

SAMPLE OFF-BROADWAY GM AGREEMENT

AGREEMENT (“Agreement”), dated February 6, 20xx between XXXXXXXXXXXXXXXXXXXX (“General Manager”), having its principle place of business at XXXXXXXXXXXXXXXXXXXX, New York, New York 10036 and XXXXXXXXXXXXXXXXXXXX (“Producer”), with respect to the Off-Broadway production (“Production”) of the play currently entitled “XXXXXXXXXX” (“Play”) accordance with the terms and conditions hereinafter set forth.

WHEREAS, the Producer has acquired or will acquire the right to produce the Production;

WHEREAS, the Producer desires the General Manager to supervise and manage the proposed Production;

WHEREAS, the General Manager is in the business of managing theatrical productions and desires to be the General Manager of the Production;

NOW, THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the parties hereby agree as follows:

1. **ENGAGEMENT:** Producer hereby engages General Manager and General Manager hereby agrees and accepts such engagement to provide its services as general manager for the Production. General Manager’s services hereunder shall be deemed to end four (4) weeks after the completion of the load-out of the Production. General Manager’s services hereunder are nonexclusive, and Producer specifically acknowledges that General Manager may be rendering services to others during the term of this Agreement.

2. **NATURE OF SERVICES:** General Manager will perform to the best of General Manager’s abilities and with all due diligence, the services of a general manager for an Off-Broadway production. These duties include, but are not limited to preparing budgets; negotiating and executing contracts for persons, goods, services and facilities; consulting with and advising Producer with respect to the business affairs of the Production; supervising and managing the accounts and financial affairs of the Production; and rendering such other services as customarily pertain to the position of general manager for a theatrical production presented in the Off-Broadway theatre district of New York City, in accordance with prevailing industry custom and practice., including, without limitation, the following:
 - (a) Manage all routine and customary financial matters with respect to the Production, including the preparation of the production and weekly operating budgets, the securing of necessary insurance, the supervision of the box office, issuance of weekly wrap reports, and the management of the production bank accounts and payroll.

 - (b) Render a weekly profit and loss statement of the company's operation, including an itemized accounting for all production expenditures, accruals (if any), and amortization (if any), and work in conjunction with the Bookkeeper to prepare any and all required accounting reports and statements.

 - (c) Maintain all necessary records and files of the activities referred to above, as well as the general records of the Production, in coordination with the production’s Bookkeeper and

make such records available for Producer's inspection and copying during normal business hours.

- (d) Provide Producer's CPA with information necessary to prepare and file all required tax returns for the Production in a timely manner.
- (e) Supervise promotional, front of house, and publicity efforts
- (f) Supervise archival and b-roll filming;
- (g) Supervising the closing of the venture including, but not limited to, the take-out, the recovery of bonds, and the final accounting statement.

3. COMPENSATION: With respect to General Manager's services as a general manager for the Production, General Manager shall receive, as General Manager's entire aggregate compensation, the following:

- (a) A pre-production fee ("Production Fee") of **XXXXXXXXXXXXXXXXXX** Dollars (**\$XXXXX.00**), payable as follows:
 - (i) **XXXXXXXXXXXXXXXXXX** Dollars (**\$XXXXX**) upon execution of this agreement;
 - (ii) **XXXXXXXXXXXXXXXXXX** Dollars (**\$XXXXX**) upon the day single tickets go on sale for the New York Production;
 - (iii) **XXXXXXXXXXXXXXXXXX** Dollars (**\$XXXXX**) no later than two weeks prior to first rehearsal of the New York Production;
- (b) Commencing two (2) weeks prior to the first cast rehearsal, currently scheduled for [DATE], a weekly fee ("Weekly Fee") of **XXXXXXXXXX** Dollars (**\$XXXXX**) will be paid continuing until four (4) weeks after the completion of the load-out of the Production. If the Production should otherwise close and reopen, the Weekly Fee shall continue for four (4) weeks after the close and shall recommence two (2) weeks prior to the first rehearsal week for the reopening of the Play.
- (c) If Producer requires General Manager to provide services subsequent to four weeks after the close of the Production, for the first year Producer will pay General Manager a quarterly fee of **XXXXXXXXXX** Dollars (**\$XXXXX**). After the first year, Producer will pay General Manager an hourly rate of **XXXXXXXXXX** Dollars (**\$XXXXX**), up to an annual maximum of **XXXXXXXXXX** Dollars (**\$XXXXX**).
- (d) There will be no reduction in the Weekly Fee for any layoff of less than four weeks. In the event of a layoff of four weeks or more, any reduction in the General Manager's Weekly Fee shall be negotiated in good faith taking into consideration the work required during the layoff period.
- (e) Twelve (12) months after the first paid public performance of the Play, the Weekly Fee listed above shall increase by three percent (3%), and shall continue to increase by an

additional three percent (3%) every twelve (12) months after that, continuing through the term of this agreement.

- (f) For the accounting period in which 100% of the Production Expenses have been recouped (“100% Recoupment”) continuing through the accounting period in which 200% of the Production Expenses have been recouped (“200% Recoupment”), Producer shall pay General Manager a share of Net Profits (as defined in the organizational documents of the Production Company) of 2% rising to 2.5% at 200% recoupment, payable at the same time and in the same manner as any investor may be paid a share of Net Profits.
- (g) Should Producer require General Manager to furnish additional services for the Production that are not customarily performed by the general manager of an Off-Broadway production, General Manager shall be entitled to receive additional compensation for such services, which shall be subject to negotiation in good faith between General Manager and Producer. Such additional services shall be deemed to include, but shall not be limited to, the following: Services rendered in connection with any commercial videotaping, cast album recording, filming, or televising of the play (other than customary promotion and advertising uses); negotiating or administering the disposition of any subsidiary or touring rights of the Play; furnishing accounting or bookkeeping services (including year-end) for the Play; furnishing tour booking, marketing, promotion, or press services for the play; furnishing post-closing general management services at any time later than four (4) week after the final performance of the Production; cast album recording services; developmental readings/workshop services (provided that the cost of such services in connection with workshops and readings shall not result in an increase in the approved production budget); and/or furnishing any other services which do not customarily fall within the scope of the services customarily furnished by the general manager of an Off-Broadway production in in New York City.
- (h) Should Producer require General Manager to furnish services for developmental readings, out-of-town try-outs, or regional productions of the Play, both parties shall negotiate an appropriate fee in good faith.
- (i) Upon four weeks written notice, Producer may elect to engage **XXXXXXXXXX** (“**Xxx**”) as the primary general manager for the Play in which case General Manager’s Weekly Fee shall be reduced to **\$Xxx** and General Manager shall continue to producer services as a consultant through the load out of the Play as described in paragraph 3(b) herein.

4. **EXPENSES:** Producer shall reimburse General Manager for any and all documented expenses incurred by General Manager on behalf of the Play including, but not limited to, messengers, postage and photocopying. General Manager shall submit monthly bills for such documented expenses.

In addition, undocumented expenses incurred by General Manager on behalf of the production, shall be billed as follows: Commencing four (4) weeks prior to the first rehearsal and continuing until four (4) weeks after the completion of the load-out of the Production, a weekly charge of **XXXXXXXX** Dollars (**\$xxxx**), as a flat fee to cover all of the following: the desk rental of the Company Manager as well as

miscellaneous undocumented office expenses such as supplies, envelopes, paper, etc. and local and long distance phone, including faxing.

5. **COMPANY MANAGER:** In addition to the compensation set forth above, Producer will pay for the services of a Company Manager whom General Manager will choose, subject to Producer's approval, which shall not be unreasonably withheld. Said Company Manager shall begin two (2) weeks prior to the first rehearsal of the Production of the Play and shall continue on payroll until two (2) weeks following the close of the Production. The Producer will be responsible for the payment of the salaries of said Company Manager and for all payments, related costs and benefits in connection with the Company Manager in accordance with the attached budgets and as required by union contracts. Producer shall also be responsible for all costs and expense incurred by the Company Manager in furtherance of the Production.

6. **BILLING:** General Manager shall receive for every production of the Play of which it is the general manager the following credit on the title page of the Playbill, all programs, and wherever and whenever full billing appears:

General Management
XXXXXXXXXXXXXXXXXX

In addition, General Manager's biography and staff listing will appear in the Playbill, and all programs and newly printed souvenir books of every production of the Play of which General Manager renders services as the general manager. The contents of said biography shall be subject to General Manager's prior approval, not to be unreasonably withheld.

7. **ADDITIONAL PRODUCTIONS:** General Manager shall have the right of first refusal to be engaged as General Manager for any and all future non first class New York productions of the Play. In lieu of a standard right of first refusal of all North American future production, General Manager shall receive weekly fixed fee for any future production produced by Producer for an amount to be negotiated in good faith, but to be no less than 10% of the weekly fee paid to the primary general manager of such production.

8. **NO JOINT VENTURE:** Nothing in this Agreement shall be deemed to create a partnership, joint venture, or other similar relationship between General Manager and Producer. Producer hereby acknowledges that in all dealings with third parties, respecting the production of the Play, General Manager is acting as the authorized agent of Producer.

9. **TRAVEL:** In the event that Producer requires General Manger to travel more than Fifty (50) miles outside of New York City, a per diem in the amount of One Hundred Dollars (\$100) shall be paid to General Manager for each day including partial travel days.

In addition, General Manager shall be provided with the cost of reasonable hotel accommodations plus necessary transportation expenses to and from such location. General Manager shall receive Travel and accommodations no less favorable than the Authors and Director of the Production. Notwithstanding the foregoing, Producer shall make commercially reasonable efforts to provide General Manager with business class accommodations for flight longer than three hours.

10. INDEMNIFICATION AND INSURANCE: Producer hereby agrees that General Manager is not and shall not be held responsible for any debts, costs, or liabilities of Producer or of the Production, or of any company organized by Producer to present said Production except to the extent those debts, costs or liabilities were not within approved budgets and/or otherwise approved in advance in writing by Producer. Producer hereby indemnifies and agrees to hold harmless General Manager and its officers, directors, shareholders, employees and agents from and against any and all charges, expenses, liabilities, damages, and risks (including reasonable attorney's fees) that General Manager may incur within the scope of rendering its services hereunder except to the extent that those debts, costs, or liabilities were not within approved budgets or otherwise approved in advance in writing by Producer. Producer further hereby indemnifies and agrees to defend and hold General Manager harmless from and against any and all charges, expenses, liabilities, damages, and risk (including reasonable attorney's fees) which may arise with respect to the actual presentation of the Production, including but not limited to any alleged or proved contractual breach by Producer of any of its obligations pursuant to this Agreement or pursuant to any agreement approved by Producer and entered into by Producer (or by General Manager on behalf of Producer and with Producer's consent) with any third party with respect to the Play, but specifically excluding any claims or liabilities arising out of General Manager's (or any employee of representative of General Manager's) breach hereof, negligence, criminal acts, or intentional torts.

During the entire Term of this Agreement, Producer agrees to carry and maintain in full force general liability insurance with minimum coverage of not less than One Million Dollars (\$1,000,000), and umbrella liability insurance with minimum coverage of not less than Four Million Dollars (\$4,000,000), and Producer shall list General Manager, its parent and affiliated companies and the officers, directors, agents and employees of each as Additional Insureds on said policies. Producer shall furnish General Manager with a Certificate of Insurance confirming the foregoing, upon receipt of a written request from General Manager therefor. Producer shall make reasonable efforts to obtain a general liability policy upon execution of this Agreement.

General Manager will indemnify Producer and anyone claiming from or through Producer against any and all claims, liabilities, losses, costs, expenses (including reasonable attorney's fees and expenses), damages or recoveries (including payments made in settlement with General Manager's consent, not to be reasonably withheld) caused by or arising out of any acts of General Manager outside the scope of its authority under this Agreement, including without limitation any breach hereof, acts of negligence, criminal acts, or intentional torts.

11. ARBITRATION: Any dispute arising out of, in connection with or in relation to this Agreement or its interpretation or any breach thereof shall be determined and settled by arbitration before a single arbitrator in New York City, pursuant to the rules then obtaining of the American Arbitration Association. Any award rendered shall be final and conclusive upon the parties and a judgment thereunder may be entered in the highest court of the forum, state or federal, having jurisdiction.

12. ASSIGNMENT: Either party shall have the right to reassign the duties and responsibilities upon written notification to the other party to another party to which Producer or General Manager shall be a managing member, provided that Producer remain fully liable to General Manager hereunder.

13. MISCELLANEOUS:

- (a) This Agreement shall be interpreted under the laws of the State of New York, applicable to agreements to be wholly performed in such state.
- (b) This Agreement, incorporates the entire understanding of the parties, incorporates and supersedes any and all prior agreements, written or oral, between the parties with respect to the subject matter hereof, and may not be changed, modified or terminated except by a written document signed by both parties.
- (c) No waiver by either party hereto of any failure by the other party to keep or perform any covenant or condition of this Agreement shall be deemed a waiver of any proceeding or succeeding breach of the same nor of any other covenant or condition of the agreement.
- (d) It is understood that the General and Company Manager will work out of the General Manager's office at the location of General Manager's choice. It is understood that during the term of this Agreement, the books and records related to matters customarily administered by the General Manager will be maintained at the office of the General Manager.
- (e) This Agreement may be executed in duplicate counterparts, all of which taken together shall constitute one and the same instrument. Signatures depicted by photocopy, facsimile or by digital computer image shall be valid and binding.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first above written.

AGREED TO AND ACCEPTED:

XXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXX

By: _____
XXXXXXXXXXXXX date
General Manager

By: _____
XXXXXXXXXXXXX date
Producer