United Scenic Artists
Local USA 829, IATSE

Standard Design Agreement Theatre
2018-2020

Scenic, Costume, Lighting, Sound & Projection Designers
And Assistant Designers
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THE AGREEMENT

I. PREAMBLE

Whereas a Scenic Designer, Costume Designer, Lighting Designer, Sound Designer, Projection Designer and/or their Assistants, (hereinafter referred to as the “Designer”) and a not-for-profit institutional theatre or commercial producer (hereinafter referred to as “Employer” or “Producer”) have entered into an agreement wherein the Designer shall design a theatrical production (hereinafter referred to as the “Production”) and provide other services to the Employer with respect to the Production.

And whereas the Employer has recognized United Scenic Artists, Local USA 829, IATSE (hereinafter referred to as the “Union”) as the representative of the Designer with respect to the provision of designs and services to the Employer,

And whereas neither the Employer nor the Production is otherwise covered by or signatory to a Collectively Bargained Agreement,

The Employer and the Union hereby agree that with regard to the Production, the terms and conditions set forth herein shall govern the employment of the Designer.

This Agreement is made pursuant to the execution of an individual employment contract (the “Cover Sheet”) by the Designer and the Employer for the specific production named and detailed on the Cover Sheet, the form of said Cover Sheet being determined and provided by the Union.

With regard to commercial Employers, this Agreement shall, with respect to the design work now or hereafter covered hereunder, be binding on the Employer and any Principal of the Employer and shall so continue, jointly or severally, to be binding, notwithstanding any modifications, reorganization, merger, liquidation, insolvency proceeding or bulk sales of the Employer or the withdrawal by any Principal to continue business in the covered industry as Principal with a substantial interest or salary. "Principal" means a general partner of a partnership (including any general partner of the general partner); a managing member of a limited liability company (including any managing member or general partner of the managing member); the majority owner of a corporate employer; or a sole proprietorship.

It is hereby understood that this agreement sets forth the minimum terms and conditions agreed to by the Employer and the Union and nothing herein shall prevent the Designer from negotiating better terms and conditions than those herein provided. Such better terms and conditions shall be set forth in a rider to the Cover Sheet and shall in no way lessen, abrogate or contradict any of the terms herein. Notwithstanding the forgoing, the terms and conditions of this agreement shall not be modified except as may be expressly approved by the Union in writing.

II. SCOPE AND JURISDICTION

A. The scope of this Agreement applies to persons who are employed by the Employer to perform work covered under this Agreement including but not limited to all Scenic Designers, Costume Designers, Lighting Designers, Sound Designers, Projection Designers, and all categories of Assistant Designers.
B. This agreement does NOT apply to Commercial Touring Productions. If a tour is governed by the AEA Production Contract (including Tiered Touring) or the AEA SET Contract, then this Agreement shall be superseded and the applicable Union Agreement shall prevail. Please call the New York office for information and/or the appropriate contract.

III. GENERAL PROVISIONS

A. The Designer shall provide, as agreed upon by Employer and Designer, and according to the schedule specified in the Cover Sheet and Rider, visual presentations, specifications, selections, and/or approvals, and consultation customary for the execution of designs.

B. The Employer will provide, as applicable and on a timely basis; accurate technical drawings for Employer’s theatre; up to date equipment inventories; a script for the play; production schedules and budget; contact information for the general manager and/or technical director if applicable; and any other information required in order for Designer to fulfill their obligations to the Production.

C. Employer shall inform Designer of appropriate pre-production conferences connected with the Production, and Designer shall, at the request of Employer, attend such conferences so far as the Designer’s contractual commitments permit.

D. The Designer shall be responsible for the completion and delivery to the Employer of all designs and design specifications in accordance with Employer deadlines. If all information required in Article III.B. above is not received in a timely manner, Designer may request extension of deadlines, which shall not be unreasonable withheld.

E. A reasonable design period of not less than four (4) weeks is necessary prior to submission of the design for bids or beginning construction. For the Lighting, Sound and Projection Designers a design period of not less than two (2) weeks is necessary following the receipt of the final approved scenic design drawings. Additional consideration for Assistants and/or compensation will be provided if this period is unreasonably compressed.

F. For the convenience of the Employer, a Designer employed under this Agreement is required to provide, at his or her own expense, an office sufficient to perform administrative duties and to produce the drawings, sketches, models and other design work-product necessary to fulfill his or her obligations under this Agreement.

G. The Designer shall not be required to perform the work of the production staff.

H. The Employer agrees to engage adequate quality personnel for the proper realization and installation of the designs for the Production.

I. The Employer agrees to provide adequate workspace for costume fittings and storage of costumes during rehearsal. Such space shall be in reasonable proximity to the theatre or rehearsal hall and shall be secure and allow access at reasonable times.

J. If the Designer is required by Employer to attend meetings outside their point of residence, or to attend to matters of realization of the design away from their point of residence, including but not limited to shop/vendor visits or costume rentals, the Employer shall provide necessary per diem, travel and/or housing to be negotiated in good faith.

K. All uses of the design, subsequent to the initial Production as detailed in the Cover Sheet shall be according to the terms of Article XV herein.
L. Designer shall be offered the first opportunity to render Design Services for any future production, remounting or revival of the Production, produced, co-produced, leased, licensed or assigned by the Employer or its licensee(s) subject to the then current United Scenic Artists rates and conditions.

IV. DUTIES OF THE DESIGNER

A. The Scenic Designer shall design the setting and render the following services, if required, and agrees:

1. To complete sketches or sketch model(s) of the settings as necessary.
2. To supply working drawings, specifications for construction and color schemes or sketches as needed by the date specified in the contract rider.
3. To supply the contracting painter with color schemes or color sketches sufficient for the contracting painter.
4. To design, select or approve properties required for the Production, including draperies and furniture.
5. To supply specifications and revisions for competitive bids for scenery or property suppliers mutually satisfactory to Employer and Scenic Designer.
6. To attend rehearsals, tech and previews as necessary to design the Production.
7. To design and/or coordinate special scenic effects for the Production.

B. The Costume Designer shall design or coordinate the costumes and render the following services if required, and agrees:

1. To provide a costume plot and complete sketches or representations necessary for execution of costumes and to design, select or approve all accessories.
2. To supply color schemes/sketches or outline sketches with examples of materials for each costume including ornaments and detail.
3. To design, select or coordinate all contemporary costumes, including selections from the performer's personal wardrobe when necessary.
4. Select appropriate costumes from stock, rental or other resources and coordinate their adaptation for the Production.
5. To supply specifications and revisions for competitive bids for costume shops or other suppliers mutually satisfactory to Employer and Costume Designer.
6. To supply specifications for the shop, if applicable, to make, sew, construct/and or paint costumes and costume accessories and to approve the fabrication thereof.
7. To oversee the fittings and alterations of the costumes.
8. To approve hairstyles and/or select of wigs, hairpieces, mustaches, beards, prosthetics and special make-up.
9. To attend rehearsals, tech and previews as necessary to design the Production.

C. The Lighting Designer shall design the lighting and render the following services, if required, and agrees:

1. To provide full lighting equipment lists and a light plot drawn to scale from Scenic Design and theatre drawings provided by Employer.
2. To provide color, hook-up plots and instrument schedule including all information required for the realization of the design.
3. To coordinate and plot special lighting effects.
4. To supply specifications and revisions for competitive bids for lighting and special effects suppliers mutually satisfactory to Employer and Lighting Designer.
5. To oversee focusing of the lighting equipment and setting of lighting cues.
6. To attend rehearsals, tech and previews as necessary to design the production.
D. The Sound Designer shall design the sound and render the following services, if required, and agrees:

1. To provide all designs and design consultation for the Sound Design.
2. To design a sound delivery system that will properly execute the needs of the Production.
3. To provide, as necessary, sound equipment lists and a plot, including all information required for the realization of the design.
4. To supply specifications and revisions for competitive bids for sound equipment and studio time from suppliers mutually satisfactory to Employer and Sound Designer.
5. To approve the installation, optimization, tuning, and balancing of the sound system.
6. To oversee the programming and integration of sound cues into the Production.
7. To attend rehearsals, tech and previews as necessary to design the Production.

E. The Projection Designer shall design the projections and render the following services, if required, and agrees:

1. To provide all designs and design consultation for the Projection Design.
2. To design a visual effects delivery system that will properly execute the needs of the production and to provide technical drawings and specifications as required for the Production.
3. To supply specifications and revisions for competitive bids for the projection equipment and studio time from suppliers mutually satisfactory to Employer and Designer.
4. To work with the Employer’s technical staff to confirm the installation of the visual effects delivery system and the setting of cues.
5. To attend rehearsals, tech and previews as necessary to design the Production.

V. ASSISTANT DESIGNERS

The Assistant Designer shall assist and support the Designer in the work of the Designer.

A. Assistants to the Scenic, Costume, Lighting, Sound or Projection Designer (also referred to as “Assistants” herein) shall be engaged by the Employer at the request of the Designer subject to the approval of the Employer. Said Assistant’s terms and conditions of employment shall be governed by this Agreement.

B. A separate Cover Sheet must be filed with and approved by the Union for each Assistant. Employer will make salary payment directly to the Assistant(s) each and every week for which they have been contracted and worked.

C. It is understood that Assistant’s work week is five (5) days. The sixth day, if worked, will be prorated at one fifth (1/5) of their weekly salary. It is understood that a “company day off” (seventh day) will be granted to the Assistant. If required to work on the “company day off” (seventh day), the Assistant will be paid two-fifths (2/5) of their weekly salary for the seventh day.

D. The Assistant shall not be required to perform the work of the production staff.

E. A Designer may authorize an Assistant to coordinate preliminary work or additional work after the termination date if the Designer is not available. For a revival or co-production, an Assistant may substitute for the Designer to coordinate the remounting of the design at the Employer’s theatre or approve minor adaptation of the design as required at a new venue. This provision is subject to the Employer’s approval and will not be unreasonably withheld.
VI. COMPENSATION AND PAYMENT SCHEDULE

A. INDIVIDUAL DESIGNER’S AGREEMENT (Cover Sheet)

1. A Cover Sheet, provided by the Union, shall be promptly signed by the Employer and the Designer, each time and as soon as the Designer is engaged. The Designer shall not be required to furnish designs until the Employer has executed and the Union has approved said Cover Sheet. The Employer shall submit the Cover Sheet, accompanied by separate checks for the Pension and Welfare contributions, to the Union, within 7 business days of receipt of a signed copy from the Designer.

2. The Employer and the Designer shall agree on the compensation to be paid for each design project or service provided, and such compensation shall be stated in the Cover Sheet. A fee for each venue must be specified for “Co-productions”.

3. The Employer and the Designer shall agree upon a scheduled termination date, on or before the official opening, which date shall be specified in the Cover Sheet.

4. No Designers’ services shall be required beyond the contracted termination date specified on the Cover Sheet.

5. The announced closing date for not-for-profit theatre subscription productions must be stated on the Cover Sheet. Additional compensation is due if the production run is extended as per Article VI.E.2. herein.

6. Better terms and conditions, schedules and budget requirements specific to the production shall be placed in a Rider to the Cover Sheet and shall be deemed a part thereof. Anything in the rider, which in any way contradicts or contravenes this Agreement, which is applicable to the work performed pursuant to or in conjunction with the Rider, is null, void, and nugatory.

7. The Cover Sheet shall be signed in triplicate, by the Employer and the Designer, and Employer shall file all copies with the Union within seven (7) business days after receipt of signed copies from the Designer. If the Cover Sheet is not signed concurrently, Employer shall sign first and fax or email a copy to the Union concurrently with sending to the Designer for signature.

B. PAYMENT SCHEDULE

1. The Employer shall pay the agreed upon compensation to the Designer directly according to the following schedule:

   a) ONE-THIRD (1/3) upon the signing of the Cover Sheet by the Designer;

   b) ONE-THIRD (1/3) on the date that drawings, sketches, and/or specifications are accepted by the Employer, sufficient to begin execution of the design;

   c) ONE-THIRD (1/3) upon the specified termination date, but in no event later than the Press Opening Night.
C. ADDITIONAL WORK

1. For any substantial changes or additions to scenery, costumes and/or projections during the construction period, requested by and/or approved by Employer, the Employer and Designer shall agree upon additional compensation to be negotiated in good faith.

2. If any changes or additions to scenery, costumes, lighting, sound and/or projections are required by the Employer after the termination date, Employer and Designer shall agree in advance, on the number of days needed to make such changes. Designer’s compensation shall be no less than the minimum applicable Daily Rate listed in this Agreement.

3. Additional work will be memorialized in a rider to the original Cover Sheet specifying the name of the Designer, name of the Production, dates and nature of the work and total compensation. Addendum should be submitted to the Union with separate checks for pension and welfare.

D. COMPENSATION

1. For Not-For-Profit Theatres, the fees listed on the associated Rate Sheet attached hereto are minimums based on one venue and the budget categories as per the most recent TCG survey. The rates listed are minimums and are to be used as the basis of good faith negotiation between Employer and Designer for compensation appropriate to the specific design requirements of the Production. Upon request, the Employer shall provide to the Union documentation and/or information verifying the Employer’s budget category.

2. For non-touring Commercial Theatre the fees listed on the associated Rate Sheet are based on seating capacity, number of performances and top ticket price. The rates listed are minimums and are to be used as the basis of good faith negotiation between Employer and Designer for compensation appropriate to the specific design requirements of the Production. The Employer or their authorized representatives shall file with the Union documentation of the calculation used to determine the Tier Level to be used as the basis for minimum compensation to the Designers employed hereunder.

3. Unit Set with Phases:
   a) A “Unit Set with Phases” shall be compensated at not less than the rate listed on the appropriate Rate Sheet for a set that remains on stage for the entire performance of the Production. The set shall be so designed that it shall be capable, with or without alteration, of providing an environment for all actions, locales, times and other scenic requirements of the Production. If it is altered each alteration shall be called a “Phase”. A Phase is the introduction of new scenic elements, props, projections or other aspects of a Unit Set to indicate changes in locale, time, or mood where such changes shall substantially, although not completely, alter the stage picture previously seen.
   b) A “Media Wall,” established by changing panels, electronic devices or projections in a framework should not define a Unit Set if the ground plan of the set is altered from scene to scene. A Media Wall with a changing ground plan from scene to scene is classed as a Multi Set.
   c) A “Show Drop”/“Act Curtain” shall represent a Phase. However, any additional Drops, Scrims, or Backcloths that hide the basic set shall alter the classification to Multi Set.
4. If the Employer requires a full working color model, it is agreed that in order to accomplish this work, the Scenic Designer will receive additional compensation and/or be supplied with an Assistant, to be negotiated and agreed to in advance.

5. For Sound Designers; pre-approved studio rental, content creation, any third party costs, and original music costs shall not be included in the fee. For Projection Designers; pre-approved equipment and facilities, content creation, and any third party costs shall not be included in the fee.

6. Compensation for subsequent use of the Design is governed by Article XV herein.

E. ADDITIONAL WEEKLY COMPENSATION (AWC)

1. Starting with the first paid public performance Designers shall receive AWC as negotiated by the parties, but in no event less than the AWC as set forth on the associated Rate Sheet herein. The AWC is based on an eight (8) performance week. Any variation in a performance week may be prorated. An additional one-eighth (1/8th) of the agreed upon AWC shall be paid for each performance beyond eight (8) in any performance week.

2. In all cases AWC shall be paid to the Designer not later than the Thursday following the close of each week.

3. Pension and Welfare contributions are due on all AWC payments. These contributions shall be paid by separate checks and forwarded on a weekly basis directly to the nearest regional office of United Scenic Artists listed at the end of this document.

4. Not-for-Profit Theatres are not obligated to pay AWC unless the production is extended beyond the originally scheduled performances as specified in the Cover Sheet. A Designer shall receive Additional Weekly Compensation according to the associated Rate Sheet attached hereto for all weeks that a production runs in excess of its originally scheduled number of performances. In no event shall the originally scheduled number of performances exceed the original employment period established on the actors’ contracts for the Production.

5. AWC shall continue for the run of the Production, and for the entire run of each subsequent production (including but not limited to revivals, moves, transfers, tours, sales or rentals).

6. No waiver of AWC will be permitted without the specific prior written consent of the Designer and the prior approval of the Union.

VII. CO-PRODUCTION

A. Productions that are produced and financed jointly by two or more Employers (hereinafter referred to as “Co-Producers” or “Co-Employers”) to be presented in more than one venue shall be considered “Co-Productions”. The Co-Employers, through their designated “Lead Employer” shall jointly engage the Designer for the Co-production. All Employers, performance venues, and performance dates or tentative dates, must be made known to the Designer and specified in writing as part of the Cover Sheet and Rider (if any). All terms of compensation for the entire Co-Production shall be set forth in the Cover Sheet and Rider (if any). All Co-Employers responsible for payment to the Designer must sign the Cover Sheet. If the Lead Employer pays all compensation, the Lead Employer may sign on behalf of all Co-Employers.
B. A production designed for one venue or for a “Co-Production”, and subsequently performed at one or more venues not defined in the original Cover Sheet shall be considered a Transfer as per the terms of Article XV herein.

C. For any Co-Production (as defined above):

1. If there are two (2) Co-Employers, the Designer shall be compensated at no less than One Hundred Fifty percent (150%) of the fee listed on the applicable rate sheet.

2. For each additional Co-Employer, beginning with the third, the Designer’s fee will increase by no less than Forty percent (40%) of the original fee or Forty percent (40%) of the Co-Employer’s applicable minimum fee, whichever is greater. Each Co-Employer must be named on the Cover Sheet and Rider with dates of performance.

3. The reduction in fees after the first venue in Co-Productions assumes a license fee with no additional work. If, after the first public performance, any additional work is required at the first venue or to accommodate any subsequent venue, the Designer and or the Assistants shall be offered the first opportunity to perform such work and shall be paid no less than the Daily Rate for each day worked.

4. If the Designer’s presence is required at a subsequent venue to attend: rehearsals, load-in, technical- rehearsals or previews, they shall be compensated, at no less than the Daily Rate, for each day worked including travel days. A minimum of five (5) days shall be paid. Assistants shall receive the Daily Rate for each and every day worked.

5. The Designer and the Co-Employers may, at the signing of the Designer’s Cover Sheet, approve of an Assistant or deputy Designer to implement the design and coordinate the installation of the design used by the subsequent Co-Production Companies. The Assistant or deputy in this case will be compensated at no less than the applicable Designer daily rate. If the dates of any Co-Production change, any work or revision shall be subject to the Designer’s, Assistant’s or deputy’s availability.

6. Any use of the designs beyond those specified in the Cover Sheet, including Transfer of the Production to a venue not specified at the time of signing, shall be governed by Article XV herein.

VIII. NOT FOR PROFIT PRODUCTIONS CREATED TO TOUR

A. A Touring Production is defined as a production that is designed as a “tour package” and not for a specific venue.

B. Fees for Touring Productions shall be as per Article VI herein.

C. All tours shall pay AWC starting with the first paid public performance.

D. Terms for productions designed for one venue and subsequently sent out on tour, moved to a new venue by the Employer, or transferred to a new Employer, are contained in Article XIV herein. Any Production that is produced as a tour at a Not for Profit entity, that subsequently goes out as a commercial tour shall be subject to the terms of Article II. (B) herein.
IX. POSTPONEMENT AND ABANDONMENT

A. If the opening date is postponed, payments shall be made with the same force and effect as if the production had been carried out and opened on the originally named date so long as the Designer shall have completed the necessary working drawings and color sketches or plots.

B. If the opening is postponed for four (4) weeks or more, the Designer shall perform the remaining services only so far as the Designer’s other contractual commitments permit. The Designer may, in this case, approve an Assistant or deputy Designer to be mutually agreed upon by the Employer and the Designer, to coordinate the realization and/or installation of the design for the Production. Additional fees for these added design services will be negotiated in good faith and agreed to prior to the commencement of the added design services.

C. In the event the Production is abandoned prior to the first public performance and the Designer shall have completed the necessary working drawings and color sketches or plots the Designer shall receive three quarters (3/4) of the originally agreed upon payment.

D. In the event the production is abandoned and the Designer has not completed the designs agreed upon, the Designer and the Employer shall agree to negotiate the remaining payment due, but in no event shall the Designer receive less than one-half (1/2) of the originally agreed upon payment.

X. REIMBURSABLE EXPENSES

A. Employer shall reimburse Designer for pre-approved expenses incurred in the creation of the design for the Production including, but not limited to, the following: art and drafting materials, model building, sound studio expenses, a proportional share of computer software expenses, printing expenses, postage, shipping, and copying. Reimbursable Expenses do NOT include, nor shall the Designer be responsible to pay for any materials necessary for the implementation of the design or that are included in the production budget (such as lumber, equipment rentals or costume materials).

B. Employer agrees to make funds or forms of credit available, in advance, for production related expenditures. Employer shall notify Designer prior to the commencement of work if they are tax exempt and if so, Designer shall use best effort to use a legally executed Tax Exempt Form as provided by the Employer. All cash expenditures will be accounted for, to the Employer, in the form of receipts or other proofs of purchase, submitted no later than thirty (30) days after the official opening of the Production. Employer shall reimburse the Designer for receipted expenses within thirty (30) days of submission.

C. No Designer shall be held responsible for use of Tax Exempt Form unless Employer provides Designer with an ID sufficient for acceptance of the Tax Exempt Form.

D. Employer shall advance to Designer funds or forms of credit sufficient to execute the designs for the Production.

E. Employer agrees to reimburse Designer for all out-of-pocket expenses for local transportation when required for the purchase, coordination or assembly of items related to the Production.

F. Receipted reimbursed expenses shall not be considered income to the Designer, nor reported as income for tax purposes.
XI. TRAVEL, HOUSING AND PER DIEM

The Employer agrees to provide, when the Designer and/or Assistants are required to travel away from their point of residence for work on the Production:

A. Portal to Portal Regular Economy class transportation, including baggage fees for up to two bags of personal effects, provided they are not oversized or overweight, by regularly scheduled economy (excluding the new class currently called “Basic Economy”) air transportation on a first class carrier. If the Designer elects to use their own vehicle, they shall be reimbursed at the current IRS mileage rate, for their expenses up to, but not to exceed, the cost of transportation as set forth above. It is understood that the two-bag limit does not include pre-approved design related equipment (e.g. video or sound editing equipment) or pre-approved shipment of purchases, such as costumes as checked baggage, rather than by a more cost-effective method.

B. Clean, safe and secure single occupancy hotel accommodations with private bath or a furnished apartment. Said accommodation shall provide high-speed consumer grade, broadband internet access, at no cost to the Designer.

C. Per Diem at the United States General Services Administration meal allowance rate for the year in, and city to, which the travel occurs.

XII. BILLING

A. Designers shall receive billing in the program on the title page, cast page, or with placement substantially comparable to such, houseboards, press releases and on Employer’s website show page in the customary order of Scenic, Costume, Lighting, Sound and Projection Designer.

B. Billing shall also be given to Designers on posters and in printed advertisements where billing is given to anyone other than the lead producer, author, director, or stars billed above the title. Billing shall be clearly legible in relation to the use of the medium. The foregoing shall not apply to cases of congratulatory or award advertisements.

C. In all instances, each Designer shall receive billing in the same size, quality, and format as the other Designers. In all cases where any Designer receives billing, all Designers shall receive billing. The foregoing shall not apply to cases of congratulatory or award advertisements.

D. Employer shall include a biography of each Designer in the program for the Production. Designer shall have the right of approval of biographical materials for the program. Approval must be in writing and shall not be unreasonably withheld. Biographical materials not approved within 48 hours of its submission to the Designer shall be considered approved.

E. Original cast recordings and any electronic reproduction produced or licensed by the Employer shall include the names of all Designers if the Director's name appears.

F. The following notice or other acceptable written recognition shall appear in all Employer programs:

United Scenic Artists, Local USA 829 of the IATSE is the union representing Scenic, Costume, Lighting, Sound and Projection designers in Live Performance.

Such notice will appear with the USA 829 logo, of which multiple formats are available for download on the Union's website www.usa829.org.

G. Inadvertent omission of any of the requirements herein shall be rectified, if possible, upon notification, but, in any event, shall not be considered a material breach of this Agreement.
XIII. PROPERTY RIGHTS

A. All rights in and to the design as conceived by the Designer in the course of the rendition of their services hereunder shall be, upon its creation, and will remain, the sole and exclusive property of Designer; it being understood, however, that the Employer and its licensee(s) shall have a perpetual and irrevocable license to use the designs in any stage production or electronic reproduction of the play as per the terms of this Agreement. Any additional use or license of the design by the Employer shall be subject to further agreement between Employer and Designer.

B. Except for matters of safety, the Employer agrees not to alter nor permit anyone to alter or make substitutions for settings, properties, costumes, lighting, projections, sound, or special visual effects as designed and approved by the Designer after the termination date without the deliberate written consent and approval of Designer, which shall not be unreasonably withheld.

C. All original drawings, renderings, models, paint elevations, elevations, and other specifications shall be returned to the Designer no later than thirty (30) days following the final public performance of the production. The Employer shall have the right to retain copies of all of the foregoing. Design materials retained by Employer may be used for its promotional and public relations purposes, which are understood to include community, promotional, and similar non-commercial purposes.

XIV. ARCHIVAL AND PROMOTIONAL RECORDING

Where any part of the scenery, costumes, lighting, projections and/or sound, or the design for same, are broadcast, captured or recorded during rehearsal or performance by any means for use as a television or internet broadcast advertisement, or for an educational or promotional documentary or program about the Production; and where no more than fifteen (15) minutes of edited performance and/or rehearsal capture are used, no additional compensation shall be due to the Designer.

For archival purposes of the theatre or other official library theatrical archive, Employer shall have the right to make a film, videotape, or otherwise capture the final dress rehearsal or one single performance of the Production. Such archival recording shall be labeled "for archival use only" and shall remain in Employer’s possession or at designated library theatrical archive at all times.

The Employer shall not release any part of a promotional or archival recording, for any purpose whatsoever, without the prior written consent of the Designer and the Union.

XV. SUBSEQUENT USE

Employer shall give written advance notice to Designer and Union, of its intent to use original design(s) in order to revive, remount, move, or tour the Production; or its intention to transfer the Production to another producer through license, lease, sale, rental or any other means (hereinafter referred to as the “Subsequent Production”). The Employer will supply the production schedule and dates of the Subsequent Production, if known, at the time of notification.

The original Employer shall be responsible to the Designer to secure in writing from any individual or company who buys, leases, rents, licenses or otherwise receives through a donation or any other means the scenic, costumes, lighting, sound or projection designs, or design concepts, all rights and compensation as contained herein.

All Subsequent Use Payments shall be subject to Pension and Welfare Contributions.
It is the intent and essence of this paragraph that the actual, physical scenery, costumes, lighting plot, projections and/or sound tapes, discs or other media, be considered the design and design concept, and as such no subsequent use is permitted without compliance hereto. The Employer or its licensee shall not use the designs for the scenery, the scenery as a whole, the designs for the costumes, the complete set of costumes, the design for the lighting, the design for the projections, the projection media, the design for the sound, or the sound tapes, discs or other sound media in any live stage production or electronic reproduction of the Production without the prior written permission of and additional compensation to the Designer. Compensation for additional use or license of the design by Employer shall be subject to additional agreement between Employer and the Designer.

A. REMOUNTS, REVIVALS, MOVES, TRANSFERS AND TOURS

If the Employer revives, remounts, transfers, moves or tours the Production with the original design and determines that additional work is required, the Designer shall be afforded the first option to perform such additional work. The Employer shall make best efforts to give the Designer no less than Thirty (30) days written notice of such revival, remount, transfer, move or tour and the Designer shall have Fourteen (14) days in which to respond to Employer in writing.

Employer and Designer shall mutually agree upon the scope of additional work required, if any, to facilitate the revival, remount, transfer, move or tour, and the number of days needed for additional work. To the extent Designer is unable or unwilling to perform the additional work, Employer, after consultation with Designer, may employ, at its sole cost, a deputy designer or an Assistant to perform the additional work.

Should extensive redesign be required, the parties will negotiate compensation in good faith.

1. REMOUNTS AND REVIVALS

If the original Employer uses the original design in a remount or revival of the Production, Designer shall receive a minimum of Thirty-Five Percent (35%) of their contractual fee or Thirty-Five Percent (35%) of the current applicable minimum fee, whichever is greater, plus an AWC beginning with the first paid public performance.

If there is additional work required to remount or revive the Production including redesign and/or, attendance at fittings, rehearsals, technical rehearsals and previews, Designer shall be paid the applicable Daily Rate for any such work.

2. MOVING THE PRODUCTION

If the original Employer moves the Production to another theatre using the existing scenery, costumes, lighting, sound or projections:

   a. The Designers shall receive AWC beginning with the first paid public performance.

   b. If the seating capacity of the new theatre is larger than that of the original theatre the AWC shall be increased accordingly. The count of performance weeks shall be cumulative, including all weeks at previous venues.

   c. If there is additional work required to prepare the Production to move to another theatre including redesign and/or, attendance at fittings, rehearsals, technical rehearsals and previews at the new theatre, Designer shall be paid the applicable Daily Rate.
3. TRANSFERS

A Transfer is a production that moves from one Employer to another, typically with artistic input from both the original Employer and the subsequent producer/Employer.

a. If the Employer transfers the Production with the original design to another producer, the Designers shall have the first option to perform any additional work required by the subsequent Employer.

b. The Designer shall be paid a minimum of Sixty Percent (60%) of the original fee. This does not require the Designer to be on site at the subsequent producer’s theatre. If the Designer is required to attend the load-in and/or performances at the new theatre, and/or to travel away from their point of residence for work on the subsequent production, additional Day Rates plus transportation, housing and per diem as per Article XI shall apply. In addition, the Designers shall receive AWC beginning with the first paid public performance. If the seating capacity of the new theatre is larger than that of the original theatre the AWC shall be increased accordingly. The count of performance weeks shall be cumulative, including all weeks at previous venues.

c. If Employer transfers the production with the original design to another producer and that producer is covered by another USA 829 Agreement containing better terms and conditions than those herein, such applicable Agreement shall prevail.

d. If the Employer transfers the production with the original designs to a commercial producer not covered by a USA 829 Agreement, but to a Tony Eligible Broadway Theatre, the terms and conditions as set forth in the United Scenic Artists /Broadway League Agreement shall prevail.

4. TOURS

A Tour is a production that moves to multiple venues with minimal alteration.

a. If a Production that is designed as a touring production, as per Article VIII herein or otherwise, goes on hiatus or closes and is later reopened, or revived, the Designer’s AWC shall resume with the first paid performance. If there is additional work required to prepare the Production to tour including redesign and/or, attendance at fittings, rehearsals, technical rehearsals and previews at the first “jump” following NYC, Designer shall be paid the applicable Daily Rate.

b. If a “sit down” production closes and is subsequently sent out on tour by the original Employer, the Designer shall be paid a minimum of Fifty Percent (50%) of their original fee or Fifty Percent (50%) of the applicable tour fee, whichever is greater, plus AWC shall be paid starting with the first paid public performance, based on the rate for the theatre in the largest budget group into which the tour is booked as per the attached Rate Sheet. If there is additional work required to prepare the Production to tour including redesign and/or, attendance at fittings, rehearsals, technical rehearsals and/or previews at the first “jump” following the first city, Designer shall be paid the applicable Daily Rate.
c. If the original Employer leases or licenses the touring rights to another producer, or if the original Employer has no touring rights, or relinquishes their touring rights but rents or sells the physical production to another producer for the purpose of touring:

i. The Scenic and Costume and Projection Designers shall be paid Seventy-Five Percent (75%) of their original fee or Seventy-Five Percent (75%) of the applicable tour fee whichever is greater.

ii. The Lighting and Sound Designers shall be offered the first opportunity to design the tour and shall be paid the full applicable fee for the tour.

iii. If there is additional work required to prepare the Production to tour including redesign and/or, attendance at fittings, rehearsals, technical rehearsals and/or previews at the first “jump” following the first city, Designer shall be paid the applicable Daily Rate.

iv. AWC shall be paid starting with the first paid public performance, based on the rate for the theatre in the largest budget group into which the tour is booked as per the attached Rate Sheet.

v. Any commercial touring production, whether originally designed as a tour production as per Article VIII herein, or subsequently sent out on tour by the original Employer or another producer as described herein, that is governed by the AEA Tiered Touring Contract, the AEA SET Contract or the AEA Production Contract, then this Agreement shall be superseded and the applicable Union Agreement shall prevail. However, if the tour utilizes only the AEA Production Contract rates (including Tiered Touring rates), or the AEA SET Rates, without being governed by the full terms and conditions of said contract, then the tour shall be governed by the USA 829 Independent Producer Touring Agreement.

B. SALE OR RENTAL OF PRODUCTION

If the Employer sells or rents the existing scenery, costumes, lighting, projections, or sound designs for a theatrical use other than described in Article XV.(A) herein, including the rental or sale of a unique design element; and provided that the Designer is not already receiving compensation and/or AWC under Article XV.(A) herein for the same production or usage, then:

1. Designer will receive not less than twenty percent (20%) of the sale or rental price.

2. This payment does not affect any rights Designer may have under other provisions of this Agreement nor does it confer on the purchaser or renter any right to subsequently reproduce, remount or use in any way, Designer's designs without notification and prior written permission from Designer.
3. The original Employer shall notify the Union and the Designer at the time of sale or rental of the amount of the sale price or rental fee and the identity of purchaser or renter and the intended use. Employer shall advise the purchaser or renter in writing, of the limitations and obligations contained in this Agreement.

4. The receiver of the production shall offer the original Designer the first opportunity to perform any work required to remount the production and shall pay the Designer AWC for all paid performances at the rate applicable to the performance venue.

5. In all cases, the original Employer of record shall be responsible to the Designer to secure and guarantee in writing from any producer who buys, leases, rents, or otherwise receives by any other means the scenery, costumes, lighting, projections, sound design or design concepts, all the rights contained herein and in any attached Riders to the original Cover Sheet.

6. In the event the Producer donates the production to a third party, the Employer shall advise the third party in writing, of the limitations and obligations contained in this Agreement and shall notify the Union and the Designers of any such donation.

C. USE OF DESIGNS FOR A DIFFERENT PRODUCTION

If existing scenery, costumes, lighting, sound or projections are used in their entirety (or substantially so) by the Employer or a third party for a theatrical production other than that for which the designs were originally created, the following shall apply:

1. The Employer shall notify the Designer and the Union in writing of the intended use.

2. The Employer shall pay the Designer not less than; Seventy-Five percent (75%) of their original fee or Seventy-Five percent (75%) of the current applicable fee for the venue of production, whichever is greater. A new Cover Sheet or a Rider to the original Cover Sheet shall be filed with the Union for the Designer before the first public performance of the production.

3. The original Designer shall have the right of first refusal to perform any additional work required to adapt the designs to the new Production. The Designer shall be given a minimum of ten days (10) to accept or decline. The applicable Daily Rate will be paid for any work required, including work done in the theatre.

4. Regardless of who performs the additional work, the original Designer shall be paid AWC at the rate for the new production’s venue, beginning with the first paid public performance.

D. CAPTURE AND BROADCAST OF THE PRODUCTION

Except as expressly provided for herein, no Employer, Subsequent Employer or any third party shall capture, broadcast, exhibit, distribute or otherwise disseminate by any means whatsoever, whether live or recorded, any visual image or sound of a rehearsal, performance or any other part of the Production, where any part of the scenery, costumes, lighting, sound and/or projections for the Production, or the designs for the Production, can be seen or heard.

1. The Employer shall notify in advance and in writing, the Union and the Designer, prior to any capture, recording or broadcast of the Production. Notice of all such broadcasts and/or any such capture or recording, and of the agreed upon compensation to be paid therefore, shall be filed with the Union as a supplement to the Cover Sheet.
2. The Employer shall not have the right to assign, lease, sell, license or otherwise capture or use, directly or indirectly, any of the designs and/or scenery, costumes, lighting, sound and/or projections for use in motion pictures, videotape, compact disc, digital video disc, television, live broadcasts, simulcast, tapes or film, or any method that currently exists or that may be developed in the future, for any use whatsoever, except as specified in this Agreement, without the prior written approval of the Designer and without negotiating with the Union for such use.

3. Where the designs in this Agreement and/or any scenery, costumes, lighting, sound or projections, in part or in whole, used for reproduction for television broadcasting (whether live, filmed or any other process), streamed live, or released in any other format including but not limited to VOD, Digital Cinema or for direct sales to the public, in any and all media now known or hereafter devised, the Employer shall agree that prior to such use, Employer will deposit in the office of the Union a cash bond in a sum equal to the following amounts in full consideration for such use:

   a. For any single use, including but not limited to television (whether by closed- circuit, cable, satellite or over-the-air broadcast), internet streaming, VOD, Digital Cinema or direct sales to the public, the amount of the Designer's fee for those designs actually used shall be negotiated on a case-by-case basis.

   b. For any single commercial use, including but not limited to television (whether by closed- circuit, cable, satellite or over-the-air broadcast), internet streaming, VOD, Digital Cinema or direct sales to the public One Hundred Percent (100%) of the Designer's original design rate for those designs actually used with a minimum of Five Thousand Dollars ($5,000).

   c. For any single non-commercial use, including but not limited to television (whether by closed- circuit, cable, satellite or over-the-air broadcast such as PBS), internet streaming, VOD, Digital Cinema or direct sales to the public Seventy-Five Percent (75%) of the Designer's original design rate for those designs actually used with a minimum of Three Thousand Five Hundred Dollars ($3,500).

   d. The rights granted under this provision are limited to a single broadcast or release and no rights are granted beyond this initial broadcast/release, (except for PBS where a single release shall be defined as unlimited broadcasts over a one week period) nor is any right granted herein to reproduce said television broadcast or showing by means of film, electronic tape or other means, except upon written agreement with the Designer and the Union and upon payment of the monies for each broadcast as provided herein.

4. For all broadcasts, releases or recordings of the production which use the original scenery, costumes, lighting, sound or projections, or the designs for same, the Designers shall receive legible on-screen billing as follows, unless otherwise agreed: Scenery designed by ____, Costumes designed by ____ , Lighting designed by ____ , Sound designed by ____ and Projections designed by ____ .

5. The Employer shall not create or license the creation of products including, but not limited to, compact discs (CDs), digital video discs (DVDs), Blu-Ray, or other direct to the public media, or electronic download, or any and all media now known or hereafter devised, in the world, in perpetuity, made from captured material, without reaching an agreement for such creation and distribution with the Union.
XVI. SAFETY

The parties recognize that it is in their mutual best interest to promote safe and healthful conditions in the Employer's workplace(s). Designers and the Employer shall use their best efforts to confer, at the reasonable request of either, and endeavor to improve and/or correct any conditions to effect such purpose.

XVII. LIABILITY, REPRESENTATIONS AND WARRANTIES

A. The Designers are responsible for the visual and/or aural aspects of the Production only, and it is understood that all specifications relate solely to the sound or to the appearance of the scenery, costumes, lighting, and projections, and not to matters of safety. Designer agrees to make prompt correcting alterations to any specification found by the Employer to be incompatible with proper safety precautions.

B. The Employer will indemnify, defend, save, and hold the Designer(s), their heirs, executors, administrators, and assigns harmless from and against any and all liability, charges, costs, expenses, claims, and/or other loss, including reasonable attorneys' fees, whatsoever which they may suffer by reason of the designs furnished hereunder.

C. Employer agrees that it shall carry comprehensive general liability insurance applicable to any claims that may arise due to any work that performed under this Agreement. Designer shall be furnished with a copy of certificate of such insurance, upon request.

XVIII. DISPUTE

A. In the event of a difference, dispute, or controversy between the parties hereto relating to this Agreement, which cannot be settled by representatives of the Union and the Employer, the matter shall be submitted to an arbitrator designated by the American Arbitration Association. The arbitration shall be conducted in New York City and in accordance with the Voluntary Labor Arbitration rules of the American Arbitration Association.

B. The arbitration shall be by one Arbitrator whose fees and expenses, including expenses normally charged by the American Arbitration Association, shall be apportioned equally between the Employer and the Union. It is further understood that each party is responsible for and shall pay the cost of its own transcript, witnesses, representatives, etc. in the presentation of their case before the Arbitrator.

C. The Arbitrator shall not have the power to amend, modify, alter or subtract from this Agreement.

D. The decision of the Arbitrator shall be final and binding on all parties.

XIX. PENSION AND WELFARE BENEFITS

A. In order to provide certain pension benefits to the Designers employed under this Agreement, the Employer shall make pension contributions on behalf of every person employed hereunder, in an
amount equal to 9% of the gross compensation of each person so employed, to the United Scenic Artists Pension Fund.

B. In order to provide certain welfare benefits to the Designers employed under this Agreement, the Employer shall make welfare contributions on behalf of every person employed hereunder, in an amount equal to 12% of the gross compensation of each person so employed, to the IATSE National Benefit Fund.

When the Employer makes their initial Welfare contribution or when Employer changes their address or EIN, they shall submit a Company Data Sheet to the IATSE National Benefit Fund.

C. Pension and Welfare contributions must be submitted on two separate checks, made payable to the United Scenic Artists Pension Fund, for pension, and the IATSE National Benefit Funds, for welfare. Contributions must be submitted upon the filing of, and attached to, the Cover Sheet for each Designer employed under this Agreement, and sent to the appropriate Union office.

Pension and Welfare contributions shall be due and payable no later than seven (7) days following the payment of the AWC, daily rate or other compensation due under this Agreement.
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