

Collaboration Agreement (Musical)

THIS AGREEMENT is made and entered into this _____ day of _____, 20____ (“Effective Date”) by and between _____, (“Book writer”), whose address is _____; and _____ (“Composer”), whose address is _____; and _____ (“Lyricist”), whose address is _____ (all collectively hereinafter “Author”); all of whom desire to collaborate with each other to create a musical play presently entitled _____ (the “Musical”). Therefore, in consideration of the mutual covenants, promises, and agreements contained herein, the parties agree as follows:

1. Each party shall write and create his respective element of the Musical and join with the others to complete the said Musical.

2. (A) Copyright in the respective elements of the play shall be taken out and owned as follows:

Book: _____

Music: _____

Lyrics: _____

(B) Nothing contained herein—including those provisions relating to merger below—shall be construed or intended as creating a “Joint Work,” as that term is used under the United States Copyright Act of _____, and any amendments, modifications, or supplements thereof. The parties expressly agree and understand the book, music, and lyrics of the play shall each be deemed a separate work for copyright and other purposes. The copyright to each such element shall belong solely to its respective creator as set forth in paragraph (A) above.

3. (A) After deductions for agent’s commissions (as defined below), producer’s share of subsidiary rights, and any other percentages of the gross revenues which the parties must share with others, then, except as provided in (B) below, all of the net revenues, monies, and income from the commercial exploitation of the Musical, its adaptations, derivations, translations, and use in any media or format, whether now in existence, or hereinafter developed, shall be divided among the parties as follows:

Book writer: _____ percent

Composer: _____ percent

Lyricist: _____ percent

“Agent’s commissions” shall refer to the agent for the work as a whole and not to the respective agents for the individual book writer, composer, and lyricist, each of whom shall be responsible for his own agent’s commissions.

(B) The parties understand and agree that the music and lyrics may be used separate and apart from the play and said separate uses will earn revenues thereon. Such uses may include—but not be limited to—the separate publication, mechanical reproduction, synchronization, small performing rights, motion picture, television, radio, video, cast albums, recordings of any kind—all of which may occur and be presented in any format of sound reproduction and/or publication, whether now known or hereinafter developed.

Except as provided in (C) below, the composer and/or lyricist, as the case may be, (or an entity owned or licensed by each of them respectively) shall have sole control, authority, and direction over such uses, and the book writer shall have no control, authority, or direction thereon. All revenues earned from such uses shall (except as provided in (C) below) inure to and belong to the composer and lyricist respectively and the book writer shall not be entitled to any of said revenues (except as provided in (C) below). All such revenues shall be divided according to the following formula:

(i) If both music and lyrics are used, then ____% to the Composer and ____% to the Lyricist;

(ii) If only the lyrics are used, then ____% to the Lyricist and ____% to the Composer;

(iii) If only the music is used, then ____% to the Composer and ____% to the Lyricist.

(C) In the event ____% of the book is used in any presentation of the separate music and/or lyrics, as stated above in Paragraph (B), then the book writer shall be entitled to ____% of the net receipts. The book writer shall further be entitled to ____% of the direction and authority over the use of the book, in connection therein.

(D) In any publication of the book, net receipts therefrom shall be divided as follows:

(i) If only the book is used, then 100% of the net receipts shall inure to the book writer. Only the book writer shall have direction and authority over the use of the book in such publication.

(ii) If only lyrics are included in the publication of the book, then net receipts shall be divided as follows: _____% to the Book writer and _____% to the Lyricist [and _____% to the Composer]. The book writer shall have _____% , the Lyricist shall have ____%, [and the composer shall have ____%) of the direction and authority over such use of the book and lyrics respectively.

(iii) If the music and lyrics are included in the publication of the book, then net receipts shall be divided according to the formula, as stated in Paragraph (A) above. The book writer shall have ____%, the Lyricist shall have ____%, and the composer shall have _____%, of the direction and authority over such use of the book, lyrics, and music respectively.

4. All contracts dealing with the Musical Play, or any of the elements contained therein, shall require that, whenever authorship credit is given to one author, all of the collaborators must also be duly credited and provided for in the same size and style of type as the others. Authorship credit shall appear in the following manner:

Book by _____

Music by _____

Lyrics by _____

5. Merger of the respective elements of book, music, and lyrics, shall, for all purposes, occur on the happening of the following:

The "Merger Date"

Upon the happening of the merger date, all of the material—whether elements of the book, music, or lyrics—that the parties have agreed will constitute the Work, will thereupon be incorporated into and become an essential part of the Work forever. Said "merged" material may not be removed, or otherwise used in any manner outside of the work (except as noted in paragraph 3 (B) above).

Any material created for or considered for the Work, but not actually a part of the Work on the merger date, shall not be merged into the Work and shall remain the individual property of its creator/collaborator, whose control over it shall be absolute. All rights to same are reserved by its creator/collaborator. None of the other collaborators shall have any rights, claims, entitlement or interest thereon.

6. The book writer shall have sole rights of approval to the book element, including any additions, and/or deletions thereto. The composer shall have sole rights of approval to the musical elements, including any additions, and/or deletions therefrom, as well as to the choices of orchestrator, pianist, musical orchestrations, and arrangements. The lyricist shall have sole rights of approval to the lyric elements, including any additions, and/or deletions thereto.

7. All of the parties must agree upon and execute any contracts for all productions, presentations, publications of the Work, and for the sale or license or any rights therein (except as otherwise provided in paragraph 3(B) herein). Except with the consent of the other parties (and as otherwise provided in paragraph 3 (B) herein), no party may sell, license, or otherwise dispose of any of the rights to the Work or authorize or grant the rights to produce or present the Work in any manner whatsoever.

8. Whenever the consent of the author is required or desired, the parties intend and agree that voting rights on matters shall be apportioned as follows:

[Each collaborator shall have one vote and there shall be as many votes as there are collaborators. All decisions shall be by [majority] [unanimous] vote.]

[Except as provided herein in paragraph 10 below, the respective elements of the Work—Book, Music, and Lyrics—shall be divided into 3 separate units. (It shall be irrelevant the number of persons actually making up a particular unit.) Each unit shall be entitled to one vote. All decisions shall be by [majority][unanimous] vote.

(i) In the event two or more persons constituting a unit cannot agree upon a voting decision, then the vote of that unit shall be the will of the majority.

(ii) In the event there is a tie vote within a unit, containing an equal number of persons, the parties within the unit appoint _____ to determine the result of the vote.]

In the event the parties cannot agree upon a decision, the collaborators hereby appoint the following persons to break deadlocks:

Artistic Decisions: _____

Business Decisions: _____

9. In the event that merger has not occurred and one party dies or becomes disabled such that he cannot effectively collaborate, the remaining parties may continue the Work. They shall have unbridled discretion to modify or change any or all parts of the Work, including any material contributed by the deceased or disabled party. If the remaining parties determine that additional material or contributions are needed for the element which the deceased or disabled party had heretofore been creating, they may bring in another person to finish the element, including changing or deleting any material heretofore created by the deceased or disabled party, or otherwise to contribute to the work.

In the event the surviving parties bring in a third person collaborator, they may compensate the new collaborator by changing [decreasing] the deceased or disabled

party's compensation according to the following formula: _____

_____. They shall not be required to obtain the consent of [the deceased's representative] [the disabled party] [the disabled party's representative]. However, they may not change or reduce any billing credits for the deceased or disabled party. Otherwise, all other compensation due to the deceased or disabled party shall be duly paid, as heretofore agreed upon. In addition, copies of all contracts or other agreements affecting the Work shall be furnished promptly to the disabled party or his representative, or to the legal representative of the deceased.

10. At any time prior to merger, any of the parties may be removed by [majority] [unanimous] vote of the other parties. [For this purpose, and this purpose only, the parties shall not vote by unit. Instead each party shall have one vote.]. The removed party shall be entitled to due written notice. All rights to any of the material created or contributed by the removed party shall revert immediately to him, to use and exploit as he shall see fit, and the remaining parties shall have no claim, interest, or entitlement to the use of same, whether in this Work or in any other. The removed party shall have no claim, interest, or entitlement to the Work, or any revenues earned by it.

11. If, pursuant to any of the provisions of paragraph 9 or 10 above, the parties agree to add or replace a collaborator, the new collaborator shall be required to sign this agreement and to be bound hereto. However, such new, additional or replacement collaborator shall not be entitled to any revenues or other receipts earned by the work, including advances even for uncompleted work, prior to the date of his signing of this agreement.

12. The parties hereby appoint _____ as [exclusive] [nonexclusive] agent for the Work. The parties hereby appoint _____ as attorney for the Work.

13. The parties hereby warrant and represent that all material each has or will contribute to the Work is and will be original with each party (except for public domain sources) and has not been adapted or derived from any other copyrighted and/or trademarked material owned by a third person or entity not a party to this Agreement. Furthermore, to the best of knowledge of the contributing party, his material does not infringe upon or violate the rights of others, including any rights of publicity or privacy belonging to any third persons or entities.

14. Any collaborator hereunder may sell, pledge, lease, assign, encumber, or otherwise dispose of his interest of net receipts to a third party, provided, however, he first gives written notice of his intention, including the terms and conditions of said sale or encumbrance, to the other collaborators. Said notice must be by certified mail, return receipt requested, and shall be effective only upon receipt by the other collaborators. The other collaborators shall have _____ days after receipt, as a first option, to purchase the Selling Collaborator's interest, on either an individual or joint basis, upon the terms and conditions so stated in the notice. If, during the said time period, the Purchasing Collaborators either fail to exercise said option, or complete the purchase, the Selling Collaborator may offer and transfer his rights to a third party upon the same terms and conditions as contained in the notice to the other Collaborators, provided, however, he transfers only his right to receive the net revenues. Upon receipt of a copy of the sales contract to such third party, the remaining collaborators must honor the Third Party Purchaser's interest in the net receipts. The Selling Collaborator may not transfer voting

or other rights to the Third Party. Upon transfer of his interest in the net receipts, the selling collaborator's voting rights, in all matters, business and artistic, shall cease (but not his rights to billing credit).

15. The parties expressly deny any intention or agreement to form a partnership or joint venture between them, and this agreement shall not be construed as creating same.

16. This agreement may not be assigned or transferred (except an interest in the net receipts as provided in paragraph 14 above), without the express written consent of the other parties. Nothing contained herein, however, shall prevent a party from transferring or assigning his rights by will, trust, or other testamentary instrument to any person(s) and/or entities, for estate planning purposes.

17. This agreement shall bind the parties hereto, their executors, administrators, personal representatives, successors, and assigns.

18. In the event of the death or disability of a collaborator, after merger has occurred, the following provisions shall prevail:

(A) All artistic decisions for which the authors' decision may be required, requested, or permitted shall be made by the surviving collaborators, according to the voting formula herein described in paragraph 8 above. If a collaborator is disabled but still competent to make artistic decisions, his voting rights shall not change, and he shall be entitled to vote as if disability had not occurred.

(B) The legal representative of a deceased or a disabled collaborator shall not be permitted to vote on artistic matters.

(C) All business decisions, which the authors may be required, requested, or permitted to make, shall be made by the surviving collaborators and the legal representative of a disabled collaborator who is not competent to make such decisions and the legal representative of a deceased collaborator.

19. This constitutes the entire agreement of the party. No modification, or amended hereto, shall be effective except by the written consent of the parties.

20. The parties agree and understand that the creation and/or marketing of the work may entail expenses. The parties must agree in advance upon any expenses incurred and they agree to share such expenses, pro rata. In the event any party advances expenses, to which all of the parties have mutually agreed, he shall be entitled to reimbursement from any monies earned by the Work before such revenues are divided up among the parties. In the event it becomes apparent, within a reasonable time, that the work may not earn revenues sufficient to repay him, the other parties agree to reimburse the advancing party, in full, pro rata according to their shares in the Work.

21. The laws of the State of _____ shall govern this agreement.

22. In the event a dispute or disagreement arises out of this work, or in the event of a breach hereof, and it becomes apparent the parties cannot settle same among themselves, then any party may require the other parties to submit to arbitration in

_____ County, State of _____, in accordance with the Commercial Arbitration Rules of the American Arbitration Association. All such arbitration shall be binding upon the parties. Any court of competent jurisdiction may enter judgment upon the award rendered by the arbitrator. In all such arbitrations, the losing party agrees to pay the costs of arbitration, as well as the prevailing party's reasonable costs and attorney's fees.

23. All notices required hereunder shall be in writing and shall be given by personal delivery or certified or registered mail (return receipt requested). Said notices shall be effective upon the receipt thereof. All notices shall be addressed to the parties at the addresses following their signatures below or to such other addresses as any party may specifically, in writing, direct.

IN WITNESS WHEREOF, the parties have hereunto affixed their hands, seals, and signatures below.

Name: _____ Name: _____

Address: _____ Address: _____

Name: _____ Name: _____

Address: _____ 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*.