

DRAFT RTÉ RADIO 1 PJ O'CONNOR RADIO DRAMA AWARDS - WINNERS CONTRACT

Dated: *I.D:*

(the “Writer”).

TITLE OF PROGRAMME

REF: PR10041

DURATION DATE OF BROADCAST: 40 minutes

DATE OF RECORDING OF THE PROGRAMME:

Dear Sir/Madam

Raidió Teilifís Éireann (hereinafter referred to as “RTÉ”) hereby commissions the Writer to write the Work (as defined in section 3.1 below) subject to the Writer’s acceptance of the terms and conditions of this agreement (“this Agreement”) and the Writer agrees to fulfil such obligations and grant such rights as set out herein.

1. Description of the Work

- 1.1. The Writer shall write and deliver to RTÉ an original script to be produced, recorded and broadcast by RTÉ on the terms set out herein.
- 1.2. The Writer will on RTÉ’s request attend meetings with RTÉ Radio Drama and will be reasonably available for the purpose of reviewing the Work and discussing RTÉ’s comments on same and the Writer will be available to write any further revisions to the Work based on RTÉ’s editorial notes in relation to the Work.
- 1.3. The Writer will render all services required by RTÉ in connection with the Work and collaborate with any person nominated by RTÉ diligently and to the best of the Writer’s skill and ability and in accordance with the general requirements of RTÉ.
- 1.4. The final draft of the Work shall be delivered to RTÉ by [date] or such other later date as notified to the Writer by RTÉ.
- 1.5. The parties acknowledge that RTÉ intends to produce the Work and make recordings of the Work for transmission by RTÉ as set out herein (such recording to be referred to as the “Programme”) and to use and exploit the Programme pursuant to this Agreement.

2. Consideration

- 2.1. The Writer agrees that this Agreement has been entered into by the parties as the prize for the winning Writers of the PJ O’Connor Radio Drama Awards 2018 (the “Competition”). The Writer agrees that RTÉ shall not pay any fee to the Writer other than as provided for in paragraph 2.3 below.
- 2.2. Subject to the due performance by the Writer of the Writer’s services and to the due compliance by the Writer with the Writer’s obligations under this Agreement RTÉ shall, as inclusive and full consideration for all services rendered by the Writer and for all rights granted to RTÉ pursuant to this Agreement, pay to the Writer the Prize Money and broadcast

the “Work” (the “Prize”). For the purposes of this Agreement the Prize Money shall mean the prize money payable to the Writer pursuant to the Terms and Conditions of the Competition, namely

1st Place - €4750 fee + €250 digital rights = Total Prize €5000, [**delete where appropriate**]

2nd Place - €3750 fee + €250 digital rights = Total Prize = € €4000 [**delete where appropriate**]

3rd Place - €2750 + €250 digital rights = Total Prize €3000 [**delete where appropriate**]

(i) Payable as follows:-100% of the Fee on signature of this Agreement; and

- 2.3 The Prize offered is in respect of the Broadcast Rights (defined below) and Digital Rights (defined below). Both parties agree and acknowledge that the terms of this Agreement do not prejudice any future negotiations between RTÉ and Irish Playwrights’ and Screenwriters’ Guild with regard to digital rights including online.

If this Agreement is made through an agent on behalf of the Writer, all fees payable under this Agreement shall be paid to the agent and the Writer acknowledges that such payment to the agent will be good discharge of RTÉ’s payment obligations under this Agreement.

To facilitate payment of the Fee using electronic transfer, the Writer agrees to provide RTÉ with the following details:

- (a) The bank account details to which the Fee is to be paid, including name of bank, sort code, type of account, name of account holder and account number.
- (b) The Writer’s PPS Number

3. **Rights:**

- 3.1 In consideration of RTÉ’s undertakings under this Agreement the Writer hereby grants to RTÉ an exclusive irrevocable licence for a period of 24 months and thereafter non-exclusive of the full and entire copyright and all other rights of whatsoever kind or nature in and to the entire products of the Writer’s services under this Agreement (the “Work”) to use and exploit the Work as included in the Programme as follows:

3.1.1 RTÉ shall be entitled to make the Programme available on any RTÉ radio service via all forms of radio now known or hereafter invented (including without limitation via analogue, digital, terrestrial, cable, MMDS, satellite, internet and mobile phone) (“Broadcasts Rights”); and

3.1.2 RTÉ shall have the sole and exclusive right to make the Programme (or as edited/re-mastered) and/or any clips (not to exceed 30% of the Programme) available (in either case with or without accompanying visual material) on all digital platforms now available or yet to be invented including streaming or download (i.e. as a compressed digital audio data comprising content from the Programme and/or any extracts therefrom in a format that allows digital download of the Programme and/or any extracts therefrom by end-users to devices including but not limited to PCs, Macs, laptops and mp3 players) throughout the world: (1) on the RTÉ website and/or all RTÉ digital services (current or future); and (2) on any third party website(s)/service(s) by arrangement between such third party service and RTÉ, provided that the download file is served from RTÉ’s servers or RTÉ’s designated content delivery network (in each case with or without geo-blocking) via the internet simultaneous with each such RTÉ radio broadcast of the Programme and on demand before and/or after each such radio broadcast at any time for the entire copyright period (including all renewals, revivals and extensions) and thereafter in perpetuity (“Digital Rights”).

- 3.2 In addition to the Programme, RTÉ shall be entitled to make recording(s) of any rehearsals and/or performance of the Work pursuant to this Agreement without further payment. RTÉ shall be entitled to broadcast clips from such recording(s) and from the Programme of up to 30% of the Programme in any Programme promo or in any other further RTÉ programmes.

For the avoidance of doubt RTÉ shall own the copyright and all other rights in and to any sound recordings of the Work recorded by RTÉ pursuant to this Agreement including the Programme but the exercise by RTÉ of such rights shall be subject to this section 3.

- 3.3 The Writer asserts the moral right to be identified as the author of the Work pursuant to section 107 of the Copyright and Related Rights Act 2000 and agrees that a standard RTÉ Radio production credit in the Programme will satisfy the Writer's right to be identified as the author of the Work pursuant to section 107 of the Copyright and Related Rights Act 2000 and all other rights of a similar nature whether now existing, or hereafter conferred under the laws of any jurisdiction.
- 3.4 The licence of rights by the Writer under this Agreement shall be irrevocable and shall not be subject to reversion, rescission, injunction or other equitable relief.

4. Undertaking and Warranty

- 4.1 The Writer warrants that at the time of signing this Agreement the Writer is free to enter into this Agreement and that the Writer has not entered into, and will not enter into any engagement or contract which could preclude the Writer from fulfilling his/her obligations under this Agreement.
- 4.2 The Writer hereby undertakes with RTÉ to render the Writer's services willingly and to the best of the Writer's creative ability and in accordance with the directions of RTÉ and in collaboration with such persons as RTÉ may designate.
- 4.3 The Writer warrants that the Work will be the Writer's own work and will be original to the Writer (except for material that may be provided to the Writer by RTÉ) and will not breach the intellectual property (including copyright), right of confidentiality, moral rights or any other rights whatsoever of any third party nor shall contain anything defamatory or anything that may cause RTÉ loss or damage or bring RTÉ into disrepute.
- 4.4 The Writer shall provide RTÉ with a photograph of the Writer and biographical notes (to include all details of the Writer's work with RTÉ Radio Drama, if any) to be sent electronically to radiodrama@rte.ie (or otherwise as notified by RTÉ). The Writer agrees that RTÉ is entitled to use same in relation to the Programme and in any ancillary advertising and publicity relating to the Programme, including but not limited to the RTÉ website and RTÉ Guide without any additional payment. For the purposes of the Data Protection Acts, the Writer gives his/her consent to the holding and processing of personal data relating to him/her by RTÉ for the purpose of this Agreement. The Writer agrees to participate, at RTÉ's request, in publicity and promotional events (including interviews) in respect of the Programme. The Writer agrees not to make any statements or give any interviews in any media relating to the Programme, this engagement or in respect of RTÉ unless approved in advance in writing by RTÉ. The Writer undertakes that he/she will not enter into any agreement of a commercial, advertising, or sponsorship nature with any third party in connection with the Programme except with the prior consent of RTÉ or as required by RTÉ.
- 4.5 The Writer will procure that RTÉ will have a credit in the form "Originally Commissioned and Produced by RTÉ Radio Drama" in respect of any production for radio or stage of the Work by any third party which credit shall be included in the programme credits or programme notes as applicable.

5. Editorial Control

- 5.1 The Work shall be subject to the approval of RTÉ and RTÉ shall have the right to make any changes to the Work including the title. RTÉ shall have final say on all matters relating to the Work and the Programme and the development, production, exploitation of the Programme and all allied and ancillary rights connected thereto.

- 5.2 The Writer hereby acknowledges that all editorial control over the production and broadcast of the Work and the Programme shall vest exclusively in RTÉ. The Writer shall carry out all such acts including but not limited to the execution of all necessary agreements and consents as may be required by RTÉ in order to ensure that editorial control over the Work and the Programme vests exclusively in RTÉ.
- 5.3 Nothing contained herein shall impose any obligation on RTÉ to exploit or produce or broadcast the Work.

6. **Miscellaneous**

- 6.1 The Writer acknowledges that the Writer is an independent contractor and not an employee of RTÉ and on execution of this Agreement the Writer will provide RTÉ with documentary evidence of the Writer's tax exempt status under section 195 of the Taxes Consolidation Act 1997 in the standard form provided by the Revenue Commissioners in respect of the Work. In the event that such documentation is not produced when requested by RTÉ then RTÉ will be required to deduct PAYE/PRSI from the payments to the Writer under this Agreement.
- 6.2 RTÉ undertakes to indemnify the Writer against all liabilities, claims, demands, actions, costs, damages, and losses arising out of any breach by RTÉ of any of the terms of this Agreement. The Writer undertakes to indemnify RTÉ against all liabilities, claims, demands, actions, costs, damages, and losses arising out of any breach by the Writer of any of the terms of this Agreement. In the event of any claim, dispute, action, writ or summons arising in regard to matters referred to in section 4.3 above the Writer and RTÉ agree to provide full details to the other at the earliest opportunity and RTÉ shall be entitled to deal with the matter as RTÉ may wish.
- 6.3 The Writer shall treat as secret and confidential and not at any time during or subsequent to the termination of this Agreement for any reason disclose or permit to be disclosed to any person or otherwise make use of or permit to be made use of any confidential information which is not information in the public domain relating to the Work and/or RTÉ's activities, processes, business affairs where knowledge or details of the information was received during the period of this Agreement or previously. The Writer acknowledges that the Writer is aware that RTÉ is a public sector body designated under the provisions of the Freedom of Information Act, 2014 and that this contract may therefore be liable to public disclosure under that Act, subject to RTÉ's right to refuse disclosure on the grounds set out in the Act.
- 6.4 RTÉ hereby excludes all liability, and therefore shall not be liable to the Writer or to the legal or personal representatives of the Writer, for any loss, damage or injury to the Writer's person or property during or in connection with this engagement unless caused by the negligence of RTÉ and recoverable on that ground.
- 6.5 Any waiver of any breach of, or default under, any of the terms of this Agreement by RTÉ shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of this Agreement.
- 6.6 If any provision or part of any provision of this Agreement is found by a court or other competent authority to be void or unenforceable, such provision or part of a provision shall be deleted from this Agreement and the remaining provisions or parts of the provision shall continue to full force and effect.
- 6.7 The Writer acknowledges that the Writer's services under this Agreement are of a unique nature and the Writer agrees that the Writer will not assign or licence or transfer any of the Writer's rights and /or obligations under this Agreement without the prior written agreement of RTÉ. RTÉ may assign, licence and transfer RTÉ's rights and/or obligations under this Agreement provided that RTÉ shall remain liable to the Writer for the performance of RTÉ's obligations under this Agreement.

- 6.8 Any person accepting this offer on the Writer's behalf warrants that he/she is authorised by the Writer to accept this offer and the terms set out herein on the Writer's behalf [and further warrants that he/she is authorised to receive the Fee on the Writer's behalf];
- 6.9 The Writer agrees to execute and deliver to RTÉ any other documents that RTÉ considers necessary or desirable to evidence, effectuate or enforce this Agreement. This letter represents the entire agreement between RTÉ and the Artist with regard to the subject matter hereof. This Agreement shall be governed and construed in all respects in accordance with Irish law and the parties agree to submit to the exclusive jurisdiction of the Irish courts.

Please indicate the Writer's acceptance of the terms of this Agreement by signing and returning a fully signed copy of this Agreement to RTÉ by return of post to: Gorretti Slavin, RTE Radio Drama, RTÉ Radio 1, Donnybrook, Dublin 4. The second copy is to be retained by the Writer for his/her records.

Yours sincerely

Read and agreed

For and on behalf of
Raidió Teilifís Éireann
Date:

The Writer
Date: