



LONG FORM AGREEMENT

Stichting Nederlands Fonds voor de Film (the Netherlands Film Fund), with registered office in Amsterdam, with place of business there at Pijnackerstraat 5 (1072 JS), hereby legally represented by Mr Peter Schrurs, hereinafter called "the Fund",

and

Name production company, with registered office in XXX, with place of business there at Adres(postcode), hereby legally represented by name producer, hereinafter called "the Production Company",

WHEREAS:

- A. The Fund has by letter dated XXX granted the Production Company a subsidy in the total maximum amount of € amount (in words, writte amount in euros), on the basis of a total of € amount for approved qualifying costs and a total number of XXX points, for the realisation of a television series, provisionally entitled projecttitle, with project number XXX /, hereinafter called "the Television Series", on the suspensory condition that a long form agreement is established;
B. Before signing the long form agreement, you will have submitted a final production budget with associated financing plan and the financial/business underpinning to the Fund for approval. A long form agreement between the Fund and the Production Company will be concluded on this basis.

Table with 2 columns: Description and separator. Rows include Total production budget, Qualifying production costs, Total spending in the Netherlands, Section 1 points, Section 2 points, Section 3 points, Section 4 points, and Total number of points.

- C. The full amount of all the subsidies granted by the Fund must be spent entirely in the Netherlands;
D. The Production Company is aware that any reduction in the qualifying costs and the total spending in the Netherlands will have an impact on the Fund's subsidy. In the event of a reduction in the total number of points contained in the decision, the Fund is entitled to withdraw the subsidy.
E. Qualifying production costs are multiplied by 30% if the requirements set out in article 8, paragraph 2 of the Realisation Sub-regulations (Sub-regulations) are met when the subsidy is granted and as laid down in the decision.
F. On accounting, the unforeseen costs included in the qualification test must have been spent on qualifying production costs;



- G. The Production Company has submitted the written agreements referred to in article 13, paragraph 2, subsection a of the Sub-regulations to the Fund within the period indicated in that paragraph and on the conditions stated in the above-mentioned paragraph;
- H. The Fund is notified in advance of the time at which the recordings or, in the case of animation, the implementation of the Television Series for which a subsidy has been granted will start or have started and the Production Company will ensure that the broadcast copy is finished and published 36 months after conclusion of the Long Form Agreement, that is on [dated three years after signing](#).
- I. The Parties wish to set down the following more detailed obligations in the present agreement for the fulfilment of these obligations contained in the decision.

**AGREE AS FOLLOWS:**

*Article 1 Obligation to perform activity*

The Production Company undertakes to produce the Television Series according to the application submitted and the film plan approved by the Fund and the documents subsequently submitted to the Fund by the Production Company with a view to concluding the long form agreement. The outline of these, as well as the technical specifications and other important documents, are set out in [Annexes 1 to 4/5](#), which form an integral part of this agreement.

*Article 2 Documents submitted*

The parties declare that the Production Company has submitted to the Fund the following documents, which form an integral part of this agreement, and the Fund agrees with the content of these documents:

- all the agreements relating to the financing of the Television Series;
- all the agreements relating to the filming and broadcasting rights to the Television Series, including but not limited to the final director's and script writer's agreements (*indien noodzakelijk*: and coproduction agreement);
- all the agreements relating to the exploitation of the Television Series, including but not limited to the agreement for television/VOD broadcasting in the Netherlands;
- all the agreements relating to the exploitation of the Television Series. By way of exception the Fund agrees that there is a concrete promise and underpinning for national television/VOD broadcasting, but as yet no final agreement. We refer you to the obligation to release, as set out in detail in article 9 of this agreement, and the notes on the definition of television/VOD broadcasting in the Addendum to the Realisation Sub-regulations dated [1<sup>st</sup> of January 2019](#) (High End Series & Single Episodes);
- the final budget, including the necessary breakdowns such as qualifying and total Dutch spending in accordance with the Qualification Test and spending in other countries and fixed internal costs;
- a current cash flow statement;
- a repayment/recoupment scheme;
- insurance policies;

*If applicable and relevant:*

- the (shooting) scripts, on which the above final production budget is based
- an agreement with a provider of a bridging loan (cash flow);
- the completion guarantee;
- the agreement with the sales agent;
- collection agent



*Article 3 Obligations*

The Production Company declares it is familiar with and approves all the obligations as set out in:

- the Realisation Sub-regulations dated [1<sup>st</sup> of January 2019](#);
- the Addendum to the Realisation Sub-regulations dated [1<sup>st</sup> of January 2019](#) (High End Series & Single Episodes);
- the Financial and Production Protocol dated [1<sup>st</sup> of May 2019](#);
- the Financial Records Manual dated [1<sup>st</sup> of May 2019](#);

*Article 4 Production costs and financing plan*

1. The Production Company declares and guarantees that the final budget, approved by the Fund, the front page of which is included as **Annex 2**, is a realistic presentation of the anticipated production costs and spending in the Netherlands and that these include all costs necessary for preparing the Television Series for screening in the Netherlands and, in the case of majority (co)productions, the production of a copy of the Television Series with English subtitles or, in the case of minority coproductions, a copy of the Television Series with Dutch and/or English subtitles.

2. The Production Company declares and guarantees that the subsidy granted will only be used to cover the legitimate and demonstrable production costs of the Television Series.

3. The Production Company declares and guarantees that the financing plan for the Television Series is complete and covered according to **Annex 3** and that it does not know of any financing agreements, in money or in kind, that are not included in the financing plan.

4. Only in case of acute disasters for which the completion guarantee, if applicable, cannot be invoked may the Production Company request written consent from the Fund to make changes to the financing plan, as set out in paragraph 3.

*If applicable [under 2 mln budget](#) or productions [above 2 mln budget with completion bond guarantee](#) or alternative coverage of risks as stated in art. 5.1*

5. Following signature of this long form agreement the Production Company may receive 30% of the maximum subsidy granted as an advance. In the case of minority coproductions it is important that this is an advance for payment of Dutch production costs. The Production Company may also submit a maximum of two interim requests for partial settlement of qualifying costs previously incurred and demonstrably paid. The Fund can decide whether or not to honour the request for interim payment depending on whether the payment meets the requirements laid down.

An initial request for partial settlement cannot be submitted until after the end of the shooting period. A second request for partial settlement cannot be submitted until after approval of the picture lock by the Fund.

The final 10% of the subsidy will be paid when an account of the costs and the financing has been approved by the Fund and on the timely delivery of a DVD and the publicity material of the Television Series and determination of the final subsidy by the Fund.

*Applicable for productions [above 2 mln](#). Budget without completion bond guarantee or alternative coverage of risks as stated in art. 5.1*

5. Following signature of this long form agreement the Production Company may submit a maximum of two interim requests for partial settlement of qualifying costs previously incurred and demonstrably paid. The Fund can decide whether or not to honour the request for interim payment depending on whether the payment meets the requirements laid down.

An initial request for partial settlement shall not be submitted until after the end of the shooting period. A second request for partial settlement shall not be submitted until after approval of the picture lock by the Fund.



The final 10% of the subsidy shall be paid when an account of the costs and the financing has been approved by the Fund and on the timely delivery of a DVD and the publicity material of the Television Series and determination of the final subsidy by the Fund.

6. When entering into this long form agreement the Production Company draws up a cash flow statement of the income and expenditure involved in the production of the Television Series that (if applicable) is approved by the completion guarantor.

7. The Production Company is obliged to open a special bank account for the purposes of the production of the Television Series.

8. The Production Company declares and guarantees that the interested parties referred to in the financing plan (distributors, broadcasters, private investors, sales agents, etc) do not, either jointly or individually, have any financial or administrative connection with the Production Company and that the estimated production costs are paid based on arm's length agreements.

9. The Production Company declares and guarantees that it will actually spend qualifying production costs as indicated in the budget approved by the Fund in full in the Netherlands or with corporate bodies, partnerships and natural persons established in the Netherlands. To this end the Production Company will have each corporate body, partnership or natural person from which it obtains goods or services that contribute to the level of the subsidy sign a so-called "Performers and Suppliers Declaration", in which each of them declares that:

- they have resident taxpayer status in the Netherlands and that tax is paid in the Netherlands on the potential profit on all the goods or services supplied to this Television Series;
- they supply the goods or services to be supplied themselves or procure these goods or services in the Netherlands and do not directly or indirectly procure these services outside the Netherlands and also require potential subcontractors to comply with this condition;
- they will if so required allow the Fund to inspect or grant the Fund access to their records in so far as the Fund deems this necessary with a view to the accounting and the determination of the subsidy granted.

*Article 5 Insurances and additional requirements*

1. The Production Company undertakes to take out the production insurances normal in the television industry, including in any case the following insurances:

- negative and/or video production insurance;
- insurance, including cover for damage to movable and immovable property of third parties;
- FPI (incl. so-called "abandonment" cover);

*If applicable:*

- Completion Guarantee of the Completion Bond

The Production Company shall send the Fund copies of the insurance agreements.

*As an alternative or in combination with completion bond applicable for productions with substantial risks according FPI protocol.*

To cover any risks relating to the realisation of the Television Series, the Fund lays down the following additional requirements for the implementation:

- the Production Company must guarantee the **financial and production supervision** throughout the duration of the production by using a(n) (Line Producer and/or Budget Controller and/or Accountant) *If applicable/shooting abroad* in addition to the coproducer's production team;
- a guaranteed **bridging loan** to guarantee instalments within the financing. The conditions under which the supervision is carried out and/or a bridging loan is concluded must be approved by the Fund in advance;
- *If applicable:* An alternative third option that the incentive team has in mind?

2. In the event of an insurance claim the Production Company shall inform the Fund thereof in writing.



3. The Production Company shall pay the premiums due in full and on time, that is before commencement of production.

*If Completion Bond is applicable:*

4. The Production Company undertakes to notify the insurer(s) that the Fund is co-financier of the Television Series and to include the Fund as co-insured in the completion guarantor policy.

5. The Production Company declares and guarantees that it is authorised and able to produce the Television Series for television/VOD broadcasting in the Netherlands under cover of the policy of the completion guarantor.

6. The Production Company is obliged to ensure that the production and the delivery of the Television Series, from the start of the recording, (continue to) fall under the cover of the completion guarantor.

7. The Production Company undertakes to agree with the provider of the completion bond that the latter will closely monitor the production progress and the spending in the countries of origin concerned and alert the applicant and the Fund simultaneously of irregularities or the lagging behind of proposed production spending.

#### *Article 6 Accountability*

1. The Production Company is obliged to inform the Fund adequately during production of the Television Series of the progress and in each case at the start and end of recording and upon completion of the picture lock to provide a statement of the spending carried out per region, the payments received, the costs still anticipated and the payment behaviour of the other financiers. The Production Company shall also provide the Fund with all the interim cost reports, which are also provided to the completion bond.

2. Prior to the release of the Television Series the Production Company shall inform the Fund in writing of the times or start of the television/VOD broadcast and the audience reach.

#### *Article 7 Delivery of (publicity) material*

1. The Production Company agrees to deliver to the Fund at the latest ten days before the first publication:

- two copies (DVD) of the final version of the Television Series, including opening and closing titles;
- a minimum of three to five digital photos in colour or black/white, in high resolution and 300 DPI; these photos must give a representative picture of the content of the Television Series;
- for majority (co)productions: a trailer or teaser clip in Dutch;
- for majority and minority (co)productions: a trailer or teaser clip in English or with English subtitles.

2. The Production Company also agrees to deposit a copy of the Television Series at the Netherlands Institute for Sound and Vision or some other appropriate institution concerned with preserving and conserving cultural heritage.

3. The Production Company hereby grants the Fund et al. the right to use the publicity material, teasers, trailers and photos of the Television Series free of rights for national and international publicity purposes within the normal activities of the Fund via printed and digital media. The Production Company indemnifies the Fund et al. against claims of third parties relating to the use of this material.

#### *Article 8 Exploitation*

1. The Production Company undertakes to have the exploitation of the Television Series start in the Netherlands at the latest on the expected release date (see **Annex 1**), in accordance with the television/VOD broadcasting agreement concerned (see article 2).

2. The Production Company undertakes to exploit the Television Series in the Netherlands or to have it exploited in a Dutch and/or English language version (or with Dutch and/or English subtitles) and for majority (co)productions also to provide it with audio description. For majority (co)productions the Production Company



shall also arrange for the production of a copy of the Television Series with English subtitles and for minority (co)productions a copy with Dutch and/or English subtitles.

3. After the première of the Television Series the Production Company is obliged to inform the Fund adequately and in writing of the viewing and sales figures as well as all the costs and the proceeds generated by exploitation of the Television Series for which subsidy has been granted. The Production Company shall inform the Fund at least once a year, either upon an application for a subsidy for a new Television Series or in the **month of June**. The Production Company must include this **reporting obligation** in relation to the Fund in its agreements with distributors and others who exploit the Television Series. After five years the reporting obligation changes to a notification obligation under which reporting must be carried out if there is income.

*Article 9 Reimbursement of the subsidy*

1. The Production Company undertakes to reimburse the Fund's subsidy from its share of the proceeds from the exploitation of this Television Series. The reimbursement must be made according to section 1 of the Financial & Production Protocol.

2. By exploitation of the Television Series, as referred to in paragraph 1 of this article, the parties understand the exploitation of the Television Series in any form whatsoever, including the exploitation of the Television Series in parts and whether or not in abbreviated form.

3. By proceeds from the Television Series, as referred to in paragraph 1 of this article, the parties understand all the proceeds arising from the exploitation of the Television Series where they are not used according to the financing plan approved by the Fund to cover the production costs, as well as the proceeds from transfer of the right of remake of the Television Series, whether or not in modified form.

4. As share of the proceeds from the exploitation from which the financiers of the Television Series including the Fund are reimbursed the parties understand:

- a. the proceeds from the exploitation in the Netherlands, after deduction of the release costs incurred in the Netherlands, all according to the television/VOD agreement approved by the Fund;
- b. all proceeds from other exploitation of the Television Series in the Netherlands;
- c. all proceeds from the exploitation of the Television Series outside the Netherlands territory, after deduction of:
  - any necessary share of coproducers;
  - commission on sale, up to a maximum of 35% for the whole rights per territory;
  - all other deductible costs according to the agreement approved by the Fund with the sales agent(s).

5. The Production Company declares and guarantees:

- a. that there are no claims on proceeds from the Television Series other than those apparent from the agreements submitted to the Fund, as laid down in article 2;
- b. that it will not enter into any agreements whereby it limits its claim to proceeds from the Television Series or whereby the reimbursement to the Fund is adversely affected, without prior written consent from the Fund;
- c. that it will not enter into any agreements for the exploitation of the Television Series that are mixed with agreements on the exploitation of other television series, without prior written consent from the Fund.

6. If the report, referred to in article 8, paragraph 3 of this agreement, shows that the Production Company owes a payment to the Fund, it shall within 30 days of sending the report transfer the amount owing to the bank account of the Fund stating the title of the Television Series.

7. At the time when the Fund's subsidy has been fully reimbursed, the reimbursement obligation of the Production Company towards the Fund lapses.



*If applicable:*

8. The Production Company is obliged in relation to the worldwide exploitation outside Benelux and here if applicable to the territories that are assigned to the coproducer (unless different agreements are made with the Fund) to sign a so-called collection agreement to which all the financiers – including the Fund – and any coproducers are party. This collection agreement provides for the appointment of a collection agent. A collection agent within the meaning of this article is an independent party whose tasks include opening a collection account in its name for the Television Series with a bank, to which all income from exploitation of the Television Series must be transferred directly, the subsequent distribution of this income according to the distribution schedule agreed in the collection agreement and the provision of collection reports to the parties to the collection agreement. Prior to the signature the Fund must approve the collection agreement and the collection agent to be appointed.

*Article 10 Perpetual condition and notification obligation*

1. The Production Company may not transfer, encumber, pledge as security or assign to third parties its rights and obligations arising from this long form agreement.

2. The Production Company is obliged to refrain from all legal acts that damage the position of the Fund, in particular where the (sub-)rights to the Television Series are transferred by the Production Company to a third party. Notwithstanding paragraph 1, the Production Company may only transfer the (sub-)rights to the Television Series to a third party after prior written consent of the Fund. The Production Company is obliged to have any obligation to reimburse the Fund's subsidy, in so far as laid down in the Fund's decision, taken over in full by the party to whom the (sub-)rights are transferred. As soon as the agreement relating to the transfer of the (sub-)rights to the Television Series after approval of the Fund has been signed by the parties, the Production Company shall send a copy of this agreement to the Fund.

3. If the Production Company uses a *single purpose company* to be set up for this purpose for the Television Series, the Production Company is only permitted after prior written consent of the Fund to transfer the rights and obligations based on this long form agreement to this single purpose company, on the conditions associated by the Fund with its consent. The Production Company remains, alongside the single purpose company, jointly and severally liable for the proper and adequate fulfilment of the obligations from this long form agreement.

*If applicable regarding a single purpose company for projects above 2 mln. Budget or dutch expenditure above 2 mln.*

4. The Fund grants the Production Company consent as referred to in the previous paragraph once it has been shown that the Production Company has and holds full power and control of **XXXXX B.V.** with Chamber of Commerce number **XXXXXX** established in [XXX] on the condition that this single purpose company takes over all the obligations arising from this agreement in full. The Production Company declares and guarantees that the other financiers have agreed to the transfer in question.

*Article 11 Change or withdrawal of the subsidy*

The Fund is in any case entitled to cancel this agreement immediately in writing (fully or partly), without being obliged to pay damages, if:

- the grant or determination decision by the Fund is changed or withdrawn (see Article 20 of the Realisation Sub-regulations);
- fulfilment of the agreement, whether or not due to force majeure, is permanently or temporarily impossible, in which cases no notice of default is required;
- the Production Company or the single purpose company has provided incorrect data or has not met the notification obligation referred to in article 16, paragraph 6 of the Realisation Sub-regulations;
- the Production Company or the single purpose company otherwise fails to fulfil its contractual obligations, where reasonable after notice of default;



- suspension of payment, bankruptcy or debt restructuring of the Production Company or the single purpose company is applied for or obtained before the subsidy has been determined;
- the producer, as referred to in article 1 of the Realisation Sub-regulations, is put into administration;
- substantial production or financial problems occur that are within the control of the Production Company or the single purpose company and/or (possibly) lead to (temporary) discontinuation of the further production or preparation of the Television Series;
- *(If applicable)* the preparation and delivery of the Television Series is no longer covered by the *completion guarantee*;
- due to budget overrun or for other reasons the realisation of the funding setup is no longer assured;
- from the reports issued it appears that the production costs are no longer financially covered;
- the power over the enterprise of the Production Company or the single purpose company passes into different hands (change of control);
- the person/persons responsible within the organisation of the Production Company for the policy is/are replaced;
- the Production Company or the single purpose company ceases trading before the subsidy has been determined;
- the Production Company or the single purpose company, whether or not voluntarily, should go into liquidation and/or offers its creditors an out-of-court settlement or an event or a state arises that is comparable with one of the above-mentioned events or states before the subsidy has been determined;
- a change in circumstances occurs that no longer justifies maintenance of this agreement.

*Article 12 Indemnification*

1. The Production Company declares and guarantees that with respect to the Television Series it will be regarded as producer within the meaning of article 45d of the 1912 Copyright Act and that it, or the majority coproducer where the application concerns an international coproduction, has the exclusive filming and broadcasting rights required for the realisation of the Television Series. The Production Company further declares and guarantees that with respect to the Television Series and the resultant revenue to be generated no other claims or funding agreements are known than it has stated in the subsidy application or the documents submitted subsequently referred to in article 1, paragraph 1.
2. The Production Company hereby declares that any coproducers and all the financiers know the content of this agreement and agree to the obligations imposed on the Production Company as set out in the decision referred to in the recitals and this agreement.
3. The Production Company indemnifies the Fund against all actions, claims of third parties, damage and (proceedings) costs that the Fund suffers, arising from or relating to the execution of the rights or (funding) claims mentioned in this agreement.

*Article 13 Final provisions*

1. The Production Company declares and guarantees that no claims or circumstances are known to it that stand in the way of the conclusion and execution of the present long form agreement.
2. Additions to or deviations from the agreement are only binding if laid down in writing between the parties.
3. If any part of this agreement is null and void, voidable or otherwise not valid, this shall not affect the validity of the other part. The invalid part shall be replaced by an agreement that comes as close as possible to the intention of the parties.
4. This agreement is governed by Dutch law. Disputes about this agreement shall be submitted to the competent court in Amsterdam.





Thus agreed, drawn up in duplicate and signed in Amsterdam on [date XXX](#),

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Peter Schrurs, interim director  
*Netherlands Film Fund*

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[producer name](#), producer  
*[Production company](#)*

Annexes:

- 1. Television series outline
- 2. Budget front page (final)
- 3. Financing plan (final)
- 4. Recoupment









