

SUBMISSION TO THE ESTABLISHMENT AND COORDINATION COMMITTEE

1.0 Primary file number

112/45/541/12

Relevant subject matter files

Not applicable

2.0 Title

Brisbane Powerhouse Pty Ltd Funding Agreement

3.0 Issue/Purpose

To seek approval to enter into a 4-year funding agreement with Brisbane Powerhouse Pty Ltd.

4.0 Proponent

Group Executive, Community and the Arts Services

5.0 Submission prepared by

Manager, Creative Communities, Connected Communities, Community and the Arts Services

6.0 For E&C information or approval

For E&C approval

7.0 If for E&C approval, please provide details of the relevant delegation

Power delegated to E&C under resolution 713/2019-20 (16/06/2020).

8.0 Recommendation

That E&C:

- (a) approves Council entering into a 4-year funding agreement with Brisbane Powerhouse Pty Ltd from 1 July 2025 to 30 June 2029 generally in accordance with Attachment B and otherwise on terms and conditions satisfactory to the Group Executive, Community and the Arts Services, and the Group Executive and General Counsel, Governance and Legal Services
- (b) authorises the General Manager, Connected Communities, Community and the Arts Services, to manage the day-to-day contractual arrangements of the funding agreement, including variations to key performance indicators.

9.0

I note the submission is being forwarded to E&C.



**Krysten Booth
GROUP EXECUTIVE
COMMUNITY AND THE ARTS SERVICES**



**Councillor Vicki Howard
CIVIC CABINET CHAIR
COMMUNITY AND THE ARTS COMMITTEE**

10.0 Background

On 11 February 2000, Council established Brisbane Powerhouse Pty Ltd (Brisbane Powerhouse) as a wholly owned subsidiary to operate and manage the Brisbane Powerhouse facility (the facility). The facility has 3 performance spaces which present a year-round program of music, comedy, dance and theatre as well as staging exhibitions in its public spaces. It also has function spaces, 3 restaurants/bars, a small number of commercial tenancies, an outdoor cinema and a carpark.

Brisbane Powerhouse enjoys a strong reputation, nationally and internationally, as a leader in the presentation of innovative arts practice. As owner of the facility, Council provides funding to ensure the development and promotion of leading arts performances that are accessible to a variety of audiences.

Council previously had a 4-year funding agreement with Brisbane Powerhouse from 1 July 2021 to 30 June 2025. To continue to support Brisbane Powerhouse, it is proposed that Council enters into a new 4-year funding agreement from 1 July 2025 to 30 June 2029 (the funding agreement, refer Attachment B).

The annual payments will be subject to Brisbane Powerhouse meeting the key performance indicators set out in Schedule 3 of the funding agreement. The proposed funding for each year, excluding GST, is:

- \$3,895,927 in 2025-26
- \$3,971,346 in 2026-27
- \$4,048,272 in 2027-28
- \$4,129,238 in 2028-29.

It is recommended that E&C:

- (a) approves Council entering into a 4-year funding agreement with Brisbane Powerhouse Pty Ltd from 1 July 2025 to 30 June 2029 generally in accordance with Attachment B and otherwise on terms and conditions satisfactory to the Group Executive, Community and the Arts Services, and the Group Executive and General Counsel, Governance and Legal Services
- (b) authorises the General Manager, Connected Communities, Community and the Arts Services, to manage the day-to-day contractual arrangements of the funding agreement, including variations to key performance indicators.

List of Attachments:

Attachment A: Summary of decision

Attachment B: Brisbane Powerhouse Pty Ltd Funding Agreement

11.0 Consultation

- General Manager, Connected Communities, Community and the Arts Services (1 July 2025)
- Group Executive and General Counsel, Governance and Legal Services (1 July 2025)
- General Manager, City Communication, Governance and Legal Services (4 July 2025)
- Chief Financial Officer, Strategic Finance, Corporate Services (4 July 2025)

All are in agreement with the recommendation.

12.0 Options

- Option 1: Approve the recommendation
Option 2: Not approve the recommendation
Option 3: Amend the recommendation

Option 1 is the preferred option.

NB: If the officer's recommendation is not followed, then the reasons for departure from that recommendation should be recorded here.



ESTABLISHMENT AND COORDINATION COMMITTEE SUBMISSION

“BRISBANE POWERHOUSE PTY LTD FUNDING AGREEMENT”

FROM THE MEETING OF MONDAY 14 JULY 2025 OF E&C MEETING

At the meeting of Monday 14 July 2025, the Establishment and Coordination Committee:

- (a) approved Council entering into a 4-year funding agreement with Brisbane Powerhouse Pty Ltd from 1 July 2025 to 30 June 2029 generally in accordance with Attachment B and otherwise on terms and conditions satisfactory to the Group Executive, Community and the Arts Services, and the Group Executive and General Counsel, Governance and Legal Services
- (b) authorised the General Manager, Connected Communities, Community and the Arts Services, to manage the day-to-day contractual arrangements of the funding agreement, including variations to key performance indicators.

BRISBANE POWERHOUSE PTY LTD FUNDING AGREEMENT



Brisbane Powerhouse Pty Ltd
Funding Agreement
2025-26 to 2028-29

Brisbane City Council

Brisbane Powerhouse Pty Ltd

City Legal
266 George Street
BRISBANE QLD 4000



Dedicated to a better Brisbane

DETAILS

Item 1	Council	<p>Connected Communities Community and the Arts Services Brisbane City Council (Council) ABN 72 002 765 795 Level 10, 266 George Street BRISBANE QLD 4000 Creative.Communities@brisbane.qld.gov.au</p>
Item 2	Recipient	<p>Brisbane Powerhouse Pty Ltd (Brisbane Powerhouse) ACN 091 551 290 ABN 18 091 551 290 119 Lamington Street NEW FARM QLD 4005 rebeccad@brisbanepowerhouse.org Registered for GST: Yes</p>
Item 3	Term	<p>1 July 2025 – 30 June 2029</p>
Item 4	Commencement Date	<p>The date that the last party signs this Funding Agreement (the Agreement).</p>
Item 5	Nominated Representatives	<p>Council: Simon Alexander, Manager, Creative Communities, Connected Communities, Community and the Arts Services Phone: (07) 3178 1027 Email: Simon.Alexander@brisbane.qld.gov.au</p> <p>Recipient: Rebecca Drummond, Finance Director, Brisbane Powerhouse Phone: (07) 3358 8681 Email: rebeccad@brisbanepowerhouse.org</p>
Item 6	Approved Purpose	<p>Funding provided by Council is to be used by the Brisbane Powerhouse for:</p> <ul style="list-style-type: none"> • the program of arts, cultural events and projects as more specifically detailed in Schedule 4; • the payment of Chair and Directors of the Board's fees; and • maintenance, replacement of assets, and tools of trade.

Item 7	Reports	<p><u>Business Plan and Strategic Plan (Milestone 1 – 70% payment)</u></p> <p>Submission dates:</p> <p>2025-26 Financial Year (Year 1): Upon commencement 2026-27 Financial Year (Year 2): 15 July 2026 2027-28 Financial Year (Year 3): 15 July 2027 2028-29 Financial Year (Year 4): 15 July 2028</p> <p><u>Performance, KPI and Communication (Milestone 2 – 20% payment)</u></p> <p>Submission dates:</p> <p>2025-26 Financial Year (Year 1): 1 October 2025* 2026-27 Financial Year (Year 2): 1 October 2026 2027-28 Financial Year (Year 3): 1 October 2027 2028-20 Financial Year (Year 4): 1 October 2028</p> <p><i>*Important note: KPI reporting is for the preceding financial year, except for the Year 1 milestone submission on 1 October 2025. No KPI reporting is required for this Year 1 milestone. See details in clause 8.2 and on p. 30.</i></p> <p><u>Quarterly reports</u></p> <p>Submission dates:</p> <p>Quarter 1: 31 August each year Post-event attendance report for period 1 Apr – 30 June</p> <p>Quarter 2: 30 November each year Post-event attendance report for period 1 Jul – 30 Sept</p> <p>Quarter 3: 28 February each year Post-event attendance report for period 1 Oct – 31 Dec</p> <p>Quarter 4: 31 May each year Post-event attendance report for period 1 Jan – 31 Mar</p> <p><i>Quarterly reports include the attendance figures for the previous three (3) months. See details in clause 8.1 and on p. 29.</i></p>
Item 8	Funding	<p>\$3,895,927 - 2025-26 Financial Year (Year 1)</p> <p>\$3,971,346 - 2026-27 Financial Year (Year 2)</p> <p>\$4,048,272 - 2027-28 Financial Year (Year 3)</p> <p>\$4,129,238 - 2028-29 Financial Year (Year 4)</p> <p><input checked="" type="checkbox"/> GST exclusive</p> <p><input type="checkbox"/> no GST payable</p>
Item 9	Milestones	<p>For each Financial Year of the Term, the Funding for the relevant Financial Year is payable by Council by way of instalments (each a Milestone Amount) subject to the Recipient satisfying the Milestones by the Milestone Dates, as set out in the Payment Schedule.</p>

Item 10	Acquittal Date(s)	<p><u>Financial Acquittal (Milestone 3 – 10% payment)</u></p> <p>Submission dates:</p> <p>2025-26 Financial Year (Year 1): 1 February 2026 2026-27 Financial Year (Year 2): 1 February 2027 2027-28 Financial Year (Year 3): 1 February 2028 2028-29 Financial Year (Year 4): 1 February 2029</p> <p><i>Milestone 3 includes the Financial Acquittal reporting for the preceding financial year. See details in clause 8.3 and on p. 31.</i></p>
Item 11	Insurances	The Recipient is named and insured under Council's Public Liability and Professional Indemnity Policy.
Item 12	Form of Funding Acknowledgement Statement	A Brisbane City Council venue, Brisbane Powerhouse is the city's home of contemporary arts and culture.
Item 13	Council IP Licence	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Item 14	Additional financial information	<p>The Recipient must comply with clause 8.3(b) of the Funding Agreement Terms and Conditions.</p> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

FUNDING AGREEMENT TERMS AND CONDITIONS

The parties agree as follows:

1. Term

This Agreement commences on the Commencement Date and continues in force until 30 June 2029 unless otherwise terminated in accordance with clause 14.

2. Approved Purpose

(a) The Recipient must:

- (i) use the Funding solely for the Approved Purpose;
- (ii) comply with these terms and conditions;
- (iii) not make any changes to the Approved Purpose except with the prior written approval of Council in accordance with clauses 7(c) and (d);
- (iv) ensure that it keeps proper books and records of account in relation to the delivery of the Approved Purpose and use of the Funding;
- (v) ensure the Approved Purpose is achieved during the Term of the Agreement;
- (vi) report on each KPI for each year of the Term as part of the Performance Report to be submitted by the Recipient in accordance with clause 8.2; and
- (vii) achieve the Milestones by the relevant Milestone Date as set out in the Payment Schedule.

(b) To the extent that there is any conflict between any schedule or attachments, any approved changes to the Approved Purpose and these terms and conditions, these terms and conditions prevail.

3. Nominated Representatives

The persons named in Item 5 of the Details as the Nominated Representatives are the first point of contact between the parties and are responsible for overseeing the effective administration of this Agreement, including variations.

4. Publicity

- (a) The Recipient will acknowledge the Funding by Council in any advertising, publicity or promotional material relating to this Agreement in the manner specified in Item 2 of Schedule 1.
- (b) The Recipient will participate in promotional or publicity activity in relation to this Agreement as is reasonably required by Council.
- (c) The Recipient and Council must use their best endeavour to mutually agree on the content of any public announcements or media releases about this Agreement.
- (d) The Recipient must provide Council the acknowledgement benefits specified in Schedule 1.

5. Funding and Invoicing

- (a) The Recipient acknowledges and agrees that the payment of Funds to the Recipient for each Financial Year of the Term is subject to, and conditional upon, Council receiving budget approval.
- (b) Subject to the Recipient complying with this Agreement, Council will pay the Funding to the Recipient in the Milestone Amounts and at the times specified in the Payment Schedule.
- (c) The Recipient must ensure that it can properly account for the Funding received under this Agreement.
- (d) Before Council is required to make any payment of any Milestone, the Recipient must submit to Council, via SmartyGrants, a Tax Invoice which specifies each of the following:
 - (i) Council's Purchase Order Number or Contract Number (if any);
 - (ii) the title of this Agreement;
 - (iii) the name, address and ABN of the Recipient;
 - (iv) the invoice number;

- (v) itemised good/services description (including quantity and unit rate) or brief description of the services or work carried out or Milestone achieved in respect of which the invoice relates;
- (vi) the basis upon which the invoice is submitted (e.g. initial payment, progress payment, final payment); and
- (vii) the applicable Milestone Amount separately identifying the costs and expenses of the Approved Purpose and the applicable GST.

6. GST

- (a) The Recipient represents that:
 - (i) the ABN shown in Item 2 of the Details is the Recipient's ABN; and
 - (ii) it is registered under the *A New Taxation System (Australian Business Number) Act 1999* (Cth).
- (b) GST will be charged on supplies made under this Agreement in accordance with the GST Laws and the Recipient will be liable to pay GST in relation to that supply.
- (c) The Recipient and Council will do all things (including providing a Tax Invoice or other documentation) that may be necessary to enable or assist claiming or verifying any input tax credit, set off, rebate or refund in relation to the payment of GST.

7. Provision of information

- (a) The Recipient must provide the reports and other documents as specified in Item 7 of the Details.
- (b) At any time during the Term, Council may request, and the Recipient must within seven (7) days provide, additional information about the Approved Purpose, the Acquittal Form and the use of the Funding.
- (c) The Recipient must immediately notify Council of any proposed changes to the nature and or scope of the activities conducted by the Recipient which would impact on the Approved Purpose or the KPIs under this Agreement by completing and submitting a Variation Form.
- (d) Council must within 30 days of receiving the Variation Form provide the Recipient with written notice either:
 - (i) approving the proposed changes as set out in the Variation Form;
 - (ii) rejecting the proposed changes as set out in the Variation Form, with or without reasons; or
 - (iii) requesting additional information from the Recipient in order for Council to make a decision under clause 7(d)(i) or (ii).
- (e) If the recipient fails to provide the additional information requested by Council in accordance with clause 7(d)(iii), the Variation Form will be deemed to be rejected by Council.

8. Quarterly reports, Performance Reports and Financial Acquittal

Within the timeframes specified in Items 7 and 10 of the Details, the Recipient is required to inform Council of attendance statistics, performance against KPIs, planning and programming information, organisation and staff details and financial acquittals.

8.1 Quarterly report

On or before the submission dates outlined in Item 7 of the Details, the Recipient must provide the following documents to Council using the SmartyGrants form:

- (a) A post-event attendance report which outlines, for the three-month period prior to the Quarter Period date:
 - (i) all event attendance figures including paid, free and low-cost tickets with a breakdown of Brisbane Powerhouse programs, hire and sponsored events; and;
 - (ii) Venue and visitors report against performance forecast in its Business Plan;

- (b) evidence that Recipient notified Council of Program Schedule amendments where Council channels were identified for programming support.

8.2 Performance Report

- (a) On or before the submission dates outlined in Item 7 of the Details, the Recipient must provide the following documents to Council using the SmartyGrants Form:
 - (i) a detailed report of the Recipient's performance against the KPIs listed in Schedule 5;
 - (ii) detailing the program schedule including the participation and visitor information;
 - (iii) evaluation including evidence of social or cultural impact; and
 - (iv) challenges or issues delivering programs/events.
- (b) Provide high resolution images of programs/events for Council's promotional purposes;
- (c) Provide employment data for the Recipient including the:
 - (i) employment data including full, time and part time employees;
 - (ii) number of paid creatives and financial value; and
 - (iii) number of volunteers and volunteer hours.
- (d) Funding acknowledgement including detailing:
 - (i) examples of marketing collateral or support material showing the acknowledgement and the correct use of Council's logo;
 - (ii) examples of cross promotional activities between Council and the Recipient;
 - (iii) details of any speaking opportunities;
 - (iv) report outlining complimentary tickets provided to Council.
- (e) The Performance Report Form must be signed by 2 persons authorised by the Recipient's Board or management (or equivalent).
- (f) If Council is satisfied with the content of the Performance Report, Council will, within 20 Business Days of receiving the Performance Report Form, issue a written notice confirming that Council is satisfied that the Recipient has provided all documentation and reports required by Council under this Agreement for the particular Financial Year.
- (g) Council may request additional information from the Recipient about the Performance Report Form in accordance with clause 7(b). If Council is satisfied with the additional information provided by the Recipient, Council will, within 20 Business Days of receiving the additional information, issue a written notice confirming that Council is satisfied that the Recipient has provided all documentation and reports required by Council under this Agreement for the particular Financial Year.
- (h) If Council is not reasonably satisfied with the content of the Performance Report Form, any additional information provided by the Recipient as requested by Council, or if the Recipient fails to provide the additional information, clause 14 will apply and the Recipient may be ineligible for future funding in accordance with clause 30.
- (i) If Council's Nominated Representative is not satisfied with either:
 - (i) the documents and information provided by the Recipient;
 - (ii) the Recipient's compliance with its obligations under this Agreement; or
 - (iii) the Recipient's endeavours to achieve the KPIs.

Council's Nominated Representative will not support the Financial and Performance Acquittal and the Funds for the next Financial Year of the Term may be withheld at the absolute discretion of Council's Nominated Representative.

- (j) The Recipient agrees that Council may direct that the financial accounts of the Recipient be audited at Council's expense, and Council may specify the minimum qualifications that must be held by the person appointed to conduct the audit.

- (k) If the audit discloses that the Recipient has applied the Funding for a purpose other than the Approved Purpose, then the Recipient must reimburse Council's costs of the audit and clause 14 will apply.
- (l) The Recipient must retain all records and accounts pertaining to this Agreement in original form for at least 36 months following the date of acquittal of the Funding.

8.3 Financial Acquittal

- (a) On or before the Acquittal Date(s), the Recipient must provide an acquittal in relation to the expenditure of all funds under this Agreement on the dates prescribed in Item 10 of the Details, using the Acquittal Form:
 - (i) certifying that the Funding has been properly spent in accordance with this Agreement, including provision of audited financial reports;
 - (ii) providing a detailed report against performance of the Recipient's Business Plan including:
 - (a) target operational revenues; and
 - (b) fundraising revenues.
- (b) If the Recipient is not required by Law to prepare Audited Financial Reports, the Recipient must provide Council with the following financial reports within six (6) months of the end of each Financial Year of the Term:
 - (i) a balance sheet;
 - (ii) an income and expenditure statement; and
 - (iii) a statement of changes in equity for the Financial Year;
- (c) providing a copy of the Recipient's Annual Report;
- (d) the proceeds of the Funds must be identified as a separate item in the Recipient's annual financial statements; and
- (e) provide a detailed report of the funds outlined for Approved Purpose B: Maintenance, Replacement of Assets and Tools of Trade (if applicable), as outlined in Schedule 4.

9. Repayment of Funding

If the Recipient has:

- (a) not expended all of the Funding by the particular relevant Acquittal Date, the Recipient must notify Council and immediately repay the unexpended amount of the Funding to Council; and/or
- (b) received Funding for more directors than were engaged for the Financial Year during the Term, the Recipient must notify Council and immediately repay the amount paid per director over and above the number of directors engaged; and/or
- (c) expended all or part of the Funding otherwise than solely for the Approved Purpose, clause 14 will apply.

10. Inspection

On the giving of reasonable notice, the Recipient must allow any Council Personnel to enter the premises of and to inspect the operations of the Recipient (including equipment, premises, accounting records, documents and information) and interview the Recipient on matters relating to the Recipient's obligations under this Agreement.

11. Insurance

It is acknowledged by the parties that, subject to the deductible excess specified in the policy, the Recipient is named and insured under Council's Public Liability and Professional Indemnity Policy with the Queensland Local Government Mutual Liability Pool.

12. Indemnity and Release

- (a) Subject to clause 12(b), the Recipient indemnifies and releases Council and its Personnel from and against all Claims which may be brought by or against Council arising from or in connection with:
 - (i) the Approved Purpose;
 - (ii) any of the Recipient's obligations under this Agreement;
 - (iii) any breach by the Recipient or the Recipient's Personnel of its obligations or warranties under this Agreement.
- (b) The Recipient's liability to indemnify Council under this clause will be reduced proportionately to the extent that any negligent or other tortious act or omission of Council contributed to the relevant Claim.
- (c) The indemnity and release in this clause 12 is a separate, independent and continuing obligation of the Recipient that survives termination or expiry of this Agreement.
- (d) The Recipient must pay on demand money due to Council under any indemnity provided by this Agreement.

13. Dispute Resolution

- (a) A party may not commence legal proceedings without first referring the dispute to the other party under this clause.
- (b) Either party may give the other a notice in writing setting out the details of the dispute.
- (c) Within seven (7) Business Days of receiving a notice of dispute or such other period as may be agreed by the parties, the Nominated Representatives must meet and use reasonable endeavours to resolve the dispute.
- (d) If the Nominated Representatives are unable to resolve the dispute, either party may refer the dispute for mediation.
- (e) Any mediation must be conducted in Brisbane:
 - (i) with a mediator that is agreed by the parties, or failing an agreement, a mediator appointed by the Resolution Institution; and
 - (ii) in accordance with the Mediation Rules published by the Resolution Institute.
- (f) Notwithstanding the existence of a dispute, each party must continue to perform its obligations under this Agreement.

14. Default and Termination

- (a) If the Recipient:
 - (i) does not apply any part of the Funding for the Approved Purpose;
 - (ii) fails to comply with this Agreement at any time;
 - (iii) assigns this Agreement or any of its benefits or purports to assign, sub-contract or otherwise divest itself of any of its obligations under this Agreement without the prior written consent of Council; or
 - (iv) subject to the statutory stay provisions in the *Corporations Act 2001* (Cth), enters into any arrangement or proceedings for the purposes of insolvency.

Council may upon giving written notice to the Recipient:

- (i) require the Recipient to repay either the whole or a portion of the Funding (whether expended or not) within 30 days of a written demand from Council;
 - (ii) withhold any or all funds not already paid to the Recipient;
 - (iii) withhold future funding from the Recipient; and/or
 - (iv) terminate this Agreement.
- (b) Council may terminate this Agreement for any reason by giving the Recipient twelve (12) months' written notice of its intention to terminate.

15. Effect of ending this Agreement

- (a) Any termination of this Agreement does not affect any accrued right of either party.
- (b) Despite termination or expiry of this Agreement, this clause 15 and clauses 9, 12, 14(a)(i), 16, 17 and 18 remain in force and will survive.

16. Intellectual Property Rights

- (a) Nothing in this Agreement affects the ownership of Intellectual Property Rights created before the Commencement Date.
- (b) If specified in Item 13 of the Details, the Recipient grants to Council a non-exclusive, perpetual, royalty free licence to use any Intellectual Property Rights created by the Recipient as part of the Approved Purpose for the purposes of promoting Council's support of the Approved Purpose, Council's grants and funding programs or for the promotion of Council and the city of Brisbane.
- (c) The Recipient warrants that the Recipient has obtained all relevant licences and consents from any third-party owner of Intellectual Property Rights licenced to Council under clause 16(b).

17. Confidentiality

- (a) Subject to clause 17(b), neither party may disclose any Confidential Information belonging to the other party without the prior written consent of the other party.
- (b) A party may disclose Confidential Information belonging to the other party:
 - (i) to Personnel of that party, on a 'need to know' and confidential basis;
 - (ii) as required by Law or a court order; or
 - (iii) in the case of Council, in accordance with public accountability (including budgetary) reasons.
- (c) The parties may mutually agree in writing to the disclosure of any Confidential Information.
- (d) Nothing in this clause 17 prevents or limits the ability of the Recipient to provide the Funding Acknowledgement.

18. Privacy

- (a) The Recipient must comply with the *Information Privacy Act 2009* (Qld) and the Information Privacy Principles established under that Act, as if it were an 'agency' under that Act, in undertaking its obligations under this Agreement including in relation to all Personal Information received, created or held by it for the purposes of this Agreement.
- (b) The Recipient must promptly notify Council if it fails to comply with this clause or if it becomes aware of any actual or threatened disclosure of or unauthorised access to Personal Information.

19. Compliance with Laws and Policies

The Recipient must comply with all Laws in force in the State of Queensland in performing its obligations under this Agreement.

20. Force Majeure

- (a) Subject to clause 20(b), the obligations of a party directly affected by an Event of Force Majeure and any corresponding entitlement of another party will be suspended to the extent and for so long as the performance of the affected party's obligations are prevented or delayed by the Event of Force Majeure.
- (b) Before the Recipient is entitled to rely on clause 20(a), the Recipient must demonstrate to Council's reasonable satisfaction which obligations and to what extent those obligations have been affected or are unable to be performed by the Recipient directly as a result of the Event of Force Majeure.

- (c) The affected party must notify the other party if the Event of Force Majeure prevents (or is likely to prevent) it from complying with any of its obligations under this Agreement as soon as it becomes aware of the Event of Force Majeure.
- (d) The affected party must:
 - (i) use its best endeavours to work around or overcome the effect of the Event of Force Majeure;
 - (ii) keep the other party informed of the continuation and expected duration of the Event of Force Majeure and of measures taken to comply with this clause 20; and
 - (iii) recommence performance of its obligations as soon as possible after the Event of Force Majeure has ceased to exist.
- (e) For the avoidance of doubt, if the Recipient provides notice to Council under clause 20(d) and the Recipient is unable to carry out the Approved Purpose during the relevant year of the Term, Council may suspend payment of the Funding or require the Recipient to refund all or a portion of the Funding.

21. Notices

- (a) Notices under this Agreement may be delivered by a party by hand, by pre-paid mail, or by email as a PDF to the address for that party specified in the Details or any substitute address as notified in writing by that party from time to time.
- (b) Notices will be deemed to be given:
 - (i) three (3) Business Days after deposit in the mail with postage paid;
 - (ii) when delivered by hand; or
 - (iii) if sent by email, on the date of the email provided that the sender's email system does not receive a delivery failure message within one hour of the sender's email being sent.
- (c) Notwithstanding this clause any notice that is received after 5.00pm will be deemed to be given on the next Business Day.

22. Governing Law and Jurisdiction

- (a) This Agreement is governed by the Laws in the State of Queensland.
- (b) The courts of the State of Queensland have exclusive jurisdiction in connection with this Agreement.

23. Entire Agreement

The Agreement constitutes the entire agreement between the parties in respect of the matters dealt with in this Agreement and supersedes all prior agreements, understanding and negotiations in respect of the matters dealt with in this Agreement.

24. No Assignment

The Recipient must not assign, encumber or otherwise transfer any of its rights or obligations under this Agreement without the written approval of Council.

25. Variation and waiver

- (a) No addition to, variation or modification of any provision of this Agreement will be binding upon the parties unless agreed by the parties in writing.
- (b) A single or partial exercise of a right under this Agreement does not prevent any other exercise of that right.
- (c) A waiver of a right under this Agreement does not prevent the exercise of any other right.

26. Severance

Each word, phrase, sentence, paragraph and clause of this Agreement is severable if it is held to be invalid, unenforceable or illegal. Severance of any part of this Agreement will not affect any other part of this Agreement.

27. Counterparts and Electronic signatures

- (a) This Agreement may be executed in any number of counterparts each of which is taken to be an original. All of those counterparts taken together to constitute one instrument. An executed counterpart may be delivered by email, where an email address for the party has been provided.
- (b) If this Agreement is signed by any person using an Electronic signature, the parties:
 - (i) agree to enter into this Agreement in electronic form;
 - (ii) consent to either or both parties signing the contract using an Electronic signature;
 - (iii) agree that a party using an Electronic signature is not required to have their signature witnessed; and
 - (iv) agree that they will be bound by, have complied with, and will comply with the *Electronic Transactions (Queensland) Act 2001* (Qld), in relation to the execution of this Agreement.

28. Costs

Each party will pay its own fees and expenses of and incidental to the negotiation, preparation and execution of this Agreement, including fees and disbursements of its lawyers and accountants.

29. Relationship between the parties

Nothing in this Agreement will be construed as creating a relationship of employer and employee or principal and agent or partnership as between the parties nor will either party represent this to be the case.

30. No further obligation

- (a) The Recipient acknowledges that the Funding represents a one-off contribution by Council towards the Approved Purpose in each year of the Term. Council is under no obligation to pay any additional funding to the Recipient.
- (b) The Recipient must obtain the written approval of Council (acting in its sole and absolute discretion) before:
 - (i) seeking to enter; or
 - (ii) committing to, any agreements or arrangements with any other part of Council for additional funding or in-kind support regarding the Approved Purposes (in whole or in part) or any other project (in whole or in part).
- (c) The Recipient acknowledges that the Recipient will be ineligible for future funding if it:
 - (i) fails to provide the reports, statements and information required by this Agreement; or
 - (ii) breaches this Agreement.
- (d) The Recipient acknowledges Council will not be liable to reimburse the Recipient for any losses or cost over runs that may result from the operation of this Agreement or the carrying out of the Approved Purpose.
- (e) In the event the Recipient fails to obtain the written approval of Council in accordance with clause 30(b), Council will be entitled to rely on the termination provisions under clause 14 of this Agreement.

31. Conflict of interest

- (a) The Recipient warrants that it has no conflict of interest as at the date of this Agreement.
- (b) The Recipient must promptly advise Council of the details of any conflict which may arise after the commencement of this Agreement.

32. Further acts

Each party must do all things and execute all documents reasonably necessary to give effect to this Agreement.

33. Subcontractors

Where the Recipient subcontracts the performance of the Approved Purpose (or any part of the Approved Purpose), the Recipient is liable for any acts or omissions of its subcontractors.

34. Interpretation

In this Agreement:

- (a) headings are for convenience only and will not affect interpretation;

and unless the context requires otherwise:

- (b) a reference to any legislation includes:
 - (i) all legislation, regulations and other forms of statutory instrument issued under that legislation; and
 - (ii) any modification, consolidation, amendment, re-enactment or substitution of that legislation;
- (c) a word in the singular includes the plural and a word in the plural includes the singular;
- (d) a reference to:
 - (i) a gender includes all genders;
 - (ii) to a clause, paragraph, schedule or attachment is a reference to a clause, paragraph, schedule or attachment of this Agreement;
 - (iii) a person includes an individual, body corporate, association, trust or partnership;
 - (iv) two or more persons is a reference to those persons jointly and severally;
 - (v) dollars is to Australian dollars;
 - (vi) a party includes that party's administrators, successors and permitted assigns; and
 - (vii) a time and date is a reference to a time and date in Brisbane, Queensland.
- (e) where any word or phrase is given a definite meaning in this Agreement any part of speech or other grammatical form in respect of such word or phrase has a corresponding meaning;
- (f) a term defined or described in the Details has the corresponding meaning in these terms and conditions, and any schedule or attachment to the Agreement;
- (g) "includes" in any form is not a word of limitation; and
- (h) a reference to a party includes that party's administrators, successors and permitted assigns.

35. Definitions

In this Agreement:

- (a) **Acquittal Form** means the SmartyGrants form to be completed by the Recipient to report on the Approved Purpose and Funding expenditure as set out in this Agreement, as amended from time to time by Council.
- (b) **Agreement** comprises the Details, these terms and conditions and any schedules or attachments to it.
- (c) **Audited Financial Reports** means the Recipient's financial statements and accompanying disclosures that have been examined by an independent auditor.
- (d) **Business Day** means a day other than a Saturday, Sunday or public holiday in Brisbane, Australia.
- (e) **Business Plan** means the recipient's corporate document outlining their plan for each Financial Year.
- (f) **Chair** means a person appointed to the Brisbane Powerhouse Board of Directors and identified as the Chair of the Board.
- (g) **Claim** means any liabilities, losses, damages, costs (including legal costs), expenses, claims, demands, actions or proceedings.
- (h) **Confidential Information** means information which is identified as confidential information by a party and includes this Agreement.
- (i) **Director** means a person appointed to the Brisbane Powerhouse Board of Directors and identified as a Director of the Board. For clarity, a Director does not mean an employee of Brisbane Powerhouse.
- (j) **Electronic signature** means an electronic method of signing that identifies the person and indicates their intention to sign the Agreement.
- (k) **Event of Force Majeure** means an event or circumstance which is in the nature of force majeure, including fire, flood, storm, accidents, epidemic, pandemic, earthquakes, riots, explosions, wars, hostilities, labour disputes and industrial actions which prevent a party from complying with its obligations under this Agreement, and which that party:
 - (i) did not cause;
 - (ii) cannot control or influence; and
 - (iii) could not have prevented or avoided through prudent management processes, policies and precautions, including the use of alternate resources, the procuring of services from another source and work around plans.
- (l) **Financial Acquittal and Performance Reporting** means provision by the Recipient to Council of all the requirements specified in clauses 8.2 and 8.3.
- (m) **Financial Year** means a year commencing on 1 July and ending on 30 June.
- (n) **Funding Acknowledgement** means the acknowledgement to be provided by the Recipient recognising Council's contribution to the Approved Purpose in accordance with clause 4(a).
- (o) **GST** means the tax imposed by the GST Law.
- (p) **GST Law** means the GST law (as defined in the *A New Taxations System (Goods and Services Tax) Act 1999* (Cth)) together with all other laws and regulations which impose or regulate the implementation and operation of GST and includes any applicable rulings.
- (q) **Intellectual Property Rights** means all intellectual property rights, including but not limited to:
 - (i) patents, copyright, registered designs, trademarks, know-how; and
 - (ii) any application or right to apply for registration of any of the rights referred to in paragraph (i) above, but for the avoidance of doubt excludes moral rights and performers' rights.

- (r) **KPI** means each of the key performance indicators specified in the KPI Schedule and as amended by mutual agreement of both parties from time to time.
- (s) **KPI Schedule** means the document in Schedule 5.
- (t) **Laws** means any statute, regulation, by-law, local law or other law of the Commonwealth, State or Territory or local government authority.
- (u) **Lease Agreement** means the lease, registered no. 720349923 on 26 October 2020 and commenced 1 July 2020, between Council and Brisbane Powerhouse Pty Ltd ACN 091 551 290.
- (v) **Maintenance Works Agreement** means the annual agreement outlining the building maintenance between Council and Brisbane Powerhouse Pty Ltd ACN 091 551 290.
- (w) **Marketing and Communication Plan** means the marketing, communication and media strategies, promotional ticket allocation, campaigns and collateral planned for the calendar year ahead.
- (x) **Milestone** means each milestone specified in the Payment Schedule.
- (y) **Milestone Amount** means the relevant amount to be paid for each Milestone as specified in the Payment Schedule.
- (z) **Milestone Date** means the date each Milestone must be completed by the Recipient as specified in the Payment Schedule.
- (aa) **Nominated Representative** means the persons named in Item 5 of the Details as the first point of contact between the parties and are responsible for overseeing the effective administration of this Agreement including variations.
- (bb) **Payment Schedule** means the document at Schedule 3.
- (cc) **Personal Information** has the meaning given to it in the *Information Privacy Act 2009* (Qld).
- (dd) **Personnel** means an employee, agent or advisor of a party.
- (ee) **Post-event Attendance Report** means a report on event performances held for the prior Quarter Period.
- (ff) **Program Schedule** means an annual plan detailing the business actions and investments necessary to generate income for each Financial Year of the Term including details of proposed events, exhibitions, public programs and education programs.
- (gg) **Quarter Period** means each three (3) month reporting period of a Financial Year being 1 July – 30 September, 1 October – 31 December, 1 January – 31 March and 1 April – 30 June.
- (hh) **SmartyGrants** is Council's online system that the Recipient is required to use for lodgement of relevant documents required by Council.
- (ii) **Tax Invoice** means a valid tax invoice under the GST Law.
- (jj) **Term** means the period specified in Item 3 of the Details
- (kk) **Variation Form** means the SmartyGrants form to be completed by the Recipient to notify Council of any proposed change or variation to the Agreement in accordance with clause 7(c).

SCHEDULE 1

ACKNOWLEDGEMENT

The Recipient must acknowledge Council's contribution to the Approved Purpose during the Term in the following ways.

1. Opportunities for the Lord Mayor or Delegate

- (a) The Recipient must provide the following opportunities for the Lord Mayor or representative:
- (i) opportunities for the Lord Mayor to provide a key message and, where appropriate, a photograph in the opening pages of main event programs and venue reports. Content for these opportunities is to be sought from Council's Nominated Representative or delegate with review by media.matters@brisbane.qld.gov.au;
 - (ii) opportunity for Lord Mayor or delegate to speak at high profile events or functions. It is the obligation of the Recipient to contact the Office of the Lord Mayor regarding the Lord Mayor's potential involvement as required by the Benefits, at least two (2) months prior to the event date. The Recipient is responsible for contacting the Office of the Lord Mayor at Lord.Mayor@brisbane.qld.gov.au. Confirmation that this has occurred must be provided by the Recipient within the Acquittal Form;
 - (iii) photo and media opportunities with leaders and participants if required by Council;
 - (iv) where an event or activity associated with the Approved Purpose is a ticketed event, provide Council with a minimum of four (4) complimentary tickets for the Lord Mayor, delegate and/or other Council representatives to attend. Such events:
 - A. include those with an opening night/launch managed by Brisbane Powerhouse, festival openings and Brisbane Powerhouse Presents;
 - B. where venue capacity is reduced, a lesser number of tickets may be agreed to by Council;
 - C. may not include those being held at Brisbane Powerhouse with the hirer managing its own guest list.

2. Acknowledgement of Council

The Recipient must undertake all of the following:

- (a) Incorporate Council's logo as part of its logo's visual form. The logo form and standard for use of the logo, including style guidelines and conditions of use, must be approved by Council's City Communication no later than ten (10) weeks after the signing of this agreement via the *Brisbane Powerhouse Style Guide*.
- (b) The Recipient's logo is the minimal form of acknowledgement required by Council to acknowledge Council's association with the venue, experiences and programming. The logo must appear prominently and be clearly visible on all of the Recipient's materials that promote the venue and its programming, including printed, digital and out of home materials, whether these materials appear in Brisbane Powerhouse channels or external channels. In multi-page programs and festival guides, minimum acceptable appearance of the logo will be on the item cover and at least one inside front page, unless otherwise agreed by Council's City Communication.
- (c) Additional Council acknowledgement through placement of Council's corporate logo is required to give prominence to Council's association with the venue. Unless otherwise agreed with Council's City Communication, prominent Council corporate logo appearance is required in the following instances:
 - (i) venue supporter listings, corporate documents and reports, multi-page programs and festival guides; and
 - (ii) venue website (Council's logo must link to Council's corporate website), social media; and

- (iii) some corporate or venue signage or display materials may also carry the additional corporate logo.

Council's City Communication will provide electronic Council corporate logo files for use by the Recipient for use in the Recipient's collateral at the outset of the agreement; email Communication@brisbane.qld.gov.au.

Use of Council's corporate logo must be consistent with Council's *Visual Style Manual* and any supplementary branding direction, which will be provided to the Recipient by Council at the outset of, and throughout the agreement, as required.

- (d) In the Recipient's materials promoting programming presented by third parties, the prominence of Council's acknowledgement will align with the relative contribution by the third party but must take into account Council's integral contribution to the venue overall. Allowances must be made for the requirement in any third-party programming agreement.
- (e) Partner and supporter listings in full colour publications must appear in full colour, with Council's logo appearing in colour (unless otherwise agreed by Council's City Communication, and larger and more prominently than other supporter logos. Partner and support listings in single colour publications may appear in black and white form, with Council's logo appearing larger and more prominently than other supporter logos.
- (f) Schedule 1 clauses 2 (a-e) describe the form of acknowledgement that must appear on the Recipient's material items. Materials must be provided to Council's City Communication at Communication@brisbane.qld.gov.au for review of acknowledgement prior to the item being produced or distributed. Council may at its own discretion provide written pre-approval for specified standardised items during the term of the agreement to streamline this process. If this occurs, the Recipient must still make those specified materials available to Council for ongoing reference.
- (g) Any of the Recipient's material items that do not comply with Schedule 1 clauses 2 (a-f) must be provided to Council's City Communication for review who will consider if the proposed non-compliance is acceptable to Council. The material must be emailed to Communication@brisbane.qld.gov.au for review and approval prior to production.
- (h) Should Council choose not to apply the above forms of acknowledgement on a specific material item or category of item submitted or reviewed, Council will advise the Recipient of the decision.
- (i) The Recipient's annual Marketing and Communication Plan will be reviewed by Council's City Communication and input will be provided as required.
- (j) The Recipient will provide Council's City Communication an opportunity to meet and discuss promotional activity, issues and opportunities arising including activities not previously identified in the annual Marketing and Communication plan. Invitation to be made to Communication@brisbane.qld.gov.au.
- (k) In addition to the annual Marketing and Communication Plan, the Recipient will also:
 - (i) Contact Council's City Communication with at least five (5) working days' notice, unless otherwise agreed, to identify communication and media activity not previously identified in the Quarterly Report. This includes providing Council with a copy of all information or statements provided to the media by email to Media.Matters@brisbane.qld.gov.au;
 - (ii) Provide all planned media activity to Council including a copy of all information or statements provided to the media by email to Media.Matters@brisbane.qld.gov.au;
 - (iii) Provide any updates to Program Schedule to Council where Council channels have been identified for programming support by email to Communication@brisbane.qld.gov.au.

The Recipient must provide Council with evidence of the material development and review procedures that are in place to ensure the acknowledgement requirements described in clause 2 and brand guidelines are met during the Term of this Agreement. In addition, the Recipient will provide Council's

City Communication with ongoing access to digital versions of all promotional, marketing and communication materials.

- (l) If these requirements and guidelines are not met for materials developed, Council will require the Recipient to undertake one or more of the following remedial actions and provide evidence to Council's City Communication of such action being taken:
 - (i) amend online materials within one (1) business day of Council's request;
 - (ii) withdraw published materials within one (1) business day of Council's request;
 - (iii) revise and reprint published materials as soon as possible after Council's request;
 - (iv) review and change material development and review procedures to ensure future compliance.

3. Council promotional support for Recipient

The Recipient grants to Council (at its own respective costs in all things) the right to generate promotion and publicity, including media publicity, for the Recipient, subject to:

- (a) Council consulting and coordinating its proposed promotion and publicity material and activities with the Recipient, to ensure that Council's promotion and publicity does not overshadow, contract or operate across purposes with the aims and objectives of the Recipient.

SCHEDULE 2

BENEFITS TO COUNCIL

The Recipient will provide the Benefits to Council, including appropriate acknowledgement as may be subsequently agreed between the Recipient and Council.

Obligation of the Recipient

The Recipient must ensure:

- (a) prominent and consistent Council acknowledgement, association and corporate logo appearance in the Recipient's communication and marketing materials, media activity and site as agreed in Schedule 1 clause 2, unless otherwise negotiated with Council's City Communication;
- (b) acknowledgement activity will be commensurate with Council's association with the Recipient as its founding and major funding source and will demonstrate that Brisbane Powerhouse is a Brisbane City Council venue, that is the city's home of contemporary arts and culture as outlined in Item 12 of the Details;
- (c) a Marketing and Communication Plan for the calendar year ahead is provided to Council, as described in Schedule 1 item (2)(i);
- (d) timely communication to Council of any arising communication and media activities not appearing in the Marketing and Communication Plan, as described in Schedule 1 item (2)(i);
- (e) regular opportunity (quarterly or on request) is provided for Council's City Communication to meet with the Recipient to discuss acknowledgement activity and opportunities arising, including any activities not previously identified in the annual Marketing and Communication Plan;
- (f) opportunity is provided to use Recipient communication channels for cross-promotion of appropriate Council messages and creative assets, on request from Council's City Communication;
- (g) provision of appropriate creative content for use in Council communication channels for the purpose of cross-promotion, on request from Council's City Communication;
- (h) access to electronic file copies of the full range of Recipient's promotional materials and publications will be provided to Council's City Communication;
- (i) tickets are provided for the Lord Mayor, delegate and/or other Council representatives to attend and for promotional use by Council for selected events as agreed between the parties annually. Tickets for Council are to be sent to Council's Nominated Representative;
- (j) regular opportunity, at least once every Quarter Period, is provided to discuss with the Nominated Representative or delegate and the City Communication obligations of this agreement.

SCHEDULE 3

PAYMENT SCHEDULE

For each Financial Year during the Term, the amount of the Funding for the relevant Financial Year is, and payment of each Milestone Amount will be made, as follows.

Year 1: 2025-26 Financial Year

Funding is \$3,895,927 (ex GST)

Milestone	Description of Milestone	Milestone Amount	Milestone Date
1	<p>Payment of 70% of the 2025-26 Funding will be made by Council to the Recipient subject to the Recipient's provision to Council of:</p> <ul style="list-style-type: none"> (a) the executed original of this Agreement in duplicate; (b) a Strategic Plan; (c) a Business Plan for the 2025-26 Financial Year outlining target operational revenues, fundraising revenues and target attendance figures and ticket sales; (d) the Program Schedule for calendar year June – December 2025; (e) the Recipient's Marketing and Communication Plan for the 2025 calendar year; (f) a tax invoice. 	\$2,727,149	Commencement Date
2	<p>Payment of 20% of the 2025-26 funding will be made by Council to the Recipient subject to the Recipient's provision to Council of:</p> <ul style="list-style-type: none"> (a) the communication report form including draft Program Schedule for the 2026 calendar year; (b) the Recipient's Marketing and Communication Plan for 2026 calendar year; and (c) a tax invoice. 	\$779,186	1 October 2025
3	<p>Payment of 10% of the 2025-26 Funding will be made by Council to the Recipient subject to the Recipient's provision to Council of:</p> <ul style="list-style-type: none"> (a) the Financial Acquittal form (reporting against the 2024-25 financial year); and (b) a tax invoice. 	\$389,592	1 February 2026

***For clarity, the Milestone Amount for Milestone 1 includes the following Board fee payments:**

Description of Fee	Amount	Milestone Date
Chair fee	\$35,000 (excl. GST)	Commencement Date
Director fees (\$10,000 per Director for up to 9 Directors)	\$90,000 (excl. GST)	Commencement Date

Year 2: 2026-27 Financial Year

Funding is \$3,971,346 (ex GST)

Milestone	Description of Milestone	Milestone Amount	Milestone Date
1	<p>Payment of 70% of the 2026-27 Funding will be made by Council to the Recipient subject to the Recipient's provision to Council of:</p> <p>(a) a Business Plan for the 2026-27 financial year outlining target operational revenues, fundraising revenues, target attendance figures and ticket sales; (b) the Recipient's Strategic Plan; and (c) a tax invoice.</p>	\$2,779,943	15 July 2026
2	<p>Payment of 20% of the 2026-27 Funding will be made by Council to the Recipient subject to the Recipient's provision to Council of:</p> <p>(a) Performance Report form including KPIs for the 2025-26 financial year in accordance with clause 8.2; (b) the communication report form including draft Program Schedule for the 2027 calendar year; and (c) the Recipient's Marketing and Communication Plan for the 2027 calendar year; and (d) a tax invoice.</p>	\$794,269	1 October 2026
3	<p>Payment of 10% of the 2026-27 Funding will be made by Council to the Recipient subject to the Recipient's provision to Council of:</p> <p>(a) the Financial Acquittal form (reporting against the 2025-26 financial year); and (b) tax invoice.</p>	\$397,134	1 February 2027

***For clarity, the Milestone Amount for Milestone 1 includes the following Board fee payments:**

Description of Fee	Amount	Milestone Date
Chair fee	\$35,000 (excl. GST)	15 July 2026
Director fees (\$10,000 per Director for up to 9 Directors)	\$90,000 (excl. GST)	15 July 2026

Year 3: 2027-28 Financial Year

Funding is \$4,048,272 (ex GST)

Milestone	Description of Milestone	Milestone Amount	Milestone Date
1	<p>Payment of 70% of the 2027-28 Funding will be made by Council to the Recipient subject to the Recipient's provision of:</p> <p>(a) a Business Plan for the 2027-28 financial year outlining target operational revenues, fundraising revenues, target attendance figures and ticket sales; (b) the Recipient's Strategic Plan; and (c) a tax invoice.</p>	\$2,833,791	15 July 2027
2	<p>Payment of 20% of the 2027-28 Funding will be made by Council to the Recipient subject to the Recipient's provision to Council of:</p> <p>(a) Performance Report form including KPIs for the 2026-27 financial year in accordance with clause 8.2; (b) the communication report form including draft Program Schedule for the 2028 calendar year; (c) the Recipient's Marketing and Communication Plan for the 2028 calendar year; and (d) a tax invoice.</p>	\$809,654	1 October 2027
3	<p>Payment of 10% of the 2027-28 Funding will be made by Council to the Recipient subject to the Recipient's provision to Council of:</p> <p>(a) the Financial Acquittal form (reporting against the 2026-27 financial year); and (b) a tax invoice.</p>	\$404,827	1 February 2028

***For clarity, the Milestone Amount for Milestone 1 includes the following Board fee payments:**

Description of Fee	Amount	Milestone Date
Chair fee	\$35,000 (excl. GST)	15 July 2027
Director fees (\$10,000 per Director for up to 9 Directors)	\$90,000 (excl. GST)	15 July 2027

Year 4: 2028-29 Financial Year

Funding is \$4,129,238 (ex GST)

Milestone	Description of Milestone	Milestone Amount	Milestone Date
1	<p>Payment of 70% of the 2028-29 Funding will be made by Council to the Recipient subject to the Recipient's provision to Council of:</p> <p>(a) a Business Plan for the 2028-29 financial year outlining target operational revenues, fundraising revenues, target attendance figures and ticket sales; (b) the Recipient's Strategic Plan; (d) a tax invoice.</p>	\$2,890,467	15 July 2028
2	<p>Payment of the remaining 20% of the 2028-29 Funding will be made by Council to the Recipient subject to the Recipient's provision to Council of:</p> <p>(a) Performance Report form including KPIs for the 2027-28 financial year in accordance with clause 8.2; (b) the communication report form including draft Program Schedule for the 2029 calendar year; (c) the Recipient's Marketing and Communication Plan for the 2029 calendar year; and (d) a tax invoice.</p>	\$825,848	1 October 2028
3	<p>Payment of 10% of the 2028-29 Funding will be made by Council to the Recipient subject to the Recipient's provision to Council of:</p> <p>(a) the Financial Acquittal form (reporting against the 2027-28 financial year); and (b) a tax invoice.</p>	\$412,923	1 February 2029

***For clarity, the Milestone Amount for Milestone 1 includes the following Board fee payments:**

Description of Fee	Amount	Milestone Date
Chair fee	\$35,000 (excl. GST)	15 July 2028
Director fees (\$10,000 per Director for up to 9 Directors)	\$90,000 (excl. GST)	15 July 2028

SCHEDULE 4

APPROVED PURPOSE

PART A: PROGRAM OF ARTS AND CULTURAL EVENTS

The Funds will be applied towards the costs of the Recipient meeting its objectives outlined in its Constitution, relevantly:

- (a) to lead arts practice and innovation in arts practice in Brisbane, Australia;
- (b) to promote, encourage, produce and present artistic programs including performing and visual arts with a repertoire that is local, national and international;
- (c) to provide an environment which:
 - (i) invites people to gather, to experience the performing arts and to engage with each other;
 - (ii) is an integral part of the fabric of public life and the experience of growing up in Brisbane;
 - (iii) symbolises Brisbane's cultural achievements and reputation;
 - (iv) is the hub of an expending community, cultural, recreational and educational precinct;
 - (v) is a state-of-the-art technical production facility;
 - (vi) maximises public enjoyment of the arts by complementing the experience of the performing arts with visual arts, learning, socialising and dining and achieve the objects in a financially and environmentally sustainable manner; and
- (d) for the payment of service fees for the Chair and Directors of the Board.

PART B: MAINTENANCE, REPLACEMENT OF ASSETS AND TOOLS OF TRADE

By application to the Nominated Representative, the Funds may also be applied towards the costs of the Recipient meeting its responsibilities for:

- (a) the maintenance and replacement of fixed assets at the Brisbane Powerhouse; or
- (b) the purchase and maintenance of equipment which is crucial to its operation as a performing arts centre.

Items requested will be reviewed in accordance with the Asset Management Annexure of the Lease Agreement, and Maintenance Works Agreement.

SCHEDULE 5

KEY PERFORMANCE INDICATORS

Focus Area 1: Lifestyle City

Brisbane has an exciting cultural scene and a strong global identity as a vibrant, creative hub that celebrates diverse and authentic cultural voices. Ensure public event programming contributes to the city's brand agenda.

Measure	KPI target	Notes
Geographical location of ticket holders for paid events.	80% from Brisbane (0-22km from CBD) 15% from regional QLD (>22.1km from CBD) 5% from interstate / international	
Total attendance numbers at Brisbane Powerhouse, including box office and precinct attendance combined.	650,000	
Number of paid Brisbane artists, creative workers and companies engaged by Brisbane Powerhouse and the relative proportion of local, interstate and international programming.	500 per year (minimum) Describe in words how Brisbane Powerhouse has met this measure, articulating the proportion of artists, creative workers and companies who are local, interstate and international.	
Engage First National artists.	2025-26: 50 (minimum) 2026-27: 51 (minimum) 2027-28: 52 (minimum) 2028-29: 53 (minimum)	
Engage artists of all abilities	2025-26 – benchmark then 2% growth year-on-year	2025-26 will set the benchmark target figure.
Percentage of surveyed participants who identify Council's association with Brisbane Powerhouse as 'major'.	85%	

Focus Area 2: Our People

Brisbane connects and promotes creative practitioners and enterprises and embraces our place in the Asia-Pacific region. Celebrate our city's cultural expression and heritage through facilitated partnerships, grants, festival and events support.

Measure	KPI target	Notes
<p>Breadth of programming (diversity) including a breakdown of art forms and audience.</p>	<p>Describe in words how Brisbane Powerhouse has met the breadth and diversity of art forms and audiences, and where possible provide data and statistics demonstrating how this measure has been met.</p>	
<p>Brisbane Powerhouse to survey ticketed Festival and Powerhouse Presents show attendees for feedback on their experience.</p> <p>Percentage surveyed that:</p> <ul style="list-style-type: none"> • Rate their overall experience as 'very good' or 'excellent' • Agree that Brisbane Powerhouse programming mix is either 'very good' or 'excellent' 	<p>Overall experience: 90%</p> <p>Programming mix: 90%</p>	

Focus Area 3: Resourcing & Investment

Brisbane supports and stimulates creative initiatives that generate excellent return on investment. Encourage major cultural institutions to provide professional and economic pathways for the local creative sector. Integrate digital, entrepreneur and creative strategies in order to encourage collaboration, information exchange and networks and to stimulate creativity in the economy.

Measure	KPI target	Notes
Number of new and local small to medium-sized arts and/or cultural organisations involved with the Brisbane Powerhouse program.	Describe in words how Brisbane Powerhouse has supported the local and medium-sized cultural organisations of Brisbane including providing data and statistics on how this measure has been met.	
Annual Financial Reports	Presentation of a copy of Brisbane Powerhouse's annual financial statement and reports.	Financial reports will also need to be provided through the annual Financial Acquittal, as per clause 8.3.
Percentage of revenue from other sources (sponsorships, donations and funding from other levels of government) of total of Council funding.	Council funding is not to exceed 25% of total Brisbane Powerhouse revenue.	

Focus Area 4: Creative Infrastructure

Brisbane has world-class infrastructure and accessible spaces that inspire and accommodate the creative community. Animation of the Brisbane CBD and surrounding precincts to ensure a variety of activities for our community.

Measure	KPI target	Notes
Percentage of events that are free or low-cost to attend	At least 20% of programming is non-ticketed, free and/or low-cost. Demonstrate how community initiatives and programming is non-ticketed, free and/or low-cost, and accessible to the broader community.	Low-cost is defined as \$20 or less per ticket.

EXECUTION

Signed for and on behalf of **Brisbane City Council**)
ABN 72 002 765 795 by its duly authorised)
representative:)

.....)
Name of Authorised Representative)

.....)
Signature of Authorised Representative)

in the presence of:)

.....)
Name of Witness)

.....)
Signature of Witness)

) Date: / / 2025

Executed by **Brisbane Powerhouse Pty Ltd**)
ACN 091 551 290 in accordance with section)
127(1) of the *Corporations Act 2001* (Cth):)

.....)
Name of Director)

.....)
Signature of Director)

.....)
Name of Director/Company Secretary)

.....)
Signature of Director/Company)
Secretary)

) Date: / / 2025

NB: A witness is not required if the Recipient is signing this Agreement using an electronic signature in accordance with the clause 27(b) of this Agreement.

QUARTERLY REPORT FORM

On or before the submission dates outlined in Item 7 of the Details, the Recipient must provide Council with information under this Agreement using the SmartyGrants Form:

POST-EVENT ATTENDANCE REPORT

1. event attendance including paid, free and low-cost tickets with a breakdown of Brisbane Powerhouse programs, hire and sponsored events;
2. venue and visitors report against performance forecast in its Business Plan; and
3. evidence that Recipient notified Council of Program Schedule amendments where Council channels were identified for programming support.

PERFORMANCE REPORT FORM

On or before the submission dates outlined in Item 7 of the Details, the Recipient must provide Council with information in relation to the expenditure of all funds under this Agreement using the SmartyGrants Form:

FOCUS AREA 1: LIFESTYLE CITY

1. Providing a detailed report of the Recipient's performance against the KPI's listed in Schedule 5.
2. Provide a report outlining how the Recipient provided high-quality experiences for residents and visitors to the city. The report should include the following information:
 - (a) Programs Schedule including participation and visitor information;
 - (b) evaluation including evidence of social or cultural impact; and
 - (c) challenges or issues delivering programs/events.
3. High resolution images of programs/events for Council's promotional purposes.

FOCUS AREA 2: OUR PEOPLE

4. Employment data including:
 - (a) number of full-time and/or part-time employees;
 - (b) number of paid creative and financial value; and
 - (c) number of volunteers and volunteer hours.

FOCUS AREA 4: FUNDING ACKNOWLEDGEMENT

5. Examples of marketing collateral or support material showing acknowledgement and the correct use of Council's logo.
6. Examples of cross promotional activity between Council and the Recipient.
7. Details of any speaking opportunities provided to Council.
8. Complimentary tickets provided to Council for each year of the Term.
9. Forecast of tickets to be provided to Council in the next year of the Term.

COMMUNICATION REPORT FORM

1. Draft Program Schedule for the next calendar year.
2. The Recipient's Marketing and Communication Plan for the next calendar year.

FINANCE ACQUITTAL FORM

On or before the Acquittal Date(s), the Recipient must provide an acquittal in relation to the expenditure of all funds under this Agreement on the dates prescribed in Item 10 of the Details, using the SmartyGrants Form:

FOCUS AREA 3: RESOURCES AND INVESTMENT

1. A report demonstrating that the funding has been properly spent in accordance with the Approved Purpose.
2. Copy of the Recipient's audited financial reports for the preceding financial year.
3. A detailed report of performance against the Business Plan including target operational and fundraising revenues.
4. The Acquittal Form must be signed by two persons authorised by the Recipient's board or management (or equivalent).
5. A copy of the Recipient's Annual Report.
6. The proceeds of the Funds must be identified as a separate item in the Recipient's annual financial report and balance sheets.
7. Return to Council all unexpended Funding including unallocated Directors' fees.
8. A detailed report of the use of funds for the Approved Purpose B: Maintenance, Replacement of Assets and Tools of Trade (if applicable), as outlined in Schedule 4.