawdown;

**Business Day** means a day that is not a Saturday, Sunday, public holiday or bank holiday in Queensland;

**Calendar Month** means that period of time elapsing between a given date and the corresponding date of the next preceding month by name;

**Claim** means any claim, action, proceeding, judgment, liability, loss, damage or cost incurred or suffered by, or brought, made or recovered against, a person;

**Contract Start Date** means the date of Screen Queensland's Letter of Approval on which the Agreement between the Applicant and Screen Queensland is entered into;

**Delivery Date/s** means the date/s identified in the Delivery Materials and Delivery Date/s section of the Application;

**Delivery Materials** means the Activity Report and any other reports or materials identified in the Delivery Materials and Delivery Date/s section of the Application;

**Drawdown** means each drawdown of the Funding as set out in the Drawdown Schedule;

**Drawdown Schedule** means as specified in the Application (or otherwise set out in the Letter of Approval);

**Funding** means the total sum payable to the Applicant by Screen Queensland on and subject to the terms of this Agreement, being the sum specified in the Letter of Approval;

**GST Law** means the *New Tax System (Goods and Services Tax) Act 1999* (Cth) and any associated legislation and regulations;

**Market** means the specific Market or meetings as per the Application and as approved by Screen Queensland;

**Personal Information** has the same meaning as in the *Privacy Act 1988* (Cth);

**Screen Industry Code of Practice** means the Australian Screen Industry Code of Practice: Discrimination, Harassment, Sexual Harassment and Bullying jointly developed by Screen Producers Australia (**SPA**) and MEAA to assist employers to have a consistent approach to these

issues across the entire Australian screen industry. The Code of Practice is available on the SPA and MEAA websites;

**Terms of Trade** means Screen Queensland's terms of trade published as at the date of the Application on Screen Queensland's website; and

**Underage** means any part of the Funding not spent on the Authorised Purpose.

1.2. In this Agreement, except where the context otherwise requires:

(a) a reference to dollars or \$ is a reference to Australian dollars;

(b) a reference to a party to this or any other agreement includes that party's successors and permitted assigns;

(c) references to the words "including" or "include" mean "including but not limited to";

(d) words denoting the singular include the plural and vice versa;

(e) references to documents or agreements (including this Agreement) include references to amendments, novations, replacements and supplementary documents or agreements provided in each case that Screen Queensland has approved the relevant document in writing;

(f) references to Screen Queensland's consent or approval shall be taken to refer to approval or consent in writing, signed by an authorised officer of Screen Queensland, and any reference to notification (by either party) means notification in writing; and

(g) the terms GST, Consideration and Taxable Supply, and any other terms used in Clause 9, shall be interpreted in accordance with the GST Law.

1.3. If there is any inconsistency between or within this Agreement, the following order of priority in resolving such inconsistency shall be used: (1) Letter of Approval; (2) Core Conditions; and (3) the Application.

## 2. PAYMENT AND REPAYMENT OF THE FUNDING

2.1. Subject to the Applicant's compliance with this Agreement, and upon receipt of any Delivery Materials and a tax invoice for each Drawdown (in a form approved by Screen Queensland), Screen Queensland agrees to pay the Funding by deposit into the Bank Account in the Drawdowns and at the times specified in the Drawdown Schedule.

2.2. It is a condition precedent to the payment of each Drawdown that there is no subsisting uncured breach of this Agreement by the Applicant.

2.3. Screen Queensland shall have no obligation to pay, and may withhold or delay payment of any Drawdown if, in its reasonable opinion, the condition precedent in Clause 2.2 and any other condition precedent included as a Special Condition, is not satisfied.

2.4. The Applicant agrees to use and apply the Funding only in accordance with the Authorised Purpose and the terms and conditions of this Agreement.

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2.5. The Applicant must repay any Underage within three (3) months after the Contract Start Date by payment to a bank account to be nominated by Screen Queensland.

2.6. The Funding is provided as a grant by Screen Queensland and shall only be repayable to Screen Queensland when there is an Underage or if this Agreement is terminated in accordance with Clause 7.

## 3. APPLICANT'S WARRANTIES AND UNDERTAKINGS

3.1. The Applicant warrants and represents to Screen Queensland on the Contract Start Date and on each date on which Screen Queensland is due to pay a Drawdown that:

- (a) if incorporated, the Applicant is a company incorporated and validly existing under the laws of its place of incorporation;
- (b) if an individual, the Applicant is an Australian citizen or permanent resident of Australia;
- (c) the Applicant has the full capacity, power and authority to enter into and perform its obligations under this Agreement;
- (d) the Applicant is eligible to receive the Funding in accordance with Screen Queensland's Terms of Trade;
- (e) the Authorised Purpose and Delivery Materials will not infringe any person's intellectual property rights or create any Claim;
- (f) the Applicant will not do anything or become involved in any situation which, in the sole discretion of Screen Queensland, brings Screen Queensland and/or the Queensland Government into disrepute, contempt, scandal or ridicule and/or offends public opinion;
- (g) if required by law, it is registered to collect and remit GST to the Australian Tax Office and has a valid Australian Business Number (ABN);
- (h) all representations of fact in the Application are true and not, by omission or otherwise, misleading, and any statements as to future matters in the Application are made in good faith and based on reasonable grounds.
- (i) to deliver the Delivery Materials to Screen Queensland on or before the Delivery Date;
- (j) it will comply with all applicable laws and regulations in carrying out the Applicant's obligations under this Agreement, including all applicable law and government and industry directions;
- (k) it will comply with the Screen Industry Code of Practice; and
- (l) when dealing with any Personal Information as part of the Authorised Purpose, that the Applicant will comply with the *Privacy Act 1988* (Cth).

3.2. The Applicant releases, discharges and indemnifies Screen Queensland, its directors, officers, employees and agents (**Indemnified Persons**) from and against any losses which may be incurred by any of the Indemnified Persons in connection with any:

- (a) negligent or unlawful act or omission of the Applicant or its directors, officers, employees, professional advisers, agents and contractors (**Personnel**);
- (b) breach of this Agreement by the Applicant;
- (c) contravention of any laws by the Applicant or its Personnel;
- (d) infringement by the Applicant or its Personnel of any intellectual property rights or moral rights of Screen Queensland or any third party;
- (e) personal injury (including death) or property damage caused or contributed to by the Applicant or its Personnel,

except to the extent that the claim is due to the negligent or unlawful act or omission of the Indemnified Persons.

## 4. SCREEN QUEENSLAND'S CREDIT

The Applicant will acknowledge Screen Queensland's support in public presentations given by the Attendee(s) during attendance at the Market.

## 5. APPROVAL AND USE OF DELIVERY MATERIALS

5.1. Within ten (10) days of each receipt of the Delivery Materials from the Applicant in accordance with Clause 3.1(i), Screen Queensland must notify the Applicant in writing whether or not it approves the Delivery Materials. Approval by Screen Queensland may not be unreasonably withheld and may be given subject to one or more conditions. If the Applicant is not given such a notification in writing from Screen Queensland within ten (10) days of receipt of the Delivery Materials, approval shall be deemed to have been given by Screen Queensland.

5.2. If Screen Queensland notifies the Applicant that it does not approve any of the Delivery Materials in accordance with Clause 5.1, the Applicant must liaise with Screen Queensland and provide such necessary amendments or any further documents or information as Screen Queensland may reasonably require within the timeframe indicated by Screen Queensland. Screen Queensland will have a further ten (10) days following receipt of any such amended Delivery Materials or further document or information in which to notify the Applicant of its approval (or otherwise).

5.3. The Applicant:

- (a) grants to Screen Queensland a royalty free perpetual license to use the Delivery Materials for its own corporate or promotional purposes and for the purpose of promoting the Queensland screen industry. Such license includes a right to publish the Delivery Materials on its website (other than the Activity Report).
- (b) agrees the terms of such license includes a right to edit, change, copy, add to, take from and/or adapt the Delivery Materials, in any manner or context, at the sole discretion of Screen Queensland;
- (c) consents to Screen Queensland doing or omitting to do anything, which may infringe any moral rights of the Applicant in the Delivery Materials including the right to edit, change, copy, add to, take from and/or adapt the Delivery Materials, in any manner or context, and any right of attribution; and

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- (d) to the extent lawfully possible, waives all moral rights it may have in the Delivery Materials.

## 6. RECORDS

The Applicant agrees to keep all supporting invoices, receipts and documentation to substantiate expenditure of the Funding, and shall make these records available to Screen Queensland upon written request.

## 7. DEFAULT AND TERMINATION

- 7.1. If the Applicant is in breach of any representation, warranty or other obligation under this Agreement, Screen Queensland may terminate this Agreement by giving notice in writing to the Applicant.
- 7.2. If the Agreement is terminated by Screen Queensland in accordance with Clause 7.1, in addition to any other remedies available to Screen Queensland at law or in equity, upon termination:
- Screen Queensland will cease any further scheduled payments of the Screen Queensland Funding under this Agreement; and
  - the Applicant must repay to Screen Queensland, within ten (10) Business Days of a demand in writing by Screen Queensland, an amount equal to that part of the Funding which Screen Queensland has paid up to the date of termination.

## 8. NOTICES

Any written notice, document, or other communication required or permitted served or made to a party:

- must be sent to:
  - in the case of the Applicant, the address specified in the Application; or
  - in the case of Screen Queensland, the address specified in the Letter of Approval, or to such alternative address as one party may notify to the other in writing; and
- may be served by hand, registered or certified post or electronic mail and will be deemed sufficiently served or delivered:
  - in the case of hand delivery, on the next Business Day after delivery;
  - in the case of registered or certified post, three (3) Business Days after posting; or
  - in the case of electronic mail, at the time it is sent as evidenced by a record at the sender's computer provided that is sent during a Business Day, otherwise the following Business Day.

## 9. GST

- 9.1. The parties agree that all amounts referred to in this Agreement are exclusive of GST.
- 9.2. If GST is imposed upon any supply made under this Agreement (**Taxable Supply**) then the recipient of the Taxable Supply will pay to the supplier, in addition to any consideration payable for that Taxable Supply under this Agreement (**Consideration**), the amount of GST imposed upon the Taxable Supply.
- 9.3. Any increased amount under Clause 9.2 will be payable to the supplier in the same manner and at the same time as

the Consideration is payable to the supplier, provided that the recipient has received from the supplier a tax invoice in the form required by the GST Law, setting out the amount of GST payable by the supplier on the Taxable Supply, and evidence of the supplier's registration for the purposes of GST. In all cases, any increased amount under Clause 9.2 must be paid within fourteen (14) days of receipt of such tax invoice.

## 10. GENERAL PROVISIONS

- 10.1. The Applicant shall not assign, license or otherwise deal with any rights and benefits under this Agreement, sub-contract or novate any obligations under this Agreement, or agree or purport to do any of the foregoing, without the prior written consent of Screen Queensland.
- 10.2. This Agreement may be varied only in writing signed by each of the parties and no waiver of any right under this Agreement will be effective unless in writing.
- 10.3. Each party shall be responsible for its own costs and expenses of negotiating and entering into this Agreement.
- 10.4. If any provision of this Agreement is rendered void or ineffective by operation of law, the validity or effectiveness of the remainder is unaffected.
- 10.5. This Agreement comprise the entire agreement of the parties relating to the subject matter of this Agreement.
- 10.6. Nothing in this Agreement constitutes a partnership or joint venture between the Applicant and Screen Queensland or renders one of them liable for any debt or obligation of the other.
- 10.7. The Applicant must not enter into any contract nor incur any liability on Screen Queensland's behalf, nor represent that it has authority to do so.
- 10.8. This Agreement may be executed in any number of counterparts all of which taken together shall constitute one and the same instrument.
- 10.9. This Agreement shall be governed by and construed in accordance with the laws of the State of Queensland and each party unconditionally submits to the exclusive jurisdiction of the Courts of that State.

(14 May 2024)