

CUMBERNAULD THEATRE TRUST

Standard Terms and Conditions

The following Standard Terms and Conditions are referred to in the “Performance Agreement” between CUMBERNAULD THEATRE TRUST and the visiting company, here by known as the Producer. The Performance Agreement is actioned on the basis that these “Standard Terms and Conditions” are an integral part of that Visiting Company Performance Agreement for CUMBERNAULD THEATRE TRUST.

1. Mutual Obligations

- 1 CUMBERNAULD THEATRE TRUST and The Producer hereby agrees to comply with all relevant legislation, including their obligations relating to this Agreement.
- 1.2 Each party will ensure and maintain at its own expense comprehensive insurance policies the comply with current and relevant legislation. With regards to their obligations under this Agreement, it is as follows:
 - 1.2.1 CUMBERNAULD THEATRE TRUST will be responsible for cover against all risks in respect of The Theatre as a North Lanarkshire Council venue and that for which it is responsible, meaning its employees and members of the public. However, CUMBERNAULD THEATRE TRUST will not be responsible for loss or theft of or damage to the property belonging to the Producer or their employees or agents whilst in the Venue.
 - 1.2.2 CUMBERNAULD THEATRE TRUST will not action or tolerate the action of anything whereby the policy of insurance is effected by the other party and may be invalidated or which may cause any financial increased to a premium. CUMBERNAULD THEATRE TRUST will at all times use all proper precautions to prevent loss or damage or harm by fire, accident or other means.
 - 1.2.3 the Producer will provide evidence of insurance against all risks in respect of the Producer’s property and that for which they are responsible, meaning but not limited too; their employees and any matter arising out of their use and occupancy of The Theatre (except where negligence is evidenced on the part of CUMBERNAULD THEATRE TRUST).
 - 1.2.4 the Producer will not action or tolerate the action of anything whereby the policy of insurance is affected by the other party or which may cause any increased premium to become payable for such insurance but will at all times use all proper precautions to prevent loss or damage or harm by fire, accident or other means.
 - 1.2.5 the Producer will supply CUMBERNAULD THEATRE TRUST with written evidence of insurance policies and evidence that they are in force.
- 1.3 Both parties agree to work together to develop a marketing campaign for the Production and the Marketing Managers of each party will agree in writing how the budget for the campaign is to be spent, within 14 working days of the proposed campaign being submitted to the Producer for approval. Any additional marketing costs must be agreed in writing between parties before further work is actioned.
- 1.4 Both CUMBERNAULD THEATRE TRUST and The Producer agree to share all relevant information regarding the Production within a reasonable time frame to enable proper planning and due diligence.

2.CUMBERNAULD THEATRE TRUST Obligations

- 2.1 CUMBERNAULD THEATRE TRUST reserves the right to manage and control The Theatre for the protection of the public and in order to fulfil all obligations, terms and conditions of all licences relating to The Theatre and its overall duty of care.
- 2.2 CUMBERNAULD THEATRE TRUST has acquired and will ensure all necessary licences and permissions in respect of the Theatre and CUMBERNAULD THEATRE TRUST's obligations are in place (we will not take responsibility for any licences relating to child performers).
- 2.3 CUMBERNAULD THEATRE TRUST will provide the access to The Theatre during the times set out in the agreed Production Schedule in the Performance Agreement together with all the heating and lighting and the technical facilities/equipment as outlined in CTT's Technical Specification for either the Main Auditorium and/or Studio Theatre, both of which may be updated from time to time.
- 2.4 If requested in advanced and agreed in writing, CUMBERNAULD THEATRE TRUST may make daily payments of expenses, subject to at least 2 weeks' notice of amounts and breakdowns.
- 2.5 CUMBERNAULD THEATRE TRUST may arrange accessible performances during the Period of Engagement. This must be mutually agreed. CUMBERNAULD THEATRE TRUST and the Producer will then agree the share of these costs prior to signing the Performance Agreement.
- 2.6 CUMBERNAULD THEATRE TRUST may access and use any part of The Theatre during the Period of Engagement, as long as, this use will not negatively affect The Producers Production.
- 2.7 CUMBERNAULD THEATRE TRUST may close the Theatre during the Period of Engagement when there is no Performance scheduled to take place.
- 2.8 CUMBERNAULD THEATRE TRUST will allocate dressing rooms to the Producer and CUMBERNAULD THEATRE TRUST reserves the right to use any of the unallocated rooms for its own use, as long as, that use will not negatively affect the Production in any way.
- 2.9 Where agreed in advance, rehearsals may take place in the Main Auditorium or Studio Spaces during the Period of Engagement. Any additional cost to CUMBERNAULD THEATRE TRUST for staff required to facilitate rehearsals will be recharged to the Producer.
- 2.10 CUMBERNAULD THEATRE TRUST reserves the right to reduce and or amend the Auditorium or Studio Theatre's agreed seating capacity to accommodate customers with additional needs.
- 2.11 CUMBERNAULD THEATRE TRUST will provide and pay for all staff as agreed and outlined in the Performance Agreement. The cost of any additional staff who are required for the Production, which are provided and paid for by CUMBERNAULD THEATRE TRUST will be recharged to the Producer. CUMBERNAULD THEATRE TRUST will not be liable for the absence of these staff if caused by illness, labour dispute, force majeure or any circumstances beyond its direct control.
- 2.13 When staff are called to work on Sundays or Public Holidays CTT will notify the Producer before signing The Performance Agreement and in these cases, unless agreed otherwise, this extra cost will be recharged to the Producer.
- 2.14 CUMBERNAULD THEATRE TRUST adheres to General Data Protection Regulations and maintains records in line with this, we require the Producer to do the same.

3. Producer Obligations

- 3.1 The Producer will provide a complete and competent company, using their utmost care, diligence and skill to present the Production to the highest quality and standards.
- 3.2 The Producer will provide all the necessary properties, costumes, set, furniture, special effects and instruments in pristine condition and The Producer will be responsible for the safe and proper fit up of these in either the Main Auditorium or Studio's.
- 3.3 The Producer agrees to work to the UK wide BECTU/UK Theatre Association get-in and fit-up code of practice. The Producer will take responsibility for all Health and Safety at Work legislation and all relevant Regulations in regard to its technical equipment and teams.
- 3.4 The Producer will agree to provide any understudies or deputies as outlined in the performance agreement. In the event that any member of the Production Company is unable to perform, then the costs, losses, damages and expenses incurred by CUMBERNAULD THEATRE TRUST as a result of this cast change will be recharged to the Producer. Unless otherwise agreed or where this clause is rendered obsolete by for example clause 7.4.
- 3.5 The Producer agrees any matinees will be performed as fully as evening performances and not reduced in any way.
- 3.6 The Producer will work with CUMBERNAULD THEATRE TRUST to facilitate accessible performances where agreed and will supply CUMBERNAULD THEATRE TRUST with any advance material required to enable these performances to take place to the highest standard.
- 3.7 The Producer agrees to work with CUMBERNAULD THEATRE TRUST to facilitate any and all agreed talks, tours or workshops in any audience development and participation events.
- 3.8 The Producer will obtain at their expense all necessary rights and permissions for the Production (but not the Theatre), including those for child performers. The Producer will indemnify and/or pay for all intellectual rights claims by authors, composers, publishers and other claims for fees, royalties and taxes, (including all applicable Performing Rights Society and Phonographic Performance Limited levies) payable in respect of the Production.
- 3.9 The Producer will make sure that where the Production involves children, young people (under 18yrs) or vulnerable adults that all members of the Production Company and any of the Producer's subcontractors are properly and recently vetted under a Protection of Vulnerable Groups (PVG) check (Disclosure Scotland or equivalent).
- 3.10** The Producer will comply with all health and safety, good and safe working policies and practices including but not limited to CUMBERNAULD THEATRE TRUST's Health and Safety Policy and procedures. In particular, the Producer will (and ensure that members of the Production Company will):
 - 3.10.1** satisfactorily ensure that all materials supplied by the Production Company are fire retardant or fire resistant to the satisfaction of CUMBERNAULD THEATRE TRUST and UK standards. Any relevant certificates must be supplied at least 2 weeks before the Period of Engagement;
 - 3.10.2** make sure any electrical equipment supplied by The Producer is compliant with all relevant Regulations; certificates must be supplied at least 2 weeks before the Period of Engagement;

- 3.10.3** agree to never bring Theatre flammable or hazardous materials, explosives, naked flames, weapons, lasers, strobe lighting, smoke/haze machines, pyrotechnics or temporary structures or temporary power or electrical supply without explicit written consent from CUMBERNAULD THEATRE TRUST;
- 3.10.4** agree to never bring animals of any kind into the Theatre (whether as part of any performance or otherwise) without explicit written consent of CUMBERNAULD THEATRE TRUST;
- 3.10.5** provide a copy of their Health and Safety Policy and procedures, all risk assessments for the production to CUMBERNAULD THEATRE TRUST prior to THE PERIOD OF ENGAGEMENT and ensure that such information is properly communicated to their creatives and any member of staff that may be affected by the work;
- 3.10.6** will highlight, provide detailed information on and fully co-operate with CUMBERNAULD THEATRE TRUST in identifying any potential hazards as well as ways to avoid them.
- 3.10.7** work with CUMBERNAULD THEATRE TRUST on scheduling and staffing, with the intention of managing compliance of the Working Time Regulations for the get-in, fit-up, running and get-out.
- 3.10.8** ensure that a qualified member of the Production Company is available at all times to oversee the unloading, get-in, fit-up, get-out and safe onward transportation of set, equipment and effects in line with the BECTU/UK Theatre Association Code of Practice;
- 3.10.9** adhere to CUMBERNAULD THEATRE TRUST accident and incident policy in relation to any accidents, incidents or near misses that take place relating to the Production and provide appropriate information, risk assessments and/or safe working procedures to prevent any re-occurrences;
- 3.10.10** will enter and leave The Theatre by the designated stage door, adhering to all sign in/sign out policies to ensure that a viable roll call can take place if necessary;
- 3.10.11** not alter, modify or interfere with any CUMBERNAULD THEATRE TRUST equipment;
- 3.10.12** under no circumstances will any staff or member of the visiting company be under the influence of drugs or otherwise intoxicated at any time during a performance or otherwise whilst at The Theatre. Where this occurs, CUMBERNAULD THEATRE TRUST reserves the right to refuse entry to the Theatre or to continue work;
- 3.10.13** will not smoke (including vapour and e-cigarettes) at any time on the grounds or in The Theatre;
- 3.10.14** will not address the audience or throw any objects into the audience without prior written permission from CUMBERNAULD THEATRE TRUST; and
- 3.10.15** comply with all CUMBERNAULD THEATRE TRUST security procedures, including pre-agreed limits on visitors. Visitors, guests and any other members of the public who arrive unannounced will be held at stage door and not admitted to The Theatre.
- 3.11** The Producer will ensure unless agreed in written permission with CUMBERNAULD THEATRE TRUST that no performance of the Production will be obscene, immoral, harmful or offensive; offend against the 'normal standards of decency'; encourage or incite the commission of crime or public disorder; endanger public safety; or encourage, in whatever manner, behaviour which promotes racist, homophobic, dis-ablest, transphobic, ageist or sexist views; and will contain nothing which is likely to result in any court of law or licensing authority cancelling of any performance.

- 3.12** The Producer will notify CUMBERNAULD THEATRE TRUST of any aspect of the Production (including staging, special lighting, sound, etc.) which may affect the use of any of the Theatre's seats or restrict their view of the Production or necessitate their removal. Any loss of revenue to CUMBERNAULD THEATRE TRUST caused by any changes to the above by the Producer will be recharged to the Producer, unless agreed in writing otherwise.
- 3.13** The Producer will, when asked, supply a copy of the current production script and will not make any variations to this script without the prior written consent of CUMBERNAULD THEATRE TRUST. CUMBERNAULD THEATRE TRUST reserves the right to object, in order to protect the TRUST under the Theatres Act 1968, or any other relevant legislation relating to the licensing of Theatre; to any song, speech, dialogue, business, costume or gesture in the Production. Anything that has been objected to will be notified in writing at which such time it will be withdrawn by the Producer as CUMBERNAULD THEATRE TRUST has directed.
- 3.14** The Producer will comply with all industry agreements adhered to by The Theatre, including, but not restricted to, Equity, SOLT and BECTU.
- 3.15** The Producer agrees to ensure that their artists, staff and agents do not act in any way which inhibits the sale of tickets for the Production before and during The Engagement Period.
- 3.16** The Producer will not permit, without the prior written consent of CUMBERNAULD THEATRE TRUST, any marketing, advertising or publicity relating to the agreed Performance of the Production at The Theatre. Nothing is to be displayed or broadcast in any medium at any time between the date of signing of the Performance Agreement and the end of the Period of Engagement that contradicts the agreed Marketing Contra and on sale dates.
- 3.17** CUMBERNAULD THEATRE TRUST reserves the right to approve all marketing materials in relation to The Production and explicitly requires the Producer to submit all marketing materials to CUMBERNAULD THEATRE TRUST for approval in advance of distribution. CUMBERNAULD THEATRE TRUST reserves the right to refuse to the use of The Theatre including the auditorium, bars and hospitality areas, subject to the reasonable agreement of the Operations Director.
- 3.19** The Producer agrees to the use of all images or text of The Production by CUMBERNAULD THEATRE TRUST for electronic publishing on its website for up-to one year from the date of the Performance Agreement and will transfer or waive copyright for images and promotional text.

4. Sponsors

- 4.1** The Producer agrees to notify CUMBERNAULD THEATRE TRUST of any sponsor for the Production as soon as reasonably practicable. CUMBERNAULD THEATRE TRUST will include acknowledgement of this sponsor in any marketing material for the Production prepared by CUMBERNAULD THEATRE TRUST provided that there is sufficient space and that any logo or specific form of acknowledgement has been received by CUMBERNAULD THEATRE TRUST with reasonable time to action. CUMBERNAULD THEATRE TRUST reserves the right to refuse any logo or acknowledgement that conflicts with CTT's house style. No logo, images or promotion for this sponsor will be exhibited on the stage or in the auditorium during performances of the Production or in front of house, bars or hospitality rooms without the prior consent of CUMBERNAULD THEATRE TRUST. The Producer will indemnify

- CUMBERNAULD THEATRE TRUST in respect of any liability incurred by CUMBERNAULD THEATRE TRUST in respect of any such marketing material or advertisement.
- 4.2** CUMBERNAULD THEATRE TRUST agrees to notify the Producer of any and all local sponsor's of the Production as soon as possible after the date of signing of the Performance Agreement. The Producer agrees to include acknowledgement of this sponsor in any marketing material for the Production prepared by them provided that any logo or specific form of acknowledgement has been received by them with reasonable time to action.
- 4.3** No complimentary seats or seat holds will be provided to sponsors without the prior written consent of CUMBERNAULD THEATRE TRUST and The Producer.
- 4.4** The Theatre has limited front of house and hospitality spaces, these are available for hire through our Operations Director. Any and all catering including; food and drink required by the Producer or any guests or sponsors of the Production will be provided by CUMBERNAULD THEATRE TRUST or its preferred supplier and, if not paid by the Producer by the end of the Period of Engagement, will be recharged to the Producer, unless otherwise agreed in writing.
- 4.5** The Producer agrees to secure the attendance of their contracted artists, and particularly the Named Artist/s, at any function in the Theatre organised by a local sponsor or a supporter group of the Theatre if agreed by both parties beforehand and in writing.
- 5. Warranties and Indemnities**
- 5.1** The Producer warrants and undertakes to CUMBERNAULD THEATRE TRUST that:
- 5.1.1** the right to perform the Production publicly will be owned and vested to the Producer throughout the Period of Engagement;
- 5.1.2** the Production, including any music, rights, publicity and programme material, does not infringe any copyright or any other such right or interest or to the best of the Producer's knowledge; and
- 5.2** The Producer agrees to ensure that all advertisements and posters do not breach the Trade Descriptions Act 1968 and do not contravene any other relevant legislation. The Producer will indemnify CUMBERNAULD THEATRE TRUST against any loss arising from any breach in this undertaking by the Producer.
- 6. Cancellation, Termination and Liability**
- 6.1** This Agreement may be terminated by either CUMBERNAULD THEATRE TRUST or The Producer by giving notice in the form specified in clause **9.1 below**. Or in relation to the other party (the "Defaulting Party"), where the following circumstances apply:
- 6.1.1** the Defaulting Party can be evidenced as breaching any of its obligations under this Agreement and fails to remedy the breach (if capable of remedy) within fourteen days after being notified by the other party of the breach; or
- 6.1.2** the Defaulting Party repeats the breach of any of the terms of this Agreement in a manner that can be evidenced to be inconsistent with it having the intention or ability to deliver on the terms of this Agreement; or
- 6.1.3** any steps are taken with a view to the closing or reorganisation of the Defaulting Party (other than for the purpose of a solvent amalgamation or reconstruction); or

- 6.1.4** any steps are taken to appoint an administrator in relation to the Defaulting Party over all or any part of its assets or any other party gives notice of its intention to appoint an administrator to the Defaulting Party; or
 - 6.1.5** the Defaulting Party is unable to pay its debts as they fall due or enters into an arrangement with its creditors or any class of them; or
 - 6.1.6** the Defaulting Party ceases or threatens to cease trading in writing; or
- 6.2** If the Producer breaches any of this Agreement, including failing to provide an agreed understudy or replacement for a Named Artist, any necessary copyright permissions, or failure to ensure any Performance CUMBERNAULD THEATRE TRUST will without notice and without prejudice exercise its to its right to seek damages from the Producer.
- 6.3** Without prejudice CUMBERNAULD THEATRE TRUST may exercise its right to terminate the Agreement and seek damages under clauses 6.1 and 6.2 above, however if the Production is cancelled by the Producer, CUMBERNAULD THEATRE TRUST will be entitled to be indemnified by the Producer for:
 - 6.3.1** any and all losses or expenditure incurred by CUMBERNAULD THEATRE TRUST in connection with the Production (including marketing costs);
 - 6.3.2** refunds for ticket sales for the Production; and
- 6.4** In the event the Producer causes any damage to The Theatre or other material property of CUMBERNAULD THEATRE TRUST, the Producer will indemnify CUMBERNAULD THEATRE TRUST for the costs of this damage including the costs incurred by CUMBERNAULD THEATRE TRUST in repairing the evidenced damage.
- 6.5** The Producer shall maintain throughout the Period of Engagement employer liability insurance of £5,000,000 and public liability insurance in an amount not less than £5,000,000 per incident or series of connected incidents, with a reputable insurance company.
- 6.7** Subject to clause 6.8, CUMBERNAULD THEATRE TRUST's liability for damage to the Producer's material property, however occurring, CUMBERNAULD THEATRE TRUST's obligations under this Agreement, will be limited to £5,000,000.
- 6.8** Nothing in this Agreement will exclude or restrict either party's liability in respect of:
 - 6.8.1** death or personal injury resulting from breach of duty of that party or its employees while acting in the course of their employment; or
 - 6.8.2** fraud or fraudulent misrepresentation.

7. Force Majeure and COVID 19

- 7.1** In the event of The Theatre being closed due to natural or public disaster, riot, civil disorder, war, terrorism, sabotage, epidemic, fire, flood, act of God, current legislation, and or any other accident or in the event of the Theatre not being available for theatrical performances due to denial of access by legal authorities and/or red weather warnings the withdrawal or suspension of any license or any event outside the reasonable control of CUMBERNAULD THEATRE TRUST, CUMBERNAULD THEATRE TRUST may through written notice to the Producer, terminate this Agreement without incurring any liability as a result of such termination. Such termination will not prejudice the rights of CUMBERNAULD THEATRE TRUST if seek damages from the Producer in respect of any evidenced breach of this Agreement.

- 7.2** CUMBERNAULD THEATRE TRUST will take no responsibility for any breakdown, failure or defect in any of the Theatre equipment which could not be reasonably foreseen, nor will CUMBERNAULD THEATRE TRUST be held liable for any consequences attributable to a termination, breakdown or interruption of the supplies of electricity, gas or water services out with its control.
- 7.3** CUMBERNAULD THEATRE TRUST retains the rights to close the Theatre and/or cancel, postpone or alter the timing or duration of a Performance or Rehearsal if it feels it is appropriate to do so, for example, in the case of national disaster or mourning.
- 7.4** Neither CUMBERNAULD THEATRE TRUST or the Producer will be in breach of this Agreement nor liable for any delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from a Covid Related Event. In such circumstances the parties shall use all reasonable endeavours to secure a new date for performances of the Production by mutual agreement subject to availability and on the understanding that if such rescheduling of performances is not reasonably possible for either practical or financial reasons, then either party may terminate this deal memo by giving written notice to the other party without incurring any liability in respect of such termination.

A Covid Related Event means any circumstance relating to Covid-19 that is not within a party's reasonable control including, without limitation any epidemic or pandemic related event such as, but not limited to, illness to the producers cast or stage management staff or the theatre being unable to open due to illness amongst the theatre staff or national or local 'lock-downs' and/or curfews and the show therefore being unable to go ahead. In the case of such a Covid Related Event, then with no financial liability to either party, force majeure will be called and the terms of this clause shall apply and The Producer will not be charged for refunds or cancellations of any performances.

8. Confidentiality

- 8.1** "Confidential Information" in this Agreement refers to the terms, contents and existence of this Agreement; and
- 8.1.1** all information deemed to be of confidential nature relating to the performance of the Production at The Theatre.
- 8.1.2** as well as any other information of a confidential nature relating to the business of either party. This clause covers all information no matter if exchanged as oral or in writing, disclosed or made available by that party to the other party under the terms of this Agreement and whether prior to or post the to the Period of Engagement.
- 8.2** Each party (the "Recipient") hereby agrees to keep confidential any Confidential Information disclosed to or provided by or belonging to the other party (the "Disclosing Party") and not to use the same otherwise than for the purposes of this Agreement. CUMBERNAULD THEATRE TRUST and the Producer agree to disclose only on an agreed need-to-know basis and in confidence to those staff, agents, consultants and sub-contractors who require knowledge for the purposes of this Agreement.
- 8.3** The obligations contained in this clause will not apply to information:
- 8.3.1** which is in the public domain at the date of disclosure or enters the public domain as a consequence of any unauthorised disclosure, act or omission by the Recipient, its officers, staff, agents, consultants, sub-contractors or professional advisers.

8.3.2 which is owned by and considered the possession of the Recipient at the time of disclosure and which was not obtained directly or indirectly from the Disclosing Party

8.3.3 gained from a third party otherwise than in breach (whether directly or indirectly) of any confidential information by the Disclosing Party and where such third party had a pre-determined right to disclose the same to the Recipient

8.3.4 the disclosure of this confidential information is a requirement of any Relevant Legislation or by any regulatory body to which the Recipient is legally bound to comply.

9. General

Notices, Permissions and Agreements

9.1 Any notice, permissions, consent, confirmation or other agreements required may be delivered in writing or by email and delivered by hand or sent by first class recorded delivery post or by email to the other party:

9.1.1 Cumbernauld Theatre, c/o Cumbernauld Academy, South Kildrum Ring Road, Cumbernauld, North Lanarkshire, G67 2UF

9.1.2 or to any other postal or email address if notified in writing.

9.2 Notices will be deemed to be given by:

9.2.1 by hand, on the date of receiving the delivery

9.2.2 recorded post, two business days after the evidenced date of posting

9.2.3 email, on the date and time marked in said communications (for CUMBERNAULD THEATRE TRUST addressed to the Creative Producer: csheridan@cumbernauldtheatre.co.uk)

Work permits and Visas

9.3 The Producer will take responsibility for and make sure they obtain licences / Certificates of Sponsorship for migrant workers and/or any entry visas to the UK as required under the relevant legislation for any of their staff. Any failure to do so will be considered a breach of this Agreement.

Default on costs

9.4 In such situations where CUMBERNAULD THEATRE TRUST is required to pay directly the whole or some of the costs of the Production for the whole or some of the Period of Engagement because of any act of default by the Producer or because of any other reasonable cause which might result in loss or damage, CUMBERNAULD THEATRE TRUST will be entitled to recharge to the Producer the amount paid and/or the full sum will be a debt recoverable from the Producer.

Assignment

9.6 This Agreement is personal to both CUMBERNAULD THEATRE TRUST and The Producer. Neither party will be entitled to assign, sub-contract or otherwise dispose of their rights and obligations under this Agreement or any part of this agreement without the previous consent in writing from both parties.

Partnership

9.7 Nothing in this Agreement is intended to, or will be deemed to, declare a partnership or joint venture between CUMBERNAULD THEATRE TRUST or the Producer, or authorise either party to make or enter into any commitments for or on behalf of one another.

Other commitments

- 9.8 The Producer declares that at the time of signing the Performance Agreement they have made no other commitments which will prevent them from fulfilling this Agreement and that they are authorised to enter into the Agreement.

Severance

- 9.9 In the event of any provision (or part of any provision) of this Agreement being or becoming void, illegal, or unenforceable in any respect under UK or Scottish Law, the validity, legality and enforceability of the remainder of that provision and of all other provisions of this Agreement will not be in any way affected or impaired thereby.

The Entirety of This Agreement

- 9.10 This Agreement exists to cover both parties in its entirety, with respect to this subject matter, overrides all previous agreements and understandings between the parties and therefore may not be modified except by in writing which is signed by the duly authorised representatives of the Parties. Nothing in this Clause or agreement will have effect to exclude the liability of either party for fraud or fraudulent misrepresentation.

Arbitration

- 9.11 Any dispute arising from the content of this Agreement will be referred for a binding decision to the UK Theatres Association (the UKTA), if the parties agree. The costs of the arbiter will be in the successful Parties award.

Governing law, jurisdiction

- 9.12 This Agreement will be governed by and construed in all respects in accordance with Scots law and the parties hereto submit to the exclusive jurisdiction of the Scottish courts and UK laws.

10. Definitions

- 10.1 The definitions and rules of interpretation are set out below and refers specifically to this Agreement.
- "Agreement" means the Visiting Companies Performance Agreement together with this version of CUMBERNAULD THEATRE TRUST Terms and Conditions
 - "CUMBERNAULD THEATRE TRUST" means CUMBERNAULD THEATRE TRUST (A Charitable Company Limited by Guarantee No. SC066490) whose registered office is at South Kildrum Ring Road, Cumbernauld, North Lanarkshire, G67 2UF
 - "Producer" means the producer or booking agent as described in the Performance Agreement, also referred to as "their" or "they";
 - "Performance Agreement" means the separate contract relating to the specific Production within the Period of Engagement which incorporates CUMBERNAULD THEATRE TRUST's Terms and Conditions;
 - "Named Artists" means the performer or performers in the Production named in the Performance Agreement;
 - "Performance" means a performance of the agreed Production;
 - "Production" means the production or productions as outlines in the Performance Agreement to take place in The Theatre during the Period of Engagement;

- "Production Schedule" means the agreed times and dates of Performance(s) as detailed in the Performance Agreement;
- "Terms and Conditions" means the standard terms and conditions set out in this document together with any schedules and contra's.

10.2 In this Agreement:-

10.2.1 the singular includes the plural and vice versa

10.2.2 references to a "person" will be construed so as to include any individual, firm, production company, booker, contractor or other body corporate, government, state or agency of state, local or municipal authority or government body or any joint venture, association, partnership or limited partnership (whether or not having separate legal personality)

10.2.3 headings are for convenience or reference only and will in no way affect the construction or interpretation of this Agreement

Contra Items and Recharges

The following is a list of items which may be recharged as "contra items" on CUMBERNAULD THEATRE TRUST financial settlement (but only if they are agreed by both parties and required for the production):

- 1.1** Licensing - special permissions and variations relating to the Production and North Lanarkshire's Theatre Licence General Conditions;
- 1.2** Technical Equipment (CUMBERNAULD THEATRE TRUST equipment not included in the Theatre's technical specification or equipment hired in by CUMBERNAULD THEATRE TRUST);
- 1.3** Modifications to Theatre fabric, seating layout etc;
- 1.4** Any additional staff over and above numbers and hours as outlined in the Agreement;
- 1.6** Any levies or taxes relating to the Production not otherwise covered in the Agreement;
- 1.7** Costs for any additional requirements for piano tuning or hire's, out with its annual service
- 1.8** Cost of any seats booked by the Producer or their agents or staff in addition to the ticket holds and comps as outlined in the Agreement;
- 1.9** Costs of any repairs or cleaning following damage caused by negligence of the Producer's artists, staff or agents during the Period of Engagement;
- 1.10** Costs incurred by CUMBERNAULD THEATRE TRUST, in addition to those in the Agreement, or an agreed facility fee, for filming or recording of the Production at the Theatre;
- 1.11** Cost of transport for any CUMBERNAULD THEATRE TRUST staff required to work before 8.00am or after 11.00pm to be agreed in line with the schedule;
- 1.12** The costs of any programme insertions, additions, photo copying, stationery or other office services supplied or used;
- 1.13** Additional payments for staff required to work in excess of a pre-agreed four hour call or due to any delays to the Production or Performances caused by the Producer's Artists staff or agents.