



**Regulations for Netherlands  
Film Production Incentive Scheme**

*1 January 2021*

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The changes from 1 January 2021 are marked \*

## Regulations for Netherlands Film Production Incentive Scheme

### *Netherlands Film Production Incentive scheme*

The Stichting Nederlands Fonds voor de Film [Netherlands Film Fund],

In view of the stipulations in the Algemene Wet Bestuursrecht, (Dutch General Administrative Law Act),

In view of Article 10, paragraph 4, of the Wet op het specifieke cultuurbeleid (Dutch Cultural Policy (Special-Purpose Funding) Act),

with the approval of the Minister of Education, Culture and Science of 1 December 2020,

decides as follows:

### **- definitions -**

#### Article 1

For the purpose of these regulations the following definitions are used:

Animated film:	a film production with a duration of at least 60 minutes primarily intended for cinema release, which uses an artificial film technique in which, after playing a number of static images sequentially, the illusion of movement is created;
Board:	the board of the Fund;
Cinema release:	the national distribution of a film production which, after the premiere, will be shown on a daily basis for a substantial number of weeks and in a substantial number of cinemas or film theatres to a paying audience in the Netherlands;
Completion bond:	the insurance that guarantees that the film production will be completed and delivered on the (budgetary) conditions stipulated in the insurance policy in question, or that - if the production were to be halted - the production costs incurred so far will be refunded;
DAC country list:	the list of countries receiving development aid formulated by the Development Assistance Committee (DAC) of the OECD;
DCP:	(digital cinema package) the digitally stored copy of the film production, which can be screened in a cinema;
Documentary:	a non-fiction film production with a duration of at least 70 minutes primarily intended for cinema release, which highlights an aspect of the reality in which the director's own vision is given shape with the creative use of cinematographic means in a personal style;
Film distributor:	a legal entity that engages in business activities on a continuous basis, with the main objective being the distribution and exploitation of film productions in cinemas and via other distribution channels. At the time of the application the legal entity will have been based and operational in the Netherlands, a Member State of the European Union or a State that is a party to the Agreement in respect of the European Economic Area, or in Switzerland, for a minimum period of two years prior to the application;
Film plan:	the applicant's plan for the realisation of a cohesive whole of activities consisting of the financing, realisation and exploitation of a film production;
Film production:	an animated film, or a documentary or a feature film, realised in the form of an international co-production or otherwise and primarily intended for cinema release;

Film professional/film company:	a natural person or company with sound knowledge and experience in the area of film production;
Financial & Production Protocol of the Incentive:	the protocol containing specific financial and production requirements the Fund imposes in these regulations on film productions under the Incentive;
the Fund:	Stichting Nederlands Fonds voor de Film [Netherlands Film Fund];
International co-production:	a cross border film production in the form of an animated film, documentary or feature film, primarily intended for cinema release, in which the Netherlands is one of the countries of origin of the co-producers, and which meets the criteria of the Council of Europe Convention on Cinematographic Co-Production or meets the criteria of the bilateral agreements for film productions between the Netherlands and other states, or the agreements signed between the Fund and other film funds aimed at international co-production;
Qualification test:	the overview of production costs listed in the appendix with these regulations that qualify as eligible costs for a contribution on the basis of these regulations, and the conditions on which they qualify;
Majority (co-)producer:	a production company of a majority film production to be released in Dutch cinemas and/or film theatres, which invests risk capital, is the main responsible party and has the majority decision-making authority and which has raised (or will raise) the majority of the financing for the film production; *
Majority film production:	a national or international film production where the Dutch producer is a majority (co-)producer and the composition of the artistic team means that the film production can be regarded as Dutch; *
Media company:	a company engaged in distributing or having distributed audiovisual media content to the general public or parts thereof;
Minority co-producer:	a production company of a national or international co-production to be released in Dutch cinemas and/or film theatres, which invests risk capital but has limited decision-making authority and responsibility, i.e. primarily for the Dutch part of the film production, and which has contributed (or will contribute) a minority of the financing for the film production; *
Minority co-production:	an international film production in which the Dutch producer is a minority co-producer; *
Non-theatrical release:	all possible methods of distributing a film production, with the exception of via cinemas and film theatres, but in any case including distribution on DVD and Blu-ray, via television, Video On Demand, pay per view and online distribution channels;
Disclosure:	the disclosing of the film production by means of exhibition;
Open orders:	production costs that have not yet been invoiced
Bridging loan:	a guaranteed financial loan for the creation of a film production that is made available by a third party during the entire production period from which production costs are pre-financed whilst waiting for the funders' payment deadlines;
Picture lock:	the final cut of the film production as determined by the producer and director, based on which the further editing will take place;
Producer:	the natural person who legally represents the production company and has the final policy, operational and editorial responsibility within the production company structure;
Production costs:	the costs involved in realising a film production;
Production company:	a legal entity that engages in business activities on a continuous basis, with the main objective being the production and exploitation of film productions and/or media productions. At the time of the application the legal entity will have been based and operational in the Netherlands, a Member State of the European Union or a State that is a party to the

Points system:	Agreement in respect of the European Economic Area, or in Switzerland, for a minimum period of two years prior to the application; the points system included in the appendix with these regulations, used to determine the order in which applications are eligible for a contribution based on these regulations;
Feature film:	a film production in the fiction genre with a duration of at least 60 minutes, primarily intended for cinema release;
Implementation agreement:	the agreement between the Fund and the recipient of the financial contribution for the purpose of execution, following the decision to make a contribution.

**- purpose and applicability -**

Article 2

1. This scheme is aimed at promoting a healthy film production environment in the Netherlands and reinforcing the international competitive position of the Dutch film industry. The financial contributions made pursuant to this scheme are intended to increase the attractiveness of the Netherlands for both majority and foreign film productions, so increasing the production activity of creative and technical film professionals and film companies in the Netherlands. This scheme is also intended to promote the development of film talent in the Netherlands and stimulate the diversity, quality and distribution of film productions. \*
2. These regulations apply to financial contributions made by the board for contributing to the production costs of film productions with a cultural value that are primarily aimed at cinema release and that have been demonstrably spent in the Netherlands. Film productions are feature films, documentaries and animated films, realised in the form of an international co-production or otherwise. \*

**- grant caps, budget allocation & budget reservation -**

Article 3

1. The board will determine a grant cap for each calendar year and each application round; a cap can be set for international co-productions and a cap for film productions that cannot be classed as international co-productions and for different categories of film production.
2. The grant cap will be published in the Staatscourant (Dutch Government Gazette) and announced on the website of the Fund: [www.filmfonds.nl](http://www.filmfonds.nl)
3. Applications that meet the eligibility conditions for a financial contribution will be ranked on the basis of the points system and the associated criteria.
4. The board will award the applications that meet the conditions in the order of the ranking referred to in the previous paragraph, until the grant cap for the application round in question has been reached.
5. If a grant cap is not sufficient to award all the applications that meet the requirements of these regulations in a calendar year or application round the board will reduce the financial contribution of the application that is last in the ranking to an amount that will not exceed the grant cap. The remaining applications that meet the requirements of these regulations will be rejected when the grant cap has been exceeded. The application that is only partially awarded as a result of the grant cap being exceeded and the remaining applications that meet the requirements of these regulations will be given a once-only opportunity to submit a new application in a subsequent application round for the shortfall amount. The other applications that meet the requirements of these regulations and that are rejected as a result of the grant cap being exceeded will also be given a once-only opportunity to submit a new application in a subsequent application round.
6. Any unallocated funds within the available grant budget in a particular application round will be added to the grant budget for the next application round. Any unallocated funds within the available grant budget in the last application round of the calendar year will be added to the available grant budget for the next calendar year.

7. A financial contribution will be made on the condition that the Minister has made sufficient funds available.

**- cultural criteria and state assistance percentages -**

**Article 4**

1. To be eligible for a financial contribution within the meaning of these regulations the film production, without prejudice to any stipulations in European state support legislation, must meet at least **three** of the following characteristics:

*feature film:*

- a. the scenario on which the film production is based takes place mainly in the Netherlands, or in another member state of the European Union, or in a state that is a party to the Agreement with respect to the European Economic Area, or in Switzerland;
- b. the director or screenwriter is based in the Netherlands, or in another member state of the European Union, or in a state that is a party to the Agreement with respect to the European Economic Area, or in Switzerland;
- c. at least one of the lead actors or two of the supporting actors has/have a special connection with the Dutch culture based on the scenario;
- d. the original scenario on which the film production is based is largely written in the Dutch language and the lead actors mostly speak the Dutch language;
- e. the scenario is based on an original work of literature or is inspired by a work protected by copyright;
- f. the main theme of the film production is art or the film production incorporates one or more (performing) artists;
- g. the film production addresses historical persons or events;
- h. the film production addresses current social or cultural themes that are relevant to the Netherlands;
- i. the film production contributes to the cross border promotion of prominent Dutch locations;
- j. the film production contributes to the accessibility and cross border promotion of the Dutch or European film culture and its diversity.

*animated film:*

at least three of the characteristics listed under feature film, on the understanding that instead of the word 'scenario' the word 'story board' can be read and instead of 'screenwriter' also 'the designer of the story board', plus:

The characteristic referred to under a.) also applies if the story board on which the film production is based establishes a recognisable link with one of the countries referred to under a).

The characteristic referred to under c.) also applies if the main characters have a special connection with the Dutch (film) culture.

The characteristic referred to under i.) also applies if a prominent Dutch location is animated in such a way as to render it recognisable.

*documentary:*

at least three of the characteristics listed under feature film, on the understanding that instead of the word 'scenario' the word 'documentary script' can be read and instead of 'screenwriter' also 'the writer of the documentary script' and that the 'persons' referred to in characteristic c, can also be portrayed persons.

2. A film production to which another (Dutch) administrative body and/or the Fund has awarded a financial contribution, can only receive a grant amount to the extent that the total government assistance cannot exceed 50% of the production costs.
3. For an international co-production within the meaning of Article 1 that is financed by more than one EU member state, the percentage of government assistance referred to in the second paragraph cannot exceed 60% of the production budget.

4. For a 'difficult' film or a cross border film production in which countries from the DAC country list of the OECD are involved and that consequently has limited commercial value, a higher percentage may be awarded than the percentage referred to in the second and third paragraph, provided the producer and possibly the director have added a written vision to the application that shows, in the Director's opinion, that the film production:
  - a) contributes to the diversity of film in the Netherlands; and furthermore:
  - b) constitutes either a remarkable artistic enrichment and/or an innovative addition to the regular film supply in the Netherlands.

**- applicant requirements -**

Article 5

1. Applications on the basis of these regulations are made by a production company that has operated demonstrably and consistently in the area of producing and exploitation of film productions aimed primarily at cinema release in the Netherlands, a member state of the European Union or a State that is a party to the Agreement in respect of the European Economic Area, or in Switzerland.
2. The applicant must be legally represented by a producer who, calculated from the moment of the application, has, as a majority producer been the main responsible party for the production of at least one film production (reference film) in the Netherlands, a member state of the European Union or a State that is a party to the Agreement on the European Economic Area, or in Switzerland. At the time of the application the producer in question must have been a co-policymaker and (co-)shareholder of the applicant for a period of two years or more. The reference film must have been released in a cinema in the Netherlands.
3. Not eligible for a grant are:
  - a) a media company;
  - b) an applicant in which a media company has such direct or indirect control or actual influence that this media company can largely determine the applicant's policy or has significant influence over the content of the applicant's policy.

**- application requirements -**

Article 6

1. An application can only be submitted using an application form made available by the Fund.
2. The application form must be completed truthfully, completely and in line with the guidelines mentioned in the explanations accompanying the application form and the Financial & Production Protocol of the Incentive, accompanied by all the required appendices.
3. Application forms can be accessed at [www.filmfonds.nl](http://www.filmfonds.nl).
4. The board will process the applications in fixed application rounds each year. The closing dates of these application rounds will be published on the website of the Fund [www.filmfonds.nl](http://www.filmfonds.nl).
5. An application submitted after the submission deadline will be considered in the next application round.
6. If the board finds that an application is incomplete the board will give the applicant the opportunity to complete the application within five working days. If the applicant is unable to complete his application by the deadline, the application will not be considered. If the application has been completed and submitted by the deadline the initial submission date will count as the date of application.
7. An application must be submitted to the board. The board will make its decision no later than 13 weeks after the final submission date of the application round in question.
8. Insofar as the applicant has requested a financial contribution to cover the budgeted production costs from other Dutch and foreign administrative bodies as well, the applicant must mention this in the application, stating the administrative body in question and the status with respect to the evaluation of this application or these applications.



9. Insofar as the applicant has requested or received financing to cover the budgeted production costs from Dutch and foreign private parties as well, the applicant must mention this in the application, stating the parties in question and the status of this financing.
10. With the application the applicant will in any case submit a declaration guaranteeing that his financial position prior to the application, and particularly the ratio of available resources and current financial commitments, does not constitute a threat to the stability and solvability of the applicant and is not realistically expected to do so. The application should be accompanied by recent annual accounts for the applicant, no more than two years old, to substantiate the declaration. In addition, the applicant will, if the application relates to a national or international co-production, submit a similar declaration for each of the producers involved, including, for each of them, a recent extract from the local Chamber of Commerce.
11. With the application the applicant will submit the declaration(s) of the (film) distributors and/or third parties that have committed themselves to the film production unconditionally and in writing with respect to the financing, release or exploitation.
12. With the application the applicant will submit a declaration guaranteeing that he and any other producers involved have (an exclusive option on) the exclusive film and exploitation rights needed to produce a film and, in the event of an international co-production, that the exploitation and screening for at least the Netherlands is guaranteed.
13. With the application the applicant will submit a written substantiation showing the extent to which the film production that is the subject of the application demonstrably contributes to the realisation of the objectives referred to in Article 2, first paragraph.
14. The applicant will submit an accurate explanation of the points system he has completed including the qualification test. The Fund may ask the applicant, and the producers from the other countries of origin in case of an international co-production, to verbally clarify the application before the board decides about the application. The Fund can also make direct enquiries about the application with the financiers referred to in the 11th paragraph and any other financiers listed in the film plan.
15. The applicant will declare in the application that the film professionals and companies involved in the film production respect the frameworks of their own professional associations, apply the codes of conduct applicable to the sector (including fair practice, diversity/inclusion and governance) and as customers or contractors act transparently, ethically and professionally. \*
16. With the application the applicant will submit:
  - a. the declaration(s) of the (film) distributors and/or third parties that have committed themselves to the film production unconditionally and in writing with respect to the financing, release or exploitation;
  - b. a declaration guaranteeing that he and any other producers involved have (an exclusive option on) the exclusive film and exploitation rights needed to produce a film and, in the event of an international co-production, that the exploitation and screening for at least the Netherlands is guaranteed;
  - c. a written substantiation showing the extent to which the film production that is the subject of the application demonstrably contributes to the realisation of the objectives referred to in Article 2, first paragraph;
  - d. an accurate explanation of the points system he has completed including the qualification test. The Fund may ask the applicant, and the producers from the other countries of origin in case of an international co-production, to verbally clarify the application before the board decides about the application. The Fund can also make direct enquiries about the application with the financiers referred to in the 11th paragraph and any other financiers listed in the film plan;
17. The applicant will declare in the application that the film professionals and companies involved in the film production respect the frameworks of their own professional associations, apply the codes of conduct applicable to the sector (including fair practice, diversity/inclusion and governance) and as customers or contractors act transparently, ethically and professionally.



**- general requirements -**

Article 7

1. Only applications for film productions that meet the conditions stipulated in these regulations and are awarded the minimum number of points required under the points system will be eligible for a financial contribution. The minimum number of points required is determined annually, for the subsequent calendar year, by the board and published on the website of the Fund [www.filmfonds.nl](http://www.filmfonds.nl).
2. Only applications for film productions of which the production costs are at least 600,000 euros will be eligible for a financial contribution. If the application is for a documentary, the production costs must be at least 250,000 euros.
3. Only applications for film productions with a cinema release in at least the Netherlands or, in the case of a minority co-production, such as an international co-production, a cinema release in the country of the main producer and also a (non-)theatrical release in the Netherlands, will be eligible for a financial contribution. \*
4. A financial contribution based on these regulations will be awarded only to contribute to the production costs that qualify in accordance with the qualification test and are demonstrably spent in the Netherlands and provided they are at least 150,000 euros.
5. All the financial contributions and production costs referred to in these regulations are exclusive of VAT.
6. A financial contribution can otherwise only be awarded on the basis of these regulations if, in the opinion of the board:
  - a. the financial contribution serves to cover the costs of the realisation of the film production insofar as these costs are not already being covered by a third party;
  - b. it is plausible that the awarding of the financial contribution is necessary to achieve the objective of the application;
  - c. it is plausible that the film production can be realised in accordance with the objective outlined in Article 2, first paragraph, and in accordance with the budget outlined in the application and that the budgeted expenses are reasonable, cost efficient and in line with market conditions;
  - d. the financing plan enclosed with the application is feasible and sound;
  - e. there is sufficient confidence that the film plan will be realised to satisfaction;
  - f. at the time the financial contribution is awarded the film production for which the financial contribution was requested has not been fully or partially gone into production or into release;
  - g. the financial contribution does not serve to cover costs that were made in the period prior to the date on which the application has been fully submitted;
  - h. if the application relates to an international co-production this production meets the definition in Article 1;
  - i. it is plausible that the applicant is able to comply with the obligations outlined in these regulations;
  - j. the target audience forecast is substantiated by the film plan with all the accompanying annexes and documents;
  - k. 50% of the financing needed for the production costs has already been unconditionally and demonstrably committed on application by third parties in the form of board resolutions and/or written financial commitments from third parties;
  - l. the applicant or, if the application relates to an international co-production, the majority producer, has the exclusive (option on) the film and exploitation rights needed to realise and exploit the film production;
  - m. if the application relates to an international co-production the applicant will in principle have the distribution rights for at least the Netherlands;
  - n. the applicant, as a minority or majority producer, is jointly responsible for the creative realisation and production of the film production;
  - o. if the application relates to an international co-production and, in the board's opinion, the applicant has demonstrable experience with the adequate realisation of international co-productions.

7. The board may decide, on the basis of a written and substantiated request from the applicant, to grant exemption from the requirement in paragraph 6(f) that a production has not yet gone into production if the applicant can show that:
  - a. the full financing is unconditionally guaranteed;
  - b. the other financiers concerned agree to any change to the financing plan they have approved if a financial contribution is granted under these regulations;
  - c. any financial contribution under these regulations cannot lead to over-financing of a film production.

**- awarding and amount of financial contribution -**

Article 8

- a. If the board decides to award the financial contribution, the production costs estimated by the applicant and approved by the Fund will be used as the basis to determine the amount thereof.
- b. The amount of the financial contribution is determined by the production costs that are both eligible based on the qualification test and demonstrably spent in the Netherlands, multiplied by 30%. Production costs that meet the requirements stipulated in this paragraph and that also serve as the basis for a financial contribution based on a comparable foreign incentive, are not eligible for a financial contribution pursuant to these regulations.
- c. The production costs referred to in the previous paragraph may not exceed 80% of the total production costs.
- d. The awarded financial contribution can be a maximum of 1.5 million euros per application.
- e. The rights and obligations resulting from award of the financial contribution cannot be transferred, encumbered, offered as security or ceded to third parties.
- f. Contrary to the provisions of paragraph 2, the qualifying production costs can be multiplied by 35% if:
  - a. The application relates to an international co-production for which in the case of a feature film more than 75% of the digital production costs are spent in the Netherlands or, in the case of an animated film or a documentary more than 25% of the digital production costs are spent in the Netherlands, in the case of an animated film with a minority in the financing from the Netherlands more than 10% of the digital production costs are spent in the Netherlands; or,
  - b. the application relates to a film production for which the applicant receives, or has received, no other realisation contributions, from the board and/or from other Dutch administrative bodies whose contributions are to be regarded as state aid.

**- Advisory Committee -**

Article 9

The board can seek advice about the evaluation against the requirements stipulated in Article 7 from ad hoc advisers. Article 7 of the standing orders of the Fund applies to these advisers. The board will incorporate the recommendations from the ad hoc advisers in its decision about the application.

**- grounds for refusal -**

Article 10

Without prejudice to the stipulations in the Dutch General Administrative Law Act an application will be rejected if, in the opinion of the board:

1.
  - a. the applicant does not or will not meet the requirements, criteria and stipulations outlined in these regulations;
  - b. a media company has a direct or indirect major interest in the applicant;
  - c. the production company submitting the application or one of the responsible producers has been in serious default in the past in a previous fund application or there have been imputable acts in the past;

- d. an application based on these regulations is submitted for a film production for which an application based on these regulations has already been submitted and the board has not yet made a decision about this previous application;
  - e. the financial position, despite the declarations referred to in Article 6, tenth paragraph, is uncertain to such an extent that it constitutes a threat to the stability and solvability of the applicant or the film production in question;
  - f. awarding of the requested financial contribution would result in the applicant receiving a total amount in excess of 3 million euro in financial contributions based on these regulations in a single calendar year;
  - g. the awarding of the financial contribution does not apply to the film production for which a financial contribution is being requested;
  - h. the need for a financial contribution has not been sufficiently demonstrated;
  - i. the applicant is not the same party as the production company that has already received a financial contribution for the realisation of the same film production in the context of different regulations of the Fund;
  - j. awarding of the application would result in the grant caps set by the board being exceeded.
2. An application in respect of a film production for which an application has twice previously been submitted under these regulations and has not been granted by the board will no longer be considered.

**- mutual relationship between financial contributions -**

Article 11

1. Awarding a financial contribution based on these regulations will never oblige the board to awarding any other financial contribution.
2. Any financial contributions awarded to the film production by the board and/or other (Dutch) administrative bodies form part of the total financial contribution for realisation in the determination of the permitted state assistance percentage.

**- additional requirements -**

Article 12

1. In the case of a film production that, in the board's opinion, is classed as high risk the board may set additional requirements in terms of the financial and production supervision or require a guaranteed *bridging loan* and/or obtaining a *completion bond*.
2. The conditions under which the supervision is carried out or a *bridging loan* or the *completion bond* is obtained must be approved by the board in advance.
3. If a *completion bond* is required based on the first paragraph, the recipient of the grant must, on the conclusion of the implementation agreement, submit a written declaration from a *completion guarantor*, conclusively showing that the budgeted production costs of the film production for which a grant has been awarded, as set out in the production budget, are sufficient and that the production and completion of the cinema film for which a grant has been awarded fall under the cover of this *completion guarantor* from the time at which the shooting of the film production begins. The recipient of the grant must also submit a copy of a valid *completion bond* in which the Fund is designated as joint beneficiary. The applicant undertakes to agree with the provider of the *completion bond* that the provider of the *completion bond* will carefully monitor the progress of the production and, in the case of an international co-production, the expenditure in the relevant countries of origin, and will simultaneously notify the applicant and the Fund of any irregularities or the failure to incur proposed production expenditure.

**- obligations on the part of the recipient of the financial contribution -**

Article 13

1. The recipient of the financial contribution is obliged to produce the film production for which a contribution is awarded in accordance with the characteristics as included in the points system completed by the applicant.
2. The recipient of the financial contribution is obliged to:
  - a. submit the final written agreements with all the parties involved in the financing of the film production regarding the financing and exploitation of the film production for which a financial contribution has been awarded before the first day of shooting, but within six months after the financial contribution was awarded. These must show that, in the board's opinion, each of these parties has unconditionally committed to its part of the financing for the realisation of the film production in accordance with the information submitted with the application and other conditions that are compatible with the conditions attached to the awarding of the financial contribution and these regulations;
  - b. ensure that the recording, or in the case of an animated film the realisation, of the film production for which the financial contribution was awarded does not start until the Fund has confirmed that the applicant has met the obligations referred to in this paragraph under a.) and - where applicable - the *completion guarantor* has provided definite cover for the production and completion of the film production for which a financial contribution was granted *and* - if it concerns an international co-production that meets the criteria in Article 1 - the unqualified audit opinion from each of the countries of origin within the meaning of Article 5 of the Council of Europe Convention on Cinematographic Co-Production has been submitted to the Fund;
  - c. give the board advance notice of the time when the recording, or in the event of an animated film the realisation, of the film production for which a financial contribution was awarded will start and ensure that the film production is completed and released within 24 months after the signing of the implementation agreement.
  - d. in any case for a majority film production pay back the financial contribution to the Fund out of revenue obtained from the exploitation of the film production.
3. The board attaches to the decision to award the financial contribution the suspensive condition that the implementation agreement is realised.
4. The recipient of the financial contribution also has the following obligations:
  - a. to efficiently pursue the objectives formulated in the film plan based on which a financial contribution was awarded;
  - b. to keep the Fund informed correctly and truthfully at all times;
  - c. to maintain a clear and effective administration in accordance with Dutch legislation, the Financial & Production Protocol of the Incentive and the associated Financial Accountability Handbook and to use an administration system that is acceptable to the Fund;
  - d. to ensure that the administration gives a correct, complete and up-to-date picture of the performance of the applicant and corresponds in detail with the budget and financing plan approved by the Fund;
  - e. to have sound records of all receipts and expenditure, clearly showing the nature and scope of the supplied goods or services and to ensure that reports, cost, expense and other overviews are included in the administration of the applicant;
  - f. to keep the administration and the accompanying documents for at least seven years after the determination of the financial contribution;
  - g. to spend the financial contribution in accordance with the spending obligation;
5. The recipient is obliged to deliver the 'picture locked' film production that corresponds with the application and the accompanying film plan in accordance with the procedure described in the Financial & Production Protocol of the Incentive.
6. The recipient of the financial contribution will notify the Fund forthwith as soon as:
  - a. it appears likely that the film production for which a financial contribution was awarded will not be realised, not be realised on time or not be realised in its entirety in accordance with the objective or the film plan based on which a financial contribution was awarded;
  - b. it appears likely that the obligations attached to the financial contribution will not be met, not be met on time or not be met in their entirety;

- c. substantial changes have occurred with respect to the information accompanying the application submitted to the Fund in the context of the awarding or determination of the financial contribution, or,
  - d. changes have occurred in the realisation of the film production compared to the application and/or special circumstances have arisen.
7. The obligation of paragraph 2(b) does not apply to applications for which the board has granted exemption under Article 7(7).
8. The Fund assumes that applicants and the film professionals and companies involved in an application respect the frameworks of their own professional associations, apply the codes of conduct applicable to the sector (including fair practice, diversity/inclusion and governance) and as customers and contractors act transparently, ethically and professionally. \*

**- obligations relating to the implementation agreement -**

Article 14

1. After the board has received the agreements and documents referred to in Article 13(2)(a), the recipient of the financial contribution and the board will sign an implementation agreement.
2. The implementation agreement will document the detailed obligations attached to the financial contribution, including:
  - a. what guarantees the applicant, in the board's opinion, must provide with respect to the compliance with obligations on the part of other parties that have promised financial contributions to the film production for which a financial contribution was awarded;
  - b. the frequency and format in which the recipient of the financial contribution will comply with any reporting obligations;
  - c. the way in which the revenue to be generated from the exploitation of the film production will be divided between (if applicable) the Fund, the other financiers and the titleholders;
  - d. that the applicant requires any party from which the applicant purchases goods or services which, based on Article 8(2), help determine the amount of the financial contribution, to sign the Performers and Suppliers Declaration in which each declares, among other things, that:
    - (i) it is subject to Dutch taxation and that tax will be paid in the Netherlands on the profit obtained from supply of the goods or services indicated above;
    - (ii) it has its permanent domicile in the Netherlands or a permanent base in the Netherlands from which it/he demonstrably performs economic activities;
    - (iii) it will supply the goods or perform the services in person if and to the extent they are entered as having been spent in the Netherlands, and;
    - (iv) it will give the Fund access to its/his records if required, to the extent the Fund deems this necessary with a view to the accountability and the determination of the awarded financial contribution.

**- obligations relating to the expenditure -**

Article 15

1. With due observance of Article 7(4) the applicant is obliged to spend 100% of the Production Costs earmarked in the application as expenditure to film professionals and film companies in the Netherlands, demonstrably in the Netherlands. The proportion of the production costs that is spent in the Netherlands, as well as any expenditure in other territories, must be shown separately in the submitted production budget in accordance with the accompanying financing agreements.
2. In the event that other contributions or grants to which a (partial) spending obligation in the Netherlands or to legal entities/persons in the Netherlands is attached have also been provided by the Fund or other Dutch administrative bodies the applicant is always free to spend at least

20% of the production costs in another member state of the European Union, or in a state that is a party to the Agreement with respect to the European Economic Area, or in Switzerland.

**- obligations relating to digital conservation -**

Article 16

1. In order to preserve the cultural heritage the applicant is obliged to contact the EYE Film Instituut Nederland [Dutch EYE Film Institute] in good time, in other words at the time of the completion of the film production, and provide it with access to the (source materials of) the film production in accordance with the conditions documented in the Financial & Production Protocol of the Incentive. Upon being awarded the financial contribution the applicant will agree with the conservation and with the digital storage of the film by the EYE Film Instituut Nederland for that purpose. The conditions attached to the conservation and the associated digital storage by the EYE Film Instituut Nederland will be documented in a separate agreement between the applicant and the EYE Film Instituut Nederland. This agreement will also document stipulations with respect to specific non-commercial use of the film production.
2. The applicant agrees to grant consent 'free of charge' for non-commercial educational use or one-off or special publications of the film production that in order to promote the film climate in the Netherlands are of national importance, and to multiply these for this purpose, unless it can reasonably be stated that this publication may disproportionately damage the interests of the applicant or its legal beneficiaries.

**- accountability -**

Article 17

1. The recipient of the financial contribution:
  - a. will demonstrate, in the manner stipulated in the decision granting the financial contribution, that the film production has been realised and that the obligations attached to the financial contribution have been met;
  - b. will submit to the Fund a current and truthful overview of all revenues, expenses and the territorial expenditure, including a report of the expenses referred to in Article 8, paragraphs 2 and 6 that contribute to determining the level of the financial contribution;
  - c. will keep the Fund adequately informed, in writing, about the premiere, the costs, the public reach and the revenues resulting from the distribution and exploitation of the film production for which a financial contribution was awarded;
  - d. is obliged, without prejudice to the stipulations in Article 4:45 of the Dutch General Administrative Law Act, to supply a DCP of the film production for which a financial contribution has been awarded; \*
2. The board obligates the recipient of the financial contribution to submit a financial report in respect of the actually realised costs and revenues of the film production. This must be done no later than four months after the completion of and/or first disclosure in respect of the film production, unless the implementation agreement stipulates a different deadline.
3. The financial report will provide sufficient insight to be able to form an informed opinion about
  - (i) the utilisation and spending of the financial contribution by the recipient of the financial contribution in the Netherlands,
  - (ii) the expenditure outside the Netherlands on the part of the recipient of the financial contribution and, in the event of an international co-production, the producers from the countries of origin, and,
  - (iii) the third-party financing received by the recipient of the financial contribution and, in the event of an international co-production, the producers from the countries of origin outside the Netherlands.
4. The financial report meets the requirements referred to in Article 17, paragraph 1, sub b and corresponds with the structure of the budget and the financing plan that were submitted prior to the awarding of the financial contribution or the signing of the implementation agreement and that



- were approved by the Fund in accordance with the Fund's Financial & Production Protocol of the Incentive. Significant discrepancies between the financial report and budget and/or the financing plan must be explained.
5. The recipient of the financial contribution is obliged to attach an accountant's statement within the meaning of Article 393 of Book 2 of the Dutch Civil Code to the financial report, provided an alternative has not been agreed in the implementation agreement. The accountant will follow the Fund's Financial Accountability Handbook.
  6. Representatives of the Fund will be given access to the administration relating to the film production for which the financial contribution was awarded upon the first request to that effect. The recipient of the financial contribution is obliged to include a fixed amount in its budget for interim audits and counterchecks by the Fund, as stipulated in the Financial & Production Protocol of the Incentive.
  7. Without prejudice to the stipulations in this Article the Fund, after awarding the financial contribution, is entitled to verify at any time whether the obligations attached to the financial contribution are being met. This verification can also focus on the third parties referred to in Article 14(2)(d) and, in the case the award of the financial contribution relates to an international co-production, on the co-producers involved.

**- determination -**

Article 18

1. Within four months after the completion of and/or first disclosure in respect of the film production the recipient of the financial contribution must submit an application for determination, unless the implementation agreement stipulates a different deadline. If this deadline is exceeded the board is entitled to determine the awarded financial contribution on its own authority.
2. The application for determination must be accompanied by the documentation referred to in Article 17 and in the implementation agreement.
3. Upon the Fund's request the recipient of the financial contribution is obliged to provide all documentation and information the Fund deems necessary to determine the financial contribution.
4. The recipient of the financial contribution will ensure that its accountant collaborates with any audit by or on behalf of the Fund into the (verification) work done by the accountant of the applicant. The costs associated with the accountant's collaboration will be at the expense of the recipient of the financial contribution.
5. The board will determine the amount of the financial contribution not more than 22 weeks after the submission deadline referred to in the first paragraph. The amount on the basis of which the financial contribution is decided cannot be higher than the amount of the awarded financial contribution.

**- payment -**

Article 19

- a. The financial contribution will be paid within eight weeks after the date of the determination decision.
- b. It may be documented in the implementation agreement if, and if so on what conditions, advance funding may be possible. If an advance is paid it will be offset against the financial contribution to be paid after the determination.
- c. If a financial contribution is paid to a recipient whose domicile or main base is not in the Netherlands the recipient of the financial contribution will be obliged to demonstrate to the satisfaction of the board that, at the time of payment, the recipient of the financial contribution has a secondary establishment in the Netherlands and has at least one permanent employee there.

**- amendments, revocation and reclamation -**

Article 20



As long as the financial contribution has not yet been determined, the board can revoke the award of the financial contribution or reduce it if one of the events or circumstances referred to in Article 4:48, first paragraph, of the Dutch General Administrative Law Act occurs, including:

- a. the circumstance in which the recipient of the financial contribution has not met the obligations attached to the financial contribution, including but not limited to, the obligations referred to in Article 13, or has failed to meet the obligations arising from the awarding of the financial contribution;
- b. if the board becomes aware that substantial changes have occurred with respect to the information supplied with the application or upon the realisation of the implementation agreement;
- c. the recipient of the financial contribution has obtained more or fewer financial contributions from third parties after the awarding but before the determination of the financial contribution than specified in the implementation agreement;

The revocation or amendment will take effect with retroactive force from the time the financial contribution was awarded, unless stipulated otherwise when revoking or changing the financial contribution. The amount by which the financial contribution may be reduced will, in the first instance, be offset against any advances still to be paid. If this is inadequate any paid advances will be reclaimed.

**- evaluation & monitoring -**

Article 21

At least once every four years the board will evaluate the effects of the execution of the scheme and the extent to which it achieves its objectives. For the purpose of this evaluation the board will appoint an evaluation committee of which at least three representatives from the film production sector are members. In addition the board will monitor the execution of the scheme and the extent to which it has achieved its objectives and publish the results on an annual basis.

**- transitional and final stipulations -**

Article 22

1. In all cases for which these regulations do not provide the board is authorised to decide.
2. The board can deviate from these regulations for compelling reasons, provided such deviations correspond with the evaluation framework for government assistance to the film sector as applied by the European Commission.
3. These regulations came into force with effect from 20 May 2014. Changes have been made to the regulations as from 1 January 2021 with the approval of the Board of Trustees on 30 October 2020.
4. These regulations come into force with effect from 1 January 2021.
5. The regulations in force from 1 January 2020 have been withdrawn as from 1 January 2021. All applications received by the Fund before 1 January 2021 will continue to be governed by the regulations applying up to 1 January 2020.
6. These regulations are cited as Regulations for Incentives pertaining to Film Production in the Netherlands of the Stichting Nederlands Fonds voor de Film [Netherlands Film Fund].
7. These regulations will be publicised by means of a notice in the Staatscourant (Dutch Government Gazette) and on the website of the Nederlands Fonds voor de Film ([www.filmfonds.nl](http://www.filmfonds.nl)).

## EXPLANATION

### General clarification

On behalf of the Cabinet and further to a study into the film production environment in the Netherlands the Minister of Education, Culture and Science has decided to implement this incentive to promote a healthy film production environment in the Netherlands and reinforce the international competitive position of the Dutch film industry.

The financial contributions made pursuant to this scheme are intended to increase the attractiveness of the Netherlands for both national and foreign film productions, so increasing the production activity of creative and technical film professionals and film companies in the Netherlands. This scheme is also intended to promote the development of film talent in the Netherlands and stimulate the diversity, quality and distribution of film productions.

As economic goods, film productions provide considerable opportunities to create prosperity and jobs and, as cultural goods, have a deciding influence on and are a reflection of our society. Reinforcing both the cultural and economic dimension of film productions aids in giving expression to the culture and the creative ability of the Netherlands. The cultural dimension is best served with an economically sound and sustainable sector. The economic sustainability is linked to and reinforced by high quality audiovisual products.

Increasing the production activity in the Netherlands should create more opportunities for creative and technical film talent to develop in the Netherlands and also for innovation, as a result of which the audiovisual infrastructure in the Netherlands can be permanently reinforced and the quality of Dutch film productions stimulated. International co-productions allow better opportunities to be created for the international exchange of knowledge and talent and expansion of the visibility of Dutch film talents across national borders and of the Netherlands as a location for film production. Finally, this creates opportunities to reinforce the position of Dutch producers in international co-productions, which can also result in improved international financing of Dutch film productions.

In addition to the available resources for film production via the culture policy the Minister of Education, Culture and Science makes 20 million earmarked euros available to the Fund annually for the execution of the scheme including the associated management expenses. The maxima available and adjustments of them are published in the Government Gazette and on the website of the Fund at [www.filmfonds.nl](http://www.filmfonds.nl). Among other things the effects of the scheme are monitored based on the development of the production volume (number of films multiplied by the budget) in the Netherlands and the scope of the expenditure of production capital in the Netherlands.

Wherever these regulations refer to *The Netherlands* this should be read as *The Netherlands and the BES islands (Bonaire, St. Eustatius and Saba)*.

### Article-by-article clarification

#### **Article 1 - Definitions -**

The Fund considers the definition of cinema release to be a thorough and national distribution of the film production which, after the premiere, is shown to a paying audience on a daily basis for a significant number of weeks and in a significant number of cinemas and/or film theatres, whereby, based on Article 7, sixth paragraph, under j, the scope of the release must correspond with the approved exploitation objective in the application. An instrumental or promotional release whose primary aim is not a cinema release but for example a release on television or through a streaming service does not meet the Fund's definition of cinema release. If a different release is necessary for a specific film production, this must be agreed with the Fund in advance. \*

Fiction refers to a film production that tells a story that takes place mainly in the imagination of the maker and the audience. This means that the main elements, the story/plot, the characters and the story structure are fictitious and not based on reality. This is contrary to non-fiction, which refers to film productions that mostly do relate to reality.

In the case of majority film productions the link that the producer and the artistic team have with the Netherlands is important. Further requirements will therefore be made of the majority (co-)producer for international co-productions. Natural persons of any nationality may be part of the Dutch cultural community. The director or scriptwriter may for example be working and established in the Netherlands on a continuing basis or have attended the film academy or art education in the Netherlands. \*

A media company is a company that is engaged in distributing audiovisual media content, for example media institutions (broadcasting companies), media services on demand or cable companies. The Fund also regards any company that forms part of a corporate structure in which the media content chain of production, distribution and exploitation is integrated to be a media company. A media company may invest in a film production, or film activity, but for the Fund does not qualify as an applicant. \*

As the party with the ultimate responsibility the producer is in principle also the owner of/shareholder in the production company.

The first disclosure is the first public release of the film production.

#### **Article 2 - purpose and applicability -**

The general clarification is also a further clarification of Article 2.

#### **Article 3 - grant caps, budget allocation & budget reservation -**

Because financial contributions based on this scheme must fit in with the designated available budget and a 'first come, first served' basis is not the preferred option, it was decided to use a system in which applications are weighed against each other.

In each application round the applications that meet the requirements are ranked on the basis of the points system. There are a minimum number of points an application must meet. Prior to the first application round of the year in question the Fund will publish the minimum number of points for the subsequent year on its website [www.filmfonds.nl](http://www.filmfonds.nl).

The grant available for each round is distributed among the eligible applications, the application with the most points being first in line for a financial contribution. The remaining applications, ranged in descending order, are subsequently awarded until the grant cap(s) for the application round in question has or have been reached.

#### **Article 4 - cultural criteria and state assistance percentages -**

Fund grants qualify as government support, so only film productions that have cultural value are eligible for a contribution from the Fund. The 'cultural criteria' the Fund uses for this purpose are listed in the first paragraph: the Fund uses **ten** characteristics, at least **three** of which must be met in the board's opinion. Meeting the criteria in the first paragraph means that the film production has cultural value within the framework of the 2013 Film Announcement of the European Commission.

The term 'mainly' used under characteristic a. means that (one of) the main location(s) where the scenario is set must be in one or more of the countries listed or the Kingdom of the Netherlands, and based on the scenario it must be feasible that the realised film production is largely set in the location or locations in question. \*

Characteristic c. requires that at least one of the leading roles or two of the supporting roles is/are Dutch-speaking, or that a lead actor/main character has the Netherlands as an obvious home or residence, and that in this sense the realised film production is substantively a visible part of the Dutch culture.

The term 'largely' used in characteristic d. means that the scenario makes it believable that in relative terms the dialogue in the film production is mainly in the Dutch language. In the case of an animated film it must be feasible, in the board's opinion, that, in the first instance, a Dutch language version of the film production is made for distribution in the Netherlands. \*

The original work of literature referred to in characteristic e. refers to a book, stage play, radio play or scenario.

With respect to characteristic f., the leading national or international artists and/or generally recognised professional art disciplines must be a focal point in the film production. The same applies to the important historical figures or events referred to in characteristic g.

In characteristic i. the term 'prominent Dutch locations' refers to: locations, landscapes or buildings that can be identified as 'Dutch'; in the case of animated films these would be animated or drawn 'prominent Dutch locations'.

With respect to characteristic j., the film production will have a non-theatrical release and in any case a cinema release in the Netherlands or the country of the main producer and, afterwards, remains at least available for non-commercial purposes of the National film archives. The 'cross border promotion of the Dutch or European film culture and its diversity' refers to the fact that the film production has a certain quality that gives it a cross border added value for the Dutch and European film culture.

The second through to the fourth paragraph of Article 4 contain hardship clauses about the proportion of state assistance in the financing of a film production in accordance with the 2013 announcement of the European Commission regarding state support for films and other audiovisual works.

For a 'difficult' film or a cross border film production in which countries from the DAC country list of the OECD are involved and which consequently has limited commercial value, a higher percentage than 50% or, as the case may be, 60% may be awarded.

The following films may be classed as difficult: a short film, documentary, a low-budget film of which the production costs do not exceed 2 million euro, a cinematographic experiment, an arthouse film or a film with limited market potential of which the original version exists only in an official language of an EU member state with a limited territory, low population numbers or a small language area. An arthouse film is a feature film in which the emphasis is on the artistic quality and the end result is special to such an extent that it can potentially be recognised and appreciated nationally and/or internationally.

#### **Article 5 - applicant requirements –**

In the case of a majority film production or an international co-production, the production company of the majority (co-)producer will make the application. In the case of a minority co-production, such as an international co-production, the production company of the *Dutch* minority co-producer will make the application. The Fund assumes that only one Dutch producer is associated with a film production. \*

A media company is not eligible as an applicant and also may not have direct or indirect control of or actual influence over the applicant such that the media company can largely determine the applicant's policy or has significant influence over its content.

#### **Articles 6 and 7 - application requirements and general requirements -**

The application is submitted in Dutch. The application will in any case be accompanied by a film plan which includes a synopsis, scenario, budget and financing plan. The synopsis and scenario can also be supplied in the English language.

Applications for pornographic films, instructional films, informative films, corporate films, a report, a purely scientific or didactic media production, advertising films and educational films are not eligible for financial contributions and will therefore be rejected.

For reasons of efficiency a threshold is applied with respect to the minimum amount of the production costs that must qualify based on the qualification test.

The sixth paragraph of Article 7 provides further requirements that also extend to the film plan accompanying the application. The requested substantiation of the associated target audience forecast must be based on a realistic ratio between the type of film production for which the application is being made and the anticipated public reach based on this type of film production. At the time of the application the written financial promises of third parties must not be more than six months old.

***Article 8 - awarding and amount of financial contribution -***

Double grants or double financing of budget items is not permitted. This also means that including the same eligible cost items in the context of these regulations and for comparable foreign regulations is not permitted. For this purpose the Fund requires insight into applications and allocations for the same film productions from other subsidising institutes nationally and abroad and/or financing of these film productions by private parties.

The term digital production costs means costs of the digital work flow, such as animation work, visual effects, video and audio editing.

***Article 10 - grounds for refusal -***

The board has concrete indications that can support the refusal decision if the applicant or the natural person who legally represents the applicant or the (co-)producers involved don't meet/have not met the regulations imposed on a financial contribution previously awarded by the board, or if he/it has attributable failed to comply with one or more of the obligations attached to an earlier grant awarded by or implementation agreement signed with the Fund. An application can be refused or its processing can be suspended if in a previous film production the reporting of production and financial emergencies was late or incomplete, or if the financial accountability was incomplete.

***Article 13 - obligations on the part of the recipient of the financial contribution -***

In important cases, for example in the case of certain minority co-productions, the board may decide not to impose the payback obligation referred to in the second paragraph, section d, of this Article. The implementation agreement must in principle be realised before the first recordings, unless the exception stipulated at the end of paragraph 2 is invoked and a written and substantiated request is made to the board for exemption from the obligations referred to under paragraph 2. The financing must in all cases be fully and unconditionally guaranteed before the recordings.

***Article 14 - obligations relating to the implementation agreement -***

The implementation agreement will also document that the financial transactions relating to the film production must be kept strictly separate from other film productions and activities the applicant is engaged in, and the conditions under which the awarded financial contribution can be transferred to a single purpose company established at the initiative of the applicant.

***Article 15 - obligations relating to the expenditure -***

The board can revoke the awarded financial contribution, or reduce the amount of the financial contribution and claim it back if, at the time of determining the financial contribution, it becomes apparent that a lower or different amount has been spent in the Netherlands than the applicant stipulated in the application. The Fund cannot obligate the applicant to spend less than 20% of the total production costs outside the Netherlands in the EU, the EER or Switzerland.

***Article 17 - accountability -***

In principle, for a final calculation, no open orders can still exist. If these are present, the Fund will ignore these costs, unless sufficient substantiation is provided.

***Article 19 - payment -***

The secondary establishment in the Netherlands, as referred to in the third paragraph, is a permanent establishment that should carry out production activities on a continuous basis and have at least one employee. The role of this permanent employee should be directly related to executive production activities for this entity. The economic activities of the secondary establishment should be evidenced by an entry in a Chamber of Commerce's Trade Register, a bank account with a bank branch in the Netherlands, with conventional invoicing from the Netherlands and a business CV.

***Article 20 - amendments, revocation and reclamation -***

The board can revoke the awarded financial contribution, or reduce the amount of the financial contribution, if, after the financial contribution has been awarded, it becomes apparent that there is double financing, in particular because the same costs for which the financial contribution was requested have been entered in both the Dutch and foreign expenditure, or if it becomes apparent that the costs for which the financial contribution was requested have not been demonstrably and directly spent with non-affiliated parties that are subject to Dutch taxation (as described in more detail in the qualification test).

The Fund can also use this authority if it becomes apparent, for example, that in the actual expenditure in the Netherlands the recipient of the financial contribution has deviated from the costs that are relevant to the qualification test or has not realised the film production in accordance with the points system submitted with the application. This will specifically be the case if this deviation results in the fact that, when the financial contribution is determined, the recipient of the financial contribution will no longer have a position in the ranking based on the points system of the application round in which it/he made the application.

***Article 21 - evaluation & monitoring -***

The evaluation committee referred to in this Article will be composed in such a way that it will be a balanced reflection of the various sections in the film production sector and will provide for the production/business, creative and technical representation of the sector.



## Annex 1: QUALIFICATION TEST

### Eligible production costs within the meaning of Article 7, fourth paragraph.

The production expenses that are taken into consideration for the calculation of the financial contribution are limited. These expenses relate only to the costs that still need to be incurred for the realisation of the film production and their objective, consequently, is the completion of the production. Production expenses are only eligible if they are realistic, cost-efficient and in line with market conditions, and if there are no deferments, in accordance with the stipulations in the Financial & Production Protocol of the Incentive.

The costs for technical film equipment (e.g. cameras, light and sound equipment) will qualify provided the equipment is purchased, leased or rented directly in the Netherlands. Only a percentage of the purchase value of material production equipment (including, but not limited to, computers, monitors, hard disks, software, cameras, light and sound equipment) can be classed as production costs; the percentage is dependent on the length of time the material production equipment is used for the international co-production. If the equipment is used for 30 days or less, 5% of the purchase value (ex VAT) of the material equipment item in question can be classed as production costs; if the use exceeds 30 days the percentage is 10%.

The following costs are in any event not eligible for a contribution based on these regulations:

- costs associated with the business(es) of the applicant or the co-producers involved, including salary costs, costs for the furniture, rent or mortgage payments of the production office, secretarial support, post, telephone, Internet and mobile phone, couriers and other administrative costs and office materials, with the exception of managing functions (budgeted in line with market conditions) within the executive production process (limited to: the line producer/executive producer and/or production manager and/or specialised budget controller and/or post-production supervisor and/or unit publicist); \*
- taxi costs, purchase of fuel, mileage expense claims;
- quitclaim payments, provided they are submitted via an itemised invoice from the casting agency;
- representation, travel and accommodation costs, with the exception of hotel stays;
- financing and accountant's costs, with the exception of the costs of the interim audit and countercheck (Article 17, sixth paragraph);
- legal and tax costs;
- unforeseen costs, in so far as they exceed 5% of the eligible production costs. (The accountability stage must show that these costs have actually been spent on production costs that are eligible);
- overhead;
- the producer's fee, insofar as it exceeds 7.5% of the eligible production costs;
- the development costs already incurred;
- all payments for rights made for the use of rights not specifically created for the film production (such as book and format rights, existing music and image recordings and works);

Eligible production costs may be eligible for a financial contribution if these production costs have been demonstrably and *directly* spent with *non-affiliated parties that are subject to Dutch taxation*.

*Non-affiliated* means that none of the producers involved in the film production, or their shareholders, administrators, policymakers, or any companies under their management, have significant control over the party that is subject to Dutch taxation or, subject to the evaluation of the board, are otherwise closely associated with the party that is subject to Dutch taxation.

*Direct(ly)* means that the party that is subject to Dutch taxation did not, in turn, outsource the goods or services that are included in the calculation of the financial contribution to parties that are subject to foreign taxation.



*Parties subject to Dutch taxation* are legal entities, partnerships and natural persons that/who have demonstrably permanent domicile in the Netherlands or a permanent base in the Netherlands from which they demonstrably perform economic activities, proven, among other things, by means of a registration in the Commercial Register of a Chamber of Commerce, a bank account with a Dutch bank, with invoicing commonly from the Netherlands and that/who - subject to the evaluation of the board - have not taken domicile or established a permanent base in the Netherlands solely for the purpose of complying with the description of being a party that is subject to Dutch taxation.

## Annex 2. POINTS SYSTEM

The points system contains elements to determine the impact of a film production on the reinforcement of the audiovisual infrastructure and film culture in the Netherlands, the (cross border) development of creative and technical talent and the promotion of the Netherlands as a production location and of talents across country borders.

There is a separate points system for feature films (2.1), documentaries (2.2) and animated films (2.3). To be eligible for a financial contribution a minimum number of points is required. The minimum number of points required for the subsequent calendar year is determined annually by the Fund and published on its website, [www.filmfonds.nl](http://www.filmfonds.nl), prior to the first application round of the year in question. The minimum number of points determined annually will never exceed 75 points.

The points system is binary, which means that unless the table itself stipulates otherwise two mutually exclusive points can be awarded: zero points if the element in question does not apply, and, if the element in question does apply, the stipulated number of points.

A maximum of 160 of the 210 points can be obtained for sections 1 - 3. These sections focus on essential functions within the production process, the production and financing and the international recognition of the director and actors in the lead roles. The impact is evaluated in section 4. With regard to the allocation of points for sections 2 and 4 of the points system the applicant is free to spend 50% of the production costs outside the Netherlands without losing any points.

If two applications in an application round are allocated the same number of points and one of the applications must be rejected because the grant cap has been exceeded, the sequence is determined by comparing the total number of points in the individual sections, starting with section 4 (Impact) followed by sections 3, 2 and 1, in declining order of importance.

### **1. Creative talent and essential crew throughout the entire film production process**

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A maximum of 75 points can be obtained for this section based on the use of creative talents and other essential functions within the production process. A natural person can only be designated for a certain function on the list once, with the exception of the *director* and *screenwriter* functions and the *sound designer* and *re-recording mixer* functions. The person/party who/that performs the function has the ultimate responsibility in that position and must demonstrably have fulfilled a similar function in earlier film productions. They must demonstrably have a permanent base (domicile) in the Netherlands from which they demonstrably perform economic activities and/or have demonstrable, strong ties to the Dutch film culture.

To be able to qualify for the scheme a minimum of two main functions (1.1 - 1.13, or in the case of the feature film category 1.1 - 1.15) are required. In the case of a film production with a Dutch minority share in the financing where the qualifying production costs spent in the Netherlands are at least one million, a minimum of one main function is required and other functions may also count if they have main responsibility for the realisation of the Dutch part of the production. In the case of an animated film with a Dutch minority share in the financing, the functions count if they have main responsibility for the Dutch part of the production.

In the feature film category a maximum of 10 points can be obtained with other crew members (1 point per crew member) who have predominantly fulfilled that function, or in relation to a certain percentage of the total number of shooting days. In the animated film category extra points can be obtained based on the specific animation technique.

In the case of a Dutch minority co-production the subtotal of points obtained in this section can be multiplied by two, to a maximum of 75 points.

## **2. Production and financing**

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This section focuses on production and financial elements that apply to the category in question. A maximum of 75 points can be obtained in this section.


## **3. International status of the director, scenarist and the lead actors**

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A maximum of 10 points can be obtained in this section if the director and/or scenarist in question, and in the feature film category also the lead actor(s), has/have been selected in certain international festivals with earlier work or have been distinguished with specific awards, in accordance with the overview of festivals and awards in the Financial & Production Protocol of the Incentive. The points apply to both (an) involved Dutch and foreign director and/or scenarist and lead actor(s).

## **4. The impact**

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To determine the impact of a film production on the reinforcement of the audiovisual infrastructure and film culture in the Netherlands, the (cross border) development of creative and technical talent and the promotion of the Netherlands as a production location and of talents across country borders the Fund can allocate a maximum of 50 points for the extent to which the Incentive constitutes a lever for the production activity in the Netherlands, the promotional cross border impact, contributes to the diversity and international co-production position. The effect of other contributions from administrative bodies and/or the Fund on the film production will also be taken into consideration. 

2.1. Points system - Feature film category \* = See change point 4.1

W 19  
(1444) (1921)

**Points system Production Incentive - Feature film subcategory**  
Fill out the grey fields only (yes/no)

Title Film production:  Application nr (form):

**Dutch minority coproduction? Y/N**

2. Creative talent and leading crew members (heads of departments) with domicile in the Netherlands and/or that have demonstrable strong ties to the Dutch filmculture		yes / no	Points
1.1	Director (8 points)	<input type="text" value="no"/>	0
1.2	Screenwriter (3 points in case a Dutch co-author is associated with the project from development, 8 points in case of full Dutch authorship)	Only Dutch co-author <input type="text" value="no"/> Full Dutch authorship <input type="text" value="no"/>	0
1.3	Leading role by actor/actress (5 points if 2 leading roles with min. 10 days of shooting a person, 3 points for 1 leading role)	1 role <input type="text" value="no"/>	0
1.4	Supporting role actor/actress (4 points if 2 roles with min. 3 days of shooting a person, 2 points for 1 role with min. 3 days of shooting)	2 roles <input type="text" value="no"/> 1 role <input type="text" value="no"/>	0
1.5	Director of Photography (4 points)	<input type="text" value="no"/>	0
1.6	Editor (4 points)	<input type="text" value="no"/>	0
1.7	Production Designer (4 points)	<input type="text" value="no"/>	0
1.8	Sound recordist/Production sound mixer (on set) (3 points)	Sound recordist <input type="text" value="no"/> Production sound mixer <input type="text" value="no"/>	0
1.9	Sound Designer and/or Re-recording mixer (3 points for sound designer, 2 points re-recording mixer)	Re-recording mixer <input type="text" value="no"/> Sound designer <input type="text" value="no"/>	0
1.10	Visual Effects Supervisor and/or Colorist (3 points for visual effects supervisor if budget item 5000 is at least 7.5% of the total budget, 2 points for colorist for grading the film, not the dailies)	Visual effects supervisor <input type="text" value="no"/> Colorist grading film <input type="text" value="no"/>	0
1.11	Composer (3 points for the composer, 1 point for the orchestra/musicians if majority of them applies to criteria)	Composer <input type="text" value="no"/> Musicians <input type="text" value="no"/>	0
1.12	Costume Designer (3 points)	<input type="text" value="no"/>	0
1.13	Make Up & Hair Artist (3 points)	<input type="text" value="no"/>	0
1.14	First Assistant Director (3 points)	<input type="text" value="no"/>	0
1.15	Line Producer and/or Post Production Supervisor (3 points for line producer, 3 points for post production supervisor) <i>(Subtotal 1.1 - 1.15 maximum 65 points)</i>	Line Producer <input type="text" value="no"/> Post production superv. <input type="text" value="no"/>	0
		Subtotal up to 1.15	0
1.16	Other crew during the production and post production (fill out on the right - max. 10 points or 20 points if Dutch minority coproduction)	Subtotal 1.16	0
		Subtotal 1*	0

\* In case of a Dutch minority co production the subtotal in section 1 is multiplied by 2 (with a maximum of 75 points for section 1 in total).

2. Production and Financing in the Netherlands		yes / no	Points
2.1	Image post production (15 points for crew and facilities # budget items 5000, 5400 and 5500) In case 75% or more of the image post production budget is spent in the Netherlands	** <input type="text" value="no"/>	0
2.2	Sound post production (15 points for crew and facilities # budget item 5300) In case 75% or more of the post production budget for sound is spent in the Netherlands	** <input type="text" value="no"/>	0
2.3	If Dutch majority coproduction (15 points) In case 90% of shooting days (on location or studio) in the Netherlands	*** <input type="text" value="no"/>	0
	If Dutch minority (co)production (15 points) In case 20% of shooting days (on location or studio) in the Netherlands	*** <input type="text" value="no"/>	0
2.4	If Dutch majority coproduction (30 points) If at least 20% of production budget is financed abroad	*** <input type="text" value="no"/>	0
	If Dutch minority (co)production (50 points) If at least 60% of production budget is financed abroad and the minority coproducer holds the rights to the Benelux distribution and has a share in the revenues for the region of the Benelux	*** <input type="text" value="no"/>	0
		Subtotal 2**	0

\*\* In case of a Dutch minority co production the points under 2.1 and 2.2 are multiplied by 1.5 (with a maximum of 75 points for section 2 in total)  
\*\*\* Only allocated for international filmproductions

3. International standing		yes / no	Points
3.1	Director, screenwriter (5 points) If a film of the director and/or screenwriter in the previous 10 years has been selected by one of the internationally acclaimed film festivals or has received one of the international awards mentioned in the Financial & Productional Protocol Incentive	<input type="text" value="no"/>	0
3.2	Leading role of international standing (5 points) If the leading actor / actress in the previous 10 years played a leading part in or was part of the principle cast of a film that has been selected by one of the internationally acclaimed film festivals or had received one of the international awards mentioned in the Financial & Productional Protocol Incentive	<input type="text" value="no"/>	0
		Subtotal 3	0

4. Impact		yes / no	Points
4.1	The impact on the Dutch film industry (20 points) 20 points can be allocated in case the cash rebate creates significant additional value for both technical and creative film professionals and film companies in the Netherlands	<input type="text" value="no"/>	0
	10 additional points can be allocated if diversity behind and in front of the camera is a crucial element and/or the independent film production received funding of a (international) film fund based creative excellence	<input type="text" value="no"/>	0
4.2	The transborder cultural and promotional impact through international coproduction and distribution (10+10 points) 10 points can be allocated if theatrical and/or non theatrical distribution is guaranteed in more than two countries through minimum guarantees or pre sales.	<input type="text" value="no"/>	0
	10 additional points can be allocated if there is cross-border visibility of Dutch landmarks and/or creative talent and/or leading crewmembers (head of department)	<input type="text" value="no"/>	0
		Subtotal 4****	0

\*\*\*\* These points will be allocated by the Netherlands Film Fund.  
The applicant should answer these questions in the written motivation which should accompany the filled out point system.

<b>Total no. of points</b>		<input type="text" value="0"/>
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1.16 Other crew during the production and postproduction		yes / no	Points
Points are given per function if a person has a crucial role during the film production and/or postproduction. If one person has more than one function, only one point can be allocated.			
1.16.1	Artdirector	during 20% or more of the shooting days	no 0
1.16.2	Best Boy Lighting	during 20% or more of the shooting days	no 0
1.16.3	Boom operator	during 20% or more of the shooting days	no 0
1.16.4	Camera operator	during 20% or more of the shooting days	no 0
1.16.5	Casting director	if two leading or supporting roles by Dutch actors	no 0
1.16.6	Focus Puller	during 20% or more of the shooting days	no 0
1.16.7	Foley artist / mixer	during most of the entire postproduction process	no 0
1.16.8	Key Grip	during 20% or more of the shooting days	no 0
1.16.9	Lighting Gaffer	during 20% or more of the shooting days	no 0
1.16.10	Location Manager	during 20% or more of the shooting days	no 0
1.16.11	Location Scout	during 20% or more of the shooting days	no 0
1.16.12	Production Manager	during most of the entire production process	no 0
1.16.13	Prop Master	during 20% or more of the shooting days	no 0
1.16.14	Set dresser	during 20% or more of the shooting days	no 0
1.16.15	Sound editor	during most of the entire postproduction process	no 0
1.16.16	Stunts and/or Special Effects Supervisor	during 20% or more of the shooting days	no 0
1.16.17	Wardrobe on set	during 20% or more of the shooting days	no 0
Subtotal 1.16		Subtotal *	0
Subtotal 1.16 multiplied with factor -if applicable (multiplied by 2 in case of Dutch minority coproduction)			0

\* Maximum of 10 points

\* In case of a Dutch minority co production the subtotal of 1.16 is multiplied by 2 (with a maximum of 75 points per section 1 in total)

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2.2. Points system – Documentary category \* = change point 4.1

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**Points system Production Incentive - Film Documentary subcategory**  
 Fill out the gray fields only (yes/ no)

Title Filmproduction:  Application nr (form):

Dutch minority coproduction? **Y/N**

1. Creative talent and leading crew members (heads of departments) with domicile in the Netherlands and/or that have demonstrable strong ties to the Dutch film culture		yes / no	Points
1.1	Director (12 points)	<input type="text" value="no"/>	0
1.2	Screenwriter <i>(4 points in case a Dutch co-author is associated with the project from development, 9 points in case of full Dutch authorship)</i>	Only Dutch co-author: <input type="text" value="no"/> Full Dutch authorship: <input type="text" value="no"/>	0
1.3	Director of Photography (9 points)	<input type="text" value="no"/>	0
1.4	Editor (9 points)	<input type="text" value="no"/>	0
1.5	Sound recordist/Production sound mixer (on set) (6 points)	<input type="text" value="no"/>	0
1.6	Sound Designer and/or Re-recording mixer <i>(4 points for sound designer, 2 points re-recording mixer)</i>	Sound designer: <input type="text" value="no"/> Re-recording mixer: <input type="text" value="no"/>	0
1.7	Line producer (5 points)	<input type="text" value="no"/>	0
1.8	Composer <i>(3 points for the composer, 2 points for the orchestra/musicians)</i>	Composer: <input type="text" value="no"/> Musicians: <input type="text" value="no"/>	0
1.9	Production manager (3 points)	<input type="text" value="no"/>	0
1.10	Post production supervisor (3 points)	<input type="text" value="no"/>	0
1.11	Visual Effects Supervisor or graphic designer or both (2 points)	<input type="text" value="no"/>	0
1.12	Researcher (3 points)	<input type="text" value="no"/>	0
1.13	Stock or archive researcher (2 points)	<input type="text" value="no"/>	0
<b>Subtotal 1*</b>			<b>0</b>

\* In case of a Dutch minority co production the subtotal in section 1 is multiplied by 2 (with a maximum of 75 points for section 1 in total)

2. Production and Financing in the Netherlands		yes / no	Points
2.1	Image post production (15 points for crew and facilities # budget items 5000, 5400 and 5500) <i>In case 75% or more of the image post production budget is spent in the Netherlands</i>	** <input type="text" value="no"/>	0
2.2	Sound post production (15 points for crew and facilities # budget item 5300) <i>In case 75% or more of the post production budget for sound is spent in the Netherlands</i>	** <input type="text" value="no"/>	0
2.3	Key functions (15 points) <i>When at least three out of eight key functions (1.1 till 1.8) are selected</i>	<input type="text" value="no"/>	0
2.4	If Dutch majority coproduction (30 points) <i>If at least 15% of production budget is financed abroad</i>	*** <input type="text" value="no"/>	0
	If Dutch minority (co)production (30 points) <i>If at least 60% of production budget is financed abroad and the minority coproducer holds the rights to the Benelux distribution and has a share in the revenues for the region of the Benelux</i>	*** <input type="text" value="no"/>	0
<b>Subtotal 2**</b>			<b>0</b>

\*\* In case of a Dutch minority co production the points under 2.1 and 2.2 are multiplied by 1.5 (with a maximum of 75 points for section 2 in total)  
\*\*\* Only allocated for international film productions

3. International standing		yes / no	Points
3.1	Director, screenwriter (10 points) <i>If a film of the director and/or screenwriter in the previous 10 years has been selected by one of the internationally acclaimed film festivals or has received one of the international awards mentioned in the Financial &amp; Productional Protocol Incentive</i>	<input type="text" value="no"/>	0
<b>Subtotal 3</b>			<b>0</b>

4. Impact		yes / no	Points
4.1	The impact on the Dutch film industry (20 points) <i>20 points can be allocated in case the cash rebate creates significant additional value for both technical and creative film professionals and film companies in the Netherlands</i>	<input type="text" value="no"/>	0
	<i>10 additional points can be allocated if diversity behind and in front of the camera is a crucial element and/or the independent film production received funding of a (international film fund based) creative excellence</i>	<input type="text" value="no"/>	0
4.2	The transborder cultural and promotional impact through international coproduction and distribution (10+10 points) <i>10 points can be allocated if theatrical and/or non theatrical distribution is guaranteed in more than two countries through minimum guarantees or pre sales</i>	<input type="text" value="no"/>	0
	<i>10 additional points can be allocated if there is cross-border visibility of Dutch landmarks and/or creative talent and/or leading crewmembers (head of department)</i>	<input type="text" value="no"/>	0
<b>Subtotal 4****</b>			<b>0</b>

\*\*\*\* These points will be allocated by the Netherlands Film Fund.  
 The applicant should answer these questions in the written motivation which should accompany the filled out point system.

<b>Total no. of points</b>	<b>0</b>
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2.3. Points system - Animated film category \* = See change point 4.1

**Points system Production Incentive - Film Animation subcategory**

Fill out the grey fields only (yes/no)

Title Film production:

Application nr (form):

Dutch minority coproduction? Y/N

1. Creative talent and leading crew members (heads of departments) with domicile in the Netherlands and/or that have demonstrable strong ties to the Dutch Filmculture		yes / no	Points
1.1	Director (8 points)	<input type="text" value="no"/>	0
1.2	Screenwriter (3 points in case a Dutch co-author is associated with the project from development, 6 points in case of full Dutch authorship)	Only Dutch co-author <input type="text" value="no"/> Full Dutch authorship <input type="text" value="no"/>	0
1.3	Production designer / Lead designer (6 points)	<input type="text" value="no"/>	0
1.4	Story Artist / Story boarder / Layout artist (5 points)	<input type="text" value="no"/>	0
1.5	Character Designer / Chief character modeller / Chief character rigger (5 points)	<input type="text" value="no"/>	0
1.6	Set designer / Background designer (5 points)	<input type="text" value="no"/>	0
1.7	Head of Animation / Lead animator (5 points)	<input type="text" value="no"/>	0
1.8	Sound Designer (5 points)	<input type="text" value="no"/>	0
1.9	Composer (3 points for the composer, 2 points for the orchestra/musicians)	Composer <input type="text" value="no"/> Orchestra / Musicians <input type="text" value="no"/>	0
1.10	Composer / VFX artist (3 points)	<input type="text" value="no"/>	0
1.11	Line producer (3 points)	<input type="text" value="no"/>	0
1.12	Technical director (3 points)	<input type="text" value="no"/>	0
1.13	Editor (2 points)	<input type="text" value="no"/>	0
1.14	Other crew during the production and post production (fill out on the right - max. 24 points)		0
Subtotal 1.14			0
Subtotal 1 *			0

\* In case of a Dutch minority co production the subtotal in section 1 is multiplied by 2 (with a maximum of 75 points for section 1 in total)

2. Production and Financing in the Netherlands		yes / no	Points
2.1	Pre production (25 points for story and visual development and, if applicable, asset building and digital previz) In case 50% or more of all the pre production activities take place in the Netherlands	** <input type="text" value="no"/>	0
2.2	Sound post production (25 points for crew and facilities # budget item 5300) In case 75% or more of the sound post production budget is spent in the Netherlands	** <input type="text" value="no"/>	0
2.3	Key Functions (15 points) When at least three of the principle creative and technical crew members (1.1 till 1.13) are selected	<input type="text" value="no"/>	0
2.4	If Dutch majority coproduction (30 points) If at least 20% of production budget is financed abroad	*** <input type="text" value="no"/>	0
	If Dutch minority (co)production (30 points) If at least 60% of production budget is financed abroad and the minority coproducer holds the rights to the Benelux distribution and has a share in the revenues for the region of the Benelux	*** <input type="text" value="no"/>	0
Subtotal 2 **			0

\*\* In case of a Dutch minority co production questions 2.1 and 2.2 are multiplied by 1.5 (with a maximum of 75 points for section 2 in total)

\*\*\* Only allocated for international film productions

3. International standing		yes / no	Points
3.1	Director, screenwriter, production designer (10 points) If a film of the director and/or screenwriter and/or production designer in the previous 10 years has been selected by one of the internationally acclaimed film festivals or has received film festivals or has received one of the international awards mentioned in the Financial & Production Protocol Incentive	<input type="text" value="no"/>	0
Subtotal 3			0

4. Impact		yes / no	Points
4.1	The impact on the Dutch film industry (20 points) 20 points can be allocated in case the cash rebate creates significant additional value for both technical and creative film professionals and film companies in the Netherlands 10 additional points can be allocated if diversity behind and in front of the camera is a crucial element and/or the independent film production received funding of a (international) film fund based creative excellence	<input type="text" value="no"/>	0
4.2	The transborder cultural and promotional impact through international co production and distribution (10+10 points) 10 points can be allocated if theatrical and/or non theatrical distribution is guaranteed in more than two countries through minimum guarantees or pre sales. 10 additional points can be allocated if there is cross-border visibility of Dutch landmarks and/or creative talent and/or leading crewmembers (head of department)	<input type="text" value="no"/>	0
Subtotal 4 ****			0

\*\*\*\* These points will be allocated by the Netherlands Film Fund.

The applicant should answer these questions in the written motivation which should accompany the filled out points system

Total no. of points	0
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1.14 Other crew during the production and postproduction		yes / no	Points
Choose one of the following options: *			
1.14.1 If 2D or cut-out animation: 2D animation studio Animators Colouring	a minimum of 25% of animation work in the Netherlands	<input type="checkbox"/>	0
	a minimum of 25% of animators has domicile in the Netherlands	<input type="checkbox"/>	0
	predominantly in the Netherlands	<input type="checkbox"/>	0
1.14.2 If 3D animation: 3D animation studio Animators (chief) modeller (chief) rigger Shader/texture Lighting Gaffer	a minimum of 25% of animation work in the Netherlands	<input type="checkbox"/>	0
	a minimum of 25% of animators has domicile in the Netherlands	<input type="checkbox"/>	0
	during most of the entire postproduction process	<input type="checkbox"/>	0
	during most of the entire postproduction process	<input type="checkbox"/>	0
	during most of the entire postproduction process	<input type="checkbox"/>	0
1.14.3 If 3D animation (motion capture) Motion capture studio Animators (chief) modeller (chief) rigger Shader/texture Lighting Gaffer	a minimum of 25% of animation work in the Netherlands	<input type="checkbox"/>	0
	a minimum of 25% of animators has domicile in the Netherlands	<input type="checkbox"/>	0
	during most of the entire postproduction process	<input type="checkbox"/>	0
	during most of the entire postproduction process	<input type="checkbox"/>	0
	during most of the entire postproduction process	<input type="checkbox"/>	0
1.14.4 If Stop motion stop-motion animation studio Animators Puppet builder Lighting gaffer Set builder Director of Photography	a minimum of 25% of animation work in the Netherlands	<input type="checkbox"/>	0
	a minimum of 25% of animators has domicile in the Netherlands	<input type="checkbox"/>	0
	during most of the entire postproduction process	<input type="checkbox"/>	0
	during most of the entire postproduction process	<input type="checkbox"/>	0
	during most of the entire postproduction process	<input type="checkbox"/>	0
<b>Subtotal 1.14</b>			<b>0</b>

\* Maximum 14 points  
Fill out only one option

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