



# Co-Production Agreement

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Artist:  
Date:

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## Background

A. CounterPulse is building a movement of risk-taking art that shatters assumptions and builds community. We provide space and resources for emerging artists and cultural innovators, serving as an incubator for the creation of socially relevant, community-based art and culture. CounterPulse acts as a catalyst for art and action; creating a forum for the open exchange of art and ideas, sparking transformation in our communities and our society.

B. CounterPulse curates and presents a critically acclaimed season of events co-produced with local and touring artists. Through our co-production program (“Program”), we partner with independent producers and artists by offering space, resources, and production support at subsidized rates. Participating in the Program has helped launch artists by introducing them to new audiences and increasing their visibility through CounterPulse’s outreach.

C. This agreement (the “Agreement”) is a road map for your participation in the Program. It includes information, sets out expectations, and confirms legal obligations. Sections 1-7 cover core Program elements such as facility use, rehearsal and production, and ticketing and other front of house matters. Sections 8-13 address legal matters, including intellectual property, the relationship between you and CounterPulse, liabilities, and termination.

D. The co-production plan attached as **Exhibit A** (the “Plan”) includes detailed information about resources provided by CounterPulse, timeline and lead-times relating to technical, publicity, payment, and other matters, your financial obligations, information needs for publicity activities, crediting guidelines, and housing arrangements.

## 1. Program Generally

### 1.1 Participation

We will make our studio theater (the “Facility”), technicians, and other resources available to you from pre-production through closing night for three performances (each, a “Performance”) of the original work (the “Work”), as set out in the Plan.

### 1.2 Payment Generally

The Plan sets out your financial obligations to CounterPulse. These obligations include payment for (a) the base package of Facility use and resources provided by CounterPulse; (b) additional services that may be provided by us; (c) additional fees in respect of various contract compliance matters; and (d) a refundable security deposit. The Plan sets out deposit and payment mechanics including timing requirements.

### 1.3 Timeline

The Plan sets out the schedule, lead-times, and other timing aspects of the Program. You acknowledge the importance of, and agree to meet, such deadlines, and understand that timeliness is essential to your fully benefitting from the resources and opportunities provided through the Program.

### 1.4 Development and Execution of the Work

Except as otherwise provided in this Agreement, you will be responsible for developing the Work, arranging for and paying for collaborators, costumes, sets, and other materials, and for obtaining necessary rights and permissions for the Work and Performances.

### **1.5 Ownership of the Work**

As between you and CounterPulse, you will own all right, title, and interest, including any copyright, in and to the Work, and any derivative works based on the Work.

### **1.6 Crediting CounterPulse for Support**

You will credit CounterPulse on all poster, postcard, online, and other outreach materials related to the Work and Performances, in the manner set out in the Plan.

## **2. Communication**

### **2.1 Communication Generally**

Given the nature of the Program, you acknowledge the importance of regular, open and responsive communication with CounterPulse. You will tell us promptly if there is any substantial change in the nature or scope of the Work, or if there occurs any professional, personal, or other developments that may affect your ability to engage fully in the Program.

### **2.2 Contact Persons**

You and CounterPulse will each appoint one individual to act as principal contact person and to coordinate activities in connection with the Program. To avoid miscommunication, your contact person will have sole authority to schedule rehearsals, administer invoices, receive notices under this Agreement, and negotiate and sign additional contracts with CounterPulse and our contractors as may be required in connection with the Work. The initial appointees, together with point persons for specific topics, are identified in the Plan. Each of us may change its contact person at any time and will so advise the other by e-mail or otherwise in writing.

### **2.3 Your Collaborators**

The requirements and expectations set out in this Agreement will apply to your company members and other collaborators and colleagues. You are responsible for communicating these expectations to them, and for their conduct.

## **3. Facility Specifications**

### **3.1 General Specifications**

Our studio/theater facility is 28'8" wide x 28'3" deep with a height of 16'1.5" from the stage to the lighting grid. It is equipped for aerial rigging. Black curtains are available upon request to the producing director ("Producing Director") as provided in the Plan. You may request a curtain to create an off-stage area and a storage area stage right.

### **3.2 Technical Equipment**

CounterPulse will provide you with technical specifications for the Facility. Please review them carefully. We have a Genie lift, which can be operated only by our trained house technician. The tech facilities, including the tech loft, tech closet, and tech booth are off limits to anyone but the house technician and CounterPulse staff. Please contact the Producing Director with any technical questions as they arise.

### **3.3 Dressing and Bathroom Facilities**

We have four public single-stall unisex bathrooms, one of which is fully ADA compliant and another of which is ambulatory accessible. A back room is suitable as a dressing room or green room for up to 10 people. It is equipped with two toilet rooms, one of which has a shower.

### **3.4 Seating**

The theater has a maximum capacity of 149 persons. The standard seating accommodates approximately 110 persons. Floor seating is available, and we can

provide pillows upon your request. You may arrange alternate seating options (such as in the round or concert pit) by contacting the Producing Director in advance as provided in the Plan. Reconfiguration may require payment by you of an additional fee. We will advise you of any such fee when you make a request for reconfiguration.

### **3.5 Flooring**

The theater floor is a sprung hardwood dance floor covered in black marley. Any change from this set-up must be approved by the Producing Director as outlined in the Plan. A change in flooring may require payment by you of an additional fee. We will advise you of any such fee when you make a request for a change. You may not use any substances, wet or dry, that touch the flooring without express prior approval of the Producing Director. Such substances include, without limitation, fake blood, any power, rosin, confetti, soda, or flour.

### **3.6 Storage**

Storage space is limited. You must arrange for any storage beyond your scheduled strike date in advance with the Producing Director. You must strike all props and set materials immediately after each Performance. You are responsible for the cost of removing all items. If you do not remove any or all items and CounterPulse must remove them, we may deduct the costs associated with such removal from your security deposit and require payment from you of any costs exceeding the amount of the deposit.

### **3.7 Fire Egress**

The stage door up stage right is an audience fire exit. You must maintain a 44" clearance from this space at all times. You may not block this space for any period of time for any reason. You may not store or temporarily place any items on the back crossover stairwell.

### **3.8 Lobby Use**

You may not put art, promotional materials, or other items in, or otherwise use, the lobby. CounterPulse may display art or other items in the lobby during a Performance or at any other time. If you would like to use the lobby in connection with the Work, you may make a request to us as outlined in the Plan.

### **3.9 Artist Housing**

We have an apartment for artists on the second floor of the Facility. Subject to availability, you may rent the apartment for use during the Program. The apartment is double occupancy, fully furnished, with a shower over the tub. We provide bedding and towels. Rental information, including rates and cancellation policy, are set out in the Plan.

## **4. Facility Policies**

### **4.1 Hours and Facility Access**

The Facility is open during our standard business hours: 10:00-6:00 PM. You will have access after-hours as well. In all cases, and in line with protecting the safety and security of everyone working in the Facility, you will follow our security protocols, including making sure that doors are not left unmonitored or propped open at any time.

### **4.2 Key Pick Up**

If you will be rehearsing at the Facility, let us know, and we will give you a key to the Facility. You will need to pay a key deposit as set out in the Plan and you may not make any copies of the key. We will return your deposit if you turn in the key no later than the date set out in the Plan.

#### **4.3 Facility Use**

You may use the Facility only in connection with development of the Work and for the Performances, and other activities directly related to the Program. For clarity, you may not conduct any non-Program activities in the Facility, including, without limitation, living or sleeping at the Facility (other than in the artist housing noted in Section 3.9), hosting private parties or other recreational events, making the space available to other persons for their use, or engaging in other income-generating activities.

#### **4.4 Taking Care of Facility**

You will use due care at the Facility, keep it clean and in good order, and use it in compliance with any guidelines provided to you by CounterPulse.

#### **4.5 Legal Requirements**

You will comply with all laws applicable to your use and activities at the Facility including, without limitation, laws relating to fire safety, occupational safety, and event permitting.

#### **4.6 Physical Accessibility**

CounterPulse is an ADA accessible theater. Wheelchair ramps must be accessible at all times. You must keep the backstage areas unencumbered at all times before and after each Performance to allow access to the restrooms. Two seats must be removed in the front row for wheelchair guests. You may replace them in the last five minutes prior to Performance if no guest seeking accommodation has arrived and the house is selling out. There is additional ADA seating in the mezzanine with access from the elevator.

#### **4.7 Cleaning and Waste Disposal**

You must leave the performance space clean following the event. This includes arranging for sweeping, mopping, and disposal of all sets, costumes, and other production related trash. You may contract the house technician, whose contact info is provided in the Plan, for some of these tasks. You are responsible for the cost of any necessary cleaning supplies. CounterPulse will be responsible only for audience related trash. Please note that neither CounterPulse nor any of its agents, whether contracted by you or not, are responsible for cleaning bodily fluids of any kind, and you are responsible for arranging for this cleanup.

#### **4.8 Animals**

You may not allow any animals in the Facility, except for licensed service animals.

## **5. Rehearsal and Production**

#### **5.1 Scheduling Rehearsals**

Initial rehearsal scheduling will take place at the production intake meeting as set out in the Plan. You will keep all of your scheduling requests and planned rehearsal times in a central location that is shared with the Producing Director. You must communicate all proposed scheduling and technical changes, such as the lighting plot, in advance to the Producing Director, in line with the lead-times set out in the Plan.

#### **5.2 Rehearsal No Shows or Cancellation**

You will be responsible for paying technician and other charges associated with booked rehearsals whether or not you show up for the rehearsal. In addition, you will be responsible for all such charges for a cancelled rehearsal unless you cancel in advance in accordance with the lead-time set out in the Plan.

### **5.3 Technical Questionnaire**

You must submit technical needs to the Producing Director no later than the date set out in the Plan.

### **5.4 Lighting Designers**

You are responsible for arranging your own lighting design. If you would like to hire one of our house technicians for this purpose, you must make a separate arrangement with the technicians. Contact information is provided in the Plan.

### **5.5 Technicians**

CounterPulse will provide two house technicians to operate the lighting and basic sound. They will be available during the initial production meeting, hang and focus, all technical rehearsals, and the Performances. You are encouraged to hire additional technicians based on your Performance needs. Depending on your technical requirements, the Producing Director may require you to hire additional technicians.

### **5.6 Strike**

You will have one hour to remove all of your equipment, props, and set materials following the final Performance. If you have installed major technical equipment, such as rigging or technical lighting, you are responsible for the cost of hiring or providing additional technicians to remove any equipment within that time frame. As set out in the Plan, you are responsible for additional fees if strike takes longer than one hour.

### **5.7 Demographic Survey**

You will have each rehearsal attendee fill out a demographic survey. Please give these surveys to the Producing Director after the last rehearsal.

## **6. Front of House**

### **6.1 Generally**

CounterPulse will provide house management and box office services for up to four hours prior to each Performance. If you would like additional support for house services, you must arrange for collaborators or volunteers on your own.

### **6.2 Volunteers**

You will provide at least two volunteers for each Performance. These volunteers will work directly with CounterPulse staff. All volunteers should arrive no later than 90 minutes prior to a Performance and be prepared to stay at least 30 minutes afterwards. CounterPulse may require additional volunteers depending on your front of house needs. If a volunteer fails to arrive, we may charge you additional fees as set out in the Plan.

### **6.3 Box Office Policies**

All pre-sales and reservations must be conducted through the CounterPulse online ticketing system. CounterPulse will track and process all box office reservations. If you desire, CounterPulse can direct patrons to make an optional donation directly to a charity of your choice.

### **6.4 No Concessions**

You may not offer your own concessions. CounterPulse may, at its discretion, offer concessions (such as beer, wine, water, and soda) during each Performance. At your request, CounterPulse will not offer alcohol.

### **6.5 Promotional Materials During Event**

CounterPulse may display promotional material of any kind, including a mailing list or flyers, at all Performances. We may ask your volunteers to place flyers on seats or in the programs. CounterPulse may also distribute audience surveys

during the event for the purpose of collecting contact and/or demographic information. CounterPulse will provide you with information collected through this survey, and with the names of those who sign up for our mailing lists, in the audience reports we provide you after the final Performance.

#### **6.6 Security**

You may not prop open the front doors of the facility for any period of time unless you closely monitor them. The door must be locked at all times. If you fail to comply with this requirement, we may charge you additional fees as set out in the Plan.

#### **6.7 Pre-Event Welcome**

Our house manager will make a brief pre-show announcement. In addition to this, you are welcome to make any announcements of your own, or to have the house manager make any announcement on your behalf. Please send your proposed announcement to the Producing Director in line with the lead-time set out in the Plan.

#### **6.8 Post Event Reception**

Following the final Performance, you may have a reception in the CounterPulse space. You must receive prior approval, and pay for additional staff time, as set out in the Plan. You must provide all needed set-up, bar, food, and clean-up staffing support. You may serve food and alcohol only if free of charge, and food may be served only in the main stage area or on the mezzanine. You may not play amplified music past midnight and must fully clean and vacate the space by 2:00 AM.

## **7. Publicity**

#### **7.1 Generally**

The Program gives you access to CounterPulse's marketing support and expertise. CounterPulse will support your Work through the promotional activities set out in the Plan. These efforts include event page hosting, ticket management, press outreach, and access to our expertise and resources in the San Francisco community. However, the marketing package is limited, and it is ultimately your responsibility to market the event and to sell tickets.

#### **7.2 Artist's Responsibility**

You are responsible for carrying out the promotional activities set out in the Plan, including, without limitation, writing and distributing press releases, creating and maintaining Facebook pages, and producing posters and postcards for the Work. We encourage you to engage in additional promotional activities on your own, provided all materials are approved by CounterPulse as provided in Section 7.3 and the Plan.

#### **7.3 Publicity by You**

Should you choose to conduct additional publicity, marketing, or outreach for yourself, you will submit all materials to CounterPulse for approval in advance of distribution, in line with the lead-times set out in the Plan. We want to review and sign off on those materials for purposes of ensuring accuracy and consistency in our collective outreach.

#### **[7.4 Interviews**

At our request, you will participate in interviews with print, digital, audio, and visual media outlets. CounterPulse will work with you to coordinate the scheduling of such interviews.]

### **[7.5 Media Inquiries**

Please advise CounterPulse promptly of any media inquiries you receive regarding the Work or any Performance.]

### **[7.6 Promoting your Participation in the Program**

Both during and after your participation in the Program, you are welcome to and encouraged to promote your participation in the Program, and to include CounterPulse in any listing of supporters contained on your website or in your other promotional vehicles. We also ask that you mention CounterPulse as appropriate in your interactions with the media, appearances at events, and other promotional activities.]

### **7.7 Intellectual Property**

Section 8 sets out agreements relating to intellectual property aspects of publicity materials and activities.

## **8. Intellectual Property**

### **8.1 Ownership of the Work**

As between you and CounterPulse, you own all right, title, and interest, including any copyright, in and to the Work, and any derivative works based on the Work. You are responsible for making and encouraged to make additional ownership agreements with collaborators as needed.

### **8.2 No Infringement**

You confirm, represent, and warrant to CounterPulse that the Work and its performance will not violate, infringe, or misappropriate (a) any copyright, right of privacy, right of publicity, trademark, trade name, trade secret, or other common law or statutory intellectual property; (b) any contract or other right of any nature of any third party, or be libelous or defamatory in any respect.

### **8.3 Publicity Activities and Materials**

CounterPulse may use your name, sobriquet, likeness, image, voice, biography, and any interview on CounterPulse's website, in audio and video clips, and in other digital and print external and internal communications materials, for publicity, fundraising, community engagement, archival, and related purposes. CounterPulse will own all right, title, and interest, including copyright, in these materials. For clarity, you will not be entitled to inspect or approve use of these materials, receive notice of their use or publication, or receive any payment for their use.

### **8.4 Use of Images**

In line with our publicity activities, you will provide us with images relating to the Work as set out in the Plan. We reserve the right to host any images you submit on any web platform, and to use them on our social media pages, our ticketing website, and any advertisements. We also may submit your images to media and grant-making organizations for publication. You will clearly credit the photographer in all circumstances. As such, it is important that you provide appropriate credit and gain approval from the photographer to use the images for these purposes.

### **8.5 Use of CounterPulse Logo and Other Trademarks**

For brand consistency reasons, you may not use our logo or other trademarks except upon advance approval by us and in accordance with the Plan.

## **9. Relationship**

### **9.1 Limited Financial Support**

Except as specifically set out in this Agreement, CounterPulse has and will have no obligation to provide you with any discounted fees or charges, loans, advances, grants, expense reimbursement, waiver of fees or charges, or otherwise.

### **9.2 Inspection**

We may enter your workspace at reasonable times to inspect your use of the Facility and to take actions we believe are appropriate to protect the Facility and its other users.

### **9.3 Independence**

CounterPulse and you are and will remain independent contracting parties. The arrangements contemplated by this Agreement do not create a partnership, joint venture, employment, fiduciary, or similar relationship for any purpose. You will not be entitled to or eligible for any benefits that CounterPulse makes available to its employees, including, without limitation, coverage under any CounterPulse medical or dental, policies. You waive any rights or claims to those benefits. Neither CounterPulse nor you has the power or authority to bind or obligate the other to a third party or commitment in any manner.

### **9.4 Responsibility for Own Actions**

CounterPulse works closely with you, but you are always in charge of your work. You will have sole responsibility for the planning, management, and implementation of your own activities relating to the Work, the Performances, and your participation in the Program generally including, without limitation, managing your budget, hiring, assigning, and managing additional employees, and, except as otherwise provided in the Plan, paying expenses.

### **9.5 Contracts with Third Parties**

CounterPulse and you may each be required to enter into contracts with third parties in order to carry out their respective responsibilities under this Agreement. These contracts will be the sole responsibility of the party entering into the contract; neither CounterPulse nor you will assume any liability for or guarantee the performance of the other in conjunction with any of these contracts.

### **9.6 Program Reporting**

CounterPulse may collect, analyze, and disseminate data about the Program to help comply with external reporting obligations and carry out fundraising and other outreach efforts. You consent to CounterPulse using information about you and your experience for those purposes.

## **10. Acknowledgements**

### **10.1 No Guarantees**

You acknowledge that CounterPulse has not made and is not making any representations, warranties, promises, or guarantees of any kind about your success, including, without limitation, representations about ticket sales or critical or public awareness of you or your work. You have made your own independent evaluation in deciding to participate in the Program.

### **10.2 Nature of Program**

CounterPulse works with multiple artists. You acknowledge that CounterPulse may have supported, may currently support, or may in the future support other artists who may share with you the same potential patrons, collaborators, or supporters, or who may hold and present markedly different points of view.

### **10.3 Other Parties and Participants**

You acknowledge that CounterPulse does not control the conduct of, and is not responsible for, other artists and third parties participating in the Program or other programs carried out by CounterPulse, or audience members or other persons at or near the Facility.

### **10.4 No Representations about Facility**

You acknowledge that CounterPulse is not making any representations, warranties, promises, or guarantees of any kind about the quality, condition, or suitability of the Facility for the Work. CounterPulse will make the space available to you strictly in its present "as-is" and "with all faults" condition. CounterPulse has no obligation to make any alterations, improvements, or repairs of any kind to the Facility for the Work or the Performances.

### **10.5 License Not Lease**

You acknowledge that your right to use the Facility is a revocable license only and does not constitute a grant of any ownership, leasehold, easement, or other property interest in any CounterPulse property.

## **11. Liability**

### **11.1 Personal Property**

You will be responsible for the security of your personal property at the Facility, including, without limitation, property left in studios or backstage areas. We will not be liable for any claims arising from theft, loss, or damage of your property brought to the Facility. Any items for use in the Work that are stored without express approval from the Producing Director are not covered under our liability policy.

### **11.2 Damage to Facility**

You will be responsible for any damage or loss to the Facility, furnishings, or other property, systems or services resulting from your actions or those of your collaborators, performers, and guests. As provided in the Plan, we may deduct amounts from your security deposit and box office amounts in respect of such damage.

### **11.3 Insurance**

CounterPulse will provide liability and other insurance in respect of the Work as provided in the Plan.

### **11.4 Indemnification**

You will defend, indemnify and hold CounterPulse and its directors, officers, employees, agents, and assigns (collectively, the "CounterPulse Parties"), harmless against all claims, liabilities, losses, damages, and expenses, including, without limitation, attorneys' fees, which arise directly or indirectly from: (a) a claim by any third party arising from your or your collaborator's participation in the Program; (b) your performance under or breach of this Agreement, (c) any failure by you to comply with applicable law; or (d) any claims by third parties involving the Work or any Performance, including any claims of infringement, misappropriation, or otherwise regarding the Work or any Performance. You will have no obligation to indemnify CounterPulse Parties to the extent the liability is solely caused by a CounterPulse Party's gross negligence or willful misconduct.

### **11.5 Limitation of Liability**

No CounterPulse Party will have any liability to you for any failure by you to meet your own audience, visibility, critical reaction, and financial support expectations regardless of the cause, or for any actions of any other participant in the Program or any other program carried out by CounterPulse, including, without limitation, sexual or other harassment, or any other conduct. No CounterPulse Party will be liable to you for any incidental, special, consequential, exemplary, punitive, or indirect

damages arising out of or otherwise related to this Agreement, your participation in the Program, or your use of the Facility. This liability limitation will not apply to liabilities arising solely from the gross negligence or willful misconduct of the relevant CounterPulse Party.

#### **11.6 Force Majeure**

CounterPulse will not be held liable for failure to perform if nonperformance is caused by destruction, material damage, or other unavailability of the Facility; protests or civic unrest; interruption of public utilities; strikes or other labor disputes; emergency; acts of God; the elements; power failures, or any other causes beyond CounterPulse's control.

## **12. Termination**

#### **12.1 Mutual Agreement**

This Agreement may be terminated by a writing signed by both CounterPulse and you that states the shared intent to terminate this Agreement and the date upon which such termination will take effect.

#### **12.2 Termination by You**

You may terminate this Agreement at any time by delivering to CounterPulse a written notice to that effect. If you terminate the Agreement more than eight weeks prior to the first scheduled Performance, you will not owe any additional fees beyond the initial non-refundable deposit set out in the Plan. However, you will be responsible for any fees or costs related to separate or additional contracts you may have with CounterPulse's technicians or contractors, and with any other designers, technicians or others you engaged for purposes of the Work or any Performances. If you cancel fewer than eight weeks prior to the first scheduled Performance for any reason (including, without limitation, illness, injury, or absence of any performer or collaborator), you will be responsible for all amounts owing as set out in the Plan, including payment of the entire base package fee and additional fees for service or contract non-compliance items.

#### **12.3 Termination by CounterPulse due to Artist's Conduct**

We value your contribution to the CounterPulse community and will not take a decision to terminate you lightly. However, CounterPulse may terminate your participation in the Program if we determine that you or any of your collaborators has (a) violated any Facility use, conduct, or other obligation under this Agreement; (b) not given appropriate time and effort in developing and readying the Work; (c) engaged in conduct that is inconsistent with our maintenance of a trusting and supportive community; (d) engaged in illegal or other conduct at the Facility that may create liability for or reflect adversely on the reputation of CounterPulse; or (e) violated any provision of this Agreement. Such a termination will be effective upon delivery by CounterPulse to you of a written notice to that effect.

#### **12.4 Termination if Facility Unfit for Artist Use**

We may terminate this Agreement if we determine that damage, destruction, loss of permit, or other event has rendered the Facility substantially unfit for your use. Such a termination will be effective upon delivery by CounterPulse to you of a written notice to that effect.

#### **12.5 Consequences of Termination by You**

Upon termination of this Agreement under Section 12.2, CounterPulse will send you an invoice setting out amounts, if any, you owe to CounterPulse, and return to you security and key deposit amounts less appropriate deductions, if any. You will pay the invoiced amounts no later than 30 days after issuance of the invoice.

### **12.6 Consequences of Termination for Any Reason**

Upon termination of this Agreement on any basis under this Section 12 your participation in the Program will come to an end. CounterPulse will have no obligation to provide you with Facility access or other support. You will remove from the Facility all of your property, leave your work area in a clean and orderly condition, and return your key to CounterPulse. You will cease identifying yourself as a participant in the Program, and CounterPulse will do the same. Sections 1.4-1.5, 2.3, 8, 9.1, 9.3, 9.5-9.6, 11.2, 11.4-11.6, 12.5-12.7, and 13 will survive the completion or termination of this Agreement.

### **12.7 Cumulative Remedies**

CounterPulse's rights, powers, and remedies under this Agreement, including, without limitation, those relating to termination, are cumulative and not alternative, and, if exercised, will be in addition to all rights, powers, and remedies given to CounterPulse at law or in equity. The exercise of one or more of these rights, powers, or remedies will not impair CounterPulse's right to exercise any other right, power, or remedy.

## **13. General Provisions**

### **13.1 Entire Agreement**

This Agreement, including the Plan, expresses the final, complete, and exclusive agreement between CounterPulse and you, and supersedes any and all prior or contemporaneous written and oral agreements, communications, or course of dealing between CounterPulse and you relating to its subject matter.

### **13.2 Amendment**

This Agreement may be amended only as stated in a writing signed by both CounterPulse and you stating that it is an amendment to this Agreement.

### **13.3 Plan Modification**

If either CounterPulse or you believe scheduling or other aspects of the Plan should be adjusted in any respect, it will so advise the other of the proposed changes. CounterPulse and you will discuss the proposed adjustment and document any changes as appropriate, it being understood that CounterPulse has full discretion regarding changes in the Plan.

### **13.4 Waiver**

Any waiver under this Agreement must be in writing and signed by the party granting the waiver. Waiver of any breach or provision of this Agreement will not be considered a waiver of any later breach or of the right to enforce any provision of this Agreement.

### **13.5 Severability**

If any provision in this Agreement is held invalid or unenforceable, the other provisions will remain enforceable, and the invalid or unenforceable provision will be considered modified so that it is valid and enforceable to the maximum extent permitted by law.

### **13.6 No Assignment**

This Agreement is personal to you and may not be assigned by you to a third party. You may not allow any other person to use the Facility without the prior written consent of CounterPulse.

### **13.7 Third-Party Beneficiaries**

Except as specifically provided in Sections 11.4 and 11.5, this Agreement is for the exclusive benefit of CounterPulse and you and not for the benefit of any third party including, without limitation, any of your collaborators, employees, vendors, contractors, or volunteers.

**13.8 Governing Law; Jurisdiction**

This Agreement is governed by California law. CounterPulse and you consent to the exclusive jurisdiction of the state and federal courts for San Francisco, California.

**13.9 Counterparts**

This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which will be taken together and deemed to be one instrument. Transmission by fax or PDF of executed counterparts constitutes effective delivery.

\* \* \* \* \*

CounterPulse and you signed this Agreement as of the date set out in its first paragraph.

**COUNTERPULSE**

**ARTIST**

**By:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_

# Exhibit A

## Co-Production Plan

### Production

Artist	
Work	
Performance dates	
Start data for studio access	

### CounterPulse contact information

Principal contact person	Name: E-mail: Phone: Address for notices:
Producing Director	Name: E-mail: Phone:
Publicity matters	Name: E-mail: Phone:
Ticketing matters	Name: E-mail: Phone:
Financial matters	Name: E-mail: Phone:

### Artist contact information

Principal contact person	Name: E-mail: Phone: Address for notices:
[other]	Name: E-mail: Phone:
[other]	Name: E-mail: Phone:

## Base staffing package provided by CounterPulse

<b>Production coordination</b>	Producing Director
<b>Two dedicated House technicians</b>	<ul style="list-style-type: none"> <li>• 7 hrs @ 2 technician and space rental for 1 event</li> <li>• (up to 5 hrs/show)</li> <li>• 4 hrs @ 2 technician and space rental for tech rehearsal</li> <li>• 1 hr @ 2 technician for Production Meeting</li> <li>• 1 hr @ 2 technician for strike on closing night</li> </ul>
<b>Front of House and box office services</b>	<ul style="list-style-type: none"> <li>• 1 CounterPulse volunteer for each 3 shows</li> <li>• 7 hrs @ 1 House Manager for 3 shows (4hrs/show)</li> </ul>
<b>Staff not provided</b>	<ul style="list-style-type: none"> <li>• Lighting Designer</li> <li>• Stage Manager</li> <li>• Any additional staffing we determine is necessary or you otherwise decide you need</li> </ul>

## Timing matters

<b>Minimum call time</b>	Four-hour minimum, except for Production Meeting (one hour)
<b>Crew breaks</b>	Two paid 15-minutes breaks and one 30-minute paid break in an 8-hour day
<b>Front of House services</b>	Four hours per Performance; Artist must supply additional staff if needed
<b>Closing time</b>	The Facility must be fully closed by 2 AM following a Performance and related events.

## Additional services charges (not included in basic package)

<b>\$_____</b>	Marley Change Fee (Grey, White, Wood)
<b>\$__ / hour</b>	Additional Tech Rehearsal: <ul style="list-style-type: none"> <li>• \$_/hr Space Rental + \$_/hr Technician Fee = \$_/hr</li> </ul>
<b>\$__ / hour</b>	3rd Technician: <ul style="list-style-type: none"> <li>• Sound Op for shows with live sound</li> <li>• Video Op or Extra Load-In / Strike Crew</li> </ul>
<b>\$__ / hour</b>	House Manager (if House Manager stays past the allotted 4 hours per show for reception or post show programming)

## Timing and lead-time requirements

Lead-Time	Action	CounterPulse Contact
<b>When sign contract</b>	Payments of base package and security deposit by Artist as set out below	
<b>One month before event</b>	Request by Artist for space changes	
<b>One month before event</b>	Request by Artist for party or reception after Performance	
<b>Seven days before scheduled rehearsal time</b>	Notice of rehearsal cancellation submitted to CounterPulse	
<b>Two weeks before Tech Week</b>	Production meeting	
<b>One week before Tech Week</b>	Request by Artist for [schedule] changes	
<b>14 days before opening</b>	Final lighting plots due from Artist	
[ ]	Request by Artist for use of gallery space	
[ ]	Contact information for volunteers submitted to CounterPulse	
<b>One week before go to print</b>	Artist-generated marketing materials submitted to CounterPulse for approval	
<b>One week before opening</b>	Artist request/copy for pre-show announcement submitted to CounterPulse	
<b>Final strike</b>	Return key to CounterPulse	
<b>One week after final Performance</b>	Return security deposit barring deductions	
<b>Two weeks after final Performance</b>	Send final invoice to Artist	
<b>Two weeks after final Performance</b>	Pay Artist box office balance	
<b>Two weeks after final Performance</b>	Send audience survey results to Artist	
<b>Within 30 days after final invoice</b>	Artist pays any amount owing to CounterPulse	

## Deposits, fees, box office, and payment

<b>Security deposit</b>	<p>\$_____</p> <p>You pay the security deposit when you sign this Agreement. We will return the security deposit, less any deductions for damage, one week after final Performance.</p>
<b>Key deposit</b>	<p>\$_____</p> <p>You pay the key deposit if and when you obtain a key for non-tech rehearsals or other matters. You must return the key no later than strike; if you do, we will return the key deposit amount.</p>
<b>Basic package fee</b>	<p>\$_____</p> <p>You pay 50% of this amount when you sign this Agreement. You pay the balance of this amount following the final Performance. We will invoice you for that amount as described below. <b>This amount is completely non-refundable under any circumstances.</b></p>
<b>Additional fees for services</b>	<p>TBD</p> <p>You pay 50% of the projected additional fees (e.g., for additional tech rehearsals, additional staffing supplied by CounterPulse, additional space needs as noted above) no later than the Production Intake Meeting. You pay the balance of this amount following the final Performance. We will invoice you for that amount as described below.</p>
<b>Missing volunteer fee</b>	<p>\$_____</p> <p>CounterPulse may charge you a \$50 fee per individual either of your two volunteers for each Performance fail to arrive.</p>
<b>Unlocked door fee</b>	<p>\$_____</p> <p>CounterPulse may charge you a \$50 fee per incident for each time you leave the front doors unlocked or unattended.</p>
<b>Artist housing charges</b>	<p>See below.</p>
<b>Final balance and payment</b>	<p>TBD</p> <p>CounterPulse will invoice you, no later than two weeks after your final Performance, for all amounts owing; such amounts include 50% of the base package fee, unpaid additional fees, any other fees or charges owed by Artist to CounterPulse (e.g., fees for missing volunteers or unlocked doors, unpaid housing amounts), and amounts in respect of damages not covered by the security deposit.</p> <p>Unless you advise otherwise, CounterPulse will pay you the total box office gross income for your performances, less an amount equal to those unpaid amounts.</p> <p>If the box office is insufficient to cover unpaid amounts, you will pay CounterPulse the difference no later than 30 days after delivery of our invoice.</p> <p>Upon your request, we will pay you the full box office amount in exchange for your separate payment of all amounts you owe to CounterPulse.</p>

## Information needs for CounterPulse publicity activities

<b>Information</b>	Please provide to CounterPulse, no later than one week after you sign this Agreement, the following information:  [to be supplied by CounterPulse]
<b>Images</b>	Please provide to CounterPulse, no later than one week after you sign this Agreement, 2-4 high resolution images (at least 4"x6" at 300dpi) to _____, preferably in JPEG format, with at least one landscape and one portrait layout option. Be sure to include photo credits in the body of the email (photographer/artist, people pictured, and caption).

## Publicity by CounterPulse

<b>CounterPulse activities</b>	CounterPulse will: <ul style="list-style-type: none"> <li>• Publish a digital listing on counterpulse.org</li> <li>• Manage online ticket sales platform</li> <li>• Run promotions including ticket codes and group discounts at the artist's request. (CounterPulse maintains the right to limit the number of discount codes)</li> <li>• Promote show on Facebook, Twitter and Instagram, with frequency at our discretion (the more content (articles, photos, behind the scenes, short video, gifs) you shared with us, the more we are likely to share)</li> <li>• Include the listing in season press release</li> <li>• Include in print season brochure if one is generated</li> <li>• Include in month-of monthly eblast</li> </ul>
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## Publicity and Credit by Artist

<p><b>Required credit:</b></p>	<p>You will include the following language in printed and digital publicity materials, such as posters, postcards and press releases, as well as in the program itself, relating to the Performance:</p> <p style="padding-left: 40px;">"[This event] is presented through CounterPulse's curated Co-Production Program. Our curated season offers independent artists and companies the opportunity to produce new work within a professionally supported environment, and to access space and resources at significantly subsidized rates. CounterPulse is building a movement of risk-taking art that shatters assumptions and builds community. For more information about CounterPulse, please visit <a href="http://counterpulse.org">counterpulse.org</a>.</p>
<p><b>Info guidelines:</b></p>	<p>All outreach materials, publicity, poster/postcard, and online ads must reflect the following:</p> <ul style="list-style-type: none"> <li>• Correct CounterPulse capitalization (capitalize "C" and "P")</li> <li>• CounterPulse logo as provided below</li> <li>• CounterPulse address should read as follows: 80 Turk St, San Francisco CA 94102</li> <li>• All dates must be listed with all dates, days of the week, and times of event, using the following capitalization format: OCT 7-9, FRI-SUN at 8PM, 2016</li> <li>• Include the year</li> <li>• Ticket buyers should be directed to the CounterPulse homepage: <a href="http://counterpulse.org">counterpulse.org</a></li> </ul>

## Logo use

<p><b>Required form:</b></p>	<p>You may use the CounterPulse logo in this form only and in accordance with our usage guidelines:</p> <div style="text-align: center;">  </div> <p>We can provide the logo to you in digital form. Please note for applications of logo smaller than 1.5 inches use Small Logo. Also note: for dark backgrounds, use Reverse Logo.</p>
<p><b>Other requirements:</b></p>	<p>You may not overlay, integrate or otherwise combine the CounterPulse logo with any other trademark, word, symbol, letter, design, or mark. You will have no interest in the logo except for a non-exclusive, non-transferable, non-sublicenseable, revocable license to use the logo for an approved limited purpose. CounterPulse will remain the owner of the logo. You will show us proposed uses and not use or terminate any use to which we object.</p>

## Insurance provided by CounterPulse

<b>Liability insurance</b>	[describe coverage provided by CounterPulse]
<b>Other insurance</b>	[describe coverage provided by CounterPulse]

## Artist housing

<b>Rate</b>	The rate for Artist housing is \$_____ per night.
<b>Payment</b>	You pay 50% of the total housing charge when you sign this Agreement. You pay the balance [on the last day you are in the apartment.]
<b>Cancellations</b>	If you cancel your housing 30 or more days before your first night in the apartment, we will refund the housing charge you paid when you signed the Agreement. If you cancel 14-29 days in advance, we will return 50% of your initial payment. If you cancel 13 or fewer days in advance, we will not return any portion of your initial payment.