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ITC - BECTU Independent Producers Collective Agreement

1 This Collective Agreement is made on December 1st 2021 between:

(1) the Broadcasting, Entertainment, Communications & Theatre Union (**BECTU**) Sector of Prospect, whose registered office is 373-377 Clapham Road, London SW9 9BT; and

(2) the Independent Theatre Council (**ITC**), whose registered office is The Albany, Douglas Way, London, SE8 4AG.

2 INTRODUCTION

2.1 This Agreement refers to a person engaged under the terms of this Agreement as the Producer, and to the company engaging persons under the terms of this Agreement as the Manager.

2.2 The purpose of this Agreement is to regulate relations between Managers and Producers engaged in the UK independent theatre sector in order to optimise the number of productions and job opportunities and monitor working conditions.

2.3 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings between the parties.

2.4 ITC and BECTU pledge to use their best endeavours to ensure the spirit of this Agreement is honoured and maintained by their respective members.

3 SCOPE OF THE AGREEMENT

3.1 This agreement incorporates the minimum terms and conditions negotiated and agreed by the ITC and BECTU in the engagement of Independent Producers

3.2 This Agreement must be used by ITC Ethical Managers in the engagement of self-employed Producers.

3.3 All terms and conditions and definitions of the Agreement between the ITC and BECTU shall be read in conjunction with and automatically incorporated in the Contract.

4 RECOGNITION

- 4.1 ITC agrees to recognise BECTU and BECTU agrees to recognise ITC for the purpose of collective bargaining as the sole representative organisations of Independent Producers and Managers within the application of this Agreement.

5 WAYS OF ENGAGING AND PAYING

5.1 Principle of Engagement

- 5.1.1 It is a fundamental principle of this Agreement that the Producer is clear, at the commencement of the engagement, as to what they have agreed to do and the pay they will receive for it. Managers will meet with the Producer to provide and agree a Schedule of Duties before their engagement specifying this information and outlining the basic details of engagement (the "Schedule of Duties").
- 5.1.2 The contents of the Schedule of Duties will be incorporated, along with other information, into contracts. A template Schedule of Duties is attached to this Agreement as Appendix 1. Any further revisions to the key terms that should be incorporated into the Schedule of Duties will be agreed by the parties and may be published on BECTU and ITC's respective websites.

5.2 Contracts

- 5.2.1 All contracts under the terms of this agreement must be made using the Contract (attached – Appendix 2).
- 5.2.2 This is a minimum terms agreement. Contract variations that improve upon minimum terms are welcome. No variations that do not meet the minimum terms of this agreement shall be made to the Contract.

5.3 Types of Engagement

- 5.3.1 Producers will be engaged on a fee basis, daily rate or percentage of production budget. The Schedule of Duties will outline the duties covered for the agreed amount.

5.4 Variations after Engagement

- 5.4.1 If the Schedule of Duties or dates of the engagement are varied after engagement, then the Manager will negotiate the fee/rate for those variations or extensions with the Producer.

5.5 Minimum Rates of Pay

- 5.5.1 Producers will not be engaged on rates any lower than the agreed minimums attached at Appendix 3.
- 5.5.2 The fee and daily minimum rates of pay shall be increased at least in line with RPI inflation each year on the anniversary date of this agreement or by agreement between ITC and BECTU.

5.6 Expenses

5.6.1 Travel

- 5.6.1.1 The Manager will reimburse the Producer for actual travel costs incurred (excluding first-class and peak fares unless agreed by the Manager) on production of a valid receipt. (Air fares will be paid subject to advance agreement of the Manager)

5.6.2 Accommodation

- 5.6.2.1 Where an overnight stay is required the Manager will provide sole occupancy, en-suite accommodation for the Producer or (subject to advance agreement of cost) reimburse the actual cost of accommodation on production of a valid receipt. If mutual agreement can change.

5.6.3 Meals

- 5.6.3.1 Where an overnight stay is required the Manager will reimburse the Producer the actual cost of meals on production of a valid receipt and subject (unless otherwise agreed in advance) to a maximum of £25 per day.

5.7 Base

- 5.7.1 The Producer will work from their own base, using their own equipment unless otherwise agreed between the Parties.

6 INTELLECTUAL PROPERTY

- 6.1 The Producer agrees that any Intellectual Property rights that may arise from work that they do for the Manager under this Agreement shall be assigned to the Manager and shall be the Manager's property in perpetuity. Any variation of this should be included in the contract.

7 SICKNESS

- 7.1 If the Producer is unable to complete the services required under the contract due to illness the Producer shall provide a sub-contractor of equal calibre and qualification and shall pay such sub-contractor from their fee under the contract at Appendix 2. The sub-contractor is subject to Manager approval. Manager approval shall not be unreasonably withheld.
- 7.2 If the Producer is unable to provide a suitable sub-contractor the Manager shall have the right to terminate the Producer's contract by written notice (as detailed in Appendix 2(F)) and the Producer shall be paid as follows:
- 7.2.1 Fee as detailed in the contract at Appendix 2(E).
- 7.2.2 Expenses: Reimbursement of any expenses incurred up to the first day of illness.

8 FAILURE TO PRODUCE

- 8.1 If the Production is abandoned by the Manager at any time, for any reason, the Producer shall be paid the daily rate for days worked or the next instalment due of the fee payment schedule set out in Appendix 2 plus all agreed expenses incurred up until the production was abandoned.

9 PROSECUTION OF PRODUCTION

- 9.1 If a complaint is made that a production is in violation of the law, of statutory requirements or if a claim or charge (either civil or criminal) is made against the Producer when acting in accordance with their contract, the Manager shall indemnify

them against any loss of damage. Should the Manager warn the Producer in writing that their treatment of the production is likely to give rise to complaint or claim or charge and should the Producer ignore such warning the protection under this clause shall be forfeit. The Producer shall co-operate in every reasonable way to assist the Manager to defend any action against the Producer.

10 SEVERABILITY

10.1 If any term or other provision of this Agreement is determined to be invalid, illegal or incapable of being enforced by any rule or law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect.

11 DISPUTES

11.1 If any dispute arises in connection with this agreement, its use or meaning or about its application, an attempt to resolve the matter informally shall be made between the Manager and the Producer with assistance from ITC and a BECTU Official.

11.2 If the parties are unable to agree having followed any informal and applicable formal internal procedure, the matter will be referred to a single mediator to be appointed by the Independent Theatre Council and agreed by BECTU.

12 POLICIES

12.1 ITC and BECTU fully support and agree to the Set of Principles to tackle and prevent bullying, harassment and racism set out in Appendix 4 to this Agreement.

12.2 The Manager shall have the following up to date policies which must be adhered to in practice and monitored regularly and made available to the Producer at the point of contract:

Equal Opportunities
Dignity at Work
Environmental sustainability

13 DATA PROTECTION

13.1 The Manager will be the data controller for any personal information collected for the purposes of the administration of the contract with the Producer. As it is necessary for the

company to collect and hold personal data relating the Producer, the Producer will be provided with or given access to the Manager's privacy notice at the beginning of the engagement or when the data is collected. This is in compliance with Article 13 of the UK General Data Protection Regulations (GDPR).

13.2 The Producer has the right to make a subject access request to the company, and the company will respond within one month of the request, as set out in Article 15 of UK GDPR

14 HEALTH & SAFETY

14.1 The Manager will take every reasonable step to ensure the Producer's safety, the Producer has a legal duty to take reasonable care of their own health and safety as well as that of others affected by their acts or omissions. The Manager's Health & Safety policy will be provided upon engagement.

15 CONFIDENTIALITY

15.1 The Producer agrees not to disclose any confidential information about the work of the Manager, its service users, staff or volunteers, without prior authorisation from the Board.

15.2 Nothing contained in this Clause 15 shall restrict the Producer from:

15.2.1 Reporting misconduct, or a serious breach of regulatory requirements, or making an equivalent report to any other body responsible for supervising or regulating the particular matters in question

15.2.2 Making a protected disclosure under the Public Interest Disclosure Act 1998

15.2.3 Reporting an offence to a law enforcement agency

15.2.4 Co-operating with civil or criminal investigation or prosecution

16 REVIEW & VARIATION

16.1 Initial Reviews of this agreement will take place after one and two years from signing. Beyond two years either party wanting to make changes to any of the terms and conditions in this

Agreement shall give the other no less than three months' notice of its intention to seek such changes.

17 TERMINATION OF THE AGREEMENT

17.1 If either party seeks to terminate this Agreement, it shall do so by giving six (6) months' notice in writing of such termination but not prior to two (2) years from the date on which it is signed. Until such time the agreement continues in full force and unaltered.

APPENDIX 1

It is a fundamental principle of this Agreement that the Producer is clear, at the commencement of the engagement, as to what they have agreed to do and the pay they will receive for it. Managers will meet with the Producer to provide and agree a Schedule of Duties before their engagement specifying this information and outlining the basic details of engagement (the "Schedule of Duties").

The contents of the Schedule of Duties can be expanded and amended will be incorporated, along with other information, into contracts. An example Schedule of Duties is listed below, this can be amended or expanded upon to reflect the responsibility of each party.

SCHEDULE OF DUTIES – Commissioning Process

- Are any of the below duties being outsourced? Whose responsibility is it to sort that out? Producer or Manager?
- Duties/Job Roles (some of these can be broken down further so there is an understanding of what IS and IS NOT required)

- Project Manager (outsourced? ____ By who? _____)
- Scheduling and timetabling
- Finance/Budget Administrator
- Budget setting
- Budget management
- Administering paying people including creatives
- Project Consultancy
- Company Development Consultancy
- Writing or amending policies
- Safeguarding or child liaison officer/chaperone
- Mentor
- Research and Development
- Creative Team creation
- Casting
- Funding application writing
- Fundraising
- Marketing
- Audience development
- Artist Liaison/Company Management/people management
- Stage Management
- Operating show
- Finding and hiring rehearsal space
- Tour Booking
- Booking travel and/or accommodation
- Legal responsibility: contracting, copyright, insurance
- Other _____

- After looking at what is required, what is the job title/credit for that work? Insert into Paragraph B of Appendix 2.
- After looking at what is required, what is the fee/daily rate/percentage for that work? Insert into Paragraph D of Appendix 2.

APPENDIX 2

CONTRACT

Red: instructions or to be filled in

Contract for the engagement of freelance theatre producers

This Contract is made on(Date)

Between

.....("the Manager")

Of

And

.....("the Producer")

Of

IT IS AGREED as follows:

A) ITC / BECTU Agreement:

All terms and conditions and definitions of the Agreement between the Independent Theatre Council and BECTU ('the Agreement') shall be read in conjunction with and automatically incorporated in this Contract.

B) Introduction:

This contract sets out the terms and conditions under which the Manager engages the Producer to (describe role) for name of production ("the Production"). The attached Schedule of Duties at Appendix 1 details what is being contracted. Nothing in this document shall be read as creating a contract of employment between the Parties.

C) Dates Of Engagement:

The Producer is engaged under this contract from (Date) until(Date)
Exclusivity of Services from (Date) until (Date)

D) Financial Provisions:

1) **Payment:** The Manager shall pay the Producer (a fee/daily rate/percentage of budget) of £.

2) **Weekly Exclusivity of Services Payment of £.... for weeks**

- 3) **Payment schedule:** The fee shall be paid in the following instalments, subject to receipt of invoice from the Producer before payment: (example, on signature, on start of project, on completion of tour contracts, on press night)
- i)
 - ii)
- 4) **Expenses:** Where the Manager requires the Producer to attend meetings or rehearsals that require travel, meals and/or accommodation the Manager shall (delete two clauses below)
- i) Reimburse reasonable expenses incurred by the Producer. Such reimbursement shall be subject to prior agreement of rates and to the Producer providing receipts for expenses claimed
OR
 - ii) Provide the Producer with transport, accommodation and meals, as required, as mutually agreed in advance.
OR
 - iii) Pay the Producer an allowance of £.....
- 5) **VAT**
- i) All payments above are exclusive of VAT if applicable.
 - ii) If the Producer is registered for VAT they will notify the Manager at the time of signing the contract and provide the Manager with appropriate VAT invoices for all payments due under this contract.
- 6) **Intellectual Property:**
- i) The Producer agrees that any Intellectual Property rights that may arise from work that they do for the Manager under this Contract shall be assigned to the Manager and shall be the Manger's property in perpetuity (amend if necessary)

E) **Clause 7 Sickness Fee:** (insert appropriate details here)

F) **APPENDIX 4 Reporting:**

The Manager is responsible for creating a safe, respectful and welcoming environment for the Producer and all members of the project/team/etc, at all stages in this engagement/project, where they are the leading responsible party for the setting up of the work space/place that is part of this contract.

1. If there are any behaviours that are reported, the Producer will report them to (insert named individual and contact details from Manager here)
2. The Managers Code of Conduct / Complaints Procedure can be found here (insert location)

G) Termination:

- 1) If either Party wishes to terminate this contract before the end date set out in C) above they must give the other Party at least (number of) weeks' written notice.

SignedDate.....
The Producer

SignedDate.....
For The Manager

APPENDIX 3

MINIMUM RATES OF PAY

1. Standard Professional Independent Producer Daily Rate: **£165**

This rate NOT to be used for funding applications. The minimum Daily Rate for all producer functions to be applied for on funding applications is **£275**, but not all of that may go to a single producer.

For clarity, the £275 rate is NOT for writing funding applications, it is the minimum daily amount for all producer functions to put ON any funding applications.

Please note that this is a minimum rate and the expectation from ITC and BECTU is that Producers and Managers will negotiate higher rates commensurate with experience and how much of Appendix 1 is being carried out by the Producer.

APPENDIX 4

Set of principles

To tackle and prevent bullying, harassment and racism in the performing arts industries.

Bullying, harassment and racism have no place in our industries. These principles aim to eradicate such abuse and all forms of discrimination regarding a person's protected characteristics which are unethical and against the law. They can also help employers meet legal requirements and offer a shared vision to promote and maintain a safer, more inclusive workplace environment for everyone working within the performing arts industries. All employers, employees, officers, workers, agency workers, trainees, volunteers, trustees and freelancers should adhere to the following principles.

1. Everyone is responsible for creating and maintaining an inclusive workplace that is positive and supportive.
2. We recognise that harassment may be unlawful under the Equality Act 2010.
3. We will explicitly address and seek to prevent racism and all other forms of discrimination and bias, their manifestations and effects.
4. Those of us who are employers accept our responsibilities under the Health and Safety at Work Act 1974.
5. We do not tolerate bullying and harassment on any grounds, including sexual harassment and racism, and will ensure that processes are in place for the reporting and investigation of these serious issues.
6. We recognise that bullying, harassment and racism can have significant adverse impacts on the productivity, long-term physical and mental health and well-being of affected people and we will work to eradicate it. This will mean providing adequate protection for complainants and victims, and, where bullying, harassment or racism is found to have occurred, taking appropriate action against bullies or harassers.
7. We value inclusivity, appreciate difference, welcome learning from others, and consider people equal without prejudice or favour. We build relationships based on mutual respect. We will all work to give and receive feedback in a constructive way, which we know will improve creativity and productivity.

8. We understand that reporting bullying, harassment and racism can be intimidating. We will respect confidentiality where possible and aim to make the process of reporting clear and straightforward. If anyone comes forward to report behaviour which might amount to bullying, harassment and/or racism, we will endeavour to investigate objectively. Individuals who have made complaints of bullying, harassment and/or racism or participate in good faith in any investigation should not suffer any form of reprisal or victimisation as a result.

9. We will respect each other's dignity, regardless of the seniority of our role in an organisation.