

CONTENT EXHIBITION AGREEMENT

These Terms & Conditions (**Terms**) are to be read together with the Content Exhibition Release Form. These Terms, together with the Release Form, form the entire agreement (**Agreement**) between the Contributor and Esem Projects.

STANDARD TERMS

1. The Project

- 1.1 Esem Projects is curating, producing and delivering the Project in partnership with the Project Anchor.
- 1.2 The Project includes the programming and exhibition of audio-visual content on the Platform.
- 1.3 Esem Projects agrees to exhibit the Creative Content on the Platform, and the Contributor grants to Esem Projects the right to exhibit the Creative Content on the Platform for the duration of the Project, under the terms set out in this Agreement and in adherence to the Exhibition Release Form.
- 1.4 Unless specified otherwise, Esem Projects may exhibit the Creative Content for the duration of the Project.
- 1.5 The parties acknowledge that Contributors submit the Creative Content on a non-exclusive basis and that Esem Projects may exhibit content from other content contributors on the Platform.

2. Fees and Payment

- 2.1 Contributor Payments are at the discretion of Esem Projects.
- 2.2 Esem Projects will pay an honorary payment to all Creative Content exhibited as part of the Project. Where Esem Projects elects not to publish the Creative Content no payment will be made.
- 2.3 The Contributor must provide Esem Projects with a valid tax invoice for payment. Esem Projects will pay the invoice within 14 days of receipt of the invoice.
- 2.4 Neither party may charge the other party for any costs, expenses, disbursements or other amounts incurred in connection with this Agreement without the prior written consent of the other party.

3. Intellectual Property

- 3.1 All rights, title and interest (including copyright) in the Creative Content will remain with the Contributor. Nothing in this Agreement constitutes or implies an assignment or transfer of the Creative Content.
- 3.2 The Contributor grants to Esem Projects an irrevocable licence to copy, communicate and exhibit the Creative Content on the Platform for the duration of the Project on the terms set out in the Exhibition Release Form and this Agreement.
- 3.3 All rights, title and interest (including copyright) in:
 - (a) material and content that is owned by Esem Projects and is developed prior to or independently of the Project, including the Platform and any proprietary technologies, software, information, data, systems and know-how of Esem Projects; and

(b) original material and content created, commissioned or acquired by Esem Projects in connection with the Project, other than the Creative Content (including audio-visual content and data visualisations),
will remain with or be vested in Esem Projects.

3.4 The Contributor acknowledges that Esem Projects controls the final programming of content for the Project and, accordingly, Esem Projects does not warrant that the Creative Content will be programmed or exhibited at any specific times or for any minimum duration during the delivery of the Project.

3.5 The Contributor acknowledges that the Project and the Platform may be sponsored by or associated with a number of third parties. However, the Creative Content will not be used in any manner which is intended to directly endorse any third-party brands unless agreed in writing between the parties.

3.6 Esem Projects will not copy, communicate, publish or exhibit the Creative Content for any purpose other than as agreed in the Exhibition Release Form.

3.7 Esem Projects will not transfer or sub-license the Creative Content to any third party without the prior written consent of the Contributor.

4. Contributor Assistance

4.1 The Contributor will provide to Esem Projects in a timely manner the Creative Content and all information, instructions, approvals and materials that Esem Projects may reasonably request from time to time to enable Esem Projects' to exhibit the Creative Content in accordance with the Project requirements.

5. Privacy

5.1 Each party must comply with the *Privacy Act 1988 (Cth)* and other applicable privacy and data security laws, and must follow the other party's reasonable directions in relation to the collection and use of personal information and reasonable privacy protocols provided to it by the other party in respect of all personal information provided by the other party.

6. Warranties

6.1 Each party warrants that it:

(a) has (and will retain) full power and authority to enter this Agreement and to comply with the terms of this Agreement;

(b) will do all further things and execute all further documents as reasonably required by the other party to give full effect to the terms of this Agreement.

6.2 The Contributor warrants that:

(a) it owns or controls all necessary rights, title and interest (including copyright) in and to the Creative Content;

(b) it has obtained moral rights consents from any individual creators in connection with the Creative Content, which inures to the benefit of Esem Projects and enables Esem Projects to exhibit the Creative Content and to make changes to the Creative Content without attribution;

(c) it has the right to distribute the Creative Content to Esem Projects and to grant to Esem Projects the rights to copy, communicate and exhibit the Contributor Content on the Platform as part of the Project;

- (d) there are no claims, actions or proceedings, whether current, pending or threatened, which might affect the Creative Content, or any other restrictions which could limit or prevent Esem Projects from exhibiting the Creative Content on the Platform;
- (e) it has or will pay all charges, fees, residuals, royalties and wages (as applicable) which must be paid in connection with the Creative Content (including in respect of any music included in the Creative Content); and
- (f) the best of the Contributor's knowledge and belief, the Creative Content:
 - (i) is not defamatory of any person;
 - (ii) does not invade or infringe the privacy of any person; and
 - (iii) does not infringe any other intellectual or personal property rights of any person.

6.3 Each party indemnifies the other party and its related and associated bodies corporate, and all of its and their employees, officers and agents (each an **Indemnified Party**) against any and all losses, liabilities, expenses, damages and costs (including legal costs on a full indemnity basis, whether incurred by or awarded against a party) sustained or incurred by any Indemnified Party arising out of or in connection with any of the warranties given in this clause 7 being untrue, incomplete or inaccurate or the breach or non-performance of any of those warranties.

7. Limitation of Liability

- 7.1 In no event will either party (or its representatives, employees or contractors), be liable to the other party for any consequential, indirect, incidental, or special loss even if such loss was in the contemplation of the parties at the date of this Agreement as a probable result of a breach of this Agreement, including any loss of profits, loss or revenue, loss of production, loss of media, business interruption, loss of contract, loss of opportunity, loss of reputation, loss of goodwill, loss of data and similar loss.
- 7.2 The Contributor acknowledges that the Project has a public purpose of community engagement and exhibition. Esem Projects does not warrant that the Contributor will achieve any business, commercial or financial result or outcome from its participation in the Project.
- 7.3 In no event will Esem Projects, or its contractors, employees or agents, be liable to the Contributor in the aggregate for an amount in excess of the total dollar amount actually received by Esem Projects from the Contributor as at the date of alleged breach.

8. Termination

- 8.1 Each party may terminate this Agreement by notice in writing to the other party if the other party:
 - (a) materially breaches this Agreement and fails to rectify that breach within 14 days of receiving written notice specifying details of the breach;
 - (b) enters into liquidation or any form of insolvency or administration, or threatens (or resolves) to do so; or
 - (c) agrees to such termination.
- 8.2 Esem Projects may terminate this Agreement without notice if:
 - (a) the Anchor Partner cancels or suspends the Project;
 - (b) the Anchor Partner terminates the agreement between the Anchor Partner and Esem Projects; or
 - (c) the Anchor Partner rejects the Creative Content.

8.3 Esem Projects may terminate this Agreement, without giving reasons, by giving 30 days' written notice to the Contributor.

8.4 Termination, completion or expiry of this Agreement for any reason does not extinguish or otherwise affect any rights of either party against the other which accrued prior to termination or out of the events causing such termination including damages or other remedies to which a party may be entitled.

9. Force Majeure

9.1 If Esem Projects is unable to perform its obligations under this Agreement due to reasons beyond its control including pandemic, strike, civil unrest, war, act of god, sickness, death, disability, accident, failure of third party service provider (including Internet Service Providers), communications or equipment failure, or terrorism, then this Agreement shall be suspended for the affected period and during that period Esem Projects will be relieved of its obligations to perform under the Agreement and in such circumstances the Contributor will not have any claim against Esem Projects. If such suspension period continues for more than 30 days, then either party shall have the right to immediately terminate this Agreement by giving notice in writing to the other party provided that all sums payable to Esem Projects (including pro-rata Exhibition Fees) prior to termination have been paid in full.

10. General

10.1 This Agreement sets out the entire agreement between the parties in relation to the subject matter of this Agreement and no modification or amendment of the terms of this Agreement will be binding unless set out in writing signed by the parties.

10.2 This Agreement is governed by the laws of New South Wales, Australia and any dispute relating to this Agreement shall be determined by the courts of NSW.

10.3 If this Agreement (or any part of it) is rendered invalid by a competent court of law, then this Agreement (or the relevant part or provision) shall, to the extent necessary, be read down or deemed to be removed and the remaining parts of this Agreement shall remain in force.

10.4 No delay in a party asserting a right under this Agreement shall be deemed a waiver of that right.

10.5 The parties enter into this Agreement as independent contractors and not in any other capacity.

10.6 Neither party may assign or otherwise dispose of its rights and obligations under this Agreement without the prior written consent of the other party.

10.7 This Agreement may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

10.8 All amounts specified in this Agreement are specified exclusive of GST. If GST applies to any supply made under this Agreement, then the party making that supply may, in addition to any other amount payable in this Agreement, recover from the other party an additional amount on account of GST, such amount to be calculated on the basis of the current GST rate.

10.9 All sums payable under this Agreement are payable in Australian dollars, unless otherwise agreed in writing.

11. Definitions

11.1 'Platform' means STORYBOX, a digital placemaking initiative designed to facilitate high quality, culturally-rich digital programming and partnerships in the public domain, integrating a physical STORYBOX asset and accompanied by an online presence at storybox.co

- 11.2 'The Project' means STORYBOX Parramatta, a three-month activation in which STORYBOX will be hosted in Parramatta Square.
- 11.3 'Project Location' means Parramatta Square, Parramatta.
- 11.4 'Project Anchor' means City of Parramatta Council, responsible for hosting the STORYBOX in Parramatta Square
- 11.5 'Creative Content' means digital content in the form of photography, animation, film or other submitted by professional artists, content creators and filmmakers.
- 11.6 'Contributor' means the professional artist or filmmaker who has contributed content for exhibition as part of the Project
- 11.7 'Release Form' means the Content Exhibition Release Form signed in conjunction with these Terms & Conditions and available at <https://form.jotform.com/Storyboxco/Release-Form-Creatives>