



Playwrights, composers, lyricists and librettists often struggle professionally in theatres throughout the country, and even on Broadway, due to the wide-ranging demands and expectations imposed on them by their producers (and other collaborators) which are presented as “standard” terms. It is essential, therefore, that dramatists know their rights, which the Dramatists Guild established in 1926 and has defended ever since.

In order to protect their unique vision, which has always been the strength of the theatre, dramatists need to understand this single fundamental principle: they own and control their work. To ensure this ownership and control, the Guild recommends that any production involving a dramatist incorporate a written agreement in which both the producer and the writer acknowledge certain key industry standards, including the following:

Ownership

1. OWNERSHIP OF INTELLECTUAL PROPERTY – You own the copyright of your dramatic work. Authors in the theatre business do not assign (i.e., give away or sell in entirety) their copyrights, nor do they ever engage in “work-for-hire.” When a university, producer or theatre wants to mount a production of your play, you only license (or lease) the public performance rights to your dramatic property to that entity for a finite period of time.

2. OWNERSHIP OF INCIDENTAL CONTRIBUTIONS You own all approved revisions, suggestions, and contributions to the script made by other collaborators in the production, including producers, actors, directors, and dramaturgs, that you have chosen to incorporate into the work. You do not owe anyone any money for these contributions. If a theatre uses dramaturgs, you are not obligated to make use of their ideas. Even when the input of a dramaturg or director is helpful to the playwright, dramaturgs and directors are still employees of the theatre, not the author, and they are paid for their work by their employer.

It has been well-established in case law that neither dramaturgs nor directors (nor any other contributors) may be considered a co-author of a play unless (i) they’ve collaborated with you on the writing of the play since its inception, (ii) they’ve made a copyrightable contribution to the play (not just suggested ideas or concepts), and (iii) there is a mutual agreement to be co-authors, which should be in writing.

3. SUBSIDIARY RIGHTS – You own the right to license your play into different markets (such as tours, stock and amateur productions, foreign territories, etc.), and in all different media (television, radio, film, digital streaming, etc.) anywhere in the world. Producers at the Broadway, LORT, off-Broadway, and even off-off-Broadway levels might request a portion of the revenues you earn after their productions. Nonetheless, you are not obligated to grant any portion of your subsidiary rights revenue to any third party who is not your co-author.

A production qualifying for subsidiary rights revenue participation should be a professional premiere production (i.e., a full production with a cast working under an Actors’ Equity contract, including sets, costumes, and lighting) which has been presented for a significant number of consecutive, paid public performances (i.e., a run of sufficient length to add value to your play; for example, 21 paid public performances, including an official press opening and no more than eight previews) and for which the author has received appropriate compensation, billing, and approvals.

Any grant of subsidiary rights participation should only be for a limited period of time, based only on the income received by the author, from a well-defined

geographic area (e.g., the United States and Canada), and should be proportionate to the value added by the producer's production.

4. FUTURE OPTIONS – If a producer has presented your work for a significant run (and you received appropriate compensation, billing, and approvals), you may choose to grant options to the producer to present future productions within defined territories and markets, to be exercised within a limited time period, in exchange for specified option payments. Such options should not be assignable to another producer without your approval.

Compensation

5. ROYALTIES – You are entitled to receive a royalty when your work is produced. While it is possible that the amount an author receives may be minimal for a small production, some compensation should always be paid if any other artistic collaborator in the production is being paid, or if any admission is being charged. Royalties can take the form of a percentage of box office receipts, or (on Broadway and, sometimes, off-Broadway) a percentage of weekly net operating profits, or even a flat fee per performance (particularly in amateur markets), but some payment should be made, even if just a token amount to acknowledge your professional status.

As a Guild member, you can always call our business office to discuss the standard industry royalties for various levels of production, including the customary amounts for options, advances and commissions that may be payable to you.

6. BILLING CREDIT – You should receive billing (i.e., typographical credit) on all publicity, programs, and advertising distributed or authorized by the theatre or producer, though there may be some standard exclusions permitted. Billing is part of your compensation and the failure to provide it properly is a breach of your rights. It is an absolute obligation, so you should not permit the requirement that the producer cure a breach of this provision to be diluted by phrases such as “subject to commercially reasonable efforts.”

In Process And Production

7. ARTISTIC INTEGRITY – No one (e.g., producers, directors, actors, designers, dramaturgs) can make additions, deletions, alterations, and/or changes of any kind to your script—including the text, title, and stage directions—without your prior written consent. This is called “script approval.” You should never permit this contractual requirement to be diluted by phrases such as “such prior consent not be unduly or unreasonably withheld,” or by settling for “consultation” rather than “approval” of such changes, or by allowing a “passive approval” mechanism

(i.e., if you do not object to a request for script changes within a limited period, the changes are deemed “approved”).

8. APPROVAL OF PRODUCTION ELEMENTS – You have the right to mutually approve (with the producer) the cast, director, and designers (and, for a musical, the choreographer, orchestrator, arranger, and musical director), including their replacements. This is called “artistic approval.”

9. RIGHT TO BE PRESENT – You always have the right to attend casting, rehearsals, previews, and performances.

10. AUTHOR'S CONTRACT – The only way to obtain all the rights listed above is through a written contract with the theatre or producer, no matter how large or small the theatre or the production may be. In addition to ensuring these rights, such a contract should also provide a mechanism for arbitrating disputes (rather than incurring the expense of formal court proceedings), and should also prohibit the producer from assigning or licensing the rights granted under the contract (particularly any future options) without your prior written consent.

The Guild's Department of Business Affairs offers model production contracts for all levels of production and is available to review any contracts you are being asked to sign and advise you as to how the terms of such contracts compare to industry standards.

We realize that making demands of a small theatre is a difficult task. However, you should feel confident in presenting the Dramatist's Bill of Rights to an artistic director, producer, literary manager, or a university administrator as a starting point for discussion of your contract.

At the very least, any theatre professional should know how important it is for theatres and dramatists to understand the business standards of their field, and how vital it is for dramatists to stand together as a community, for their mutual benefit and survival, and for the survival of theatre as a viable art form in the 21st century.

