Darlington Hippodrome – Standard Terms and Conditions

The following Standard Terms and Conditions, which may vary from time to time, are referred to in the "Performance Agreement" between DH and the Producer and are incorporated into the Agreement.
This version is **Version 1, October 2017**
The most up to date version will be on our website at https://www.darlingtonhippodrome.co.uk/about-us/information-for-visiting-companies/

1. DH Rights and Obligations

1.1 DH reserves the right to superintend and control the Theatre for the protection and convenience of the public and for the fulfilment of all obligations, terms and conditions of all licences relating to the Theatre and its overall duty of care.

1.2 DH will procure all necessary licences and permissions in respect of the Theatre and DH's obligations (but not for the Production or for child performers).

1.3 DH will provide the Theatre during the times set out in the Production Schedule in the Performance Agreement together with all the heating and lighting as normally available and the technical facilities and equipment as detailed in the Theatre's Technical Specification which may be amended from time to time.

1.4 DH reserves the right to deduct from the amount due to the Producer a sum sufficient to cover any income tax due under the Foreign Entertainers Income Tax Legislation *unless* an exemption certificate is received before the end of the Period of Engagement *or* the Producer appears on the Foreign Entertainers Unit list of approved agents.

1.5 Where practical, DH will arrange accessible performances during the Period of Engagement. DH and the Producer will share the costs equally.

1.6 DH may use any part of the Theatre during the Period of Engagement so long as such use will not affect the Production in a significant way.

1.7 DH may close the Theatre during the Period of Engagement when there is no Performance scheduled to take place.

1.8 DH will, at its discretion, allocate dressing rooms to the Producer and DH reserves the right to use unallocated rooms for its own use, so long as such use will not affect the Production in a significant way.

1.9 Rehearsals may take place on stage during the Period of Engagement, at DH's sole discretion. By agreement, the costs of additional DH staff required to facilitate rehearsals will be recharged to the Producer.

1.10 DH reserves the right to reduce the Theatre's normal seating capacity to accommodate disabled customers.

1.11 DH will provide and pay for staff as detailed in the Performance Agreement. The cost of any additional technical staff, dressers, security staff and translators who are required for the Production and provided and paid for by DH will be recharged to the Producer (estimates are available on request). DH will not be liable for the absence of any such staff caused by illness, labour dispute, force majeure or any circumstances beyond its direct control.

1.12 When staff are called to work on Sundays or Public Holidays (dates available on request) DH will recharge the Producer with the cost of any enhanced pay rates that are incurred (estimates are available on request).

1.13 All tickets for the Production shall be printed and provided via DH's Box Office only. Ticket allocations will only be made available to external agencies with the express written permission of the Theatre Director, whose consent must be given in respect of every agent or agency through which tickets will be sold.

2. Producer Obligations

2.1 The Producer will provide a full and efficient company (the "Production Company"), using appropriate care, diligence and skill as would normally be expected to present the Production to a high quality standard.

2.2 The Producer will provide all properties, costumes, scenery, furniture, special effects, band parts and instruments in first class condition and will be responsible for their safe and proper fit up in the Theatre and any maintenance.

2.3 The Producer agrees to work to the nationally agreed BECTU/UK Theatre Association get-in and fit-up code of practice. The Producer will ensure that all technical equipment complies with Health and Safety at Work legislation and all relevant Regulations. The Producer will also ensure that members of the Production Company will do everything required, or do not omit to do anything required, to ensure the health safety and welfare of anybody who may be affected by their actions. The Producer shall comply with all health and safety legislation in force.

2.4 The Producer will provide suitable understudies or deputies to the satisfaction of DH. In the event that any member of the Production Company is unable to perform for any reason, then any costs, losses, damages and expenses incurred by DH as a result of such a cast change will be recharged to the Producer.

2.5 The Producer agrees matinees will be given as fully as evening performances and not curtailed in any way.

2.6 The Producer will make reasonable efforts to facilitate accessible performances and, as soon as possible, will supply DH with appropriate advance material to enable them to take place to a high standard.

2.7 The Producer agrees to use their best endeavours to ensure the participation of the members of the Production Company in any talks, tours or workshops in any audience development and participation events mutually agreed between the parties.

2.8 The Producer will obtain at his expense all necessary rights and permissions for the Production, including those for child performers. The Producer will pay for and/or indemnify DH against all intellectual rights claims by authors, composers, publishers or any other third party and other claims for fees, royalties and taxes, or any other losses (including all applicable Performing Rights Society and Phonographic Performance Limited levies) payable in respect of the Production.

2.9 The Producer will ensure that where the Production involves children that no child under the legal age shall perform on the stage unless duly licenced, and any licences for children shall be obtained by the Producer before the first performance. It is the Producer's responsibility to ensure all children are appropriately segregated according to the terms of the licence, and chaperoned at all time whilst in theatre.

2.10 The Producer will comply with all rules, regulations and requirements in relation to health and safety and good and safe working practices including but not limited to DH's Health and Safety Policy and procedures. In particular, the Producer will (and ensure that members of the Production Company will):

2.10.1 ensure that all materials supplied by the Production Company are fire retardant or fire resistant to the satisfaction of DH , the competent authorities and legislation. Relevant certificates to be supplied at least 2 weeks before the Period of Engagement;

2.10.2 make all electrical equipment supplied by them compliant with all relevant Regulations and legislation; relevant certificates to be supplied at least 2 weeks before the Period of Engagement;

2.10.3 not use or bring in to the 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 DH's prior written consent;

2.10.4 not bring any animals into the Theatre (whether as part of any performance or otherwise) without the prior written consent of DH;

2.10.5 provide to DH on demand a copy of his Health and Safety Policy and procedures, any risk assessments relevant to the Production and ensure that such information is properly communicated to his artists, staff, agents and any member of staff that may be affected by the work, and that they are followed accordingly;

2.10.6 provide information and fully co-operate with DH in identifying potential hazards and ways to avoid them sufficient for the preparation of a risk assessment and safe working procedures where DH considers it necessary;

2.10.7 work with DH on scheduling and staffing to ensure that each member of the Production Company and DH staff comply with Working Time Regulations and any other employment legislation for the Get-in, fit-up, running and Get-out;

2.10.8 ensure that a competent member of the Production Company is available at all times to supervise 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;

2.10.9 notify DH in relation to any accidents, incidents or near misses that take place relating to the tour, including at previous venues on the tour, and provide appropriate information, risk assessments and/or safe working procedures to prevent any re-occurrences;

2.10.10 enter and leave the Theatre by stage door, ensuring that a viable roll call can take place if necessary;

2.10.11 not adapt, alter or interfere with any DH equipment;

2.10.12 not be under the influence of drugs or otherwise intoxicated at any time during a performance or otherwise whilst at the Theatre or undertaking any official duties relating to the Production, otherwise DH reserves the right to refuse entry to the Theatre or to continue work;

2.10.13 not smoke (including vapour and e-cigarettes) at any time in the Theatre or at the entrances of the Theatre;

2.10.14 comply with security procedures, including limiting visitors Back of House and advising stage door reception of any expected visitors. Visitors, guests and fans/autograph hunters who turn up unannounced will be held at stage door and not admitted to the Theatre.

2.11 The Producer will ensure that no performance or part of any 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 disparaging views or behaviour relating to an individual or group's colour, race, nationality, ethnic or national origins, disability, sex, sexual orientation, marital status, religion or age; and will contain nothing which is likely to result in any court of law or licensing authority ordering the cancellation of any performance.

2.12 The Producer will advise DH as soon as reasonably practicable after the signature of the Performance Agreement of any aspect of the Production (including staging, orchestra pit, 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 DH so caused by any change to the above by the Producer will be recharged to the Producer.

2.13 The Producer will, on demand, supply a copy of the actual script for the Production and will not make any variations to this script without the prior written consent of DH. DH reserves the right to object, in order to protect himself under the Theatres Act 1968, or any other relevant legislation relating to the licensing of theatres, to any song, speech, dialogue, business, costume or gesture in the Production and the same will be altered or withdrawn by the Producer as DH may direct.

2.14 The Producer will comply with applicable industry agreements relating to Theatre, including, but not restricted to, Equity, BECTU and MU.

2.15 The Producer undertakes to ensure that his artists, staff and agents do not act in such a manner or allow the Production Company to act in any way which inhibits the sale of tickets for the Production.

2.16 The Producer will supply print material to DH at least 12 weeks before the Period of Engagement.

2.17 The Producer will not permit, without the prior written consent of DH, any advertising or publicity relating to a Performance of the Production not at the Theatre 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 within 30 miles of the Theatre.

2.18 DH reserves the right to approve marketing materials and explicitly requires the Producer to submit all advertising materials to DH for approval in advance of distribution. DH reserves the right to refuse to display advertising, sponsorship or promotional materials supplied by the Producer in front of house areas of the Theatre including the auditorium, bars and hospitality areas.

2.19 The Producer agrees to transfer or waive copyright for images and promotional text in that DH may use such images or text for electronic publishing on its website and any other type of publishing (programmes, posters etc.) for up-to five years from the date of the Performance Agreement.

3. Mutual Obligations

3.1 DH and the Producer (each a "party" and together the "parties") will comply with relevant legislation, including their obligations relating to this Agreement.

3.2 Each party will effect and maintain at its own expense comprehensive insurance policies to comply with relevant legislation and with regard to its obligations under this Agreement as follows:

3.2.1 DH will be responsible for such cover against all risks in respect of its property and that for which it is responsible, its employees and members of the public *provided that* DH will not be responsible for loss or theft of or damage to the property belonging to the Producer or his employees or agents.

3.2.2 DH will not do, or suffer to be done, in or about the Theatre anything whereby any policy of insurance effected by the other party may be invalidated 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.

3.2.3 the Producer will insure against all risks in respect of the Producer's property and that for which he is responsible, his employees and any matter arising out of his use and occupancy of the Theatre .

3.2.4 the Producer will not do, or suffer to be done, in or about the Theatre anything whereby any policy of insurance effected by the other party may be invalidated 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.

3.2.5 the Producer will supply DH with particulars of his insurance policies and evidence that they are in force.

3.3 Both parties agree to develop a marketing and PR campaign for the Production and the nominated representatives of each party will agree in writing how the budget for the campaign is to be spent within 10 working days of the proposed campaign being submitted to the Producer for approval. Any subsequent marketing costs must be agreed in writing between parties before further work is instructed.

3.4 Both parties agree to share all relevant information regarding the Production in sufficient time to enable proper planning and due diligence.

4. Sponsors

4.1 The Producer agrees to advise DH of any national or tour sponsor of the Production as soon as reasonably practicable after the date of the Performance Agreement. DH will include acknowledgement of this sponsor in any marketing material for the Production prepared by DH *provided that* any logo or specific form of acknowledgement has been received by DH within four weeks of the date of the Agreement been issued to the Producer and that any logo or acknowledgement does not conflict with DH house style. No advertisement for this sponsor will be exhibited on stage or in the auditorium during performances of the Production or in front of house, bars or hospitality rooms without the prior written consent of DH. The Producer will indemnify DH in respect of any loss or liability incurred by DH in respect of any such marketing material or advertisement.

4.2 DH agrees to advise the Producer of any local sponsor of the Production as soon as possible after the Agreement has been issued to the Producer. The Producer will include acknowledgement of this local sponsor in any marketing material for the Production prepared by him *provided that* any logo or specific form of acknowledgement has been received by him within four weeks of the date of signing of the Performance Agreement.

4.3 No complimentary seats will be provided to either a national or a local sponsor without the prior written consent of both parties.

4.4 The Theatre has hospitality areas available for hire (costs and details can be obtained from the Senior House Manager). All catering including food and drink required in the hospitality suites by the Producer or national sponsors of the Production will be provided by DH or its preferred supplier and, if not paid by the end of the Period of Engagement, will be recharged to the Producer.

4.5 The Producer agrees to use his best endeavours to secure the attendance of his contracted artists, and particularly the Named Artist/s, at any function in the Theatre organised by a local sponsor or Friends of the Theatre.

5. Warranties and Indemnities

5.1 The Producer warrants and undertakes to DH that:

5.1.1 the right to perform the Production publicly will be vested to the Producer throughout the Period of Engagement;

5.1.2 the Production, including any music and the publicity and programme material, will not infringe any copyright or any other such right or interest or to the best of the Producer's knowledge and belief be defamatory in any way; and

5.1.3 the Production and method of presentation and performance at the Theatre will not be obscene or likely to incite racial hatred or to promote a breach of the peace and will contain nothing which is likely to result in any Court of Law ordering the withdrawal of the Production or in the restriction of further performances by virtue of the provisions of the Theatres Act 1968 or other relevant legislation.

5.2 If print material is not received 12 weeks in advance of the Period of Engagement, the Producer will fully indemnify DH for any lost promotional opportunities for the Production.

5.3 The Producer warrants that all advertisements and posters will not be in breach of the Trade Descriptions Act 1968 or subsequent legislation and will not contravene any other relevant legislation and the Producer will indemnify DH against any loss or liability arising from any breach in this undertaking by the Producer.

5.4 The Producer shall indemnify DH in full without limit of liability for any direct loss of or damage to the real or personal property of the DH or any third party, including Intellectual Property Rights, or injury claimed by any third party and against all Liabilities awarded against or incurred by the DH (including legal expenses on an indemnity basis) arising from the Contractor's negligence, any defect or fault in the Services or any act or omission of the Contractor in delivering the Production.

6. Cancellation, Termination and Liability

6.1 This Agreement may be terminated by either party by giving notice in the form specified in clause 9.1 below, on the other party (the "Defaulting Party"), in the following circumstances:

6.1.1 the Defaulting Party is in material breach of any of its obligations under this Agreement and fails to remedy the breach (if capable of remedy) within fifteen days after being notified by the other party of the breach; or

6.1.2 the Defaulting Party repeatedly breaches any of the terms of this Agreement in a manner that reasonably justifies the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement; or

6.1.3 any procedure is commenced with a view to, or a petition is presented for the winding up or reorganisation of the Defaulting Party (other than for the purpose of a solvent amalgamation or reconstruction); or

6.1.4 any procedure is commenced with a view to, or a petition is presented for, the appointment of an administrator or receiver 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 a composition or arrangement with its creditors or any class of them; or

6.1.6 the Defaulting Party ceases or threatens to cease trading; or

6.1.7 the Defaulting Party is subject to any event which, under the applicable relevant legislation of any jurisdiction has an analogous effect to any of the events specified above.

6.2 If the Producer commits a breach of this Agreement, including failure to provide a satisfactory understudy or deputy for a Named Artist, any necessary copyright permissions, or failure to ensure any Performance is not harmful or offensive in contravention of clause 2.11, DH will be entitled (but not bound) to terminate this Agreement forthwith without notice and without prejudice to its right to seek damages from the Producer.

6.3 Without prejudice to the right of DH to terminate the Agreement and seek damages under clauses 6.1 and 6.2 above, if the Production is cancelled by the Producer, DH will be entitled to be indemnified by the Producer for:

6.3.1 any and all expenditure incurred by DH in connection with the Production (including marketing and promotion costs);

6.3.2 costs incurred in providing refunds for ticket sales for the Production; and

6.3.3 where no suitable alternative production is booked for the Period of Engagement or where such suitable alternative Production is only booked for part of the Period of Engagement, the costs and overheads of the Theatre accruing during the Period of Engagement (or part of the Period of Engagement).

6.4 In the event the Producer causes any damage to the Theatre or other tangible property of DH, the Producer will indemnify DH for the costs of such damage including the costs incurred by DH in repairing such damage.

6.5 The Producer shall maintain throughout the Period of Engagement employer liability insurance in an amount not less than £10,000,000 and public liability insurance in an amount not less than £10,000,000 per incident or series of connected incidents, with a reputable insurance company.

6.6 Subject to clause 6.7, DH's liability to the Producer's for any loss or Liabilities, however arising, out of or in connection with the performance of DH's obligations under this Agreement, will be limited to 100% of the value of the Agreement payable by DH to the Producer. For the avoidance of doubt DH shall not be liable to the Producer for any indirect or consequential loss.

6.7 Nothing in this Agreement will exclude or restrict either party's liability in respect of:

6.7.1 death or personal injury resulting from breach of duty of that party or its employees while acting in the course of their employment; or

6.7.2 fraud or fraudulent misrepresentation.

7. Force Majeure

7.1 In the event of the Theatre being closed (i) due to any public disaster, riot, civil disorder, war, terrorism, sabotage, epidemic, fire, flood, act of God, relevant legislation, or any other accident or in the event of the Theatre not being available for theatrical performances due to the withdrawal or suspension of any license or, (ii) by reason of any alteration or other work required to be done by the competent authorities or, (iii) by reason of any labour dispute of any workmen, musicians, artists or staff which interferes with the working of the Theatre or which affects the patrons of the Theatre or the transport facilities available to such patrons or, (iv) on account of any event outside the reasonable control of DH, DH may, by notice to the Producer, terminate this Agreement forthwith without incurring any liability as a result of such termination. Such termination will not prejudice the right of DH to seek damages from the Producer in respect of any antecedent breach of this Agreement. No payment will be made to the Producer in respect of any period during which the Theatre will be closed.

7.2 No responsibility is accepted for any breakdown, failure or defect in any of the Theatre equipment which could not be reasonably foreseen by DH, nor will DH be held liable for any consequences attributable to a termination, breakdown or interruption of the supplies of electricity, gas or water services outwith its control.

7.3 DH will have the option to close the Theatre and/or cancel, postpone or alter the timing or duration of a Performance or Rehearsal if, in its sole discretion, it would be appropriate to do so, for example, in the case of national mourning.

8. Confidentiality

8.1 For the purpose of this clause "Confidential Information" will mean the terms, contents and existence of this Agreement; and

8.1.1 all information of a confidential nature relating to the performance of the Production at the Theatre.

8.1.2 any other information of a confidential nature relating to the business of either party. whether oral or in writing, disclosed or made available by that party to the other party under the terms of this Agreement and whether prior or subsequent to the Period of Engagement.

8.2 Each party (the "Recipient") hereby agrees to keep confidential any Confidential Information disclosed 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 and to disclose the same only on a need-to-know basis and in confidence to those staff, agents, consultants and sub-contractors who require knowledge thereof for the purposes of this Agreement subject to clause 8.5.

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 subsequently enters the public domain otherwise than 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 lawfully and properly in the possession of the Recipient at the time of disclosure and which was not obtained directly or indirectly from the Disclosing Party as demonstrated by the written records of the Recipient

8.3.3 received from a third party otherwise than in breach (whether directly or indirectly) of any confidentiality or fiduciary obligation to the Disclosing Party and where such third party had a bona fide right to disclose the same to the Recipient

8.3.4 the disclosure of which is required by Relevant Legislation or by any supervisory or regulatory body to which the Recipient is bound to comply.

8.4 The provisions of this clause will survive the conclusion and/or Termination of this Agreement, howsoever arising, for a period of at least 36 months.

8.5 DH is subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 ("the Acts"). As part of DH's duties under the Acts, it may be required to disclose information forming part of the Agreement to anyone who makes a reasonable request. DH has absolute discretion to apply or not to apply any exemptions under the Acts. The Producer shall assist and cooperate with DH (at the Producer's expense) to enable DH to comply with the information disclosure requirements under the Acts and in so doing will comply with any timescale notified to it by DH.

9. General

Notices

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

9.1.1 at the address set out on the first page of the Performance Agreement, or

9.1.2 at such other postal address as may from time to time be notified in writing.

9.2 Notices will be deemed to be given by:

9.2.1 hand, on the date of delivery

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

Work permits and visas

9.3 The Producer will obtain licences / Certificates of Sponsorship for migrant workers and entry visas to the UK as required under the relevant legislation for any of his staff. Any failure to do so will be a material breach of this Agreement.

9.4 Where DH agrees to act as a sponsor to obtain licences for migrant workers for the Production the Producer will supply DH with all the information required by UK Visa and Immigration agency under the points-based system in sufficient time before the Period of Engagement to allow DH to meet its sponsorship duties. The administration cost of sponsoring workers and fulfilling its sponsorship duties will be recharged to the Producer. Failure by DH to obtain licences for migrant workers, or sufficient number of licences for migrant workers, to enable the Performance to take place will render this Agreement null and void. For the avoidance of doubt DH will not be liable for any loss or Liabilities resulting from the Agreement terminating pursuant to this clause.

9.5 The Producer shall (and shall procure that any of its employees/staff involved in the provision of the Performance) comply with any requirements under the Data Protection Act 1998 or any subsequent legislation.

9.6 The Producer shall upon reasonable request by DH at the Producer's cost provide in good faith, details including full name, address, date of birth and place of birth of any employee or operative whether directly employed by the Producer or otherwise engaged by them to provide the Production and shall do so within 14 days of any such request for the purpose of enabling DH to carry out a standard or enhanced Disclosure Barring Service (DBS) check at the Producer's cost pursuant to the provisions of Part V of the Police Act 1997.

9.7 Where, following a check under clause 9.6 above, a criminal conviction certificate is obtained by DH following the DBS check and the nature of the listed previous convictions leads DH to the reasonable conclusion that

the person who was checked is unsuitable to provide the Performance , then upon DH giving notice to the Producer, they shall immediately upon receipt of that notice remove the person considered as unsuitable from the Performance or where the person has not at that time started to provide the Performance the Producer shall act so as to stop that person from providing the Performance. DH is not under any obligation to disclose the results of any disclosure and barring service check.

Default on costs

9.8 If DH is required to pay directly the whole or part of the costs of the Production for the whole or part 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 to DH, then DH will be entitled to recharge to the Producer the amount paid and/or the said sum will be a debt recoverable from the Producer.

Assignment

9.9 This Agreement is personal to both parties. Neither party will be entitled to assign, novate, sub-contract or otherwise dispose of its rights and obligations under this Agreement or any part thereof without the previous consent in writing of the other party.

Partnership

9.10 Nothing in this Agreement is intended to, or will be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

Other commitments

9.11 The Producer declares that at the time of signing the Performance Agreement he has made no other commitments which will prevent him from fulfilling this Agreement and is authorised to enter into the Agreement.

Severance

9.12 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 the law of any jurisdiction in which this agreement the Performance Agreement is effective, the validity, legality and enforceability in that jurisdiction of the remainder of that provision (where appropriate) and of all other provisions of this Agreement will not be in any way affected or impaired thereby.

Entire Agreement

9.13 This Agreement contains the entire agreement between the parties with respect to its subject matter, supersedes all previous agreements and understandings between the parties relative thereto and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties. Nothing in this Clause will have effect to exclude the liability of either party for fraud or fraudulent misrepresentation.

Arbitration

9.14 Any dispute arising out of this Agreement will be referred for a binding decision to the UK Theatres Association (the UKTA), if the parties agree, and in default of agreement to a single arbiter to be appointed (in default of agreement) by the President for the time being of the UKTA subject to the provisions of the applicable law. The costs of the arbiter will be in his award.

Governing law, jurisdiction

9.15 This Agreement will be governed by and construed in all respects in accordance with English law and the parties hereto submit to the exclusive jurisdiction of the English courts.

10. Interpretation and definitions

10.1 The definitions and rules of interpretation in this clause apply in this Agreement.

"Agreement"	means the Performance Agreement together with the Terms and Conditions;
"DH"	means Darlington Hippodrome whose registered office is at Parkgate, Darlington DL1 1RR
Liabilities	all costs, actions, demands, expenses, losses, damages, claims, proceedings, awards, fines,

	orders and other liabilities (including reasonable legal and other professional fees and expenses) whenever arising or brought.
"Named Artists"	means the performer or performers in the Production named in the Performance Agreement;
"Producer"	means the producer as described in the Performance Agreement, also referred to as “he” or “they” which will be construed accordingly;
"Performance Agreement"	means the document relating to the Production within the Period of Engagement which incorporates these Terms and Conditions;
"Performance"	means a performance of the Production and Performances will be construed accordingly;
"Production"	means the production or productions as specified in the Performance Agreement to take place in the Theatre during the Period of Engagement;
‘‘Production Company’	means the Company touring the Production;
"Production Schedule"	means the list of Performance(s) and Performance times as detailed in the Performance Agreement;
“Terms and Conditions”	means the standard terms and conditions set out in this document together with any schedule thereto.

Comment [SF1]: Add definition / des;cption of what a production company is.

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, 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 A reference to any statute, order, regulation or similar instrument shall be construed as a reference to the statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

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

SCHEDULE 1

Contra Items and Recharges

1. The following is a list of **items which <u>may</u> be recharged as "contra items"** on the settlement (but only if they are required for the production):

1.1 Licensing - special permissions and variations relating to the Production;

1.2 Technical Equipment (DH equipment not included in the Theatre's technical specification or equipment hired in by DH);

1.3 Modifications to Theatre fabric, seating layout etc.;

1.4 Piano hire or tuning arranged by DH;

1.5 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 Cost of any seats booked by the Producer or his agents or staff in addition to the ticket allowances outlined in the Agreement;

1.8 Costs of any repairs or cleaning following damage caused by negligence of the Producer's artists, staff or agents during the Period of Engagement;

1.9 Costs incurred by DH, in addition to those in the Agreement, or an agreed facility fee, for filming or recording of the Production at the Theatre;

1.10 Cost of transport for any DH staff required to work before 7.00am or after 11.00pm;

1.11 The costs of programme insertions, copying, stationery or other office services supplied or used;

1.12 The costs of any reconfiguration or special constructions or adaptations to the fabric or layout of the Theatre including orchestra pit creation and reinstatement, required for the Production will be recharged to the Producer ; and

1.13 Additional payments for staff required to work in excess of a four hour call or due to any delays to the Production or Performances caused by the Producer's Artists staff or agents.

1.14 risk assessments, method statements or safe working procedures relating to the Production

ends