

– LMDA SAMPLE AGREEMENT –
– 2018 –

PRODUCTION DRAMATURGY IN A NON-PROFIT SETTING¹

This Agreement made in duplicate this _____ (date)

Between

XXX _____ (hereinafter “Dramaturg”)

c/o _____ (address)

-and-

YYY _____ (hereinafter “Theatre”)

c/o _____ (address)

1. Dates and Residency

Theatre agrees to hire Dramaturg to provide services for a production of _____ (hereinafter “Play”), performing at NAME OF THEATRE SPACE.

The Terms of the Agreement are as follows:

First rehearsal:	DATE
Previews begin:	DATE
Opening:	DATE
Closing:	DATE

Dramaturg’s services will include a residency of DATE to DATE,² with dates subject to change by mutual written agreement of both the parties. Theatre agrees to provide travel and accommodations if the location of rehearsals and performances is more than XXX miles from Dramaturg’s own residence.

Theatre’s principle contact for Dramaturg will be _____ (Theatre Contact).

¹ This agreement is a sample for a **non-profit** production. For commercial productions, please see Sample Contract document “Note on Production Dramaturgy in a commercial setting.”

² If Dramaturg lives in same area as Theatre, “residency” notion is still applicable when specifying date ranges when Dramaturg must be available on site.

2. Fees and Expenses^{3 4}

In return for services provided, Dramaturg shall be paid the sum of THIS AMOUNT (\$____) Dollars payable in three installments as follows:⁵

\$XXXXX will be paid on Theatre's receipt of signed contract, and

\$XXXXX will be paid on the date of the XXX;

\$XXXXX will be paid on _____(date) or Opening of Play listed in Section 1.

Theatre agrees to reimburse Dramaturg for any production related out-of-pocket expenses necessary to the Production, such as the purchase of research materials, photocopying, postage, and long-distance phone calls, upon presentation of appropriate receipts, up to a total of XXX Dollars (\$XXX.XX). Any books or other research materials reimbursed by Theatre shall become the property of Theatre or of Dramaturg, as agreed upon by both parties.

Theatre will grant Dramaturg the use of (or expense reimbursement for) Theatre's copiers, printers, computing equipment, etc. to generate research and Dramaturgical materials and aid in script development as necessary, leading up to and for the duration of the Production's rehearsal process.

Theatre will provide Dramaturg with a complimentary ticket for all ticketed rehearsals, previews, opening, and the run of the Production, four (4) additional complimentary tickets to opening night, and XX complimentary tickets (in an amount commensurate to Theatre's comp policy for creative team members) to the run of the Production.

3. Scope of Work and Duties⁶

Dramaturg will support the Play with the usual and customary dramaturgical services that Dramaturg, director, playwright, and Theatre deem necessary. Dramaturg and Theatre Contact will discuss particulars of these services with director and playwright well in advance of First Rehearsal. Dramaturg will work on a schedule to be agreed upon and coordinated via Theatre Contact, up to XX hours per week, unless otherwise agreed upon by both parties. Job responsibilities include, but are not limited to, the following:

- Meet and offer analysis, ideas, and notes with regard to text and staging to creative team members and artistic staff, for example, at concept or design meetings, before rehearsals begin and until project is complete.
- Report regularly to Theatre Contact on the development and rehearsal of the Play.

³ Please consult the LMDA Employment Guidelines (pp. 18-19, 25-26) for detailed comments regarding Compensation and Pay Ranges for Freelance Dramaturgs. Also consult p. 5 for a list of resources that may help determine suitable rates of compensation for your situation.

⁴ This example is offered as a demonstration of language regarding compensation, NOT as a specific recommendation. It is vital that this section accurately reflect the discussions between the employer and the Dramaturg.

⁵ Payment is typically made in two, three, or four installments. Last payment is typically made upon projected date of Opening of Play.

⁶ Responsibilities must be tailored in each case to the situation being negotiated. This list is offered as an example only, not as a recommendation for a specific contract or specific duties. Consult LMDA Employment Guidelines (p. 15-16) for an overview of job descriptions and tasks that may be appropriate for your situation.

- Provide support, if needed, in the management and distribution of script and script changes up to and during the rehearsal process.
- Provide research materials as needed and agreed upon for distribution to cast and creative team (such as actor packets or research binders). Dramaturg shall be given at least one month's notice for preparation of a distributed research packet.
- Supervise or create the mounting of a public exhibit for display during _____ (dates) at _____ (specific location in specific building).⁷ Dramaturg will be given at least two weeks advance notice, as well as support in executing such an exhibit, and credit as appropriate.
- Author dramaturgical notes to be printed in the playbill, at a length of XXX to XXX words, to be submitted to the Theatre Contact by _____ (date). The exact form and content of the notes will be determined in consultation with the director and playwright and/or Theatre staff, and with at least two weeks advance notice. Dramaturg shall have final approval of content of notes.
- Contribute copy relating to the Play for publicity and/or education materials such as newsletters, study guides, and the like. Dramaturg and Theatre shall discuss work and deadlines at least two weeks in advance.
- Participate, within reason, with Education, Publications, Development, Box Office, and/or Membership Departments in connection with the Play, providing information as requested, with appropriate advance notice. Theatre agrees to provide copies to Dramaturg of all publicity or educational materials and the like in which Dramaturg contributes copy or research, and archival materials of events in which Dramaturg participates.
- Lead between ## and ## pre- or post-show discussions during the run of performances, on a schedule to be mutually agreed upon between Dramaturg and Theatre Contact.

4. Additional Terms⁸

If both Dramaturg and Theatre agree mutually to modify the Scope of Work, such that Dramaturg's contribution to the project increases significantly, or additional jobs are performed, then both parties agree to discuss modification to Billing and Compensation. Neither Dramaturg nor Theatre will modify Scope of Work without clear, written, mutual agreement.

5. Travel and Accommodations⁹

Theatre agrees to provide Dramaturg with travel and accommodations each time Dramaturg is to be in residence at Theatre for rehearsal or for Production purposes, such as pre-rehearsal readings or workshops. Theatre shall provide Dramaturg with ## round trip tickets for coach class air transportation; reimbursement for luggage fees; appropriate local transportation (or reimbursement for such) to and from airports; and a per diem of \$XXX for all days in residence, including travel days. Should changes in travel be required by Theatre for purposes of the

⁷ Dramaturg and Theatre Contact should discuss whether a graphic designer will be available to the Dramaturg, as well as the scope and budget of the exhibit (number or kind of display pieces, etc., if easily quantified).

⁸ Please refer to p.15-19 of the Employment Guidelines for more information on additional terms and "Exceptional Services." Please also refer to Rider 1 at the end of this document for an example of Additional Terms.

⁹ Travel and Accommodations only apply when residency is not in the Dramaturg's home area.

Production, Theatre shall be responsible for any financial obligations. Should changes be required by Dramaturg, Dramaturg shall be responsible for any financial obligation. In addition, Theatre shall provide Dramaturg with a furnished private studio apartment or equivalent, with complimentary wireless Internet access, and access to a printer and a copier for all periods of residency.

6. Billing

Dramaturg's billing shall be substantially as follows: "Dramaturg".¹⁰ Dramaturg shall receive billing on the title page of the theatre program and any souvenir program, as appropriate. Billing shall appear wherever and whenever and in the same size, type, and style as the designers, including but not limited to press releases, posters, houseboards, and any other material that lists both director and designers. Billing will be at least equal in size and on the same line as that of designers, or if there is not enough space, on the line below the designers.¹¹ Dramaturg's approved biographical information shall appear in the playbill. Theatre assures that Dramaturg shall be credited in a published text if the Theatre is credited and full production credits are listed.

7. Property Rights

Dramaturg hereby acknowledges that the Playwright is the sole author and owner of the Play, including all contributions made by the Dramaturg, free of any liens and encumbrances.¹²¹³

Notwithstanding that, Dramaturg grants Theatre a non-exclusive license to use program notes and research anthologies created by the Dramaturg in the course of provision of services under this contract, for current and future production of the Play by Theatre. Dramaturg has final approval of material used publicly. Materials created by Dramaturg are not works for hire¹⁴ and shall not be used outside of Theatre's production of play without prior written consent of Dramaturg. If the Theatre engages in future transfer, co-production, or tour of Play, Theatre must enter into a separate agreement with Dramaturg to license materials.

¹⁰ Exact title may vary depending on situation.

¹¹ This varies depending on the extent of the dramaturgy, the Dramaturg's relationship with the theatre, the overall composition of the creative team, and the overall scope of the production. In many cases it may be appropriate for the Dramaturg to be billed on the same line as voice and text coaches and fight directors, who typically are listed on a line below the designers. In other cases, it may be appropriate for the Dramaturg to be listed after the director and before the designers, depending on the Dramaturg's role and standing in the field. Please consult the LMDA Employment Guidelines (p. 16-18) for detailed comments regarding Credit.

¹² This typically applies when the playwright is actively involved in script work as part of the process, and when there is a clear understanding between both parties that the Dramaturg has neither authorship nor ownership claims on the script. If the Dramaturg at any point engages in any writing the playwright and Dramaturg should reconfirm the nature of their relationship. Please consult the LMDA Employment Guidelines section on Property Rights (pp.8-14) for further comments on these kinds of situations.

¹³ This does not typically apply when the Dramaturg is the principle translator or adapter, in which case the Dramaturg should seek a separate agreement regarding ownership of the finished text, separate from work as dramaturg on the production.

¹⁴ "Work for hire" means the employer is considered the owner even if the employee created it. In this case the contract asserts that as an independent contractor the Dramaturg is not an employee, therefore the work the Dramaturg creates is not work for hire.

8. Subsequent Productions

Theatre agrees to make best efforts¹⁵ for Dramaturg to be hired for revivals, transfers, co-productions, and tours of Theatre's production of the Play, to be defined as any production enlisting the same director and one-half of the original design team and one-half of the original cast.

9. Separate Agreements

Theatre acknowledges that if it does not engage in other productions and receives no credit, Dramaturg is free to enter into a separate agreement with the playwright, director, or new producer for credit or employment in subsequent productions.

10. Not An Employee

It will be understood and agreed by the parties hereto for the purposes of this Agreement that the Dramaturg will be considered an independent contractor, not an employee of the Theatre.¹⁶

11. Force Majeure

If the Play is abandoned because of an Act of God (i.e., fire, flood, wind, etc.), strike, loss of theatre space, or loss of rights to the Play, Dramaturg shall be paid all fee payments already paid or due as of that date and no further compensation.

12. Termination

This contract may be terminated by either party upon two weeks written notice by either party to the other. If Theatre elects to terminate Dramaturg's services prior to the official press opening of the Production, Dramaturg shall be entitled to receive any fees earned but unpaid prior to Dramaturg's termination and such credit as provided in Paragraph 6, and neither Producer nor Dramaturg shall have any further obligation, monetary or otherwise, to each other, other than any provision hereunder that explicitly survives termination.

13. Choice of Laws

This Agreement shall be construed in accordance with the laws of the State/Province of XXXXX, and court proceedings initiated by either party with regard to this Agreement will take place in [County, State/Province].¹⁷

14. Execution

Two (2) copies of this fully executed Agreement will be distributed as follows:
One (1) retained by Theatre; one (1) retained by Dramaturg.

¹⁵ "Best efforts" is not a guarantee but simply an assurance that a good faith effort will be made.

¹⁶ The definition, rights, and responsibilities of "independent contractor" are different in Canada versus the United States. Please see the LMDA Employment Guidelines (pp. 8-14) for detailed comments on independent contractor status.

¹⁷ The purpose of this item is chiefly for the Dramaturg to specify a local jurisdiction to avoid travel concerns should legal proceedings occur, if the Dramaturg and the Theatre are located in different jurisdictions.

This Agreement may be executed via electronic signature and/or in counterparts by pdf/facsimile/digital signature, and when so executed all of which when taken together shall constitute one single agreement for all purposes, notwithstanding that not all parties are not signatories to the original or the same counterparts.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and year first written above.

Dramaturg

Theatre

RIDER 1¹⁸

Modification of Scope of Work

Dramaturg and Theatre agree to modify the Scope of Work as follows:
[SPECIFIC CIRCUMSTANCE].

Billing:

For all subsequent productions licensed by the Theatre where Theatre receives credit, Dramaturg should be credited as “Original Dramaturg” anywhere and everywhere full production credits are listed. The credit should be placed after the current Dramaturg and design team, but in equal print size.

Compensation:

ADDITIONAL FEE OR PAYMENT TERMS FOR CURRENT PRODUCTION

Co-Production:

Dramaturg shall be given the right of first refusal to dramaturg any subsequent productions of the Play produced, co-produced or licensed by Theatre, including revivals, transfers, co-productions, and tours of Theatre’s production of the Play, to be defined as any production enlisting the same director and one-half of the original design team and one-half of the original cast. If Dramaturg accepts such engagement, he/she shall receive no less than the fees and royalties commensurate with the market rate for a freelance dramaturg. If Dramaturg is not afforded such option to dramaturg subsequent production of the Play, he/she shall receive a payment of no less than \$XXX.XX Dollars or XX percent (XX%) of the subsequent fee, whichever is greater. This payment does not grant a license to use materials compiled or authored by Dramaturg. If the producer licenses the play to another non-profit theatre, Dramaturg will receive 5% of the license fee. If the producer receives a royalty, Dramaturg will receive 5% of that royalty.¹⁹

If Dramaturg is denied employment on subsequent productions, Theatre agrees to pay Dramaturg one-half of the rate that a production dramaturg would receive.

¹⁸ This Rider reflects the Exceptional Services principle articulated in the LMDA Employment Guidelines (pp.16-19). Please review those sections of the Guidelines for a definition of Standard Services and for examples of Exceptional Services that might arise in the specific situation under negotiation. In many cases, modifying the Scope of Work such that the Dramaturg is now providing Exceptional Services may make it appropriate for the Dramaturg to now have right of first refusal on future productions.

¹⁹ As of this edition of the Sample Contracts, there are relatively few examples available from the field as to what percentage of subsidiary rights would be usual or appropriate. The 5% represents what LMDA projects as fair, but should be negotiated according to the situation. LMDA advocates that dramaturgs contract for a percentage of the producer’s share of the profits, not for a percentage of the writer’s share.

