

# **FILM IN MALAYSIA INCENTIVE (FIMI) GUIDELINES (DOMESTIC PRODUCTION)**

## CONTENTS

|   |           |
|---|-----------|
| <b>Definitions</b>  | <b>4</b>  |
| <b>Introduction</b>   | <b>7</b>  |
| <b>Section 1: Overview of the Film In Malaysia Incentive</b>                                    | <b>9</b>  |
| 1.1 Application procedures  | <b>10</b> |
| <b>Section 2: Production Activity in Malaysia</b>   | <b>12</b> |
| 2.1 Eligibility and expenditure threshold   | <b>13</b> |
| 2.2 Cultural Test   | <b>14</b> |
| 2.3 Eligible formats  | <b>15</b> |
| 2.4 Eligible genres for television series   | <b>16</b> |
| 2.5 Eligible Applicant Producer   | <b>17</b> |
| 2.6 Commencement and completion time frames   | <b>19</b> |
| 2.6.1 Time frame requirements for television series   | <b>19</b> |
| 2.7 Malaysian crew and intern requirement   | <b>20</b> |
| 2.8 Required Documentation  | <b>20</b> |
| 2.9 Project / Content Guidelines  | <b>21</b> |
| 2.10 Intellectual Properties of the Film  | <b>21</b> |
| <b>Section 3: Post- production Activity in Malaysia</b>   | <b>22</b> |
| 3.1 What are post-productions tasks?  | <b>22</b> |
| 3.2 Expenditure threshold   | <b>23</b> |
| 3.2.1 Expenditure statements  | <b>23</b> |
| 3.3 Eligible formats  | <b>23</b> |
| 3.4 Eligible Applicant Producer   | <b>24</b> |
| 3.4.1 Note for Applicant Producer who is also the service provider                              | <b>25</b> |
| 3.5 Commencement and completion time frames   | <b>25</b> |
| <b>Section 4: Production Expenditure and Qualifying Malaysian Production Expenditure (QMPE)</b> | <b>26</b> |
| 4.1 What is QMPE?   | <b>27</b> |
| 4.1.1 What is a 'Service Provided in Malaysia'?   | <b>28</b> |
| 4.1.2 Apportionment of services provided  | <b>28</b> |
| 4.1.3 Malaysian-based insurance (other than forms of insurance which constitute financing)      | <b>29</b> |
| 4.1.4 Legal expenses incurred in Malaysia   | <b>29</b> |
| 4.1.5 Travel within Malaysia  | <b>30</b> |
| 4.1.6 Freight travel within Malaysia  | <b>30</b> |
| 4.2 Minimum Week Rule for non-cast members  | <b>30</b> |
| <b>Section 5: Specific expenditure issues</b>   | <b>31</b> |
| 5.1 Accrual basis of expenditure  | <b>31</b> |
| 5.2 Currency exchange   | <b>31</b> |
| 5.3 Transfer pricing  | <b>31</b> |

|  |           |
|--|-----------|
| <b>Section 6: Provisional Certification Process</b>                | <b>32</b> |
| 6.1 Eligible Applicant Producer                                    | <b>33</b> |
| 6.2 Projected provisional expenditure statements                   | <b>33</b> |
| 6.3 Approval of Provisional Certificate Application                | <b>33</b> |
| 6.4 Credit Title   | <b>34</b> |
|  |           |
| <b>Section 7: Final Certification Process</b>                      | <b>35</b> |
| 7.1 Application  | <b>35</b> |
| 7.2 Supporting Documents for Final Certificate Application Form    | <b>36</b> |
| 7.3 Due Diligence Process  | <b>36</b> |
| 7.4 Payment for Due Diligence                                      | <b>37</b> |
| 7.5 Consideration by the FIMI Approval Committee                   | <b>37</b> |
| 7.6 Notification by FIMI Approval Committee                        | <b>37</b> |
| 7.7 Revocation of a certificate                                    | <b>38</b> |
| 7.8 Copy of the Project  | <b>38</b> |
| 7.9 Credit Title   | <b>39</b> |
| 7.10 Appeal to FIMI Appeal Committee                               | <b>39</b> |
|  |           |
| <b>Section 8: Your application</b>                                 | <b>41</b> |
| 8.1 Timing of applications   | <b>41</b> |
| 8.2 Auditor's statement  | <b>41</b> |
| 8.3 Submitting your application                                    | <b>42</b> |
| 8.4 Documentation  | <b>42</b> |
| 8.5 Further information from the Applicant Producer                | <b>42</b> |
| 8.6 Statutory Declaration  | <b>42</b> |
| 8.7 Malaysian Cultural, Social & Religious Sensitivity Declaration | <b>43</b> |
| 8.8 Confidentiality  | <b>43</b> |
| 8.9 Governing Law  | <b>43</b> |
| 8.10 Liability   | <b>43</b> |
| 8.11 Further information and contracts                             | <b>44</b> |
|  |           |
| <b>Appendix A - Checklist prior to submitting your application</b> | <b>45</b> |
| <b>Appendix B: Procedures of Film Production</b>                   | <b>48</b> |
| <b>Appendix C: Cultural Test for Films (Domestic Production)</b>   | <b>50</b> |

## DEFINITIONS

|  |  |
|--|--|
| <b>Additional Cash Rebate</b>                  | Means the additional cash rebate of up to 5% which shall be subject to the passing of the Cultural Test for production activities only in Malaysia.  |
| <b>Applicant Producer</b>                      | Means any of the following:<br>(a) The producer who applies for a Provisional Certificate; OR<br>(b) The producer who applies for a Final Certificate.   |
| <b>Application</b>                             | Means the Application for Provisional Certificate and the Application for Final Certificate, collectively.   |
| <b>Application Form</b>                        | Means the Provisional Certificate Application Form and the Final Certificate Application Form, collectively.   |
| <b>Application for Final Certificate</b>       | Means an application for Final Certificate made by the Applicant Producer being part of the final certification process as described under <b>Section 7 (Final Certification Process)</b> of these Guidelines.                                 |
| <b>Application for Provisional Certificate</b> | Means an application for Provisional Certificate made by the Applicant Producer being part of the provisional certification process as described under <b>Section 6 (Provisional Certification Process)</b> of these Guidelines.               |
| <b>Cash Rebate</b>                             | Means the 30% cash rebate which shall be based on the total amount of QMPE for production and post-production activities in Malaysia where the QMPE must meet the criteria further elaborated upon in these Guidelines.                        |
| <b>CCM</b>                                     | Refers to the Companies Commission of Malaysia ( <i>Suruhanjaya Syarikat Malaysia</i> ).   |
| <b>Cultural Test</b>                           | Refers to the test on Malaysian cultural elements in the Film/Project for the eligibility of the Additional Cash Rebate. The criteria and determination of percentage of such Additional Cash Rebate shall be as provided in these Guidelines. |
| <b>FIMI</b>                                    | Means the Film in Malaysia Incentive in the forms of the Cash Rebate and/or Additional Cash Rebate.  |
| <b>FIMI Appeal Committee</b>                   | Means the FIMI appeal committee that convenes to give decision on appeals relating to the decision made by the FIMI Approval Committee.  |
| <b>FIMI Approval Committee</b>                 | Means the FIMI approval committee that convenes to give decisions (either to approve or refuse) the Application and to give any other approval related to FIMI.  |
| <b>FIMO</b>                                    | Means the Film in Malaysia Office being the relevant division in FINAS established to process all FIMI applications. FINAS and FIMO may be used interchangeably in these guidelines and refers to the same organization (i.e. FINAS).          |
| <b>FIMO's Auditor</b>                          | Means an independent external auditor appointed by FIMO who are also a member of FINAS's FIMI Audit Panel, to assist FIMO in assessing and evaluating the Application.   |

|   |   |
|---|---|
| <b>Final Certificate</b>                  | Means a Final Certificate issued by FIMI Approval Committee that identifies a Project as has met the requirements set out in the Provisional Certificate and pursuant to the General Terms and Conditions, the Guidelines and the approval of the FIMI Approval Committee or on appeal, the approval of the FIMI Appeal Committee.  |
| <b>Final Certificate Application Form</b> | Means the application form for the Final Certificate submitted / to be submitted by the Applicant Producer to FIMO.   |
| <b>FINAS</b>                              | Refers to the Malaysian statutory film corporation known as National Film Development Corporation Malaysia ( <i>Perbadanan Kemajuan Filem Nasional Malaysia</i> ), a statutory body incorporated under the National Film Development Corporation Act 1981 (Act 244). FINAS is the government agency under the Ministry of Communications and Digital of Malaysia ( <i>Kementerian Komunikasi dan Digital Malaysia</i> ).                |
| <b>General Terms and Conditions</b>       | Refers to the FIMI General Terms And Conditions.  |
| <b>Guidelines</b>                         | Refers to the Film In Malaysia Incentive (FIMI) Guidelines (Domestic Production) that provides information about the eligibility criteria, Qualifying Malaysian Production Expenditure for production and post-production activities and, the application process for the Film In Malaysia Incentive (FIMI). Please note that the Guidelines may, from time to time, be amended or supplemented at the discretion of FINAS.             |
| <b>IRB</b>                                | The Inland Revenue Board of Malaysia ( <i>Lembaga Hasil Dalam Negeri</i> ).   |
| <b>Malaysian Government</b>               | In reference to the Film In Malaysia Incentive (FIMI), denotes all ministries. This term excludes government-linked investment companies.   |
| <b>Malaysian Government Grants</b>        | A grant funding from the Malaysian Government that is non-repayable. Any Applicant Producer who is or will receive this grant will not be eligible. However, funding in the form of equity and loan funding which is subjected to profit-sharing and/or repayment of the funding is eligible. Applicant producers who may/will receive other forms of funding that are provided by non-ministerial organizations are eligible for FIMI. |
| <b>Project/Film</b>                       | Refers to a project in relation to a film, television and other relevant qualifying production or post-production activity conducted in Malaysia.   |
| <b>Provisional Certificate</b>            | Means a Provisional Certificate issued by FIMI Approval Committee to the Applicant Producer that identifies a Project will meet the requirements set out in the certificate and pursuant to the General Terms and Conditions, the Guidelines and the approval of the FIMI Approval Committee or on appeal, the approval of the FIMI Appeal Committee.   |

|   |   |
|---|---|
| <b>Provisional Certificate Application Form</b> | Means the application form for the Provisional Certificate submitted / to be submitted by the Applicant Producer to FIMO.   |
| <b>PUSPAL</b>                                   | Refers to the Central Agency for Application for Filming and Performance by Foreign Artistes ( <i>Agensi Pusat Permohonan Penggambaran Filem Dan Persembahan Artis Luar Negara</i> ).   |
| <b>QMPE</b>                                     | Means the Qualifying Malaysian Production Expenditure which is the expenditure incurred in Malaysia for the purposes of producing and making the Project, and is a subset of the production expenditure as further described and set out in <b>Section 4 (Production Expenditure and Qualifying Malaysian Production Expenditure (QMPE))</b> of these Guidelines. |
| <b>Related Corporation</b>                      | Means corporation which is deemed to be related to each other based on the description given under <b>Section 7</b> of the Malaysian Companies Act 2016 as follows:<br><br>(a) It is holding company of another corporation;<br>(b) It is a subsidiary of another corporation; or<br>(c) It is a subsidiary of the holding company of another corporation.        |

# **INTRODUCTION**

## **Objectives of these Guidelines**

These Guidelines have been prepared to assist Applicant Producer in respect of their Application and their completion of the Application Form.

These Guidelines are intended to be of general information only and do not constitute advice with respect to any particular producer's circumstances. Applicant producer should therefore seek independent professional advice from qualified professionals, including accountants, auditors, tax advisers and/or lawyers in relation to all financial and legal matters discussed in these Guidelines and generally in relation to their Project.

## **Relevant Documents for FIMI**

Applicant Producer shall adhere and comply strictly to the terms and conditions set out in these Guidelines, General Terms and Conditions and if awarded to the applicant, the Provisional Certificate and the Final Certificate throughout the application process for FIMI and the exploitation of the Project ("**Relevant Documents for FIMI**"). This means that:

- To ensure your adherence and compliance to the Relevant Documents for FIMI, you are encouraged to seek professional advice when preparing the required documents for FIMI.
- You should read the General Terms and Conditions, which are available from [www.filminmalaysia.com](http://www.filminmalaysia.com); and
- If there is any inconsistency between these Guidelines and the General Terms and Conditions, the provisions in the General Terms and Conditions prevail over that part of these Guidelines.

The Appendices as attached shall be read and form an integral part of these Guidelines.

## **About FIMI**

The Film in Malaysia Incentive, abbreviated as **FIMI**, is the Malaysian Government's incentive for film, television and other relevant qualifying production and post-production activity conducted in Malaysia.

FIMI is administered by the National Film Development Corporation of Malaysia (FINAS). Film in Malaysia Office (FIMO) is the relevant division in FINAS established to process all FIMI applications as well as to facilitate filming in Malaysia for domestic and foreign producers. A recommendation on the Application will be made by FIMO to the FIMI Approval Committee for their decision on the Provisional Certificate and the Final Certificate.

FIMI Approval Committee may refuse the Application if it does not follow and/or comply with these Guidelines. Subject to the provisions under these Guidelines, appeal may be made on the decisions of the FIMI Approval Committee to the FIMI Appeal Committee.

These Guidelines are designed to be read together with the General Term and Conditions and in conjunction with the relevant Application Form. As the Guidelines and Application Form are subject to changes and updates, please ensure that you have the most current version of these documents by checking at [www.filminmalaysia.com](http://www.filminmalaysia.com) prior to submission of any Application.

Applicant Producer should also contact FIMO early, before production and/or post production work commences, to discuss their Project and to explore details surrounding FIMI. Contact details for FIMO are listed in **Section 8.11 (Further information and contacts)** of these Guidelines.

In these Guidelines:

- Section 1 provides an overview about Film In Malaysia Incentive
- Section 2 outlines the eligibility criteria for Production activity in Malaysia
- Section 3 outlines the eligibility criteria for Post Production activity in Malaysia
- Section 4 outlines the key concepts of Qualifying Malaysian Production Expenditure (QMPE)
- Section 5 explains some specific issues related to calculating expenditure
- Section 6 explains the application process for the Provisional Certificate
- Section 7 explains the application process for the Final Certificate
- Section 8 outlines other relevant matters in respect of your Application



# 1

## Overview of the Film In Malaysia Incentive

The Malaysian Government has incentives for content development specifically for film, television and other screen production. The Malaysian Government anticipates that this inaugural vehicle will encourage production works and increase skill sets that would be of international standard for the populace throughout the ecosystem of the creative content industry. This impetus is of crucial importance to the nation's economic, social and intellectual development. The Malaysia Government believes that this effort would be a landmark decision that would benefit, develop and further support the industry. FIMI will not only promote the creation of quality creative content, it will also make Malaysia a preferred destination and film production hub.

The Malaysian Government introduced FIMI to provide an additional financial incentive for the production of creative content within Malaysia and to support the Malaysian content production industry. FIMI is offered for production and post-production approved activities.

### **FIMI's objectives are to:**

- Encourage Malaysian film producers to produce high quality creative content for both domestic and international markets.
- Attract foreign film producers to film in Malaysia and to establish Malaysia as a destination for international filming.
- Increase employment opportunities for local artists and crew who provide services throughout the ecosystem of the creative content industry.
- Increase opportunities for local film production companies, post-production centers, film equipment rental companies and studios or companies that provide goods and services to the creative content industry.
- Drive the creative content ecosystem and increase the economic contribution of the creative content industry and related industries.
- Develop Malaysia's reputation as an efficient and cost effective hub for the creative content industry.

FIMI is available for both Malaysian and foreign production activities. It can be applied in one of the following two (2) streams:

- (a) FIMI for Production Activity (inclusive of a combination of production and post-production activities); or
- (b) FIMI for Post-Production Activity (not eligible for the Additional Cash Rebate).

Film production involves a number of complex procedures. Nevertheless, please refer to **Appendix B: Procedures of Film Production** for examples of typical procedures for film production.

# 1.1

## Application Procedures

To be eligible for FIMI, an Applicant Producer must first obtain a Provisional Certificate from FIMI Approval Committee by submitting a completed Provisional Certificate Application Form to FIMO. The Provisional Certificate Application Form must be submitted two (2) months prior to the commencement of the production. When a Project meets the relevant requirements as specified herein, a Provisional Certificate will be issued by FIMI Approval Committee which confirmed that the Project is eligible for the cash rebate of FIMI.

The issuance of the Provisional Certificate by FIMI Approval Committee indicates that the Project complies with the relevant requirements specified in these Guidelines. FIMI Approval Committee has the discretion in making the decision in respect of the issuance of the Provisional Certificate. The Applicant Producer may appeal to the FIMI Appeal Committee (through FIMO) against the decision made by FIMI Approval Committee. Such appeal shall be made in accordance with **Paragraph 7.10** below.

The Provisional Certificate will be valid for a specific period (between one (1) to three (3) years depending on the particular Project) from the date of the approval. If the milestones listed in the Provisional Certificate have not been reached, a new Provisional Certificate Application Form must be submitted by the Applicant Producer to FIMO for approval.

Provisional approval will enable an Applicant Producer to apply for final approval, but does not automatically guarantee the cash rebate of FIMI. As part of the provisional approval process, the Applicant Producer agrees, inter alia, (among other things):

- (a) that the key details of the Project will not be changed significantly;
- (b) to comply fully and in a timely basis with the General Terms and Conditions, the terms and conditions provided herein and the terms and conditions provided in the Provisional Certificate;
- (c) without prejudice to the generality of (b) above, to ensure that the Project milestone will be met fully and in a timely fashion; and
- (d) ensure that **costs overruns do not exceed 5% of the estimated Malaysian Expenditure** stated in the Provisional Certificate. If the **QMPE exceeds by more than 5%**, the Applicant Producer will have to apply in writing to FIMI Approval Committee, **to seek approval** from FIMI Approval Committee for the cost overruns.

Changes to any creative and/or financial details of the Project may affect the Applicant Producer's compliance with the Provisional Certificate. Failure to fully comply with the terms of the Provisional Certificate and/or failure to obtain the approval of FIMI Approval Committee for any proposed change may result in revocation of the Provisional Certificate or refusal of the Final Certificate by the FIMI Approval Committee. FIMO must be kept informed of any such proposed changes as soon as possible.

Once production is completed, the Applicant Producer must then apply for and obtain a Final Certificate of approval from FIMI Approval Committee by submitting a completed Final Certificate Application Form which shall include all supporting documents and audited receipts to FIMO. The application will be audited by FIMO's Auditor and the costs to undertake such auditing activities will be borne by the Applicant Producer.

The Final Certificate is the central requirement for entitlement to the cash rebate of FIMI. As part of the process of assessing the Final Certificate Application Form, FIMI Approval Committee will formally determine a production's QMPE and record the QMPE amount in the Final Certificate.

In the event that the:

- (a) FIMI Approval Committee revokes the Provisional Certificate;
- (b) FIMI Approval Committee refuses to issue the Final Certificate;
- (c) FIMI Approval Committee refuses the Application because the Applicant Producer fails to meet the required minimum QMPE threshold as determined in the Guidelines. This ground of appeal is only on allowed on a case to case basis, as may be determined by FIMO at its absolute discretion;
- (d) Applicant Producer is not satisfied with the decision of FIMI Approval Committee on the determination of percentage for the Additional Cash Rebate for passing the Cultural Test;
- (e) FIMI Approval Committee rejects the application on the cost overruns of the approved production costs indicated in the Provisional Certificate; OR
- (f) FIMI Approval Committee revokes the Final Certificate,

the Applicant Producer may submit an appeal to the FIMI Appeal Committee (through FIMO) against the decision made by the FIMI Approval Committee. Such appeal shall be made in accordance with **Paragraph 7.10** below.

Please supply **one hard copy** and **one electronic copy** of the entire application including all attachments to FIMO. Please ensure all paperwork requested on the checklist at the back of the Application Form is supplied. Projects will not be assessed until a complete application is received by FIMO.

# 2

## Production Activity In Malaysia

**Section 2** of these Guidelines sets out the **six (6)** core eligibility criteria for receiving Cash Rebate for Production Activity (refer to **Section 3** for Post-production activity). In order to certify the Project for both Provisional Certificate and Final Certificate, FIMI Approval Committee or on appeal, FIMI Appeal Committee must be satisfied that the Project has met each of the following six (6) criteria which are detailed below:

- The Project must meet the minimum expenditure threshold for QMPE.
- The Project must be in an eligible format as set out in **Section 2.2 (Eligible Formats)** below.
- The Project must be produced by an Eligible Applicant Producer as set out in **Section 2.4 (Eligible Applicant Producer)** below.
- The Project must meet the commencement and completion time frames and terms and conditions as stipulated in these Guidelines and relevant documents as assessed by FIMO.
- The Project must have approval from PUSPAL for filming in Malaysia.
- The Applicant Producer will NOT be eligible for FIMI if the production company and/or the Project has received or will be receiving the Malaysian Government Grant or if the Applicant Producer intends to solicit the Malaysian Government Grant.

In addition to the Cash Rebate, the Applicant Producer will also be eligible for Additional Cash Rebate under FIMI if the Project passes the Cultural Test as further elaborated upon in **Section 2.2 (Cultural Test)** of these Guidelines.

# 2.1

## Eligibility and expenditure threshold

### QMPE

To be eligible for FIMI for Production Activity, the Project must either:

- (a) spend QMPE with a minimum of **Malaysian Ringgit One Million (MYR1,000,000.00)** in aggregate for production work only in order to be entitled to Cash Rebate;

### OR

- (b) spend a combined QMPE for production work and post-production work with a minimum of **Malaysian Ringgit One Million (MYR1,000,000.00)** in order to be entitled to Cash Rebate.

At any point of time, only a single application for one (1) Project is allowed.

In the event where the Applicant Producer wishes to apply for additional application for more than one (1) Project at the same time of its existing application in which the production has been completed and within QMPE, the Applicant may apply for additional application in such cases the Applicant shall be required to show good track record for completed production of the current Project. The application must be made within the production and within QMPE.

Guidelines in this section that are specific to production and guidelines in **Section 3 (Post-production Activity in Malaysia)** that are specific to post production continue to apply.

Please note that FIMI is based on expenditure incurred by the Applicant Producer and not by any other party. To qualify for Final Certificate, you must specify the claimed QMPE and attach the audited Project's General Ledger and expenditure statements together with the Final Certificate Application Form.

Production expenditure and QMPE is further outlined in **Section 4 (Production Expenditure and Qualifying Malaysian Production Expenditure (QMPE))** in these Guidelines.

## 2.2

### Cultural Test

To be eligible for the Additional Cash Rebate, the Project must satisfy **both** the requirements of:

1. meeting the minimum expenditure threshold for QMPE; **AND**
2. passing the Cultural Test.

The Cultural Test is the assessment on the Malaysian cultural elements which features genres relating to nationhood or patriotism that is contained in the Project.

The Cultural Test is assessed in accordance with a point-based system where each Project obtains specific additional percentage of cash rebate up to the maximum of 5% as may be determined by the FIMI Approval Committee, for fulfilling the relevant list of criteria as prescribed in **Appendix C: Cultural Test for Films**.

The Application for the Additional Cash Rebate must be made together with the Application for the Cash Rebate by using the Application Form. The Applicant Producer shall indicate their intention to apply for the Additional Cash Rebate at the stage of Application for Provisional Certificate and provide with the brief information on the cultural elements that is contained in the Project based on the criteria prescribed in **Appendix C: Cultural Test for Films**.

At the stage of Application for Final Certificate, the Applicant Producer shall provide with the complete and specific information or explanation on the cultural elements that is contained in the Project based on the criteria prescribed in **Appendix C: Cultural Test for Films**. The specific information or explanation shall include, among others, the exact scene and/or play time in the Project. Failing which, the Project may not be eligible for the Cultural Test assessment.

The assessment of the Cultural Test will only be made at the stage of Application for Final Certificate. As such, the percentage of Additional Cash Rebate to be awarded (where eligible) will only be stated in the Final Certificate.

Please note that the Additional Cash Rebate is **not applicable** for **post-production activity in Malaysia**.

# 2.3

## Eligibility formats

The formats which are eligible for FIMI are:

### 1. Feature films, including theatrical documentary features, animated features and IMAX

A feature film is intended to mean a Film of at least **sixty (60) minutes** in length that is intended to be screened as the main attraction in commercial cinemas. For large-format projects such as IMAX it is intended that the Film to be at least **forty-five (45) minutes** in length.

### 2. A single episode programme

This is a stand-alone programme of at least **sixty (60) minutes** in length that is exhibited commercially in a medium other than cinema. This category includes telemovies or movies-of-the-week, films released direct to DVD or films released on the internet, video-on-demand or a mobile phone delivery platform. A single episode programme other than a documentary may be an animated film.

### 3. A single episode documentary

A single episode documentary must be at least **twenty-two (22) minutes** in length. A documentary is defined as a programme that is a creative treatment of actuality other than news, current affairs, sports coverage, magazine, infotainment or light entertainment programme.

### 4. A series or season

A series or season of a series is a multiple-episode film that does not receive a cinema release but is exhibited commercially on another medium: e.g. straight to DVD or via the internet. A series or a season of a series must be at least two (2) episodes. Each episode must be at least **twenty-two (22) minutes** in length, with the exception of animation programs which must be at least **two (2) minutes and above**. A series or season of a series may be an animated film or a documentary.

Please note that the FIMI for Production Activity, will only be issued after completion of the entire series, with a minimum spend of QMPE Threshold (as described in **Section 2.1** above) (see **Section 2.5.1 Time frame requirements for television series**). **Multiple seasons in one (1) application are not allowed.**

### 5. Reality Shows & Game Shows

A reality shows refers to programmes in which members of the public or celebrities are filmed living their everyday lives. News and sports programme are NOT classified as reality shows. Game shows refers to programmes in which members of the public or celebrities undertaking specific challenges as part of a contest or other situation where a prize is awarded. For the avoidance of doubt, the value of the prize as well as the expenditure incurred in relation to the prize shall not be calculated as part of QMPE.

You must specify the format of your Project and provide a synopsis in your Application Form.

# 2.4

## Eligible genres for television series

A “television series” means a series such as a drama or comedy, and documentary series (see below).

For the purpose of FIMI, a television series must be made up of two or more episodes that:

- are produced wholly or principally for public exhibition on television under a single title;
- have a common theme or themes; and
- are intended for exhibition together in a national market or markets.

The first of these television series requirements applies to Project for both free-to-air (broadcast network) and paid/subscription television (cable or satellite) so long as the television series is to be released under a single title.

The second and third of these requirements describe how a television series is defined for the purposes of FIMI. The television series requirements mean that there must be a common element that draws the episodes of the series into a cohesive whole and that the episodes must be released under a single title.

A documentary television series may, for example, satisfy the definition where similar lives or events are examined to develop an overall hypothesis. A reality television series may meet the requirements if:

- the depiction of actual events, people or situations is the sole or dominant purpose of the television series, and
- the television series depicts those events in a dramatic or entertaining way with a heavy emphasis on dramatic impact or entertainment value.

**Details of a “television series” format are required in the Application Form and must include a synopsis as well as a statement that the series is intended to be exhibited on television together in at least one national market.**



# 2.5

## Eligible Applicant Producer

To be eligible for FIMI, the Applicant Producer must fulfill the following requirements to qualify as an “Eligible Applicant Producer”:

- (a) the Applicant Producer company is a company duly incorporated under the Malaysian Companies Act 2016 with a valid Malaysian Company Registration Number issued by the Companies Commission of Malaysia (CCM); **AND**
- (b) the Applicant Producer has a valid and subsisting FINAS film production license.

Documentation evidencing the fulfillment of the above-mentioned requirements is required to be produced by the Applicant Producer when applying for the Provisional Certificate, the Final Certificate and when the cash rebate of FIMI is due to be paid in Malaysia.

Where several production companies are involved in making a Project, the company that is eligible to claim for FIMI is the one that meets the above requirements. Although there may be a number of entities that make arrangements for, or carry out activities necessary for making a Project, only one company can be eligible for FIMI. FIMI will be granted to the company that is responsible for all of the aforementioned activities or Malaysian activities.

In practice this means that the Applicant Producer must be the company through which all transactions are channeled. For example, the expenditure incurred in contracting a company to engage actors (that is, its fees for that service, and the actors’ fees themselves) qualifies as production expenditure as long as the applicant production company is able to account for these costs in its audited expenditure statement.

**Details of the registered name of the production company, Malaysian company registration number, registered address, and names and addresses of the company directors are to be provided in the Application Form. The relevant documents verifying this information and confirming the legal status of the company and the company’s responsibility for the production of the Project must be submitted with the Application Form which include but not limited to the followings:**

- (a) **Constitution (Memorandum & Article of Association (M&A)) / Written confirmation duly signed by a director confirming that the Company does not have Constitution;**
- (b) **Form 9 (Certificate of Incorporation) OR Companies Act 2016 Section 14 & 15;**
- (c) **Form 24 (Complete Return Of Allotment of Shares Form) / Annual Return OR Companies Act 2016 – Section 46;**
- (d) **Form 49 (Notification of Change in the Register of Directors, Managers and Secretaries Form) OR Companies Act 2016 –**

**Section 58 & 236(2);**

- (e) CCM Search of not more than three (3) months; and**
- (f) Winding Up Search of not more than three (3) months.**

**Please refer to the checklist in Appendix A - Checklist prior to submitting your application of these Guidelines prior to submitting your application. You must also attach Monthly Production Reports (MPRs), call-sheets and the Production Schedule to your Final Application Form.**

The production company:

- (a) involved in the Project must be independent from the Applicant Producer (i.e. there is no common management, ownership or control between the same) or it shall not be a Related Corporation with the Applicant Producer. It is not the intention of FIMI for such production company who is a Related Corporation to the Applicant Producer to benefit from FIMI. In view thereof, the Applicant Producer is not eligible for FIMI in the event where such production company is not independent from the Applicant Producer or it is a Related Corporation with the Applicant Producer; and
- (b) such production company involved in the Project is aware of these Guidelines and understands its terms of assessment and procedures as described herein.

\*Malaysian Television Broadcasters (including satellite TV, IPTV, etc) are **NOT ELIGIBLE** for FIMI. However an independent film production company that is engaged for a particular production project by a television broadcaster will be eligible to apply for FIMI.

For information about taxation and the other obligations of companies commencing business in Malaysia, such as incorporating a Malaysian company or filing business activity statements and annual income tax returns please consult the Company Commission of Malaysia (CCM) ([www.ssm.com.my](http://www.ssm.com.my)) or Inland Revenue Board of Malaysia ([www.hasil.gov.my](http://www.hasil.gov.my)) websites.

# 2.6

## Commencement and completion time frames

Upon completion of the Project, the Applicant Producer must provide a soft copy of the Project or other proof/evidence acceptable to FIMO within thirty (30) days or such time period which has been approved by FIMI Approval Committee. The Final Certificate will not be issued if the Applicant Producer fails to comply with this requirement.

**Dates of commencement and completion of principal photography or of production of the visual image must be outlined in your Application Form.**

### 2.6.1 Time frame requirements for television series:

Qualifying television series must be completed within a given time frame, as stated in the Provisional Certificate. Please note this refers to the actual length of the completed Project, rather than 'commercial hours' or 'broadcast hours' which may include, inter alia, time for advertisements and sponsored content in your Application Form. The length of this time frame depends on whether the series is predominantly an animation or a live action series.

You must indicate in your Application Form whether your series is predominantly a digital or other animation, and the time frame taken to produce it. The test of whether the series is predominantly an animated series is assessed on a case-to-case basis.

Please note that:

- (a) the entire television series (excluding television series which is predominantly a digital animation or other animation / live action or other television series that is not predominantly an animation) **is to be completed within eighteen (18) months upon commencement of expenditure**. In the event the Applicant Producer applies for the extension of the time frame for the production, as stated in the Provisional Certificate:
  - (i) FIMI Approval Committee shall have the sole and absolute discretion whether or not to allow for such extension; and
  - (ii) if approved by FIMI Approval Committee, the total time frame for the entire production shall be at the maximum of eighteen (18) months;
- (b) if a television series is predominantly a digital animation or other animation, the entire production of the series **must be completed within thirty-six (36) months**. This period commences at the moment production expenditure is incurred. This time frame requirement does not include any production expenditure for a pilot for said television series. In the event the Applicant Producer applies for the extension of the time frame for the production, as stated in the Provisional Certificate:
  - (i) FIMI Approval Committee shall have the sole and absolute discretion whether or not to allow for such extension; and

- (ii) if approved by FIMI Approval Committee, the total time frame for the entire production shall be at the maximum of thirty-six (36) months;
- (c) for a live action or other television series that is not predominantly an animation, principal photography for the series **must be completed within a period of eighteen (18) months** from the moment production expenditure is incurred. The time frame excludes the principal photography of any pilot episode. In the event the Applicant Producer applies for the extension of the time frame for the production, as stated in the Provisional Certificate:
  - (i) FIMI Approval Committee shall have the sole and absolute discretion whether or not to allow for such extension; and
  - (ii) if approved by FIMI Approval Committee, the total time frame for the production shall be at the maximum of eighteen (18) months.

## 2.7

### Malaysian Crew and intern requirement

To qualify for FIMI, the Applicant Producer is required to fulfill two requirements regarding crew and interns, as follows:

- **Crew**  
Employ at least **80%** of the production crew who is a Malaysian citizen or persons having Malaysian permanent residency status. Copies of the crews' identity cards, type of work and permanent residency certificates must be provided to FIMO. All Malaysian crew employed in the production should be registered with an authorized association for production crews. This is not applicable for co-production projects.
- **Intern** (an additional requirement and separate from the 30% local crew requirement above). There are minimum 5 of understudy interns required.

## 2.8

### Required documentation

Sufficient information must be included in the Application Form to enable FIMI Approval Committee to make an informed decision as to whether the Project and the Application qualifies for FIMI. Please refer to the Checklist provided under **Appendix A - Checklist prior to submitting your application** of these Guidelines for the complete list of documentation required for both Provisional Certificate and Final Certificate.

On appeal to FIMI Appeal Committee, FIMI Appeal Committee may require further documentation and/or information to support any appeal application and all information and documents requested must be submitted to FIMO in a timely manner.

## 2.9

### Project/Content Guidelines

The Applicant Producer shall ensure that the Project/content of the Project:

- Does NOT contain issues deemed insulting, offensive and/or portraying Malaysia in a negative light.
- Does NOT insult, offend and affect the sensitivity of any religion in Malaysia.
- Does NOT threaten the security and harmony of Malaysia.
- Must comply to and obtain certification from the Film Censorship Board (*Lembaga Penapis Filem*) from the Ministry of Home Affairs.
- Does NOT contain material that could give rise to any civil or criminal liability under the applicable law in Malaysia;
- Does NOT contain content which damages the image of Malaysia
- Comply with all applicable laws, requirements, regulations and guidelines in Malaysia at all times, including but not limited to, if applicable, any conditions as may be imposed by the Central Agency for Application for Filming and Performance by Foreign Artistes (PUSPAL) or other applicable laws, regulations, requirements or directives which may from time to time be enacted and/or amended by the relevant authorities.

## 2.10

### Intellectual Properties of the Film

To be eligible for FIMI, the Applicant Producer must own the intellectual properties (IPs) of the Film. The Applicant Producer must provide the relevant documentations to evidence the Applicant Producer's ownership of the intellectual properties of the Film (including but not limited to the duly executed copy of the relevant agreement/contract).

# 3

## Post- production Activity in Malaysia

### 3.1

#### What are post- production tasks?

## QMPE

**Section 3** of these Guidelines sets out the core eligibility criteria for receiving FIMI for post-production activity. To be eligible for FIMI for Post-Production activity, the Eligible Producer must spend a minimum of **Malaysian Ringgit Two Hundred and Fifty Thousand (MYR250,000.00)** of QMPE in order to be entitled to the Cash Rebate. Only QMPE that is incurred on or in relation to post-production counts towards either the expenditure threshold or the refunded amount. Only a single application is required. Guidelines in this **Section 3** are specific to post- production and guidelines that are specific to production continue to apply.

Applicant Producer should note that costs attributable to post- production services provided outside Malaysia (for example work outsourced offshore) is not eligible as qualifying post-production expenditure. The post-production activities must be undertaken in Malaysia to be eligible as QMPE.

FIMO defines post-production as:

- (a) the creation or manipulation of audio or visual elements (other than principal photography, pick- ups or the creation of physical elements such as sets, props or costumes) for the production examples of which as provided in **Appendix B: Procedures of Film Production** of these Guidelines; and
- (b) activities of qualifying post-production expenditure that are reasonably related to the activities mentioned in paragraph (a) above.

Activities that are necessarily related to post-production activities are also considered for the purposes of FIMI. This means that expenditure that is not strictly on post-production tasks, but is necessary to those tasks could also be qualifying post-production expenditure. This could cover, for example:

- airfares, salaries and per diems for visual effects or production staff sent to Malaysia to oversee or undertake the post-production work;
- salaries, equipment costs and hires, and facilities hire for use in a model or green-screen shoots;
- costs such as actor's fees or per diems for working on Additional Dialogue Recording (ADR); and
- freight of prints to and from the film laboratories.

Please keep in mind that all claimed expenditure must be in relation to post-production work.

Animation is generally considered a production activity, unless it is added during post production to enhance or complement a live action shot. If you consider that as post production, please contact FIMO to discuss the matter. FIMI Approval Committee or FIMI Appeal Committee reserves the right at any time, in its sole and absolute discretion, not to accept a task that FIMI Approval Committee or FIMI Appeal Committee believes, in its sole and absolute discretion, is not in its opinion considered as a post-production activity.

## 3.2

### Expenditure threshold

An Applicant Producer must spend at least **Malaysian Ringgit Two Hundred and Fifty Thousand (MYR250,000.00)** of QMPE in order to be entitled to the Cash Rebate based on the QMPE for qualifying post-production expenditure on a Project which is in an eligible format (see list of eligible formats in **Section 3.3 (Eligible Formats)** of these Guidelines):.

#### 3.2.1 Expenditure statements

Expenditure statements should contain the information necessary to enable FIMO to conduct verification of qualifying post-production expenditure. If the Applicant Producer does not have access to information such as the general ledger, appropriate information must be included to enable FIMO to verify the expenditure.

The expenditure statements submitted should include:

- the service provider's full quote or gross bid (including budget breakdown/costs per shot)
- a copy of the production services agreement or contract
- a transaction log
- any approved change orders
- copies of invoices issued by the service provider, and
- a letter from a director of the Company or equivalent of each post-production service provider stating their opinion personally that:
  - (a) the expenditure incurred in carrying out the post- production activities is attributable to goods and services provided in Malaysia, and
  - (b) indicating the names (if any) of foreign non-cast personnel brought to Malaysia for periods of less than two (2) cumulative weeks to provide post- production services of the film (or seven (7) cumulative days for documentary or commercials). Relevant documents evidencing such activities should also be provided.

**You must attach expenditure statements outlining all qualifying post-production expenditure to your Application Form.**

## 3.3

### Eligible formats

Eligible formats for FIMI are the same as those for production activity, as stated in **Section 2.2 (Eligible Formats)** of these Guidelines.

**You must detail the Project's format on your Application Form. You must also outline the post-production work involved (for example—187 visual effects shots of plane exploding, wire removal, editing and Additional Dialogue Recording). Copies of all fully executed contracts with providers of services with a large value (for example, an individual post production service provider) must be attached to the application. You should also be prepared to provide any other service contracts on request.**

# 3.4

## Eligible Applicant Producer

To be eligible for FIMI, the Applicant Producer must be a company duly incorporated under the Malaysian Companies Act 2016 with a valid Malaysian Company Registration Number issued by the Companies Commission of Malaysia (CCM). This applies both when the company applies for the Provisional Certificate, the Final Certificate and when FIMI is due to be paid in Malaysia.

The eligible production company is the sole company that is responsible for carrying out, or making the arrangements for the carrying out of, all the activities that were necessary for post- production in Malaysia. Depending on the Project, this could be for example:

- a Malaysian company set up to manage or commission one or more Malaysian companies to provide post- production work for the production;
- the 'lead' Malaysian post- production company which either undertakes all the post- production work in Malaysia or subcontracts any Malaysian post-production work it does not undertake to other companies; or
- a Malaysian production company or production services company.

Applicant Producer should note that verifying documents (such as a production services agreement or contract) must be provided to confirm the Applicant Producer is the sole company that carried out, or made the arrangements for the carrying out of, all the activities that were necessary for post-production in Malaysia.

Please note that the Application Form requires written confirmation from the Project's production company or commissioning studio (as the case may be) that the Applicant Producer is permitted to apply for FIMI.

**Details of the registered name of the Applicant Producer company, Malaysian company registration number, registered address, and names and addresses of the company directors are to be provided in the Application Form. The relevant documents verifying this information and confirming the legal status of the company and the company's responsibility for the production must be submitted with the Application Form which include but not limited to the followings:**

- (a) **Constitution (Memorandum & Article of Association (M&A)) / Written confirmation duly signed by a director confirming that the Company does not have Constitution;**
- (b) **Form 9 (Certificate of Incorporation) OR Companies Act 2016 Section 14 & 15;**
- (c) **Form 24 (Complete Return Of Allotment of Shares Form) / Annual Return OR Companies Act 2016 – Section 46;**



- (d) Form 49 (Notification of Change in the Register of Directors, Managers and Secretaries Form) OR Companies Act 2016 – Section 58 & 236(2);
- (e) CCM Search of not more than three (3) months; and
- (f) Winding Up Search of not more than three (3) months.  
  
Constitution (Memorandum & Article of Association (M&A))/  
Written confirmation duly signed by a director confirming that  
the Company does not have Constitution.

Please refer to the checklist in Appendix A - Checklist prior to submitting your application of these Guidelines prior to submitting your application.

#### 3.4.1 Note for Applicant Producer who is also the service provider

Please keep in mind that in cases where the Applicant Producer company is also the company that carries out post-production work or subcontracts the post-production work to other service providers in Malaysia, only expenditure that is incurred by the Applicant Producer is eligible as QMPE.

This means that if the Applicant Producer has undertaken all the post-production work in Malaysia, only its direct costs may be eligible as QMPE. Please see **Section 4 (Production Expenditure and Qualifying Malaysian Production Expenditure (QMPE))** for further information.

Applicant producers should contact FIMO early, ideally before post production commences, if there are any questions concerning the implications of proposed arrangements for carrying out post-production activities in Malaysia.

## 3.5

### Commencement and completion time frames

The commencement date for a Project seeking to qualify for FIMI is the date on which qualifying post-production expenditure is incurred on, or in relation to, post-production. In your Final Certificate Application Form you must specify the dates on which post-production in Malaysia commenced and was completed.

# 4

## Production Expenditure and Qualifying Malaysian Production Expenditure (QMPE)

Both the key criteria for qualifying for the Cash Rebate and the basis for calculating the refund amounts are based on the amount actually spent and paid by the Applicant Producer company on goods, services and land (or used locations) in Malaysia. Original (or certified true copy) receipts evidencing such expenditure will be required for the FIMI Final Certificate process.

Expenditure incurred in Malaysia for the purposes of making the production and/or post production of a Project will be considered as QMPE. This is further explained in **Section 4.1 (What is QMPE)** and **Section 4.2 (Minimum Work Week rule for non-cast members)** of these Guidelines.

In the event that actual QMPE incurred is more than 5% cost over-runs of the approved production costs indicated in the Provisional Certificate, then the Applicant Producer must obtain approval from FIMI Approval Committee (through FIMO) for the cost over-run. In the event that the approval from the FIMI Approval Committee is not obtained, the Applicant Producer may appeal to the FIMI Appeal Committee. In the event that such appeal is rejected, all unapproved cost over-runs will **NOT** count towards the QMPE calculation for FIMI.

Where necessary, invoices from any supplier used should be broken down to show Malaysian and non-Malaysian activity. This information should be computerized to facilitate an independent audit of the expenditure statements.

# 4.1

## What is QMPE?

QMPE has a dual role for the purposes of production activity. It:

- is the basis for determining whether the minimum expenditure threshold has been reached; and
- provides the basis of FIMI itself, as the amount of the cash rebate of FIMI is based on the total amount of QMPE.

QMPE also forms the basis of qualifying post- production expenditure for the amount of the Cash Rebate and is therefore also the basis for assessing expenditure thresholds and amount of the Cash Rebate for post- production activity. The sections below refer only to QMPE, but should be considered to apply equally to qualifying post- production expenditure for post- production activity.

QMPE is defined as the Applicant Producer's production expenditure on the Project that is incurred for, or is reasonably attributable to:

- goods and services provided in Malaysia;
- the use of land located in Malaysia; and/or
- the use of goods that are located in Malaysia at the time they are used in the making of the production.

### Salary for services rendered in Malaysia

#### Domestic / Local Cast & Crew:

Please note that the cash rebate of FIMI is only claimable on the first Malaysian Ringgit Seven Million and Five Hundred Thousand (MYR7,500,000.00) of any one person's salary (cast and/or crew) for services rendered in Malaysia.

#### Foreign Cast & Crew:

Please note that the cash rebate of FIMI is only claimable on the first Ringgit Malaysia Seven Million Five Hundred Thousand (MYR7,500,000.00) of any one person's salary (cast and/or crew) for services rendered in Malaysia.

**Payment MUST be paid in Malaysia only.** The QMPE must be incurred based on the date approved in the Provisional Certificate. All costs claimed as QMPE must be presented in an audited expenditure statement and attached to the Application Form as detailed in **Section 8 (Your Application)** of these Guidelines.

The following expenditures or part thereof, may be regarded as QMPE and should be included in the Applicant Producer company's audited expenditure statement after you have read the more detailed explanation below:

- Service Provided in Malaysia
- Apportionment of service provided
- Malaysian-based Insurance (other than forms of insurance which constitute financing)
- Legal expenses incurred in Malaysia
- Travel within Malaysia
- Fright travel within Malaysia

#### **4.1.1 What is a 'Service Provided in Malaysia'?**

A service is provided in Malaysia if the service provider is located in Malaysia and must be a registered Malaysian company at the time when the service is provided. Any production expenditure on the film to the extent to which it is incurred for, or is reasonably attributable to, services performed outside Malaysia will be deemed non-QMPE. If any services are provided outside of Malaysia (for example where a cast member, director or producer returns to the United States of America (USA) to work on or oversee post-production or a visual effects company subcontracts work offshore) only the proportion of expenditure attributable to the period during which the service was located in Malaysia is QMPE.

#### **4.1.2 Apportionment of services provided**

Apportionment calculations may be utilized where a service provider's contract does not distinguish between the services provided in and outside Malaysia.

For example, if cast or crew member contracts specify a fixed fee for all services provided, the amount that could be claimed as QMPE will need to be based on the number of days the cast or crew member provided their services in Malaysia. To calculate the QMPE amount, the contract fee should be divided by the total number of days worked to establish a daily rate, then multiplied by the number of days the service was provided in Malaysia.

When undertaking apportionment calculations, Applicant Producer should use the rate which reflects the services provided. For example, where the contract specifies an hourly, daily or weekly rate, and/or rates differ between rehearsals / pre-production, principal photography and post-production, then QMPE should be calculated using the appropriate rate for the time spent providing the service. If services are provided on a part time or on exclusive basis, the QMPE should be calculated on the hours worked using a standard 8-hour day.

In order to apportion costs based on the number of days, the day of arrival and/or departure from Malaysia is considered a day that services are provided in Malaysia as long as services are provided to the production during part of that day.

Productions undertaking work in Malaysia and other countries should maintain a travel spreadsheet to assist in verification of claimed expenditure, it would also be helpful for assessing the Minimum Work Week rule for non-cast members (please see **Section 4.2 (Minimum Work Week rule for non-cast members)**) of these Guidelines for further information). Where the provision of a service in Malaysia involves both a Malaysian-based company and a foreign subsidiary or parent company, please also see information of 'transfer pricing' in **Section 5 (Specific Expenditure Issues)** of these Guidelines.

**Please note that where remuneration of a person is claimed as QMPE and the person in question undertakes work on the production both inside and outside Malaysia, Applicant Producer must attach copies of fully executed contracts for such individuals to their application to verify that a reasonable apportionment has been correctly calculated. If the contracts do not verify the level of services performed both in and outside Malaysia, applicant must attach documentation which clearly outlines how the apportionment was calculated. Where a cast or crew member's full fee is claimed as QMPE, Applicant Producer must be able to confirm that no services provided outside Malaysia are attributable to that fee.**

#### **4.1.3 Malaysian-based Insurance (other than forms of insurance which constitute financing)**

Expenditure on insurance policies that are unrelated to financing and are reasonably required for the making of the Project is regarded as production expenditure and may be claimed as QMPE where the service is provided in Malaysia. Examples include insurance for props, sets, wardrobes and miscellaneous equipment, and public liability insurance.

However, please note that FIMO has determined certain kinds of insurance such as extra expense, weather and negative film risk insurance, and completion guarantees and bonds are forms of financing. Accordingly, expenditure on them is not QMPE and such costs should not be identified as production expenditure.

In order to identify QMPE, please obtain breakdown of your insurance policy from your insurer. If your insurer is unable to provide a breakdown of the policy, Applicant Producer may make a fair and reasonable apportionment. You should consult with FIMO prior to making this apportionment.

#### **4.1.4 Legal expenses incurred in Malaysia**

Legal expenses incurred in respect of services performed by a law firm in Malaysia during the making of the production may be claimed as QMPE. Such services would need to be integral to production activity, for example, contracting cast and crew, music clearances, insurance and lease agreements.

Applicant Producer should ensure that legal expenses that relate directly to Malaysian production activity are identified and invoiced separately. This will assist in the preparation of expenditure statements which claim only QMPE for the FIMI.

Legal expenses that are incurred during development can only be QMPE to the extent that they relate to writers' contracts or the registration and protection of intellectual property rights in Malaysia, including matters pertaining to the chain of title for the Project.

#### 4.1.5 Travel within Malaysia

Travel costs that relate to production activity undertaken in Malaysia will be considered as QMPE where that travel only within Malaysia.

The cash rebate of FIMI applies only once per person for each Project. The Applicant Producer company will need to maintain detailed records of this expenditure in the form of a spreadsheet. The spreadsheet should be maintained during production and submitted with the application.

Please note that claiming of incoming travel for non-cast members is subject to the 'Minimum Work Week' rule outlined in **Section 4.2 (Minimum Work Week rule for non-cast members)** of this Guideline.

You must separately identify on your Application Form any expenditure on travel within Malaysia that is claimed as QMPE. Further, you must list in your Final Application Form cast and crew who are not Malaysian citizens and who worked on the film in Malaysia and the capacity in which they worked on the production.

#### 4.1.6 Freight travel within Malaysia

All freight travel costs within Malaysia necessary for the making of the production are QMPE. FIMI applies only once per person for each Project and the amount claimable are based on the highest amount of freight incurred within Malaysia. Please supply relevant documentation and ensure that all travel booking is done in Malaysia or via a Malaysian travel agent.

## 4.2

### Minimum Work Week rule for non-cast members

In order for costs associated with any crew member to be considered QMPE a non-cast member must work in Malaysia on the film for at least ("**Minimum Period**") two (2) cumulative calendar weeks (seven (7) cumulative days for documentaries or commercial). If the crew member works on the film for less than the Minimum Period, that person's remuneration, travel expenses/accommodation and per diems are not considered QMPE. This restriction is aimed at maximizing the impact of encouraging producers either to employ Malaysian residents to work on the production or to increase the amount of time non-residents work on the Project in Malaysia. No Minimum Period requirement in Malaysia applies to any cast members.

# 5

This section outlines particular requirements that you must follow in preparing your application. It also explains the treatment of certain items of expenditure, based on rulings or determinations issued by FIMO that are often queried by Applicant Producer.

## Specific expenditure issues

### 5.1

For the purpose of FIMI, expenditure will count as QMPE and/or production expenditure as long as it has been incurred and paid in full by the Applicant Producer company in Malaysia.

#### Accrual basis of expenditure

### 5.2

#### Currency exchange

All production expenditure and QMPE incurred in foreign currencies must be converted into Malaysian Ringgit at such conversion rate published by Bank Negara of Malaysia at the time production expenditure is incurred or the average exchange rate between the first and last in-country spend transaction.

Official published exchange rates are available from Bank Negara of Malaysia at [www.bnm.gov.my/statistics/exchangerates.php](http://www.bnm.gov.my/statistics/exchangerates.php).

**Details of the foreign exchange rate on the date of commencement, the average currency exchange rate and the source from which the rates were derived must be included in the Application Form. All foreign currency expenditure must be converted to Malaysian Ringgit.**

### 5.3

#### Transfer pricing

Malaysia's transfer pricing rules are set out in Transfer Pricing Guidelines dated 20 July 2012 ("**2012 Guidelines**"), replacing the 2003 Transfer Pricing Guidelines. The 2012 Guidelines are intended to help explain administrative requirements pertaining to **Section 140A** of the Malaysian Income Tax Act 1967 and the Income Tax (Transfer Pricing) Rule 2012. In particular, **Section 140** allows the Director General of the Inland Revenue Board Malaysia (IRB) to disregard transactions believed not to be at arm's length and make the necessary adjustments to revise or impose tax liability on the persons concerned. With effect from 1 January 2009, **Section 140A** was introduced to specifically address transfer pricing issues.

The section requires taxpayers to determine and apply the arm's length price on controlled transactions.

The above rulings, determinations and other related IRB publications on transfer pricing issues can be accessed on the IRB website at [www.hasil.gov.my](http://www.hasil.gov.my) in respect of Transfer Pricing Guidelines 2012.

# 6

## Provisional Certification Process

The Applicant Producer is required to apply for a Provisional Certificate prior to commencement of pre-production or post production (for post-production FIMI only) expenditure. A Provisional Certificate does not provide a guarantee of receiving a Final Certificate. It will, however, provide an indication of eligibility and the extent to which the projected expenditure on a Project can be counted towards QMPE or, for post-production, qualifying post production expenditure.

The application process for both production activity and post-production activity are the same. The process will commence with FIMO's "date of receipt" of the completed Provisional Certificate Application Form together with all relevant supporting documents.

To apply for a Provisional Certificate, you must fill in the Provisional Certificate Application Form and submit all relevant supporting documents (as indicated in **Appendix A - Checklist prior to submitting your application** of these Guidelines) to FIMO.

The Applicant Producer is required to apply for a Provisional Certificate two (2) months before shooting prior to commencement of pre-production or post-production (for post-production FIMI only) expenditure.

The Provisional Certificate Application Form must include your best estimates as to the likely production expenditure and QMPE.

A Provisional Certificate will state that, based on the information and projected budget presented in the application, the proposed Project would meet the core eligibility requirements. Applicant Producer will be advised in writing of any projected budget items that have been included in their application for Provisional Certificate that would not be considered as (post) production expenditure or QMPE for the purposes of FIMI.

**It is important to note that a Provisional Certificate does not guarantee automatic qualification for Final Certificate or FIMI. It will, however, provide an indication of eligibility and the extent to which the projected expenditure on a Project can be counted towards QMPE or, for post-production, qualifying post-production expenditure. The Applicant Producer must apply for final certification once the Project is completed in order to claim for FIMI.**

FIMO will assess your Provisional Certificate Application and FIMI Approval Committee will either accept or refuse your Provisional Certificate Application.



# 6.1

## Eligible Applicant Producers

Applicant Producer must ensure that they are Eligible Applicant Producer prior to submission of the application for Provisional Certificate, in which the company must be duly incorporated under the Malaysian Companies Act 2016 with a Malaysian Company Registration Number issued by the Companies Commission of Malaysia (CCM) and a valid and subsisting FINAS film production license. The company is also responsible for majority of the Project's production activities in Malaysia. For postproduction activities, an applicant may be company licensed by FINAS that is responsible for carrying out the postproduction work in Malaysia.

Details of the registered name of the applicant company, FINAS film production license, Malaysian Company Registration Number, registered address, and names and addresses of the company directors are to be provided in the Provisional Certificate Application Form. The relevant documents verifying this information must be submitted with the Provisional Certificate Application Form.

If the production company has taken over responsibility for the production from a previous company this must also be evidence by the relevant legal agreement or documentation attached to your application and documentation establishing the production company.

Applicant Producer should refer to **Section 5 (Specific Expenditure Issues)** of these Guidelines regarding arm's length expenditure requirements. To the extent that they have been finalized, Applicant Producer for Provisional Certificate must note all providers of goods and services that are associated with the production company or any of its associated companies.

# 6.2

## Projected provisional expenditure statements

In order to facilitate the assessment of likely QMPE and production (or post production) expenditure for FIMI, you must fill in each item for the projected expenditure for which you intend to claim the Cash Rebate in the Provisional Certificate Application Form.

Please refer to **Section 4 (Production Expenditure and Qualifying Malaysian Production Expenditure (QMPE))** of these Guidelines for explanations as to the meaning of production expenditure and QMPE. **Section 3 (Post-Production Activity in Malaysia)** of these Guidelines provides guidance on post- production for post-production activity. Also, please ensure you attach a copy of the Project's projected expenditure.

# 6.3

## Approval of Provisional Certificate Application

Once an application has been received by FIMO, the application will be processed by FIMO and provided to FIMI Approval Committee. The FIMI Approval Committee will decide whether to accept or refuse the Provisional Certificate Application.

# 6.4

## Credit Title

If you are found to qualify for FIMI, you shall ensure that the following statement is included at the credit title of the film:-



**“Produced with Financial Assistance of Film in Malaysia Incentive (FIMI)  
Cash Rebate from the National Film Development Corporation Malaysia  
(FINAS)”**

# 7

## Final Certification Process

As outlined previously the issuing of a Final Certificate (as opposed to provisional) for FIMI is the central requirement for payment of the cash rebate of FIMI. The first step in obtaining Final Certificate for FIMI is to submit the Final Certificate Application Form and attach the relevant documentation to FIMO. Certification is subject to FIMI Approval Committee or on appeal, FIMI Appeal Committee's discretion and consideration. FIMI Approval Committee or FIMI Appeal Committee will consider the advice of the FIMO when deciding whether to certify a production and when determining the value of a production's QMPE. This determination forms the basis of an assessment of the production's eligibility against the relevant expenditure threshold and the final amount of the cash rebate of FIMI.

## 7.1

### Application

The application processes for both production and post-production are the same and commence with FIMO's "date of receipt" of the Final Certificate Application Form and complete supporting documentation.

The date on which an Applicant Producer may submit the form depends on the type of production the application relates to:

- For production, the application may be submitted within sixty (60) days after the completion date specified in the Provisional Certificate Application Form. Any QMPE incurred after this date will not qualify for FIMI.
- For post-production, the application may be submitted within sixty (60) days after the completion date as specified in the Provisional Certificate Application Form. Any QMPE incurred after this date will not qualify for FIMI.

In the case where both production and post- production is conducted in Malaysia, only one application is required and the application may be submitted within sixty (60) days after the completion date as specified in the Provisional Certificate Application Form. Any QMPE incurred after this date will not qualify for FIMI.

All information submitted to FIMO must comply with requirements in these Guidelines and the General Terms and Conditions. Failure to provide all relevant supporting documents (please refer **Section 7.2 (Supporting Documents for Final Certificate Application Form)**) and any additional documents as requested by FIMO and/or FIMI Approval Committee (through FIMO) will possibly result in the Due Diligence process taking longer than an estimate of four (4) months. Applicant Producer's failure to provide the relevant supporting documents (and any additional documents) may result in the abandonment of the Application and FIMO may decide to end the Due Diligence process if it takes longer than the estimate time from the beginning of the due diligence.

Agreements relating to the international distribution or broadcast or transmission will be required for all Projects at final certification. You must also attach relevant agreements, Daily Production Reports (DPRs), call sheets and the Production schedule to your Final Application Form.

## 7.2

### Supporting Documents for Final Certificate Application Form

Any QMPE incurred must be substantiated with relevant supporting documents. Documents required include, but not limited to the following:

- (a) All relevant agreements
- (b) Daily Production Reports
- (c) Call-sheets
- (d) Production schedule(s)
- (e) Invoices by suppliers
- (f) Official receipts
- (g) Individual audited expenditure statement (prepared by the Applicant Producers appointed auditors)
- (h) Production General Ledger (electronic)
- (i) Travel spreadsheets
- (j) Contracts of key personnel, cast and crew

Where necessary, invoices from any supplier used should be broken down to show Malaysian and non- Malaysian activity with computerized accounts formatted to accept the information in this form. This will also facilitate the independent audit of the expenditure statements.

Please refer to **Appendix A - Checklist prior to submitting your application** of these Guidelines for further information.

## 7.3

### Due Diligence Process

All application for FIMI will undergo a due diligence process on interim basis or final basis (whichever is applicable, based on the sole discretion of FIMO)). During the due diligence process, FIMO will assess and evaluate whether the application satisfies the requirements for the issuance of a certificate and will provide a written report of its assessment to FIMI Approval Committee or on appeal, FIMI Appeal Committee. FIMO may request for further information from the Applicant Producer to assist FIMO in the assessment and report of an application. The due diligence process may take between two (2) to four (4) months to complete and it will be undertaken on a strictly commercial-in-confidence basis.

In due process and if necessitates, FIMO will seek the advice of FIMO's Auditor to assist FIMO in assessing and evaluating the Application. All audits will be conducted in accordance to all applicable accounting standards, including any standards relating to the individual auditors.

## 7.4

### Payment for Due Diligence

All relevant professional fee and out of pocket expenses undertaken by FIMO as part of the due diligence process (including fee for FIMO's Auditor), shall be borne by the Applicant Producer. Payment shall be deducted from the amount of cash rebate of FIMI due to be paid by FINAS. The deducted amount shall be specified in the Final Certificate (as 'Less Audit Fees').

## 7.5

### Consideration by the FIMI Approval Committee

Once an application has been received by FIMO, it will be processed and provided to the FIMI Approval Committee for consideration and approval or refusal.

## 7.6

### Notification by FIMI Approval Committee

FIMI Approval Committee will consider all relevant reports provided by FIMO and FIMI Approval Committee will make determinations on whether or not to accept the Final Certificate Application and determine the level of QMPE.

Where FIMI Approval Committee accepts the Final Certificate Application and subsequently, certifies a production for FIMI, the Applicant Producer company will be notified in writing of FIMI Approval Committee's decision, including the determination of QMPE and amount of the cash rebate of FIMI provided.

Where FIMI Approval Committee refuses the Final Certificate Application, the Applicant Producer company will be notified in writing of this decision (which may include reasons for such decision).

FIMI Approval Committee's decision shall be issued in writing, within four (4) weeks from the verification of compliance with these Guidelines.

If FIMI Approval Committee refuses to issue the Final Certificate or FIMI Approval Committee refuses the Application because the Applicant Producer fails to meet the minimum QMPE threshold, on case to case basis, subject to the FIMO's discretion, the Applicant Producer may within fourteen (14) days from the receipt of FIMI Approval Committee's written notice, submit a written appeal to FIMI Appeal Committee (through FIMO), as particularly provided under **Paragraph 7.10** below.

## 7.7

### Revocation of a certificate

The Applicant Producer and its board of directors are responsible for ensuring that all content, documents and information submitted in its application is true, accurate, reliable and complete and shall confirm that the same via a statutory declaration.

FIMI Approval Committee may revoke a certificate where the Project is not in line with FIMI's objective or any part of the information and/or documentation was obtained by fraud, material inaccuracies or misrepresentation or such revocation is necessitated by any directive or regulation from any governmental or statutory authority having jurisdiction over the matters herein, in which case FIMO Approval Committee will notify the Applicant Producer in writing of the decision of such revocation (which may include reasons for such decision).

A certificate may also be revoked if the Applicant Producer fails to provide FIMO with a copy of the completed production (outlined below in **Section 7.8 (Copy of the Project)**).

FIMI Approval Committee reserves the right at any time, in its sole and absolute discretion, to revoke the Final Certificate, regardless whether or not FINAS has made disbursement of the cash rebate of FIMI to the Applicant Producer.

In the event where FINAS has made such disbursement, FINAS has the right to commence recovery of the amount paid as a debt due and owing and FINAS reserves the right to include the directors of the Applicant Producer company in such action or proceedings.

## 7.8

### Copy of the Project

Within thirty (30) days of a certified production's completion, meaning that the production material is in a state where it could reasonably be regarded as ready to be distributed, broadcast or exhibited to the general public, **the Applicant Producer must submit a soft copy of the Project or other proof/evidence acceptable to FIMO.**

The copy of the production is proof of completed production. It verifies that the production is ready for distribution or exhibition to the general public and it also confirms other details of the production.

If an Applicant Producer fails to provide this, the Applicant Producer risks having the certificate revoked by FIMI Approval Committee. Should the final production version vary significantly from the submitted documentation in a manner that contains content which damages the image of Malaysia and FIMI has already been paid, FIMI Approval Committee has the right to revoke the Final Certificate and FINAS has the right to commence recovery of the amount paid as a debt due and owing and FINAS reserves the right to include the directors of the Applicant Producer company in such action or proceedings.

It is not anticipated that FIMI Approval Committee will revoke a certificate on this ground without first contacting the Applicant Producer (although FIMI Approval Committee is empowered to do so). Should an Applicant Producer have any concerns regarding either provision of an expected date of completion or a soft copy of the Project, they should relate these concerns to FIMO when making their application. FIMO, acting as an agent for FINAS, will consider such concerns on a case-by-case basis.

## 7.9

### Credit Title

If you are found to qualify for FIMI, you shall ensure that the following statement is included at the credit title of the Project:-



**“Produced with Financial Assistance of Film in Malaysia Incentive (FIMI) cash rebate from the National Film Development Corporation Malaysia (FINAS)”**

## 7.10

### Appeal to FIMI Appeal Committee

Applicant Producer may only submit a written appeal to FIMI Appeal Committee (through FIMO) in case where:

- (a) FIMI Approval Committee refuses to issue the Provisional Certificate;
- (b) FIMI Approval Committee revokes the Provisional Certificate;
- (c) FIMI Approval Committee refuses to issue the Final Certificate;
- (d) FIMI Approval Committee refuses the Application because the Applicant Producer fails to meet the minimum QMPE threshold as determined in the Guidelines. This ground of appeal is only allowed on a case to case basis, as may be determined by FIMO at its absolute discretion;
- (e) Applicant Producer is not satisfied with the decision of FIMI Approval Committee on the determination of percentage for the Additional Cash Rebate for passing the Cultural Test;
- (f) FIMI Approval Committee rejects the application on the cost overruns of the approved production costs indicated in the Provisional Certificate; or
- (g) FIMI Approval Committee revokes the Final Certificate,

such written appeal shall be submitted within fourteen (14) days from the date of the refusal or revocation notice by FIMI Approval Committee.

FIMI Appeal Committee’s decision shall be issued in writing by FIMO to the Applicant Producer, within four (4) weeks from the date of the FIMI Appeal Committee’s decision.

An appeal to FIMI Appeal Committee can only be submitted once and any decision made by FIMI Appeal Committee shall be final and conclusive. There shall be no further appeal in respect of FIMI Appeal Committee's decision.



# 8

## Your Application

There are a number of considerations to be taken into account when completing your application for Provisional Certificate and Final Certificate for FIMI. Applicant Producer should locate the relevant Application Form from <http://www.filminmalaysia.com/index.php/incentive1>. It is vital that all sections of the form are completed as per these Guidelines.

Should you have trouble downloading the form or these Guidelines, please contact FIMO and we will mail you the forms in hardcopy. Contact details are available on **Section 8.11 (Further information and contacts)** of these Guidelines and can also be found on FIMO's website: [www.filminmalaysia.com](http://www.filminmalaysia.com).

## 8.1

### Timing of applications

You should bear in mind the following:

- The Provisional Certificate Application Form must be submitted two (2) months prior to the commencement of the production.
- The process of assessing the Provisional Certificate Application Form by FIMO, including consideration by the FIMI Approval Committee, may take up to four (4) weeks if all relevant documents are in order.
- Application for the Final Certificate can only be made when QMPE has ceased being incurred in Malaysia.
- The process of assessing the Final Certificate Application Form, including consideration by both FIMO and the FIMI Approval Committee, may take up to four (4) months if all relevant documents are in order.

## 8.2

### Auditor's statement

With your Application Form, you may include an independent auditor's statement verifying the particulars of the production expenditure detailed in your application. The auditor's statement (if any) must be provided on a proforma attached to the Application Form. The audit must be prepared by a person who is:

- a qualified independent auditor acceptable to FINAS with a valid and existing audit license granted by the Malaysian Minister of Finance and also a member of Malaysian Institute of Accountants (MIA); and
- not an officer, partner or employee of the Applicant Producer company or a Related Corporation of the Applicant Producer company (but may be contracted by them from time-to-time on a non-permanent basis).

The auditor's statement is provided at an Applicant Producer's expense with the name of the auditor and auditor's company or firm, qualifications and contact details provided in the relevant section of the Application Form.

## 8.3

### Submitting your application

Prior to submitting your application you are strongly recommended to contact FIMO to ensure that you are submitting all the necessary information. Contact information is set out under **Section 8.11 (Further information and contacts)**.

You can submit an application in hardcopy on the relevant Application Form. You should send your original Application Form including all supporting documents as one (1) hardcopy set and one (1) softcopy set to FIMO.

## 8.4

### Documentation

You will be required to attach a range of documentation to support your Application including copies of legal documents relating to, for example, the establishment of the Applicant Producer company, legal agreements to verify the fact of Malaysian copyright ownership and confirmation of distribution and exhibition arrangements. A checklist of these documents is included in **Appendix A - Checklist: prior to submitting your application** of these Guidelines. In the event of any dispute arising in relation to FIMI, the Applicant Producer shall take all necessary measures to ensure that all relevant documentations are admissible in court. This includes, but is not limited to, ensuring that all legal agreements made between any Malaysian party and the Applicant Producer is required to be stamped with the Malaysian Stamp Office, which comes under the purview of the Inland Revenue Board.

## 8.5

### Further information from the Applicant Producer

FIMO, FIMI Approval Committee and/or FIMI Appeal Committee (through FIMO) reserves the right to require any additional information it deems necessary in order to issue a certificate. For instance, where an application is incomplete FIMO may require the Applicant Producer at the Applicant Producer's expense, to provide further information.

This information must be provided within twenty-eight (28) days of the request, failing of which the Application shall be deemed abandoned. Nevertheless, the Applicant Producer may write to FIMO seeking an extension of time within twenty-eight (28) days of FIMO's request and such extension shall be given at FIMO's discretion.

## 8.6

### Statutory declaration

The information and documentation provided in your Application must be certified in a statutory declaration in accordance with the Malaysian Statutory Declaration Act 1960 by an authorized person from the Applicant Producer company – either the Producer or the Chief Executive Officer. The statutory declaration must be signed before a commissioner of oath (if affirmed in Malaysia) or a notary public (if affirmed outside Malaysia).

FIMI Approval Committee or on appeal, FIMI Appeal Committee reserves the right at any time, in its sole and absolute discretion, to refuse an application that FIMI Approval Committee or FIMI Appeal Committee believes, in its sole and absolute discretion, is not in compliance with these Guidelines, or which has made a false or misleading statement on the application or otherwise, and reserves the right to pursue all other rights and remedies available at law in

the event of such refusal.

## 8.7

### **Malaysian Cultural, Social and Religious Sensitivity Declaration**

Applicant Producer will be held responsible for the acts and omissions of all cast and crew members (including interns) of the production of the Project throughout their stay in Malaysia and the producers are to ensure that the acts and behavior of the cast and crew members (including interns) during the production of the Project are in no way considered to infringe on the sensitivity of the Malaysian cultural, social and religious practices.

## 8.8

### **Confidentiality**

Please note that all information provided by the Applicant Producer will be held by FIMO, FIMI Approval Committee and/or FIMI Appeal Committee on a strictly commercial-in-confidence basis. Information will only be provided by FIMO to the FIMI Approval Committee, FIMI Appeal Committee in instances of appeal and FIMO's Auditor if necessary.

All bodies that are privy to confidential information will be bound by Malaysian Government confidentiality provisions which treat all such information as commercial-in-confidence and, where appropriate, will be subject to contractual duties of confidentiality.

## 8.9

### **Governing Law**

These Guidelines shall be governed by and construed in accordance with the laws of Malaysia.

## 8.10

### **Liability**

FINAS reserves the right in its discretion to modify the terms of these Guidelines as may be necessary from time to time.

Neither FINAS, FIMO nor any of the FIMI Approval Committee or FIMI Appeal Committee members, its agents and representatives will be liable for any injury, loss or damage of any nature whatsoever (including but not limited to indirect or consequential loss) which is suffered or sustained as a result of or in connection with the Applicant Producer's application for FIMI.

# 8.11

## Further information and contacts

Prior to applying for FIMI, Applicant Producer is advised to read these Guidelines and the General Terms and Conditions carefully. It is also recommended that Applicant Producer make contact with FIMO to discuss any issues regarding their application before preparing it.

For pre-application advice or access to the Guidelines and Application Forms you should contact FIMO via:

Address: Film In Malaysia Office (FIMO)  
National Film Development Corporation Malaysia (FINAS)  
Kompleks Studio Merdeka,  
Jalan Hulu Kelang,  
68000, Ampang,  
Selangor Darul Ehsan, Malaysia.

Telephone: +603-41041300

Website: [www.filminmalaysia.com](http://www.filminmalaysia.com)

Contact emails: [zokifli@finas.my](mailto:zokifli@finas.my)  
[shikin@finas.my](mailto:shikin@finas.my)  
[afifa@finas.my](mailto:afifa@finas.my)  
[irdakartini@finas.my](mailto:irdakartini@finas.my)  
[nadiasulaiman@finas.my](mailto:nadiasulaiman@finas.my)  
[taufiq@finas.my](mailto:taufiq@finas.my)  
[amirulfarhan@finas.my](mailto:amirulfarhan@finas.my)

*For other than FIMI-specific matters pertaining to commencing business in Malaysia, filing business activity statements and taxes please seek independent and professional advice from qualified professionals including accountants, auditors, company secretaries, lawyers and tax advisors. Please note that tax deductions are not under the purview of FIMI. Please refer to and seek guidance from PUSPAL for tax relief, if any.*

**Appendix A: Checklist prior to submitting your application****APPLICATION FOR PROVISIONAL CERTIFICATE**

| NO. | DOCUMENT   |
|-----|--|
| 1.  | Copy of FINAS production license.  |
| 2.  | Evidence of Malaysian residency company or a foreign resident with a permanent establishment including Malaysian Company Registration Number, registered address, names and addresses of directors and details of any period in which the company was not a permanent resident.  |
| 3.  | (a) Constitution (Memorandum & Article of Association (M&A)) / Written confirmation duly signed by a director confirming that the Company does not have Constitution;<br>(b) Form 9 (Certificate of Incorporation) OR Companies Act 2016 Section 14 & 15;<br>(c) Form 24 (Complete Return Of Allotment of Shares Form) / Annual Return OR Companies Act 2016 – Section 46;<br>(d) Form 49 (Notification of Change in the Register of Directors, Managers and Secretaries Form) OR Companies Act 2016 – Section 58 & 236(2);<br>(e) CCM Search of not more than three (3) months; and<br>(f) Winding Up Search of not more than three (3) months. |
| 4.  | Document verifying the status of the Applicant Producer company—that is, the legal agreement with a parent/associate company and/or establishing the Applicant Producer company.   |
| 5.  | If the project is a co-production, a copy of the co-production agreement.  |
| 6.  | Documents confirming the Applicant Producer’s responsibility for all the activities required to make the production OR post production in Malaysia (including responsibility for costs incurred by non-Malaysian companies for activities in Malaysia)   |
| 7.  | A copy of all of the documents relating to the “Chain of Title” and underlying rights.   |
| 8.  | Relevant document indicating creative contributions, recoupment and returns.   |
| 9.  | If applicable, copy of agreements verifying the transfer of ownership in copyright, which identifies the copyright owner at the time of the application. Note, this is only relevant where purchase or licensing of Malaysian copyright is being claimed as QMPE including copyright in promotional material.  |
| 10. | Copy of PUSPAL approval for filming in Malaysia  |
| 11. | A synopsis of the project.   |
| 12. | Copy of the script and its source material OR previous script if it is a rewritten work  |
| 13. | If applicable, evidence of expenditure on development of the project, script and company’s trustee status.   |
| 14. | If part of a series, indicate relevancy and significant creative similarities & differences between the project and previous season’s concept, characters, settings, production locations and crew. Please supply a soft copy of the previous season for comparative purposes.   |
| 15. | A 'travel spreadsheet' for travel within into and out of Malaysia.   |
| 16. | An estimated Project Budget.   |
| 17. | Documented evidence and terms of financial resources.  |

|     |  |
|-----|--|
| 18. | Relevant documentation to indicate distribution or exhibition of the Project. A letter of confirmation of distribution/exhibition deals on an official letterhead will demonstrate this. |
| 19. | Evidence of Malaysian and foreign sales agent.   |
| 20. | Statutory declaration made by an authorised signatory.   |
| 21. | List of total cost/crew, local cost/crew, Bumiputera cost/crew.  |

**APPLICATION FOR FINAL CERTIFICATE**

| NO. | DOCUMENT   |
|-----|--|
| 1.  | Copy of FINAS production license   |
| 2.  | Evidence of Malaysian residency company or a foreign resident with a permanent establishment: including Malaysian Company Registration Number, registered address, names and addresses of directors  |
| 3.  | If the project is a co-production, a copy of the co-production agreement.  |
| 4.  | Documents confirming the Applicant Producer's responsibility for all the activities required to make the production OR post production in Malaysia (including responsibility for costs incurred by non-Malaysian companies for activities in Malaysia)   |
| 5.  | Copy of PUPSAL approval for filming in Malaysia  |
| 6.  | A synopsis of the project  |
| 7.  | Copy of the script and its source material OR previous script if it is a rewritten work  |
| 8.  | If part of a series, indicate relevancy and significant creative similarities & differences between the project and previous season's concept, characters, settings, production locations and crew. Please supply a soft copy of the previous season for comparative purposes.   |
| 9.  | A copy of all of the documents relating to the "Chain of Title" and underlying rights.   |
| 10. | Evidence of expenditure on development of the project, script and company's trustee status.  |
| 11. | Relevant document indicating creative contributions, recoupment and returns.   |
| 12. | A 'travel spreadsheet' for travel into and out of Malaysia   |
| 13. | Call-sheets, Monthly Production Reports (MPRs) and the Production Schedule (preferably electronically)   |
| 14. | Details list of foreign & local cast/crew. If applicable, copy of agreements verifying the transfer of ownership in copyright, which identifies the copyright owner at the time of the application. Note, this is only relevant where purchase or licensing of Malaysian copyright is being claimed as QMPE including copyright in promotional material. |
| 15. | Audited Malaysian Expenditures and relevant receipts/documents   |
| 16. | Documented evidence and terms of financial resources   |
| 17. | The production's general ledger (electronically)   |
| 18. | Fully executed contracts for key personnel, cast, crew and a Malaysian Production Services Company/Local Sponsor   |
| 19. | Fully executed contracts for key personnel, cast, crew detailing work conducted in and outside Malaysia and for any person remunerated other than by salary (e.g. where travel for a partner is part of remuneration)  |
| 20. | Statutory declaration made by an authorised signatory  |
| 21. | Copy of the film's trailer   |

Appendix B: Procedures of Film Production

FILM PRODUCTION – TYPICAL PROCEDURES

| NON QUALIFYING SPEND   | QUALIFYING SPEND  |  |  | QUALIFYING – IF DONE IN MALAYSIA  |
|--|---|--|--|---|
| Development  | PREP - TYPICALLY INCLUDES   | SHOOT - TYPICALLY INCLUDES   | WRAP - TYPICALLY INCLUDES  | Post Production   |
| TYPICALLY INCLUDES<br><br>SCRIPT WRITING<br>PROJECT DEVELOPMENT<br>***SCRIPT APPROVAL<br>BUDGETING AND SCHEDULING<br>FIMI APPLICATION SUBMISSION<br>***APPROVALS OF INCENTIVE APPLICATION<br>APPOINTING OF DIRECTOR<br>INITIAL LOCATION RESEARCH | HIRE PRODUCTION SERVICE COMPANY<br>OPENING OF PRODUCTION OFFICES<br>BEGIN LOCATION SCOUTING<br>***BEGIN CASTING / HIRING OF CAST<br>BEGIN HIRING OF CREW<br>HIRING OF EQUIPMENT<br>PRODUCTION DESIGN BEGINS<br>TECHNICAL SCOUTING<br>SET DESIGN AND SET CONSTRUCTION<br>CHECKING AND LOADING EQUIPMENT<br>SCHEDULING AND CALL SHEETS<br>TRANSPORTATION BEGINS | START OF PRINCIPLE PHOTOGRAPHY<br>CATERING<br>TRANSPORTATION AT MAXIMUM LEVEL<br>FULL TECHNICAL TEAM AT FULL CAPACITY<br>PERIOD WHEN OVERTIME CAN BE INCURRED<br>MATERIALS DIGITISED AND SENT TO POST<br>CASTING FOR MISSING ROLES CONTINUES<br>CREW INSURANCE CONTINUED | WRAP OF FINANCES<br>WRAP OF SETS<br>DECONTRACTION<br>SHIPPING<br>DEPARTURE OF INTL. TEAM<br>RETURN OF SET DRESSING<br>RETURN OF PROPS<br>RETURN OF TECHNICAL EQUIP<br>TECHNICAL TEAM COMPLETED<br>PRODUCTION WRAP – APPROX. 1 MONTH<br>CREW INSURANCE CONTINUED UNTIL FINAL WRAP DAY | TYPICALLY INCLUDES<br><br>2D compositing, including matte compositing<br>2D to 3D conversion<br>3D digital compositing, including composites involving live-action and blue/green screen, rig removal and rotoscoping<br>3D scanning, including LIDAR<br>Acquisition or recording of elements<br>Animatronics<br>Archiving, by which is meant digital archiving of post-production elements, rather than the archiving of the final film<br>Atmospherics<br>Audio/sound mixing<br>Audio special effects<br>Additional Dialogue Recording (ADR)<br>Background, including, but not limited to plate acquisition<br>Colour correction and grading, including digital colour grading and digital intermediates (DI)<br>Computer generated imagery (CGI), including character animation and 3D CG modeling<br>Clearances (library and sound), where copyright is held by a Malaysian.<br>Digital and visual effects, including CG effects creation and animation, the acquisition of visual effects elements and digital lighting<br>Digital make-up fixes<br>Digital rig and wire removal and digital wire effects<br>Duplication (until delivery, but excluding distribution copies), including deliverables editing, including on-line and off-line<br>Encoding<br>Film laboratory services (production and post- |



|  |   |  |  |
|--|---|--|--|
|  | <p>PURCHASE &amp; RENTALS OF WARDROBE</p> <p>PURCHASE &amp; RENTALS OF PROPS</p> <p>HOTELS / ACCOMMODATION</p> <p>LOCATION CONTRACTS CONFIRMED</p> <p>SCHEDULING &amp; BUDGETING ADJUSTMENTS</p> <p>CREW INSURANCE BEGINS</p> |  | <p>production)</p> <ul style="list-style-type: none"> <li>• Film scanning, treatment and restoration, including digital film scanning and recording</li> <li>• Foley effects</li> <li>• Graphics</li> <li>• Green/blue screen photography</li> <li>• Idents</li> <li>• Match moving</li> <li>• Matte painting and photography, including digital matte creation and 2D matte painting</li> <li>• Models, miniatures and miniature photography</li> <li>• Motion capture</li> <li>• Motion control</li> <li>• Music and effects</li> <li>• Music composition and recording</li> <li>• Opticals</li> <li>• Pre-visualization</li> <li>• Rendering</li> <li>• Restoration</li> <li>• Soundtrack</li> <li>• Spot effects</li> <li>• Stills manipulation, including photogrammetry</li> <li>• Streaming and file transfer of elements and approval copies and footage</li> <li>• Telecine</li> <li>• Tests that are typically included in the process of visual effects and post-production</li> <li>• Titles and credits</li> <li>• Virtual studio/sets</li> <li>• Visual effects design, planning, supervision, management and integration into production</li> <li>• Voice post syncing</li> </ul> |
|--|---|--|--|

**Appendix C: Cultural Test for Films (Domestic Production)**

| NO.          | CULTURAL ELEMENTS   | MAXIMUM CASH REBATE (%) |
|--------------|---|-------------------------|
| I.           | Cultivate the spirit of love for Malaysia.  | 1                       |
| II.          | Cultivate the spirit of patriotism towards Malaysia in the Project, such as: <ul style="list-style-type: none"> <li>(a) be proud of the nation's achievements and culture;</li> <li>(b) maintain the characteristics of the nation and its cultural policies; and/or</li> <li>(c) respect for other races and religions.</li> </ul> | 2                       |
| III.         | Honor the history of Malaysia and remembering the Malaysian heroes who have sacrificed for Malaysia.  | 1                       |
| IV.          | Portray Malaysia as a country that is cultured, civilized and display of noble values among Malaysians.   | 1                       |
| <b>TOTAL</b> |   | 5                       |

*To be eligible for the maximum percentage of the Additional Cash Rebate in each of the above category, the Project must portray the relevant cultural elements as described under this Appendix C.*