



Licensing Agreement

Licensing Agreement for *The Importance of Being Earnest in a Pandemic: A Stay-At-Home Play* by Don Zolidis:

Amateur Performance Rights

This Agreement is entered into as of December 1st, 2020 by and between Playscripts, Incorporated, a Delaware corporation ("Playscripts") and the following individual(s), organization and/or institution (collectively, the "User"):

Amy Kasinski
Robert Schwandt
La Sierra High School

Playscripts and the User agree to the following provisions with respect to the licensing of Amateur Performance rights of the following dramatic work (the "Play") entitled:

The Importance of Being Earnest in a Pandemic: A Stay-At-Home Play by Don Zolidis

1. Grant of Performance Rights. Subject to the terms of this Agreement, Playscripts grants the User a nonexclusive and nontransferable license to produce and perform 4 total Amateur Performance(s) of the Play on or between the following date(s) (the "Run"):

Apr 22, 2021 - Apr 25, 2021

1.1 Livestream Rights. Playscripts grants the User the non-exclusive right to livestream the Amateur Online Performance ("Livestream Rights") on a digital platform, defined as a private, secure (password protected) platform that only allows access to invited and/or paying viewers (e.g. Zoom), and specifically excludes platforms that are not invite-only, including, but not limited to, YouTube, Facebook, Instagram. The platform must not permit downloading, copying or other duplication or redistribution of the Amateur Online Performance. If the platform itself has the capability to allow downloading or duplication, the User must ensure that the settings for the Amateur Online Performance are such that downloading and/or duplication are not permitted ("Digital Platform"). It is understood that should the User elect Livestream Rights for the Amateur Online Performance, Playscripts DOES NOT grant the User the right to create an audiovisual recording of the Amateur Online Performance; **OR**

1.2 Audiovisual Recording. If the User does not elect Livestream Rights for the Amateur Online Performance, Playscripts Grants the User the non-exclusive right to create an audiovisual recording of the Amateur Online Performance ("Audiovisual Recording"). The Audiovisual Recording shall be presented on a Digital Platform. The Audiovisual Recording of the Amateur Online Performance may only be made available to viewers during the dates of the Run. It is understood that Playscripts grants the non-exclusive right to create and present an Audiovisual Recording on a Digital Platform only if the User does not elect Livestream Rights for the Amateur Online Performance. Immediately after the end of the Run, the User must delete the Audiovisual Recording of the Amateur Online Performance (and notify Playscripts in writing that it has done so), unless the User has executed a separate Archival Video License. The Audiovisual Recording must be kept in a secure location at all times.

2. Payments and Script Delivery.

2.1 Amateur Online Performance Royalty. In consideration of the rights granted herein, the User shall pay a royalty fee of \$80.00 per Amateur Online Performance of the Play during the Run for Livestream Rights, or per day of the Run for the Audiovisual Recording of the Amateur Online Performance of the Play (collectively, the "Amateur Online Performance Royalty").

2.2 Script Delivery. Playscripts shall provide the User with a digital copy of the Play (the "Scripts") for the Amateur Online Performances permitted hereunder upon its receipt from the User of: (a) the Amateur Online Performance Royalty; and (b) the applicable script fee (the "Script Fee"). The User expressly agrees that no performance or promotion of the Play may be undertaken until Playscripts has received from the User the Amateur Online Performance Royalty.

3. User's Covenants. The User covenants to Playscripts as follows:

3.1 Definition of Amateur Online Performances. The User acknowledges that "Amateur Online Performances" shall include any and all performances by living actors with the intent of being viewed by an audience through a Digital Platform as produced by little theaters, community theaters and/or drama associations; colleges, universities, high school and other school groups; churches and other religious institutions; and/or puppetry theaters, clubs, and other amateur organizations or groups therein or connected therewith, (a) regardless of whether or not a fee is charged to viewers; and (b) regardless of whether the performance is given by paid or unpaid actors and production staff. Amateur Online Performances does not, however, include performances given by any theater or group using a cast which consists entirely of paid actors and production staff and/or that has normally been known to handle stock pursuant to one of the Actors Equity Association agreements governing employment of actors.

3.2 Limitation of Licensing. The User acknowledges that Amateur Online Performance rights to the Play are controlled exclusively by Playscripts. The User agrees that it shall not perform the Play in a manner inconsistent with the license granted in Section 1 without obtaining prior written permission from Playscripts.

3.3 Restriction of Alterations. The User shall not delete, alter, or make changes of any kind to the Play, including the changing of character gender, the cutting of dialogue, or the alteration of objectionable language, unless granted express written permission by Playscripts. The User shall not alter the title of the Play.

3.4 Use of Approved Script. The User shall only perform the Play as it appears in the Script(s) published and approved by Playscripts.

3.5 Author Credit. The User shall give credit to AUTHOR (the "Author") as the sole and exclusive author of the Play. This obligation applies to any instance that the title of the Play appears for purposes of advertising, publicizing, or otherwise exploiting the Play and/or a production thereof. The name of the Author must appear on a separate line, in which no other name appears, immediately beneath the title and of a font size at least 50% as large as the largest letter used in the title of the Play. No person, firm, or entity may receive credit larger or more prominent than that accorded the Author. The name of the Author may not be abbreviated or otherwise altered from the form in which it appears in the Play. The author credit must be viewable to the audience in some form prior to the Amateur Online Performance, by posting credits onscreen in the Digital Platform or by distributing a digital program with each ticket.

3.6 Publisher Attribution. The User shall include the following notice in all programs, advertisements, and other material distributed or published in connection with the production of the Play, and the User must make the following notice viewable to the audience in some form prior to the Amateur Online Performance, by posting credits onscreen in the Digital Platform or by distributing a digital program with each ticket:

Produced by special arrangement with Playscripts, Inc.
(www.playscripts.com)

3.7 Other Required Credits. The User shall give credit to any other parties, such as producer credits and commission credits, in the form and manner specified in the Script. The User shall also include the following credit:

©2020. This video recording was produced by special arrangement with Broadway Licensing/Playscripts. All rights reserved. This performance is authorized for non-commercial use only. By accepting the video recording, you agree not to authorize or permit the video recording to be copied, distributed, broadcast, telecast or otherwise exploited, in whole or in part, in any media now known or hereafter developed.

WARNING: Federal law provides severe civil and criminal penalties for the unauthorized reproduction, distribution or exhibition of copyrighted motion pictures, videotapes or videodiscs. Criminal copyright infringement is investigated by the FBI and may constitute a felony with a maximum penalty of up to five years in prison and/or a \$250,000.00 fine.

3.8 Complimentary Invitations. The User must provide a password or up to 10 invitations at no charge to Playscripts to enable Playscripts and the authors and rightsholders of the Play the ability to view the Amateur Online Performance.

3.9 Prohibition of Unauthorized Copying.

a. The User acknowledges that any unauthorized copying, distribution, or uploading to public websites of the Scripts or excerpts from Scripts is strictly forbidden by law. The User agrees that no part of the Scripts shall be reproduced, stored in a retrieval system, or transmitted in any form, by any means now known or yet to be invented, including photocopying or scanning, without prior permission from Playscripts.

b. In no event may any video recording of the Amateur Online Performance authorized herein, either in whole or in part, otherwise be exhibited, re-copied, reproduced, distributed, disseminated and/or exploited in any way, now known or hereafter developed, including, but not limited to, broadcasting, televising, sale or electronic transmission and/or posting on the Internet except as expressly authorized herein.

3.10 Refund Policy. The User agrees to the following refund policy: (a) the Amateur Online Performance Royalty (or any portion thereof) applicable to any Amateur Online Performance of the Play may be refunded by Playscripts only in the event that a scheduled Amateur Online Performance of the Play is cancelled; provided, however, that the User shall have provided Playscripts with written notice of such cancellation(s) prior to the first day of the Run; and (b) the Script Fee is non-refundable.

3.11 Audit Rights. Upon reasonable notice and during normal business hours, the User shall allow Playscripts or its designee to inspect the User's books and records relating to the Play and all Amateur Online Performances thereof.

The User shall make such books and records available in the form in which they are maintained (including digital form as well as print form, if so maintained by the User), and shall provide reasonable assistance during such audit. If a reliable audit shows that Playscripts has been underpaid, the User shall promptly make all necessary royalty payments (with interest on the unpaid amounts at a rate of one percent (1%) per month) and shall reimburse Playscripts for reasonable audit expenses, upon submission of supporting invoices. Without limiting the foregoing, the User expressly agrees to keep and maintain the User's books and records relating to the Play and all Amateur Online Performances thereof for a period of two (2) years following the Run.

3.12 Infringement penalties. The User acknowledges that under the United States Copyright Act, any person who exercises a copyright owner's exclusive rights without permission may be liable as an infringer; that Playscripts, as the legal and beneficial owner of certain exclusive rights to the Play, is entitled to institute legal action for any infringement of those rights committed while Playscripts owns them; that infringement of a registered work may subject the infringing party to actual damages, statutory damages, and attorneys' fees; and that a court has discretion to award statutory damages in amounts up to one hundred fifty thousand dollars (\$150,000) for willful infringements.

3.13 Playscripts' Right to Terminate.

a. The User acknowledges that Playscripts reserves the right to terminate this Agreement at any time, in its sole discretion. In the event of such termination, the Amateur Online Performance Royalty previously paid by the User shall be promptly refunded by Playscripts, subject to Section 3.10, and notwithstanding anything to the contrary set forth in Section 5.

b. User acknowledges that the rights herein granted by Playscripts are unique and extraordinary value and that a breach of this Agreement by User would cause Playscripts irreparable damage. Accordingly, in the event of any actual or threatened breach, this Agreement shall be terminable at the election of Playscripts and in such event, User shall immediately deliver all copies of the Online Amateur Performance produced by User (including master tapes thereof) to Playscripts. In addition to all other remedies, Playscripts shall have the right to injunctive or other equitable relief. The provisions of this paragraph 3.13 shall survive the expiration or termination of this Agreement.

4. Permission granted herein to make an Amateur Online Performance available to an audience is limited to rights in the Play only. Playscripts cannot grant permission for others whose permission may be required, such as, but not limited to, performers, production personnel, choreographers, designers, and any applicable unions (e.g., Actors' Equity, American Federation of Musicians, etc.), as well as the theatre or venue owner.

5. Representations, Warranties, Indemnification.

a. The User represents and warrants that it has the full right, power and authority to enter into and perform this Agreement, and that it shall, at its sole cost and expense, secure any and all consents, clearances and rights which may be required in connection with the creation and distribution of the Amateur Online Performance.

b. The User shall indemnify and hold harmless Playscripts and the Author and rightsholders of the Play from and against all claims, charges, damages, costs, expenses (including reasonable outside attorney's fees), judgements, settlements, penalties, liabilities or losses of any kind or nature whatsoever suffered or incurred by Playscripts, the Author and other rightsholders of the Play, and their respective parents, affiliates, subsidiaries, directors, officers, agents, employees, licensees, successors, and assigns arising out of any breach of User's warranties, representations, covenants, terms or conditions under this Agreement, or in any way resulting from or connected to the Amateur Online Performance of the Play.

6. Disclaimer of Warranties. The Play and all related materials or associated documentation are provided "AS IS" without warranty of any kind. The entire risk as to use of the Play and all related materials or associated documentation is assumed by the User. THE FOREGOING IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED (WHETHER BY STATUTE, COMMON LAW, CUSTOM, USAGE OR OTHERWISE), INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. THE FOREGOING SHALL FURTHER NOT BE ENLARGED OR OTHERWISE AFFECTED BY PLAYSRIPTS' RENDERING OF ANY ADVICE OR SERVICE IN CONNECTION WITH THE PLAY OR ANY RELATED MATERIALS OR ASSOCIATED DOCUMENTATION OR THE USER'S USE THEREOF.

7. Limitation of Liability. NEITHER PARTY HERETO SHALL BE LIABLE TO THE OTHER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES SUCH AS LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS EVEN IF IT IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. IN ADDITION, IN NO EVENT SHALL THE LIABILITY OF PLAYSRIPTS TO THE USER UNDER THIS AGREEMENT EXCEED AN AMOUNT EQUAL TO THAT ACTUALLY PAID BY THE USER TO PLAYSRIPTS UNDER THIS AGREEMENT.

8. Miscellaneous.

8.1 Assignment. The User shall not have the right to transfer the performance rights granted by this Agreement to another party. Playscripts may transfer its rights under this Agreement upon written notice delivered to the User.

8.2 Entire Agreement; Inconsistent Terms. The terms and conditions of this Agreement constitute the complete and exclusive statement of the agreement of the parties with respect to the subject matter hereof and supersede all prior and contemporaneous proposals, representations, statements, understandings or agreements, written or oral, express or implied, including but not limited to any other terms provided in any purchase order form provided by User. Playscripts objects to all terms and conditions different from or additional to those in this Agreement, whether or not

signed by authorized representatives of the parties. Additional or different terms or conditions will only be valid if expressly agreed to in writing on a document that specifically purports to do so, noted on the face of such document and signed by representatives of both parties. User acknowledges that it did not enter into this Agreement in reliance upon any representation by Playscripts or understanding by User that is not set forth herein. This Agreement can only be modified by a written instrument signed by both parties.

8.3 **Governing Law.** This Agreement shall be governed by the internal laws of the State of New York, without regard to principles of conflict of laws.

8.4 **Jurisdiction.** Each party hereby expressly consents to the personal jurisdiction of, and waives any objection to venue in, the state and federal courts located in New York, New York for any lawsuit filed there against arising from or related to this Agreement.

8.5 **Notices.** All notices required by this Agreement shall be sent by regular mail and/or e-mail to the parties at their last known addresses.

By electronically signing this Agreement, you represent that you are authorized to e-sign this Agreement on behalf of the User, that you have read and understand the terms and conditions set forth in this Agreement and that the User agrees to abide by the terms and conditions contained herein.

Playscripts, Inc. grants La Sierra High School (the "User") the non-exclusive right to videotape a single performance and to make one (1) copy per cast/crew member of its production of *The Importance of Being Earnest in a Pandemic: A Stay-At-Home Play*. This authorization includes the following provisions:

- The video recording of the Play may be created as a non-commercial venture for archival purposes, which video may not be sold, leased or rented.
- The video recording will be done by a single stationery camera. There will be no attempt to create an artistic work.
- As a condition to the rights granted herein, the User agrees to use good faith efforts to inform all audience members of the restrictions and limitations on video recording and the subsequent use thereof, as set forth herein. At a minimum, User agrees to include a statement in the Play's program substantially in the form provided below and shall further inform audience members of the below limitations by way of an announcement prior to the start of each performance of the Play.
- ANY VIDEO RECORDING MADE OF THIS PERFORMANCE IS AUTHORIZED FOR PERSONAL, AT-HOME, NON-COMMERCIAL USE ONLY. THE SALE OR DISTRIBUTION OF SUCH RECORDING IS STRICTLY PROHIBITED UNDER FEDERAL COPYRIGHT LAW.
- The User understands and confirms that no other rights are granted and that the User is specifically prohibited from utilizing the video in any other manner, including but not limited to, Facebook, You Tube, Vimeo, etc.
- A license fee of \$125.00 is required by credit card or institutional check payable to Playscripts, Inc. and due upon signing below by authorized representative. Please return signed agreement for countersignature.

IN WITNESS WHEREOF, the parties have executed this Agreement under seal as of the date hereof.

_____	_____	_____
Amy Kasinski	Date	Title
La Sierra High School		

PLAYSCRIPTS, INCORPORATED:

By: _____

Name: _____

Title: _____