

PRODUCTION CONTRACT FOR PLAYS

This AGREEMENT entered into this _____ day of _____ (Effective Date), by and between Thomas H. Lutzow, hereinafter referred to as the "AUTHOR," located at 4444 N. 110th Street, Milwaukee, WI 53225, and _____, hereinafter referred to as the "THEATER," located at _____ (from time to time referenced as "Party" if intended singly or "Parties" if intended together) to present and to produce a production of a play entitled "Habeas Corpus," hereinafter referred to as the "PLAY."

WITNESSETH

WHEREAS: the AUTHOR wishes that the PLAY be performed under this AGREEMENT for mutual benefit, including benefit to the AUTHOR, THEATER and attending audiences.

WHEREAS: the THEATER wishes to perform and promote the PLAY in a manner that displays artistic talent in presentation and delivery at a high level and that produces peak audience attendance.

NOW THEREFORE, with the mutual covenants herein contained and other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I

WARRANTIES, INDEMNIFICATION, AND REPRESENTATIONS The AUTHOR hereby represents, warrants and agrees that:

1.1 He is the sole owner of the PLAY under the copyright laws of the United States of American, which is listed by the United States Library of Congress Copyright Office by the copyright number _____

1.2 He is the sole author of the PLAY, all of which is wholly original with him, and has not been copied in whole or in part from any other work; the play does not and will not, and the use of the play as herein contemplated will not violate, conflict with, or infringe upon, any rights whatsoever of any person, firm, organization, or corporation.

1.3 He has the sole and exclusive right to enter this AGREEMENT, and the full warrant and authority to grant the rights granted by him hereinunder.

ARTICLE II

GRANT OF RIGHTS AND SERVICES

2.1 The AUTHOR hereby grants to the THEATER the right, subject to the terms of this AGREEMENT, to present the PLAY for the number of performances listed below, subject to the receipt of an advance payment the amount of which also referenced below. For the purposes of this AGREEMENT, the term "Performance" shall mean live stage productions on the speaking stage under the THEATER'S own management in a regular evening bill (including matinees if such is in the THEATER'S regular schedule of performances). The term "produce" and "present" (and their derivations) shall be used interchangeably.

2.2 The AUTHOR hereby agrees to:

2.2.1 Perform such services as may be necessary in making revisions of the PLAY if needed;

2.2.2 Consult, assist, and advise the THEATER regarding any problem arising out of the production of the PLAY (if the AUTHOR is needed and is available).

2.2.3 Attend rehearsals of the PLAY, Official Press Openings, pre-performance lectures and provide related supports (if the AUTHOR can be helpful and is available).

2.3 The AUTHOR agrees that he will not, during the same production period ("Production Period" as defined herein), grant or license any other person, firm, organization, or corporation any rights to perform the PLAY within a designated geographic radius ("Designated Geographic Radius" as defined herein) not to exceed 50 miles from the location of the performance under this AGREEMENT.

2.4 It is understood that Section 2.3 does not prevent the AUTHOR from entering into other contractual agreements for presentation of the PLAY with other persons, firms, organizations, or corporations during the Production Period, provided, however, the date of such presentations, if within the Designated Geographic Radius, must contractually end sixty (60) days before the THEATER'S Production Period or not begin until sixty (60) days after the THEATER'S Production Period. If a Production Period under another contractual agreement is outside the Designated Geographic Radius, no scheduling conflict will be deemed to exist.

2.5 Although nothing herein shall be deemed to obligate the THEATER to produce the PLAY, nevertheless, unless the THEATER presents the first paid Public Performance of the PLAY within the first five (5) days of the Production Period, for which prescribed advance payment has been made, the THEATER'S rights to produce the PLAY and this AGREEMENT will then automatically and without notice terminate.

ARTICLE III ADVANCES AND ROYALTY PAYMENTS

3.1 In consideration for the right to produce the PLAY, the THEATER agrees to pay the AUTHOR an advance of \$_____ for the original Production Period, due upon the execution of the AGREEMENT. The time period the advance payment encompasses is from the effective date of this AGREEMENT through the start of the Production Period, as defined in Section 4.1. All advance payments are non-refundable.

3.2 The THEATER shall have the right to extend its option of the PLAY for an additional three (3) months upon giving notice to the AUTHOR 30 days prior to the expiration of the foregoing Production Period.

3.3 The THEATER shall pay the AUTHOR a royalty of five percent (5%) of the gross weekly box office receipts ("GWBOR") or \$_____ for each paid public performance, whichever is greater, and commencing with the first paid public performance.

3.4 If the PLAY is extended beyond its original Production Period for an additional Production Period, the Author will receive an advance payment for the 1st additional Production Period of \$_____ and the

AUTHOR will receive a royalty of seven percent (7%) of GWBOR, or \$ ____ for each paid public performance, whichever is greater. For each additional Production Period beyond the 1st extension, the AUTHOR will receive an advance of \$ _____ and 10% of GWBOR, or \$ ____ for each paid public performance, whichever is greater.

| Production Period | Advance | Royalty | Minimum/Performance |
|--|---------|--------------|---------------------|
| Original Production Period | \$X,XXX | 5% of GWBOR | \$XXX |
| 1 st Extended Production Period | \$X,XXX | 7% of GWBOR | \$XXX |
| 2 nd Extended Production Period | \$X,XXX | 10% of GWBOR | \$XXX |
| N th Extended Production Period | \$X,XXX | 10% of GWBOR | \$XXX |

3.5 No original Production Period will be longer than two (2) months and no extended Production Period will be longer than one (1) month.

3.6 For purposes of this AGREEMENT, GWBOR shall mean all sums received by the THEATER from all ticket sales to the PLAY, allocable to performances given in such performance week. The THEATER will ensure that an allocable portion of the THEATER'S season ticket subscriptions is included in the gross box office receipts. Deducted from the THEATER'S GWBOR payments due to the AUTHHOR will be:

- (a) any federal and other admission related taxes.
- (b) any credit card fees associated with sale of tickets.
- (c) any third-party online seller fees associated with the sale of tickets.
- (d) the advance payment made to the AUTHOR for the Production Period.

3.7 An advance payment is due and owing to the AUTHOR immediately upon the date of his written consent to the original Production Period and any subsequent extensions. If the advance payment is each case is not received within seven (7) calendar days of the due date, this AGREEMENT will automatically terminate without the need for written notice. Percentage of GWBOR payments are due at the end of each week during the Production Period. If any GWBOR payment is not received within seven (7) calendar days of the due date, this AGREEMENT will automatically terminate without the need for written notice.

3.8 The method of payment of all monies due the AUTHOR shall be by check. Said check shall be drawn to the order of the AUTHOR and shall be sent to the AUTHOR at the address shown first above identified as the location of the AUTHOR.

3.9 Each week during the Production Period, the THEATER will provide the AUTHOR will a summary statement that shows GWBOR, deductions that apply, and balance due to the AUTHOR.

ARTICLE IV PRODUCTION DATES

4.1 The AUTHOR hereby grants to the THEATER, subject to the terms and conditions hereof, the right to produce and present the PLAY by the THEATER at the THEATER'S facilities beginning on _____ (the "Opening Production Date") and closing on _____ (the "Closing Production Date". The dates between and inclusive of the Opening Production Date and

the Closing Production Date is the "Production Period." For purposes of this AGREEMENT, "Opening Production Date" is the first paid public performance of the PLAY, exclusive of previews.

4.2. During the Production Period, the THEATER will have _____ performances, each performance with an audience seating capacity of _____. The THEATER's website address that describes the THEATER's seating layout is http://www._____.

4.3 The change in locations of presentations of the PLAY by the THEATER other than the location the address of which is herein provided first above, for whatever reason, and at any time during the Production Period, shall not be made without the consent and approval in writing of the AUTHOR.

4.4 The THEATER reserves the right, for whatever reasons, to change the production dates of the PLAY within the Production Period, provided, however, that the AUTHOR has been notified and informed in writing as to the decision and agrees in writing to the production date changes, that agreement not to be unreasonably withheld.

4.5 If there is no production by the date specified as the closing date, or the extended closing date, or the revised closing date, if applicable, the THEATER'S rights to produce and present the PLAY pursuant to this AGREEMENT shall terminate automatically and all rights to the PLAY granted to the THEATER shall revert to the AUTHOR on the date specified as the closing date, or extended date, or revised date, as the case may be.

ARTICLE V OWNERSHIP OF COPYRIGHT

5.1 On all printed materials and advertisements associated with the PLAY will include the PLAY'S copyright number and the name of the AUTHOR.

5.2 The PLAY is the property of the AUTHOR.

ARTICLE VI GENERAL PRODUCTION PROVISIONS AND ARTISTIC APPROVAL

6.1 The THEATER recognizes that the PLAY is the artistic creation of the AUTHOR, and agrees it will not make, or allow to be made, any additions, omissions, or alterations in the manuscript of the PLAY, including dialogue and stage directions, without the written consent of the AUTHOR. Any violation of this section will be cause for the automatic termination of this AGREEMENT without the need for written notice and the THEATER'S rights hereunder.

6.2 Any changes that are so made in the manuscript, emendations or incidental dialogue, stage directions, accepted by the AUTHOR immediately become the property of the AUTHOR.

6.3 If the AUTHOR is not, for any reason, physically present during the rehearsals and previews of the PLAY, all changes requested should be made by phone or in writing, either by mail or FAX, with the AUTHOR for his consent or his revisions. All agreements by the AUTHOR to specific changes in the manuscript by phone or during rehearsals must be confirmed in writing within

twenty-four (24) hours by the AUTHOR. An email sent from the AUTHOR'S email address will suffice as written confirmation.

6.4 The THEATER represents and warrants that it shall not, nor permit any party under its control, direction, or employ, to privately or publicly, directly or by implication represent that the PLAY is a collaborative or joint project nor state or imply that the authorship of the PLAY is held by anyone other than the AUTHOR.

6.5 The AUTHOR grants permission to the THEATER to make _____ (number) copies of the manuscript of the PLAY for their production. Only the THEATER is authorized to make reproduction and/or copies of the manuscript of the PLAY for production purposes.

6.6 Reproductions or copies of the manuscript of the PLAY, or parts thereof, revisions, new pages, etc., are to be made at the expense of the THEATER, not at the expense of the AUTHOR.

6.8 The AUTHOR agrees to make himself available for casting sessions (if the AUTHOR is needed and available). Arrangements for the AUTHOR'S presence at casting sessions are pursuant to negotiations as stipulated in Article VIII.

6.9 The THEATER agrees that the PLAY shall be presented with a cast, director, scenic design, lighting, costume, and sound design, including replacements thereof. All final decisions regarding casting, director, scenic design, lighting, costume, and related presentations belong to the THEATER.

6.10 The AUTHOR shall have the right to attend all rehearsals of the PLAY.

6.11 The AUTHOR hereby grants to the THEATER the rights to use the AUTHOR'S name, biography, photographs, likeness, or recorded voice (referred to herein as "materials"), and the title of and excerpts from the PLAY for advertising, press, and promotional purposes by any means or medium.

6.12 The THEATER shall include the AUTHOR'S biography in all programs used by the THEATER in which any other biography appears.

6.13 The AUTHOR shall submit to the THEATER all biographical materials, photographs, and all other materials for all programs and other advertising and promotional purposes by the requested time. The THEATER shall submit to the AUTHOR, for approval, all materials which the THEATER intends to use. If the AUTHOR does not advise the THEATER within 72 hours of receipt of the materials of desired changes therein, the materials shall be deemed approved as submitted by the THEATER.

6.14 The AUTHOR agrees to make himself reasonably available in-person, by phone, in writing for publicity, promotion and interviews (if the AUTHOR is needed and available) by media to promote PLAY.

6.15. Except as specified in paragraph 6.16 below, the THEATER will not, for any reason, make, cause, or allow any recording of the PLAY, or excerpt thereof, by audio, videotape, or other means, by itself, its personnel, or any other individual or organization without the AUTHOR'S express written consent. In all its programs and by announcement prior to each performance, THEATER will notify its audience that all

recordings, by audio, videotape, or other means, are expressly prohibited. Recordings “for the archives” are specifically prohibited, regardless of the means by which they are made.

6.16. Notwithstanding paragraph 6.15 above, the THEATER may authorize an excerpt from the PLAY, not to exceed five (5) minutes, to be recorded/filmed by a commercial or public radio or television station, for the sole purpose of publicizing the production of the PLAY, provided, however, that the THEATER will receive no compensation, directly or indirectly, for authorizing any such radio or television presentations. Any such excerpt may not include material that may require the permission of persons other than the AUTHOR.

6.17 The AUTHOR shall have two (2) house seats for any or all performances during the run of the PLAY, provided he gives at least twenty-four (24) hours notice to the THEATER in advance of the performances attended.

ARTICLE VII BILLING

7.1 The AUTHOR shall receive billing credit in all programs, advertising, and publicity for the PLAY arranged by the THEATER.

7.2 The AUTHOR’S billing shall be on a separate line immediately beneath the title of the PLAY. Such credit shall appear on a separate line on which no other credit shall appear. The credit shall be in an agreed size, type, and position on the copy. Such agreement is negotiable as pursuant and require the AUTHOR’S written approval in advance. In no event shall any other person receive billing in larger type than the AUTHOR. No person’s name shall appear above the AUTHOR’S name except the THEATER or players over the title.

7.3 No casual or inadvertent failure to comply with the provisions of this section shall be deemed a breach of this AGREEMENT unless the THEATER does not remedy the mistake promptly upon the THEATER’S receipt of notice of same from the AUTHOR.

7.4 The provisions in this Article may be supplemented by such additional terms as the AUTHOR and the THEATER shall agree.

ARTICLE VIII REIMBURSEMENT OF EXPENSES

8.1 For purposes of this AGREEMENT, the AUTHOR will not be available if the location of the production is more than 50 miles from the AUTHOR’S address and the AUTHOR is not reimbursed for travel, accommodations, and other expenses.

8.2 The THEATER shall also reimburse the AUTHOR for reasonable travel expenses at any other time when the AUTHOR is requested by the THEATER to make a trip in connection with the play outside the 50 mile distance from the AUTHOR’S address.

8.3 If the AUTHOR’S presence is requested outside the 50 mile distance, the THEATER shall reimburse the AUTHOR for reasonable hotel accommodations, or provide the AUTHOR with reasonable

accommodations, during the entire period of the requested stay which may include the rehearsal period, performance previews, and performances within the Production Period and at any other time when the AUTHOR'S presence is requested by the THEATER.

8.4 The AUTHOR will receive a per diem of \$100 for each day he is available in-person to the THEATER.

8.5 The THEATER agrees to reimburse the AUTHOR for any "out of pocket" expenses he may incur in the rendering of his services to the THEATER and/or the production of the PLAY.

8.6 All reimbursements of expenses shall be honored once the THEATER has been provided with proof and evidence presented to the THEATER that such expenses were incurred by the AUTHOR. Such reimbursements shall be paid to the AUTHOR within seven (7) working days from the time the evidence of the expenses has been presented to and accepted by the THEATER.

8.7 The provisions of this Article may be supplemented by such additional terms as the AUTHOR and THEATER shall agree in Article XVI herein.

ARTICLE IX THEATER'S ASSIGNMENT OF GRANTED RIGHTS

9.1 The THEATER shall not have the right to assign this AGREEMENT or the rights granted herein to the THEATER to any other THEATER, producer, corporation, partnership, or other entity without first having obtained consent in writing of the AUTHOR.

9.2 Separate and additional contracts must be executed and filed for any revival, extension, tour, transfer, and electronic reproduction and transmission not specified herein.

9.3 The THEATER under this AGREEMENT shall not share in any future royalty amounts associated with the production of the PLAY by others.

ARTICLE XII MISCELLANEOUS PROVISIONS

12.1 This AGREEMENT shall be governed by, and construed in accordance with, the laws of the State of Wisconsin applicable to all contracts made and entirely performed within.

12.2 The THEATER will observe all federal, state, and county laws and ordinances in the production of the PLAY that pertain to selection of employees, safety, security, health, financial management, and any other practice that may be subject to legal or governmental regulation.

12.3 The THEATER will hold AUTHOR harmless from legal claims or actions arising from the production of the PLAY and will reimburse the AUTHOR for the AUTHOR's legal defense in the event the AUTHOR is named in a lawsuit. The THEATER will pay the cost of any fines, penalties or other adverse agreements or findings that derive from the production of the PLAY and that might arise from any settlement, arbitration, or decision by a court of law.

12.4 Disputes between the parties will be managed in a progressive manner. All disputes must be a material breach of this AGREEMENT and will be first presented in writing by the aggrieved Party to the other Party citing the section of this AGREEMENT that applies. The receiving Party will have seven (7) days to respond in writing. If the aggrieved Party is not satisfied with the response, the AUTHOR will select a mediator from among the Wisconsin Association of Mediators. Mediation must conclude under this Agreement within one month of the appointment. If either Party files a lawsuit in a Wisconsin court of law, the prevailing Party will receive reimbursement for legal expenses from the non-prevailing Party.

12.5 All notices to either party shall be in writing and given by personal delivery, certified or registered mail (return receipt requested), and shall be deemed given when so personally delivered or mailed. Notices by mail shall be addressed to such party's address as first given above indicating the Party's location.

12.6 This is the entire and complete AGREEMENT between the parties. This AGREEMENT shall not be amended or modified except by written AGREEMENT signed by both parties.

12.7 This AGREEMENT shall be binding on the parties hereto and on their executors, administrators, personal representatives, successors, or assigns.

12.8 The AUTHOR shall have the right to inspect and copy, or cause to have inspected or copied, at the AUTHOR'S expense, the books and records kept by the THEATER in connection with the presentation of the PLAY to verify the accuracy of payments due to the AUTHOR hereunder. The THEATER shall have the right to inspect and copy, or cause to have inspected and/or copied, at the THEATER'S expense, contracts entered into by the AUTHOR that would affect the THEATER'S financial interest hereunder.

12.9 Provisions in this AGREEMENT may be supplemented by mutual consent of the AUTHOR and THEATER.

12.10 The Article Headings in this AGREEMENT are for convenience only and do not constitute a part of this AGREEMENT.

12.11 The Parties signed below attest and warrant that they have the authority and permission to obligate the AUTHOR in the AUTHOR'S case and the THEATER in the THEATER'S case.

Habeas Corpus: The Play
Production Agreement

IN WITNESS WHEREOF EACH OF THE PARTIES ABOVE HERETO HAS SIGNED THIS AGREEMENT AS OF THE DAY AND YEAR FIRST WRITTEN ABOVE.

BY:.....
AUTHOR

BY:.....
THEATER

.....

.....
NAME

.....
TITLE

.....
Date

.....
Date