Sample Agreement
For The Engagement of
Freelance/Guest Directors
Produced by ITC for guidance
Contract for Freelance (Also known as Guest) Directors

The Terms and Conditions as set out in the relevant Schedule for Directors ("the Schedule") apply to this engagement, and shall be deemed to be incorporated in the Form of Engagement.

An Agreement made on _______________ day of _______________ 20

Between:
(Company Name)

AND

("the Manager")
OF (Address)

("the Director")
OF (Home Address)

Company Base (if different from above)

Manager’s Tax Ref. No. __________________
Director’s Tax Ref. No. __________________
Director’s Nat. Ins. No. __________________
Director’s Equity No. (if appr.) __________________
Director’s VAT No. (if applic.) __________________

Directors Copyright
1. The copyright in the products of the Director’s services in the production(s), which the Director directs, is vested in the Director subject to the provisions of Clause 8 of the Schedule.

Engagement
2. The Manager hereby engages the Director (and the Director agrees) to direct the production entitled:

which will be rehearsed at:

and which * will tour/will be resident at:

(* Delete as applicable)

Casting and Appointment of Artistic Team
3. (a) The Director has responsibility:

i) * to cast productions and choose the Artistic and Production Teams

ii) * to cast and staff productions from within the Company and Artistic and Production Teams existing at the time of signing this contract.

iii) * to direct productions as they are cast and utilising the Artistic and Production teams chosen by the Manager.

iv) * to direct productions as cast, and with the Artistic and Production team chosen, jointly as specified herein

(* three of these alternatives must be deleted)

(b) In addition, the Director will be required to undertake the following duties (as specified in the Schedule, Appendix 1.3)
Commencement and Dates
4. i) the rehearsal period shall commence on: _________________________
   ii) The first Public Performance will not be before: _________________________
   iii) The designated Press (Opening) night will be on: _________________________
   iv) The Directors services are exclusively engaged until: _________________________
      (see the Schedule, Clause 3.1 to 3.3)

Initial Run
5. The Period of the “Initial Run” of this production (as specified in the Schedule, Clause 8 & 14.1)
   will end on: ___________________________________________________________________

Fees
6. The Manager shall pay to the Director:
   (a) A preparation fee of £ _________ which shall be not less ITC/Equity minimum
      AND
   (b) A weekly salary of £ __________ being not less ITC/Equity minimum
      * EITHER with the hours and overtime provisions of the relevant ITC/Equity Small Scale Theatre
         contract
      * OR with no hours of overtime provisions (i.e. inclusive of overtime payment)
      (*one of these alternatives must be deleted)
   (c) A fee of £ __________ being not less than as ITC/Equity minimum:
      (i) one third, being £_________ payable on the date of signing the Form of Engagement.
      (ii) a further one third, being £ __________ payable on the first day of rehearsal.
      (iii) the final one third, being £ __________ payable on or before the date of the first Public
            Performance.
      (either (b) or (c) must be deleted)
   (d) The manager affirms that the Company’s pay structure is *hierarchical * one of pay parity
      (*one of these alternatives must be deleted)

Subsistence and Touring
7. The conditions of the relevant Small Scale Theatre contract of Subsistence and Touring shall
   apply to the Director where appropriate.

Travel by Air (* this clause may be deleted if inapplicable)
9. The Director hereby consents to travel by air if required, at any time during the period of this
   contract.

SIGNED AS AGREED

(Manager) ________________________________ (Director) ________________________________
SCHEDULE

1. USE OF CONTRACT

1.1. The Manager shall not engage the Director other than on the Standard Contract.

1.2. Where the Director in addition to undertaking the duties of a Director is undertaking another function in the Company, such as actor, then the following must apply:

(a) In the period from the first day of rehearsal to the end of the week including the Designated Press Night the Director must not be taking on more than one person’s workload in any week.
(b) The terms of the Director’s Contract must apply from the date of signing the contract to the end of the week including the Designated Press Night.
(c) If the Manager and the Director fail to agree on which contract shall apply for each work period then Equity and ITC shall be consulted.

1.3. The Manager shall ensure that a copy of this Schedule for Directors and the “Terms and Conditions” for Company Members shall be made available to the Director and shall be displayed at the Company’s base or place of rehearsals.

2. MINIMUM FEES AND SALARIES

2.1. FREELANCE DIRECTORS
(Freelance Directors shall include Guest Directors.)

(a) The Manager shall pay the Director a “Director’s Fee” of not less than that set out in the Financial Appendix (App.1) at paragraph A. In return for this payment the Director shall undertake the duties outlined in section A of Appendix 2, “Duties”. In addition, for this fee, the Director undertakes to licence to the Manager the product of his/her services under this contract in the terms of Clause 8 below.

In the case of productions of 70 minutes duration or less the minimum “Director’s Fee” under this clause shall be that set out in the Financial Appendix (App.1) at paragraph B.

(b) In addition the Manager undertakes to pay the Director an “Exclusive Services Fee” (E.S.F.) of not less than that set out in the Financial Appendix (App.1) at paragraph C, for each week or part of week from the first day of rehearsal to the end of the week including the Designated Press Night (this period to be known as the Exclusive Services Period or E.S.P.). In return for this fee the Director will undertake the duties outlined in section B of Appendix 2,”Duties”.

(c) In the case of “difficult plays” (where a “difficult play” means a World or UK premiere and/or a play requiring extensive editing and/or a play which has not been performed in the UK in the past 50 years) the Director’s Fee shall be not less than 120% of the “Director’s Fee” as specified at 2.1.(a) above. In return for this payment the Director shall undertake the duties outlined in section A of “Duties”, Appendix 2 and, in addition, such of the duties prescribed in section C of Appendix 2 as are agreed in writing at the time of signing.

NOTE: A Devised Play is a play for which no working script exists at the commencement of the workshop/rehearsal period: for special provisions see also Appendix 5.

(d) For any services requested by the Manager and agreed to by the Director outside the Exclusive Services Period (over and above the meeting specified at Clause 3.2. (a) below) the Manager shall pay the Director for each day a fee calculated at not less than 1/5 of his/her weekly “Exclusive Services Fee” (without prejudice to any payments due as expenses under Clauses 2.4 & 2.5). In the case of visits to towns other than the one in which the Manager is based, the travel time for the Director from his/her home address or address of current engagement (whichever is applicable) to and from the venue shall be counted as working time.

2.2. Resident/Artistic Directors:

(a) The Manager shall pay a Resident/Artistic Director a salary of not less than that set out in the Financial Appendix (App.1) at paragraph D. In return for this salary the Director shall undertake
the duties specified in “Duties”, Appendix 2, at paragraph D, as well as the duties outlined in paragraphs A, B, and (where applicable) C, up to a maximum of four productions in every 52 week period.

(b) Should the Manager require the Director to direct more than four productions in any 52 week period, the Manager shall pay the Director for each such additional production a “Director’s Fee” as described at 2.1. (a) above, in addition to his/her salary.

2.3. Payment of Salaries and Fees

(a) A Freelance Director’s “Director’s Fee” plus his/her total “Exclusive Services Fee” shall be paid according to one of the following schedules:

(i) In three equal instalments as follows:
   1. On the day of signing the contract;
   2. On the first day of rehearsal;

OR

(ii) In four equal instalments:
   three on the dates outlined at (1) & the fourth on the last day of the contractual run specified in the Form of Engagement.

Provided that
if a Director feels that the method of payment is inappropriate and the Manager is not willing to review it, then ITC and Equity shall be informed and if necessary the case taken to the Small-Scale Theatre Council, in which case the timescales of one month shall be revised to one week in each instance.

(b) A Resident/Artistic Director’s salary shall be paid no later than the payday for Company Members.

(c) Payment of fees for further use, etc. shall be made not later than one month after the week to which they relate.

(d) Where the Director is VAT registered, VAT payments shall be made to the Director within 2 weeks of the receipt by the Manager of the appropriate invoice. It shall be the duty of the Manager to inform the Director of his/her obligation to provide appropriate invoices for all VAT payments.

2.4. Travel Expenses

(a) If the Director lives more than 25 miles from the Company Base and/or the place of the call then the Manager shall pay travel expenses from the Director’s current address or address of current engagement to the Company Base and/or place of the call at the start and finish of each block of work.

(b) If the Director lives more than 25 miles from the Company Base and is required and/or entitled to attend the Company Base or the production for the purposes outlined in 3.2 and Appendix 2 below, then the Manager shall pay travel expenses from the Director’s current address or address of current engagement to the Company Base and/or the production, whichever is applicable.

(c) A Director attending an interview at the Manager’s request or as a result of an advertisement placed by the Manager, where a Company is in receipt of funds from the Arts Councils of England, Scotland or Wales, the Arts Council of Northern Ireland or a Regional Arts Board or Local Authority, a University or any other public body or private charitable institution, shall normally be reimbursed expenses as below. If the Manager is unable to meet all or part of such expenses, the Director must be notified in writing at the time of inviting him/her to interview. Expenses shall mean travel expenses from the Director’s home address or address of current engagement (whichever is applicable) and, if travelling more than 50 miles, reasonable and appropriate accommodation and meals (or cash up to the level of the emergency accommodation allowance and the overnight meal allowance).
(d) At all other times the provision of transport and payment of travel expenses shall be as set out below:

(i) The Manager shall provide and be responsible for all transport from Company Base to and from performance venues and, when staying overnight, between the Company arranged accommodation or assembly point and venues.

(ii) Public/Own Transport: Payment of Fares
Where it is mutually agreed by the Director and the Manager that it is impractical for the Manager to provide transport from Company Base to venue, then public transport shall be used. Where the ordinary public transport return fare from the Director’s home address to the venue is greater than the fare from the Director’s home address to the Company Base, the Manager shall reimburse the extra cost. Where it is mutually agreed that public transport is used between Company arranged accommodation or assembly point and venues then the Manager shall meet the full cost of these fares.

(iii) Use of Own Vehicle
The Manager shall not assume or insist that the Director is able or willing to travel in his/her own vehicle. Should the Director wish to do so, the Manager shall not refuse unreasonably to agree and shall reimburse the Director at a rate per mile no less favourable than the applicable rate published by the A.A. Should the Manager request the Director (and the Director agree) to use his/her own vehicle for Company business (including the transport of goods or people) the Manager shall, in addition, reimburse the Director for any extra costs incurred in effecting suitable insurance cover.

(iv) Late and Early Travel
If a Manager requires a Director to start work before or continue work after the time when his/her public transport is available, or if the Manager requires the Director to work on a public holiday when the public transport is not available, then alternative arrangements shall be mutually agreed and the Manager shall pay extra travel costs incurred by the Director for the journey between work and home.

NOTE: Travel expenses shall be understood to mean the standard return rail fare plus any other incidental travelling expenses, for example station to station transfers, etc.

2.5. Accommodation Allowance

(a) When a Director is required to work more than 25 miles from his/her home address and the place of work is outside London, the Manager shall pay an accommodation allowance of not less than the amounts set out in the Financial Appendix (App.1) at paragraphs E(i) or E(ii), when a “week” is understood as being not less than 5 and not more than 7 consecutive nights.

(b) When a Director is required to work more than 25 miles from his/her home address and the place of work is within London, the Manager shall pay an accommodation allowance of not less than the amounts set out in the Financial Appendix (App.1) at paragraphs F(i) or F(ii), when a “week” is understood as being not less than 5 and not more than 7 consecutive nights.

(c) Should the Manager wish to provide the Director with accommodation in lieu of (a) & (b) above, the Manager may do so only with the Director’s agreement. The Director reserves the right to be paid the appropriate accommodation allowance.

(d) In exceptional circumstances, those companies who normally provide their members with accommodation may apply to Equity and ITC for permission to be exempt from the provisions of clause 2.5. (c) above. Should such permission be granted, the Manager shall pay the Director a residue allowance of not less than 1/3 of the full accommodation allowances detailed at Appendix 1 E & F.

(e) In addition to the above accommodation allowances, the Manager shall pay meal allowances according to the following scheme:
(i) Whenever the Director qualifies for the single night accommodation allowance* (including odd days at the end of the periods mentioned in (ii) & (iv) below): - not less than as set out in the Financial Appendix (App.1) at G(i).

(ii) Whenever the Director is staying overnight away from Company Base-whether single-night or weekly* - unless the stay is for 5 or more complete weeks in one place: - not less than as set out in the Financial Appendix (App.1) at G(i).

(iii) If the Manager is supplying Accommodation under either 2.5(c) with the Directors agreement or under 2.5(d): not less than as set out in the Financial Appendix (App.1) at G(ii) according to whether or not breakfast is supplied at the accommodation.

(iv) If the Director qualifies for weekly* accommodation allowances and is either working at the Company Base or is staying in one place for 5 or more complete weeks away from Company Base - no meal allowance. (* - for definitions see App.1.E)

3. DIRECTOR’S ATTENDANCE

3.1. Exclusive Services

(a) The Freelance Director’s services shall be exclusively available to the Manager from the first day of rehearsals until the final performance of the week in which the Press Night takes place, unless otherwise agreed in writing at the time of signing the Contract.

(b) Subject to clause 7.3.(a) and (b) hereof, a Resident/Artistic Director’s services shall be exclusively available to the Manager throughout the Director’s engagement.

3.2. Meetings and Visits

(a) The Manager shall call and the Freelance Director shall attend one production meeting prior to the start of rehearsals, unless it is mutually agreed that such a meeting is unnecessary.

(b) Other than that in (a) above, any meetings and/or visits to the Manager’s base before the rehearsals and any visits to the production after it has opened shall be either as specified in the contract at the time of signing or by mutual agreement only.

NOTE: Payment for the production meeting specified in (a) above is included in the Director’s Fee: payment for all other visits and meetings mentioned is under Clause 2.1(d) above. All visits may attract travel, accommodation, and meal allowances, where applicable.

(c) A Freelance Director must visit and note the production after the week containing the Designated Press Night at least once in the ensuing 6 weeks (or part of 6 weeks) of the run. The Freelance Director shall then visit and note the production at least once in every subsequent 10 weeks (or part of 10 weeks). If the production is in repertoire the Freelance Director shall only be required to visit and note the production once in every 12 weeks (or part of 12 weeks) subsequent to the initial 6 weeks that the production is in repertoire.

Should the Freelance Director not be available, this sub clause may be varied by mutual agreement, which agreement shall not be unreasonably withheld by the Director or the Manager.

4. DIRECTOR’S DUTIES

4.1. Limitation of Duties

A Resident Director shall not be required to direct two productions consecutively without a period of at least 2 weeks in between rehearsals, nor to direct rehearsals for more than 10 consecutive weeks.

4.2. Duties-Additional to Original Contract

If the Director agrees to undertake directorial duties for the Manager in addition to those duties specified in the Director’s contract, then the remuneration for such additional work shall be
calculated separately and paid as outlined at 2.1.(d) above. (For work other than as a Director, see Clause 1.2 above.)

5. MANAGER’S DUTIES

5.1. Casting

(a) Unless specified otherwise in writing at the time of signing the contract, the Casting of the production shall be the Manager’s exclusive right and responsibility, subject to consultation with the Director (if available) and consideration being given to his/her view.

(b) Where the Director is delegated the responsibility for casting (see(a) above) then the Manager shall inform the Director of the relevant ITC/Equity conditions with which the Director shall comply, including the Integrated Casting and Equal Opportunity Policy, the Casting Agreement, and the Nudity and Simulated Sex Appendix.

(c) The Manager shall operate and assist the Director to operate ITC/Equity’s Integrated Casting Policy as defined in Appendix 4 of this agreement and both parties shall consider any part capable of being played by an actor of any race and irrespective of disability (subject to any exemptions agreed by ITC and Equity).

5.2. Appointment of Artistic Team

Where the Manager engages an artistic team (e.g. Designer, Musical Director, musicians, Lighting Designer, Choreographer) specifically to work on the production for which the Director is engaged, then the Manager shall, where practicable, consult the Director prior to engaging such individuals.

5.3. Company Members Contracts

(a) Unless specifically delegated in writing at the time of signing the Contract, all matters relating to Company Members’ contracts shall be the sole responsibility of the Manager, and the Director shall not agree to any alteration to the terms of a Company Member’s standard contract.

(b) The Director shall plan and conduct the rehearsal and production periods within the terms of the Company Members contract and any terms set by the Manager at the start of the engagement for overtime, T.O.I.L., late and early hours, public holidays, etc.

5.4. Management Structure

The Manager shall inform the Director at the start of the engagement of the position that the Director holds in the management structure of the Company, and in particular in the Grievance and Disciplinary procedure for other Company Members.

6. REHEARSALS

6.1. Minimum Hours of Rehearsal

The Manager shall ensure that Company Members are available for rehearsal for at least 27 hours (or such other figure as is agreed at the time of signing the contract) in each week of rehearsals.

6.2. Meetings and Other Company Member’s Duties

The Director shall release the Company Members from rehearsal for meetings and other Company Members’ duties as agreed at the time of signing the Contract (subject to the provisions of 6.1 above).

6.3. Publicity and Other Calls

(a) All calls for photographs, press or publicity purposes during rehearsals shall be made by the Manager who shall consult with the Director as to the most suitable time for each call. (If the Manager is unable to consult with the Director due to the Director’s unavailability after the
Manager has made reasonable attempts to contact the Director over a 24-hour period, then the Manager may confirm such proposed calls. If the Manager employs an in-house or outside photographer to photograph the production, the Manager shall ensure that the photographer meets the Director in advance of any photo-session so as to agree the most suitable treatment of the production. The Manager and the Director shall mutually agree the selection of prints for reproduction from the sheets of contact prints supplied by the photographer.

(b) The Manager and a Resident/Artistic Director shall mutually agree on the choice of publicity material (including poster, leaflet, programme and other design) not already in existence at the time of signing the contract. Such agreement shall not be unreasonably withheld.

The Manager shall consult with a Freelance Director, subject to his/her reasonable availability, on the choice of any publicity material not already in existence at the time of signing the contract.

(c) The Manager shall use his/her best endeavours to ensure that the Director is given a credit in any publication of the text of a play (or adaptation of a play) for which the Director has directed for the Manager the World or U.K. professional premiere production.

6.4. Rehearsal Space

(a) The Manager shall be responsible for providing adequate rehearsal space and shall use his/her best endeavours to ensure that the ventilation and ambient noise levels allow rehearsals to take place in reasonable comfort.

(b) The Director shall not be obliged to rehearse if inadequate ventilation or heating or excessive noise levels impair rehearsals.

(c) The Manager shall ensure that, 15 minutes before the start of rehearsal and thereafter throughout rehearsals, a temperature of at least 68 degrees F (17 degrees C) is maintained in the rehearsal room.

6.5. Cast Replacements

A Freelance Director (or, in the case of his/her reasonable unavailability, an Assistant Director nominated by him/her and mutually agreed with the Manager) shall supervise auditions and rehearsals for cast replacements for the production after the rehearsal period as defined in his/her Contract. Payment for such services shall be under the provisions of Clause 2.1(d) above. When these services are provided by a nominated Assistant Director, s/he shall be paid at the rate applicable to the original Freelance Director.

7. RESIDENT/ARTISTIC DIRECTORS

7.1. A Resident/Artistic Director shall be responsible, within the general policy and budget determined by the Board of Directors of the Company, for the artistic direction and programme of the Company, or for such duties as are contained in a written job description agreed at the time of signing the Contract.

7.2. Where the Memorandum and Articles of Association permit, a Resident/Artistic Director shall be co-opted as a full voting member of the Board for the duration of the Director's contract. In any case, where any other employee of the Manager in a Company Limited by Guarantee or an Industrial and Provident Society is a member of the Board of Directors a Resident/Artistic Director shall be so co-opted. Where a Resident/Artistic Director is not a member of the Board, he/she shall be entitled to attend (and speak at) all meetings of the Board, except during the discussion of his/her own remuneration.

7.3. Subject to at least two months prior notification to the Manager's Board of Directors of the period(s) concerned and subject to proper provision being made for the efficient maintenance of the artistic direction and programme of the Company in the Director's absence, a Resident/Artistic Director shall (after 104 weeks of his/her contract is completed) be entitled to take up to nine (9) weeks sabbatical leave in respect of and normally during each successive 104 weeks of the contract. However, the Director shall normally be expected to work for the
Manager for a minimum of thirty-nine (39) weeks in any given fifty-two (52) week period. Such sabbatical leave shall be without loss of remuneration and may be taken as a continuous period or in the form of a number of short periods.

During the period(s) of sabbatical leave the Director shall be free to undertake work for a third party and to retain without exception all remuneration from such work - as well as being free to study, travel or otherwise extend his/her artistic horizons.

(b) Subject to the Manager’s consent (which shall not be unreasonably withheld) a Resident/Artistic Director may also undertake work for a third party other than under the provisions of 7.3(a) above. In such case the Manager and the Director shall reach prior agreement in writing as to the extent (if any) that the theatre shall participate in the Director’s earnings from such work and where appropriate or necessary submit their proposed agreement to the appropriate funding body(ies) for approval.

7.4.
(a) A Resident/Artistic Director shall be entitled to half a day’s holiday without loss of remuneration for each week worked to a yearly maximum of 24 days. The employment year is defined as 52 weeks from the date of commencement of the engagement or as mutually agreed at the time of signing the contract.
(b) Holidays shall normally be taken at dates mutually agreed between the Director and the Manager (but see (c) below).
(c) A Resident/Artistic Director shall not normally be required or expected to work more than 26 weeks consecutively without taking any holiday. It exceptionally, s/he works continuously for 36 weeks, s/he shall then acquire the right to give the Manager 4 weeks notice of a holiday of up to 18 days duration. If s/he works for 48 consecutive weeks without taking any holiday, s/he shall be entitled to take his/her holiday (up to the full entitlement of 24 days) at any time thereafter without advance notice to the Manager.

NOTE: The week for holiday purposes is the normal working week of the Company as agreed at the time of signing the contract.
(d) A Resident/Artistic Director shall be paid at the termination of his/her contract for any holiday not commenced or completed at a rate of not less than 1/12th of the contractually agreed weekly salary for each day of holiday entitlement accrued but not taken.

STATUTORY HOLIDAYS (All Directors)

7.5.
(a) Whenever the Manager requires the Director (Resident/Artistic or Freelance) to carry out any duties on a statutory or public holiday then the Director shall be advised in writing with at least 3 weeks notice.
(b) If the Director is required to carry out duties on a public or statutory holiday, s/he shall be given a day off in lieu within 7 days before or after the public holiday excluding the Company’s normal Free Day.
For clarity: In this case the Director should have either two free days in the seven days before the Public Holiday plus one in the seven days following it or vice versa.

If such day off in lieu cannot be taken within this period, a compensatory payment shall be made as follows:

For Resident/Artistic Directors a payment of 1/6th of the Director’s contractual weekly salary, for each ½ day, or 1/3rd for each full day, worked.

For Freelance Directors a payment of 1/6th of the Director’s contractual weekly Exclusive Services Fee, for each ½ day, or 1/3rd for each full day, worked.

(c) For the purposes of this clause the days of Public Holidays shall be those designated as such by the relevant Local or National authority at the Manager’s base, even if the Director is working for the Manager away from the Manager’s base when the day falls. If the number of such
holidays designated by the appropriate authority is less than or in excess of 8 then the Manager and the local Equity office shall mutually agree which days are to be accounted as public holidays, to a total of 8.

8. COPYRIGHT

(a) The copyright in the products of the Director’s services is licensed to the Manager for the initial run of the production, subject to the provisions of Clauses 12, 13, 14 (Transfers, Other Media, Extensions & Revivals).

(b) The Manager shall provide the Director with the opportunity to make a copy of the prompt book and accompanying plots, etc by the end of the week including the Designated Press Night.

(c) For Devised Shows (see Appendix 5) the provisions on Copyright of that appendix shall apply, where appropriate, in substitution for the provisions of this Clause.

9. FAILURE TO PRODUCE

If the Manager for any reason shall not produce a production for which the Director shall have been engaged, the Manager shall pay the Director not less than the full remuneration due under Clauses 2.1 (a)-(d) of this agreement, where the Exclusive Services Fee shall be calculated according to the dates specified in the Form of Engagement.

10. ILLNESS

DEFINITION: The word “illness” shall include any bodily or mental infirmity.

10.1. Certification of Sickness

A Director unable to work or to give his/her services through illness shall within 5 days obtain and dispatch a satisfactory medical certificate to the Manager, the cost of which shall be reimbursed by the Manager.

The Manager shall at his/her own expense have the right to have the Director medically examined by a qualified medical practitioner agreed by the Director, whose agreement shall not be unreasonably withheld.

10.2. RESIDENT/ARTISTIC DIRECTORS

(a) The Director or an authorised agent acting on his/her behalf shall notify the Manager by telephone on or before the first day of absence through illness or, in extreme circumstances, as soon as possible thereafter.

(b) Sickness Pay. In respect of any day on which the Director is unable, by reason of illness, to perform his/her duties, the Director’s full salary shall be paid. Each normal working day shall be deemed to attract 1/6th of the weekly salary. The Manager retains the right to recover any basic Statutory Sick Pay or Sickness Benefit payable to the Director in his/her own right as outlined in leaflet NI 270:Employer’s Manual on SSP.

(c) Engagements of 13 weeks or less (Resident Directors only). When the Director is engaged for a definite period of 13 weeks or less the following provisions shall apply: If at the end of 6 weeks the Director is still unable to perform his/her duties the Manager shall have the right to give the Director written notice to terminate the engagement. If the engagement is not so terminated forthwith the Director shall continue to be paid full salary without prejudice to the Manager’s right at any time to terminate the engagement by written notice if, at the time of giving such notice, the Director’s incapacity is continuing.

(d) Engagements of over 13 weeks (both Resident & Artistic Directors.) When the engagement is open-ended or lasts for more than 13 weeks the following provisions shall apply: If at the end of 6 weeks the Director is still unable to perform his/her duties, the Manager shall have the right to give to the Director 3 weeks written notice to terminate the engagement. If such notice is not given forthwith the Director shall continue to be paid full salary without prejudice to the Manager’s right at any time to terminate the engagement by written notice if, at the time of giving such notice, the Director’s incapacity continues.
10.3. FREELANCE DIRECTORS

(a) The Director or an authorised agent acting on his/her behalf shall notify the Manager by telephone on or before the first day on which s/he is unable, through illness, to give his/her services under this contract or, in extreme circumstances, as soon as possible thereafter.

(b) Where the Director is prevented by illness from fulfilling his/her contractual obligations hereunder then the Manager shall have the right to terminate the Director’s contract by written notice, subject to the following financial provisions (see also 10.4 below): (i) all payments, up to and including the next instalment due at the time of termination, shall be paid in full (ii) all outstanding expenses and allowances properly incurred or due up to the date of termination shall be paid in full.

10.4. Sharing of Payments

Where a Director is prevented by illness from completing his/her services for a production then any payments due under Clauses 12-14 of this Schedule shall be shared between the Director and his/her replacement in proportion to the days each worked on the production, where the commencement of engagement in each case shall be deemed to be the date of signature of the contract and the day of cessation of engagement shall be deemed to be the last day of the contractual initial run.

11. PRODUCTION

11.1. Agreed Brief for the Production

The Director shall ensure that the production follows the guidelines laid out in the brief agreed at the time of signing the Contract (e.g. length of production, appropriateness for stated age range, etc.) For clarity, it is stated here that the Director is responsible for undertaking all the duties specified in the applicable sections of Appendix 2 notwithstanding that they may not necessarily be included in the agreed written brief for the production mentioned in this clause.

11.2. Prosecution of Production

If a complaint is made that a production is in violation of the law or statutory requirements, or if a claim or charge (either civil or criminal) is, made against the Director acting in accordance with the Director’s Contract, the Manager shall defend the Director at the Manager’s own expense and shall indemnify the Director against any loss or damage, provided that should the Manager warn the Director in writing that the Director’s treatment of the production is likely to occasion such a complaint or claim or charge and should the Director ignore such warning then the Director’s protection under this clause shall be forfeit. The Director will co-operate in every reasonable way to assist the Manager to defend any action against the Director.

12. TRANSFER OF THE PRODUCTION

The Manager undertakes not to enter into an agreement with a third party or parties affecting the production covered by this agreement in which specific clauses detailing the provisions of Clauses 12, 13 and 14 below have not been incorporated. The Manager agrees that the copyright licence and other performing rights granted by the Director in this contract are subject to the provisions of Clauses 12, 13 and 14 being incorporated in any third party agreements affecting the production covered by this contract.

NOTE: For Devised Shows see also Appendix 5.

12.1. UK or World Premieres

If the production covered by this agreement is of a UK or world premiere (i.e. the first professional production of a play/show in the United Kingdom or the world) the Director shall have the right of first refusal on any subsequent productions for a period of 12 months from the date of the Designated Press Night.

Should the Director be unable for whatever reason to exercise this right the Director shall receive an agreed fee of not less than 25% of the normal minimum “Director’s Fee” for an
original production prescribed in the Equity Agreement relevant to the transfer venue or Company. In return for this compensatory fee the Director licenses the use of the product of his/her original services to the Manager for the duration of the transfer. This shall apply to: ITC companies and/or venues; repertory companies (whether subsidised or commercial); commercial provincial tours or seasons; West End productions and any other productions not specified here. This clause shall apply whether the Manager is a producer or co-producer of the transfer or not.

12.2. Non-Premieres

If the Manager as presenter or co-presenter transfers (within the UK) the same production of any play not covered by 12.1. then the Director shall have right of first refusal on directing the transfer.

12.3. Should the Director be unable for whatever reason to exercise this right the Director shall receive an agreed fee of not less than 25% of the normal minimum “Director’s Fee” for an original production prescribed in the Equity Agreement relevant to the transfer venue or Company. In return for this compensatory fee the Director licenses the use of the product of his/her original services to the Manager for the duration of the transfer.

12.4. Should the Company or venue for a transfer as in 12.1 or 12.2 above not be party to an Equity agreement covering Directors, the Manager shall agree with Equity an appropriate minimum payment based on the most nearly applicable Equity agreement prior to the beginning of rehearsals for the transfer.

If the Manager licences the same production in the original language(s) of any play not covered by 12.1 above in a country outside the UK, the Director shall have the right of first refusal to direct any such production within 24 months from the date of the Designated Press Night.

12.5. Change of Language

If the Manager licenses the same production in a language other than the original of any play not covered by 12.1 above (whether in or outside the UK) the Manager shall make every reasonable endeavour to ensure that the Director is invited to redirect the play.

Should the Director not be invited to redirect, the Manager shall show cause in writing as to why the Director was not invited to redirect and shall pay the Director a fee of not less than 25% of the “Director’s Fee” paid to the Director under Clause 2.1 (a)&(c) of this contract. For this compensatory fee the Director licenses the use of the product of the Director’s original services to the Manager for the duration of the transfer.

13. TRANSFERS TO OTHER MEDIA

Subject to Clauses 13.1 - 13.3 below the Manager shall have, for a period of 36 months from the date of the Designated Press Night, the exclusive right to reproduce or exploit a production which incorporates the products of the Director’s services whether on film or television or cassette or on any other media now or hereafter known and to adapt the production for such purposes and to licence others to exercise all or any of such rights provided that:

13.1. Where a production covered by this Agreement is of a play/show which is a World or UK premiere and is to be so transferred or reproduced:

(a) The Director shall be paid a fee on account of the said transfer which shall not be less than 25% of the minimum fee payable to the Director of such a production under the appropriate agreement applying in the transfer medium and shall be given full credit as the original Theatre Director in, at the very least, all immediate publicity attached to the transferred product.

For the purposes of this agreement, “immediate publicity” shall mean - in the case of film, television and radio the credit titles at the beginning and/or end of the product and - in the case of audio/video cassette/recording or any other medium - also on the packaging of the product.

The Manager shall use his best endeavours to ensure the Director is given credit in all other appropriate publicity.
(b) At the discretion of the Manager:

Either

(i) the Director shall be given the right of first refusal to direct the transfer provided only that the Director can show a reasonable degree of experience in the transfer medium. If such experience cannot be shown the Director shall be offered the right to co-direct the transfer together with a co-Director with such experience.

or:

(ii) the Director shall be paid a fee (if not offered the right to direct or co-direct the transfer, as appropriate) which shall not be less than the minimum payable to the Director of such a production in the transfer medium.

13.2. Where a production covered by this Agreement and to be so transferred or reproduced is not a World or U.K. Premiere, sub-clauses (a) and (b)(i) (of 13.1 above) only shall apply.

PROVIDED THAT:

(i) For the purposes of this Clause 13 the date of the transfer shall be taken as the first date on which performers are engaged for work on the transfer or reproduction.

(ii) A reasonable degree of experience is defined, for the purpose of this Clause, as having directed or co-directed one or more previous productions in the relevant medium (e.g. video-recording, film, etc).

13.3. Withdrawal of Name

The Director reserves the right to withdraw his/her name from the publicity attached to the transferred product. Such withdrawal shall not in any way affect the financial provisions of 13.1 & .2 above.

13.4. Disputes on Transfers

Should a dispute arise in respect of the provisions of this Clause 13, the Manager and the Director agree to refer the dispute to the Small-Scale Theatre Council for resolution as provided for at Appendix 6 of this agreement on the understanding that no action shall be taken in respect of the said transfer until agreement has been reached between the parties.

14. EXTENSIONS AND REVIVALS

14.1. If the run of the production is extended beyond the period that is originally specified in the Contract then the Manager and a Freelance Director (or, in the case of his/her reasonable unavailability, an Assistant Director nominated by the Freelance Director and mutually agreed with the Manager) shall agree on the period of re-rehearsal needed. Payment in respect of this period shall be due only under the provisions of Clause 2.1. (b) - Exclusive Services Fee. When such duties are undertaken by a nominated Assistant Director, s/he shall be paid at the rates applicable to the original Freelance Director.

14.2. Revival

(a) If a production is revived by the Manager up to one calendar month after its final performance and with the same cast, the revival may be treated contractually as an extension.

(b) If a production is revived by the Manager, the original Director shall have the first option to redirect: for the purposes of re-direction a new contract based on this agreement shall be entered into.

(c) If a production is revived to start more than one calendar month after its last performance there shall be a minimum of one week’s re-rehearsal.

(d) In any case, if a production is revived and the cast is different in any way from that of the original production there will be a minimum of one week’s re-rehearsal.
14.3. When the Manager requires the involvement of the Director in the re-casting of a production, the Manager shall pay the Director for each day or part of day spent re-casting, in accordance with the provisions of 2.1.(d) above. (See 5.1.(a) - Casting).

15. SCRIPTS

The script or scripts, which shall be provided to the Director, shall either be typed or printed and shall remain the property of the Manager. Where there is an existing script the Manager shall supply the Director with a workable copy at the time of signing the Contract or two months before rehearsals, whichever is the later.

16. BILLING

16.1. Subject to any special stipulation agreed and inserted on the Form of Engagement the Manager shall have the sole right to determine the inclusion of the Director’s name on all bills and advertisements. However, in any such material where any individual contributor is named apart from authors in copyright, the Director shall also be named. The programme shall at all times show the Director’s name except in emergencies or when the Director has been replaced, when the programme (if it cannot be reprinted) shall be slipped showing the Director’s name.

16.2. Where the Manager makes substantial changes to the production without the Director’s written consent, or if the Manager requires substantial changes which the Director is not willing to implement, then the Director shall have the right to withdraw his/her name from the production. The Manager shall use his/her best endeavours to ensure that the Director’s name is removed from publicity material within and immediately outside the venue(s) and from the programmes. The withdrawal of the Director’s name shall in no way prejudice the Director’s financial contractual rights.

Appendix 1

FINANCIAL PROVISIONS

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Ref</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Minimum Director’s Fee</td>
<td>(ref 2.1 (a))</td>
<td>£1255.00</td>
</tr>
<tr>
<td>B</td>
<td>Minimum Director’s Fee-Short Plays</td>
<td>(ref 2.1 (a))</td>
<td>£869.00</td>
</tr>
<tr>
<td>C</td>
<td>Minimum Exclusive Services Payment (per week)</td>
<td>(ref 2.1(b))</td>
<td>£385.00</td>
</tr>
<tr>
<td>D</td>
<td>Minimum Salary-Resident/Artistic Directors (per week)</td>
<td>(ref2.2(a))</td>
<td>£467.00</td>
</tr>
</tbody>
</table>

Appendix 2

DUTIES

Director’s Duties and Responsibilities

A. Prior to the start of rehearsals the Director shall undertake the following duties (not necessarily at Company Base):

(i) Preparation of the background, context and meaning of the play.

(ii) Preparation of an interpretative and demonstrative vision of the play.

(iii) Working with the production team (designer, lighting designer, choreographer, musical director, production manager, etc.) to evolve and co-ordinate a unified physical production.

(iv) Actively co-operating in the publicising and administration of the production and (in the case of Resident/Artistic Directors) being involved in the selection of suitable publicity photographs and in the choice of poster, leaflet and publicity design.

(v) Attending one meeting prior to rehearsal.
(vi) Attendance at appropriate meetings with artistic, production and management personnel, subject to the Director’s reasonable availability.

(vii) Responsibility for casting - as set out in Clause 5.1. of this agreement and in Appendix 4 (Equal Opportunities) below.

B. The Director shall undertake the following duties at and after the beginning of the rehearsal period:

(i) Planning the rehearsal schedule for the company.

(ii) Directing the performers during the given period of rehearsal in order to facilitate the preparation of their performances and their co-ordination into a unified production at a professional standard by the first performance or Designated Press Night.

(iii) Responsibility for the achievement of the overall artistic conception of the production.

(iv) Co-ordinating the full company and production team (in liaison with the production manager) from the beginning of the production week-end up to the end of the first performance or Designated Press Night.

C. In addition, for devised or “difficult” plays (where “difficult” means a U.K. or world premiere and/or a play necessitating extensive editing and/or a play not performed in the U.K. in the past 50 years) the Director undertakes one of the following, as agreed in writing at the time of signing the contract:

(i) Working with the writer or translator on developing the script of a new or newly translated play for production purposes. Approving, after consultation with the Manager, the final draft of a new script.

(ii) Preparing and if necessary editing the script of an existing play in order to produce an appropriate text for production.

(iii) Devising or scripting a text for production, with or without other company members.

D. In addition, Resident and Artistic Directors undertake the following:

(i) Attending additional meetings as appropriate to the particular company (e.g. company, staff, Board, assessment, etc.)

(ii) Co-operating in all matters relating to the publicising of the productions and the company.

(iii) Supervising or taking part in discussions and workshops related to the Company or to its productions.

(iv) Visiting productions regularly during their run in order to give notes for the maintenance of professional standards in productions.

Appendix 3

ASSISTANT DIRECTORS

The provision of the Schedule to the Director’s Agreement shall apply to an Assistant Director, except insofar as those provisions are herein expressly varied or stated to be inapplicable.

A. 1. The Assistant Director shall be employed by the Manager in consultation with the Artistic Director (if any) of the Company.

2. The Assistant Director shall be responsible to the Artistic Director (if any) who may delegate that responsibility with the agreement of the Assistant Director. For companies with no Artistic Director, all references to the Artistic Director in this Appendix shall be taken to refer to the Manager.
3. The Assistant Director shall not be required to carry out any duties not included in the Directors’ Agreement (see Appendix 2 AD) other than those agreed in writing at the time of signing his/her contract.

B. The Clauses of the Directors’ Agreement Schedule which apply to Assistant Directors are:

<table>
<thead>
<tr>
<th>Clause</th>
<th>Subject</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 (ALL)</td>
<td>USE OF CONTRACT</td>
</tr>
<tr>
<td>2.1.(b)</td>
<td>EXCLUSIVE SERVICES FEE</td>
</tr>
<tr>
<td>2.4.</td>
<td>TRAVEL EXPENSES</td>
</tr>
<tr>
<td>2.5.</td>
<td>ACCOMMODATION ALLOWANCES</td>
</tr>
<tr>
<td>4.2.</td>
<td>ADDITIONAL WORK OUTSIDE CONTRACT</td>
</tr>
<tr>
<td>5.4.</td>
<td>MANAGEMENT STRUCTURE</td>
</tr>
<tr>
<td>6.1, 6.2, 6.4</td>
<td>REHEARSALS (CONDITIONS AND HOURS)</td>
</tr>
<tr>
<td>6.5.</td>
<td>CAST REPLACEMENTS</td>
</tr>
<tr>
<td>7.4.</td>
<td>HOLIDAYS</td>
</tr>
<tr>
<td>7.5.</td>
<td>STATUTORY HOLIDAYS</td>
</tr>
<tr>
<td>10.</td>
<td>ILLNESS</td>
</tr>
<tr>
<td>11.2.</td>
<td>PROSECUTION OF PRODUCTION</td>
</tr>
<tr>
<td>15.</td>
<td>SCRIPTS</td>
</tr>
</tbody>
</table>

C. The clauses in the schedule which do not apply to Assistant Directors are:

<table>
<thead>
<tr>
<th>Clause</th>
<th>Subject</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.1.(a, c &amp;d)</td>
<td>DIRECTOR’S FEE: DIFFICULT PLAYS &amp; POST-PRODUCTION PAYMENTS</td>
</tr>
<tr>
<td>2.2.</td>
<td>RESIDENT/ARTISTIC DIRECTORS</td>
</tr>
<tr>
<td>3.2.</td>
<td>MEETINGS AND VISITS</td>
</tr>
<tr>
<td>5.1.</td>
<td>CASTING</td>
</tr>
<tr>
<td>5.2.</td>
<td>ARTISTIC TEAM</td>
</tr>
<tr>
<td>5.3.</td>
<td>CO.MEMBERS’ CONTRACTS</td>
</tr>
<tr>
<td>6.3.</td>
<td>PUBLICITY</td>
</tr>
<tr>
<td>7.1,2 &amp; .3</td>
<td>RESIDENT/ARTISTIC DIRECTOR</td>
</tr>
<tr>
<td>8.</td>
<td>COPYRIGHT</td>
</tr>
<tr>
<td>12.</td>
<td>TRANSFER</td>
</tr>
<tr>
<td>13.</td>
<td>TRANSFER TO OTHER MEDIA</td>
</tr>
<tr>
<td>14.</td>
<td>EXTENSIONS &amp; REVIVALS</td>
</tr>
</tbody>
</table>

D. The following clauses of the schedule shall be varied as stated below for the purposes of this Appendix:

<table>
<thead>
<tr>
<th>Clause/Subject</th>
</tr>
</thead>
</table>
| 2.1(b) SALARIES: “Only the Exclusive Services Fee shall apply. The weekly E.S.P. shall not be less than as set out in the Financial Appendix, 1. In Companies with a policy of Pay Parity the Assistant Director shall be paid no less than the Company Members”.

<table>
<thead>
<tr>
<th>Clause/Subject</th>
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</table>
| 2.3. PAYMENT OF SALARIES: “Payday shall be as for Company Members or as agreed otherwise.”

<table>
<thead>
<tr>
<th>Clause/Subject</th>
</tr>
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</table>
| 3.1. EXCLUSIVE SERVICES: “An Assistant Director’s services shall be exclusively available to the Manager throughout the Assistant Director’s engagement, unless otherwise agreed in writing”.

<table>
<thead>
<tr>
<th>Clause/Subject</th>
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</table>
| 4.1. LIMITATION OF DUTIES: “An Assistant Director shall not be required to assist on more than two productions consecutively without a period of at least two weeks in between rehearsals; nor to assist on rehearsals and/or performances for more than 13 consecutive weeks without a period of at least 2 weeks away from rehearsals and/or performances.”

<table>
<thead>
<tr>
<th>Clause/Subject</th>
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<tbody>
<tr>
<td>9. FAILURE TO PRODUCE: “(Applicable only to Freelance Assistant Directors) If the Manager for any reason shall not produce a production for which the Assistant Director shall have been engaged the Manager shall pay the Assistant Director not less than the total E.S.F. due for the duration of the original contract.”</td>
</tr>
</tbody>
</table>
11.1 AGREED BRIEF: “The Manager shall not require the Assistant Director to cause any production to depart from the original Director’s intentions as recorded in the Prompt Script. The Assistant Director undertakes to ensure that, in so far as it is in his/her power, the production is performed as directed.”

16. BILLING: “Subject to any special stipulation agreed and inserted on the Form of Engagement the Manager shall have the sole right to determine the inclusion and/or the position of the Assistant Director’s name and the size and nature of the type on all bills, programmes and advertisements. The programme shall at all times show the name of the current Assistant Director.”

E. Clause additional to the Director’s Agreement Schedule

The following additional provision shall apply to an Assistant Director:

If an Assistant Director is requested and agrees to carry out any duties on any day or part of a day either prior to the beginning of his/her engagement or after the end of it, the Assistant Director shall be paid not less than one sixth of his/her weekly E.S.R, for each such day or part day, in addition to his/her reasonable expenses.

Appendix 4

EQUAL OPPORTUNITIES:

1. ITC and Equity are committed to Integrated Casting as part of their Equal Opportunities Policy and as the parties to this agreement are committed to the development of positive policies to promote equal opportunities in employment regardless of workers’ sex, marital status, age, creed, colour, race, national origin, sexuality and disability. This principle shall apply in respect of all conditions of work, and attention is drawn to existing legislation covering equal opportunities, including:

- Disabled Persons’ Employment Act 1944.
- Sex Discrimination Act 1975.
- Race Relations Act 1975.

2. The Manager and the Director shall each make themselves aware of and consult Equity’s Registers of Disabled Performers and AfroAsian Artists at all times when casting is being undertaken. They should also each be aware of the ITC Booklets, “Equal Opportunities Policy into Practice”. (see also Schedule, Clause 5 “Casting”)

3. The Manager shall, in order to further Equal Opportunities for disabled artists, take all steps possible to ensure that:

(a) access to any area used for audition, rehearsal, performance or other duties is available to Company Members and Directors with disabilities.

(b) where disabled access is outside the Manager’s control (e.g. when touring) and is inadequate the Manager shall use his/her best endeavours to influence improvements.

4. If the Director considers that s/he is suffering from unequal treatment on grounds of sex, marital status, age, creed, colour, race, national origin, sexuality and disability s/he may make a complaint which shall be dealt with through the agreed Grievance Procedure. This Clause does not prevent minority groups from working together or discriminating in recruitment in favour of that minority group or other disadvantaged group.

Appendix 5
DEVISED PLAYS

DEFINITIONS & COPYRIGHT

1.
1(a) A Devised Play is a play for which no working script exists at the commencement of the workshop/rehearsal period.

1(b) For the purposes of this Contract a Devised Play is taken as being in one of the following categories:

b(i) CATEGORY 1: A play developed under the writer’s ultimate control as “author” during, or with the assistance of, workshops and/or rehearsals but where the writer is under no obligation to utilise material arising within or deriving from the workshop or rehearsal process.

b(ii) CATEGORY 2: A play where the Director is employed for the specific purpose of being in creative control as “author” of the production as it is developed in the workshop and/or rehearsal process.

b(iii) CATEGORY 3: A play where creative control is equally shared amongst all categories of participants, as agreed at the time of signing of the contract, and the Director’s role is principally as a coordinator.

COPYRIGHT

1(c) For Devised Shows (as defined in this Appendix) Clause 8 (Copyright) of this Agreement shall be modified by the provisions of this Appendix as set out in sub-clauses c(i) & c(ii) and clauses 2(a), 2(b) or 2(c) below.

1(i) FOR THE INITIAL RUN of the production only, and in consideration of the payment of at least the sums set out in 2(a)(ii), 2(b)(ii) and 2(c)(ii) below, as appropriate to the category of devised show (in addition to the fees or salary payable under the Director’s contract), the copyright in the products of the Director’s services is licensed to the Manager. For clarity it is stated here that Clauses 12, 13 & 14 will apply to the products of the Director’s services as Director.

1(ii) AFTER THE INITIAL RUN the copyright will be licensed (or not) as set out below (Clauses 2(a) (i), (b) (i), (c) (i)) according to the category of the devised show.

2. Category 1

a(i) After the Initial Run the Director shall retain the usual control over the copyright in the products of the Director’s services as Director only. Payments under 2(a)(ii), where negotiated, shall continue: nothing in this clause shall be taken to diminish the effects of clauses 12, 13 and 14 below.

a(ii) The Manager shall pay the Director such percentage of the Manager’s income derived from any and all exploitation of the devised show which is the subject of this agreement as the Director and the Manager shall agree at the time of making the contract.

a(iii) Subject to Clause 16, the Director shall be billed or credited as the Director of the production but shall not be prevented from negotiating a different billing to reflect a further contribution as agreed. Where the situation warrants and the Manager requests, this method of billing may be altered at the Director’s sole discretion.

2(b) Category 2

b(i) After the Initial Run the entire Copyright of the Devised Show shall rest with the Director. The Director shall, wherever the Devised Show is performed or published (in any medium) acknowledge the contribution of the Manager and of the Company Members employed to take part in the devising of the show.

b(ii) The Manager shall pay the Director such percentage of the Manager’s income derived from any and all exploitation of the devised show which is the subject of this agreement as the Director
and the Manager shall agree at the time of making the contract: PROVIDED THAT such percentage shall be not less than 5%.

b(iii) Subject to Clause 16, the Director shall be billed as “Devisor and Director”. In addition, other participants (as agreed at the time of contracting) may be credited as co Devisors provided that the Director is named first.

Where the situation warrants and the Manager requests, this method of billing may be altered at the Director’s sole discretion.

2(c) Category 3

c(i) After the Initial Run the Director shall retain the usual control over the Copyright in the products of the Director’s services as Director only and as set out in Clauses 12, 13 and 14 of the Schedule. In consideration of payment under 2(c)(ii) continuing and in consideration of the Manager agreeing to acknowledge the Director’s contribution to devising the show, the Director licenses to the Manager the Director’s share of the Copyright in the Devised Show for any theatrical production by a third party for a period of 5 years from the end of the Initial Run.

c(ii) The Manager shall pay the Director such percentage of the Manager’s income derived from any and all exploitation of the Devised Show which is the subject of this Agreement as the Director and the Manager shall agree at the time of making the contract: PROVIDED THAT such percentage shall be no less (and may be more) than that which would be derived by dividing a share of 10% of the said income equally among all individual participants in the devising process as agreed in accordance with 1(b)(iii) at the time of signing the contract.

c(iii) Subject to Clause 16, the Director shall be billed as “Devisor and Director”. In addition, other participants (as agreed at the time of contracting) may be credited as co-Devisors provided that the Director is named first.

Where the situation warrants and the Manager requests, this method of billing may be altered at the Director’s sole discretion.

Appendix 6 Discipline, dismissal and grievance procedures

NB: This appendix is for guidance and does not form part of the terms and conditions of the contract.

A. Notifications

The Manager shall at the beginning of the engagement notify the Director in writing of the person(s) to whom they are to refer if they have a grievance and the person(s) who are able to take disciplinary action against him/her and the structure available within the Company for hearing an appeal. The Dismissals Procedure is given in E below.

B. Disciplinary and Grievance Procedures

In April 2009 the Statutory Disciplinary, Dismissal or Grievance Procedures that had been in place since October 2004 were abolished (subject to transitional provisions). The substance of the statutory procedures have been reproduced to a large extent in a new Code produced by ACAS. The Code is designed to help employers, employees and their representatives deal with disciplinary and grievance situations in the workplace. A failure to follow the Code will not, in itself, make an employer liable to proceedings, however, Employment Tribunals will take this into account when considering cases. A Tribunal Award may be subject to an uplift of 25% where the Code has not reasonably been followed. Conversely where an employee has unreasonably failed to follow the guidance in the Code, an award can be reduced by 25%. The main points of the Code are summarised below. The full Code can be found at http://www.acas.org.uk/CHttpHandler.ashx?id=1047&p=0

http://www.acas.org.uk/CHttpHandler.ashx?id=1047&p=0
What should you do?

All organisations should have their own written procedure, based on this Code. Members are strongly advised to review their current procedures to make sure that they are in line with the Code. The statutory three stage procedure should, however, continue to be used where a process begins before April 2009 – if in doubt call ITC.

A few key points in drawing up a procedure –
• Make sure that your procedure is not part of the contract of employment but is a non-contractual attachment. If is in the contract of employment you may be vulnerable to claims for Wrongful Dismissal – where a dismissal was not in line with the contract – if you miss any stages of the process.
• Consider mediation of employment problems (ITC can help with this).
• Tackle disciplinary problems earlier, rather than later. Start with an informal approach. Aim to problem solve rather than dismiss, at least in the first instance. If you have a separate capability procedure you may use this initially when dealing with performance issues.
• The new Code does not apply to redundancy dismissals or to the non renewal of fixed term contracts on expiry. ACAS has a separate Redundancy Checklist.
• Your procedure should be fair and transparent, specific and clear.
• It can be useful to involve employees in developing a procedure so that they understand what the rules are, where they can be found and how they are to be used.

Basic principles

• Employers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of decisions.
• Employers and employees should act consistently.
• Employers should carry out any necessary investigations, to establish the facts of the case.
• Employers should inform employees of the basis of the problem and give them an opportunity to put their case in response before any decisions are made.
• Employers should allow employees to be accompanied at formal disciplinary or grievance meetings.
• Employers should allow an employee to appeal against any formal decision made.

Dealing with disciplinary issues

Investigate potential disciplinary matters without unreasonable delay. This may take the form of an investigatory meeting with the employee or the collection of evidence by the employer for use at any disciplinary hearing. An investigatory meeting should not by itself result in any disciplinary action. Although there is no statutory right for an employee to be accompanied at a formal investigatory meeting, such a right may be allowed under an employer’s own procedure. In misconduct cases, where practicable, different people should carry out the investigation and disciplinary hearing.

Suspension may be necessary during an investigation. This should be as brief as possible and should be kept under review. It should be made clear that it is not a disciplinary action.

Inform the employee if there is a disciplinary case to answer. Notification, in writing, should -
• Contain enough information to enable the employee to prepare to answer the case.
• Be accompanied by any relevant written evidence.

Hold a meeting with the employee to discuss the problem.
• The meeting should be held without unreasonable delay, but allow the employee reasonable time to prepare their case.
• Employers and employees (and their companions) must make every effort to attend.
• At the meeting the employer should explain the complaint against the employee and go through the evidence that has been gathered.
• The employee should be allowed to set out their case and answer any allegations.
• The employee should be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They should also be given an opportunity to raise points about any information provided by witnesses. Where an employer or employee intends to call relevant witnesses they should give advance notice that they intend to do this.

Workers have a statutory right to be accompanied by a companion where the disciplinary meeting could result in -
  o a formal warning being issued; or
  o the taking of some other disciplinary action; or
  o the confirmation of a warning or some other disciplinary action (appeal hearings).
• The chosen companion may be a fellow worker, a trade union representative or an official employed by a trade union (a trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker).
• The request to be accompanied must be reasonable. What is reasonable will depend on the circumstances of each individual case. However, it would not normally be reasonable -
  o to bring a companion whose presence would prejudice the hearing
  o to ask to be accompanied by a companion from a remote geographical location if someone suitable and willing was available on site.
• The companion should be allowed to put and sum up the worker's case, respond on behalf of the worker to any views expressed at the meeting and confer with the worker during the hearing. The companion does not, however, have the right to answer questions on the worker's behalf, address the hearing if the worker does not wish it or prevent the employer from explaining their case.

Decide on appropriate action
• After the meeting decide whether or not disciplinary or any other action is justified and write to the employee with your decision.
• Where misconduct or unsatisfactory performance is confirmed it is usual to give the employee a written warning in the first instance.
• A further act of misconduct or failure to improve performance within a set period would normally result in a final written warning.
• If an employee's first misconduct or unsatisfactory performance is sufficiently serious, it may be appropriate to move directly to a final written warning e.g: where the employee's actions have had, or are liable to have, a serious or harmful impact on the organisation.

Warnings should set out the nature of the misconduct or poor performance and the change in behaviour or improvement in performance required (with timescale). The employee should be told how long the warning will remain current. The employee should be informed of the consequences of further misconduct/failure to improve performance, within the set period following a final warning. For instance: dismissal, demotion etc.

A decision to dismiss should only be taken by a manager who has the authority to do so. The employee should be informed as soon as possible of
• The reasons for the dismissal
• The date on which the employment contract will end
• The appropriate period of notice
• Their right of appeal.
Where an employee is persistently unable or unwilling to attend a disciplinary meeting without good cause the employer should make a decision on the evidence available.
Gross misconduct Some acts are so serious in themselves or have such serious consequences that they may justify dismissal without notice for a first offence. But a fair disciplinary process should always be followed, before dismissing for gross misconduct. Disciplinary rules should give examples of acts which the employer regards as acts of gross misconduct. These may vary according to the nature of the organisation and what it does, but might include things such as theft, fraud, physical violence, gross negligence, serious insubordination or inability to learn a role.

Provide employees with an opportunity to appeal Where an employee feels that disciplinary action taken against them is wrong or unjust they should be able to appeal against the decision. Employees should let employers know the grounds for their appeal in writing.

- Appeals should be heard without unreasonable delay and ideally at an agreed time and place.
- The appeal should be dealt with impartially and wherever possible, by a manager who has not previously been involved in the case.
- Workers have a statutory right to be accompanied at appeal hearings.
- Employees should be informed in writing of the results of the appeal as soon as possible.

Special cases
Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure should be followed. Depending on the circumstances, however, it is advisable to discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement.

If an employee is charged with, or convicted of a criminal offence this is not normally in itself reason for disciplinary action. Consideration needs to be given to what effect the charge or conviction has on the employee's suitability to do the job and their relationship with their employer, work colleagues and customers.

Dealing with grievances

- Employees should let the employer know the nature of the grievance.
- If informal resolution is not possible, employees should raise the matter formally and without unreasonable delay with a manager who is not the subject of the grievance. This should be done in writing and should set out the nature of the grievance.
- Hold a meeting with the employee to discuss the grievance. This should be called without unreasonable delay after a grievance is received.
- Employers, employees and their companions should make every effort to attend the meeting.
- Employees should be allowed to explain their grievance and how they think it should be resolved. Consideration should be given to adjourning the meeting for any investigation that may be necessary.
  - Allow the employee to be accompanied at the meeting. Workers have a statutory right to be accompanied by a companion at a grievance meeting which deals with a complaint about a duty owed by the employer to the worker. So this would apply where the complaint is, for example, that the employer is not honouring the worker's contract, or is in breach of legislation. The rules governing a companion's presence at a disciplinary meeting, set out above, apply for a grievance meeting.

Decide on appropriate action (if any) following the meeting. Decisions should be communicated to the employee, in writing, without unreasonable delay and, where appropriate, should set out what action the employer intends to take to resolve the grievance. The employee should be informed that they can appeal if they are not content with the action taken.
Appeal:
- Where an employee feels that their grievance has not been satisfactorily resolved they should appeal. They should let their employer know the grounds for their appeal without unreasonable delay and in writing.
- Appeals should be heard without unreasonable delay and at a time and place which should be notified to the employee in advance.
- The appeal should be dealt with impartially and wherever possible by a manager who has not previously been involved in the case.
- Workers have a statutory right to be accompanied at any such appeal hearing.
- The outcome of the appeal should be communicated to the employee in writing without unreasonable delay.

Overlapping grievance and disciplinary cases

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

Collective grievances

The provisions of the Code do not apply to grievances raised on behalf of two or more employees by a representative of a recognised trade union or other appropriate workplace representative. These grievances should be handled in line with the organisation's collective grievance process.

Gross Misconduct
An act of Gross Misconduct may result in summary dismissal. The following is a non-exhaustive list of examples of what might constitute Gross misconduct:
1) Theft of or malicious damage to Company property
2) Incapacity for work due to being under the influence of alcohol or non-prescribed drugs
3) Physical assault and fighting
4) Sexual harassment
5) Serious breach of safe working practices
6) Abusive behaviour including sexist, racist and other oppressive behaviour.

When dealing with cases of gross misconduct it is important to establish the facts before taking any action. A short period of suspension of pay whilst investigation of the allegations takes place may be useful. Such suspension should only be imposed after careful consideration and should be kept under review. It should be made clear to the employee that the suspension is not a disciplinary action and does not involve any pre-judgment.

Appendix 7: Small scale theatre council procedures

1. Any disputes and questions whatsoever which shall arise between the parties hereto or their respective representatives concerning this contract or the construction or application thereof, or the rights, duties or liabilities of the parties to this Contract shall, if the parties are unable to agree, having followed the agreed internal procedures, be referred to the Small Scale Theatre Council. The procedure for implementing dismissals is given below.

2. A complaint brought to the Small Scale Theatre Council shall be heard by an Arbitration Panel which shall consist of two members of Equity and two representatives chosen by ITC with a fifth person as Chair chosen in alternate cases from Equity and ITC. In addition, a member of Equity's staff and a member of ITC's staff shall attend arbitration Hearings as Joint Secretaries, but shall have no vote.
3. The provisions of the Arbitration Act 1996 shall apply to disputes heard by the Small Scale Theatre Council, save as agreed below.

4. Every effort will be made to obtain a unanimous decision. The Chair shall not vote except in the case of a split vote where the Chair shall have a casting vote.

5. Parties to the proceedings may represent themselves, be represented by their Associations (Equity or ITC) or have legal representation.

6. Prior to the commencement of a Hearing, the claimant shall make a claim on the standard Claim Form. A copy of the claim shall be given to the respondent who shall enter his/her defence on the form. The duly completed form shall be available to both parties at the earliest possible date prior to the Hearing and at the Hearing.

7. Unless otherwise agreed by the Board the order of the Hearing shall be as follows:-
   7.1. The claimant or his/her representative shall present his/her case.
   7.2. At the end of the opening statement the claimant may be cross-examined by the respondent or his/her representative and questioned by members of the Board and the Chair.
   7.3. The claimant shall then introduce any witnesses he/she wishes to call and after each witness has given evidence he/she may be questioned as above.
   7.4. The respondent or his/her representative shall then make his/her statement.
   7.5. At the end of his/her statement the respondent may be cross-examined by the claimant and questioned by members of the panel as above.
   7.6. The respondent's witness(es) shall then give evidence and be questioned as above.

8. Following this examination and cross-examination, the Joint Secretaries may ask questions of any party/witness, if they wish.

9. Finally the claimant and the respondent will be invited to make summaries of their cases.

10. The rules of evidence shall not be strictly applied but it will be the responsibility of the Chair that this is not abused by any party or by his/her representative.

11. The claimant, the respondent, their representatives and any witnesses shall withdraw whilst the Panel, together with the Chair, in the presence of the Joint Secretaries considers its decision. When a decision has been reached the parties will be invited back to hear it.

12. The decision of the Arbitration Board shall be final and binding on both parties, except insofar as the mandatory provisions of the Arbitration Act 1996 concerning appeal to a court of law apply. Appeal to a court of law under s.69 of the Arbitration Act 1996 is excluded in this Procedure.