

TNC agreement

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TNC AGREEMENT - WRITERS' MINIMUM TERMS

AS VARIED BY THE TNC VARIATION AGREEMENT 2021

This Agreement is dated 2007

PARTIES:

1. **The Writers' Guild of Great Britain** of 15 Britannia Street, London WC1X 9JN (the "WGGB"); and
2. **(i) The Royal National Theatre** of Royal National Theatre, South Bank, London, SE1 9PX;
(ii) The Royal Shakespeare Company of Royal Shakespeare Theatre, Waterside, Stratford-upon-Avon, Warwickshire CV37 6BB; and
(iii) The English Stage Company Limited of Royal Court Theatre, Sloane Square, London SW1W 8AS (together the "Theatres").

BACKGROUND:

- (A) The WGGB and the Theatres entered into an agreement dated 1st March 1993 setting out the minimum terms applicable for writers commissioned by each of the Theatres to write plays (the "Former TNC Agreement").
- (B) The WGGB and the Theatres have renegotiated the Former TNC Agreement and have agreed to replace it with an agreement on the minimum terms and conditions set out in this Agreement.
- (C) The WGGB and the Theatres have additionally negotiated a new minimum terms and conditions agreement for the optional licensing of electronic website rights for education purposes (the "Website Rights") by the Writer when entering into a TNC Writer's Agreement (the "Website Licence"), the form of which is set out in an appendix to this Agreement.

IT IS AGREED:

1. DEFINITIONS

In this Agreement, the following words and expressions have the following meanings:

"Contributor"	means a performer or member of the creative team (other than a Writer or Co-Writer) who collaborates in the writing of the Play and whose contribution to the Play is protected by copyright;
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“Co-Writer”	has the meaning given in clause 2.8;
“Play”	means the text of a 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 the Writer’s Agreement, provided also that all rights in the text of the Play are available to be licensed under the terms of this Agreement;
“Translation”	means a translation (other than a literal translation) and Translator shall be interpreted accordingly;
“Writer”	means a freelance writer of a commissioned play, a freelance writer of a non-commissioned play (including a writer in residence under a separate agreement), a Translator, an adaptor, a writer creating a version of a foreign work (from a literal translation), a co-writer, a writer of a play created wholly or partly by improvisation, a lyricist, a writer of the book of a musical, a librettist or any combination of the foregoing and may additionally include a composer and/or Contributor; and
“Writer’s Agreement”	means any agreement entered into between a Theatre and a Writer pursuant to clause 2.2 of this Agreement.

2. FORM OF AGREEMENT AND COPYRIGHT

- 2.1 The parties agree with effect from the date of this Agreement to terminate the Former TNC Agreement and to substitute it with this Agreement (the “TNC Agreement”).
- 2.2 Each Theatre agrees with effect from the date of this Agreement to offer to any Writer that it commissions to write a Play, or to any Writer from whom it acquires the rights in a non-commissioned Play, terms and conditions no less favourable to the Writer than those set out in the form of agreement attached to this Agreement and initialled on behalf of the parties for the purposes of identification.

- 2.3 For the sake of clarity, the parties agree that:
- (a) this Agreement will not apply to revivals of plays; and
 - (b) this Agreement may not be applicable to plays in which underlying rights may not be available to the extent required by this Agreement and such plays shall be the subject of individual negotiation.
- 2.4 Subject to clause 2.5, if a Theatre commissions from a Writer a new adaptation, translation or version of an existing play or other literary work that is in copyright:
- (a) the Theatre will be responsible for acquiring the underlying rights (unless the Writer has previously acquired such underlying rights);
 - (b) the royalties payable under the Writer's Agreement entered into with the Writer will be divided between the Writer and the underlying rights holder in such proportions as are mutually agreed in good faith between the interested parties; and
 - (c) the underlying rights holder and the Writer will each retain their respective copyrights.

In the event that sub-clauses 2.4(a),(b) and/or (c) above are applicable, additional clauses will be included in the individual Writer's Agreement setting out the terms agreed in relation to the underlying rights and if appropriate a side agreement may be negotiable between the Writer and the underlying rights holder(s).

- 2.5 If a Theatre commissions a new adaptation, Translation or version of an existing play that is out of copyright, the Writer will (subject to clause 3.2) be treated as the sole Writer for the purposes of this Agreement.
- 2.6 In cases where the Writer has an arrangement whereby a limited company owns the Writer's copyright in the Play (the "Owner"), the Writer's Agreement shall be made between the Theatre and the Owner.
- 2.7 The copyright in the Play shall remain vested in the Writer, unless otherwise specifically agreed in writing by the Writer.
- 2.8 In the case of a Play to be co-written by more than one Writer (each a "Co-Writer"), the fees and royalties payable under the Writer's Agreement will be divided between the Co-Writers in proportions to be agreed in good faith between the interested parties and which represent the contribution made by each Co-Writer.

3. CONTRIBUTORS

- 3.1 If the Theatre or the Writer proposes that the Play is to include contributions from any Contributor, the Theatre or the Writer shall (prior to the issue of the Writer's Agreement) specify any proposals for the collaboration with the Writer in writing to the other party, including proposals for any sharing of Royalty and/or fees (if known).

3.2 If the Play includes contributions by a Contributor, the royalties payable under the Writer's Agreement will be divided between the Writer and the Contributor(s) pro rata in proportions to be mutually agreed in good faith between the interested parties or as may be prescribed in any collective or other agreement applicable to the Contributor(s), provided always that:

- (a) no such division of royalties may be made without a legally binding agreement in place between the interested parties; and
- (b) either the proportions of such division, or (in any case where the parties agree that the proportions of the division cannot be ascertained until the Play is complete) the principle that there will or may be such a division, is agreed in advance at the point of commission; and
- (c) the agreed arrangements shall be recorded in the individual Writer's Agreement.

4. ELECTRONIC EDUCATION WEBSITE RIGHTS

- 4.1 The Writer at his or her option may choose whether or not to sign the Website Licence as part of the TNC Form of Writer's Agreement.
- 4.2 The minimum terms of the Electronic Education Website Licence shall be subject to review after 18 months of signature of this Agreement.

5. TERM OF AGREEMENT

This Agreement shall continue in force unless or until terminated by either the WGGB or the Theatres on six months' notice in writing given on or after the fourth anniversary of the date of this Agreement.

6. ANNUAL INCREASES TO FINANCIAL TERMS

- 6.1 On 1st April in each year of this Agreement, the WGGB will notify the Theatres in writing of the proposed increase to the fees, option payments and participation threshold set out in Schedule 3 of the Appendix which shall be no more than the percentage increase in the Retail Price Index ("RPI") since the date of the last increase (the "Proposed Increase"). The RPI shall be defined as the RPI published monthly by the United Kingdom Government (or any successor index as may be otherwise mutually agreed between the parties).
- 6.2 Unless the Theatres notify the WGGB in writing within 30 days of receipt of notification of the Proposed Increase that they wish to open good faith negotiations in respect of the Proposed Increase, the Proposed Increase will apply automatically from the expiry of such 30 day period (the "Effective Date") to each Writer's Agreement entered into:

- (a) on or after the Effective Date; and
- (b) prior to the Effective Date but only with respect to payments to be made under such agreement after the Effective Date.

7. CONSULTATION

- 7.1 The Theatres agree to enter into meaningful consultation and (where appropriate) negotiation with the WGGB in relation to the implementation of new projects or initiatives planned by the Theatres that are not covered by an existing union/collective agreement and in which a significant number of WGGB members will have a direct interest and will seek to resolve any differences by agreement. Formal consultation will take place between the Parties at least annually. The dates for such consultation and details of participants of both sides will be mutually agreed by the Parties.

8. BROADCAST AND NT AT HOME MINIMUM TERMS

- 8.1 From 16 October 2020, the National agrees to offer any Writer from whom it acquires the right to record and broadcast a production of a Play into screen venues, terms and conditions no less favourable to the Writer than the Live and Repeat Broadcasts and Educational Licences terms agreed between the WGGB and the National on 16 October 2020 ("Broadcast Minimum Terms Agreement") attached as Schedule 1 to this Agreement.
- 8.2 From 27 November 2020, the National agrees to offer any Writer from whom it acquires the right to record and broadcast or stream a production of a Play as part of "NT at Home" (the National's video on demand platform that offers SVOD (subscription) and PVOD (pay per view) on select NT Live and archive recordings to audiences worldwide) terms and conditions no less favourable to the Writer than the NT at Home terms agreed between the WGGB and the National on 27 November 2020 ("NTAH Minimum Terms Agreement") attached as Schedule 2 to this Agreement.

9. DISPUTES

- 9.1 If any dispute arises in connection with this Agreement, a joint committee of six representatives, being three representatives nominated by the WGGB and one representative nominated by each of the Theatres with authority to settle the dispute, will within 20 working days of a written request from one party to the others, meet in a good faith effort to resolve the dispute.
- 9.2 If the dispute is not resolved at the meeting referred to in clause 8.1, the parties will attempt to settle it by mediation in accordance with the mediation procedure offered by The Performing Arts Mediation Service set up by the Independent Theatre Council and the Centre for Effective Dispute Resolution ("CEDR").
- 9.3 Unless otherwise agreed between the parties, the mediator will be nominated by CEDR.
- 9.4 No party may commence any court proceedings in relation to any dispute arising out of this Agreement until it has attempted to settle the dispute by mediation and either the mediation has terminated or one or more of the other parties have failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.

10. GENERAL

10.1 No variation of this Agreement will be valid unless made in writing and signed by an authorised representative on behalf of each party.

10.2 This Agreement constitutes the entire understanding between the parties regarding its subject matter and supersedes all prior agreements, arrangements and understandings between the parties regarding its subject matter.

11. GOVERNING LAW

This Agreement is governed by the laws of England and Wales.

SIGNED BY:

.....
Name:.....
Title:.....
FOR AND ON BEHALF OF
**THE WRITERS' GUILD
OF GREAT BRITAIN**

SIGNED BY:

.....
Name:.....
Title:.....
FOR AND ON BEHALF OF
THE ROYAL NATIONAL THEATRE

SIGNED BY:

.....
Name:
Title:.....
FOR AND ON BEHALF OF
THE ROYAL SHAKESPEARE COMPANY

SIGNED BY:

.....
Name:.....
Title:.....
FOR AND ON BEHALF OF
THE ENGLISH STAGE COMPANY LIMITED

SCHEDULE 1 (to the TNC Agreement)
NT BROADCAST MINIMUM TERMS AGREEMENT

**LIVE AND REPEAT BROADCASTS AGREEMENT and EDUCATIONAL USAGE LICENCE
between the Writers' Guild of Great Britain and the National Theatre**

The minimum terms are in the form of a Live and Repeat Broadcasts Agreement and Educational Usage Licence to be entered into if the Writer elects to grant The Royal National Theatre and/or any of its wholly owned subsidiaries the right to record and broadcast a production of the Play into screen venues.

Form of Live and Repeat Broadcasts Agreement

THIS AGREEMENT is dated

BETWEEN:

1. [●] of [address] ("the Writer");
2. [●] of [●] ("the Licensee"); and
3. The Royal National Theatre of Upper Ground, London SE1 9PX ("RNT").

BACKGROUND:

- (A) The Writer and [●] ("the Theatre") have entered into an agreement dated [●] ("the Writer's Agreement") in respect of certain stage rights in [●] ("the Play") under which the Theatre [will/has] presented a first class production of the Play ("the Production"). [The Play is based on [●] by [●].]
- (B) The Licensee wishes to record the Production and broadcast it as part of NT Live. NT Live is RNT's initiative to broadcast live performances of plays into cinemas around the UK and internationally. The NT Entity (defined in clause 1.1 wishes to make the broadcast of the Production available for educational usage as set out in the Annex to this Agreement.
- (C) This Agreement sets out the terms and conditions upon which the Writer agrees to license certain rights in the Play and the Production to the Licensee for use as part of NT Live and to the NT Entity for educational usage.

IT IS AGREED:

1. DEFINITIONS

- 1.1 The following definitions and rules of interpretation apply in this Agreement.

Affiliate	any entity that directly or indirectly controls, is controlled by, or is under common control with another entity;
Agent	has the meaning given in clause 14.1;
Artists' Royalty Pool	means the royalty pool for the artists associated with the Production and the Recording. It includes without limitation any actors, stage management personnel, director and creative team for the Production and the Recording;
Broadcast Date	means the date on which the Recording is first broadcast to Exhibitors;
Excerpts	has the meaning given in clause 12.1;
Exhibitors	means venues where the Recording is broadcast;
Gross Box Office Receipts	means the sums actually received at the box office after the deduction of Value Added Tax (VAT) at the prevailing rate and any other tax (except income tax and corporation tax), library, credit card, charge card and other sales commissions, sales-stimulating discounts offered at the discretion of the Licensee in accordance with the Exhibitor's established custom and practice for parties, affinity groups, stand-by sales, the sale of tickets linked to the offer of goods and services and for such other special discount unique to the broadcast as may be agreed between the Licensee and the Exhibitor for the sale of admissions to each broadcast;
Net Box Office Receipts	means the Gross Box Office Receipts less the Exhibitor's legitimate substantiated deductions (i.e. the amount actually received by the Licensee);
NT Entity	means RNT and/or any of its Affiliates;
Option	has the meaning given in clause 8.1;
Option Fee	has the meaning given in clause 8.3;
Recording	means a recording of a live stage performance of the Production;
Recording Date	means the date on which the Licensee records the Theatre's production of the Play;
Repeat Screenings	means rebroadcasts of the Recording to Exhibitors following the Broadcast Date;

Screening Period	means a period of one calendar year, or otherwise agreed as per the terms of this Agreement, commencing on the Broadcast Date;
Screenings	means the broadcast on the Broadcast Date and all Repeat Screenings;
Translations	has the meaning given in clause 6.1(a);
Translator	means a first-class translator chosen in accordance with clause 6.3; and
Writer's Royalty	has the meaning given in clause 4.2.

- 1.2 Unless the context requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.3 A reference to writing or written includes email but not fax.
- 1.4 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.5 Any words following the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. LICENCES

- 2.1 The Writer hereby grants to the Licensee:
- (a) an exclusive licence to film the Production and broadcast it to Exhibitors in front of a live audience in the English language in the United Kingdom and throughout the world. Wherever possible the Production will be filmed during the initial run, however, where this is not possible any and all subsequent negotiations are to be carried out in good faith between the Licensee and Writer. The Recording Date is scheduled for [●];
 - (b) an exclusive licence to screen unlimited Repeat Screenings to Exhibitors in the United Kingdom and throughout the world for the Screening Period;
 - (c) a non-exclusive licence to use, and to sub-license use of, excerpts of the Play and Production for the purposes of a promotional trailer to be shown online and by Exhibitors worldwide provided that no such excerpts shall exceed two minutes' duration individually (ten minutes' duration in aggregate); and
 - (d) a non-exclusive licence to record two rehearsal performances of the Production in advance of the Recording Date to be used in facilitating and preparing for the

Recording, only to be available to the Licensee, its employees and contractors working on the Recording.

- 2.2 The Licensee may request to extend to the Screening Period to two calendar years from the Broadcast date. Any such extension is subject to the Writer's approval and such approval can be withheld.
- 2.3 Any further extension or renewal of this Agreement agreed by the Writer shall be recorded in writing and signed by both parties.
- 2.4 Subject to clause 2.2, at the end of the Screening Period all rights granted under clauses 2.1(a) and 2.1(b) shall automatically revert to the Writer.

3. FEES

- 3.1 In consideration of the licences granted by the Writer to the Licensee in clause 2, the Licensee shall pay the Writer a non-returnable, non-recoupable fee of **£1,500** ("Fee").
- 3.2 Should the parties agree to an extension to the Screening Period as per clause 2.2 of this Agreement, the Licensee shall pay the Writer an additional amount of £250 as part of the Fee.
- 3.3 The Fee (and any partial payment of the Option Fee as agreed) shall be due on signature of this Agreement and payable within 30 days of receipt of a valid invoice from the Writer.

4. PROFIT SHARE

- 4.1 Once the costs incurred by the Licensee specifically relating to the Recording have been deducted from Net Box Office Receipts resulting from the Screenings, any remaining income shall be divided between the Licensee and the Artists' Royalty Pool in the following shares:

- (a) 39.75% to the Licensee; and
- (b) 60.25% to the Artists' Royalty Pool.

OR

- (c) 49.75% to the Licensee; and
- (d) 50.25% to the Artists' Royalty Pool.

- 4.2 The Licensee shall pay to the Writer 22.5% of any Artists' Royalty Pool ("Writer's Royalty") in accordance with the payment schedule in clause 4.3.

4.3 The Licensee shall furnish the Writer with returns showing total Net Box Office Receipts, itemised deductions and Writer's Royalty payments due, if any, for each Screening. These returns, together with any Writer's Royalty payment due under clause 4.2 shall be sent to the Writer (or the Agent if one is appointed under clause 14.1):

- (a) in respect of the Broadcast Date, not later than 16 weeks following the Broadcast Date;
- (b) in respect of all other Screenings, bi-annually, typically in January and July.

4.4 The Licensee shall use reasonable endeavours and adopt normal accounting practices to collect all monies owing to it in relation to the Screenings (without obligation to incur expense).

5. AUDIT RIGHT

5.1 Upon written request, the Licensee will give reasonable access to the Writer for it to examine or cause to be examined through certified public accountants the books of accounts of the Licensee in so far as they relate to the Writer's Royalty payments. The Writer or its representative shall not disclose any information gathered as a result of this to any other person.

6. TRANSLATIONS

6.1 Subject to clauses 6.2, 6.3 and 6.4, the Writer hereby grants to the Licensee:

- (a) the non-exclusive right to commission a translation of the Play by a Translator into any language solely for the purposes of subtitling the Recording for the Screenings ("Translations"); and
- (b) the ability to sub-licence the right described in clause 6.1(a).

6.2 The Licensee shall:

- (a) contractually require the Translator not to make any material changes to the text of the Play in the Translations without the written consent of the Writer; and
- (b) the Translations shall not be used for any purposes other than those specified in clause 6.1 without the consent of the Writer.

6.3 If the Licensee proposes to commission a Translator, the Licensee shall provide the name and details of the proposed Translator to the Writer as soon as reasonably practicable. The Writer shall notify the Licensee of their approval (or rejection) of the Translator (such approval not to be unreasonably withheld) within 3 business days of being sent the details of the proposed Translator. If the Writer fails to respond within 3 business days, the Translator shall be deemed approved by the Writer.

6.4 The Licensee hereby confirms:

- (a) it shall not grant or purport to grant any rights to translate the Play other than those set out in clause 6.1(a) or any Translator without the Writer's express prior written approval; and
- (b) it shall bear all expenses in connection with the Translations and shall be responsible for the payment of any sums due to any Translator.

7. TEXTUAL CHANGES

- 7.1 The Licensee will not make or permit to be made any changes to the text of the Play (including the title of the Play except in the case of Translations) without the consent of the Writer (not to be unreasonably withheld), provided that the Writer is reasonably available for consultation. If it is not possible to submit to the Writer in person a proposal for a change in the text, the Licensee shall submit the proposal to the Agent (if any) and provide the Agent with 3 days to respond.
- 7.2 Any changes in the manuscript, presentation or performance of the Play made by any person will be deemed to be a part of the Play and the copyright in such changes will belong (as far as the same constitutes intellectual property) to the Writer and the Writer will not be required to pay or credit any person suggesting or making such changes unless the Writer has entered into a legally binding agreement to do so.
- 7.3 The Licensee may at all times require the Writer to make such changes to the Play as are necessary to avoid involving the Licensee in legal action after meaningful consultation with the Writer (including as to the means of preserving the Play's textual integrity) and after legal advice from suitably qualified lawyers taken by the Licensee and disclosed to the Writer.
- 7.4 The Writer will not refuse to make the changes referred to in clause 7.3 without having reasonable grounds for refusing to make the requested changes and disclosing such grounds to the Licensee. If the Writer does not make the changes referred to in clause 7.3, following consultation and legal advice as specified in 7.3, the Licensee may require the Writer to repay to the Licensee the Fee under clause 3. Subject to the repayment in full of the Fee, the rights in the Play under this Agreement shall revert to the Writer.
- 7.5 The Licensee will not be held responsible for changes to the text or mistakes made by performers during filming of the Recording.

8. EDUCATIONAL USAGE OPTION

- 8.1 Should both parties agree, the NT Entity shall have the option to use the Recording and any ancillary material as part of an educational streaming programme ("Option") on the terms set out in the Annex to this Agreement (Educational Usage Licence).

- 8.2 If an NT Entity wishes to exercise the Option, the NT Entity shall serve notice on the Writer that it has selected the Recording to be made available to Educational and Library Establishments. The NT Entity shall serve such notice within three years of the Broadcast Date and if an NT Entity has not notified the Writer within this period, the Option will lapse.
- 8.3 The Writer shall receive a fee of £750 (seven hundred and fifty pounds) or whatever rate is agreed as payable in accordance with clause 8.5 provided such rate shall not be less than £750 ("Option Fee").
- 8.4 Any such Option Fee shall be paid accordingly:
- a) 50% to be paid alongside the Fee as per clause 3 of this Agreement
 - b) 50% to be paid within one month of the Title being made available as per this clause 8.
- 8.5 Once the NT Entity has exercised the Option, as agreed with the Writer, the Annex comes into full force and effect and is binding on all parties as if the Annex formed part of this Agreement.
- 8.6 The NT Entity shall only be entitled to exercise the rights set out in the Annex once it has exercised the Option in accordance with this clause 8.

9. FURTHER EXPLOITATION

Any exploitation of the Recording outside the scope of this Agreement shall be subject to the prior written approval of the Writer and to a separate agreement in writing, the terms of which shall be negotiated in good faith.

10. CREDIT

- 10.1 The Licensee shall credit the Play and the Writer in the form:

PLAY TITLE
by
WRITER

in the following places:

- (a) on all programmes, posters and advertising material (except in classified newspaper advertising) under the Licensee's direct control; and
 - (b) in the end credits of the Recording.
- 10.2 The Licensee shall contractually require the Exhibitors to credit the Play and the Writer in accordance with clause 10.1.

10.3 In the event that the Play is published, and provided that the Writer has supplied details of the published edition of the Play to the Licensee no less than 72 hours before the Broadcast Date, the end credits shall include reference to the published edition of the Play in a form to be mutually agreed by the Writer and the Licensee.

11. TICKETS

11.1 On request the Licensee will provide the Writer with 4 tickets free of charge to see a Screening of the Recording at any venue presenting Screenings.

11.2 The Writer shall give the Licensee reasonable notice of any tickets requested under clause 11.1 along with the Writer's preferred date(s), venue(s) and the number of tickets required.

12. PUBLICITY, PROMOTION AND EDUCATION

12.1 The Licensee shall have the right at any time to authorise the televising or sound broadcasting of excerpts from the Recording by any and all audio and/or audio visual media for the sole purposes of publicity, promotion and or education ("Excerpts") provided that such Excerpts shall not exceed ten minutes' duration in aggregate.

12.2 The Licensee hereby agrees that if the Writer or the Agent licenses film and television rights in the Play after the Screening Period then any future use of the Excerpts following the completion of such film/television licence agreement will be subject to the consent of the Writer provided the Writer has notified the Licensee in writing of any such film and television rights. Any Excerpts already being used for publicity, promotion or education before the date of the Writer's notification shall not be affected.

13. ARCHIVE

Notwithstanding any other provisions of this Agreement, the Recording shall be made available for viewing as part of the Licensee's and its Affiliates' archive, which can only be viewed free of charge on site at the National Theatre.

14. AGENCY

14.1 The Writer hereby appoints [●] as their sole and authorised agent under the terms of this Agreement to act in their name ("Agent") and to collect and receive all monies due to the Writer hereunder.

14.2 The Writer declares that the receipt of the Agent shall be a good and valid discharge of all persons paying sums due to the Writer under this Agreement.

15. COPYRIGHT

The copyright in the Play shall remain vested in the Writer and all rights other than those granted to the Licensee under this Agreement are hereby reserved to the Writer.

16. NON-EXERCISE OF RIGHTS

The Licensee will have no liability to the Writer in respect of any failure by the Licensee or its sub-licensees to exercise any or all of the rights and the Option granted under this Agreement.

17. WRITER'S WARRANTIES

17.1 The Writer warrants and undertakes to the Licensee and its Affiliates that:

- (a) the Play is an original work in copyright in all countries of the world affording copyright protection;
- (b) the Writer is the sole owner of the entire copyright in the Play free of all charges and encumbrances;
- (c) the Writer controls the rights licensed and/or made the subject of the Option granted to the Licensee and its Affiliates under this Agreement and such rights are unencumbered;
- (d) the exercise of the rights licensed and/or made the subject of the Option granted to the Licensee and its Affiliates under this Agreement will not infringe any copyright or to the best of the Writer's knowledge, information and belief any other right vested in any other party; and
- (e) to the best of the Writer's knowledge, information and belief, the Play contains no defamatory or otherwise unlawful matter.

17.2 The warranties set out at clauses 17.1(a) to 17.1(c) (inclusive) will not apply to:

- (a) any part of the Play that consists of material written by a third party that is out of copyright and/or otherwise in the public domain; or
- (b) to the extent that the Play is based on the work referred to in Background paragraph (A) at the head of this Agreement (if any).

18. LICENSEE'S WARRANTY

The Licensee warrants and undertakes to the Writer that it will obtain or cause to be obtained all necessary permissions from third parties in respect of use of the Recording for the Screenings (including but not limited to actors, directors, designers,

choreographers, musicians, stage management, technical staff and any third party copyright holders).

19. TERMINATION

19.1 The Writer may terminate this Agreement (and the licences granted under it) on written notice to the Licensee, if the Licensee commits a material breach of this Agreement and fails to remedy the breach within one month of being required by the Writer in writing so to do.

19.2 The Licensee may terminate this Agreement on written notice to the Writer if the Writer:

- (a) commits a material breach of this Agreement and fails to remedy the breach within one month of being required by the Licensee in writing to do so; or
- (b) commits any act which would bring the Licensee into disrepute; or
- (c) is in breach of any of the warranties and undertakings in clause 17 of this Agreement.

19.3 Termination of this Agreement (howsoever occasioned) shall not affect any rights or obligations of either party which shall have accrued as at the date of termination.

19.4 On termination of this Agreement, the Clauses 1, 13, 15, 16, 21 and 22 shall continue in force.

20. ASSIGNMENT AND SUB-LICENSING

20.1 This Agreement is personal to the Writer and the Writer may not assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the Licensee.

20.2 The Licensee may assign or transfer any of its rights or obligations under this Agreement to an NT Entity.

20.3 The Licensee may sub-license all or part of this Agreement including any rights or obligations licensed to it under this Agreement to a third party but no sub-licensing shall relieve the Licensee of its liabilities under this Agreement.

21. GENERAL

21.1 This Agreement shall not constitute a partnership, joint venture, employer-employee or principal-agent relationship between the parties.

21.2 This Agreement is binding upon the executors, administrators, lawful assigns and successors of the parties.

21.3 This Agreement constitutes the entire agreement of the parties with respect to its subject matter.

21.4 This Agreement may not be varied unless in writing signed by the parties.

22. GOVERNING LAW

This Agreement is governed by the laws of England and Wales and the parties will submit to the exclusive jurisdiction of the courts of England and Wales.

For the Writer

Signed by

For the Licensee

Signed by
for and on behalf of
[Licensee]

[For The Royal National Theatre]

Signed by
for and on behalf of
The Royal National Theatre]

ANNEX 1 (to the NT Broadcast Minimum Terms Agreement)

EDUCATIONAL USAGE LICENCE

This Annex sets out the terms on which the Writer makes the Recording, along with any ancillary material produced by the NT Entity in relation to the Production for marketing, educational and promotional purposes (“Ancillary Material” and together the Recording and Ancillary Material form “the Title”), available to universities, colleges, schools and libraries.

1. TERMS OF LICENCE

1.1 The Writer hereby grants to the NT Entity the following rights, upon receipt of written notice from the NT Entity in accordance with clause 8 (Educational Usage) of the Agreement:

- (a) the right to make the Title available for unlimited broadcast to schools and sixth form colleges, higher education colleges and universities and providers of online learning programmes and academic libraries (“Educational Establishments”) and their users in the English language in the United Kingdom and throughout the world, by way of streaming;
- (b) the right to make the Title available for unlimited broadcast to public libraries (“Library Establishments”) and their users in the English language in the United Kingdom and throughout the world, exclusively on their premises;
- (c) the right to grant Educational Establishments and Library Establishments access to the Title on a perpetual access basis whereby any Educational and Library Establishment may acquire the right to grant access to the Title to its users and also to retain a copy of such Title in order to facilitate such streaming in perpetuity;
- (d) the right to make available clips from the Title via streaming and by way of downloads in teaching aids, educational publications and digital products such as digital textbooks;
- (e) the right to authorise Educational Establishments to make available the Title by way of public performance exclusively on their premises for teaching purposes (e.g. in lecture halls and classrooms);
- (f) the right to include extracts including still images from the Title in educational, marketing and promotional material;
- (g) any ancillary rights reasonably necessary to properly exploit the rights in this Annex e.g., the right to stream or provide copies of the Title to sales representatives to facilitate the licensing of a Collection (as defined in clause **Error! Reference source not found.** of this Annex), the right for the NT Entity’s authorised platforms to make back-up copies of the Title; and

(h) the right to sublicense the above rights to the NT Entity's authorised educational and library platforms and to Educational and Library Establishments.

1.2 The NT Entity does not anticipate that the total number of titles in a Collection which have no in-copyright contribution from a writer or adaptor will exceed one third of the total number of titles in a Collection. If this ratio is exceeded, the parties shall discuss in good faith the allocation of the Writer's Profit Share with regard to the relevant titles which exceed the above apportionment.

2. UK NON-PAYING EDUCATIONAL ESTABLISHMENTS (STATE SCHOOLS)

2.1 The NT Entity warrants that the rights set out in clause **Error! Reference source not found.** of this Annex will be licensed by the NT Entity on commercial terms agreed at arm's length save that the NT Entity may exercise the following rights in the Title without charge:

- (a) the right to make available to UK Non-Paying Educational Establishments (as defined in clause **Error! Reference source not found.** of this Annex) and their users the Title via streaming or transmission to electronic devices but shall for the avoidance of doubt, not include by way of perpetual access;
- (b) the right to make available the Title by way of public performance by UK Non-Paying Educational Establishments for educational purposes at their premises;
- (c) the right to include extracts including still images from the Title in educational, marketing and promotional material published by the NT Entity aimed at the UK Non-Paying Educational Establishments;
- (d) the right to sublicense the above rights to the NT Entity's authorised educational and library platforms and to Educational and Library Establishments
- (e) any rights reasonably necessary to enable the exercise of the above rights; and
- (f) any ancillary rights reasonably necessary to properly exercise the rights e.g., the right to stream or provide copies of the Title to sales representatives to facilitate the licensing of the Collection, the right for the NT Entity's authorised platforms to make backup copies of the Title.

2.2 "UK Non-Paying Educational Establishments" shall mean:

- UK State Primary Schools;
- UK State Secondary Schools;
- UK State Combined Schools;
- British Forces Overseas (BFPO) Primary Schools;
- British Forces Overseas (BFPO) Secondary Schools;
- UK City Technology Colleges;
- UK Further Education College Campus;

- UK Further Education College Departments;
 - UK Further Education Colleges;
 - Hospital Schools in the UK or primarily aimed at UK citizens;
 - The Great Ormond Street Hospital;
 - UK Special Schools; and,
 - on an exceptional basis, any other similar state-maintained educational establishment primarily aimed at students aged 19-years old and younger linked with the UK that the NT Entity, acting reasonably and in good faith, believes to be an appropriate recipient of a free service.
- 2.3 The NT Entity will build appropriate security clauses into its contracts with the platforms to protect against any illegal downloading and piracy and distribution outside an educational or library context. Where the NT Entity becomes aware of any such illegal or infringing activity it will take appropriate action to the extent commercially reasonable.

3. LICENCE PERIOD

- 3.1 Subject to clause **Error! Reference source not found.** of this Annex, the NT Entity's rights under this Annex shall commence on the date the Option is exercised and continue until the date ten years after the NT Entity first makes the Title available to Educational and Library Establishments (provided that this period shall not be more than ten years three months from the date the Option is exercised) ("Licence Period").
- 3.2 The Licence Period is subject to any perpetual access rights granted during the Licence Period which may continue indefinitely.

4. PROFIT PARTICIPATION

- 4.1 The Writer shall be entitled to 12.5% of the NT Entity's Profits that have been allocated to the Title ("Writer's Profit Share") on a favoured nations basis.
- 4.2 "NT Entity's Profits" shall mean all gross receipts received by the NT Entity from the distribution of all the titles including the Title to the NT Entity's third-party educational and library platforms and gross receipts (if any) received by the NT Entity directly from Educational and Library Establishments after deduction of any VAT, sales tax or other equivalent tax, less any costs incurred by the NT Entity in relation to the distribution of the titles to Educational and Library Establishments (including without limitation, costs incurred in relation to marketing, advertising, distribution and any other administrative costs).
- 4.3 The NT Entity's Profits will be allocated to the Title as follows:
- (a) where the Title is sold as a group of titles (a "**Collection**") the NT Entity's Profits allocated to the Collection ("**Collection Profits**") will be in direct proportion to the revenue generated by such Collection;

- (b) the Collection Profits will be allocated on a per-title basis, by dividing the Collection Profits by the total number of titles in such Collection, regardless of when, how long and in which territories the titles appear as part of such Collection;
- (c) where the Title is made available on a standalone basis the NT Entity's Profits will be allocated to such Title in direct proportion to the revenue generated by such Title on a standalone basis;
- (d) for the avoidance of doubt, any profits generated by Ancillary Material will not be separately accounted for but will be added to the Collection Profits in direct proportion to the revenue generated by that Collection; and
- (e) any royalty generated specifically by the NT Entity brand will also be added to the Collection Profits.

4.4 The Writer's Profit Share will not be paid out until the entitlement has reached £50 per individual who shares in the NT Entity's Profits. However, any outstanding amounts accrued at the end of the Licence Period that have not been paid to the Writer will be paid in full regardless of the amount.

4.5 The NT Entity shall use reasonable endeavours and adopt normal accounting practices to collect all monies owing to it in relation to this Annex (without obligation to incur expense).

5. REPORTING

5.1 The NT Entity shall report annually in relation to the educational usage licences, including making payment of any Writer's Profit Share due, commencing within one month of the first anniversary of making the title available and set out:

- (a) income earned by the NT Entity;
- (b) costs by category;
- (c) the allocation of profits to the Title.

5.2 Additionally, the NT Entity shall provide a certificate in the form set out in Annex 2 with each report.

6. AUDIT RIGHT

Upon written request, the NT Entity will give reasonable access to the Writer for it to examine or cause to be examined through certified public accountants the books of accounts of the NT Entity in so far as they relate to the Writer's Profit Share. The Writer

or its representative shall not disclose any information gathered as a result of this to any other person.

7. TRANSLATIONS

7.1 Subject to clauses **Error! Reference source not found.**, **Error! Reference source not found.** and **Error! Reference source not found.** the Writer hereby grants to the NT Entity:

- (a) the non-exclusive right to commission a translation of the Play by a Translator into any language solely for the purposes of subtitling the Title ("Translations"); and
- (b) the ability to sub-licence the right described in clause **Error! Reference source not found.**

7.2 The NT Entity shall:

- (a) contractually require the Translator not to make any material changes to the text of the Play in the Translations without the written consent of the Writer; and
- (b) not use the Translations for any purposes other than those specified in clause **Error! Reference source not found.** without the consent of the Writer.

7.3 If the NT Entity proposes to commission a Translator, the NT Entity shall provide the name and details of the proposed Translator to the Writer as soon as reasonably practicable. The Writer shall notify the NT Entity of their approval (or rejection) of the Translator (such approval not to be unreasonably withheld) within 3 business days of being sent the details of the proposed Translator. If the Writer fails to respond within 3 business days, the Translator shall be deemed approved by the Writer.

7.4 The NT Entity hereby confirms:

- (a) it shall not grant or purport to grant any rights to translate the Play other than those set out in clause **Error! Reference source not found.** to any Translator without the Writer's express prior written approval; and
- (b) it shall bear all expenses in connection with the Translations and shall be responsible for the payment of any sums due to any Translator.

8. CREDIT

8.1 The Writer shall be credited wherever the Recording is made available under this Annex 1 in the form:

PLAY TITLE

by

WRITER

- 8.2 In the event that the Play is published, the credits shall include reference to the published version of the Play in a form to be mutually agreed between the NT Entity and the Writer.

9. WARRANTY

The NT Entity warrants and undertakes to the Writer that the NT Entity will obtain or cause to be obtained all necessary permissions from third parties in respect of use of the Title (including but not limited to actors, directors, designers, choreographers, musicians, stage management, technical staff and any third party copyright holders).

10. GENERAL

In the event of conflict or inconsistency between the provisions of this Annex 1 and the main body of this Agreement, this Annex 1 shall prevail.

ANNEX 2 (to the NT Broadcast Minimum Terms Agreement)

[Insert certificate]

SCHEDULE 2 (to the TNC Agreement)

NTAH MINIMUM TERMS AGREEMENT

This **NT AT HOME AGREEMENT** is dated [DATE]

PARTIES

- (1) [NAME OF INDIVIDUAL/COMPANY] care of [ADDRESS] ("**Licensor**")
- (2) **THE ROYAL NATIONAL THEATRE** registered in England and Wales with company number 0749504 whose registered office is at Upper Ground, London, SE1 9PX ("**NT**").

BACKGROUND

- A) Pursuant to an agreement made between the Licensor and the NT, the Licensor is the [ROLE] for the [NT/third party producer] production of the play [name of play] (the "**Play**") staged at the [Theatre] (the "**Production**") [a recording of which was made by the NT (the "**Recording**")].
- B) [Pursuant to a licence agreement made between the Licensor and National Theatre Live Limited ("**NT Live**") (the "**NT Live Licence**"), the Licensor granted to NT Live certain of the Licensor's rights in relation to the Production and NT Live made a recording of the Production (the "**Recording**")]
- C) Notwithstanding any other permitted exploitation of the Recording by the NT and/or NT Live, the NT wishes to receive and the Licensor is willing to grant to the NT a licence to exploit the Licensor's rights in the Recording on the terms and conditions set out in this Agreement solely in connection with the video on demand platform known as National Theatre at Home (the "**Platform**").

1. INTERPRETATION

- 1.1. In this Agreement (except where the context otherwise requires):
 - 1.1.1. capitalised terms shall have the meanings set out in Schedule 1 or as defined in the text of this Agreement;
 - 1.1.2. the Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules; and
 - 1.1.3. where the words "includes" or "including" are used they mean "includes, but not limited to" or "including, but not limited to".

2. GRANT OF RIGHTS

- 2.1. In consideration of the Advance (as defined in Clause 5.7.1) and the Licensor's share of the Artist Profit Participation Pool, and subject to the terms and conditions of this Agreement, the Licensor grants to the NT for the duration of the Licence Period and solely in relation to the Licensor's own rights in the Recording, the rights set out in Clauses 2.2, 2.3 and 2.4 (the "**Rights**").
- 2.2. The right to exhibit/make available the Recording on the Platform and in the Territory by means of SVOD, TVOD and FVOD as provided below:

- 2.2.1. when exhibiting the Recording on an SVOD basis, the NT may offer the Recording together with other recordings on either a monthly or annual paid-for subscription basis;
- 2.2.2. when exhibiting the Recording on a TVOD basis, the NT may offer the Recording solely on a Multiplay Basis limited to a period of 72 hours (the “**Viewing Window**”), with such Viewing Window available for a period of 30 days from the date of the transaction;
- 2.2.3. the NT may offer the Recording on an exceptional FVOD basis only in the following instances:
 - a) During a one month period commencing on the Launch Date, the NT may offer a maximum of 7,000 free trial periods for the Platform including the Recording to members, partners, and sponsors for mission-related or fundraising purposes. Each free trial period shall not exceed one month in duration and may start at any point within the one month period from the Launch Date. For each free trial period that is granted, the NT shall pay the FVOD Revenue (as defined in Clause 5.6).
 - b) Once there is a minimum of 20 recordings on the Platform, the NT may offer a maximum of 200 free trial periods for the Platform including the Recording to customers for marketing and promotional purposes. Each free trial period shall not to exceed two weeks in duration. For each free trial period that is granted, the NT shall pay the FVOD Revenue.
 - c) for educational use for limited, Targeted UK State Schools [and subject to any further agreement between the parties regarding use of the Recording and its inclusion as part of the NT’s National Theatre Collection programme].
 - d) The NT may grant free access or provide free copies to the Licensor in accordance with Clause 8 and to third parties only in accordance with equivalent contractual provisions relating to the Recording.

Any free trials granted under Clauses 2.2.3(a) and (b) shall be subject to the end user providing their payment details at the start of the free trial period and any such free trial shall be made on a unique user basis.

- 2.3. Solely in relation to and for the purposes of the Platform, the right to:
 - 2.3.1. technically manipulate and transcode (including the right to digitise, encode and compress) the Recording and convert the relevant files and data into different formats (including Standard Definition (SD), High Definition (HD), etc.) subject always to the provisions of Clause 2.5;
 - 2.3.2. embed the Recording on third-party websites or software applications (including the creation and storage of back-up copies of the Recording) to facilitate the technical provision of the Recording as permitted under this Clause 2 (including YouTube);
 - 2.3.3. host the Recording on a server or locally to a Viewing Device to facilitate the technical provision of the Recording in accordance with this Clause 2.
 - 2.3.4. insert at appropriate intervals before and/or after and at scripted interval(s) (but not otherwise) during the exhibition of the Recording on the Platform a sponsorship message from any NT Global Sponsor(s) and/or sponsor(s) of the Recording pursuant to Clause 4.8;
 - 2.3.5. at appropriate intervals before and/or after (but not during) the exhibition of the Recording on the Platform (including any scripted interval(s)) to solicit donations or charitable contributions to the NT for philanthropic and fundraising purposes provided that such exhibition of the Recording shall not be conditional on any such donation or charitable contribution to the NT; and

- 2.3.6. apply industry standard geo-filtering technology designed to prevent access to the Recording within the Territory and designed to confirm that the country location of any person accessing the Recording.
- 2.4. The right to:
- 2.4.1. reproduce, publish and transmit or exhibit still photographs, still images and video clips excerpted from the Recording (with or without the accompanying audio) not to exceed 3 minutes in duration and 15% of the Play in aggregate (“**Promotional Material**”), solely in relation to the promotion of the Recording and/or the Platform;
 - 2.4.2. use any Promotional Material in any media produced by the NT, including on the Platform, for any educational, marketing or promotional usage in relation to the promotion of the Recording and the Platform
 - 2.4.3. provide such Promotional Material to the Licensor for any specific purposes outlined to the NT in accordance with Clause 8 and to provide the same to third parties only in accordance with equivalent contractual provisions relating to the Recording;
 - 2.4.4. exercise any rights necessary to enable the exercise of the Rights; and
 - 2.4.5. sub-license the Rights provided under clauses 2.2 and 2.3 to any Technology Provider where necessary to facilitate the technical provision of the Recording in accordance with this Clause 2.
- 2.5. The NT shall not edit and shall not authorise the editing of the Recording in any manner without the prior written consent of the Licensor (which consent shall be exercised at the sole discretion of the Licensor).
- 2.6. The NT shall employ the use of digital rights management (DRM) technology to protect against any unauthorized use or piracy of the Recording and shall display anti-piracy and anti-plagiarism notices as part of the Recording. Where the NT becomes aware of any such illegal or infringing activity it will notify the Licensor in writing and take appropriate action to the extent commercially reasonable.
- 2.7. The NT shall not be under any obligation to broadcast the Recording on the Platform or exercise the Rights granted under this Agreement.

3. TEXTUAL CHANGES AND TRANSLATIONS

- 3.1. Subject to clauses 3.2, 3.3 and 3.4, the Licensor grants to the NT:
- 3.1.1. The non-exclusive right to commission a translation of the Play by a Translator into any language solely for the purposes of subtitling the Recording for the Screenings (“Translations”); and
 - 3.1.2. the ability to sub-licence the right described in clause 3.1.1.
- 3.2. The NT shall:
- 3.2.1. contractually require the Translator not to make any material changes to the text of the Play in the Translations without the written consent of the Writer; and
 - 3.2.2. the Translations shall not be used for any purposes other than those specified in clause 3.1 without the consent of the Writer.
- 3.3. If the Licensee proposes to commission a Translator, the Licensee shall provide the name and details of the proposed Translator to the Writer as soon as reasonably practicable. The Writer shall notify the Licensee of their approval (or rejection) of the Translator (such approval not to be unreasonably withheld) within 3 business days of

being sent the details of the proposed Translator. If the Writer fails to respond within 3 business days, the Translator shall be deemed approved by the Writer

3.4. The NT here confirms:

3.4.1. it shall not grant or purport to grant any rights to translate the Play other than those set out in clause 3.1.1 to any Translator without the Writer's express prior written approval; and

3.4.2. it shall bear all expenses in connection with the Translations and shall be responsible for the payment of any sums due to any Translator.

3.5. Any changes in the manuscript, presentation or performance of the Play made by any person will be deemed to be a part of the Play and the copyright in such changes will belong (as far as the same constitutes intellectual property) to the Writer and the Writer will not be required to pay or credit any person suggesting or making such changes unless the Writer has entered into a legally binding agreement to do so

4. TERM

4.1. Subject to termination in accordance with Clause 14, this Agreement shall be effective and in force from the date of signature of this Agreement or the Launch Date, whichever is earliest, until the end of the Licence Period (including any Extension of the Licence Period agreed in accordance with Clause 4.2).

4.2. The Licence Period may be extended on terms to be negotiated and agreed by the parties in good faith (with any agreed extension period being an "**Extension**"). Any Extension shall be subject to all rights holders in the Recording agreeing to the Extension.

4.3. Notice of any such extension request shall to be given in writing to the Licensor by the NT, no later than 6 weeks before the end of the Licence Period, with the Licensor's response required no later than 3 weeks following such notice of Extension.

5. PAYMENT AND FEE

5.1. All Net Profits shall be divided as follows:

5.1.1. 60% to the Artist Profit Participation Pool; and

5.1.2. 40% to the Producer(s).

5.2. The Writer's Share is 22.5% of the Artist Profit Participation Pool.

5.3. Intentionally deleted

5.4. Where the Recording is made available on an SVOD basis, the revenue attributable to the Recording shall be allocated proportionally based on viewing data generated by the Recording (the "**SVOD Revenue**"), where a single view shall be determined as an uninterrupted viewing session of not less than 30 seconds.

5.5. Where the Recording is made available on a TVOD basis, the revenue attributable to the Recording shall be the proceeds generated from the sale of the Recording on a TVOD basis (the "**TVOD Revenue**").

- 5.6. Where the Recording is made available on an FVOD basis, the revenue attributable to the Recording shall be 50% of the proceeds that would otherwise be paid by the end user for access to the Recording on the Platform in accordance with Clauses 4.4 and 4.5 (the “**FVOD Revenue**”).
- 5.7. In consideration of the Rights granted under this Agreement, the NT shall pay the Licensor:
- 5.7.1. A recoupable advance of £300 against any and all Net Profits, payable on or before the Launch Date (the “**Advance**”);
- 5.7.2. With respect to Clause 2.2.3.c), an advance of £200 against any writer’s fee payable under any further agreement between the parties regarding the use of the Recording and its inclusion as part of the NT’s National Theatre Collection programme
- 5.7.3. the Licensor’s share of the Artist Profit Participation Pool, and the first such payment, if any, shall be paid out not later than 6 months after the Launch Date and quarterly thereafter, together with a royalty statement which shall set out:
- a) SVOD Revenue and viewing data in relation to the Recording
 - b) TVOD Revenue and viewing data in relation to the Recording
 - c) FVOD Revenue and usage statistics
 - d) Sponsorship Proceeds (where relevant)
 - e) Distribution Costs
 - f) the Licensor’s share of the Artist Profit Participation Pool (if any)
- and for the avoidance of doubt a royalty statement shall be provided not later than 6 months after the Launch Date and quarterly thereafter regardless whether any Licensor’s share of the Artist Profit Participation Pool is due.
- 5.8. On a non-precedential basis, any net proceeds from any sponsorship deal for a specific Recording (“**Sponsorship Proceeds**”) shall be distributed as follows:
- 5.8.1. 18% to the Artist Profit Participation Pool; and
- 5.8.2. 82% to the NT
- and each such sponsorship deal shall be treated as separate and subject to Schedule 2 of this Agreement and to the prior written approval of the Licensor (such approval not to be unreasonably withheld or delayed).
- 5.9. Any Distribution Costs not certified as spent within the Licence Period shall be allocated to the Artist Profit Participation Pool.
- 5.10. The NT shall keep or procure to keep true, full and accurate records and accounts relating to each of the Distribution Costs, the Net Profits, the Net Receipts, the SVOD Revenue, the TVOD Revenue, the FVOD Revenue, the Sponsorship Proceeds (where relevant) and the calculation of Net Profits and provide the Licensor with detailed statements of the calculation of the same and payments due, together with payment of any sum due, as soon as reasonable practicable and in any event within 6 months from the Launch Date and quarterly thereafter regardless whether any Licensor’s share of the Artist Profit Participation Pool is due. The NT shall use its best endeavours to maximise any financial return in relation to the exploitation of the Recording under the terms of this Agreement and shall adopt normal accounting practices in relation to sums due under this Agreement and use best endeavours to collect all monies owing to it in relation to the Recording.
- 5.11. Upon written request, the Licensor may examine or cause to be examined all such records and accounts and/or request certified returns in relation thereto and if there has been an error to the Licensor’s detriment where any underpayment is the greater of

10% of the amount paid to you or £200, the NT shall pay the reasonable costs of the audit within 30 days and the NT shall pay the amount owed within 30 days in any event.

6. CREDITING

- 6.1. The Licensor shall be credited as follows [XXX] and such credit shall be in the form of on-screen end credit on the Recording and the Platform, including:
 - 6.1.1. Writer's credit under the Production title card at the start of the Recording and on the Recording Page on the Platform
 - 6.1.2. Full cast, creative team and broadcast team listed within end credits of the Recording
 - 6.1.3. Full cast, creative team, broadcast team credits listed directly on the Recording page on the Platform
 - 6.1.4. Separate downloadable cast list, creative team and broadcast team credits including in each case the Writer's credit
 - 6.1.5. As part of Platform and Recording metadata
- 6.2. Any such credit shall be identical to what has previously been agreed [in the NT Live Licence].
- 6.3. The NT shall credit the Licensor in any use of the Promotional Material by the NT and use all reasonable endeavours to procure such credit by entities other than the NT (eg. news outlets, etc).
- 6.4. In the event that the Play is published, and provided that the Writer has supplied details of the published edition of the Play to the NT as soon as practicably possible or no less than 3 weeks before the start of the Licence Period, a cast list included on the Platform and – where possible – the end credits shall include reference to the published edition of the Play in a form to be mutually agreed by the Writer and the NT.

7. PRESS & PROMOTION

- 7.1. The Licensor may be requested to provide national and international press, promotion, marketing and social media activity in support of the Recording, but the provision thereof shall be subject always to the Licensor's availability and consent and to payment of expenses to be negotiated in good faith in advance.

8. LICENSOR'S ACCESS

- 8.1. The NT shall provide access to or copies of any Promotional Material to the Licensor where the Licensor makes a reasonable request for the same, subject always to the NT's capacity to meet these requests. Where any such Promotional Material reasonably requested does not currently exist, this may be subject to extended timescales.
- 8.2. The NT shall provide to the Licensor access to the Recording and the Platform upon reasonable request subject always to the NT's capacity to meet these requests and with such access not exceeding seven days.

- 8.3. All materials and/or access to materials provided to the Licensor in accordance this Clause 8 are provided for the specific use requested by the Licensor and any other use is strictly prohibited.

9. WARRANTIES

- 9.1. The Licensor warrants that to the best of the Licensor's knowledge there are no contractual and/or other restrictions on the Licensor's ability to grant to the NT the Rights in the Recording.
- 9.2. The NT warrants to the Licensor that it shall secure all necessary permissions from third parties in respect of use of the Recording in accordance with the terms and conditions of this Agreement which shall include actors, directors, designers, choreographers, musicians, stage management, technical staff, copyright holders and the rights to any music usage.

10. INSURANCE

- 10.1. During the term of this Agreement the NT shall maintain in force the following insurance policies with reputable insurance companies:
- 10.1.1. public liability insurance with a limit of at least £1 million in any one occurrence;
 - 10.1.2. product liability insurance with a limit of at least £1 million in any one occurrence;
 - 10.1.3. directors' and officers' liability insurance with a limit of at least £1 million in any one occurrence; and
 - 10.1.4. employer's liability insurance with a limit of at least at least £1 million in any one occurrence.

11. CONFIDENTIALITY

- 11.1. Both parties undertake solely for the purposes of this Agreement that they shall not disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party under or in connection with this Agreement, except as permitted by Clause 11.2.
- 11.2. Each party may disclose the other party's confidential information:
- 11.2.1. to its employees, officers, representatives, contractors, subcontractors or advisors who need to know such information for the purposes of exercising the party's rights or carrying its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisors to whom it discloses the other party's confidential information comply with this Clause 0;
 - 11.2.2. as may be required by law, a court of competent jurisdiction or any governmental or any regulatory authority; and
 - 11.2.3. in order to exercise its rights and perform its obligations under or in connection with this Agreement.

12. AGENCY

- 12.1. The Licensor hereby authorises and instructs the NT to pay all monies due hereunder by bank transfer to the client account of the Licensor's duly authorised agent [Agency Name].
- 12.2. The Licensor declares that the receipt of the Agent shall be a good and valid discharge of all monies so paid under this Agreement.

13. ASSIGNMENT AND SUB-LICENSING

- 13.1. The NT may assign or sub-license to any Affiliate of the NT the benefit or the burden of this Agreement and shall notify you in advance of any such assignment or sub-licensing.
- 13.2. Any other assignment or sub-licensing of the benefit or burden of this Agreement by the NT to any other entity other than any NT Affiliate that is not expressly permitted under this Agreement shall require the prior written consent of the Licensor (such consent not to be unreasonably withheld or delayed).

14. TERMINATION

- 14.1. Should any Extension to the Licence Period be agreed, either party may terminate this Agreement by giving not less than 3 weeks' notice no earlier than 6 weeks' before the expiry of such Extension.
- 14.2. Either party may terminate this Agreement with immediate effect by giving written notice should there be a material breach of the terms of this Agreement by the other party, and such breach is not remediable or is not remedied within 30 days of written notice requiring that party to do so.
- 14.3. The NT may terminate this Agreement should there any material change in the NT's ability to make the Recording available under this Agreement provided that the NT shall give the Licensor written notice of such termination and may remove the Recording should the Recording be subject to any superseding rights, objection or any claim, legal or otherwise or in the event that the NT is unable for reasons outside its reasonable control to continue to make the Recording available under this Agreement provided that the NT shall give the Licensor written notice of such removal as soon as reasonably practicable.

15. MISCELLANEOUS

- 15.1. Any further use of the Recording for which there is not an existing agreement in place shall require the Licensor's prior approval and the agreement of terms (including financial terms), to be negotiated in good faith.
- 15.2. Should any clause in the Agreement be determined by a court of competent jurisdiction to be unlawful or unenforceable, such clause shall be considered severed from this Agreement and all remaining clauses shall remain in full force and effect.
- 15.3. This Agreement is governed by the laws of England and Wales and the parties hereby irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

15.4. This Agreement may be executed in counterparts, with each deemed to be an original and together shall constitute one and the same instrument.

15.5. This Agreement may not be varied otherwise than by written agreement signed by an authorised representative of each party.

15.6. This Agreement is signed by or on behalf of the parties by a person with express or implied authority.

By signing this Agreement, the parties agree to be bound by the terms of this Agreement and each party warrants that the person signing this Agreement on behalf of that party has the requisite authority to bind that party.

Signed

[Name]

Signed

Emma Keith
Head of Broadcast and NT Live
For and on behalf of
THE ROYAL NATIONAL THEATRE

SCHEDULE 1 (to the NTAH Minimum Terms Agreement)**DEFINITIONS**

The following definitions shall apply in this Agreement.

Affiliates	any wholly-owned subsidiary company, corporation or partnership incorporated in England and Wales that the NT now or hereafter controls which includes the following entities: <ul style="list-style-type: none"> • National Theatre Live Limited • National Theatre Productions Limited
Actors, Creative Team and Stage Managers Share	shall mean the Artist Profit Participation Pool, less the Writer's Share (if any).
Artist Profit Participation Pool	The 60% of the Net Profits and 18% of Sponsorship Proceeds.
Distribution Costs	a sum of up to £12,500 per Recording being actual costs incurred by the NT in relation to the distribution of the Recording in connection with and under this Agreement, including: <ul style="list-style-type: none"> • post-production costs, including remixing audio for online, picture grading, conversion of file formats, technical QCs, testing and distribution, etc; • preparation and finalising of English language subtitles and audio description and British Sign Language; • managing the platform including technology and design; • E&O insurance; • all other costs in relation to marketing, press, finance, legal and additional rights clearances (e.g. commercial music, imagery).
Electronic Transmission	transmission to a Viewing Device including all forms of electronic transmission of audio-visual signals; wired and/or wireless, streamed and/or downloaded, analogue and/or digital or otherwise now known or developed in the future including the Internet, mobile wireless technologies and/or by any other form of digital and/or networking technologies (including Internet Protocol)
FVOD	free video on demand being exhibition by Electronic Transmission on a free basis and provided at no cost to the viewer for the personal and/or private viewing purposes only
Launch Date	the date of launch of the Platform, namely w/c 30 November 2020 or such later date as the NT may notify to the Licensor in writing provided that such later date shall not be later than 31 May 2021

Licence Period	12 months commencing on the Launch Date
Multiplay Basis	enables the viewer to view the Recording over multiple instances within the Viewing Window
Net Profits	the Net Receipts less the Distribution Costs
Net Receipts	the total revenue received by the NT from the exploitation of the Recording under this Agreement which includes the SVOD Revenue, the TVOD Revenue and the FVOD Revenue, subject to any certified and legitimate deductions for transactional services
NT Global Sponsor(s)	A single entity, or where relevant up to a maximum of three (3) single entities, which provide(s) overall sponsorship and support for the Platform, as selected by the NT in accordance with Schedule 2 and notified by the NT to the Licensor
Technology Provider	any third-party platform and technology provider, providing a video-hosting or online streaming solution to facilitate the technical provision of the Platform, as authorised and approved by the NT in accordance with the terms of this Agreement provided that the NT shall not authorise or approve any existing commercial, direct-to-consumer video on demand offering to be a Technology Provider.
Producer(s)	the NT [and third party producer]
SVOD	subscription video on demand being exhibition by Electronic Transmission on a paid-for, subscription basis initiated by the viewer, where the viewer can access recordings by means of streamed transmissions at a time chosen by the viewer for their personal and/or private viewing purposes only
Targeted UK State Schools	shall mean no more than one hundred (100) UK state schools selected by the NT's Learning department which will target: <ul style="list-style-type: none"> a) Schools who have signed up to a programme with creative activity b) High-priority schools such as schools with a high proportion of free school meals, who use English as an additional language and/or schools with a diverse and/or disadvantaged student population.
Territory	Worldwide
TVOD	transactional video on demand being exhibition by Electronic Transmission for which a fee is made for viewing and re-viewing (on a temporary basis) at a time chosen by the viewer for their personal and/or private viewing purposes only
Viewing Device	television receiver, set top box, personal computer, mobile device, tablet, games console, portable and/or other analogous devices or terminals capable of receiving, downloading, storing, onward transmitting and/or playing back Electronic Transmission.
Writer's Share	22.5% of the Artist's Profit Participation Pool.

SCHEDULE 2 (to the NTAH Minimum Terms Agreement)

PROHIBITED CLASSES OF SPONSOR

For the avoidance of doubt, any NT Global Sponsor(s) shall not have as its primary source of business the following activities:

- Gambling
- The sale of tobacco
- Mining of oil, gas and other fossil fuels
- Arms manufacturers

Any sponsorship deals or arrangements with any other sponsor or partner, including the NT Global Sponsor(s), shall be in line with this Schedule and the NT's Donation and Sponsorship Acceptance Policy, a copy of which is available at the following link (<https://www.nationaltheatre.org.uk/your-visit/policies/donation-and-sponsorship-acceptance-statement>) and replicated here, for reference:

Donation and Sponsorship acceptance statement

The National Theatre is a Registered Charity (No. 224223) and relies on voluntary contributions from its audience and other funders. Donations and sponsorship help every element of the National Theatre's work both on stage and off. From the creative teams that produce our most awe-inspiring shows to the creation of our remarkable Learning programmes and development of new work at the NT Studio, voluntary contributions enable us to continue working to the highest possible standards.

We are committed to fundraising best practice and abide by the Fundraising Regulator's key principles and behaviours of a fundraising organisation: to be legal, open, honest and respectful. We undertake to comply with relevant law and regulations, including the Proceeds of Crime Act, Data Protection, Tax and Gift Aid legislation, and Charity Commission guidance, as well as the National Theatre's corporate policies, such as Anti-Bribery.

The Development Department monitors potential donations and corporate partnerships for compliance and risk. Final decisions may be escalated to the Board of Trustees. It is our Board's legal obligation to act in the best long-term interest of the National Theatre and to act prudently when deciding to accept or refuse voluntary contributions. The Board will refuse a gift if it can reasonably conclude that its acceptance would be more likely to be detrimental to the organisation than its refusal.

[Name]
 [Address 1]
 [Address 2]
 [City]
 [Postcode]

[Date]

National Theatre – [PLAY] – Self Billing Agreement

We would like to operate self-billing invoices for royalty payments (including self-billing of VAT) for the above usage, and all other similar projects and broadcasts for the next 12 months. This is how we can pay you your fees and/or royalties without you needing to invoice.

To comply with HM Customs and Excise regulations please could you complete, sign and return the enclosed copy of this letter. This will confirm that the Royal National Theatre agrees to:

1. Issue self-billed invoices for all fees and royalty distributions due to you for the Recording.
2. To complete self-billed invoices showing your name, address and VAT registration number, together with all the other details which constitute a full VAT invoice.
3. To make a new self-billing agreement in the event that either party's VAT registration number or VAT status changes.
4. To inform you if the issue of self-billed invoices will be outsourced to a third party.

And that you agree:

1. To accept invoices raised by us on your behalf for any fees and royalties due from the Royal National Theatre.
2. Not to raise sales invoices for the transactions covered by this agreement.
3. To notify us immediately if you, change your VAT registration number, cease to be VAT registered or sell your business, or part of your business (if appropriate).

Writer/Actor/Client Name (Company Name if applicable)	
Agency Name (if applicable)	
VAT number of writer/actor/client (if registered)	
Company / UTR number (if applicable)	
Bank Name	
Branch Name	
Account Payee Name	
Sort Code	
Account Number	
Email address for remittance notification	
Telephone number (if NT accounts dept have questions re the above)	

On behalf of Royal National Theatre
 VAT number GB 548 1804 33

 On behalf of [Name]

