

CASH FLOW FACILITY

KEY TERMS OF THE LOAN AGREEMENT & SECURITY REQUIREMENTS

Some of the key terms of the loan agreement and security requirements for the loan are set out below. These terms apply to both [Producer Offset](#) and [Distribution Guarantee/Licence Fee](#) loans unless indicated. The full conditions for the loan and security will be in the loan agreement and security documents. Terms [underlined in green appear](#) in our [website glossary](#).

Administration fee

- / An administration fee of 3% per annum of the loan amount is payable to Film Victoria
- / The administration fee is calculated and paid monthly for the life of the loan
- / It is capped at a maximum of \$45,000 per annum per loan
- / The administrative fee covers Film Victoria's administrative costs during the life of the loan.

Legal fee

A one-off legal fee per loan is payable to Film Victoria, calculated on the following basis:

- / Loan amount ≤\$500,000 requires a legal fee of \$10,000
- / Loan amount >\$500,000 - \$1M requires a legal fee \$15,000
- / Loan amount ≥\$1M requires a legal fee of \$20,000

The legal fee is added to the first invoice for fees and interest and covers Film Victoria's up-front legal costs for contracting the loan.

Interest

Interest on the loan is calculated daily on the amount outstanding at a given time. Interest is payable at the end of each calendar month. The interest is calculated as follows:

- / Charged at the Reserve Bank of Australia Official cash rate plus a 5% margin
- / Fixed on the day of execution of loan agreement for the duration of the loan
- / Calculated daily on the amount outstanding and payable at the end of each calendar month.

Film Victoria will issue an invoice for fees and interest monthly, on strict 14 day payment terms.

Penalty Interest

Penalty interest will be charged on any overdue amounts under the loan agreement. Penalty interest will be:

- / Charged at the Reserve Bank of Australia Official cash rate plus a 9% margin (i.e. 4% above the standard interest rate for the loan) and
- / Calculated daily from the date the overdue payment was due on the total amount which is overdue and payable at the end of each calendar month.

Repayment terms

The loan must be repaid by an agreed repayment date. The repayment date will be based on factors including the production schedule, completion date, delivery dates and the date of receiving the Producer Offset refund or the Distribution Guarantee/Licence Fee (as applicable).

If there is any shortfall in repayment to Film Victoria from the distribution guarantee or licence fee, the loan recipient is required to pay the amount of any shortfall.

Insurances

The following insurances must be acquired and maintained for the full duration of the project:

- / Completion guarantee
- / Workers compensation insurance
- / Public liability of at least \$10 million
- / Film Production Insurance (FPI)
- / Negative all risks insurance
- / Multi-risk insurance
- / Errors and Omissions insurance (E&O)
- / Any other insurance that we consider necessary

In the case of digital media projects (for Distribution/Licence Fee loans), an indication of proposed planned methods for data protection and retrieval will be required.

Security

There are different security requirements for Producer Offset and Distribution Guarantee/Licence Fee loans. The security requirements provide us with security for the repayment of the loan. The minimum security requirements are:

Producer Offset loans	Distribution Guarantee/Licence Fee loans
A registered Security Interest over the SPV's entitlement to: <ul style="list-style-type: none">/ Payment of the Producer Offset Refund/ All other assets of the SPV	A registered Security Interest over the RHC's entitlement to: <ul style="list-style-type: none">/ Payment of the Distribution Guarantee/Licence Fee (or specified tranche)
A registered Security Interest over all of the SPV and/or the RHC's entitlement to payment of gross receipts	An irrevocable direction to the distributor, broadcaster, sales agent or publisher directing them to pay the Distribution Guarantee/Licence Fee (or specified tranche) to us on a specified date.
A Deed of Guarantee and Indemnity from the RHC guaranteeing the SPV's performance of all of its obligations under the loan agreement.	A letter of acknowledgment from the distributor, broadcaster, sales agent or publisher acknowledging that we are providing the loan and agreeing to pay the Distribution Guarantee/Licence Fee (or specified tranche) directly to us.

A Power of Attorney from the SPV, allowing us to act as the SPV's attorney if there is a default under the loan agreement.	A Deed of Guarantee and Indemnity from a related entity or SPV guaranteeing the RHC's performance of all of its obligations under the loan agreement.
An irrevocable direction to the bank, enabling us to appoint signatories to the Producer Offset Refund Account at its discretion	
Film Victoria to receive Gross Receipts towards repayment of the relevant loan in priority to all other parties. This must be reflected in the PIA and Disbursement and Collections Agreement (as applicable) for the project	Film Victoria to receive Gross Receipts towards repayment of the relevant loan in priority to all other parties. This must be reflected in the PIA and Disbursement and Collections Agreement (as applicable) for the project

We may require additional security depending on the circumstances of the project and loan. The types of additional security we may ask for includes (but is not limited to):

- / A registered Security Interest over assets of related entities.

Foreign currency (Distribution/Licence Fee loans)

All references in the loan agreement will be in Australian dollars. The applicant is liable for any shortfall if the amount received from distribution guarantee or licence fee is insufficient to meet the repayment as a result of currency fluctuations.

Budget, [QAPE](#) and Drawdowns (Producer Offset loans)

There are special requirements which apply to Producer Offset loans. They include:

- / Obtaining Film Victoria's approval to vary the non-QAPE expenditure;
- / Obtaining Film Victoria's approval to vary any Below The Line budget item by more than 10%;
- / Obtaining Film Victoria's approval to vary any Above The Line budget item;
- / Quarantining an agreed amount of contingency that is recognised as non-QAPE expenditure.

We require you to:

- / Establish a Producer Offset Refund Account for the sole purpose of receiving the Producer Offset refund;
- / Appoint a registered Tax Agent to lodge your tax return and receive the refund cheque;
- / Provide a written direction to the Tax Agent to pay the full amount of the Producer Offset into the Producer Offset Refund Account.

Film Victoria will determine the frequency of drawdowns of the loan. We can provide draw downs as frequently as monthly.

Before financial close of the project, we may require an updated [QAPE Opinion](#) where budgets and/or QAPE amounts vary significantly from the amounts estimated at application stage.

The Producer Offset refund must be used to repay amounts outstanding on the loan. The refund cannot be used for any other purpose until our loan is repaid in full.

Variations and variation fees

There may be circumstances where the applicant wishes to request a variation to the Loan Agreement. If Film Victoria approves the request for a variation, you will be required to pay a Variation Fee if the circumstance requires the Loan Agreement to be varied. The Variation Fee is charged as a flat fee of \$1,500 plus GST per variation.

Winding up of SPV (Producer Offset loans)

There may be circumstances where applicants may wish to wind up the SPV for a Producer Offset project in order to lodge the SPV's tax return before the end of financial year and receive the Producer Offset early.

The winding up of an SPV must be approved by Film Victoria. We will consider approving the winding up of an SPV if:

- / The liquidator appointed to the SPV is approved by us; and
- / The SPV:
 - If not already assigned, assigns all rights and benefits held and novates any ongoing, outstanding and/or contingent liabilities under all transaction documents for the film (including the loan agreement) to the RHC;
 - Completes a final audit report for the SPV borrower;
 - Provides a solicitor's opinion, in a form and from a solicitor acceptable to us, which confirms that the SPV has no ongoing, outstanding and/or contingent liabilities to us before winding up commences;
 - Applies for and obtains the final certificate for the Producer Offset; and
 - Includes interest and administration fees in the budget for the film until the end of financial year in which the film is completed, even if it anticipates that it will receive the Producer Offset before that date.

The liquidator's fees for winding up must budget for.

Film Victoria will generally only approve the winding up of an SPV if the film is completed within the first half of a financial year (ie, before 31 December). However, if you can demonstrate that it is advantageous for it to wind up after this date, then we will consider approving winding up in those circumstances on a case-by-case basis.

Credit obligations

Film Victoria must be provided us with the credit: "PRODUCED WITH THE ASSISTANCE OF FILM VICTORIA" followed by the Film Victoria logo as a single full frame credit at the end of the project (alternatively at the end of each episode) and in all publicity material issued about the project.

Reporting obligations

Film Victoria must be notified of all significant changes to the project or changes which will impact on the loan and security. The types of changes we need to know about include production schedule changes, changes to key personnel, and changes to the budget. Typically we will need to approve the changes.

For Producer Offset loans, you will provide us with ongoing QAPE and costs reports during the project and notify us when:

- / You receive the auditor's statement on the final audit (and provide a copy to us);
- / The Final certificate has been received from Screen Australia (and provide a copy to us);
- / The tax return in respect of the Producer Offset has been lodged;
- / The Producer Offset refund has been received and deposited into the nominated bank account by the Tax Agent.