

United Scenic Artists  
Local USA 829, I.A.T.S.E.



And  
The Off-Broadway League



New York City

**United Scenic Artists, Local USA 829 IATSE and The Off-Broadway League  
New York City**

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**AGREEMENT  
BY AND BETWEEN  
THE OFF-BROADWAY LEAGUE  
AND  
UNITED SCENIC ARTISTS, LOCAL USA 829, IATSE**

**AGREEMENT** made this 22<sup>nd</sup> day of April 2021, by and between The Off-Broadway League (“League”) by and on behalf of its current and future members, including but not limited to, Individuals, Institutional Not-for-Profit Theatres and Commercial Producers (the “Employer”) and United Scenic Artists, Local USA 829, International Alliance of Theatrical Stage Employees, AFL-CIO (the “Union”), for and on behalf of persons now employed or hereafter to be employed by League members (the “Designers”) as herein after defined.

The Employer and the Union hereby agree that with regard to Off-Broadway theatrical productions (the “Production”), the terms and conditions set forth herein shall govern the employment of the Designer.

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. This provision is of the essence of this Agreement. 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 and the League in writing.

The Union acknowledges that the League has as a part of their mission the fostering of young talent.

NOW, THEREFORE, it is mutually agreed as follows:

**I. RECOGNITION**

The League hereby recognizes United Scenic Artists, Local USA 829 (the Union) as the sole and exclusive bargaining agent for Designers covered under this Agreement subject to the provisions of Section 9 (a) of the *National Labor Relations Act of 1947* as amended. The League agrees to recognize and deal with such representatives of the Union as the Union may elect or appoint.

**II. SCOPE AND JURISDICTION**

- A. The scope of this Agreement applies to persons who are employed to perform work covered under this Agreement including, all Scenic Designers, Costume Designers, Lighting Designers, Projection Designers, Sound Designers and Assistant Designers, if engaged.

The League acknowledges and agrees to the creation of a new Off-Broadway Membership Candidate Program as outlined in Side Letter 3.

Exempted from coverage under this Agreement are full time staff members of Institutional Not-For-Profit League member Employers, (persons who are afforded benefits and other terms and conditions of employment generally applicable or substantially comparable to those of other staff members of

Employer). In the instance where two League members are co-producing a project in a single venue, the staff of either theatre shall be exempt.

- B. Unless otherwise agreed to in writing between the League and the Union, this Agreement is applicable to League Productions presented in any theatre having 100 to 499 seats, in the five (5) boroughs of the City of New York. The scope of the work covered under this Agreement includes, but is not limited to, the planning and design of all manner and type of theatrical scenery, properties and machinery, and the movement and sequencing thereof; the design of costumes, clothing and accessories; the design of lighting; the design of projections; and the design of all sound, sound effects, pre-recorded music and enhancement of “live” voices, musical instruments and sound elements for both theatrical and alternative performance spaces. Benefits, galas and other non-theatrical events are not covered work hereunder, but coverage under a Union Project Agreement may be negotiated between the Designer and the Employer.

### **III. UNION SECURITY**

- A. As a condition of employment, upon being hired for their third design assignment on a League Production, every Designer shall be required to make application to join the Union. Assistant Designers shall be required to make application when hired for their fourth (4<sup>th</sup>) League Production. This provision shall not apply to Assistant Designers who are hired as part of the Off-Broadway Membership Candidate Program. For the purpose hereof, a Production with a non-League Employer adhering to the terms of the League Agreement shall be deemed a League Production.
- B. Nothing in this Article shall be construed to require an Employer to cease or refrain from employing a Designer if the Employer has reasonable grounds for believing that:
1. Membership in the Union was not available to them on the same terms and conditions generally applicable to other members; or
  2. Membership in the Union was denied or terminated for reasons other than their failure to tender the periodic dues and the initiation fee uniformly required by the Union as a condition of acquiring or retaining membership.
- C. The Union agrees to propose for membership on non-discriminatory terms any present or future Designers employed by Employer whose membership in the Union would be required by this Article.

### **IV. COVERAGE**

This Agreement is entered into by the parties hereto only with respect to, and is applicable only to, design services (hereinafter referred to as "Covered Services" or "Coverage"). A Covered Service is a design service for a stage production produced by an Employer and announced or actually running for at least Twenty-One (21) performances, but excludes workshop productions, children's theatre productions, educational and outreach productions, student audience productions, dark night productions, and readings.

- A. At Institutional Not-For-Profit theatres with an annual budget in excess of Four and One Half million dollars One hundred percent (100%) of design positions shall be *Covered Services*
  - 1. At Institutional Not-For-Profit theatres with an annual budget in excess of Four and One Half million dollars, in any season, up to Twenty-Five (25%) of Assistant Designer positions (including Membership Candidates) may be exempted from *Coverage*.
- B. At Institutional Not-For-Profit theatres with an annual budget of Four and One Half million dollars or less (Rate Tiers 3, 4 or 5); in any season, up to 50% of the total design positions may be exempted from *Coverage*.
  - 1. At Institutional Not-For-Profit theatres with an annual budget of Four and One Half million dollars or less (Rate Tiers 3, 4 or 5); in any season, up to Fifty percent (50%) of the total Assistant Designer positions (including Membership Candidates) may be exempted from *Coverage*.
- C. At Institutional Not-For-Profit theatres with an annual budget of Four and One Half million dollars or less (Rate Tiers 1 & 2); in any season, up to 75% of the total design positions may be exempted from *Coverage*.
  - 1. At Institutional Not-For-Profit theatres with an annual budget of Four and One Half million dollars or less (Rate Tiers 1 & 2); in any season, up to Seventy-Five percent (75%) of the total Assistant Designer positions (including Membership Candidates) may be exempted from *Coverage*.
- D. For the first full season at any new Institutional Not-For-Profit League member theatres with an annual budget of Four and One Half million dollars or less, up to 100% of the total design positions may be exempted from *Coverage*.
- E. Design positions on Commercial foreign productions imported as a “package” shall be exempted from *Coverage*, except as per IV (9) below.
- F. Design positions on all Commercial productions shall be exempted from *Coverage*, except as per IV (9) below or unless the security Clause in III (A) is triggered, in which case the position is not eligible for exemption.
  - 1. On Commercial productions in Tiers A and B, up to One Hundred percent (100%) of the total Assistant Designer positions (including Membership Candidates) may be exempted from *Coverage*.
  - 2. On Commercial productions in Tiers C and D, up to Fifty percent (50%) of the total Assistant Designer positions (including Membership Candidates) may be exempted from *Coverage*.
- G. Design positions exempted from coverage will not be subject to the terms and conditions of the Agreement except that the Employer will provide the Union with the name, agent information and design category of designer employed in an exempted design position for purposes of tracking compliance with the security clause.
- H. This provision shall not be used deny coverage to Union members in good standing or Membership Candidates, who shall be accorded full rights under this agreement, nor to employ a designer or Membership Candidate who has previously been engaged in covered employment under this Agreement.
- I. Any Designer whether or not a member of the Union who is engaged by Employer to design a *Covered Service* on a League Production must sign a *Cover Sheet*.
- J. All provisions in Article IV. Coverage pertaining to Assistant Designers shall remain in effect for the following two (2) contract cycles.

## V. 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(s) to fulfill his/her 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.
- 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 V.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.
- 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 their 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 New York City, or to attend to matters of realization of the design outside New York City, 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. Each Not-for-Profit League Employer shall, upon request, provide the Union with a Season Schedule, which may be amended.
- L. The League shall provide the Union with a current list of League members and shall notify the Union as changes to such list occur.

## **VI. RIGHT OF FIRST REFUSAL**

- A. On Not-For-Profit Productions: Designer shall have the right of first refusal to design the first subsequent production of the Production in New York City, produced, co-produced, leased, licensed or assigned by Employer or its licensee(s) if such production occurs within three (3) years of the close of the original production and when the original Director is hired or the original direction is used and provided Designer has complied with all Designer's material obligations hereunder. Right of First Refusal shall not be due if the design element for which Designer was responsible is eliminated.
  
- B. On Commercial Productions: Designer shall have the right of first refusal to design the first subsequent production of the Production in the United States, produced, co-produced, leased, licensed or assigned by Employer or its licensee(s) if such production occurs within three (3) years of the close of the original production and when the original Director is hired or the original direction is used and provided Designer has complied with all Designer's material obligations hereunder. Right of First Refusal shall not be due if the design element for which Designer was responsible is eliminated.

## **VII. 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 attend rehearsals, tech and previews as necessary to design the Production.
  6. To approve the installation, optimization, tuning, and balancing of the sound system.
  7. To oversee the programming and integration of sound cues into 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.
- F. The Assistant Designer for any design category shall assist the Designer in that category, in the work of that Designer.



## VIII. COMPENSATION, PAYMENT SCHEDULE & BOND

### A. INDIVIDUAL DESIGNER'S AGREEMENT (*Cover Sheet*)

1. A *Cover Sheet*, provided by the Union, shall be promptly signed by Employer and Designer, each time and as soon as a Designer is engaged in a covered design position. Designer shall not be required to furnish designs until Employer has executed and remitted the signed *Cover Sheet* to the Union.

However, if the Designer has commenced work (subject to Article VII herein) at the request of the Employer prior to the filing of the signed *Cover Sheet*, the terms of this Agreement shall apply.

2. It is recognized that the standard practice of preliminary discussions between a Designer and an Employer or director prior to the signing of a *Cover Sheet* does not constitute a violation of this Agreement.
3. Employer shall email a copy of the signed *Cover Sheet* to the Union at [livedesignjob@usa829.org](mailto:livedesignjob@usa829.org) concurrently with sending it to Designer.
4. The *Cover Sheet* shall be signed by Employer and Designer, and Employer shall file electronically with the Union within seven (7) business days after receipt of a signed copy from the Designer. If the *Cover Sheet* is not signed concurrently, the Employer shall sign first.
5. Employer and Designer shall agree upon a scheduled final date of employment, on or before the official opening, which date shall be specified in the *Cover Sheet*.
6. No Designers' services shall be required beyond the contracted termination date specified in the *Cover Sheet*.
7. The announced closing date, if known, must be stated in the *Cover Sheet*.
8. All terms and conditions of Designer's engagement which are not specifically required by this Agreement, including but not limited to all compensation in excess of the minimums specified in this Agreement and schedules shall be fully set forth on the *Cover Sheet* (and, if applicable, in any riders thereto) and shall be deemed a part thereof. The *Cover Sheet* and rider must be signed and filed for approval with the Union.

### B. PAYMENT

1. Employer shall pay the agreed upon compensation to Designer directly according to the following schedule:
  - a) ONE-THIRD (1/3) upon the signing of the *Cover Sheet* by Designer.
  - b) ONE-THIRD (1/3) upon 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 final date of employment, but no later than the Press Opening night.
2. The agreed upon fee shall include days in residence ("Residency") to attend previews as outlined below. Employer and Designer may adjust the number of days the designer will be on site within the Residency upon mutual Agreement in advance.
  - a) At Institutional Not-For-Profit Employers with an annual operating budget below \$4.5 Million (Tiers 1, 2, 3, 4, 5), no more than Fourteen (14) calendar days of previews from the date of first preview.

- b) At Institutional Not-For-Profit Employers with an annual operating budget of \$4.5 Million and above (Tiers A, B, C, D) no more than Eighteen (18) calendar days of previews from the date of first preview.
  - c) On Commercial Productions, no more than Fourteen (14) calendar days of previews from the date of first preview for Plays, and Sixteen (16) calendar days of previews from the date of first preview for Musicals.
3. In addition to the agreed upon fee:
- a) At Institutional Not-For-Profit Employers with an annual operating budget below \$4.5 Million (Tiers 1, 2, 3, 4, 5) the applicable Daily Rate shall be paid for each day a Designer is required to be on site beyond Fourteen (14) calendar days from the first preview.
  - b) At Institutional Not-For-Profit Employers with an annual operating budget of \$4.5 Million and above (Tiers A, B, C, D) the applicable Daily Rate shall be paid for each day a Designer is required to be on site beyond Eighteen (18) calendar days from the first preview.
  - c) On Commercial Productions, the applicable Daily Rate shall be paid for each day a Designer is required to be on site beyond Fourteen (14) calendar days from the first preview for Plays, and Sixteen (16) calendar days from first preview for Musicals.
4. Assistant Designers (including Membership Candidates) shall be paid no later than the Friday following the week in which the work is contracted and performed. Assistant Designers shall submit weekly timesheets verified by Designer and approved by Employer, submitted in accordance with Employer's payroll schedule and requirements.
5. Payments made pursuant to this Agreement shall be less all applicable payroll and withholding taxes, which shall be made by the Employer.

### **C. ADDITIONAL WORK**

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

### **D. COMPENSATION**

1. Designers in all design categories shall be paid not less than the Fees and Daily Rates (collectively, the "rates") as set forth in Schedule A.
  - a) Rates for design fees shall be those in force on the date of the first full cast rehearsal.
  - b) Rates for AWC shall be those in force during the performance week for which AWC is due.
  - c) Daily rates shall be those in force during the week in which the work is performed.
2. 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.

#### **E. ADDITIONAL WEEKLY COMPENSATION (AWC)**

1. Each Designer shall be paid Additional Weekly Compensation (AWC) as set forth in Schedule A.
  - a) For Commercial Productions, AWC shall commence with the first paid public performance.
  - b) For Institutional Not-For-Profit Theatres, Employer shall not be obligated to commence AWC until the seventh (7<sup>th</sup>) performance week.

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

2. AWC shall be paid to 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 forwarded on a weekly basis directly to the New York office of United Scenic Artists.
4. Notwithstanding the foregoing, on Commercial Productions:
  - a) Permitted Waiver Periods. In losing performance weeks a reduction or waiver of AWC of not more than six (6) weeks duration will be permitted one (1) time per calendar year for Tiers A and B and not more than eight (8) weeks duration will be permitted one (1) time per two (2) calendar years for Tiers C and D. Any such reductions or waivers need not be consecutive nor require specific prior written consent of Designer or the prior approval of the Union.
  - b) Additional Waiver Periods. Employer may submit a request to the Union for approval of additional periods of reduced or waived AWC. The Union agrees to meaningfully confer with Employer regarding any such requests in a timely manner and such requests shall not be unreasonably denied.
  - c) Notice of Waiver. Employer shall notify the Designer in writing of any reduction or waiver and a copy of such notification shall be sent to the Union. In the event the Employer notifies the Union and the Designers of their intention to institute a waiver as described herein, then non-payment or late payments of said AWC shall not be considered a breach of this Agreement, specifically Article VIII(E)(2), until no less than thirty (30) calendar days have passed since the original due date of said AWC, and provided the notification of intent is received by the Thursday following the close of the prior performance week in which such waiver shall first apply. Employer may rescind such notice of intent within said thirty (30) calendar day period upon written notice to Designer and the Union and payment of any unpaid and then owing AWC for the waiver period in question.
  - d) Post 110% Recoupment AWC. Once a Commercial Production has recouped One

Hundred Ten percent (110%) of production costs, then commencing the performance week after the performance week in which 110% recoupment occurred, Designer shall receive 0.45% of the Weekly Net Operating Profit (“WNOP”) with a minimum weekly guarantee of the applicable AWC as set forth on Schedule A herein. Employer’s method for the calculation of AWC based on WNOP shall be no less favorable to Designer than as defined in the then current agreement between the Off Broadway League and the Stage Directors and Choreographers Society.

## **F. BOND**

### **Institutional Not-for-profit League Member Employers**

1. Should an Institutional Not-for-profit League Member Employer default in payments of compensation or benefits to or on behalf of Designer, the Union shall give prompt notice thereof to the Employer and to the League.
2. If a default, not in active dispute, is not cured within ten (10) days of notice, Employer shall post a bond of no less than the minimum rates for a mainstage production for the covered design categories (scenic, costumes, lighting, sound) plus Pension and Welfare.
3. The bond will be held for twelve (12) months in an interest bearing account. If no further default occurs, Employer may request that the Union return the bond which shall take place within 30 days with accrued interest.
4. The Union, upon notice to Employer of its intention to invade the bond, may use the bond to pay compensation and/or benefits.
5. Any invaded bond will be replenished within ten (10) days or Employer shall pay a penalty of five percent (5%) of the amount used to cure the default.
6. The bond may be in the form of cash, cashier’s check, or a bank issued Letter of Credit.

### **Commercial League Member Employers**

1. Should a Commercial League Member Employer default in payments of compensation or benefits to or on behalf of Designer, the Union shall give prompt notice thereof to the Employer and to the League.
2. For any Production where a *Principal of the Employer*, League member or not, has defaulted in the past 24 months, or, for any Production where a Principal of the Employer is producing under the League Agreement for the first time the Employer shall post a bond of no less than the applicable minimum rates for the covered design categories (scenic, costumes, lighting, sound) plus Pension and Welfare. Notwithstanding the foregoing, if a Principal of the Employer has previously produced under any USA contract, then no such bond shall be required.
3. In the event the Employer provides a bond and makes full and timely payment of all compensation and benefits due through the fourth (4<sup>th</sup>) week after the press opening, the Union shall, within thirty (30) days, return the bond to the Employer.
4. Upon notice to Employer of default, if the default is not cured within ten (10) days or in active dispute, the Union may use the bond to pay compensation and/or benefits.
5. The bond may be in the form of cash, cashier’s check, or a bank issued Letter of Credit

### **Non-League Member Employers**

1. Any Non-League Member Employer adhering to this Agreement shall be required to provide the Union with a bond in the amount equal to the minimum rates for the covered design categories (scenic, costumes, lighting, sound) plus Pension and Welfare.

2. In the event that the Employer provides a bond and makes full and timely payment of all compensation and benefits due through the fourth (4<sup>th</sup>) week after the press opening, the Union shall return the bond to the Employer within thirty (30) days.
3. Upon notice to Employer of default, if the default is not cured within ten (10) days or in active dispute, the Union may use the bond to pay compensation and/or benefits.
4. The bond may be in the form of cash, cashier's check, or a bank issued Letter of Credit.
5. For institutional Not-For-Profit Non-League Member Employers, if a Board Member is willing to be the guarantor for the Production, the bond requirement shall be waived.

## **G. ASSISTANT DESIGNERS**

1. At the time Assistant Designers are engaged, they shall be provided with a defined amount of total compensation which shall cover a specified term of employment. The Assistant Designers shall be paid not less than the then current New York State minimum wage. Per the Fair Labor Standards Act, Assistant Designers are non-exempt employees and are entitled to receive overtime pay for all time worked in excess of forty (40) hours per work week, which shall be one and one-half times their regular rate of pay.

Designer and Employer agree that Designer's Assistant shall be paid directly by Employer and shall be compensated for a specific number of hours at no less than minimum wage. Employer agrees to pay a total amount subject to federal and state withholdings. Designer's Assistant shall be placed on a Membership Candidate Contract or Off-Broadway Assistant Contract. Designer and Designer's Assistant will submit a planned work schedule to Employer for approval prior to the beginning of work to ensure compliance with total compensation and to avoid any miscommunication between Designer and Designer's Assistant regarding hours and compensation. Should additional hours be necessary for Designer's Assistant all requests for additional compensation must be pre-approved by Employer before any further work commences.

2. Pension and Welfare benefits shall be paid on all Assistant Designer compensation, if applicable, as per Article XVII herein. Only welfare benefits shall be paid on all Membership Candidate contracts, at a percentage equal to the total welfare and pension contribution amount per Article XVII.

## **IX. RELATED 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.

This Article IX shall not apply to Institutional Not-For-Profit League Employers.

**X. UNION DUES (CHECK OFF)**

- A. Employer shall deduct from each payment made to Designer the amount of administrative dues payable by them to the Union.
- B. Such deductions shall be sent to the office of the Union no later than ten (10) days after the end of the month in which the payment was due or the work performed. Along with this payment, Employer shall furnish the Union with a record of those for whom the deductions have been made and the total amount of each deduction. Deductions for administrative dues shall be withheld at the rate of two percent (2%), as specified on the *Coversheet*, of the gross wage payable until such time as Employer shall receive written notification from the Union of change of rate.

**XI. 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. Cash advances must be reconciled before another cash advance is made. In the case of a Costume Designer, a cash float may be partially reconciled and will be replenished expeditiously to allow for timely fittings and execution of designs.
- E. Employer agrees to reimburse Designer for all pre-negotiated 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.

## **XII. POSTPONEMENT, ABANDONMENT**

### **A. FORCE MAJEURE**

If the Production is abandoned because of an Act of God (including but not limited to fire, flood, wind, epidemics, pandemics or other natural disasters whether of a similar nature, or otherwise); acts of terror, acts of government officials, strike, cancellation of season, loss or other unavailability of theatre space out of the control of Employer, or loss of the rights to produce to the play, Designer shall be paid all fee payments already paid or due as of the date of notification of such abandonment to Union and Designer, and other than such fee payments already paid or due, the Employer shall be relieved of any and all other monetary, economic or other obligations under the Agreement.

If Designer has completed substantial work on the Production, but the next contractual payment has not been issued at the time of the abandonment due to Force Majeure, then Employer and Designer shall negotiate in good faith an appropriate payment for the work done, if applicable.

### **B. Institutional Not-for-Profit Employers**

#### POSTPONEMENT

1. A postponement shall be said to occur when the Production is moved by the Employer from its original slot in a season to another slot in the same or a subsequent season.
2. If the postponement occurs more than Ninety (90) days prior to the Production's original opening date Designer shall be paid according to the following schedule:
  - a. If the designs have not been accepted by the Employer, Designer shall be paid One-Third (1/3) of their contractual fee already paid or due.
  - b. If the designs have been accepted by the Employer, Designer shall be paid Two-Thirds (2/3) of their contractual fee already paid or due.
3. If the postponement occurs within Ninety (90) days of the Production's original opening date Designer shall be paid according to the following schedule:
  - a. If the designs have not been accepted by the Employer, Designer shall be paid Two-Thirds (2/3) of their contractual fee already paid or due.
  - b. If the designs have been accepted by the Employer, Designer shall be paid their full contractual fee already paid or due.
4. Upon the determination by the Employer of the revised dates of the postponed production, Employer shall communicate those dates to the Designer and the Union. Designer shall have ten (10) business days to inform the Employer if they can meet the remaining requirements of the Production, including the revised Residency dates.
5. If Designer agrees to meet the remaining requirements of the Production, they shall be paid any remaining payments due beyond those payments due as set forth in Paragraph 2 above and a rider to the contract will be filed as applicable. If Designer is unable or chooses not to meet the remaining requirements of the Production, and the designs have been accepted by the Employer, Employer may, after consultation with the Designer, employ another person to perform the additional work on the original designs.

#### ABANDONMENT

1. If the Production is abandoned (for reasons other than Force Majeure as defined herein) and the Designer accepts the offer of another design assignment by the Employer for the

replacement production at full fee in lieu of the abandoned Production, the Designer shall be paid the full fee for the replacement production and that (those) portion(s) of the contractual fee for the abandoned Production already paid or due as of that date. If the Designer rejects the offer for the replacement production, they shall be paid only that (those) portion(s) of the contractual fee for the abandoned Production already paid or due as of that date.

2. If the Production is abandoned (for reasons other than Force Majeure as defined herein) at any time prior to Ninety (90) days before the scheduled opening date, as specified in the *Cover Sheet*, and no replacement offer is made by the Employer, Designer shall be paid according to the following schedule:
  - a. If the Production is abandoned within Thirty (30) days following the receipt by the Employer of the signed *Cover Sheet*, Designer shall be paid only that (those) portion(s) of the contractual fee for the abandoned Production paid or due as of that date.
  - b. If the Production is abandoned after Thirty (30) days following the receipt by the Employer of the signed *Cover Sheet*, Designer shall be paid Two-Thirds (2/3) of their contractual fee. If, however, the Designer has fulfilled all their obligations as specified in the *Cover Sheet* prior to such abandonment, the full fee shall be paid.
3. If the Production is abandoned (for reasons other than Force Majeure as defined herein) less than Ninety (90) days prior to the scheduled opening date, as specified in the *Cover Sheet*, and no replacement offer is made by the Employer, Designer shall be paid the full fee.
4. A production announced and then canceled with no new production date scheduled within Forty-Five (45) days of the cancellation shall be deemed abandoned for the purposes of this Agreement.

### **C. Commercial Employers**

1. If the opening is postponed for two (2) weeks or more, Designer shall perform the remaining services only so far as Designer's other contractual commitments permit. If Designer is not available to perform remaining services, Designer may:
  - a. If the designs have not been submitted, the Designer may withdraw from the Production and the Employer may hire another Designer to design the Production.
  - b. If the designs have been submitted, the Employer, after consultation with the Designer, may employ another person to perform the remaining work.
2. In the event the Production is abandoned prior to commencement of Load-in, the Designer shall receive payment according to the payment schedule in Article VIII.B.1, of the Agreement.
  - a. If the Production is abandoned after Load-in commences but before the first paid public performance, Designer shall be paid Three-Fourths (3/4) of their contractual fee.
  - b. If the Production is abandoned after the first paid public performance but before the official opening Designer shall be paid full contractual fee.



### **XIII. BILLING**

- A. Designers shall receive billing in the program on the title page, cast page, or with placement substantially comparable to such, on all press releases and on Employer's website show page in the customary order of Set, Costume, Lighting, Sound and Projection Designer.
- B. Billing shall also be given to Designers on the houseboard, window cards, posters and in printed advertisements where billing is given to anyone other than the lead producer, author, actors, director, and choreographer. 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](http://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.
- H. The title Associate Designer may be given to an Assistant Designer in a design category at the discretion of the Employer upon the recommendation of the Designer. When given, the title shall appear with the Assistant Designer's name in the usual and appropriate place in the staff listing section of the program.

### **XIV. SAFETY**

- A. The parties and their members 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.
- B. The Designers agree to abide by the Employer and/or venue's House Rules.

### **XV. 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 setting,

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, except for Designer's breach of any representation, warranty, or agreement contained herein.
- C. Designer shall submit a list containing complete and accurate information that is known, should be known, or that is reasonably ascertainable, regarding any aspect of the design, or any elements within the design to which another party may claim rights or ownership, for approval and clearance by Employer. Designer agrees to provide replacement content for any material not approved by Employer or for which Employer is unable to obtain clearance for use.
- D. With the exception of all designs and elements listed pursuant to Article (C) above, the Designer represents and warrants that their designs are original and that the designs and/or elements thereof, do not and will not violate or infringe upon any right whatsoever of any party including, but not limited to, copyright, trademark, contract, property or civil right.
- E. Employer agrees that it shall carry comprehensive general liability insurance applicable to any claims not due to Designer's negligence or breach of representations or warranties. Designer shall be furnished with a copy of certificate of such insurance, upon request.

## **XVI. 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, by either party, to a Grievance Committee consisting of up to three (3) representatives of USA 829 and up to three (3) representatives of the League. In rendering decisions, the USA 829 representatives and the League representatives shall each cast, in the aggregate, one (1) vote. A decision of the Committee on a grievance or a dispute shall be final and binding on the parties only if there are two (2) concurring votes. If the matter cannot be settled by the Grievance Committee, the matter shall be submitted to an arbitrator designated by the American Arbitration Association. The arbitration shall be conducted in New York City 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 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(s) shall not have the power to amend, modify, alter or subtract from this Agreement.
- D. The decision of the arbitrator(s) shall be final and binding on all parties.

**XVII. 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 8% of the gross compensation of each person so employed, to the *United Scenic Artists Pension Fund*.

The Pension rate for each year shall increase as below:

As of 1-Jul-22	As of 1-Jul-23	As of 1-Jul-24
8.5%	8.5%	9%

- 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*.

The Welfare rate for each year shall increase as below:

As of 1-Jul-22	As of 1-Jul-23	As of 1-Jul-24
12.5%	12.5%	13%

- C. Pension and Welfare contributions shall be due and payable no later than seven (7) days following the payment of the fee, or final installment thereof, but in no event later than opening night. A request by the Designer for earlier payment of the Pension and Welfare contribution shall not be unreasonably denied by the Employer.

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.

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:

United Scenic Artists, Local USA 829  
29 West 38<sup>th</sup> Street, 15<sup>th</sup> Floor  
New York, NY 10018

Employer shall complete and file a remittance form supplying information adequate for the processing of the benefit payments by the Funds, which may be the form supplied by the Funds or a form created by the Employer. Remittance reports must include the following information:

1. USA 829/Off-Broadway League Agreement
2. Name of Employer
3. Employer’s EIN
4. Name of Production
5. Name of Designer(s)

6. Designer(s) social security number
7. Opening Date or Week Ending Date if AWC or Daily Rate
8. Amount of Compensation
9. Amount of benefits paid

D. Said trust funds shall be separately and independently established under an Agreement and Declaration of Trust which the parties hereto shall enter into for such purpose. It is understood and agreed that such funds will be subject to all requirements of law and that the administration thereof will be by Trustees, an equal number of whom shall be designated by contributing Employers' and Employees' representatives.

## **XVIII. PROPERTY RIGHTS**

- A. All rights in and to the design as conceived by the Designer in the course of the rendition of his/her 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.

## **XIX. 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 set, 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.

### **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, another person to perform the additional work.

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

## **1. REMOUNTS AND REVIVALS**

If the Employer uses the original design in a remount or revival of the Production, Designer shall receive a minimum of Twenty-Five Percent (25%) of his/her contractual fee or Twenty-Five Percent (25%) of the current applicable minimum fee, whichever is greater, plus an AWC beginning with the first paid public performance. For Not-for-Profit Employers, the count of performance weeks shall be cumulative, including all weeks at previous venues.

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 until such time as the total, aggregate compensation paid to Designer for the remount or revival equals One Hundred Percent (100%) of the original contractual fee.

## **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 Off-Broadway venue to another venue, typically with artistic input from both the original Employer and the subsequent producer. A transfer may also be a production that opens at an Institutional Not-for-Profit Theatre or as part of an Institutional Not-for-Profit Theatre's season and transfers to a commercial producer but remains in the same venue.

- a. If the Employer transfers the Production with the original design(s) to another producer, Designer shall have the first option to perform any additional work required by the subsequent producer.
- b. In the case where a production at an Institutional Not-for Profit Theatre transfers to a commercial producer but remains in the same venue, the commercial producer shall pay Twenty-Five Percent (25%) of the Not-for-Profit original contracted fee, which shall not include any personal services from Designer.
- c. Designer shall be paid a minimum of Fifty Percent (50%) of the original fee, or Fifty Percent (50%) of the subsequent producer's or transferee's applicable minimum fee, whichever is greater, which shall include up to six (6) days of Designer's services in connection with the redesign, rehearsals, technical rehearsals, and/or preview performances.

If any such services of Designer are required by Employer for more than six (6) days but not more than twelve (12) days, Designer shall be paid Seventy-Five (75%) percent of the original Fee or Seventy-Five (75%) Percent of the subsequent producer's or transferee's applicable minimum fee, whichever is greater; and if any such services of the Designer are required by Employer for more than twelve (12) days, Designer shall be paid One Hundred (100%) percent of the original Fee, or One Hundred (100%) Percent of the subsequent producer's or transferee's applicable minimum fee, whichever is greater.

- d. In addition, Designers shall receive Additional Weekly Compensation ("AWC") beginning with the first paid public performance, to be negotiated in good faith, prorated by eighths (1/8) in weeks where fewer or more than Eight (8) performances are presented. For Not-for-Profit Employers, the count of performance weeks shall be cumulative, including all weeks at previous venues.
- e. In the case where a production at an Institutional Not-for Profit-Theatre transfers to a Commercial Producer but remains in the same venue, the count of performance weeks for the Additional Weekly Compensation shall be cumulative, including all prior weeks at the Institutional Not-for-Profit Theatre. Commercial Producer shall remit AWC payments commencing with the first week of the production following the transfer to the Commercial Producer.
- f. If Employer transfers the Production with the original design to another producer and the producer is covered by a USA 829 Agreement containing better terms and conditions than those herein, such applicable Agreement shall prevail.
- g. If the Employer transfers the Production with the original design to a commercial producer not covered by a USA Local 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 from an Off-Broadway venue to multiple venues with minimal alteration.

- a. If an Off-Broadway production is to be designed as a tour, with the initial New York City engagement serving as the first stop before being sent out on tour by the original Employer, the Designer shall be paid a minimum of One Hundred Twenty Five Percent (125%) of the applicable Fee hereunder. 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.

AWC shall be paid starting with the first paid public performance or the seventh week of public performances, as applicable, in NYC, or with the first paid public performance of the first “jump” subsequent to NYC.

- b. If a “sit down” production closes and is subsequently sent out on tour by the original Employer, or if the original Employer leases or licenses the touring rights to another producer, or 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, the Designer shall be compensated as follows:
  - i. Designers shall be paid a minimum of Fifty Percent (50%) of the original fee, or Fifty Percent (50%) of the subsequent producer’s applicable minimum fee, whichever is greater, which shall include up to six (6) days of Designer’s services in connection with the redesign, rehearsals, technical rehearsals, and/or preview performances.
  - ii. If any such services of the Designer are required by Employer for more than six (6) days but not more than twelve (12) days, the Designer shall be paid Seventy-Five (75%) percent of the original Fee or Seventy-Five (75%) Percent of the subsequent producer’s applicable minimum fee, whichever is greater; and if any such services of the Designer are required by Employer for more than twelve (12) days, Designer shall be paid One Hundred (100%) percent of the original Fee, or One Hundred (100%) Percent of the subsequent producer’s applicable minimum fee, whichever is greater.
  - iii. In addition, Designers shall receive Additional Weekly Compensation (“AWC”) beginning with the first paid public performance, to be negotiated in good faith, but in no event less than the AWC paid in New York City. The AWC may be pro-rated by eighths (1/8) in weeks where fewer or more than Eight (8) performances are presented.
- c. If a tour goes on hiatus or closes and is later reopened, Designer’s AWC shall resume with the first paid performance. In addition, Designer shall be paid at the applicable Daily Rate to perform any work required by Employer, licensee or presenter to remount the tour.
- d. If the tour is governed by (using all rates, terms, and conditions) 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), without being governed by the full terms and conditions of

said contract, then the Union and Employer will negotiate in good faith, all terms and conditions for the tour.

## **B. SALE OR RENTAL OF PRODUCTION**

If the Employer sells or rents existing settings, costumes, lighting, projections, or sound designs for a theatrical use other than described in Article XVIII.(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 XVIII.(A) herein for the same production or usage, then:

1. Designer will receive not less than ten (10%) 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.

## **C. TRAVEL & PER DIEM**

When a Designer is required to travel more than seventy-five (75) miles away from their point of residence for work on the Production, Employer agrees to provide:

1. Portal to portal Regular Economy class transportation (not Basic Economy) on a first class carrier including baggage fees. If 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.
2. Safe and secure single occupancy hotel accommodations with private bathroom or a private furnished apartment.
3. Per Diem at the United States General Services Administration meal allowance rate for the year in and city to which the travel occurs.



## **D. CAPTURE AND BROADCAST OF THE PRODUCTION**

1. Except as expressly provided for herein, no 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 in the theater, performance or any other part of the Production, where any part of the scenery, costumes, lighting, sound and/or projections for the Production, can be seen or heard.
  - a) Where an Employer makes, or causes to be made, a visual and/or aural record of a performance, in whole or in part, edited or unedited; on motion picture film, magnetic tape, videotape, compact disc, digital video disc, or other mechanical, electronic or technological method that currently exists or that may be developed in the future, and where any part of the scenery, costumes, lighting, sound and/or projections may be seen or heard in such visual and/or aural record, the process of making such a record shall be referred to hereinafter as the "Capture" or "Reproduction" of the Production, and the visual and/or aural record itself, any part thereof or a copy thereof, whether edited or unedited, shall be hereinafter referred to as the "Captured Material".
  - b) The Employer's goal in any and all promotion and publicity, including the use of Captured Material, is to portray the Production, including Designer and all other creatives, in the most favorable light.
  - c) Captured Material may not be used to discipline Designers.

### **2. Provisions for the Capture of Material:**

- a) Where practical, Employer shall give Designer forty-eight (48) hours' notice of the time of Capture, but in no event less than twenty-four (24) hours' notice.
- b) Every effort shall be made by Employer or third party to capture and incorporate the visual/creative concepts, atmosphere, and timing of Designers' contribution to the live stage production being captured without major alteration to the original design concepts. However, due to technical requirements for the high definition and sound formats, the lighting design, sound design and projection design (if any) may require alteration.  
Designers shall have the right, but not the obligation, to consult on the Capture.

No changes to the scenery, costumes, lighting, sound, and/or projections shall be made for the Capture, without the approval of the Designer, which shall not be unreasonably withheld. Should any theatrical work be required to adapt the original design for Capture, Designers shall be given the first opportunity to perform such work and the Designer shall be paid additional compensation, to be negotiated in good faith.

### **3. Provisions for the use of Captured Material for Publicity and Promotion:**

Captured Material for publicity and promotion includes but is not limited to: publicity, marketing, public relations, fundraising, audience development, education, transfers, prize, award, and festival applications, and/or civic, state, or national promotion.

- a) No more than fifteen (15) minutes of edited performance captured by Employer or a third party shall be used. The edited footage/material may depict an entire scene or musical number.

- b) In no event may the Employer serialize the Production on one or multiple distribution points and/or delivery platforms without negotiating terms prior to such use.
- c) Usage is permitted on websites of the Employer (including third-party hosting sites); not-for-profit arts and tourism-related agencies of the city, county, state and intra- and inter-state region in which Employer is located; local Rotary, Chamber of Commerce, and local not-for-profit “booster” organizations; media web sites; arts calendar web sites (such as Playbill.com); third-party promotional and ticketing services (e.g. Theatremania.com, Ticketmaster, WebTix.com); and not-for-profit arts service and arts promotion organizations (e.g. Theatre Communications Group, Americans for the Arts).
- d) Captured Material used for promotion and publicity may be delivered through the following platforms, including, but not limited to: broadcast and cable television, internet, social media platforms, mobile technology (including, but not limited to, cell phones), sales kiosks, podcasts, wallpaper, and video e-blasts. Employers may also use and provide materials captured hereunder to other substantially similar delivery platforms that are currently available or as they may evolve.
- e) The Union and the Employer may obtain and use footage from any production (including closed productions), for the purpose of promoting and branding the Union, the League and the industry, provided the Union and the Employer secure in writing all necessary permissions and pay any applicable fees for use of such material (if any), and credits are listed for the Union, Designer, Employer and the Production.
- f) Institutional Not-For-Profit Employers (NFP Employers) may use a Capture of an entire performance for the purposes of marketing, promotion, fundraising and audience development. A Capture shall be defined as a capture of a live performance in front of a live audience. There shall be at minimum, one camera capturing a static, full stage shot of the stage.
  - i. Twice each season, the NFP Employer may make a Capture of one or two entire productions available on their website, YouTube channel or similar platform at no charge for a period of not longer than three (3) weeks. The NFP Employer may extend the period for an additional three (3) weeks for a payment equal to 25% of the Designers’ original fee or 25% of the current applicable minimum fee, whichever is greater.
  - ii. The NFP Employer may make a Capture of entire productions available on their website, YouTube channel or similar platform, for fundraising purposes including access via suggested donation, under the following terms:
    - a. For a period of up to one (1) week, no payment shall be due to Designers.
    - b. The NFP Employer may extend the period for up to an additional two (2) weeks, for a payment equal to 25% of the Designers’

original fee or 25% of the current applicable minimum fee, whichever is greater.

- iii. The NFP Employer may make a Capture of entire productions available on their website, YouTube channel or similar platform, and charge an admission fee, under the following terms:
  - a. For a period of up to two (2) weeks, for a payment equal to 25% of the Designers' original fee or 25% of the current applicable minimum fee, whichever is greater.
  - b. The NFP Employer may extend the period for up to an additional two (2) weeks for an additional payment equal to 25% of the Designers' original fee or 25% of the current applicable minimum fee, whichever is greater.

The NFP Employer shall notify the Designers and Union when Captured Material is used under this provision. Good faith effort shall be made by the Employer's production team to capture and incorporate the visual/creative concepts, atmosphere, and timing of the stage Designers' contribution to the live stage production being recorded without alteration to the original design concepts.

The Designers shall be provided a reasonable opportunity, but not the obligation, to offer input for the production or capture process. To this end, Designers shall be given a reasonable opportunity to attend capture related production meetings and/or communications as scheduled by Employer.

Any review and consultation required to prepare the scenery, costumes, lighting, projections and sound for recording shall be performed by the Designer or their designated assistant. Stage or Wardrobe crew shall not perform the work of the designer in making the production camera ready.

Should any Designer be engaged to perform additional design or post production editing services, the rate shall be negotiated in good faith.

The NFP Employer shall agree to Designers' requests for a limited clip of the captured material, for personal promotional, non-commercial use subject to contractual obligations with other organizations. Employer shall not be responsible for any expenses incurred in connection with said request.

4. **Archival Recordings:** For archival purposes of the Employer, or other official library theatrical archive, Employer shall have the right to make a film, videotape, or other visual record of the final dress rehearsal or of performances. Such record shall be labeled "for archival use only." Employer shall notify in advance, in writing, Designer and Union prior to any such filming or taping. No payment shall be due to Designer in such an event.
5. **Non Broadcast:**
  - A) Employer may use Captured Material of an entire performance for the following non-Broadcast uses: to submit to private or public grant-making institutions, to apply for prizes or awards, or to fulfill festival application requirements. The Employer may make a Reproduction of the Production for the above purpose(s). Any such

Reproduction made under this Rule shall be encoded with warnings at regular fifteen-minute intervals that state the following: THIS FOOTAGE IS FOR GRANT REQUEST, PRIZE AWARD, FESTIVAL APPLICATIONS, OR PROMOTIONAL PURPOSES ONLY AND MAY NOT BE SCREENED FOR ANY OTHER PURPOSE. UNDER NO CIRCUMSTANCES MAY THIS FOOTAGE BE DUPLICATED. Any Reproduction made under this Rule must also include in the end credits the Union logo and identify that the designers of the Production are represented by the Union as applicable. Designer may request use of Captured Material made under this rule for similar grant-making, prize, award, or tenure track application requirements. Such requests shall not be unreasonably withheld. If Captured Material is provided to Designer, Designer agrees to maintain control of all Captured Material and will ensure that it is used for no commercial purposes whatsoever.

The Employer will notify the Union when providing Captured Material for use under this provision and will maintain control and ownership of all Captured Material reproduced by Employer and will ensure that it is used for no commercial purposes whatsoever.

- B) Employer may use Captured Material of an entire performance for the purposes of production work and for the purposes of encouraging or facilitating tours, transfers, future productions of the play, or future developmental work on the play. In addition, the Employer may request that the Union allow the Captured Material to be used for the solicitation for additional performances or to raise capital for a commercial production without additional compensation being paid to Designer. The Union agrees to meaningfully confer with Employer regarding any such request in a timely manner and such requests will not be unreasonably denied. In all cases, Employer shall notify Union and the original Designers when captured material is used under this provision. Any Captured Material used under this provision must also include in the end credits the Union logo and identify that the designers of the Production are represented by the Union as applicable. Such material shall be housed on a mutually agreed platform that is password protected. This provision will sunset at the expiration of the term of this Agreement.
  - C) The Employer may make a capture of an entire production available on a password-protected or otherwise restricted platform for use at K-12 educational institutions and any accredited college, university or conservatory, accompanied by a study guide or lesson plan, provided that the Employer is not compensated outside of an administrative fee. The Employer will inform the Union and the Designers of Employer's intention to exercise this provision. Any Captured Material used under this provision must also include in the end credits the Union logo and identify that the designers of the Production are represented by the Union as applicable. This provision will sunset at the expiration of the term of this Agreement.
6. **Production Work and Transfers.** Captured Material may be used to facilitate production work and the Transfer of the Production from one off-Broadway Employer to another, so long as all Designers on the original stage production have been engaged for the Transferee's

Production. For the purposes of production work and the facilitation of transfers, there shall be no time limit on the capture of performances or use of the Captured Material.

The Captured Material may be used by the director, choreographer, playwright, orchestrator, dance arranger, original Designers of the Production, Stage Manager, Dance Captain, Fight Captain, Stunt Coordinator, and/or the Not-For-Profit transferee Theatre's production staff.

After the stated purpose has been accomplished, the Captured Material must be destroyed.

7. **Broadcast or Distribution of an Entire Production or a Section Material Over Fifteen (15) Minutes:** The Employer shall notify in advance and in writing, the Union and the Designer(s), prior to any capture, recording or broadcast of the Production. Notice of all such broadcasts shall be filed with the Union as a supplement to the *Cover Sheet*.

Without making the applicable payments as described herein, Employer shall not have the right to assign, lease, sell, license or otherwise use, directly or indirectly, any of the designs and/or scenery, costumes, lighting, sound and/or projections for use in motion pictures, Cinecast, digital video disc (DVD), television, video on demand (VOD) or subscription video on demand (SVOD), live broadcasts or streaming, 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.

- a) For broadcast of a partial production (more than fifteen minutes but less than the entire production), a rate shall be negotiated on a case-by-case basis by the Employer and the Union.
- b) On Commercial Productions Only - For Free Video On Demand, Employer may exhibit the production for up to six (6) weeks for Tiers A and B and four (4) weeks for Tiers C & D (which need not be consecutive) per calendar year, for a fee equal to 25% of the Designer's contractual fee, or the current minimum fee, whichever is greater but in no event less than One Thousand Dollars (\$1,000).
- c) For the Capture of an entire production, and all distribution of that Capture which may include all platforms and media and all forms of analog and digital release now known or devised hereafter, including but not limited to: HD or Digital Cinecast, Cable, Satellite or Video-on-Demand (VOD), web streaming, subscription streaming (SVOD), pay per view, Large Screen Digital Imaging (LSDI) and closed circuit exhibition into an auditorium or similar venue where a charge to the viewer is assessed, pay/basic cable or free television, compact discs (CDs), digital video discs (DVDs), Blu Ray, or any other method of direct sales to the public, or electronic download in any and all media now known or hereafter devised throughout the world.

The higher of 125% of the Designer's contractual fee or the then current minimum fee but in no event less than the current Scenic/Costume Design Fee at an Institutional Off-Broadway Category B Theatre for a full buyout in perpetuity.

1. In addition to the compensation above and as consideration for the rights contained above, Designers engaged on the Captured Production shall collectively receive a royalty (the "Royalty") of Four percent (4%) of Employer's or Licensor's gross revenue actually received and retained by or credited to Licensor (or its assignees or successors) in connection with the

exploitation of the Capture in any medium derived from the sale, license or release in any medium or on any platform of the Capture, less only taxes, credit card fees, marketing costs and distribution expense (including but not limited to commissions to distributors). The total deductions shall not exceed 20% of the total gross revenue per accounting period. Each Designer shall receive a pro rata share of said Royalty based on the number of Designers engaged on the Production.

Royalties shall be calculated annually and shall be paid within forty-five (45) days of the end of each reporting period. The Designers and the union shall each receive a Royalty statement, whether monies are owed for the royalty cycle or not.

The Union shall have the right, at the Union's sole cost and expense, to cause the Union's accountants and representatives to examine and audit the books and records of the Employer (applicable to the Production in question) covering the period 24 months preceding the date of notice only, and the Employer upon not less than 10 business days' written notice shall make such books and records available for such examinations and audits at the office of the Employer at reasonable hours during the business day, but for no more than 2 non-consecutive days at such offices. The Union shall reimburse Employer for any reasonable expenses incurred in connection with such examination and audit, such as costs associated with retrieving files from storage, and, if applicable, management personnel hourly charges for assisting such examination and audit.

2. This agreement requires no personal services from the Designers. If the Licensee or Employer requests the personal services of a Designer for the capture, the Designer shall be paid a daily rate to be negotiated in good faith directly between Licensee and the Designer.
- d) For the avoidance of doubt, any capture produced by WNET and/or PBS for including in the *Theatre Close Up* series, shall not be subject to the terms above but shall continue to be controlled pursuant to the agreements, terms and conditions currently utilized in the Off-Broadway industry.
  - e) Good faith efforts shall be made by the Employer and/or Licensee's production team to capture and incorporate the visual/creative concepts, atmosphere and timing of the stage Designers' contribution to the live stage production being recorded without major alteration to the original design concepts. However, due to technical requirement for the high definition and 5.1 surround sound formats, the lighting design, sound design and projection design (if any) may require alteration.

The Designers shall be provided a reasonable opportunity, but not the obligation, to offer input for the high definition production or Capture process. To this end, Designers shall be given a reasonable opportunity to attend Capture related production meetings as scheduled

by Employer or Licensee.

Should the stage Lighting Designer be engaged by Employer or Licensee to serve as the Lighting Director for the Capture, they shall be engaged on a Union Project Agreement with all terms to be negotiated between the Lighting Director and Employer/Licensee in good faith.

Any review and consultation required to prepare the scenery, costumes, projections and sound for the recording shall be performed by the Designer or their designated assistant. Stage or Wardrobe crew shall not perform the work of the designer in making the production camera ready.

Should any Designer be engaged to perform additional design services, the rate shall be negotiated in good faith. Such work shall be set forth on the cover sheet or an additional rider to this Agreement and filed with the Union.

8. For all broadcasts or recordings of the Production which use the original sets, costumes, lighting, sound or projections, or the designs for same, 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 \_\_\_\_.
9. The Union and the Employer share a strong mutual interest in preventing any unauthorized reproduction of the scenery, costumes, lighting, sound and/or projections for the Production, or the designs for the Production, or any unlawful use of Captured Materials, and the Employer and its members, and the Union and its members have taken and will continue to take appropriate action to advance that interest.

## **XX. LABOR MANAGEMENT COMMITTEE**

A Committee consisting of an equal number of representatives of the Union and the League shall be established during the first year of the term to study and make recommendations for improving working conditions within the jurisdiction of the Union. Such committee shall meet no less frequently than semi-annually.

## **XXI. NO DISCRIMINATION**

The League and the Union acknowledge the need to increase diversity in all its forms in our organizations and Theatres. As leaders within our industry, the League, the Employer and the Union commit to increase diversity and demonstrate equity and inclusion in their employment practices and membership. In an effort to ensure progress around our joint commitment to diversity, equity and inclusion, the League and the Union make a commitment to establish protocols for the improvement of our employment practices and membership.

- A. The League, the Employer and the Union agree that under this Agreement, all parties shall strive to create an environment free of discrimination with respect to wages, terms, conditions, privileges of, or opportunities for employment because of race, color, religion, creed, sex (including pregnancy), gender, gender identity, gender expression, veteran status, medical condition (including genetic characteristics), sexual orientation, age, national origin,

disability as defined in the Americans with Disabilities Act, linguistic characteristics (such as accent or limited English proficiency where not substantially job related), marital status, political persuasion, citizenship status, any other categories protected by New York State and New York City law and Union membership.

- B. The Employer shall not discriminate against any Designer because of race, color, religion, creed, sex (including pregnancy), gender, gender identity, gender expression, veteran status, medical condition (including genetic characteristics), sexual orientation, age, national origin, disability as defined in the Americans with Disabilities Act, linguistic characteristics (such as accent or limited English proficiency where not substantially job related), marital status, political persuasion, citizenship status, any other categories protected by New York State and New York City law and Union membership, nor will Designer's designs be used in any place where such discrimination is knowingly practiced against performers, patrons, or other employees.
- C. The Union shall not discriminate against any member or applicant for membership because of race, color, religion, creed, sex (including pregnancy), gender, gender identity, gender expression, veteran status, medical condition (including genetic characteristics), sexual orientation, age, national origin, disability as defined in the Americans with Disabilities Act, linguistic characteristics (such as accent or limited English proficiency where not substantially job related), marital status, political persuasion, citizenship status, any other categories protected by New York State and New York City law and Union membership.

## **XXII. RESPECTFUL WORKPLACE**

The League, the Employer and the Union acknowledge the need to create a safe, healthful and respectful workplace.

- A. The Designer represents and warrants that they shall endeavor to perform all services in a respectful and professional manner and will maintain the highest ethical and industry standards with regard to the treatment of all fellow employees, colleagues and patrons.
- B. The Employer represents and warrants that they will endeavor to maintain a work environment free of harassment, bullying or other inappropriate behavior.
- C. Disrespectful acts, harassment or bullying will be addressed directly and immediately, and shall be referred to the appropriate supervisor or HR department. At the start of the production, the Employer shall designate an individual to whom any instances of harassment or other unethical or harassing behaviors will be reported

## **XXIII. PRODUCER REPORTING REQUIREMENTS FOR COMMERCIAL EMPLOYERS**

- A. The Employer or their authorized representatives shall file with the Union documentation or reports of the following information, as and when they become available:
  - The name of the show.
  - The name of the production company.
  - The names of the persons who are authorized by the Employer to execute *Cover Sheets*, contracts and other documents.
  - The name of all Producers, who are the general partners of a partnership or Limited Partnership (LP); the managing members or general partners of a Limited Liability Company



(LLC); the majority owner of a corporate employer; or a sole proprietorship.

- B. For those productions on which a Designer is entitled to AWC based on Weekly Net Operating Profit, the Employer or authorized representative shall provide the Union documentation or reports of the following information, as and when they become available:
1. Itemized statements of any royalty payment due, showing how the payment was calculated; Cyclical profit-and-loss statements that include operating expenses.
  2. The Employer shall notify the Union of recoupment, where recoupment will affect a Designer's compensation.
  3. No later than two weeks after the closing of the Production, a subsequent company or a tour, the Employer shall inform the Union of the closing date.
  4. For those productions on which a Designer is entitled to AWC based on Weekly Net Operating Profit, and upon reasonable notice to Employer, the Union shall have the right hereunder to audit Employer's financial books and records once during any 24-month period, at the Union's expense, no later than three (3) years following the close of the Production.

#### **XXIV. SAVING CLAUSE**

In the event that any provision of this Agreement shall be found invalid because of the enactment or operation of any applicable law, or the reorganization of the Union or League, the remaining provisions of this Agreement shall not be affected but shall remain in full force and effect.

#### **XXV. NO STRIKE, NO LOCK OUT**

The parties agree that during the term of this Agreement, the Employer shall not lock out any Designer, and the Union will not cause or sanction any of its members to take part in any strike, work-stoppage, slowdown, or concerted or organized curtailment of work (sympathetic, general, or any other kind), provided however, that nothing in this Agreement shall be construed to interfere with any prior lawful obligation or duty which the Union owes or shall owe to the International Alliance.

**XXVI. TERM OF AGREEMENT**

The term of this Agreement shall be for four (4) years ("Term"). The first day of the Term shall be July 1, 2021, and the last day of the Term shall be June 30, 2025.

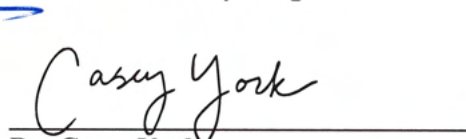
This Agreement shall apply to Designers engaged by a League Employer to perform covered services on productions that have a first rehearsal during the Term. In any renewal, extension, change, or replacement of this Agreement, any terms that are more favorable to Designers than those contained herein shall automatically be deemed to apply to *Cover Sheets* for productions that have a first rehearsal after the end of the Term.

**Accepted and Agreed To:**

**United Scenic Artists, Local USA 829**

**The Off-Broadway League**

  
By: Carl Mulert  
National Business Agent

  
By: Casey York  
President

10-12-21  
Date

10/8/21  
Date

*This Inaugural Agreement between United Scenic Artists, Local USA 829 and the Off-Broadway League was negotiated in early 2017 by the following members of the Union's and League's Negotiation Committees.*

**For the Union: (Names in bold participated in the bargaining sessions)**

- |                         |                         |                          |                       |
|-------------------------|-------------------------|--------------------------|-----------------------|
| Cecilia A. Friederichs  | <b>Carl Mulert</b>      | <b>Caitlin McConnell</b> |                       |
| Beowulf Boritt          | <b>Burke Brown</b>      | Jeff Croiter             | Ken Goodwin           |
| <b>Rachel Hauck</b>     | <b>Susan Hilferty</b>   | <b>Laura Jellinek</b>    | <b>Bradley King</b>   |
| <b>Daniel Kluger</b>    | <b>Alex Koch</b>        | Andrea Lauer             | <b>Tyler Micoleau</b> |
| <b>Craig Napoliello</b> | Stowe Nelson            | <b>Jessica Pabst</b>     | Bray Poor             |
| <b>Clint Ramos</b>      | <b>Patrick Rizzotti</b> | <b>Jane Shaw</b>         | <b>David Weiner</b>   |
| <b>Donyale Werle</b>    | <b>David Woolard</b>    | <b>Anita Yavich</b>      |                       |

**For the Off-Broadway League:**

- |                      |                     |                       |                     |
|----------------------|---------------------|-----------------------|---------------------|
| <b>Carol Fishman</b> | <b>Beth Dembrow</b> | <b>Ryan Conway</b>    |                     |
| <b>Pamela Adams</b>  | <b>Jeremy Adams</b> | <b>Terry Byrne</b>    | <b>Emily Currie</b> |
| <b>Jeff Griffin</b>  | <b>Adam Hess</b>    | <b>Gilbert Medina</b> | <b>Evan O'Brien</b> |
| <b>Eva Price</b>     | <b>Seth Shepsle</b> | <b>Casey York</b>     |                     |

Sideletter #1

as of April 22, 2021

Ms. Casey York  
President  
The Off-Broadway League  
888 Seventh Avenue, 24<sup>th</sup> Floor  
New York, NY 10019

RE: Favored Nations

Dear Ms. York:

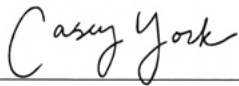
In the course of our negotiation, it was agreed that an Employer who is not a member of the League and produces in a theater between 100 and 499 seats in the five (5) boroughs of the City of New York shall not be offered more favorable collectively bargained terms in fees, additional weekly compensation ("AWC"), day rates, pension and welfare contributions. If such a non-member receives better terms in fees, additional weekly compensation ("AWC"), day rates, pension and welfare contributions for a production between 100 and 499 seats in the five (5) boroughs of the City of New York, then all members of the League shall be entitled to those same terms.

Sincerely,



Carl Mulert  
National Business Agent  
United Scenic Artists, Local USA 829

Accepted and agreed:



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Casey York, President  
The Off-Broadway League

Sideletter #2

Mr. Carl Mulert  
National Business Agent  
United Scenic Artists, Local USA 829  
29 West 38<sup>th</sup> Street, 15<sup>th</sup> Floor  
New York, NY 10018

RE: Atlantic Stage 2

Dear Mr. Mulert:

In the course of our negotiation, it was agreed that the Atlantic Theater Company's Stage 2, a 99-seat venue, shall be obligated to the terms of this Agreement, and other than the fees listed below, shall operate as a Tier "A" Theatre.

Designer rates and fees for Stage 2 shall be as follows:

July 1, 2021 – June 30, 2022	July 1, 2022 – June 30, 2023	July 1, 2023 – June 30, 2024	July 1, 2024 – June 30, 2025
Designer Fees			
\$3,000	\$3,100	\$3,200	\$3,296
Additional Weekly Compensation (Weeks 7+)			
\$75	\$75	\$100	\$100
Daily Rates			
\$75	\$75	\$100	\$100

Sincerely,



Casey York  
Off-Broadway League President

Accepted and agreed:



Carl Mulert  
National Business Agent, Local USA 829

Sideletter #3

As of April 22, 2021

Ms. Casey York  
President  
The Off-Broadway League  
888 Seventh Avenue, 24<sup>th</sup> Floor  
New York, NY 10019

Re: Membership Candidate Program

Dear Ms. York:

In the course of our recent negotiations, the Off-Broadway League (League) on behalf of its current and future Producer members (the Employer or Producer) and United Scenic Artists, Local USA 829 (Union) agreed to create a Membership Candidate (MC) Program.

The three underlying principles of the program are:

1. To create professional design opportunities and a pathway to Union membership for individuals who have been historically underrepresented in the theatrical industry.
2. To provide a less financially burdensome path to membership for rising designers.
3. To create an opportunity for Membership Candidates to quickly qualify for health insurance under the Union's health plan.

A Membership Candidate (MC) may be engaged by the Employer at the request of the Designer to work on a production under the following terms and conditions:

1. An individual shall be engaged as an employee of the production as a MC and shall assist the Designer in the work of the Designer.
2. An individual *cover sheet* must be filed for each individual engaged as a MC employed on a production. The *cover sheet* must be filed for approval by the Union who will track each individual's MC status and history.
3. All individuals engaged as a MC on a production shall receive billing credit as an Assistant Designer on the staff page in all Playbills/programs.
4. Days engaged as a MC do not need to be consecutive. Neither the Designer nor the Employer shall require the MC to work for more than six (6) consecutive days without a day off.
5. Individuals engaged as a MC shall be paid not less than the then current New York State minimum wage. Per the Fair Labor Standards Act, MCs are non-exempt employees and are entitled to receive



overtime pay, if pre-approved in writing by Employer, for all time worked in excess of forty (40) hours in a given week, which shall be one and one-half times their regular rate of pay.

6. Employer shall contribute welfare payments on MC's agreed upon compensation, equal to the total welfare and pension contribution percentage due per Article XVII of the Agreement.
  - a. On not-for-profit productions, this welfare contribution shall be paid as a one-time payment upon full execution of the agreement
  - b. On commercial productions, it is agreed that the employer shall pay the welfare contributions per pay period (ie welfare contributions will be paid weekly in conjunction with weekly payrolls).
7. All individuals engaged as MCs will be required to take two classes per year provided by the Union at no cost to the MC. *Basic Safety Training* shall be a mandatory class in any MCs first year in the program. In addition to their two mandatory classes per year, MCs will also be eligible to participate in any other training provided by the Union, at no cost to the MC and provided space is available.
8. Once an individual in the MC program has completed work and received program credit on six (6) Off-Broadway productions, or completed One Hundred Twenty (120) days of cumulative employment Off-Broadway, the MC shall have the option of completing their Union application for membership with a reduced initiation rate of One Hundred Dollars (\$100.00)\*. A MC must work no less than 12 days on a single production for the production to qualify as one of the six (6) productions as specified above.
9. An individual may work for a maximum of 144 days under the terms of the program at which point they will be required to complete their application to the Union or leave the MC program. If they have not completed 144 days within three (3) calendar years from the date of first employment, they will no longer be considered a Membership Candidate.

\*For further clarification this does not include application fees and dues that are charged at the time of application. The total expense upon application, including the reduced initiation fee is approximately \$425.

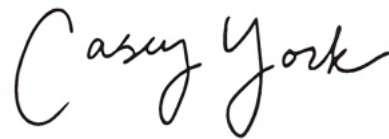
Please indicate your agreement by signing below and returning the original to me.

Sincerely,



Carl Mulert  
National Business Agent

Accepted and Agreed to,



Casey York  
Off-Broadway League President

Sideletter #4

As of April 22, 2021

Ms. Casey York  
President  
The Off-Broadway League  
888 Seventh Avenue, 24<sup>th</sup> Floor  
New York, NY 10019

Re: COVID-19 Safety Plan

Dear Ms. York

In the course of our recent negotiations, the Off-Broadway League (League) on behalf of its current and future Producer members (the Employer or Producer) and United Scenic Artsits, Local USA 829 (Union) agreed to the following COVID-19 Safety Plan:

1. The Employer agrees to develop and implement a Covid-19 safety plan in compliance with New York State and City requirements for any production produced.
2. The Employer shall provide the Union with a copy of the safety plan before requiring the Designer to provide any in-person services. The safety plan provided to Union shall include or be accompanied by:
  - a. 1) The name and contact information for the COVID Compliance Officer(s) responsible for supervising the production's Covid-19 safety plan, as well as information describing their relevant experience, qualifications, and/or training;
  - b. 2) Current state and/or local orders, regulations, guidelines, and/or procedures related to business re-openings.
  - c. 3) All Employer designated in-person work location(s) shall be listed and included in Employer's safety plan (e.g., sanitizing stations, personal protective equipment stock, traffic flow patterns).
3. Any costs associated with Covid-19 screening and testing required of the Designer by the Employer shall be borne by the Employer.
4. The Employer shall provide, at no cost to the Designer, all personal protective equipment required by New York State and City and as reasonably required by Employer for providing design services.
5. The Designer shall abide by all of their individual responsibilities under the production's Covid-19 safety plan including but not limited to receiving the applicable vaccinations and subsequent booster shots, to the extent allowable by law. The Designer shall not accept responsibility for undertaking or enforcing safety protocols for the production outside of their individual responsibility (e.g., answering daily health screen questions and/or cleaning their own work-station with supplies provided by the Employer).

6. The Employer shall implement screening procedures or protocols that require the Designer and other individuals involved with the production to disclose whether they have been in contact with anyone who has Covid-19.
  - a. 1) The Employer shall inform Union and the Designer if the Employer learns that an individual involved with the production was in contact with the Designer within 7 days of being in contact with someone who has Covid-19.
  - b. 2) The Employer shall not identify a Designer when making such disclosures without the Designer's written permission. The Employer shall not be required to provide any information to Union or a Designer in contravention of any applicable law.

#### QUARANTINE AND ISOLATION DURING THE COVID-19 PANDEMIC

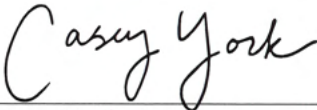
1. A Quarantine/Isolation Period shall be any period of quarantine or isolation: (i) required by government mandate or directed by a medical professional, (ii) due to COVID-19, (iii) that begins during a Designer's contracted dates in residence at the Employer.
2. The Employer shall notify the Union of a Designer's Quarantine/Isolation Period.

Sincerely,



Carl Mulert  
National Business Agent  
United Scenic Artists, Local USA 829

Accepted and agreed:



Casey York, President  
The Off-Broadway League



Sideletter #5

As of April 22, 2021

Ms. Casey York  
President  
The Off-Broadway League  
888 Seventh Avenue, 24<sup>th</sup> Floor  
New York, NY 10019

Re: Respectful Workplace

Dear Ms. York:

In reference to **Article XXII. Respectful Workplace**, our commitment to a respectful workplace must be more than a statement without action. We agree to genuinely collaborate to create systems to prevent and handle discrimination and harassment within the Off-Broadway community.

A Respectful Workplace Committee, consisting of an equal number of representatives of the Off-Broadway League and United Scenic Artists Local USA 829, shall be established during the first year of this contract's term. The Off-Broadway League agrees to invite other unions to participate in this committee. Such committee shall meet no less than quarterly.

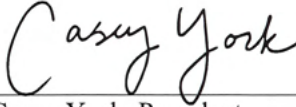
This committee will function independently of the Labor Management Committee.

Sincerely,



Carl Mulert  
National Business Agent  
United Scenic Artists, Local USA 829

Accepted and agreed:



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Casey York, President  
The Off-Broadway League

## Off-Broadway Institutional Not-for-Profit Theatres

Operating Budget Below \$4.5 Million    Operating Budget \$4.5 Million or higher	
<p style="text-align: center;">Ars Nova (2)                      Classic Stage Company Irish (4)                      Repertory Theatre (3)                      Labyrinth Theater Company (1)                      The New Group (5)                      Primary Stages (4)                      Vineyard Theatre (4)                      Women's Project Theater (2)</p>	<p style="text-align: center;">Atlantic Theater Company                      MCC Theater                      New York Theatre Workshop                      Playwrights Horizons                      The Public Theater                      Signature Theatre Company</p>

Operating Budget Below \$4.5 Million				
Tier	July 1, 2021 - June 30, 2022	July 1, 2022 - June 30, 2023	July 1, 2023 - June 30, 2024	July 1, 2024 - June 30, 2025
Designer Fees				
1 & 2	\$2,650	\$2,703	\$2,757	\$2,840
3	\$3,000	\$3,060	\$3,121	\$3,215
4	\$3,250	\$3,315	\$3,381	\$3,483
5	\$3,250	\$3,315	\$3,381	\$3,483
Additional Weekly Compensation (Weeks 7+)				
1 & 2	\$50	\$51	\$52	\$54
3	\$100	\$102	\$104	\$107
4	\$100	\$102	\$104	\$107
5	\$100	\$102	\$104	\$107

Daily Rates				
1 & 2	\$100	\$102	\$104	\$107
3	\$125	\$127	\$130	\$134
4	\$150	\$153	\$156	\$161
5	\$150	\$153	\$156	\$161

All rates listed are minimums and shall not prevent a Designer from negotiating better terms.

Schedule A-1

<b>Operating Budget \$4.5 Million or Higher</b>					
<b>Tier (Seats)</b>		<b>July 1, 2021 - June 30, 2022</b>	<b>July 1, 2022 - June 30, 2023</b>	<b>July 1, 2023 - June 30, 2024</b>	<b>July 1, 2024 - June 30, 2025</b>
<b>Scenic &amp; Costume Design Fees</b>					
A (100-199)	Play	\$5,000	\$5,100	\$5,202	\$5,358
	Musical	\$5,250	\$5,355	\$5,462	\$5,626
B (200-299)	Play	\$5,250	\$5,355	\$5,462	\$5,626
	Musical	\$5,513	\$5,623	\$5,736	\$5,908
C (300-399)	Play	\$6,000	\$6,120	\$6,242	\$6,430
	Musical	\$6,300	\$6,426	\$6,555	\$6,751
D (400-499)	Play	\$7,150	\$7,293	\$7,439	\$7,662
	Musical	\$7,508	\$7,658	\$7,811	\$8,046
<b>Lighting, Sound &amp; Projection Design Fees</b>					
A (100-199)	Play	\$4,690	\$4,784	\$4,879	\$5,026
	Musical	\$4,925	\$5,024	\$5,124	\$5,278
B (200-299)	Play	\$4,960	\$5,059	\$5,160	\$5,315
	Musical	\$5,208	\$5,312	\$5,418	\$5,581
C (300-399)	Play	\$5,500	\$5,610	\$5,722	\$5,894
	Musical	\$5,775	\$5,891	\$6,008	\$6,189
D (400-499)	Play	\$6,615	\$6,747	\$6,882	\$7,089
	Musical	\$6,946	\$7,085	\$7,227	\$7,443

<b>Additional Weekly Compensation (Weeks 7+)</b>				
A (100-199)	\$175	\$179	\$182	\$188
B (200-299)	\$200	\$204	\$208	\$214
C & D (300-499)	\$225	\$230	\$234	\$241

<b>Daily Rates</b>				
A (100-199)	\$175	\$179	\$182	\$188
B (200-299)	\$190	\$194	\$198	\$204
C & D (300-499)	\$225	\$230	\$234	\$241

All rates listed are minimums and shall not prevent a Designer from negotiating better terms.

## Off-Broadway Commercial Producers

Tier (Seats)		July 1, 2021 - June 30, 2022	July 1, 2022 - June 30, 2023	July 1, 2023 - June 30, 2024	July 1, 2024 - June 30, 2025
<b>Scenic &amp; Costume* Design Fees</b>					
A (100-199)	Play	\$3,183	\$3,247	\$3,312	\$3,411
	Musical	\$3,448	\$3,517	\$3,587	\$3,695
B (200-299)	Play	\$3,448	\$3,517	\$3,587	\$3,695
	Musical	\$3,713	\$3,787	\$3,863	\$3,979
C (300-399)	Play	\$4,244	\$4,329	\$4,415	\$4,548
	Musical	\$4,509	\$4,599	\$4,691	\$4,832
D (400-499)	Play	\$5,039	\$5,140	\$5,243	\$5,400
	Musical	\$5,305	\$5,411	\$5,519	\$5,685
*Costume Designer's fee for solo shows shall be negotiated in good faith.					
<b>Lighting, Sound &amp; Projection Design Fees</b>					
A (100-199)	Play	\$3,183	\$3,247	\$3,312	\$3,411
	Musical	\$3,448	\$3,517	\$3,587	\$3,695
B (200-299)	Play	\$3,448	\$3,517	\$3,587	\$3,695
	Musical	\$3,713	\$3,787	\$3,863	\$3,979
C (300-399)	Play	\$3,978	\$4,058	\$4,139	\$4,263
	Musical	\$4,244	\$4,329	\$4,415	\$4,548
D (400-499)	Play	\$4,774	\$4,869	\$4,967	\$5,116
	Musical	\$5,039	\$5,140	\$5,243	\$5,400

<b>Additional Weekly Compensation (AWC)**</b>					
A & B (100-299)	Weeks 1-6	\$53	\$54	\$55	\$57
	Weeks 7-12	\$106	\$108	\$110	\$114
	Weeks 13+	\$133	\$136	\$138	\$143
C & D (300-499)	Weeks 1-6	\$106	\$108	\$110	\$114
	Weeks 7-12	\$159	\$162	\$165	\$170
	Weeks 13+	\$186	\$190	\$194	\$199

\*\*Upon 110% recoupment, each Designer will receive 0.45% of WNOP against a minimum weekly guarantee of the applicable AWC listed above.

<b>Daily Rates</b>					
A & B (100-299)		\$225	\$230	\$234	\$241
C & D (300-499)		\$350	\$357	\$364	\$375

All rates listed are minimums and shall not prevent a Designer from negotiating better terms.