

STANDARD CONTRACT FOR THE PRODUCTION OF NEW PLAYS AGREED BY THE SCOTTISH SOCIETY OF PLAYWRIGHTS AND THE FEDERATION OF SCOTTISH THEATRE

A contract made on [date] between:

[Name of Producer], [Address of Producer] (hereinafter called “the Producer” of the one part)

and

[Name of Writer(s)], [Address of Writer] / c/o [Writer’s Agent if applicable] (hereinafter called “the Writer” of the other part)

Whereas: -

The Producer has acquired a licence from XXXXX (hereinafter called “the Author”) to present a live stage production adapted from the literary/film (delete as appropriate) work by the Author entitled XXXXXX (hereinafter called “the Work”) for such stage adaptation (hereinafter called “the Play”) to be commissioned by the Producer from the Writer.

1. CONSIDERATION AND RIGHTS

All rates should meet the specified minimums payments rates which can be found at <https://www.scottishsocietyofplaywrights.co.uk/resources/ssp-fst/> and are updated on a yearly basis. The correct rates should be inserted into the agreement for avoidance of doubt.

a) Consideration

In Consideration of payment of £XXXX (being the total commission amount) by the Producer to the Writer (as provided in Clauses 2 and 3) for a work at present titled XXXX (provisional title, hereinafter called “the Play”) that is XXX minutes in length, the Writer grants to the Producer the rights set out in Clause 1 b) below.

b) Rights

The exclusive right to present by the Producer at [name of venue 1], [name of venue 2], and [if applicable] on tour in the [name of area], a production of the Play (in the English / and XXXX language), provided that this right will expire 39 weeks (not more than 39) after the Play’s first performance.

The Producer shall have 12 months from the delivery of the Pre-production Draft to confirm programming. The Play’s first performance shall be given not later than 24 months from the confirmation of programming.

c) Extension to Rights

Following the delivery of the Pre-production Draft and by mutual agreement, the 12 month period to confirm programming of the PLAY and/or the 24 month period to produce following the confirmation

of programming of the PLAY (as specified in Clause 1 b)) may be extended by increments of 26 weeks upon payment of £250 per increment (being a non-returnable advance against royalties).

NB: It should be noted that this is a separate extension function to Clause 15 b) which is only for the purpose of unforeseen circumstances in close proximity to production.

2. **PAYMENT**

The payment referred to in Clause 1 hereof shall be made to the Writer as designated in Clause 2 a), b), c). All payments below are made as pre-payments of work yet to be undertaken and not as payment for work already completed.

a) **Signature Instalment**

£XXXX (being 40% of the total commission) on commission of first draft and in any event no later than fourteen (14) calendar days from signature of this agreement and upon receipt of a valid invoice. The first draft will be delivered on:

XXXX [a date mutually agreed with the Producer].

[Where a treatment has previously been commissioned include the following statement. For avoidance of doubt, treatment rates can be found at <https://www.scottishsocietyofplaywrights.co.uk/resources/ssp-fst/>]:

It is understood that £XXX of this instalment has been pre-paid to the Writer as an advance against their commission as per their treatment contracted signed on XXX.

b) **Agreement to Proceed**

£XXXX (being 40% of the total commission) on mutual agreement between the Writer and Producer to proceed with notes on the first draft and upon receipt of a valid invoice.

The Producer and Writer shall within **30** days where possible (but no more than 45 days) following delivery of the first draft, meet to share notes, and mutually agree changes for the Pre-production Draft. The Writer shall deliver the Pre-production Draft on:

XXXX [a date mutually agreed with the Producer, no more than 12 months following delivery of First Draft.]

In the unlikely event that the Writer and Producer are unable to agree an approach to the subsequent drafts, the Producer will release the commission, without making payment under Clause 2 b) whereby all rights will revert to the Writer with full rights of use.

c) **Pre-Production Draft**

£XXXX (being 20% of the total commission) upon acceptance of the delivered Pre-production Draft of the Play and upon receipt of a valid invoice. Should the Pre-Production Draft deviate drastically from

the agreed upon direction of development as outlined in 2 b) The Producer is hereby given the right to enter into clarifying and confirmatory discussions with the Writer ahead of processing this payment. It is understood that this instalment covers all additional mutually agreed revisions and redrafts.

d) Failure of Payment

Should the Producer decide not to proceed and/or fail to make the payment provided for in Clause 2 b) above in timely manner and/or having agreed to proceed, fails to make the payment due under 2 c) above within thirty days of delivery of the Pre-Production Draft, the rights in the Play shall thereupon automatically revert to the Writer and the parties shall have no further obligation to one another.

All of the above sums are non-returnable and non-recoupable in any event.

e) Further Writing Work

Should the Producer make all the payments in a timely manner as provided for above and should the Producer proceed towards production it is understood that if reasonably requested the Writer shall be obliged to attend (subject to their reasonable availability) developmental workshops and a reasonable number of rehearsals and previews for the purposes of making further mutually agreed revisions (for which there attendance will be paid separately as designated in Clause 6).

f) Multiple Writers [delete if not required]

Should one of the Writers leave the project before the full commission is paid, the outstanding fee payments will be paid to OR will be divided equally between, the remaining Writer(s).

3. SCRIPTS

The Writer will provide all drafts of the play as mutually accessible electronic documents. All drafts will remain the property of the Writer. The Producer shall have the right to make as many copies of the script as are required which will remain the property of the Producer. The Producer will provide the Writer with a copy of the final production script.

The Writer hereby gives permission for the Producer to make printed transcripts of the play available at each performance for d/Deaf audience members and audiences for whom English is not a first language to improve access to the production.

The Writer hereby gives permission for the Producer to share the script with potential co-producers and partners with the understanding that it will be shared with professional discretion and the writer will be notified whenever practicable.

4. ARTIFICIAL INTELLIGENCE (A. I.)

- a) No part of a draft of the Play, the final playtext or draft Play materials may be reproduced or uploaded into artificial intelligence technologies or systems for any purpose, without prior explicit written agreement from the playwright discharging this Clause.
- b) In order to prevent any draft of a commissioned play being uploaded into A.I. software, for whatever purpose, by the Producer or anyone working on the Production, the Writer must include the following language at the start of every draft of The Play, which will alert any users that they are attempting to break the law:

‘The playwright additionally expressly reserves this work from “the text and data mining exception” in accordance with Article 4(3) of Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market (Copyright Directive).’
- c) This text at Clause b) should be reproduced in full by the playwright in all drafts of the Play and published playtext. It should be included in full in all copies shared with cast or production teams, whether in print or digital.
- d) The only exception to Clauses 4 a), b), c), is if it is required by the access providers for the production, for instance (but not limited to) audio description software or programmes related to British Sign Language (BSL). This usage should be strictly limited and carefully monitored.

5. WRITER’S APPROVAL

- a) The choice of director, designer and actors for the Play shall be subject to prior agreement between the Producer and the Writer provided that:
 - i) The Writer shall be aware of the Producer’s artistic policy and financial resources
 - ii) The Producer and Director shall have due regard to the integrity of the Writer’s work
 - iii) Neither party shall unreasonably delay or obstruct agreement.
- b) No changes to the text or the title of the Play may be made except with the Writer’s permission. Any such changes no matter at whose suggestion shall automatically become the sole property of the Writer. The Writer shall have no moral or financial obligation to anyone suggesting/making such changes.

6. REHEARSALS AND DEVELOPMENT

- a) The Writer shall have the right to attend rehearsals at all times, subject to notifying the Director and Producer of planned attendance.
- b) The Writer shall at all times pay due consideration to the Producer’s authority at the place of rehearsal. In the event of any dispute between the Writer and the Director or the Producer, the Producer and the Writer’s Agent will work together to provide a mutually agreed solution. If no resolution can be found, or the Writer is not represented by an agent, the dispute will move to arbitration as outlined in Clause 21.
- c) In return for the attendance of the Writer at rehearsals and/or rewriting during the rehearsal and preview period, the Producer will pay the Writer a day rate of **XXX [not less than the agreed upon rate**

found at <https://www.scottishsocietyofplaywrights.co.uk/resources/ssp-fst/>] up to a maximum of XX days. Should additional attendance be required, this must be agreed in advance between the Producer and Writer, and will be paid at the same daily rate. The Producer shall also cover the cost of any travel expenses directly incurred by the Writer in attending rehearsals as agreed in advance by the Producer. Where the Writer is separately contracted and paid for an additional role during rehearsals, Writer's rehearsal attendance will not apply, unless expressly agreed in the new contract.

- d) In return for the attendance of the Writer at development workshops for the Play, the Producer will pay the Writer a daily development rate of XXX (this becomes a weekly rate for 4 or more consecutive days) [not less than the agreed upon rate found at <https://www.scottishsocietyofplaywrights.co.uk/resources/ssp-fst/>]. The Producer shall also cover the cost of any travel expenses directly incurred by the Writer in attending development workshops of the Play as agreed in advance by the Producers.
- e) Frequency of attendance payments shall be agreed in advance with the Writer or the Writer's Agent to be mutually agreed with Producer.

7. EXPENSES

The Producer shall reimburse the Writer for such expenses as the Writer may reasonably incur whilst engaged in other work related to the production such as contributing to the programme, doing interviews, attending production meetings or carrying out research for the Play at the Producer's request. These expenses are to be agreed in advance.

8.. PUBLICITY

- a) The Producer will consult with the Writer with regard to the promotion and publicity of the production.
- b) With the possible exception of small newspaper adverts, digital display ads or "teasers", the Producer shall cause the Play to be advertised as XXXX by XXXXXXXX.
- c) The Producer shall accord the Writer credit of equal prominence to those accorded to the director or leading actors.
- d) The Writer reserves the right to use a nom de plume provided that this is specified in advance of signing the contract.
- e) The Producer will remove the Writer's name from the publicity or will take all reasonable measures if the Writer disclaims the production.
- f) The Writer agrees not to enter into any arrangements on the Producer's behalf in connection with the Play or Production. The Writer also agrees not to make any statements in public or for publication (including any form of social media outlet) about the Play/Production prior to the Play/Production being formally announced by the Producer, without prior agreement from the Producer. The Producer and The Writer agree not to make any derogatory statements in public or for publication about the Play/Production until the initial run, or any extended licence period of the Production has ended.

- g)** The Producer shall make every effort to procure payments for the Writer in line with UK Theatre/Equity Agreements from any broadcasting company where an excerpt from the production is transmitted.
- h)** A biography and/or photograph of the Writer, approved by the Writer, shall be inserted in the programme whenever a biography and/or photograph of lead creatives appear.

9. FILMING/RECORDING

- a)** The Writer agrees to allow the Producers (and any third party appointed by the Producer) at any time during the term of the Producers' licences or options under this Agreement, to make an audio-visual and/or an audio-only recording of:
 - i) selected rehearsals of the Production of the Play
 - ii) the Production of the Play in its entirety
 - iii) performances of selected extracts of the Play,

These recordings can be used, in full, in perpetuity, for research, not-for-profit educational and archival purposes.

- b)** The Writer also grants the Producer (and any third party appointed by the Producer) a non-exclusive licence in perpetuity for the following uses of extracts from recordings made under Clause 9 a) (such extracts not to exceed five minutes running time individually, nor shall the total length of extracts exceed fifteen minutes running time or (if shorter) 10% of the total running time of the Production):
 - i) To promote the Production or the Producer's programme of which the Production is part.
 - ii) To promote the Producer, the art form and/or the artists
- c)** The Writer will not receive a fee for the broadcast of any extract of the Play/Production of the Play in accordance with Clause 9 b) if the broadcast is covered by the fair dealing provisions of the Copyright, Designs and Patents Act 1988 and no other member of the creative team or the Producers receive payment from the Broadcast Partners.
- d)** If Clause 9 c) does not apply and a fee or royalty is therefore required, the Producers will ensure that the Broadcast Partner agrees to pay the Writer a fee for each extract of the Play/Production of the Play broadcast in accordance with Clause 9 b) such fee to be agreed in advance by the Writer with the Broadcast Partner (and the Writer's agreement shall not be unreasonably withheld or delayed).
- e)** The Writer grants the Producer rights to initiate at least one live stream of a portion of rehearsals, of no more than thirty minutes in length, for broadcast on the Producer's and its partners' online channels or platforms, subject to the mutual consent of the full Company. Any other exploitation of such recordings shall be negotiated in good faith.
- f)** The Writer also grants the Producer (and any third party appointed by the Producer) the rights, during the term of the Producers' licences or options under this Agreement and subject to the mutual consent of the Creative Team to:
 - i) Capture an audio-visual or audio-only recording of a live performance of The Production

- ii) reproduce the original Production in order to capture an audio-visual or audio-only recording
- g) The use of such capture for exploitation across digital platforms such as cinema, television, online, social media, video on demand, podcasts or on or by another medium now or hereafter known, must be negotiated in a separate agreement with the Writer.

10. COMPLIMENTARY TICKETS

The Writer shall be given at least two complimentary guest tickets for the opening night of the production and may personally attend any performance of the Play, seating accommodation being subject to availability.

11. ROYALTIES

- a) The Producer agrees to pay the Writer a royalty of 10% of gross box office receipts (exclusive of VAT, credit card commissions and selling agents' commissions)

PROVIDED THAT

- i) If there is more than one Writer contributing to the Play or the Production, the Writer's royalty may be less than 10% (to be mutually agreed by the Contributors and the Producer).
 - ii) Where the Play is performed with the approval of the Writer (such approval not to be unreasonably refused) before a non-paying audience (e.g. in the case of schools, community venues or roadshows) the Writer will receive a payment in lieu of royalties. This payment will be mutually agreed on by the Writer and the Producer in advance of any such performance.
 - iii) If more than one play is included in any performance, the royalty shall be apportioned between the Writers of the Plays, the split of which is to be mutually agreed in advance by the Writers of the Plays or their representatives.
- b) The said royalty shall be payable to the Writer (or the Writer's agent) within:

28 calendar days of the last performance of the Play's run upon receipt of a valid invoice

OR

28 calendar days of the last performance at each touring venue upon receipt of a valid invoice

Royalty payments shall be accompanied by a statement of the said box office receipts, certified by the venue manager and where relevant, under the terms of 10 a)ii, a statement of attendance figures certified by the Producer.

12. OPTIONS

- a) The Writer hereby grants to the Producer the exclusive right to acquire the following options (in consideration of the payment made under Clause 2, provided that the Producer shall have mounted a production of the Play for a minimum of 15 paid public performances within the period stipulated in Clause 1 b) and have paid all fees and royalties due to the Writer promptly and in full).
- b) The following options shall be acquired in each case by giving written notice to the Writer at any time up to 13 weeks after the Producer's last performance of the Play.

Option 1	£1,000	Scotland
Option 2	£1,000	England & Wales (excluding London West End)
Option 3	£5,000	London West End (including a pre-London tour not exceeding 8 weeks for a straight play or 12 weeks for a musical)
Option 4	£1,000	Northern Ireland and Republic of Ireland
Option 5	£3,000	Europe (excluding above territories)
Option 6	£2,400	USA (excluding Broadway)
Option 7	£5,000	Broadway (including a pre-Broadway tour not exceeding 8 weeks for a straight play or 12 weeks for a musical)
Option 8	£2,400	Canada
Option 9	£4,000	Rest of World for English-speaking productions

- c) Each of the options is separate and must be bought separately, by payments of sums not less than those mentioned above, which sums are a non-returnable advance against royalties. On signature of an option agreement, the Producer acquires the exclusive right to perform the Play in that territory for a period of 12 months from date of the option agreement and on such terms and conditions as shall be separately negotiable with the Writer. No rights may be assigned to any third party until the Producer has concluded negotiations with and paid monies due to the Writer.

The agreement must be executed within 4 weeks of notification of option purchase and no performances of the Play shall be given until an agreement has been signed by both parties. If the Producer fails to enter into a written agreement within the said period, and such failure is not attributable to any default or delay on the part of the Writer or Writer's Agent, then the Producer's rights shall lapse and all right of presentation of the Play in the said territories shall remain with the Writer with full rights of use.

- d) Once an option has been acquired and the Play performed within the licence period, the Producer may re-option the same territory within 13 weeks of the last performance. The re-optioning process should adhere to the same timeline as Clause 12 c).
- e) Where the Production is offered to any geographical area for less than 15 performances, the Producer and Writer can enter negotiations for an agreed fee per performance of not less than £75 per performance.
- f) Rights to licence option territories not licenced by the Producer, remain with the Writer.

13. PRODUCER'S PARTICIPATION

- a) If the Producer shall have presented the Play for at least 15 performances and in accordance with Clause 1(b) of this Agreement, then the Producer shall, for a period of 5 years from the last performance of the first scheduled run of the Play, receive 12.5 % of the gross amount of the Writer's income (excluding re-

write fees and attendance fees) deriving from any subsequent worldwide exploitation of the Play (including foreign language productions) by way of

- i) performances on stage;
- ii) exploitation of the Play by way of film or television or other audio-visual means including digital streaming
- iii) audio only exploitation of the Play including without limitation radio, sound recording or podcasts;
- iv) any other so-called subsidiary rights exploitation provided that the aforesaid exploitation is not undertaken directly by, or in association with, the Producer.

For the avoidance of doubt, only if the Writer is offered an option/licence/broadcast fee for any of the above, will a percentage of this income be due to the Producer. The Producer shall have no share of any fees received by the Writer for services for rewriting the Play for television, film radio or video or any other media.

- b) Agents fees not exceeding 10% may be deducted before calculating payments due under (a) above to the Producers. All sums due to the Producer shall be paid not later than 60 days after their receipt by the Writer (or the Writer's agent) and shall be accompanied by a statement of accounts signed by the Writer, the Writers agent or accountant.
- c) The Writer (or the Writer's agent) shall make every effort to inform the Producer of any exploitation of the Play, the proceeds from which the Producer are entitled to share in hereunder on an annual basis under the exploitation period.

14. PRODUCER'S CREDIT

Where the Play develops further (including transfers, broadcasting, publication etc.) the Writer will ensure that the first production and the Producer's name is sufficiently credited in the programme and publicity material with the words: "**First produced by XXXX**" followed by the date of the first performance and the venue.

15. FAILURE TO PRODUCE

- a) Should the Producer fail to produce the Play as agreed in Clause 1 b) of this contract and where this failure is due to matters outwith the Producer's control such as, but not in limitation of fire, flood, explosion, national mourning or stoppages in consequent of a trade dispute then Clause 1 b) may be amended to allow for such period as the Producer has been precluded from presenting the Play. After such a situation has continued for three months however, either party shall be entitled to give the other written notice terminating the contract without prejudice to any fees already paid.
- b) Should the Producer fail to produce the Play as agreed in Clause 1 b) of this contract and where this failure is in close proximity to the production and is due to unforeseen circumstances (including but not limited to: loss of cast member or creative team member, loss of funding, venue issues), the Producer on payment of **£1,000** (being a non-returnable advance against royalties) shall have the one-off option to extend the period of rights for a further **52** weeks.

- c) Should the play not be produced in accordance with Clause 1 b) or as allowed for in Clauses 15 a) and 15 b), all rights shall revert to the Writer.

16. COPYRIGHT

The copyright of the Playscript shall remain vested in the Writer and no rights are granted to the Producer other than those specifically granted in this Agreement.

17. MORAL RIGHTS & WARRANTY

The Writer asserts the moral right to be identified as the author of the Play. The Writer warrants that they are the sole author of the Play which to the best of the Writer's belief contains no defamatory matter or infringes the copyright (or any other rights) of any person.

18. VARIATIONS & ASSIGNS

No clause of this contract may be altered or rights within it subleased or assigned unless agreed by both parties and expressed in writing.

19. SUCCESSORS

The contract shall be binding on the executors, administrators, permitted assigns and successors of both parties.

20. WRITER'S AGENT

XXXXXXXXXXXXXXXX is hereby authorised as the Writer's agent. All monies due to the Writer hereunder (excepting if requested expenses and writer's attendance payments if any) shall be made payable and sent to XXXXXXXXXXX. An invoice must be submitted for payment of each instalment, quoting the Purchase Order number provided and including an invoice date and reference number. Invoices should be sent to [email address] and due payment will be made within XX days of invoice receipt.

OR:

The Writer confirms that for the purposes of this contract they will not be represented by an agent and that all fees due to the Writer shall be paid to XXXXX.

An invoice must be submitted for payment of each instalment, quoting the Purchase Order number provided and including an invoice date and reference number. Invoices should be sent to [email address] and due payment will be made within XX days of invoice receipt.

21. ARBITRATION

Any dispute arising out of this Agreement shall in the first instance be referred to a Joint Committee composed of a minimum of three representatives each from the Scottish Society of Playwrights and the Federation of Scottish Theatre. Failing settlement, the dispute shall be referred to a single mediator who

will be sought from Scottish Mediation (<https://www.scottishmediation.org.uk/find-a-mediator/>). Such arbitration shall not prevent either party from subsequently taking the dispute to law, where the issue will be decided according to the law of Scotland.

22. SPLIT

At the date of signature of this contract the parties anticipate that each of the Writers shall make an approximately equal contribution to the creation of the Play. In the unusual circumstances that the royalty split contained herein does not fully and reasonably reflect the creative contribution of each of the Writers, the Producers may in good faith and in full consultation with the Writers re-evaluate the royalty split at any point until the first day of rehearsals so as to ensure that the royalty split pays due regard to the creative contribution of each of the Writers. In the event of an unresolvable disagreement regarding the royalty split Clause 21 should apply here.

I, **XXXXXXXX**, being the author of the work at present **XXXXXXXX** hereby assert generally my moral right to be identified as its author.

AS WITNESS the hands of the parties aforementioned.

Signed.....
(The Writer or Writer's Agent)

Signed.....
(for and on behalf of Producer)