

UK Theatre agreement

www.writersguild.org.uk

**Agreement between
The Theatrical Management Association
and
The Writers' Guild of Great Britain
Theatre Writers' Union
Scottish Society of Playwrights
to operate from 14th June 1993**

THIS AGREEMENT is made the 14th day of June 1993 between the Writers' Guild of Great Britain/Theatre Writers' Union/Scottish Society of Playwrights (hereinafter called "the Unions") of the one part and The Theatrical Management Association Limited (hereinafter called "the TMA") of the other part.

Scope of Agreement

1. Set forth in a form of Contract attached hereto (hereinafter called "the TMA Agreement Minimum Terms Contract") are the Minimum Terms and Conditions which shall apply in any contract entered into with a Writer (as hereinafter defined) on or after the date hereof by a TMA Member (hereinafter individually called "Manager" and collectively called "the Managers") other than the English Stage Company, the Royal National Theatre and the Royal Shakespeare Theatre (hereinafter collectively called "the TNC Producers") for plays (as hereinafter defined) to be produced by any of the Managers alone or in association with another Manager with Artists engaged under the TMA/Equity Subsidised Repertory Agreement in Theatres in the United Kingdom (excluding Theatres in the West End of London and those controlled by Members of the Federation of Scottish Theatre and by the TNC Producers) including plays produced for children and young people in auditoria under the Manager's auspices, but excluding plays for Theatre-in-Education.

Definitions

2. For the purposes of this Agreement the following definitions shall apply:-

(A) "Writer" in respect of a Play as hereinafter defined shall mean and include, where the context so admits or requires, freelance writer of a commissioned play, freelance writer of a non-commissioned play (including a writer resident under a separate Contract), translator (but not a literal translator whose work is not contracted for performance), adaptor, co-writers, writer of a play created wholly or partly by improvisation, composer, lyricist, writer of the book of a musical, librettist or any other combination of the foregoing.

Provided that

(i) in the event that the copyright in the Play subsumes interests of

(a) persons whose main activity is not primarily the creation of literary or dramatic works within the meaning of the Copyright, Designs and Patents Act 1988 including but not limited to or necessarily composers, songwriters, lyricists, librettists, musical arrangers, choreographers, directors, designers, and/or performers but who are "qualified persons" (for the purposes of the Copyright, Designs and Patents Act 1988)

and/or

(b) the literary estates of deceased authors whose works are still in copyright whether administered in the United Kingdom or elsewhere (but so that the said estates are "qualified persons"),

those interests shall be aggregated with those of the Writer for the purpose of this Agreement and the terms hereof shall be applied pro rata in proportions to be mutually agreed between the several

interested parties or as may be prescribed elsewhere, for example, in collective agreements covering the various classes not party to the Agreement.

(ii) If any said play includes material in which the rights granted to the Manager under the TMA Minimum Terms Contract are owned or controlled by a third party, the Writer shall be responsible at his expense for clearing such rights so that the rights granted to the Manager as aforesaid are unencumbered as prescribed in Clause 2(B) below, except that in the case of

(a) Incidental Music (as defined in the current PRS "T" Tariff)

the Manager shall be responsible for clearing at his expense the rights of any incidental music used in the production of the Play whether or not requested in the stage directions of the Play and whether or not within the repertoire of the Performing Right Society provided that the Manager shall not be obliged to make use of music as incidental music at costs exceeding those provided under the Performing Right Society Tariff "T" for incidental music.

(b) Interpolated Music (as defined in the current PRS "T" Tariff)

the Manager shall be responsible for seeking clearance for the use of interpolated music in co-operation with the Writer but the Manager has the right to change any music specified if the rights be not available, provided that where the payment to the Performing Right Society or other copyright controller exceeds 5% of the maximum possible payment by the Manager to the Writer by way of royalty under his/her Contract, then the Manager shall be entitled on so advising the Writer to recoup the balance of interpolated music payments from royalties due to the Writer if the Writer requires the Manager to make use of such music except that the Writer shall in any case be entitled to require up to but not exceeding twenty minutes of interpolated music within the Play, so long as this does not exceed 30% of the total running time of the Play, without additional payment becoming due from the Writer to the Manager.

(iii) In the case of a translation or an adaptation of or a collaboration in a work by a qualified person which is in copyright it shall be the responsibility of the Writer to agree with that person, his/her executor, heir or agent the proportional division to each of the fees, option payment and royalties payable under contracts drawn under this Agreement so that the rights to be licensed are unencumbered and the several interests may act together as joint authors and/or as Licensor of the said rights as party to a contract under this Agreement.

In the event that the Manager has already secured the unencumbered right to produce and to perform in English a foreign language play in copyright and commissions a translation or adaptation of such a play, the translator or adaptor shall be considered as the sole writer in respect of the commissioning fee due under this Agreement but shall be treated as a co-writer with the original foreign writer in all other respects except where otherwise negotiated between the co-writers. In such a case, co-writers shall retain their respective copyrights and the Manager shall inform the translator or adaptor in writing of his/her rights and responsibilities under this Agreement.

(iv) In the case of a translation and/or adaptation of a work in the public domain in the United Kingdom, the translator and/or adaptor shall be considered for the purposes of this Agreement as the Writer thereof, other than under Clause 8 of the TMA Minimum Terms Contract.

(B) "Play" shall mean the text of an original play (whether expressed in words or in musical or other notation) together with any stage or other directions for its performance whether contained in a single document or not and shall include any changes to the text made in accordance with Clause 6 of the TMA Minimum Terms Contract and shall also mean a play in which all the rights set out in such Contract are unencumbered.

(C) "Short Play" shall mean a play of a duration of 60 minutes or less.

(D)"West End of London" shall mean and include the following theatres Adelphi, Albery, Aldwych, Ambassadors, Apollo, Apollo Victoria, Cambridge, Coliseum, Comedy, Covent Garden, Criterion, Dominion, Donmar Warehouse, Drury Lane, Duchess, Duke of York's, Fortune, Garrick, Globe, Haymarket, Her Majesty's, Lyric, Mayfair, Mermaid, New London, Old Vic, Palace, Palladium, Phoenix, Piccadilly, Playhouse, Prince Edward, Prince of Wales, Queens, Royalty, Sadlers Wells, St Martin's, Savoy, Shaftesbury, Strand, Vaudeville, Victoria Palace, Westminster, Whitehall and Wyndhams.

(E) "Net Box Office Receipts" shall mean the sums for the sale of admissions to each performance of the Play given by the Manager under the Clause 1(b) of the TMA Minimum Terms Contract actually received at the box office after the deduction of Value Added Tax and any other tax (except income tax and corporation tax) levied thereon, library, credit card, charge card and other sales commissions, sales stimulating discounts offered at the discretion of the Manager in accordance with the Manager's established custom and practice for previews, matinees, parties, affinity groups, subscription schemes, stand-by sales, the sale of tickets linked to the offer of other goods and services (such offers being generally applicable to any of the plays in repertoire with the Writer's play) and of such other special discount unique to the Play as may be agreed between the Manager and the Writer.

(F) Middle Range Salary Level (Known as "MRSL") shall be defined in the same way as it is defined in the TMA/Equity Agreement for Subsidised Repertory.

Duration of Agreement

3. This Agreement shall continue in force (without alteration or addition unless mutually agreed) until the expiration of six months from the date on which either party hereto gives the other notice to revise or terminate the same on or after the expiration of four years from the date hereof.

Provided that either party hereto shall be entitled to give the other not less than 6 months written notice before the first Monday in April of any year seeking such revision to the "financial provisions" hereinafter defined as shall be specified in such notice and any such revisions as shall be agreed between the parties hereto shall take effect as from the first Monday in April of the following year and shall apply in respect of both Contracts entered into on and after such date(s) and (but only for prospective as distinct from retrospective application) contracts then subsisting.

"Financial Provisions" shall mean provisions related to finance in the following Clauses of the TMA Minimum Terms Contract:-

Clause Number 2, Subject Minimum Payments;

Clause Number 5(h), Subject Rehearsal Attendance Fee;

Clause Number 14, Subject Sums Payable on Exercising Options;

Clause Number 16, Subject The threshold in (a).

Moral Rights

4 This Agreement provides for the Writer to assert the Writer's right to be identified as the Writer and for the Manager to recognise the Writer's Moral Rights as provided under Chapter IV of the Copyright, Designs and Patents Act 1988 or any modification thereof for the time being in force.

AS WITNESS the hands of the parties hereto the day, month and year first above written.

Rupert Rhymes

For and on behalf of TMA

Tricia Sumner

For and on behalf of The Writers' Guild of Great Britain

Eric Sanders

For and on behalf of The Theatre Writers' Union

Allan Shame

For and on behalf of Scottish Society of Playwrights

THE TMA MINIMUM TERMS CONTRACT APPROVED BY TMA/WG/TWU/SSP 14th June 1993

NOTE: The terms contained in this Contract shall not be less favourable to the Writer than the minimum terms to which a Writer is entitled in accordance with the terms, conditions and definitions contained in the Agreement between the Unions and the TMA. While the Writer may obtain terms more favourable than those in this Contract, no provision thereof may be waived by the Writer in consideration of more favourable terms under any other provision thereof.

THIS CONTRACT is made this _____ day of _____ 19_____

BETWEEN _____ of _____

(hereinafter called 'the Manager' which expression where the context so admits or requires shall include the Manager's assignees, licensees and successors in title) of the one part.

AND _____ of _____

(hereinafter called 'the Writer') of the other part.

WHEREBY IT IS AGREED AS FOLLOWS:

1. (a) Consideration. IN CONSIDERATION of payment by the Manager to the Writer as provided in Clauses 2 and 3 for a work at present entitled

_____ and as may be altered pursuant to Clause 6 hereof (hereinafter called "the Play") the Writer hereby grants to the Manager the licence set out in Clause 1(b) hereof.

(b) Licence. The exclusive licence commencing on the date hereof and continuing until the expiration of 9 months from the first performance to present the world premiere professional stage production of the play in the English language (or any other language to be specified at the time) in the United Kingdom.

*(A) at _____ theatre

*(B) at _____ theatres where a co-production is agreed

*(C) on tour _____

*(Delete as appropriate)

The first performance of the play shall be given not later than either

(i) Twelve months from the date of acceptance of the Play by the Manager, or,

(ii) the _____ day of _____ 19_____

Provided that the number of months in (i) or the date in (ii) above (as the case may be) shall be extended by a period equal to any period for which the Manager has been precluded from presenting such first performance by reason of force majeure including royal demise, national mourning, war, fire, strikes, lock-outs or by reason of the order of any licensing or other public authority having jurisdiction. Provided further that either party shall be entitled at any time after the delay caused by the force majeure has continued for at least three months to give the other written notice terminating the contract forthwith without prejudice to any fees payable to that date.

(c) Non-Exercise of Licence. The Manager does not undertake and shall not be bound to exercise the licence granted to the Manager hereunder but shall inform the Writer in writing in the event of the Manager's intention not to exercise the Manager's licence and in any event not later than _____

(d) Reversion of Licence. If the play is not presented by the date specified in clause 1(b) (i) or (ii) above, whichever is applicable, the licence granted to the Manager hereunder shall immediately revert to the Writer and become the Writer's sole property.

Payment

*Either sub-clause (a) or (b) must be deleted and initialled by both parties

2. (a) Commissioned Play

£ _____ (being not less than the sum stated below) on signature of this Contract (such sum not to be on account of royalties).

Minima under this sub-clause are:

MRSL 1 £3,487

MRSL 2 £2,852

MRSL 3 £2,219

(ii) £ _____ (being not less than the sum stated below) on first delivery of the Play in accordance with any such special conditions as may have been stipulated in an attached Schedule (such sum to be a non-returnable advance against royalties).

Minima under this sub-clause are:

MRSL 1 £1,585

MRSL 2 £1,268

MRSL 3 £1,268

The Writer shall deliver the script of the Play to the Manager by not later than _____ day of _____ 19 _____ (or such later date as may be mutually agreed in writing).

Upon receipt of the Play the Manager shall within four weeks thereafter notify the Writer that the Manager either accepts the play or requires alterations and revisions and after discussions and mutual agreement between Manager and Writer (during a period not exceeding four weeks from such notification by the Manager unless otherwise agreed by the Writer), the Writer shall deliver to the Manager the Play revised in accordance with such mutually agreed alterations and revisions within eight weeks from completion of such discussions (or such later date as may be mutually agreed in writing).

The Manager shall notify the Writer of acceptance or rejection of the Play within four weeks of delivery of the revised Play and shall on acceptance make the payment specified in 2(a) (iii) below.

If the Manager does not accept the revised Play within the said four weeks from delivery of the revised Play then the payment specified in 2(a) (iii) below shall not be payable, and all rights in the Play shall revert to the Writer and this contract shall be terminated without prejudice to any rights that may have accrued to the Writer.

All dates and periods of time in this sub-clause may be altered by mutual consent.

(iii) £ _____ (being not less than the sum stated below) on acceptance of the Play (such sum to be a non-returnable advance against royalties)

Minima under this sub-clause are:

MRSL 1 £1,585

MRSL 2 £1,268

MRSL 3 £1,268

(b) Non-Commissioned Play

(i) £ _____ on signature of this Contract, being not less than:-

Minima under this sub-clause are:

MRSL 1 £5,073

MRSL 2 £4,119

MRSL 3 £3,486

provided that in respect of MRSL 1, £1262 of the above payment shall be deemed to be a non-returnable advance against royalties and in respect of MRSLs 2-4, £1009 of the above payment shall be deemed to be a non-returnable advance against royalties.

The Manager shall have 60 days from the date of signature of this Contract to accept the Play as suitable for production and to make the payment specified in 2(b) (ii) below. During this period the Writer shall make such alterations and revisions to the Play as may have been mutually agreed between the Manager and the Writer at the date of signature of this Contract. If these alterations do not make the Play acceptable to the Manager, then the payment under 2(b) (ii) below shall not be payable and all rights in the Play shall forthwith revert to the Writer and this Contract shall be terminated without prejudice to any rights that may have accrued to the Writer.

(ii) £ _____ (being not less than the sum stated below) on acceptance of the Play (such sum to be a non-returnable advance against royalties)

Minima under this sub-clause are:

MRSL 1 £1,585

MRSL 2 £1,268

MRSL 3 £1,268

(c) Short Plays

Half of the foregoing sums (other than royalties under Clause 3 (a) hereof) shall be payable for a Short Play to be presented on its own.

(b) Multiple Play Performances

If more than one Play is included in any performance the royalty shall be apportioned between the Writers of the Plays.

Writer's Royalties

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(a)

(i) The Manager agrees to pay to the Writer a royalty of _____ % (being not less than 8%) of net box office receipts.

(ii) If a Manager is in receipt of an annual or revenue grant or receives a guarantee or project or similar grant, the Manager guarantees that the Writer will be paid not less than the rate set out within the offer of grant.

(iii) These royalty payments are subject to the provisions of Clause 2(c) Short Plays and (d) Multiple Play Performances.

(b) The said royalty shall be payable to the Writer (or Writer's Agent) within:

* (i) 14 days of the last performance of the Play's run.

* (ii) 10 days following the last performance of the Play in any given week ending on a Saturday.

* (iii) Within _____ days (to be mutually agreed) (for tours only).

and shall be accompanied by a statement of the net box office receipts certified by the Manager.

* Two sub-clauses must be deleted and initialled by both parties.

Writer's Approval

4. The choice of Director, Designer and actors of the play shall be subject to prior agreement between the Manager and the Writer provided that:

(a) The Writer shall have due regard to the Manager's artistic and financial resources.

(b) Neither party shall unreasonably delay such agreement.

Rehearsals

5.

(a) The Writer shall have the right to attend rehearsals at all times and the Writer shall at all times pay due consideration to the Manager's authority at the place of rehearsal.

(b) The Writer shall be paid not less than the following sums for each day the Writer attends the theatre under clause 5(a) or carries out re-writes or research away from the theatre or other work in connection

with the Play, provided that such attendance, re-writing, research or other work shall be mutually agreed between the Writer and Manager. Otherwise the Manager shall not be obliged to pay for the Writer's attendance for re-writing, research or other work for more than twelve days during the rehearsal period.

MRSL 1 £46.78

MRSL 2 £41.04

MRSL 3 £37.83

(c) The Manager shall reimburse the Writer for such expenses as he/she may reasonably incur with the Manager's prior approval for attending rehearsals of the Play and in engaging in other production related work such as programme contribution, publicity interviews and production meetings and in carrying out research for the Play at the Manager's request.

Textual Integrity

6. The Manager shall not nor permit others to make any omissions from or alterations or additions to the text, stage business or title of the Play in any public performance or printed announcement without the written approval of the Writer. Any changes of any kind whatsoever in the text, stage business, or title of the Play made by anyone and approved by the Writer shall be deemed to be a part of the Play and shall accrue to the copyright of the Play and become the sole property of the Writer. For the purpose of this clause "stage business" shall be defined as stage directions expressly incorporated within the script of the Play in the form approved by the Writer and as deposited with the British Library under Section II of the Theatres Act 1968.

Scripts

7. The Writer shall provide one fair copy of the Play, such copy to remain the property of the Writer. The Manager shall have the right to make as many copies of the script as required for the purposes of the Production. Such copies caused to be made by the Manger shall remain the property of the Manager. The Manager shall provide the Writer with up to 5 copies of the rehearsal script (as the Writer shall require) and one copy of the final script as used for the prompt copy of the Play.

Credits

8. In connection with all performances of the Play being presented by the Manager, the Manager undertakes to display the name of the Writer in all posters, programmes and publicity material (and in small newspaper advertisements at the discretion of the Manager). A biography (approved by the Writer) shall be included in the programme where other biographies are also printed. The Writer's billing shall be in at least the same size and degree of boldness in type and prominence as that accorded to the Director and leading Actors in the Play.

Publicity Material

9. The Manager shall consult the Writer (provided that the Writer is reasonably available) regarding the design and content of the programmes and all publicity material relating directly to the Writer or the Play that comes under the Manager's Control.

Nom De Plume

10. The Writer reserves the right to use a nom de plume provided that it is notified to the Manager before the completion of the pre-contractual negotiations.

Writer's Duties

11. Whilst the Writer may wish to act as literary manager, dramaturg, script reader, programme or publicity compiler and run workshops, the Writer is under no obligation to do so unless engaged under a separate contract.

Complimentary Tickets

12. The Writer shall be given at least 4 complimentary tickets for the first night of the Play and may attend any performances of his/her Play thereafter free of charge, seating accommodation provided, subject to the availability thereof.

Copyright and Moral Rights

13. (a) The Copyright of the Play shall remain vested in the Writer and no rights therein shall be granted to the Manager other than those specifically granted in this Contract.

(b) The Writer asserts the Writer's rights to be identified as the author of the Play under section 77 of the Copyright, Designs and Patents Act 1988 as follows:

I _____ being the Author of the Work entitled _____ hereby assert generally my moral right to be identified as its author."

(c) The Manager recognises the Moral Rights of the Writer as provided in Chapter IV of the Copyright, Designs and Patents Act 1988 or any modification thereof for the time being in force.

Options

14. Subject to the Manager having presented the Play within the period stipulated in Clause 1(b) hereof, then in consideration of the payment made under Clause 2 hereof, the Writer hereby grants the Manager the following sole exclusive and separate options exercisable in each case by written notice to the Writer at any time on or before the expiry of 16 weeks from the Manager's first paid public performance of the Play hereunder by payment of not less than the sums mentioned below (being on account of royalties) to acquire the exclusive right to perform the Play or authorise its performance during such period and on such terms and conditions as shall be separately negotiated with the Writer.

Option 1. Territory: United Kingdom (excluding West End of London and rights already granted in clause 1(b)). Sum: £1,977

Option 2. Territory: West End of London (including a pre-London tour not exceeding 8 weeks for a straight play or 12 weeks for a musical). Sum: £3,298

Option 3. Territory: U.S.A. Sum: £3,298

Option 4. Territory: Rest of World for English speaking productions (excluding South Africa). Sum: £2,637

Management

15. If the Manager shall have presented the Play in accordance with the terms of Clause 1(b) hereof

then, in the event of the Play being performed and/or published in the English language other than by the Manager, the Writer shall require to be printed in the programme, and/or at the beginning of the printed version, the words: "first performed by _____" followed by the date of the first performance.

In the event of the Play being presented on television, film, radio or other media the Writer shall require that the credits of the Play include the words (voiceover) or caption, at the end: "FIRST PERFORMED BY _____".

Management Participation

16.(a) Provided that the Writer's income from the exploitation of rights in the Play (excluding payments made to Participation the Writer under this contract) as set out in paragraph 1 below shall have exceeded a threshold of £37,676 and that the Manager shall have presented the Play for at least 17 performances and in accordance with the provisions of Clause 1(b) hereof, then to the extent that the Manager shall not have acquired the right to participate in subsidiary rights under Clause 14 hereof, the Writer shall for a period of 5 years from the last paid performance of the Play by the Manager hereunder ensure that the Manager shall receive, dependent upon the number of performances presented by the Manager, the following percentages of the Writer's income in excess of the threshold:-

(i) 17-24 performances: 5%

(ii) 25-49 performances: 10%

(iii) 50 or more performances: 12.5%

(b) Agent's fees paid or payable (not exceeding 10%) may be deducted before calculating the payments due under (i), (ii) and (iii) above. All sums due to the Manager shall be paid not later than 60 days after their receipt by the Writer (or Writer's agent) accompanied by a statement of account provided that the sum due is not less than £500; payment of sums less than £500 should not be withheld for more than one calendar year. The Writer shall in addition submit a certified statement of account at the end of each year, such statement shall be accompanied by any outstanding sums due to the Manager.

1. Sources of the Writer's Income which (excluding VAT) shall count towards the threshold and subsequent Management participation:-

(i) The sale of licences to perform the Play in English in the U.K. granted to parties other than the Manager.

(ii) The sale of screen and audiotape rights throughout the world.

(iii) The sale of rights to publish the text of the play in English in book form.

(iv) The sale of rights to make and distribute merchandise connected with the Play.

Writer's Agent

(Delete if not applicable)

17. The Writer hereby authorises and requests the Manager to pay all monies payable to the Writer hereunder to the Writer's agent _____ of _____ whose receipt shall be a full and sufficient discharge therefor.

Arbitration

18. Any dispute arising out of this Contract shall in the first instance be referred to a joint committee of three representatives of the TMA and three representatives of WG/TWU/SSP. Failing settlement it shall be referred to a single arbitrator to be mutually agreed or failing agreement to be appointed by ACAS who shall determine the issue and whose decision shall be final and binding.

Variations

19. No alteration of the provisions hereof shall be binding unless agreed between the parties hereto and reduced to writing.

Warranty

20. The Writer hereby WARRANTS that

(a) He/she is the sole author of the Play and sole owner of all copyright in all languages throughout the world in the Play and he/she is in full control of the rights hereby granted and that (to the best of the Writer's belief) the Play contains no defamatory matter.

*(b) The Play has not been previously performed or licensed.

*(c) The Play has been performed or licensed for performance at _____ (venue) by _____ (Company) on _____ (date) for a total of _____ (performances)

* One of these sub-clauses must be deleted

VAT

21. All payments detailed herein are exclusive of VAT and accordingly the Writer will, if registered for VAT, supply the Manager with appropriate VAT invoice(s).

As WITNESS the hands of the parties aforementioned this _____ day of _____ 19

_____ (the Writer)

_____ (the Manager)