

STANDARD TERMS AND CONDITIONS

1.1 In this agreement, unless inconsistent with or otherwise indicated by the context –

"appropriately acknowledged"	means at least the mentioning of the name of production, the venue at which the production is performed and the dates and time at which performances will take place;
"artist"	means the person so named in the schedule;
"authorised representative"	means a person who is authorised to represent the artist which authority shall be verified by way of a power of attorney;
"base town"	means the production's base town or city as stipulated in the schedule;
"broken week"	means a period of fewer than six consecutive working days in a working week;
"calendar week"	means a period of seven consecutive days commencing on a Sunday ending on a Saturday;
"commencement date"	means the date on which rehearsals commence as stipulated in the schedule;
"Council"	means the Bargaining Council for the Entertainment Industry;
"eight performance week"	means an engagement to perform not more than eight performances per working week without any remuneration in addition to remuneration provided for in terms of the schedule;
"essential personnel"	means only those staff members who are required in terms of their duties to be back stage for the duration of a particular scene;
"fixation"	means the embodiment or capture of sounds and/or images or the representations thereof, in such a manner that the sounds and/or images can be perceived, reproduced or communicated through an appropriate device;
"Labour Relations Act"	means the Labour Relations Act, 66 of 1995, and any legislation amending or replacing it;
"living allowance"	means breakfast, main meal and sundry expenses or the monetary equivalent in lieu thereof as provided for in the schedule;
"lodgings"	means accommodation in a temporary dwelling place or the monetary equivalent in lieu thereof, as set out in the schedule;
"medical practitioner"	means a person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament;
"manager"	means the person so named in the Schedule;
"overtime"	means that portion of time which the artist works for the manager in excess of forty eight hours during a working week or fifty six hours during a production week;
"part(s)"	means the part(s) described in the schedule;
"PAWE"	means Performing Arts Workers' Equity;
"performance"	means any presentation of a production before an audience, at which any members of the audience pays for admission;
"performance date"	means the date on which the first performance of the production takes place;
"production week"	means the period of 7 consecutive working days immediately prior to the performance date, totalling a maximum of 56 working hours;
"professional availability"	means the availability of the artist, subject to any prior contractual commitment as an artist, which commitment the artist shall provide proof of upon request;
"recording"	means any audio and/or visual fixation of the performance through any medium, whether presently existing or hereafter devised, created or invented;
"run of production"	means the total period for which the production runs, that is the aggregate of the season and tour if any, irrespective of the sequence of season and tour and irrespective of whether the tour interrupts the season or the season interrupts the tour, whether once or more than once;
"season"	means the period for which the production runs at the base town or city;

"the parties"	means the manager and the artist;
"the production"	means the production referred to in the schedule;
"the rehearsal period"	means the time period commencing on the date of the first rehearsal stipulated on the schedule and terminating on the day prior to the performance date as stipulated in the schedule;
"twelve performance week"	means an engagement to perform not more than twelve performances per working week without any remuneration in addition to the remuneration provided for in the schedule;
"TMSA"	means Theatre Managements of South Africa;
"the standard terms & conditions"	means the terms and conditions as set out herein and in the schedule;
"the schedule"	means the schedule, which forms part of this agreement;
"spread over"	means the period during any day calculated from the time the artist first commences work until the artist ceases work for that day, and for the purposes of this definition "day" means a period of 24 consecutive hours calculated from the time the artist commences work on any calendar day;
"the suspension date"	means the date on which the manager first suspends performances in terms of 8.1;
"transfer period"	means the period from the end of any performance in one venue until the commencement of the following performance in another venue;
"tour"	means the period for which the production runs at any place other than the base town or city, requiring accommodation for the artist away from the base town or city;
"understudy"	means an artist engaged to learn, rehearse, or perform a part or parts, as stipulated in the schedule, as a substitute when so required by the manager;
"understudy performance date"	means the date on which the understudy performs any understudied part or parts for the first time;
"venue notice board"	means the notice board, which is the rehearsal venue during the rehearsal period or the notice board which is at the performance venue during the run of the production;
"working day"	means a day on which the artist is required to work, for a maximum of 8 hours, subject to the definition of production week;
"working hour"	means an hour or part thereof during which the artist is required to work, subject to the definition of production week;
"working week"	means any period of six consecutive working days totalling no more than forty-eight working hours, except during the <i>production week</i> ;
"written notice"	means notice in writing or a notice which is put on the venue notice board;
1.1.1	any reference to the singular includes the plural and vice versa;
1.1.2	any reference to natural persons includes legal persons and vice versa;
1.1.3	any reference to a gender includes the other genders;
1.2	The clause headings in this agreement have been inserted for convenience only and shall not be taken into account in its interpretation;
1.3	Words and expressions defined in any sub-clause shall, for the purposes of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause;
1.4	If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive clause in the body of the agreement, notwithstanding that it is only contained in the interpretation clause;
1.5	If any period is referred to in this agreement by way of reference to a number of days, the days shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a business day, in which case the last day shall be the next succeeding business day;
1.6	This agreement shall be governed by and construed and interpreted in accordance with the law of the Republic of South Africa.

The manager engages the artist, who accepts the engagement –

- 2.1 to perform the part or parts; and/or
- 2.2 to understudy the part or parts, in the production, subject to the terms and conditions of this agreement.
- 3.1 The engagement shall commence as indicated in the schedule on the commencement date and endures;
 - 3.1.1 for the season only; or
 - 3.1.2 for the tour only; or
 - 3.1.3 for the run of the production; or
 - 3.1.4 until a fixed date as indicated in the schedule, provided the manager shall give the artist two calendar weeks written notice of the end of the season, tour or run of production, whichever is applicable;
- 3.2 Notwithstanding the provisions of 3.1 and 3.3 the manager may terminate the engagement of the artist:
 - 3.2.1 during the first eight weeks from the performance date stipulated in the schedule by giving the artist two calendar weeks written notice of the termination of the engagement;
 - 3.2.2 after eight weeks from the performance date stipulated in the schedule by giving the artist three calendar weeks written notice of the termination of the engagement;
- 3.3 Notwithstanding the provisions of 3.1 and 3.2, either party shall be entitled to terminate this agreement five months after the performance date, provided that the party terminating the agreement shall give the other eight calendar weeks written notice of such termination;
- 3.4 Notwithstanding the provisions of 3.2.1, should extraordinary circumstances so dictate, the manager shall have the right to negotiate with PAWE a relaxation of the notice period, altering it to not less than two calendar weeks;
- 3.5 The manager may pay the artist in lieu of notice, when giving notice in terms of 3.
- 4.1 Unless the parties agree otherwise in writing, the artist shall not be required to rehearse for a production without being paid rehearsal remuneration;
- 4.2 Rehearsals for the production shall be deemed to commence on the commencement date stipulated in the schedule;
- 4.3 Unless the parties otherwise agree in writing, rehearsals for the production shall not be conducted for longer than the periods stipulated in the schedule. Should rehearsals continue beyond the scheduled rehearsal period the artist shall be remunerated in accordance with the tour or season remuneration rate, stipulated in the schedule whichever is applicable;
- 4.4 Notwithstanding the provisions of 4.5, the manager may require the artist to work for seven days in the production week, totalling a maximum of fifty six working hours, provided that the artist shall not be required to work for more than ten hours on any two of these seven working days, and not more than eight hours on any of the five remaining days, which will constitute ordinary working hours, further providing that the artist shall not work for a spread over of more than fifteen hours, excluding any overtime;
- 4.5 Unless otherwise agreed between the parties in writing, the manager shall be entitled to conduct rehearsals after the performance date, if he deems it necessary, up to a maximum of twelve hours per working week, provided that no such rehearsal plus performance shall exceed eight hours on any particular day, and subject to the professional availability of the artist. No additional remuneration shall be paid for such rehearsals;
- 5.1 The manager shall pay the artist the remuneration referred to in this agreement in consideration of the services rendered by him in the fulfilment of all his obligations under the standard terms and conditions;
- 5.2 The artist shall be paid weekly at the rates as stipulated in the schedule;
- 5.3 Rehearsals
The minimum weekly rehearsal rate shall not be less than 50% of the weekly season remuneration rate;
- 5.4 Understudy Rates

- 5.4.1 If the artist is not engaged to perform any part in the production but is engaged as an understudy, the artist shall be remunerated -
- 5.4.1.1 at the understudy rehearsal remuneration rate, as stipulated in the schedule for the rehearsal period;
- 5.4.1.2 at the understudy retainer remuneration rate for the period of the season and/or tour, as set out in the schedule;
- 5.4.1.3 at the understudy performance remuneration rate per performance during the season and/or tour, as stipulated in the schedule, in addition to the understudy retainer remuneration rate up to a maximum of the understudy take-over remuneration rate as set out in the schedule;
- 5.4.1.4 at the understudy take-over remuneration rate as stipulated in the schedule if the artist is instructed to take over the part for which the artist is an understudy at any time during the tour or the season, whichever is applicable;
- 5.4.2 If the artist is engaged to perform a part in the production, and is also engaged as an understudy, in addition to the artist's remuneration for the part, he shall be remunerated as follows -
- 5.4.2.1 at the understudy performance remuneration fee as stipulated in the schedule up to a maximum of the understudy take-over remuneration fee, as set out in the schedule;
- 5.4.2.2 at the understudy take-over remuneration fee as stipulated in the schedule if the artist is instructed to take over the part for which the artist is an understudy at any time during the tour or the season, whichever is applicable;
- 5.4.2.3 the understudy rehearsal remuneration fee as stipulated in the schedule for the rehearsal period.
- 5.5 Broken Weeks
- 5.5.1 Unless otherwise agreed by the parties, in writing at the time of negotiating the terms and conditions of the engagement and stipulated in the schedule under special conditions:
- 5.5.1.1 a broken calendar week at the commencement of the rehearsal period shall be treated as a full week for remuneration purposes.
- 5.5.1.2 a broken calendar week at the commencement or termination of the run of production shall be treated as a full week for remuneration purposes.
- 5.6 Additional Performances
- 5.6.1 Upon at least seventy-two hours prior notice to the artist, the manager may arrange performances additional to the number of performances per working week reflected in the schedule, provided that the artist shall not be required to perform in more than twelve performances in the case of an eight performance engagement in any working week. The artist undertakes to perform in such additional performances subject to professional availability. When the artist performs in these performances, the artist's remuneration for that week shall be calculated according to the provisions of 5.6.2
- 5.6.2 When the provisions of clauses 5.6.1 apply, the remuneration payable to the artist during such a working week shall be calculated according to the formula $A = X / Y \times Z$ where -
- A = the remuneration payable to the artist
- X = the number of actual performances of the production during that working week;
- Y = the number of performances per working week reflected in the schedule;
- Z = the applicable rate of remuneration as stipulated in the schedule.
- 5.7 Payment
- 5.7.1 All remuneration shall be paid weekly and not later than before the commencement of the last performance on the Friday of that week, provided that if the manager does not pay the artist the remuneration due to him, the artist may withhold his services to be provided under this agreement until such time as the manager pays to the artist the remuneration due. Should the manager fail to rectify the default within 48 hours after receiving notice of the default from the artist, the artist may elect to cancel the agreement in terms of 28.2.2.
- 5.7.2 The manager is entitled to pay the artist -

5.7.2.1 by cheque, save if the day following the day of payment is a day on which the banks are closed, in which event payment shall, be made in cash;

5.7.2.2 by electronic funds transfer. The manager shall ensure that the money is paid into the artist's banking account no later than the last banking day of that week.

5.7.3 The manager shall provide the artist with a remittance advice prior to the last performance of each week.

5.7.4 The manager shall not be obliged to pay the artist any remuneration in respect of time during which the artist is absent from any performance, rehearsal or other attendance required of him by the manager in terms of the agreement if the absence is due to any wilful or negligent conduct or omission on the part of the artist. For the purpose of this clause, the onus will be on the artist to advance reasons justifying his absence.

5.7.5 The manager shall pay the artist full remuneration for the weeks, including all statutory public holidays, and the manager may not schedule additional performances in excess of the weekly number stipulated in the schedule during the week in which any of these public holidays fall, without paying the artist additional remuneration calculated according to the formula in 5.6.2 above. If a performance is scheduled on a public holiday the artist shall work on such public holiday, providing that the public holiday is exchanged for any other day which is determined by written agreement between the manager and the artist.

5.7.6 The manager shall not unreasonably refuse to release the artist on a day of religious significance to the artist, provided that the artist's request for release is submitted to the manager in writing prior to signing the schedule and stipulated on the schedule under the special terms provisions. The manager shall be entitled to make a deduction in the artist's remuneration according to the formula as set out in clause 5.6.2. The manager shall nonetheless have the right to reschedule any such week in order to accommodate the performance lost as a result of any such religious holiday, in which case the artist shall not forfeit any remuneration.

5.8 Overtime

5.8.1 Overtime shall be calculated on the basis of the artist's hourly rate which shall be established at 1/48th of the artist's weekly remuneration as laid down in clause 5 of the agreement, and as stipulated in the schedule.

5.8.2 The manager shall pay to the artist for overtime rendered by him in excess of the working day an overtime amount calculated at a rate of not less than one and one third times the artist's rate per hour or part thereof in respect of the overtime so worked.

6.1 Lodgings

6.1.1 For the duration of the tour, the manager shall provide the artist with lodgings as defined and as indicated in the schedule in addition to the remuneration due in terms of clause 5.

6.1.2 Full details of all lodging arrangements shall, where possible, be given by the manager in writing to the artist not less than two weeks in advance of the commencement of the tour.

6.1.3 The minimum standards of reasonable lodgings shall include, but not be limited to, clean linen and towels, hot water, bathing and heating facilities, one bed for each artist and no more than two beds to each room. Where practicable the manager shall provide single room lodging, unless otherwise agreed in writing.

6.2 Living Allowance

6.2.1 The living allowance shall be provided to the artist in addition to the remuneration referred to in clause 5 at the rate set out in the schedule which allowance shall be paid weekly in advance of the commencement of each tour week.

6.2.2 In addition to the lodgings provided in terms of 6.1, the manager shall, for the duration of the tour, provide the artist a living allowance, as set out in the schedule.

6.3 Abroad

In the event that the tour runs in a country outside the Republic of South Africa, the artist shall be provided with a lodging and living allowance comparable with the Equity rates and conditions if any prevailing in that country, or at a rate negotiated and mutually agreed prior to the tour, with monetary equivalent payable in the currency of that country.

7.1 Subject to clauses 7.2 and 7.4, no remuneration shall be payable to the artist whilst the run of the production or rehearsal period is interrupted by reason of national mourning, civil unrest, fire, war, natural disaster, disruption or interruption of essential services and utilities due to force majeure, or by reason of any order of any licensing or other public authority having jurisdiction, or any cause beyond the control of the manager.

- 7.2 The period during which the manager may withhold the remuneration in terms of clause 7.1 shall be limited to a maximum period of three days per interruption.
- 7.3 Notwithstanding the advent of any interruption contemplated in 7.1, the manager shall remain liable for and shall pay the artist any lodgings and living allowance accruing to the artist during the period of interruption in question.
- 7.4 In the case of a continuing *force majeure* situation, in which the run of the production or rehearsal period is interrupted for more than two days, the manager shall pay the artist for any days in excess of the initial two days at the full rehearsal, season or tour remuneration rate, whichever is applicable, subject to the manager's election to suspend or cancel the production under the provisions of clause 8.
- 8.1 The manager shall be entitled to, but shall use his best endeavours not to, suspend performances by reason of *force majeure* or the absence of any artist owing to accident, illness or conduct constituting a breach of contract by giving written notice to the artists to that effect;
- 8.2 Should the manager suspend performances of the production in terms of 8.1, the manager shall either-
- 8.2.1 resume performances of the production within two weeks of the suspension date, in which event the artist shall be paid remuneration for the period of suspension at the full season or tour rate, whichever was applicable on the suspension date; or
- 8.2.2 terminate the engagement by giving the artist written notice of immediate termination and upon payment to the artist in terms of 8.4 and 8.5.
- 8.3 If the manager fails to resume performances of the production and fails to terminate the engagement within two weeks of the suspension date, this agreement shall be deemed to have been cancelled on the day two weeks after the suspension date, in which event the manager shall pay the artist his maximum weekly remuneration fee, as stipulated in the schedule until the date of such deemed cancellation, as well as the remuneration for two weeks in lieu of notice referred to in 8.2.2.
- 8.4 In the event that the notice of cancellation of engagement is given in terms of 8.2.2 on the Monday or Tuesday or Wednesday of either of the two weeks of the suspension period, the artist shall nevertheless be entitled to the maximum weekly remuneration fee for two weeks in lieu of notice;
- 8.5 In the event that notice of cancellation of engagement in terms of 8.2.2 is given after the Wednesday of either week of the suspension period, the artist shall be entitled to the maximum weekly remuneration fee for the full week in which notice was given, and in addition, two full weeks maximum weekly remuneration fee in lieu of notice.
- 8.6 The artist, during the period of suspension of performances of the production, shall be entitled to the same lodgings and living allowance stipulated in the schedule;
- 9.1 During any transfer period between venues, the artist shall be paid the transfer remuneration rate calculated at the rate of remuneration at which he was being paid immediately prior to the transfer period in question in accordance with the schedule:
- 9.1.1 for the first seven days, 100% of that rate;
- 9.1.2 for a maximum of fourteen days thereafter, at least 50% of that rate;
- 9.1.3 after the 14 days expired referred to in 9.1.2 the rate shall return to 100% of the said rate;
- 9.2 During periods of essential travelling between any venue and a tour venue and during periods of setting up of the production, the artist shall be paid the remuneration as set out in 9.1.1, 9.1.2 and 9.1.3 and shall where applicable be provided with living and lodging allowance as reflected in the schedule.
- 10.1 The artist shall disclose any and all recording contracts he has entered into which may have bearing on the fulfilment of his obligations under this agreement.
- 10.2 Subject to the artist's written consent having been furnished to the manager in terms of clause 10.7, the manager shall have the sole right to cause or permit a recording of the entire production or excerpts from the production in which the actor takes part in terms of this agreement to be made for publicity, promotional or archival purposes.
- 10.3 Should a recording of the entire production or excerpts from the production in which the artist takes part in terms of this agreement, be made for subsequent exploitation other than promotional, publicity or archive purposes, a separate agreement must be drawn up between the artist and the manager. They shall negotiate in good faith in order to reach agreement on the remuneration for such recording and its exploitation.
- 10.4 Should recordings be made for promotional or publicity purposes, the artist shall perform his part(s) in the production in any recording studio or theatre provided for the purpose. The artist shall not be paid any additional remuneration in respect thereof, provided that

recording time inclusive of rehearsals shall not exceed four hours, including make-up time, and broadcasting or transmission time in the case of radio or television shall not exceed ten minutes.

- 10.5 If the manager requires any recording referred to in this agreement to be made, the manager shall give the artist at least seven days written notice, unless otherwise agreed.
- 10.6 Notwithstanding any provision contained in this agreement the artist shall be required to give his written consent to the manager in accordance with the Performers Protection Act no. 11 of 1967, as amended.
- 10.7 In the event that the artist holds copyright, solely or jointly with a third party, in the script of the production which is to be recorded, a licence or assignment of such copyright shall be negotiated in good faith by the manager and the artist, and recorded in a separate written agreement between the parties.
- 10.8 The manager shall have the right to require the artist to take part in recordings which are used as an integral part of the production in its performance, provided such recordings are carried out during the scheduled rehearsal period.
- 11.1 All special costumes, hairpieces, prosthetics and wigs as required by the part, shall be provided by the manager except when an artist is engaged as a speciality artist, in which case the artist shall supply and maintain his own costumes and other items approved by the manager. The items and/or costumes provided by the artist shall be hired by the manager at a mutually agreed fee.
- 11.2 Subject to clause 11.1, should the artist agree to use any of his own clothes as costume, these shall be hired by the manager at a mutually agreed fee. Conventional footwear and personal undergarments excluding pantyhose shall be provided by the artist.
- 11.3 The manager shall:
- 11.3.1 keep all costumes, clothes and other articles provided by the manager in a hygienic state;
- 11.3.2 repair and clean all costumes worn by the artist in the production and maintain them suitably for the duration of the production, unless otherwise required by the part, and mutually agreed upon by the parties.
- 11.4 The artist shall take proper care of -
- 11.4.1 all costumes clothes and other articles for the production worn by the artist and shall not remove any costumes clothes and other articles for the production from the theatre during the run of the production or thereafter, and the artist shall not use such item in this private capacity without written consent of the manager;
- 11.4.2 all costumes clothes, props, scenery and similar property and report timeously to the manager any damage or need for repair, special cleaning, or replacement;
- 11.4.3 all scripts, scores and learning aids provided by the manager, and shall return them to the manager in good order, fair wear and tear excepted, on the termination of the production.
- 11.5 The artist shall pay the manager -
- 11.5.1 the current market replacement value of any of the items referred to in 11.1 which are negligently lost or damaged by him, fair wear and tear excluded; alternatively
- 11.5.2 an amount equal to the monetary value of the costs of repair to any of those items returned which are negligently damaged by him; except where such loss or damage arose out of the fulfilment by the artist of his obligations under this agreement.
- 11.6 The manager shall pay the artist the current market replacement value of any items supplied by the artist which are lost or damaged fair wear and tear excluded, for any reason other than the artist's negligence, alternatively an amount equal to the monetary value of reasonable costs of repair to such items which are damaged where such damage resulted from the fulfilment by the artist of his obligations under this agreement.
- 11.7 The artist agrees within reason to wear on stage the costumes, clothes, and other articles provided by the manager during performances of the production.
- 11.8 The manager agrees to disclose to the artist as soon as they are available, the design of all costumes required to be worn by the artist.
- 11.9 The manager shall provide all the scripts, scores and learning aids required for the production in good time for the artist to prepare for the part to be played. Such material shall be retained by the artist for the duration of the engagement in terms of this agreement.

- 11.10 The artist shall not at any time, without the written consent of the manager lend the script, scores and other learning aids to any person not engaged in the production.
- 11.11 Where specialised or body make-up is required for the part to be played, the manager shall provide such make-up, and suitable make-up remover, an adequate supply of towels, and appropriate and adequate washing facilities backstage, including hot water.
- 11.12 If the artist is required to have a particular colour or style of hair for a production, the manager shall so inform the artist at the time of engagement and meet the cost of such change, and pay for the maintenance of its colour and style, and the cost of restoring the hair to its original colour and style where reasonably practicable, provided the artist shall not have changed such style and colour without being required to do so after being auditioned or engaged. The choice of hairdresser shall be at the manager's discretion with reasonable consideration given to the desirability of using the artist's usual hairdresser.
- 12.1 The artist may not be required to appear nude, partially nude or perform simulated sex acts or acts of a sexual nature in the course of a stage presentation, unless, on being offered the part the artist has been advised of full details of such nude scenes or acts of a sexual nature, and has given his written consent.
- 12.2 If the artist consents to such nudity, partial nudity, and/or the simulation of sex acts or acts of a sexual nature, such consent shall be recorded in writing under special terms and conditions, where the parties shall briefly record the nature of the scene/s as well as the page number/s of the script on which the scene/s appear(s). In addition the artist shall have access to a copy of the whole script and time to read it prior to the signing of the contract.
- 12.3 Actual sex acts during rehearsals or performances shall not be requested or required of the artist.
- 12.4 The following provisions shall apply with regard to any visual recording of any of the nude scenes or simulated sex acts -
- 12.4.1 The artist shall not be required to pose for nude or partially nude photographs or to appear nude or partially nude for any motion picture filming, video taping or other form of visual recording without the artist's prior written consent;
- 12.4.2 No photograph in which the artist appears nude or partially nude or performs any simulated sex act may be used in any manner whatsoever without the prior written consent of each artist appearing in the photograph. Such consent shall be verified by each artist's signature on a copy of the photograph released. Requests by the manager to utilise the photograph must specify the intended use of the photograph. The manager and the artist shall keep duplicate copies;
- 12.4.3 The manager shall not release any film/video or other visual fixation in which the artist appears nude or partially nude for any use without the artist's prior written consent. The artist shall verify in writing that he has viewed such material in its final form and has consented to its use for the specified purpose;
- 12.4.4 The manager undertakes that the prints, negatives or other fixations of the artist's image will discreetly and securely be archived at the conclusion of the production, and will not be used for public display or publication after the conclusion of the production unless otherwise agreed between the artist and the manager in writing;
- 12.4.5 Unless otherwise agreed to in writing, the artist shall not be required, while nude or partially nude, to mix with the audience or to leave the stage, back-stage or performing area. No member of the audience or non-essential personnel will be permitted to enter the stage performance area or back-stage while the artist is nude or partially nude.
- 12.5 The manager shall not be liable for any artist's public display of nudity made during performance without the manager's prior consent or knowledge.
- The artist -
- 13.1 shall perform any part(s) required in terms of this agreement in a proper, diligent, competent and professional manner and to the best of his ability and according to any reasonable directions given to him by the manager or the representatives of the manager;
- 13.2 shall not intentionally insert in, or omit from any part to be performed by him in terms of this agreement, any words or acts whatsoever without the consent of the manager;
- 13.3 may not publicly perform any part of the production without the managers consent except during scheduled performances;
- 13.4 shall, except in the production week as set out in 4.4 be entitled to one full day of twenty four hours without working, in respect of every six consecutive working days;
- 13.5 shall at all times during the period of this agreement, whether during the season or on tour, keep the manager informed of the residential address and the telephone number at which the manager may contact the artist;
- 13.6 agrees that, subject to provisions of clause 11, all copyright arising from the production shall vest in the manager, who shall be entitled to dispose thereof in his sole discretion and to that effect the artist hereby assigns to the manager all copyright to which he may

become entitled in respect of the production of any sound recordings, photographs, or films made of the production or any part thereof. However, in the event that the production involves a collaboration of authorship between the manager and artist/s, such copyright shall vest in both the manager and artist/s concerned. The manager's rights shall furthermore in respect hereof, be subject to the relevant provisions of the Performer's Protection Act 11 of 1967 as amended, and the World Intellectual Property Organisation provisions of the Treaty for the Protection of the Rights of Performers;

- 13.7 may not cede or transfer to anybody else any right or obligation which he may have in terms of this agreement.
- 14.1 The artist shall have the right to accept any other employment which by agreement with the manager, does not conflict with the fulfilment of the artist's duties under this agreement.
- 14.2 The artist shall not accept employment in any other stage production or take any role in any other presentation before a live audience without the prior written consent of the manager, which consent shall not be unreasonably withheld.
- 14.3 If the artist accepts other employment which does not conflict with his obligations under this agreement, it shall at all times be the duty of the artist to comply strictly and timeously with his obligations under this agreement. At no time shall the artist's obligations under the provisions of any other employment contract constitute a valid ground for not strictly and timeously fulfilling his obligations under the provisions of this agreement.

The Artist -

- 15.1 The artist shall attend all newspaper, radio and television interviews held for publicity purposes, and all photo calls held by the manager, provided that a minimum of forty eight hours' notice is given to the artist, and subject to his professional availability. Except where held at the rehearsal or performance venue, or if held at times when the artist's regular means of transport is unavailable, the manager shall pay the reasonable costs of transport in order that the artist may attend the newspaper, radio and television interviews.
- 15.2 The artist shall not have any claim to any photographs or other material produced during or pursuant to the interviews and similar publicity calls referred to in this clause, which material shall be the sole property of the manager, or the media producer of such material.
- 15.3 The artist may not knowingly without the consent of the manager, at any time provide the press, media or general public with any information regarding the whole or any portion of any part to be performed or understudied by him in terms of this agreement. The onus is on the manager to define the limitations on the actor when speaking to or communicating with press or media.
- 15.4 The artist shall not make any statement in public, or to any member of the press or other media which may be prejudicial to the manager with regard to the production or his engagement in it, or anything arising therefrom nor employ or authorise anybody to make any such statement on his behalf.
- 15.5 The artist shall endeavour to ensure that the production is appropriately acknowledged and promoted in all media interviews, appearances or statements in which he is involved during the currency of this contract.

The Manager -

- 15.6 The manager shall be entitled to use and make reproductions of recordings made in terms of clause 10, and photographs and other materials referred to in 15.1, and to use the artist's name in conjunction with such recordings, photographs and other material, provided that -
- 15.6.1 the manager shall not exploit or be party to the exploitation of such recordings, photographs or other material by advertising, other than for the promotion of the production, unless the manager and the artist agree otherwise, in which event the remuneration payable shall be mutually agreed upon between the parties, and subject to a separate written agreement prior to such usage;
- 15.6.2 such promotion shall not include personal endorsement by the artist of any product, whether used in the production or not, unless otherwise agreed in writing by the parties, and subject to the artist receiving a negotiated endorsement fee. For the purposes of this clause, endorsement shall mean any direct or indirect suggestion by the use of a photograph, or other fixation of the artist, that the artist in his personal capacity promotes the product in question. The use by the artist of a product or trademark, design or logo in the course of performing his part in the production shall not be regarded as an endorsement of that product, trade-mark, design or logo.
- 15.7 The manager shall use his best endeavours to ensure that the photographs of the artist are taken in accordance with 15.1, and shall not be published for any other purpose other than for the advertisement and promotion of the production.
- 15.8 The manager shall be entitled to use or present the production outside of the contracted performance schedule and venue, and subject to the professional availability of the artist, for any event at a private performance for any company, firm, organisation, or business, which presentation shall be subject to a separate agreement between the artist and the manager and subject to a separate fee being negotiated between the parties.
- 15.9 In the event of the institution of any civil or criminal action against the artist as a result of his performance as directed, or his being charged with any offence arising from his performance as directed, the manager shall appoint legal representation for the artist, and

assume full responsibility for the payment of any costs incurred as a result of such claim or charge as well as assume responsibility for the payment of any fine or judgement levied against the artist.

The Artist -

- 16.1 Warrants that he possesses the physical and mental capacity and is in sufficient good health to perform the part(s) for which he is engaged;
- 16.2 shall take reasonable precautions at all times to ensure that he shall remain in sound health during the period of this agreement, so that he will be capable of carrying out his obligations in terms of it;
- 16.3 authorises the manager, if the manager so requires, to take out insurance against any loss or damage which the manager may suffer as a result of the artist's inability to carry out his obligations in terms of this agreement, and for that purpose, the artist shall make himself available for any medical examination, at the cost of the manager and the artist shall not do anything or permit anything to be done which may jeopardise or render void that insurance policy;
- 16.4 shall disclose all physical and mental attributes, aspects and/or illnesses to the manager, prior to the signature of the schedule by the parties, which may influence the ability of the artist to perform the parts for which the artist is engaged and of which the artist is aware or should reasonably be aware.
- 17.1 The manager shall provide or pay for suitable transport for the artist:-
- 17.1.1 to all tour centres in succession on dates to be announced by the manager;
- 17.1.2 to and from rehearsals, performances or other calls at any venue during the tour in the event that the lodgings on tour provided by the manager are more than five kilometres from the venue unless otherwise agreed to in writing;
- 17.1.3 from the final tour centre at the termination of the tour to the base town or city;
- 17.1.4 to the base town or city in the event that the engagement of the artist is terminated for any reason whatsoever by the manager, whilst the artist is on tour.
- 17.2 Suitable transport shall be deemed to include:
- 17.2.1 the artist's reasonable personal luggage;
- 17.2.2 costumes, musical instruments and other specialised equipment used in the production and belonging to the artist.
- 17.3 The manager shall ensure that the artist is transported in a safe manner. This shall include:
- 17.3.1 ensuring at all times that the vehicle is roadworthy;
- 17.3.2 ensuring that each person delegated by the management to drive holds a valid driver's license; and
- 17.3.3 ensuring that the driver has had adequate rest before the trip to be undertaken and is given adequate rest breaks during the journey.
- 17.4 The artist shall not, without the written consent of the manager, travel to tour centres by any other means than the transport provided by the manager.
- 17.5 The artist shall not cause or permit any person to use any vehicle provided by the manager without the consent of the manager.
- 18.1 The manager shall, in the event of any rehearsal or performance extending beyond the time when public transport is available to the artist, and the artist not having transport available to him, provide the artist with transport or pay any reasonable expenses which the artist incurred in providing proper means of transport to his residence unless otherwise agreed in writing between the parties.
- 18.2 The artist shall not during the period of this agreement travel further than one hundred kilometres from the venue of the production without the written consent of the manager.
- 19.1 Any tour and/or tour destination not agreed to and stipulated in the schedule, shall be separately negotiated and agreed to in writing, which agreement shall be included as an addendum to this contract.
- 19.2 The manager shall give the artist four weeks notice in advance of any tour; by posting a notice to that effect on the notice board.

- 19.3 In the case of a tour destination being more than four hours drive from the previous venue or overnight stop, the artist shall not be required to commence rehearsals or performances until two hours have elapsed after the arrival of the artist at the tour destination.
- 20.1 The manager shall deduct from the artist's salary-
- 20.1.1 income tax according to the current regulations of the Department of Inland Revenue, or in accordance with a valid tax directive;
- 20.1.2 any other compulsory statutory deductions; and
- 20.1.3 the prevailing contribution to the Theatre Benevolent Fund (TBF) with the artist's written consent, and pay it to the fund, together with a contribution from the manager as agreed between TMSA and the TBF from time to time.
- 21.1 The manager shall -
- 21.1.1 be entitled to allot such dressing rooms to the artist as he may decide unless otherwise agreed in writing;
- 21.1.2 use his best endeavours to ensure that all dressing rooms, backstage, rehearsal and performance areas shall be kept reasonably warm, clean, ventilated, secure, and adequately lit, and have access to hot running water while the artist is required to be in the theatre or rehearsal venue; and
- 21.1.3 provide separate dressing rooms for the different genders
- 22.1 The manager shall have the sole right to determine -
- 22.1.1 the inclusion or omission;
- 22.1.2 the position;
- 22.1.3 the size and nature of the type, of the artist's name on bills, posters, banners, advertisements and promotional material, unless otherwise agreed in writing.
- 22.2 The artist's name shall be included in the cast list in the programme, and the artist shall have the sole right to verify and approve all his biographical material to be included in the programme. Any errors in the programme, shall be rectified in a practical manner as soon as reasonably possible, and the programme must be corrected at the next reprint.
- 22.3 In the event of a change of cast, management undertakes to announce this change to each audience by means of a notice posted in the foyer, and an announcement in the auditorium immediately prior to the performance.
- 22.4 The manager shall ensure that, in the event that an artist has left the production, his name and photographs shall be removed from all advertising and publicity as soon as reasonably possible which period shall not be later than two weeks after the artist has left the production.
- 23.1 The manager shall be entitled to assign all rights and obligations which the manager has in terms hereof, provided that the manager shall bind himself as surety and co-principal debtor in favour of the artist on behalf of the person to whom the rights and obligations were assigned for payment of the remuneration due to the artist.
- 23.2 The manager shall be obliged immediately to notify in writing the artist or his authorised representative of any assignment of this agreement.
- 23.3 The manager undertakes that it shall be a condition of the assignment that the assignee shall comply with the provisions of this agreement.
- 24.1 The manager shall:
- 24.1.1 Provide and maintain at all times safe and healthy working conditions and shall comply at all times with the Occupational Health and Safety Act 85 of 1993 ("OHSA");
- 24.1.2 Provide and maintain a first aid kit up to the standard recommended by the S.A. Red Cross Association and ensure that the stage manager or his appointee is familiar with its use;
- 24.1.3 Prior to signing the agreement, consult with the artist regarding potentially hazardous or dangerous sets, or acts which he may be required to perform;

- 24.1.4 Specify in writing the general nature and extent of such dangerous and hazardous acts;
- 24.1.5 Should the artist agree to undertake any potentially hazardous or dangerous acts, the manager shall insure the artist against death, injury or disability in the event of an accident occurring as a result thereof.
- 24.2 The provisions of clause 24.1.5 shall not preclude the artist from exercising his rights under the Compensation for Occupational Injuries and Diseases Act 130 of 1993 ("COIDA")
- 24.3 The manager shall ensure that a copy of the fire regulations and the drill to be used in the event of a fire is prominently displayed and that the stage manager or his appointee draws the artist's attention thereto.
- 24.4 Should the manager and the artist be in disagreement over the safety of any aspect of the part of the performance in which the artist is involved, the South African Institute for Theatre Technicians shall be requested to provide an opinion on the safety standard, which opinion the parties shall abide by. The fee of SAITT for providing the opinion shall be shared equally by the parties. Nothing in this clause shall affect any rights or obligations of the parties in terms of OHS or COIDA.
- 25.1 Leave shall not be taken by the artist until the conclusion of fifty two consecutive weeks from the date of engagement, at which point the artist shall be entitled to 14 calendar days leave on full pay, or, by negotiation between the parties, mutually and in writing, agree in writing to payment in lieu of leave not taken by the artist and paid at the season or tour remuneration rate, whichever is applicable.
- 25.2 In the event that the engagement terminates subsequent to the twenty-sixth week, the artist shall be entitled to payment in lieu of leave, for all accrued leave up to the date of termination. The artist shall not be entitled to payment in lieu of leave if the engagement terminates for whatever reason, prior to the end of the twenty-six week after the performance date.
- 25.3 Any leave to which the artist may be entitled and which has accrued to him, shall be taken at a time which is mutually agreed to between the parties. Alternatively payment of leave pay in lieu of leave may be made if agreed between the parties.
The manager may in his sole discretion -
- 26.1 change the name of the production;
- 26.2 change the name or any other characteristic of any part to be performed by the artist, but shall not be entitled substantially to change or diminish the part to be played by the artist, without the written consent of the artist;
- 26.3 shall exclusively be entitled to determine the style, context, and directorial concept in which the artist shall be presented in the production unless otherwise agreed to by the parties in writing;
- 26.4 shall prior to the performance date, announce the times of all performances, rehearsals and other calls by placing notice on the rehearsal venue or theatre notice board, as the case may be, which notice shall be deemed to be sufficient notice to the artist of such calls. Should the manager thereafter change the times of the said performances or other calls, it shall be subject to the professional availability of the artist.
- 27.1 A leave cycle of 10 (ten) weeks calculated from the date of engagement shall be applicable once the engagement of the artist by a particular manager terminates, the sick leave cycle also terminates and once the artist is engaged by a new manager a new sick leave cycle shall commence.
- 27.2 During every sick leave cycle the artist shall be entitled to 3 (three) days paid sick leave equal to the number of days the artist shall normally work during the period of twelve weeks.
- 27.3 Paid sick leave in terms of 27.2, in respect of a day's absence, shall be paid at 100% of the remuneration the artist would normally have received for working on the said day.
- 27.4 A maximum of one day paid sick leave not used during a particular sick leave cycle will accrue to the next sick leave cycle.
- 27.5 Paid sick leave owed in terms of this clause shall be paid to the artist on the next normal pay day of the artist.
- 27.6 Nothing in this clause 27 shall prevent the manager from dismissing the artist for incapacity due to ill health or injury, in accordance with these standard terms and conditions and any applicable law.
- 27.7 Should the artist be absent from work on sick leave for 2 (two) days or more, the artist must submit a medical certificate stating that the artist was unable to work for the duration of the artist's absence, failing which the manager shall not be required to grant the artist paid sick leave in terms of this clause 27. The medical certificate must be issued by a medical practitioner.

- 28.1 If the artist should be incapacitated by illness or accident and is unable to perform during the rehearsal period or during the run of the production, and medical opinion indicates that the incapacity will continue for a period of more than seven consecutive days or if the illness or incapacity continues for more than seven days, the manager shall be entitled to terminate the engagement of the artist upon paying the artist any remuneration accrued or due to him up to the point of incapacity, plus two weeks remuneration at the rehearsal, season or tour remuneration rate, whichever is applicable. The manager may require the artist to attend at a medical practitioner for the purpose of obtaining a medical opinion in terms of this clause, at the cost of the manager.
- 29.1 The manager are entitled to require the artist to be medically tested by a medical practitioner in order to determine whether the artist is medically fit to comply with the inherent job requirements of the part(s).
- If the artist -
- 30.1 breaches any material term of this agreement; or
- 30.2 is absent from any performance, rehearsal or other attendance agreed to by him and the manager by reason other than illness or accident or force majeure, or
- 30.3 is guilty of grossly unprofessional conduct or insubordination, the manager shall be entitled to summarily terminate this agreement without prejudice to any right to damages which may result therefrom, and without prejudice to any rights the artist may have to a procedurally fair dismissal.
- If the manager -
- 30.4 breaches any material term of this agreement;
- 30.5 fails to pay the artist his remuneration on due date; or
- 30.6 is provisionally or finally sequestered or surrenders his estate;
- 30.7 cancels the production without due notice as provided for in Clause 8.
the artist shall be entitled to terminate this agreement without prejudice to any right to damages which may result therefrom;
- 30.8 Should the manager make any charge against the artist of intoxication or the abuse of any prohibited substance or prescription medicine which in the opinion of the manager directly affects the artist's performance or rehearsal, such charge shall be made at the time of the offence, and the artist shall be given at least 24 hours to prepare for a disciplinary hearing provided that the artist shall be entitled to produce a certificate by a medical doctor obtained at his own expense within *three hours* of such allegation being made, in order to disprove the charge.
- 31.1 Any dispute or claim between the parties in regard to any matter arising out of the schedule and/or these standard terms and conditions or their interpretation, application or the respective rights and obligations of the parties hereunder or its cancellation, shall be decided in the following manner:
- 31.1.1 If the dispute has not informally been resolved between the parties within 3 days of it having arisen, either party may declare a dispute by giving the other party written notice of the declaration of the dispute and in that notice, the party declaring the dispute shall set out the nature of the dispute and proposals for resolution of the dispute;
- 31.1.2 No later than three days after the receipt of the notice of declaration, a Dispute Resolution Committee comprising of a TMSA representative/s, a PAWE representative/s, a PMA representative/s and the parties to the dispute, shall meet and attempt to amicably resolve the dispute;
- 31.1.3 If the parties are unable to amicably resolve the dispute in terms of 29.2, the dispute shall at the instance of either party be referred for conciliation to the Council failing which either party may follow the dispute resolution mechanisms provided for in law;
- 31.1.4 Notwithstanding the provisions of this clause, both parties reserve their right to refer the dispute to an appropriate court having jurisdiction, including the right to approach a court of competent jurisdiction for urgent and/or interim relief.
- 32.1 Any written agreements between the manager and the artist regarding the subject matter of this agreement, signed by both parties subsequent to the signing of this agreement, shall be deemed to be included herein provided the artist shall not be required to waive any of his rights as provided for in terms of this agreement.
- 32.2 No relaxation which either party may give at any time whatsoever in regard to the other party's obligations in terms of this agreement, shall prejudice any of either party's rights hereunder in any manner whatsoever, nor shall such relaxation be regarded as a waiver of any rights in terms hereof.

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