

English National Ballet / Musicians' Union Agreement for the Minimum Terms and Conditions for the Engagement of Self-Employed Musicians working as Extras & Deputies

English National Ballet
English National Ballet Enterprises Limited

This Agreement is made between **English National Ballet**, of Markova House, 41 Hopewell Square, London E14 0SY ("the Company") and **The Musicians' Union** of 33 Palfrey Place, London SW8 1PE ("the Union") covering the minimum terms and conditions agreed collectively between English National Ballet and the Musicians' Union for self-employed Musicians (hereinafter called "the Musician") working as Extras and Deputies for engagements with English National Ballet Philharmonic.

English National Ballet recognises The Musicians' Union as the sole Trade Union for negotiating terms and conditions of the engagement of Musicians under this Agreement.

For the avoidance of doubt this agreement is not intended to confer employee status on any Musician and the intention and understanding of all parties is that Musicians engaged under these terms and conditions are self-employed workers.

Section 1: Date and duration of the Agreement

1. The terms and conditions set out in the Agreement shall be effective from 1 April 2019 and shall be valid for a period of one year from this date. The Agreement shall be subject to an annual revision to commence in January of each year, with any new provisions to become effective with each new financial year.
2. This Agreement shall remain in force until such time either party provides no less than 2 months of written notice to terminate.

Section 2: Definitions

1. For the purpose of this Agreement, self-employed musicians engaged under the terms of this Agreement shall be referred to as 'the Musician' and the management of English National Ballet shall be referred to as 'the Company'.
2. Musicians shall normally be engaged under the terms and conditions set out in this Agreement as either 'Qualified Deputies', when engaged to replace an absent orchestral player, or as 'Qualified Extras' when engaged due to the orchestra being enlarged beyond normal requirements. Qualified Deputies and Qualified Extras shall be defined as those drawn from a pool of players agreed by the Music Administration Manager and the relevant principal player, and approved by the Music Director.
3. A 'session' is defined as a call of 3 hours for the Musician in respect of any performance or rehearsal.
4. Extreme circumstances are defined as those resulting from an event or events outside of the reasonable control of the Company, the Musician or the Musicians' Union, which render the Company unable to meet its obligations under this agreement despite having used its best endeavours to make alternative arrangements. Examples of such circumstances are acts of nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war or unrest, terrorist activities, government sanction, blockage, embargo, or interruption or failure of power supplies necessary for the performance to take place.

5. Further definitions maybe added to this Agreement as required and by mutual agreement.

Section 3: Terms of Engagement

1. Provision of Services

The Musician agrees to provide services to the Company as set out in Annex 1, attached to this contract. The Company may additionally offer work on an ad hoc basis where regular musicians are unavailable at short notice. The Musician is not obliged to accept any offer of engagement by the Company and the Company is not obliged to offer any engagement to the Musician either as a consequence of any previous offers of engagement or at all.

2. Payment for Services Provided

Subject to the Musician performing his/her services in accordance with the terms of this Agreement (or being ready, willing and able to do so) the Company shall pay to the Musician not less than the applicable minimum payments outlined in Annex 1. These minimum payments may be increased from time to time. Any increases will be line with core Orchestra rates of pay.

3. Sunday Work

Sunday work shall be paid at double time.

4. Public Holidays

Where the Musician is required to work on any day announced by the Government to be a public holiday he/she shall be paid at double time. Where the day after Christmas Day falls on a Saturday, or New Year's Day falls on a Saturday, work on those days shall be paid at double time.

5. Overtime

For each fifteen minutes (or part thereof) worked in excess of three hours per session, the Musician shall be paid at a rate of time and a half of the appropriate basic payment as applicable, i.e. one-eighth of the rate per session. There shall be a maximum of one hour overtime per session. Should a session exceed four hours, an extra session fee shall become payable.

6. Stage performance

Where the musician performs on stage but not in view of the audience he/she shall be paid an additional sum as set out in Annex 1.

7. Doubling/trebling

(i) The musician shall not be required to play more than two instruments except in the woodwind/reed section, where three instruments may be played. The Company shall pay the Musician an additional 15% of the appropriate basic payment for playing two instruments or an additional 30% thereof for playing three woodwind/reed instruments.

(ii) The following pairs of instruments shall be treated as only one instrument:

Piano and Celeste
Organ and Celeste

(iii) In the case of percussion players there shall be deemed to be four categories of percussion instruments as listed below, and the instruments in each category shall be collectively treated as one instrument (except in the case of category 2 where only a maximum of any three instruments therein may be treated as one instrument). The Company may require the Musician to play any one or more of the instruments in any one category at not less than the minimum payment applicable to his/her position in the orchestra, and any one or more of the instruments in any one of the remaining three categories (notwithstanding the provision above in respect of category 2)

subject to paying him/her in accordance with (i) above.

Category 1:

Basic Percussion Instruments: Bass Drum, Snare Drum, Cymbals plus the usual small accessories and reasonable effects (including Castanets and Tambourine) plus one Timpani and one Tubular Bell.

Category 2:

Tuned Mallet Instruments: Glockenspiel, Marimba, Tubular Bells, Vibraphone, Xylophone.

Category 3:

"Latin American" Rhythm Instruments including Claves, Maracas, Bongos.

Category 4:

Timpani - a maximum of four.

8. Seating Rehearsal

A Seating Rehearsal is a call held within two hours of the first performance of the week, not exceeding thirty minutes in length, which may be used for the purposes of arranging musicians in the pit, balancing sound and rehearsing. A Seating Rehearsal shall be held on the first performance day at each new venue, and there shall normally be a maximum of one Seating Rehearsal per week. However, the Company may request an additional Seating Rehearsal in the same venue, in the event of multiple repertoires. The Seating Rehearsals shall take place only at venues outside London. A Seating Rehearsal payment as set out in Annex I shall be made to the Musician for each Seating Rehearsal or when engaged on the first day of each touring week, whether or not a Seating Rehearsal is actually called.

9. Porterage

For the transport of the instruments below, the Musician shall receive a portorage payment as set out in Annex I, provided that it shall be assumed that the musician shall always be required to remove his/her instrument(s) from a theatre or other place of performance of the week, even if further performances are to take place in the same venue in the week that follows. If the musician is required by the Company to remove his/her instrument(s) from the theatre temporarily, a payment of the amount shown in Annex I shall cover both the removal and the return.

GROUP A

Vibraphone
Xylophone
Chimes
Drums
Marimba

GROUP B

Electric Accordion
Electric Guitar
Bass Saxophone
Tuba
Double Bass

GROUP C

Contra Bassoon
Glockenspiel
Baritone Saxophone
Trombone plus one other brass instrument
French Horn plus one other brass instrument
Cello
Alto or Tenor Saxophone and Bass Clarinet
Alto or Tenor Saxophone and Pair of Clarinets (A and Bb)
Pair of Clarinets (A and Bb) and Bass Clarinet

GROUP D

Harp
Timpani
Organ
Electric Piano and other electronic keyboard instruments

Should a musician be required to transport an instrument listed above while touring outside of Zone 6, portage payments shall be made throughout the tour. When transporting an instrument included in the above list within the London congestion charge zones, the Musician shall be reimbursed the applicable congestion charge.

Section 4: Travel & Touring

1. Travel

When a musician is required to travel outside of Zone 6 (as defined by Transport for London) to the venue at which he/she has been engaged to perform, the Company shall pay to the musician the equivalent of standard class rail fare to and from London and from place to place throughout the engagement. Any incidental transport whilst crossing London during the course of a tour (as distinct from at the inception thereof) shall also be paid for by the Company.

2. Sunday travel

For each thirty minutes (or part thereof) during which the Musician is required by the Company to travel on a Sunday he/she shall be paid double the Sub Principal half hourly performance rate at the amount shown in Annex I. For this purpose, the travelling time shall be calculated as being the scheduled rail travel time.

3. Touring allowance

- (a) When the Musician is required to tour in the United Kingdom, a touring allowance of an amount not less than that currently prevailing under the UK Theatre's Opera and Dance Touring Allowances shall be paid in the week in which it applies. One-sixth of the weekly rate is payable for each day up to and including five days. The full weekly rate is payable for six or seven days on tour.
- (b) Where the final call of the week in which there are 5 or fewer days on tour is a matinee, the following pro-rata Touring Allowances shall be paid according to the scheduled arrival time by rail at a London terminus:
 - (i) At 8.00pm or before – one third of the appropriate daily Touring Allowance (single performance rate)
 - (ii) Between 8.01pm and 10.00pm – two thirds of the appropriate daily Touring Allowance (single performance rate)
 - (iii) At 10.01pm or later – the full appropriate Touring Allowance (single performance rate)

The touring allowance shall be payable for periods of work which take place outside of Zone 6.

Section 5: Absence

1. Sickness & Accident

- (i) In the event of the Musician, who has been engaged as an extra for at least 3 sessions in any one week, being absent through sickness or accident, the Company shall make payment to him/her any sums which may be due in respect of services that should have been rendered under the contract in the current week in which the sickness or accident shall occur. This provision shall be available to the Musician for an aggregate period not exceeding four weeks in any one year.
- (ii) Where the Musician is engaged for more than 8 sessions in any one week, and he/she has completed a minimum of 4 sessions, in the event of illness occurring in

that week, he/she shall be paid for the total number of sessions scheduled in that week.

- (iii) Where illness or accident occurs when the Musician is engaged to work outside a radius of 15 miles from the Musician's home address and the Musician, by mutual agreement with the Music Administration Manager, returns home for treatment, touring allowance will not be payable until the Musician returns to work. The appropriate rail fares required to enable the Musician to return home and to rejoin the orchestra will be paid by the Company.
- (iv) In all cases of illness or accident the Musician may be required to supply the Company with a medical certificate.

2. Deputies

- (i) If leave of absence is requested for any other reason other than illness or physical incapacity, the arrangement of a deputy will be the responsibility of the Musician. Failure by the Musician to provide a suitable qualified deputy as defined in (ii) below will result in the loss of the relevant fee and expenses by the Musician.
- (ii) The first choice of deputies will be from a pool of players (referred to as "Qualified Deputies") agreed by the Music Administration Manager and the relevant principal player and approved by the Music Director.

Section 6: Union Membership

English National Ballet recognises the Musicians' Union as the sole Trade Union for the purpose of representing the interests and negotiating wages and working conditions of musicians engaged by English National Ballet in the United Kingdom. All musicians engaged by English National Ballet shall have the right to belong to the Musicians' Union.

Section 7: Media

1. Consent to audio-visual recording or relay of the Musician's performance

Upon payment to the Musician of the media supplement as set out in Annex 1, the Musician consents to the Company being entitled to record or relay the Musician's performance subject to the terms and conditions set out in Annex 2. The Musician's consent to such recordings and relays is subject to the following limitations in any one calendar year commencing 1st January:

- (i) An audio-visual recording of one (1) ballet production
- (ii) Audio-visual recordings of up to three (3) performance sessions for inclusion in documentary programmes and/or the Company's publicity material
- (iii) Audio-visual live relays to Big Screens in the UK of up to four (4) live performances
- (iv) Archive/reference recordings
- (v) News Access / Electronic Press Kit (EPK)

2. Notice of recording and relay

The Company shall inform the Musician of the planned recording or relay of any production at the time of offering the engagement.

3. Warranties

Upon acceptance of an engagement that the Company has indicated will be the subject of planned recording or relay, the Musician warrants and undertakes that:

- (i) He or she shall participate in the making of the recordings and relays, and shall consent to all uses specified in this Section 7 and Annex 2 in the normal course of his/her engagement by the Company, without any additional payment by the Company save for the media supplement as set out in Annex 1.
- (ii) The Company shall not be required to obtain any written consent from those Musicians whom the Musicians' Union represents in respect of the Company's rights under these Media Terms and Conditions, provided that nothing in this agreement shall restrict the rights of performers and/or the Musicians' Union laid down in the Copyright Designs and Patents Act 1988, including all the relevant subsequent updates and statutory instruments.

4. Exclusions

- (i) With the exception of the recordings and relays specified in this Section 7, together with the uses permitted in Annex 2, the Musician engaged under this Agreement shall not be under any further obligation to permit his/her performance to be recorded or relayed. The Management shall not be entitled to arrange any recording or relay of the Musician's performance, unless it is in accordance with the terms of an existing agreement between the Union and the organisation intending to make the recording or relay, or where there has been prior agreement between The Company and the Union for the making of such a recording or relay.
- (ii) The Company may not use any recording or relay of the Musician's performance whilst he/she is working under this Agreement for the purposes of assessing or evaluating the performance or the capability of the Musician.

Section 8: Use of Recorded Music

The Company shall not without the Union's prior consent use or approve the use of any recorded music in substitution, amplification or augmentation of the performance required of the Musician under this Agreement.

Section 9: Electronic Instruments

Instruments and devices incorporating pre-recorded sounds or providing sounds by electronic means may be used provided that they do not replace or reduce the employment of conventional instrumentalists on engagements carried out under this Agreement where conventional instrumentalists may reasonably be expected to be used.

Section 10: Conciliation

In the event of any dispute or difference arising between The Company and the Musician as to the interpretation of this Agreement, and if such dispute or difference cannot be resolved between the parties thereto within a reasonable time, then at the request of either party it may be referred to a Conciliation Board (consisting of an equal number of representatives from UK Theatre and the Union) which shall meet and give a decision with the utmost dispatch and in any event within not more than 28 days, and such decision shall be final and binding on the parties to the dispute or difference.

Signed on behalf of
The Musicians' Union

Signed on behalf of
English National Ballet

Date

Date

Annex 1: Provision of Services & Schedule of Payments

1. The Musician will be engaged under the terms of this Agreement to provide his/her services as an instrumental performer to rehearse and/or perform and/or record with English National Ballet Philharmonic.
2. Where the Musician has been engaged as a deputy or extra by the Company or as a deputy by a member of the Orchestra with PAYE tax status, he/she shall be paid by the Company. Where the Musician has been engaged as a deputy by a member of the Orchestra with Reserve Schedule D tax status, or by another deputy or extra engaged by the Company, he/she shall be paid by the engaging musician direct.
3. Where the Musician has been engaged as a deputy and is to be paid by a member of the Orchestra with Reserve Schedule D tax status, or by another deputy or extra engaged by the Company, he/she shall be entitled to receive from the engaging musician the appropriate fee per session, including holiday pay and media supplement, together with doubling, seating rehearsal, stage performance and Sunday travel payments where appropriate, and 1/6th of the weekly touring allowance per day and standard class rail fare where the engagement is outside of Zone 6.
4. The minimum payment due to the Musician per 3 hour session will be calculated as 1/8th of the equivalent weekly salary due to the employed members of English National Ballet Philharmonic plus the media payment together with holiday pay calculated at 12.1% (full-time equivalent of 28 days paid holiday). The minimum payment and media payment will increase each year in line with the increase in salary for the employed members of the orchestra.
5. **Rates of pay per 3 hour session (as at April 2019)**

	Basic payment per session	+ Media payment	+ 12.1% Holiday pay	Total due per session
Section Principal	£75.63	£6.74.	£9.97	£92.34
Principal	£65.77.	£6.74	£8.77	£81.28
Sub Principal	£62.78	£6.74	£8.41	£77.93

The above ranks are defined as follows:

Section Principal

Principal Flute, Oboe, Clarinet, Bassoon, Horn, Trumpet/Cornet, Trombone, Bass Trombone, Tuba, Timpani, Percussion, Harp, sub-leader (No. 3 1st violin), second violin, viola, cello and double bass. All keyboard players.

Principal

All wind players not included above; Second harp and percussionist; No. 4 1st violin. No. 2 2nd violin, viola, cello and double bass.

Sub-principal

All percussionists not included above. Third and Fourth desks 1st violins, Second and Third desks 2nd violins, Second desk violas and cellos and third double bass.

Porterage Payments.

Group A	£30.43 per instrument
Group B	£25.14 per instrument
Group C	£18.38 per instrument or group of instruments
Group D	Subject to negotiation between the Company and the musician

Other payments/allowances.

Media payment: £6.74 per session.

Seating rehearsal payment: £16.56 per seating rehearsal.

Stage performance: £7.83 per performance.

Sunday travel: £20.92 per half hour of train scheduled journey time.

Annex 2: Media

The permitted uses of recordings and relays made under Section 7 of this Agreement are as follows:

1. Capture and exploitation of the recordings and relays

1.1 An audio-visual recording of one (1) ballet production

- (a) For the purpose of making the audio-visual recording of a ballet production the Company may record up to three (3) scheduled live performances in front of a paying audience and use edited extracts from each of such three (3) recorded performances. For the avoidance of doubt, the Company shall not be entitled to record any part of a rehearsal for inclusion in the recording of a production nor shall it be entitled to schedule any additional patching sessions.
- (b) Each audio-visual recording of a ballet production may be exploited as follows:
 - (i) one (1) network television transmission on either BBC1 or BBC2 or ITV1 or Channel 4 - including S4C, or five within the UK and Channel Islands either simultaneous or non-simultaneous
 - (ii) unlimited UK transmission on all other TV (i.e. all UK TV other than BBC1, BBC2, ITV, Channel 4 - including S4C, five)
 - (iii) simultaneous live relay of one of the three (3) recorded scheduled live performances in front of a paying audience to UK Cinemas
 - (iv) simultaneous live relay of one of the three (3) recorded scheduled live performances in front of a paying audience to Big Screens in the UK
 - (v) the sale or rental on videogram (e.g. DVD) to the general public throughout the world for viewing in the home
 - (vi) communication to the general public throughout the world by being made available on-demand, paid for or free, by electronic transmission by wired or wireless means, including but not limited to internet, wire, fibre, cable, satellite and other telecommunication systems
- (c) The Company may use (and permit third parties to use) extracts from each audio-visual final edited product of up to ten (10) minutes in duration for incorporating into documentary audio-visual programmes or the Company's own publicity material including the Company's own website, artist profiles, arts and culture themed programming where the Company is featured, documentary programmes which focus on the Company, interval or 'bonus' material supporting an audio-visual recording of a ballet production.

1.2 Audio-visual recordings of up to three (3) sessions for inclusion in documentary programmes and the Company's publicity

- (a) The Company may make an audio-visual recording of up to three (3) performance sessions (excluding rehearsals) for use only in documentaries or the Company's own publicity material provided that a maximum of two (2) hours in total may be recorded at each of these three sessions. This provision is in addition to sub clause 2.1 (a) above.
- (b) Extracts from each audio-visual recording of up to ten (10) minutes in duration may be incorporated into documentary audio visual programmes or the Company's own publicity material.

- (c) The Company shall be entitled to use (and permit third parties to use) audio-visual recordings made under this sub clause 2.2 for the following purposes only:

- (i) documentary programmes which focus on the Company
- (ii) the Company's own publicity material
- (iii) artist profiles
- (iv) arts and culture themed programming where the Company is featured
- (v) interval or 'bonus' material supporting an audio-visual recording of a ballet production

1.3 Audio-visual live relays to Big Screens in the UK of up to four (4) live performances

- (a) The Company shall be entitled to undertake the simultaneous audio-visual relay to big screens in the UK of up to four (4) live ballet performances under the following conditions:
- (i) the simultaneous relay must not be recorded
 - (ii) the audience for the big screens must have free access
 - (iii) each simultaneous relay must be of a scheduled live performance in front of a paying audience
 - (iv) relays are limited to big screens within the UK

1.4 Archive/ reference recordings

- (a) The Company shall be entitled to make archive or reference audio/visual recordings of all ballet productions by the Company subject to the following conditions:
- (i) the recording may only be made during a scheduled rehearsal, dress rehearsal or performance when the members of the Orchestra are receiving salary
 - (ii) one rehearsal, dress rehearsal or performance must be designated for the recording and notice given to the musician in advance of the date, time and venue of the recording (1 week minimum notice)
 - (iii) each recording shall be of a standard necessary for reference only and shall be watermarked
 - (iv) only one copy will be made of each recording and that copy will not be reproduced. Any further reproduction is not covered by the musician's consent to the initial recording
 - (v) under no circumstances will an archive/reference recording be used in place of a rehearsal pianist
 - (vi) the making of an archive/reference recording shall not affect the performance for which the members of the Orchestra are contracted (e.g. by changing the seating or lighting or any other similar factor) nor shall any "retakes" be required of the members of the Orchestra for the purpose of making an archive/reference recording
 - (vii) any member of the Orchestra may view an archive/reference recording on the Company's premises subject to making a request for same to the Managing Director of the Company
 - (viii) archive/reference recordings will be controlled by the Choreology Department and stored at their place of work and will only be used for archive and reference purposes

- (ix) under no circumstances shall an archive/reference recording leave the Company's premises without the prior written approval of the Managing Director of the Company
- (b) The Company shall be entitled to make Short Life Reference recordings of ballet productions by the Company subject to the following conditions:
 - (i) a Short Life Reference recording may only be made during a scheduled rehearsal, dress rehearsal or performance when the members of the Orchestra are receiving salary
 - (ii) the copyright in the recorded performance will be assigned by the Company to the MU as the representative union for members of the Orchestra
 - (iii) one fixed camera only will be used for Short Life Reference recordings utilising sound recorded from its built-in microphone with no extra microphones being used
 - (iv) each Short Life Reference recording will be kept for a period of no more than four (4) weeks and then it will be wiped. A representative of the MU will have the right, in conjunction with a representative of the management, to check Short Life Reference recordings from time to time
 - (v) Short Life Reference recordings will not be permitted to leave the Company's premises or the theatre in which the Company is working
 - (vi) under no circumstances will a Short Life Reference recording or its sound track be used in place of a rehearsal pianist
 - (vii) under no circumstances will a Short Life Reference recording or its sound track be used by conductors to 'learn the score'

1.5 News Access

- (a) The Company shall be entitled to make news recordings for any of those on the Authorised List: BBC, ITV Companies, London News Network, BskyB, Reuters Video News, London TV (What's On), or to invite any of those on the Authorised List to make their own news recordings provided that the maximum recording time of each news recording shall be sixty (60) minutes.
- (b) News recordings shall not be made by or for Five or any other satellite or cable broadcaster. Any requests relating to a news recording for a third party that is not on the Authorised List shall be referred to the Media Department, Musicians' Union, 60-62 Clapham Road, London SW9 0JJ.
- (c) Those on the Authorised List shall be advised by the Company that where consent is granted, use of the News Recordings in programmes other than those specified shall automatically attract the fees due under the appropriate agreement with the Musicians' Union to which such party is subject.
- (d) Each News Recording may be broadcast by a broadcaster on the Authorised List in network news bulletins, local news bulletins and 'round-ups' and arts and music magazine programmes and listings programmes provided that the maximum transmission time of performances by the musician included in each such programme shall be limited to two (2) minutes, subject to the following limits:
 - (i) one minute of recorded performance where the music is featured (i.e. not

background or incidental)

- (ii) one minute of recorded performance where the music is not featured (e.g. as background to an interview or voice over)
- (iii) in the event of the transmitted duration of the performance of the musician exceeding the transmission time limits specified above the musician shall receive a payment under the appropriate Musicians' Union Agreement (e.g. PACT, BPI, BBC, ITV, IPA)
- (iv) all further and secondary exploitation of the News Recordings shall not be permitted without the Orchestra's Musicians' Union Steward first being notified of same and agreement being reached with the Musicians' Union

1.6 Electronic Press Kit (EPK)

Procedures agreed between the Company and the Musician for the creation of and dissemination of EPKs that will allow the Company to benefit from electronic mass media opportunities such as cable TV, foreign TV, listings/magazine programmes, website and internet marketing. It is hereby acknowledged that EPKs are produced solely to support and benefit the interests of English National Ballet and all of its members.

(i) Process and communication

The entire process will be consultative and carefully managed by the Company, adhering to the agreed parameters.

The Company will communicate intention to produce an EPK to members through the Music Administration Manager and Musician Union's Deputy as well as to the Musician Union's representative with (unless reasonably impracticable) at least two months' notice. The communication process begins with an internal memo to all relevant parties together with a communication to the MU representative. These will detail the dates and times of the General Rehearsal it is intended to film. Additionally, a memo will be posted on orchestral and company notice boards prior to said General Rehearsal in order to remind orchestra members that filming will take place.

An independent film producer will be commissioned, and the contract drawn up between the Company and that producer will stipulate the following:

- resultant images remain the exclusive property of English National Ballet
- any broadcast of those images is administered solely by English National Ballet's Press Department.
- original recordings will be held on file in the Company's Archive in accordance with clauses 5, 7 and 8 of the Archive Recording Agreement.

A copy of the contract will be sent to the MU representative and Music Administration Manager.

(ii) Filming at General Rehearsals

Normally, the entire General Rehearsal is to be filmed. This stems from the fact that frequent interruptions and instructions expressed by microphone from artistic and technical staff to artists on stage renders unusable much of the filmed material. A member of the Press Department will be in attendance throughout the filming process. The crew will normally comprise of two camera operators and a sound engineer. It may be necessary to place recording equipment in the front stalls/near the orchestra pit and this will be executed in close consultation with orchestral porters, an overriding priority being the policy of never unnecessarily disturbing the artistic process during any General Rehearsal. A memorandum to remind orchestral members of the filming will be placed on orchestra notice boards prior

to the rehearsal by the Press Department or Company Manager.

(iii) Editing

The Press Department will manage the editing process. This will involve a member of Artistic Staff, appointed by the Artistic Director, and a member of the Company's music staff or orchestra, appointed from a pre-arranged pool of 5 persons, nominated by the orchestral committee. The resultant EPK will contain up to six short extracts from the production, the combined total of all the extracts not to exceed 5 minutes in length, without prior permission.

(iv) Safeguards

Each recipient of the EPK will be sent a copy of this agreement to be signed prior to use of material and copies of these will be held on file in the Press Department. Details of the agreement will be shown on screen before filmed material begins under the heading 'Warning'. Similarly, a sticker on the outside of the tape/DVD indicating restriction of use with an instruction that the user must familiarise him/herself with these by reading them on screen at the beginning of tape. The wording of the agreement is as follows:

- The contents of this EPK may only be used for a single transmission in the context of current affairs or 'what's on'.
- The broadcast must be completed within seven days of receipt of the EPK.
- The tape/DVD must be returned immediately after use to EPK return, Press Department, English National Ballet, 39 Jay Mews, London SW7 2ES.
- Copying of this recording is expressly forbidden.

(v) Additional

The EPK will remain 'active' as long as the relevant production is in repertory and may be used to support subsequent seasons of the same production.

A log will be kept in the Press Department of the location of each EPK and the return of stock will be actively managed. A finite number of copies of the EPK will be made.

The Company is committed to ensure controls are in place in order to prohibit any unauthorised use.

2. Exclusions

- (a) The Company may not make any use of a recording or relay which is not specifically permitted under these Media terms and conditions as outlined in section 7 hereof unless such use is either the subject of a separate agreement between the Company and the Musicians' Union or the members of the Orchestra involved receive additional payments under the appropriate Musicians' Union Agreement (e.g. PACT, BPI, BBC, ITV, IPA).
- (b) The Company may not use any recording made under this section 7 for the purposes of assessing or evaluating the performance or the capability of the Musician.

3. Collecting societies: equitable remuneration

- (a) In the event that the musician is entitled by law to receive from domestic or foreign collecting societies equitable remuneration or other forms of income in respect of recordings of his/her performances made under this Section 7 that is additional to that

arising under this Section 7 nothing contained in this Section 7 shall prevent the musician from laying claim to the same. The musician shall not be obliged to account to the Company for any such income to which he/she is entitled.

- (b) The Company shall make and maintain an accurate list of all the musicians who perform on each recording that is made under this Section 7 so as to assist collecting societies in identifying those musicians whose performances are on a particular recording.
- (c) The Company is authorised to disclose all necessary information about the members of the Orchestra to the relevant collecting societies so as to assist such collecting societies in identifying those who are entitled to receive payments from such collection societies.

4. Third parties

The Company shall be entitled to license or to assign or otherwise to authorise any third party to exploit the Company's rights under these Media terms and conditions.