



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(postal code), hereby legally represented by XXX, hereinafter called "the Production Company",

WHEREAS:

- A. The Fund has by decision dated XXX granted the Production Company a subsidy in the total maximum amount of €XXX (amount written in words,in euros), on the basis of a total of € amount for approved qualifying costs and a total number of XX points, for the realisation of a film production, provisionally entitled projecttitle, with project number XXX /, hereinafter called "the Film Production", 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 35% if the requirements set out in article 8, paragraph 6 of the Realisation Sub-regulations (Sub-regulations) are met when the subsidy is granted and as laid down in the decision. If the conditions referred to in the article are not met, this percentage is reduced to 30% when determining the subsidy.
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 Film Production for which a subsidy has been granted will start or have started and the Production Company will ensure that the Film Production is finished and published 24 months after conclusion of this Long Form Agreement, that is on [datum two years after signing, for animation 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 Film Production 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 Film Production;
- all the agreements relating to the filming and exploitation rights to the Film Production, including but not limited to the final director's and script writer's agreement and coproduction agreement);
- all the agreements relating to the exploitation of the Film Production, including but not limited to the distribution agreement for the Netherlands;
- We refer you to the [obligation to release](#), as set out in detail in article 9 of this agreement, and the definition of theatrical and non theatrical release in the notes to article 1 of the Realisation Sub-regulations;
- the final production 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) script, 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 1st of January 2019;
- the Financial and Production Protocol dated 1st of January 2019;
- the Financial Records Manual dated 1st 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 Film Production for screening in the Netherlands and, in the case of majority (co)productions, the production of a copy of the Film production with English subtitles or, in the case of minority coproductions, a copy of the Film Production 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 Film Production.

3. The Production Company declares and guarantees that the financing plan for the Film Production 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 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 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 Film Production, the submission of a written declaration of delivery and approval of the Film Production by EYE 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 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 Film Production, the submission of a written declaration of delivery and approval of the Film Production by EYE 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 Film Production 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 Film Production.
- 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 Film Production;
 - 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 film 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 Film Production, 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) experienced Line Producer and/or Budget Controller/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 Film Production 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 Film Production for cinema release 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 Film Production, 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 Film Production 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, in the case of involvement of a completion bond, provide the Fund with all the interim *cost reports* that are provided to the completion bond.

2. Prior to the release of the Film Production the Production Company shall inform the Fund in writing of the planned cinema and/or further release and the final P&A (prints & advertising) budget, as well as the way in which the P&A budget is financed.

Article 7 Delivery of (publicity) material

1. In addition to the obligations in respect of the EYE Film Institute as set out in the financial protocol, the Production Company agrees to deliver to the Fund at the latest ten days before the first screening of the film:

- two copies (DVD) of the final version of the Film Production, 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 Film Production;
- 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. Posters, electronic press kit, stills and other additional publicity material are to be delivered to EYE together with the digital master.

3. The Production Company hereby grants the Fund et al. the right to use the publicity material, teasers, trailers and photos of the Film Production 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 Première

Under this scheme the Production Company shall in principle place ten seats (including if applicable a minimum of five VIP and otherwise well-positioned seats) at the disposal of the management board, the supervisory board and employees of the Fund for the première of the Film Production. In the case of minority coproductions this means the Dutch première. The Fund and the Production Company shall consult in good time about the actual number of tickets required.

Article 9 Exploitation



1. The Production Company undertakes to have the (cinema or film theatre) exploitation of the Film Production start in the Netherlands at the latest on the expected release date (see **Annex 1**).
2. The Production Company undertakes to exploit the Film Production 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 the Film Production with audio description. For majority (co)productions the Production Company shall also arrange for the production of a copy of the Film Production with English subtitles and for minority (co)productions a copy with Dutch and/or English subtitles.
3. After the première of the Film Production the Production Company is obliged to inform the Fund adequately and in writing of the visitors and sales figures as well as all the costs and the proceeds generated by exploitation of the Film Production for which subsidy has been granted. The Production Company shall inform the Fund at least once a year, in the **month of June (reporting obligation)**. The Production Company must include this reporting obligation in relation to the Fund in its agreements with film distributors and others who exploit the Film Production. After five years the reporting obligation changes to a notification obligation under which reporting must be carried out if there is income.

Article 10 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 Film Production. The reimbursement must be made according to section 1 of the Financial & Production Protocol.
2. By exploitation of the Film Production, as referred to in paragraph 1 of this article, the parties understand the exploitation of the Film Production in any form whatsoever, including the exploitation of the Film Production in parts, in abbreviated form and whether or not partly in the form of a TV series.
3. By proceeds from the Film Production, as referred to in paragraph 1 of this article, the parties understand all the proceeds arising from the exploitation of the Film Production 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 Film Production, whether or not in modified form.
4. As share of the proceeds from the exploitation from which the financiers of the Film Production including the Fund are reimbursed the parties understand:
 - a. the proceeds from the distribution in the Netherlands, after deduction of the release costs (prints & advertising) incurred by the Dutch distributor, the distribution commission and any minimum guarantee paid, all according to the distribution agreement approved by the Fund;
 - b. all proceeds from other exploitation of the Film Production in the Netherlands;
 - c. all proceeds from the exploitation of the Film Production 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 Film Production 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 Film Production 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 Film Production that are mixed with agreements on the exploitation of other film productions, without prior written consent from the Fund.



6. If the report, referred to in article 9, 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 Film Production.

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 Film Production with a bank, to which all income from exploitation of the Film Production 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 11 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 Film Production are transferred by the Production Company to a third party. Notwithstanding paragraph 1, the Production Company may only transfer the (sub-)rights to the Film Production 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 financial contribution, 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 Film Production 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 Film Production, 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 12 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 film;
- *(If applicable)* the preparation and delivery of the film 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 13 Indemnification

1. The Production Company declares and guarantees that with respect to the Film Production 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 exploitation rights required for the realisation of the Film Production. The Production Company further declares and guarantees that with respect to the Film Production and the resultant film 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 14 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](#)

Peter Schrurs interim director
Netherlands Film Fund

[producer name](#), producer
[Production companyj](#)

Annexes:

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



