

Author's Limited License to Record Play

THIS AGREEMENT is made this _____ day of _____, 20____, by and between _____ (“Author”), as Author of the play entitled _____ (“Play”), and _____ (“Producer”).

In consideration of the mutual promises and covenants herein made, the parties agree as follows:

1. The Author represents and warrants that _____ [he] [she] is the sole creator and copyright owner of the Play and has the full power and authority to enter into this Agreement and to grant the license rights herein to the Producer.
2. The Producer [intends to present] [is currently presenting] its production of the Play on the live speaking stage, under separate written license agreement with the Author, dated _____, which is attached hereto as Exhibit “A” and made a part hereof.
3. The Producer now desires to record its production of the Play by _____ [videotape, DVD, audio, etc.] for the sole and limited purpose and use of retaining a historical record of its production and for no other purpose whatsoever.
4. The Author hereby grants a limited license to the Producer to record its production of the Play for the sole purposes and uses stated herein and no other purpose whatsoever.
5. The Producer understands and agrees that the recording and/ or use of the recording of the Play for any other purpose and/ or use, other than those specifically and expressly granted herein, will conclusively constitute a willful violation of the common law and/ or statutory copyright of the Play owned by the Author. The Producer understands and agrees that any other recording/and/ or use of any recordings made thereof may interfere with and/ or greatly diminish some or all of the Playwright’s rights, interest, ownership, and commercial exploitation of the Play, the value and/ or diminishment of which is not possible to quantify at this time. Any violation of this agreement will conclusively constitute a willful material breach of this contract, as well as a material breach of the grant of rights in the attached Exhibit A.
6. The Producer will be permitted to make only one recording of the Play as performed before a live audience of primarily paying ticket holders. For backup purposes only, the Producer may make a single copy of the aforesaid recording. The Producer will make one additional copy, which will be given to the Author, under the terms of Paragraph 7 below. All of the expenses of recording and copying the recording, including any fees to performers and other production personnel, will be solely the expense of the Producer.
7. The Producer will give the Author the single additional copy, free of charge, within _____ days after the making of the recording.
8. The Producer may not distribute, offer, sell, donate or otherwise give away at no charge, or otherwise dispose of its own recording of the Production at any time, [except as described in Alternate paragraph 9 below]. Any broadcast of any recording, by audio, television, closed circuit, cable, pay for view, Internet, or any other technologies, whether now known or hereinafter discovered, is expressly and specifically prohibited. In the

event the Producer no longer desires to retain its recording of the Play, it will first communicate by written notice its intentions to part with the recording and offer the same, at no charge, to the Author or _____ [his] [her] heirs, legal representatives, or assigns. In the event the Author or _____ [his] [her] heirs, legal representative, or assigns, fails to communicate _____ [his] [her] acceptance of Producer's offer within twenty-one days of the mailing of the said notice, the Producer will destroy the recording and provide Author with a notarized affidavit of destruction.

9. [Producer will deposit its recording of the Play in an on-site archive, maintained by the Producer and/or persons under his direction and control.]

[Alternate Paragraph 9]

9. [The Producer does not maintain its own on-site archive. Therefore the Author grants permission to the Producer to deposit [donate] its recording of the Play to the following off-site archive

(“Depository Archive”), located at

_____ and to no other.]

10. The only persons who will be permitted to view and/or listen to the recording of the Play will be the following: [strike any parties whom the Author does not wish to access the tape]

- A. Present and future members of the Producer's production staff and/or company.
- B. Present and future members of the Producer's board of directors [trustees].
- C. Members of the current production of the Play.
- D. Current and/or future subscribers to the Producer's theater company.
- E. Bona fide members of the press.
- F. Current and/or future donors or potential donors [investors] and financial supporters of the producer's company.
- G. Legal and/or accountant representatives of the Producer, in connection with any bona fide legal disputes, claims, and/or causes of action arising out of the Production, and/or duly appointed officers of any court of competent jurisdiction in connection with any legal dispute, claim, and/or cause of action arising out of the Production.
- H. Bona fide researchers and scholars, for educational and study purposes only.

[At least ten days prior to the viewing by any of the aforesaid persons, the Archive must first notify the Author of the request for viewing and obtain the Author's written consent thereto. Absent the Author's consent, the viewing will be expressly and specifically forbidden.]

The archive must notify the Author in writing of the date, time, and identity (including the address) of all persons viewing the recording. In addition to said notice, the archive will maintain, for a period of ten years thereafter, a written log of the foregoing information, for inspection by the Author and/or _____ [his] [her] representative. Regardless of the location of the Producer's archive [depository archive], viewing may be done only on the site of the archive [depository archive]. The recording may not at any time be removed from the archival site for viewing or any other purpose.

Viewing by the public at large, whether on an individual basis, or by more than one person at a time, is expressly and specifically prohibited. Any advertisement or other

materials heralding, publicizing, or promoting the availability for viewing of the recording is expressly and specifically prohibited.

No charge or admission may be made or taken for any viewing, except for a nominal fee to offset the cost of the viewing. Nothing contained herein to the contrary, the archive may charge a general admission fee for access to its facilities as a whole, which fee may be in addition to the aforesaid nominal viewing fee.

[In the event the Producer deposits its recordings with a third-party Depository Archive, the Producer will, prior to and as a condition of deposit, secure the Third Party's written acceptance and agreement to all of the terms and restrictions contained herein, including the disposition of the Recording in the event either the Producer and/or the Third Party Depository Archive no longer desires to keep it, and will furnish a signed original acceptance to the Author.]

11. The Producer may not receive any direct or indirect compensation or profits from its recording of the Play, except reimbursement for reasonable out of pocket expenses.

12. The Producer may not, at any time, offer, sell, distribute, or give away copies of any recording of the Play, whether authorized hereunder or not, to members of the general public and/or its patrons, board members, production staff, members of the current or future productions of the play (whether under the attached or future licenses of the play from the author or [his] [her] duly appointed licensor or agent).

13. The Producer may not assign this agreement to any other persons or entities (except successor entities of the theater company) without the author's written consent.

14. This Agreement will be binding on the parties, their heirs, legal representatives, and assigns.

15. All notices required hereunder will be by certified mail, return receipt requested, and mailed to the parties at the addresses following their respective signatures below.

16. The Producer, at its own expense, will secure all releases, consents, licenses, permissions, and waivers that may be necessary and/or required, from all actors, directors, choreographers, designers, and other persons or entities in connection with its recording of the play. This will include any third party copyright holders, whose material is included in and part of the Producer's Production of the play, which Producer desires to include in the recording of the Play. The Producer will further hold the author harmless and indemnify [him] [her] from any claims, disputes, causes of action, judgments, attorney's fees, costs and expenses, which the Author may incur or suffer as a result of the Producer's failure to obtain same.

17. The laws of the State of _____ [author's residence] will govern this agreement.

In Witness Whereof, the parties have hereunto affixed their hands and seals, this day and date.

_____(Author)

_____(Address)

_____(Producer)

By: _____ (Title)

_____ (Address)

_____ (Third-party Depository Archive)

By: _____ (Title)

_____ (Address)

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Attorney, producer, and playwright Charles Grippo is the author of *Business and Legal Forms for Theater* and *The Stage Producer's Business and Legal Guide*.