

Exhibit A

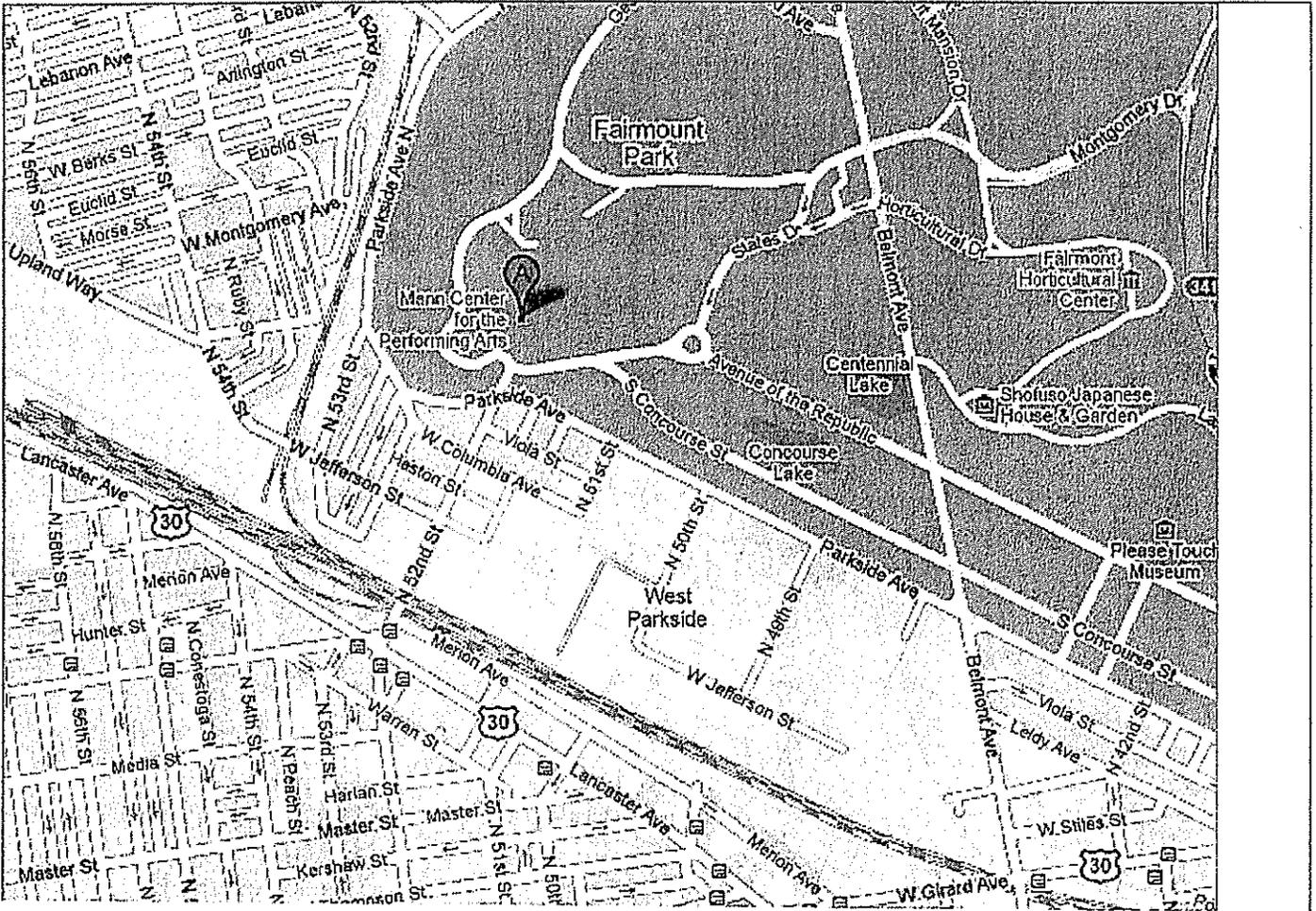


Exhibit B

Sublease Agreement

between

Philadelphia Authority for Industrial Development, as

Landlord

and

Mann Center for the Performing Arts, as

Tenant

Sublease Agreement

Table of Contents

	Background.....	1
Article 1	Definitions and Exhibits.....	2
Article 2	Demise of Premises.....	9
Article 3	Term.....	10
Article 4	Rent.....	13
Article 5	Payment of Taxes and Utilities.....	13
Article 6	Use: General Standards, Requirements and Prohibitions.....	16
Article 7	Cultural Events; Free Admissions; Educational and Outreach Programs; Centennial District; City Box; Board Representation.....	20
Article 8	Tenant’s Management of Premises and Parking Facilities; Tenant’s Lots.....	21
Article 9	Contractors and Economic Opportunity Plan.....	29
Article 10	Maintenance and Repairs; Renewal and Replacement.....	31
Article 11	Capital Improvements; Initial Construction; Alterations.....	34
Article 12	Environmental Matters.....	38
Article 13	Indemnification; Release; Insurance.....	40
Article 14	Insurance.....	42
Article 15	Damage or Destruction.....	46
Article 16	Eminent Domain.....	47
Article 17	Default.....	48
Article 18	Surrender of the Premises; Ownership of Improvements.....	53
Article 19	Subleases, Mortgages and Transfers.....	54
Article 20	Specific Laws: Discrimination Prohibited; No Debt to City; Prohibited Gifts.....	56
Article 21	Notices.....	58
Article 22	Estoppel Certificates.....	59
Article 23	Approvals by Landlord and City; Recognition of Tenant.....	60
Article 24	Tenant’s Books and Records; Audit and Inspection.....	61
Article 25	Quiet Enjoyment; Landlord’s Right to Inspect.....	62
Article 26	General.....	63
Article 27	Tenant’s Representations and Warranties.....	66

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT (“**Sublease**”), dated as of _____, 20__ (the “**Commencement Date**”), is made by and between Philadelphia Authority for Industrial Development (“**PAID**” or “**Landlord**”), an authority existing under the law of the Commonwealth of Pennsylvania, and Mann Center for the Performing Arts, a Pennsylvania not-for-profit corporation, with its principal place of business at 123 South Broad Street, Philadelphia, Pennsylvania 19109 (“**Tenant**”), upon the following facts:

BACKGROUND

A. The City of Philadelphia (“**City**”) is the fee owner of that certain building, land, and complex situated in the City of Philadelphia, Pennsylvania, that is called the Mann Music Center and is also known as the Mann Center for the Performing Arts (“**Premises**” or “**Center**”), and all improvements in, on, or about the Premises. The Premises are more particularly described in **Exhibit A**, which is attached to and part of this Sublease.

B. The Premises are served by certain existing parking facilities (“**Parking Facilities**”) that are also described in **Exhibit A**.

C. The City leased the Premises to PAID under that certain Lease Agreement (“**Lease**”) of even date with this Sublease. The Lease requires PAID to enter into this Sublease with Tenant.

D. The Premises was formerly under the jurisdiction of the Fairmount Park Commission. The Fairmount Park Commission ceased to exist on July 1, 2009 and all its powers and duties were transferred to the Department of Parks and Recreation.

E. Tenant currently uses, occupies, operates, maintains and manages the Premises under a certain Master Concession Management and Operating Agreement between the City and Tenant dated November 1996, as amended by a First Amendment to Master Concession, Management and Operating Agreement dated as of June 1, 2005 (collectively, the “**Concession Agreement**”).

F. Tenant has proposed a master plan (“**Master Plan**”) for the Premises including rehabilitation, upgrade, and improvement of the amphitheater, box office, concession facilities, and other portions of the Premises. The Master Plan is designed to be implemented in phases to prioritize the response to needs and requests of patrons and benefactors of the Center, to minimize interference with operations and Events at the Center, and to be sensitive and flexible to Tenant’s fundraising goals and efforts. The first phase of the Master Plan presently

provides for relocation of parking, building accessible pedestrian paths, vehicle passenger drop off areas at the top and bottom of the hill, a new box office and two new plazas with concession and restroom pavilions at house level, the creation of a campus green connecting the top and bottom of the hill, some backstage renovation, and the establishment of a promenade along the back edge of the lawn area seating (collectively, the “**First Construction Phase**”). Future phases of the Master Plan contemplate the construction of a new dining and education pavilion, private reception pavilions, and improvements to the backstage and underhouse facilities. Tenant estimates that it will invest, in the aggregate, approximately Thirty-Five Million Dollars (\$35,000,000) in implementing and achieving the full Master Plan.

G. The Fairmount Park Commission, by resolution dated September 8, 2004, approved Tenant’s Master Plan. A copy of a letter from the Commission dated September 23, 2004 notifying Tenant of such approval and the Master Plan are attached as **Exhibit B**.

H. Tenant desires to occupy and possess the Premises under a long-term lease in order to complete implementation of its Master Plan and to manage and operate the Premises to present musical concerts, plays, dances, operas, and other cultural programs and entertainment.

I. Concurrently with execution of this Sublease by PAID and Tenant, and execution of the Lease by the City and PAID, Tenant and the City have executed an agreement terminating the Concession Agreement. A copy of the agreement between Tenant and City terminating the Concession Agreement is attached to this Sublease as **Exhibit C**.

NOW, THEREFORE, in consideration of the above background and the representations, warranties, covenants and conditions contained in this Sublease, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Landlord and Tenant, intending to be legally bound, agree as follows:

ARTICLE I DEFINITIONS AND EXHIBITS

1.1. **Definitions.** In addition to terms defined elsewhere in this Sublease, as used in this Sublease, the following capitalized words and phrases shall have the meanings set forth below:

“**Abandon**” and “**Abandoned**” have the meaning given them in Section 18.3.1.

“**Additional Rent**” shall have the meaning set forth in Section 4.2.

“**Alcoholic Beverages**” shall mean liquor and malt or brewed beverages defined or regulated under the Pennsylvania Liquor Code, 47 P.S. §§401.1—8.803, as amended from time to time, and all regulations enacted pursuant to the Liquor Code.

“**Amphitheater**” is shown in **Exhibit D**, which is attached to and part of this Sublease.

“**Applicable Law**” and “**Applicable Laws**” mean, all present and future laws, ordinances, codes, rules, regulations, policies, standards, guidelines, orders and requirements, however characterized, of all federal, Commonwealth, and municipal governments, agencies, courts, departments, commissions, boards, board of fire underwriters, and any other body exercising governmental functions similar to those of any of the foregoing, that are applicable to this Sublease, Tenant, the Premises, or to Tenant’s use, occupancy, possession, operation, and management of the Premises. Applicable Laws include but are not limited to laws, statutes, ordinances, notices, orders, rules and regulations governing or regulating the use, presence and or disposal of Hazardous Substances and Contamination, the Americans With Disabilities Act, Alcoholic Beverages, and the Fair Practice Ordinance (codified in The Philadelphia Code, at Chapter 9-1100). Applicable Laws also include all amendments to Applicable Laws.

“**Architect**” means a licensed, independent, and registered architect.

“**Capital Improvements**” has the meaning given it in Section 11.1.1.

“**Centennial District**” has the meaning given it in Section 7.3.1.

“**Center**” has the meaning given it in Background Paragraph A above and has the same meaning as “Premises.”

“**City**” means the City of Philadelphia, a corporation and body politic organized and existing under the laws of the Commonwealth of Pennsylvania. “City” includes but is not limited to the former Commission, the Department, the Risk Manager, and all other City departments, boards, commissions, councils, and agencies and the successors by law to each of them.

“**City Box**” means fourteen (14) seats in the specific boxes identified in **Exhibit D**.

“**City Ex-Officio Member**” has the meaning given it in Section 7.5.

“**City Minimum Wage Law**” has the meaning given it in Section 20.5.

“**Claims**” has the meaning given it in Section 13.1.

“**Commencement Date**” has the meaning given it in Section 3.1.

“**Commission**” means the former Fairmount Park Commission.

“**Commissioner**” means the Commissioner of the Department of Parks and Recreation.

“**Concession Agreement**” has the meaning given it in Background paragraph E above.

“**Contamination**” means the uncontained presence of any Hazardous Substance in or on the Premises, which may require remediation or removal under any Applicable Laws.

“Contractors” means all contractors, subcontractors, consultants, concessionaires and other Persons Tenant hires or employs, including but not limited to volunteers, to assist Tenant fulfill and perform, or to fulfill and perform on Tenant’s behalf, all of Tenant’s rights, obligations and responsibilities under this Sublease. Contractors includes construction companies, architects, engineers, designers, accountants, and other professionals and consultants. Contractors does not include performing artists and production service providers.

“Contracts” means all written contracts, agreements, and other documents executed by Tenant and its Contractors under which Tenant’s Contractors provide services or materials or perform or exercise any of Tenant’s rights, obligations, and responsibilities in connection with this Sublease.

“Cultural Events” means any of the following occurring on the Premises for attendance by the general public: classical musical presentations by the Philadelphia Orchestra or other classical music groups; opera; musical theatre; ballet; or dance.

“Department” means the Department of Parks and Recreation.

“Default Rate” means that interest rate that is the lesser of (a) four (4) percentage points in excess of the Prime Rate, or (b) the highest rate permitted by law. The interest rate ascertained as the Default Rate under this Sublease shall change as often as, and when the Prime Rate changes or changes in the law occur, as the case may be.

“Educational and Outreach Programs” means programs administered by Tenant to provide education about and exposure to the performing arts, whether occurring on the Premises or elsewhere, to segments of the City population who may not otherwise have such education or opportunity for exposure, including school children, the elderly, the infirm and disadvantaged families.

“EOP” has the meaning given it in Section 9.4.

“Endowment” has the meaning given it in Section 3.3.1.1(c).

“Environmental Law” and **“Environmental Laws”** means those Applicable Laws pertaining to Hazardous Substances and Contamination.

“Estoppel Certificate” has the meaning given it in Article 22.

“Event” and **“Events”** mean any activity, event, concert, production, performance, program, function, show or public assembly in the Premises, including but not limited to Cultural Events.

“Event of Default” and **“Events of Default”** have the meanings given them in Section 17.1.

“Event Schedule” has the meaning given it in Section 8.12.

“Event Season” shall mean April 15th through October 15th of each year of the Term.

“First Construction Phase” has the meaning given it in Background paragraph F above.

“Force Majeure” shall mean any act, event or condition:

(a) beyond a party’s control or which a party cannot reasonably anticipate and reasonably take action to prevent, resolve, mitigate, or shorten the effect of, including but not limited to: (1) acts of God, (2) acts of a public enemy, war, terrorism, blockade, or insurrection, (3) strikes, boycotts, picketing, slow-downs, work stoppages, or other labor actions affecting the rights or obligations of a party hereto; and

(b) that impairs or delays the ability of that party to perform an obligation under this Sublease; but

(c) Force Majeure does not include economic hardship, competition outside of the Premises, or inability to pay increased prices, costs or charges imposed by third parties.

“Hazardous Substance” means:

(a) those substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302); Hazardous Chemicals as defined in the OSHA Hazard Communication Standard; Hazardous Substances as defined in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq.; Hazardous Substances as defined in the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.

(b) hazardous or toxic substances, materials, or waste, asbestos, flammables, volatile hydrocarbons, industrial solvents, explosives, chemicals, radioactive material, petroleum, petroleum products, natural gas and synthetic gas or either of them, and includes without limitation substances defined as “hazardous substances,” “hazardous wastes,” “toxic substances,” “pollutants” or “contaminants” under any Applicable Laws; and

(c) any and all other materials or substances that any governmental agent or unit having appropriate jurisdiction shall determine from time to time are harmful, toxic, or dangerous or designate as “hazardous substances,” “hazardous materials,” “hazardous wastes,” or “toxic substances” and that are, or otherwise are, required to be removed, cleaned or remediated.

“Improvements” means all fixed improvements and other improvements now or in the future located, annexed, erected, installed, constructed or attached in, on, or to the Premises or any portion thereof, including, without limitation, any alterations, any Capital Improvements, and all other buildings, structures, improvements, fixtures, equipment, infrastructure, facilities, appurtenances, drains, pipes, mechanical systems (including without limitation, the acoustical, lighting, staging, heating, air conditioning, electrical and plumbing

systems), stairways, elevators (if any), hallways, openings and installations of every and any kind. Improvements does not include, however, the Tenant's Property. Improvements also does not include public or private utility and telecommunication conduits and lines and supporting appurtenances that traverse the Premises but do not serve the Premises.

"Initial Term" has the meaning given it in Section 3.2.

"Insurance Proceeds" means any amount received from an insurance carrier, after deducting from the proceeds the reasonable fees and expenses of collection, including but not limited to reasonable attorneys' fees and experts' fees.

"Landscaping Plan" has the meaning given it in Section 10.5.

"Leasehold Financing" has the meaning given it in Section 19.4.4.

"Maintain" and **"Maintenance"** have the meaning given them in Section 10.1.1.

"Master Plan" has the meaning given it in Background paragraph F above.

"Material Change" has the meaning given it in Section 11.2.4.

"Operating Expenses" has the meaning given it in Section 8.1.

"Parking Facilities" means those areas and fields in proximity to but not included within the Premises and identified as the Parking Facilities in **Exhibit A**, including but not limited to all improvements and appurtenances in, on, or about the Parking Facilities.

"Parking Facilities Liaison" has the meaning given it in Section 8.15.8.

"Parking Facilities Specifications" means state-of-the-art, first-class, safe, efficient operational standards for the operation of parking facilities, as the Commissioner may approve in writing from time to time.

"Partial Taking" has the meaning given it in Section 16.3.

"Permitted Use" and **"Permitted Uses"** have the meaning given them in Section 6.1.

"Person" means any individual, general partnership, limited partnership, corporation, limited liability company, joint venture, trust, estate, or association, and all other legal entities. Person includes, by way of example only, PAID, Tenant, City, and any and all sponsors.

"Plans and Specifications" has the meaning given it in Section 11.2.

"Premises" has the meaning given it in Background paragraph A above. The Premises are more particularly described on **Exhibit A** and include, without limitation, a performing arts amphitheater, box office, concession facility, and other improvements. Upon Tenant's completion of the relocation of its trash compactor as shown on **Exhibit A**, Tenant shall

move its fence to include the relocated trash compactor area within the fence, and the Premises shall then include such area within the fence. The Premises do not include the cartways of any City streets or Fairmount Park roads and drives on or through the Premises.

“Prime Rate” means the Prime Rate as announced from time to time by PNC Bank or its successor-in-interest, or if there is no Prime Rate announced by PNC Bank, then the Prime Rate shall be the Prime Rate announced from time to time by the banking institution in the Commonwealth of Pennsylvania having the highest dollar volume of deposits.

“Recognition Agreement” has the meaning given it in Section 23.7.

“Releasers” has the meaning given it in Section 13.4.

“Renewal Deadline Date” has the meaning given it in Section 3.3.2.

“Renewal Notice” has the meaning given it in Section 3.3.2.

“Renewal Term” has the meaning given them in Section 3.3.1.

“Rent” has the meaning given it in Section 4.1.

“Repair” and **“Repairs”** have the meanings given them in Section 10.1.2.

“Signs” has the meaning given it in Section 8.8.2.

“Special Permit” has the meaning given it in Section 8.15.2.

“Street Price” and **“Street Prices”** have the meaning given them in section 8.13.

“Substantial Completion of Tenant’s Lots” means the date on which Tenant has substantially completed the reconfiguration and improvement of those areas identified as “Tenant’s Lots” on **Exhibit A-1** hereto to the extent they can be used for their intended purpose, subject only to completion of minor punchlist items.

“Taking” has the meaning given it in Section 16.1.

“Tax Year” has the meaning given it in Section 5.1.2.

“Taxes and Impositions” means all generally applicable and uniform taxes (including possessory interest, real property, ad valorem and personal property taxes), assessments (including special service district assessments), charges, license fees, municipal liens, levies, excise taxes, impact fees, or imposts, whether general or special, ordinary or extraordinary, imposed by any governmental or quasi-governmental authority pursuant to any Applicable Law, that are or will be levied, assessed, charged or imposed, or which may become a lien or charge upon the Premises or any part of the Premises, or upon Tenant’s leasehold estate under this Sublease, or upon Tenant’s rights, obligations, or actions under this Sublease.

“Tenant’s Lots” has the meaning given it in Section 8.16.1.

“**Tenant’s Property**” means all furniture, trade fixtures and equipment and other personal property owned or leased by or otherwise belonging to Tenant, or any other Person(s), other than the City, including but not limited to Tenant’s Contractors and Subcontractors and any equipment, facilities or systems, fixed or moveable, that are leased by or in the name of Tenant or any other Person(s) (other than City) or to which the vendor or other supplier retains legal title under a conditional sale, chattel mortgage, or other security arrangement, or to which title is reserved, or in which a security interest exists, including but not limited to the property set forth on **Exhibit F**, which is attached to and part of this Sublease. Tenant’s Property does not include any equipment or systems that are normally considered building systems such as heating, ventilating, air conditioning, plumbing, electrical, and telecommunication systems.

“**Term**” means, collectively, the Initial Term and each Renewal Term, if applicable.

“**Termination Event**” and “**Termination Events**” have the meanings given them in Section 17.3.1.

“**Total Taking**” has the meaning given it in Section 16.2.

“**Transfer**” has the meaning given it in Section 19.1.

“**Utility Service**” has the meaning given it in Section 5.2.1.

1.2. Incorporation of Exhibits. The Exhibits listed below are attached to, incorporated into, and a part of, this Sublease:

Exhibit A	Map of Premises and Parking Facilities
Exhibit A-1	Location of Tenant’s Lots
Exhibit B	Letter from Fairmount Park Commission Regarding Master Plan and Master Plan
Exhibit C	Agreement Terminating Concession Agreement
Exhibit D	Amphitheater, City Box, Fixed Non-Roof Covered Seats and Fixed Roof Covered Seats
Exhibit E	Economic Opportunity Plan
Exhibit F	Tenant’s Property
Exhibit G	Form of Bond
Exhibit H	Form of Certifications and Covenants of Recipients of Financial Assistance
Exhibit I	Form of Recognition Agreement
Exhibit J	Investment in Capital Improvements as of the Commencement Date
Exhibit K	Form of Report of Free Admissions to Cultural Events and Educational and Outreach Programs

ARTICLE 2
DEMISE OF PREMISES

2.1. Demise. Commencing on the Commencement Date, Landlord subleases the Premises to Tenant, and Tenant subleases the Premises from Landlord, subject to the provisions of this Sublease and of the Lease. This Sublease does not include, and Landlord does not sublease to Tenant, any public or private utility and telecommunication conduits, lines, or appurtenances that may traverse the Premises.

2.2. Condition.

2.2.1. AS IS. As of the Commencement Date, Tenant accepts and takes possession of the Premises in its present condition on a “WHERE IS” and an “AS-IS” basis with no reliance on any information that Tenant may have obtained from Landlord or the City.

2.2.2. Tenant Accepts Premises. Without limiting 2.2.1, Tenant accepts the Premises, the title to the Premises, the zoning of the Premises, any surface and subsurface conditions of the Premises (patent and latent), the furnishings and equipment on the Premises, and the present uses and non-uses of the Premises, in the condition or state in which they are, or any of them is, as of the Commencement Date.

2.2.3. No Recourse to Landlord. Except as expressly set forth in this Sublease, Tenant accepts the Premises without, any representation, covenant or warranty, express or implied, in fact or in law, by Landlord and without recourse to the Landlord, as to the title to the Premises, encumbrances, liens, restrictions and conditions on the Premises, the nature, condition or usability of the Premises or the use or uses to which the Premises or any part of the Premises may be put.

2.2.4. Landlord Makes No Representation. Except as expressly set forth in this Lease, Landlord makes no representation, warranty or covenant, either express or implied, in fact or law as to the condition, maintenance, or upkeep of the Premises or the suitability of the Premises for any particular use, purpose, or public function, for the Tenant’s purposes or needs, or compliance by or of the Premises with any Applicable Laws.

2.2.5. Tenant Has Inspected Premises. Tenant represents that it has inspected the Premises and is entering into this Sublease based solely on its evaluation of the Premises. By its entry onto the Premises, the Tenant accepts the condition of the Premises and accepts the Premises as being free and clear from all defects and in good, safe, clean and orderly condition and repair.

2.2.6. Landlord and City Not Liable for Latent Defects. Landlord and City are not, and shall not be, responsible for any latent defect. Tenant shall not, under any circumstances, withhold any amounts payable to Landlord or City under this Sublease on account of any latent defect in the Premises.

2.2.7. Landlord and City Not Liable for Injury. Without limiting the generality of any other provision of this Sublease, Landlord and City shall not in any event be liable for any

injury or damage to Tenant, any Contractor, Sponsor, or any other Person, the Premises, or any property (whether such property belongs to Tenant, Contractor, Sponsor or any Person), happening on, in or about the Premises whether such damage is caused by any fire, breakage, leakage, defect or bad condition in any part of the Premises, or from water, rain or snow that may leak into, issue or flow from any part of the Premises for which Tenant is responsible pursuant to the terms of this Lease, including but not limited to the drains, pipes, or plumbing work of the same, or due to the use, misuse or abuse of all or any part of the Premises, by Tenant, a Contractor, Sponsor or any other Person, or due to the acts or omissions of Tenant, a Contractor, Sponsor or any other person, or from any kind of injury which may arise from any other condition whatsoever in, on or about the Premises.

2.2.8. Title to Premises Remains In City. Notwithstanding any other provision of this Sublease, at all times during the Term, City shall have fee simple title to the Premises. Tenant shall not cause or permit any waste, damage, deterioration, or injury to the Premises or Landlord's estate or City's estate in the Premises. Tenant shall not permit use of the Premises in any manner that might give rise to a claim of adverse possession or adverse usage by any Person or the public or of implied dedication of the Premises or any part of them.

2.2.9. Tenant Has Care, Custody and Control of Premises. Notwithstanding the City's fee simple title to the Premises, as of the Commencement Date and throughout the Term, Tenant shall have exclusive care, custody, and control of the Premises.

2.2.10. Jurisdiction of Department and Other City Boards and Commissions. Without limiting the application of Applicable Laws to the Premises, Tenant, and this Sublease, Tenant acknowledges that the Premises are, and at all times during the Term and Tenant's possession of the Premises, will remain, subject to the jurisdiction of the Department and the Philadelphia Art Commission.

2.2.11. Sublease Imposes No Obligation on City to Expend Money. Notwithstanding any other provision of this Sublease, Tenant acknowledges and agrees that this Sublease does not impose any obligation on Landlord or the City to appropriate or expend funds at any time during the Term, except as provided in Section 5.2 [Utilities], Section 8.15.6 [Parking] and Section 8.16.4 [Tenant's Lots].

ARTICLE 3 TERM

3.1. Commencement Date. The "**Commencement Date**" of this Sublease shall be the date stated in the first paragraph of this Sublease.

3.2. Initial Term. The initial term of this Sublease ("**Initial Term**") shall begin on the Commencement Date and shall expire at 11:59 p.m. on the date that is twenty-nine (29) years and eleven (11) months following the Commencement Date, unless sooner terminated as provided in this Sublease.

3.3. Renewal Term.

3.3.1. Renewal Options. Subject to the conditions precedent listed below, Tenant shall have the right (but not the obligation) to renew this Sublease under Section 3.3.2 below for up to two consecutive ten (10)-year periods (each a “**Renewal Term**”). Each Renewal Term shall commence immediately upon expiration of the Initial Term or first Renewal Term, as the case may be, and expire at 11:59 p.m. on the day before the tenth anniversary of the commencement of the Renewal Term.

1. Before Tenant may exercise its right to renew this Sublease for the first Renewal Term, Tenant must completely satisfy the conditions precedent listed below:

(a) Tenant shall have substantially completed all Capital Improvements proposed in its First Construction Phase;

(b) Tenant shall not have committed any Event of Default that is continuing as of the Renewal Deadline Date; and

(c) Tenant shall have invested or caused the investment of an aggregate of Twenty-Seven Million Dollars (\$27,000,000), whether before or after the Commencement Date, in one or any combination of (i) Capital Improvements in the First Construction Phase, (ii) Capital Improvements proposed in Tenant’s Master Plan and approved and made in accordance with the provisions of this Sublease, (iii) other Capital Improvements approved and made in accordance with the provisions of this Sublease during the Term having a useful life of not less than seven (7) years, and (iv) an endowment, held in trust by Tenant, the principal balance of which (not including interest or other earnings) may not be diminished except for payment for any of the Capital Improvements described in this Section 3.3.1 (the “**Endowment**”). Landlord and Tenant acknowledge and agree that, as of the Commencement Date, Tenant has invested or caused the investment of Fifteen Million Seven Hundred Forty-Nine Thousand Seven Hundred Sixty-Three Dollars (\$15,749,763.00) in Capital Improvements in the First Construction Phase, as set forth on **Exhibit J** attached hereto.

2. Before Tenant may exercise its right to renew this Sublease for the second Renewal Term, Tenant must completely satisfy the conditions precedent listed below:

(a) Tenant shall have substantially completed all Capital Improvements proposed in its First Construction Phase;

(b) Tenant shall not have committed any Event of Default that is continuing as of the Renewal Deadline Date; and

(c) Tenant shall have invested or caused the investment of an aggregate of Thirty-One Million Dollars (\$31,000,000) whether before or after the Commencement Date, in one or any combination of (i) Capital Improvements in the First Construction Phase, (ii) Capital Improvements proposed in Tenant's Master Plan and approved and made in accordance with the provisions of this Sublease, (iii) other Capital Improvements approved and made in accordance with the provisions of this Sublease during the Term having a useful life of not less than seven (7) years, and (iv) the Endowment.

3.3.2. Exercise of Renewal Options. To renew this Sublease beyond the Initial Term or the first Renewal Term, as the case may be, Tenant must give written notice ("**Renewal Notice**") to Landlord and the City not later than twelve (12) months prior to the expiration of the Initial Term or first Renewal Term, as the case may be (for each renewal, the "**Renewal Deadline Date**"). If Tenant fails to timely deliver a Renewal Notice to the Landlord and the City by the applicable Renewal Deadline Date, then this Sublease shall expire absolutely at the expiration of the Initial Term or first Renewal Term, as the case may be, without the need for notice by either party.

3.3.3. Maintenance of Endowment. If Tenant relies upon the Endowment to satisfy the conditions of Section 3.3.1 above, Tenant shall thereafter maintain in the Endowment the principal amount so relied upon unless and until such amount is invested in one or any combination of the Capital Improvements in the Premises described in Section 3.3.1 above, approved and made in accordance with the provisions of this Sublease. Tenant shall also thereafter provide the Department with an annual accounting with respect to the Endowment, within ten (10) business days following Tenant's receipt of its annual audit and provide notice to the Department prior to any withdrawal of principal from the Endowment. Nothing contained in this Sublease shall be deemed to restrict in any way Tenant's use of interest or other earnings on the Endowment, which Tenant may use at any time for any purpose in furtherance of its corporate mission.

3.3.4. Evidence of Capital Improvements. In connection with any Renewal Notice or withdrawal of principal from the Endowment relied upon to satisfy the conditions of Section 3.3.1 above, Tenant shall provide to the Commissioner detailed evidence (a) that Capital Improvements required or permitted by Section 3.3.1 have been made, and (b) of the cost of any such Capital Improvements. Tenant shall also provide to the Commissioner, at the Commissioner's request, copies of bills, contracts, architect's certificates and such other reasonable evidence as the Commissioner may request.

3.3.5. Provisions Applicable to Renewal Terms. The provisions of this Sublease shall remain in full force and effect for the Renewal Terms, if any, including Rent.

3.3.6. End of Term. This Sublease shall expire at the end of the Term absolutely and without the need for notice or action by either party.

ARTICLE 4
RENT

4.1. Rent. As rent (“**Rent**”) for the Term, Tenant shall pay the Landlord \$1.00, payable upon execution of this Sublease.

4.2. Additional Rent. Tenant shall be required to pay to Landlord a one time fee of Five Thousand Dollars (\$5000.00) on or before the Commencement Date of this Sublease. Tenant shall be required to pay to Landlord all sums which may become due by reason of Tenant’s failure to comply with the provisions of this Sublease and all damages, costs, and expenses suffered or incurred by Landlord and City, or either of them, as a result of Tenant’s failure to comply with the provisions of this Sublease, as well as all other sums stated in this Sublease to be paid by Tenant to Landlord or otherwise identified in this Sublease as Additional Rent (“**Additional Rent**”).

ARTICLE 5
PAYMENT OF TAXES AND UTILITIES

5.1. Taxes and Impositions.

5.1.1. Tenant Must Pay. Tenant shall pay or cause to be paid all Taxes and Impositions throughout the Term, before any fine, penalty, interest or cost may be added. Nothing herein shall be construed to require Tenant to pay any Taxes or Impositions from which Tenant is exempt because of Tenant’s status as a non-profit corporation, provided such exemption shall not result in Taxes or Impositions to be paid by Landlord or the City.

5.1.2. Proration. If the first day of the Term is a day other than the first day of a “tax” or “fiscal” year (“**Tax Year**”), all such Taxes and Impositions shall be prorated such that Tenant shall be responsible only for those Taxes and Impositions payable in connection with the Premises during the Term, such proration to be based on the ratio that the number of days in such fractional Tax Year bears to 365. Payment of Taxes and Impositions with respect to the final Tax Year within the Term shall be similarly prorated.

5.1.3. Tenant May Contest Taxes and Impositions. In the event that Tenant desires to contest or otherwise review by appropriate legal or administrative proceedings any Taxes and Impositions, Tenant shall give City written notice of its intent. After giving such notice to City, Tenant shall not be in default under this Sublease by reason of the non-payment of such Taxes and Impositions if Tenant shall have (1) obtained and furnished to the applicable taxing authority a bond or other security to the extent required by Applicable Law, or (2) established reserves sufficient to pay such contested Taxes and Impositions and all penalties and interest that may be reasonably payable in connection with it or them. Tenant may control the contest and proceeding, but Tenant is solely responsible for all costs and expenses arising in connection with or arising out of such contest and proceeding. To the extent necessary for Tenant to lawfully contest any Taxes and Impositions, Landlord shall require City to reasonably cooperate in such proceeding, provided that such cooperation shall be at no or nominal cost to

City. Tenant shall pay the amount, if any, determined to be due, together with all costs, expenses, interests and penalties related to the amount due.

5.1.4. Installment Payments. Tenant may take the benefit of the provisions of any Applicable Law permitting any Taxes and Impositions to be paid in installments.

5.1.5. Tenant May Seek Abatement. Nothing contained in this Sublease shall prevent Tenant from seeking an abatement of or exemption from any or all of the Taxes and Impositions, and Tenant may take the benefit of any or all such abatements or exemptions it receives.

5.1.6. Payment by Landlord. Unless Tenant is contesting any Taxes and Impositions as provided in Section 5.1 above, City may, at any time after the date any Imposition is delinquent, give written notice to Tenant specifying same, and if Tenant continues to fail to pay or contest such Imposition, then at any time after fifteen (15) days from Tenant's receipt of such written notice, City may pay the Imposition specified in said notice. Tenant covenants to reimburse City, upon demand, the amount of any such Imposition paid by City along with City's reasonable expenses incurred in connection with such payment, with interest thereon at the Default Rate from the date of such payment by City until repaid by Tenant and such sums shall be included in Additional Rent hereunder. Although City may pay the cost of Impositions on behalf of Tenant in accordance with this Section 5.1.6, in determining whether Tenant's failure to pay any of the Taxes and Imposition is an Event of Default under this Sublease, such determination shall be made in accordance with the default provisions set forth in Article 17 below.

5.2. Utilities.

5.2.1. Utility Services.

1. Throughout the Term, Tenant, at its sole cost and expense, must take whatever action is required to obtain and maintain all utility service(s) (including, but not limited to, water and sewer services, gas, steam, heat, light, electricity, power, telephone and any other utility or services (collectively, the "**Utility Service**")) necessary for the use and operation of the Premises as contemplated by this Sublease. In addition, Tenant must make the necessary arrangements with all utility providers to bring all required conduits, lines and facilities to and within the Premises for the provision of such Utility Service.

2. Tenant shall, to the extent permitted by the utility providers, maintain all accounts for Utility Service in Tenant's name. Nevertheless, should Tenant fail to pay for Utilities Service as provided herein, the City shall have the right, but not the obligation, to make payment therefor, and such sums shall be Additional Rent hereunder, and shall bear interest at the Default Rate from the date paid by the City until the date paid by Tenant.

3. Electricity for lighting of the Parking Facilities and the other areas outside the Premises is currently metered separately from the Premises and paid by the City. Tenant shall have no obligation to pay for lighting of the Parking Facilities or other areas outside the Premises.

5.2.2. City Utilities Contribution.

1. Landlord shall cause the City to reimburse Tenant for payments actually made by Tenant for water and sewer and electric services to the Premises attributable to the period between the Commencement Date and December 31, 2020, in accordance with the following schedule, and subject to adjustment as provided below, to reimburse Tenant for payments actually made by Tenant during such fiscal year for water and sewer and electric utilities services to the Premises (the “**City Utilities Contribution**”):

Attributable to Calendar Year	Percentage
2011	100%
2012	90%
2013	80%
2014	70%
2015	60%
2016	50%
2017	40%
2018	30%
2019	20%
2020	10%
Thereafter, including Renewal Terms	0%

2. Tenant shall provide the City with receipts for water, sewer and electric utilities service payments to be reimbursed, along with a request for reimbursement, and Landlord shall cause the City to disburse to Tenant within forty five days (45) after receipt of such request, accompanied by the appropriate receipts, but no more frequently than quarterly. The total of all such disbursements shall not exceed the percentage of the total set forth above attributable to each such calendar year ending December 31, 2015, prorated for any partial calendar year.

3. In the event Tenant fails to pay for any water and sewer or electric utilities services to the Premises, or if Tenant fails to pay for any other utilities services to the Premises which are lienable, Landlord or the City may (but shall have no obligation to) make payment to such utilities providers directly and any such payments shall reduce the amount of the City Utilities Contribution to be paid to Tenant to reflect such direct payment. Landlord’s and the City’s rights pursuant to this Section shall not be deemed to limit Landlord’s and the City’s rights and remedies pursuant to Section 5.2.1.2 above, Section 5.2.2.4 below and otherwise.

4. The City shall have no obligation to make, and Landlord shall have no obligation to cause the City to make, the City Utilities Contribution to Tenant during or with respect to any period of time after an Event of Default or Termination Event.

ARTICLE 6

USE: GENERAL STANDARDS, REQUIREMENTS, AND PROHIBITIONS

6.1. General Use; Occupancy and Operation of the Premises.

6.1.1. Exclusive Use and Occupancy; Permitted Uses. Commencing on the Commencement Date and continuing for the Term of this Sublease, Tenant shall have the exclusive right to use and occupy the Premises solely for the following purposes (“**Permitted Uses**”):

1. operating a multi-purpose theater and cultural and performing arts center;
2. providing, offering, and conducting, any and all other services, activities, programs, events, functions, facilities and operations that are customarily associated with, ancillary or related to, or conducted in connection with, the operation of a multi-purpose theater and cultural and performing arts center;
3. without limiting 6.1.1.1 and 6.1.1.2 above, sell food, beverages, merchandise, and other concession items and operate restaurant and catering facilities;
4. operate a box office and conduct ticket sales;
5. operate parking services for Events;
6. offer and conduct educational, outreach and cultural services, activities, functions and events;
7. offices and storage space;
8. conduct fund raising events that benefit the Center;
9. host or accommodate public gatherings and events;
10. host events related to the Tenant’s programs;
11. other uses typical and ancillary to performing arts and cultural entertainment centers similar to the Center; and
12. implement Tenant’s Master Plan and perform Capital Improvements, Maintenance and Repairs to and on the Premises.

6.2. Public Benefit. All of Tenant’s operations on the Premises shall be for the use and enjoyment of the citizens of the City of Philadelphia, Commonwealth of Pennsylvania, and the general public.

6.3. Standards of Operation. Tenant must maintain high-quality standards in all its operations at the Premises. Tenant must cause its Contractors to maintain high-quality standards

in their activities in the Premises. Without limiting the preceding sentences of this Section 6.3, Tenant must:

6.3.1. present Cultural Events and other Events according to the Event Schedule Tenant submits to the City;

6.3.2. provide, directly or through Tenant's Contractors, all materials, equipment, services, and supplies necessary or desirable for high-quality operation of the Premises and the Events;

6.3.3. provide, directly or through Tenant's Contractors, sufficient personnel in, on, and about the Premises for each Event to usher patrons; manage stage facilities and equipment; conduct food, beverage, and merchandise sales; operate a box office and sell tickets; and manage parking throughout the Parking Facilities;

6.3.4. provide security during Events and at all other times;

6.3.5. provide janitorial services and keep the Premises free of trash and debris;

6.3.6. keep all food preparation equipment in good working order, clean and sanitary; and

6.3.7. provide sufficient, sightly trash receptacles and arrange for prompt collection and proper removal of all trash and debris.

6.4. Compliance with Applicable Laws.

6.4.1. Throughout the Term, Tenant must, at Tenant's sole cost and expense, observe and comply with all Applicable Laws in Tenant's use and occupancy of the Premises and all its activities pursuant to its rights and obligations under this Sublease. Tenant must cause its Contractors and all Persons for whom Tenant is legally responsible to observe and comply with all Applicable Laws. Without limiting the immediately preceding sentence, Tenant must insert appropriate provisions in all contracts for the provision of goods, services, or work under this Sublease, to require Tenant's Contractors to comply with Applicable Laws as they relate to the services or products to be supplied or provided under such contracts, and Tenant must diligently seek to enforce such requirements.

6.4.2. Tenant shall not use or allow the Premises or any part of the Premises to be used or occupied for any unlawful purpose or in violation of any Applicable Law. Tenant shall not permit any act to be done or any condition to exist in, on, or about the Premises or any part of the Premises which may be dangerous or which may, in law, constitute a public or private nuisance or which may make void or voidable any insurance then in force with respect to the Premises, any part of the Premises, or Tenant's operations on the Premises.

6.4.3. In the event of a conflict between Applicable Laws and any provision of this Sublease, Applicable Laws shall control. Without limiting the definition of "Applicable

Laws” elsewhere in this Sublease, Applicable Laws shall include, without limitation, any Applicable Laws of the City or the Department, now or in the future.

6.5. Notice of Violation of Applicable Laws. Tenant shall promptly provide written notice to Landlord of any written notices of violations of Applicable Law that Tenant receives or has actual knowledge that any of Tenant’s Contractors have received. Tenant shall promptly correct any violations of Applicable Laws within the time prescribed by Applicable Laws or immediately in the case of any emergency that threatens the health, safety or welfare of the general public.

6.6. Tenant May Contest Validity of Applicable Laws. Tenant shall have the right, at its own cost and expense, to contest or review by appropriate legal or administrative proceeding the validity or legality of any Applicable Laws. During such contest Tenant may refrain from complying with the Applicable Law it is contesting if: (1) Tenant may refrain from complying with that Applicable Law without subjecting Landlord or City to any civil or criminal liability of whatsoever nature, (2) the Premises will not be subject to any lien, charge, or liability for Tenant’s failure so to comply with the Applicable Law for which Tenant has not provided adequate security or reserves, and (3) Tenant prosecutes such challenge and proceeding diligently.

6.7. Alcoholic Beverages.

6.7.1. Tenant’s Exclusive Right. Subject to Applicable Laws, Tenant and its Contractors shall have the sole and exclusive right to sell and serve Alcoholic Beverages at the Premises. At all times that Tenant or its Contractors sell or serve Alcoholic Beverages at the Premises, Tenant must have all valid, current licenses and valid, current permits, required by Applicable Laws for the sale or distribution of Alcoholic Beverages.

6.7.2. Copies of Permits. Promptly following a written request from the Commissioner (but not more often than once during any calendar year), Tenant must submit to the Commissioner a copy of a valid current license, issued by the Pennsylvania Liquor Control Board, or its successor, authorizing Tenant to sell Alcoholic Beverages at the Premises.

6.8. Extermination Services. Tenant, at its sole cost and expense, shall engage the services of a duly licensed exterminator to periodically, as often as Tenant determines is reasonably necessary, treat and service those portions of the Premises in which food or beverages are served or consumed to prevent and eliminate the presence of rodents, vermin or other pests or insects.

6.9. Removal of Hazardous Substance. Tenant shall promptly cause any Hazardous Substance in or arising from the Premises, or any part of the Premises, to be handled and disposed of in a way that does not present a risk of Contamination.

6.10. Licenses and Permits.

6.10.1. Tenant Must Have All Required Licenses. Throughout the Term, Tenant, at its own cost and expense, shall secure and maintain all licenses, permits, approvals, and

certificates required by Applicable Laws for Tenant's use, occupancy, operation, and improvement of the Premises.

6.10.2. Landlord Does Not Warrant Availability of Licenses. Landlord does not represent or warrant that Tenant will be able to obtain or maintain any of the licenses, permits approvals, or certificates required by Applicable Laws for Tenant's use, occupancy, operation, and improvement of the Premises, including but not limited to any licenses, permits, approvals and certificates that Tenant may be required to obtain from any City department, board, or commission. Nothing in this Sublease obligates Landlord or City to assist Tenant in obtaining any license, permit, approval or certificate required by Applicable Laws.

6.11. Prohibited Uses of the Premises. Tenant shall not use, suffer or allow the all or any part of the Premises to be used or occupied for any purpose other than that specified in this Sublease, or for any unlawful purpose. Tenant shall not authorize and shall use good faith and diligent efforts to prevent any act to be done or any condition to exist in, on, or about all or part of the Premises, or any article to be brought on all or any part of the Premises, that may be dangerous or which may constitute a public or private nuisance or that may make void or voidable any insurance then in force with respect to all or some of the Premises.

6.12. Revenues. In exchange for Tenant assuming the responsibilities and obligations imposed on it under this Sublease, Tenant shall have the sole and exclusive right to receive and retain all income, receipts and revenues of every kind and description whether from means now existing or developed in the future, and whether or not in the current contemplation of the parties arising from or relating to Tenant's use, occupancy or operation of the Premises, including, without limitation, revenue from the sale of Event Tickets, advertising and similar rights, operation of the concession facilities, operation of catering facilities, sale and service of Alcoholic Beverage(s), naming rights, sponsorship agreements, operation of Parking Facilities in connection with Tenant's Events, and any and all other income, receipts or revenues arising from or relating to the use, occupancy or operation of all or any portion of the Premises at any time during or attributable to the Term of this Lease. Nothing in this Section, however, is intended to in any way broaden the Permitted Uses of the Premises or relieve Tenant of the obligation to pay Taxes and Impositions or other taxes and expenses associated with the Premises or Tenant's activities and operations (including, without limitation, Parking Tax, Amusement Tax, tax on alcoholic beverages, and, unless Tenant is exempt under applicable law, Use and Occupancy Tax) or lessen the financial or other obligations of Tenant imposed elsewhere in this Lease. Tenant shall be obligated to pay or invest all such income, receipts and revenues only in the Premises and the Maintenance, Repair and improvement of the Premises, in Operating Expenses, in salaries of Tenant's staff, in providing, advertising and promoting Events, including Cultural Events, in the Endowment and otherwise in furtherance of Tenant's corporate mission as it exists on the date hereof.

6.13. No Obligation on Landlord and City to Operate Premises. Tenant acknowledges and agrees that nothing in this Sublease or the Lease obligates Landlord or City to perform any of the Permitted Uses or to otherwise manage or operate the Premises in any way whatsoever. Tenant further acknowledges and agrees that nothing in this Sublease or the Lease obligates Landlord or the City in any way whatsoever to pay, subsidize, or otherwise support any of the

costs or expenses arising in connection with the Permitted Uses or the operation or management of the Premises.

ARTICLE 7
CULTURAL EVENTS; FREE ADMISSIONS; EDUCATIONAL AND OUTREACH PROGRAMS;
CENTENNIAL DISTRICT; CITY BOX; BOARD REPRESENTATION

7.1 Cultural Events; Free Admissions.

7.1.1. Cultural Events. Throughout the Term, during each full calendar year, Tenant shall arrange for the inclusion of Cultural Events in Tenant's Event Schedule. The number and nature of the Cultural Events shall be subject to the approval of the Commissioner, which approval shall not be unreasonably withheld or delayed.

7.1.2. Free Admissions to Cultural Events.

1. Tenant (without any direct or indirect charge to or assistance from the City) shall use its good faith efforts to obtain funding or sponsorship to underwrite free admissions to each calendar year's Cultural Events for Philadelphia school children and for disadvantaged families in the City. Such admissions shall be made available free of charge in the areas of the amphitheatre or other location at the sole discretion of Tenant.

2. Tenant, at its own cost and expense (without any direct or indirect charge to or assistance from the City) shall provide the free admissions required under Section 7.1.2.1 above in accordance with a distribution plan to be prepared by Tenant, subject to the approval of the Commissioner, which approval shall not be unreasonably withheld or delayed.

7.1.3 Educational and Outreach Programs. Throughout the Term, during each full calendar year, Tenant (without any direct or indirect charge to or assistance from the City) shall use its good faith efforts to obtain funding or sponsorship to underwrite the providing of Educational and Outreach Programs. If such funding or sponsorship is obtained, the Educational and Outreach Programs shall be made available free of charge at the Premises or at other locations (such as schools) at the sole discretion of Tenant.

7.1.3 Annual Report. For each calendar year throughout the Term, Tenant shall file a report with the Commissioner detailing the number of free admissions that were provided to Cultural Events and the number of people served by Educational and Outreach Programs in such calendar year. The report shall be in the form of **Exhibit K** attached hereto.

7.2. Reduced, Non-Profit Rate. Tenant shall continue to make the Center (or portions thereof) available to Philadelphia non-profit institutions and community groups to hold events at reduced, non-profit rates, in accordance with a schedule of rates approved in writing by the Commissioner.

7.3. Centennial District.

7.3.1. It is the intention of the City and Tenant, in an effort to broaden the appeal of Fairmount Park and its cultural attractions, that there be developed or constituted a “Centennial District” corresponding roughly to the area of the fair grounds of the 1876 Centennial. As planned, the Centennial District will include the Center, the Japanese House and Gardens, the Horticultural Center, Memorial Hall and the Philadelphia Zoo. In the future the Centennial District might include other institutions and sites under the jurisdiction of the Department (collectively, with the Premises, the “**Centennial District**”).

7.3.2. Tenant agrees to reasonably cooperate and collaborate with the City and other members of the Centennial District in developing and implementing and promoting the Centennial District. Tenant acknowledges and agrees that such cooperation and collaboration may include coordination with respect to the scheduling of Events and contributing financially to the cost of implementing the projects and programs undertaken by the Centennial District.

7.4. City Box Tickets. At least fifteen (15) days prior to each Event that is open to the general public, Tenant, at its own cost and expense (without direct or indirect charge to or assistance from the City), must make available to the Office of the Mayor tickets to such Event for each seat in the City Box.

7.5 Board Representation. Prior to Tenant’s execution of this Lease, Tenant shall hold a meeting of its Board of Directors and, by resolution duly passed by its Board of Directors, amend Tenant's by laws to add as an ex-officio member of its Board of Directors a person appointed by the Mayor. If the Mayor appoints a government official or employee as member, such Member may be represented at Board Meetings by a City-employed designee (“**City Ex-Officio Member**”). The City Ex-Officio Member shall have the same voting rights as all other members of Tenant's Board of Directors, and during the Term of this Sublease Tenant shall not amend its by laws in any way that diminishes the rights and powers of the City Ex-Officio Member.

ARTICLE 8

TENANT’S MANAGEMENT OF PREMISES AND PARKING FACILITIES; TENANT’S LOTS

8.1. Operating Expenses. For purposes of this Sublease, “**Operating Expenses**” means all costs and expenses, however characterized, to operate, manage, maintain, repair, and promoting the Premises, including but not limited to wages, salaries, employee costs and benefits, tickets and supplies, stock, bookkeeping, office supplies, audits, maintenance, and insurance. “Operating Expenses” includes all costs and expenses, however, characterized, to operate and manage the Parking Facilities during each Event.

8.2. Management Generally.

8.2.1. Throughout the Term, Tenant shall have the exclusive right, obligation, and responsibility for the complete day-to-day operation and management of the Premises. Tenant must itself, or through one or more Contractors, operate and manage the Premises in a manner consistent with the operation and management of a high-quality, multi-purpose, outdoor theater and cultural and performing arts center. Tenant shall be solely responsible to pay all Operating Expenses. Without limiting the first three sentences of this Section 8.2.1, Tenant also must do all of the following:

1. Tenant must develop, supervise, and implement a coordinated, comprehensive plan and program for the management, operation and promotion of: the Cultural Events; the food, beverage and merchandise concessions; and the Parking Facilities. Tenant shall have the right from time to time to modify or supplement such plan and program as Tenant deems reasonably necessary or prudent;

2. Tenant must implement the First Construction Phase of the Master Plan;

3. Tenant must monitor and use good faith, diligent efforts to remedy problems and issues raised by patrons of the Center and the residents of the surrounding communities with respect to the use and operation of the Premises. Tenant must promptly investigate and respond to all written complaints as promptly as may be reasonably practicable under the circumstances. Upon written request by the City, Tenant must, in a reasonably prompt manner, deliver to City copies of all such written complaints, if any, and the results, if any, of Tenant's investigation and either (a) copies of Tenant's response (if any) or (b) a written explanation of actions taken by Tenant to respond to each complaint.

8.3. Staffing. Tenant must maintain a professional staff at the Premises during the Term, at levels that Tenant deems reasonably necessary to fulfill its obligations under this Lease and to serve as a liaison with City and the Contractors in a manner consistent with the EOP. Without limiting the preceding sentence, Tenant must provide appropriate numbers of properly trained and qualified personnel taking into account projected attendance at each Event. All Tenant personnel must be courteous and helpful to the public and act and speak in a manner that reflects favorably on Tenant, the Premises, Fairmount Park, and the City. Tenant must insert appropriate provisions in each agreement with its Contractors requiring all its Contractors' employees to wear neat, clean, appropriate attire.

8.4. Marketing. Tenant must actively and in good faith market and promote the Center.

8.5. Promotion of Events. Tenant shall, at its own cost and expense, use its good faith and diligent efforts to promote each Event, using high-quality advertising and display techniques and media so as to reach a local and regional market.

8.6. Sponsorship of Events.

8.6.1. Subject to the provisions of Section 8.6.2 below, Tenant shall have the right to enter into any agreement for sponsorship, including sponsorship of Events, consistent with the City's and the Department's then existing policies regarding sponsorship. Landlord and City shall not be party to any such sponsorship agreements and shall not be subject to the provisions of any such agreements.

8.6.2. Under no circumstances shall Tenant use or permit the use of advertising, endorsement, sponsorship, promotional or display materials which, in the exclusive judgment of the City, reflect unfavorably on the Premises, the City, or any part of the City. Under no circumstances shall Tenant enter into a sponsorship agreement which (a) will include any activities relative to the Premises, an Event, or this Sublease which, in the exclusive judgment of the City, reflect unfavorably on the Premises, the City, or any part of the City, or (b) is with any sponsor who, in the exclusive judgment of the City, reflects unfavorably on the Premises, the City, or any part of the City, or whose sponsorship may pose or raise any danger to the health, safety or welfare of the Premises, the City or any part of the City, or the general public.

8.6.3 In broadcast, electronic and printed materials distributed by or at the direction of Tenant, or otherwise in connection with Tenant, the Premises or Events at the Premises, or materials displayed at the Premises (including, without limitation, plaques and banners), which identify, recognize or thank all Center season sponsors, donors, benefactors or parties who have made donations in cash or in kind, the City and the Department shall be identified and recognized as major sponsors and benefactors, of both an annual and capital nature, consistent with then current recognition policies of Tenant, consistently applied, at least at a level commensurate with the value of the leasehold estate, any services provided hereunder and under the Lease, and any grants, subsidies, donations or similar payments from the City to Tenant.

8.7. Name of the Premises; License to Use Name.

8.7.1. Tenant acknowledges and understands that, in recognition of the substantial contributions made by the late Fredric R. Mann to the Premises during the initial construction of the Center, the Center is named in honor of Fredric R. Mann. Therefore, Tenant agrees that Tenant shall use the name "The Mann Music Center," the "Fredric R. Mann Music Center" or "The Mann Center for the Performing Arts" (or any variation or derivation thereof) in association with the Premises until and unless the Department by resolution approves a different name for the Center in accordance with Department regulations and policies governing naming facilities in Fairmount Park.

8.7.2. Subject to 8.7.1 above and Section 8.9 below, Tenant shall have the right to use a corporate name in association with the "Mann Music Center" (e.g., the "XYZ Mann Music Center").

8.7.3. City gives to Tenant, until the expiration or sooner termination of the Term, and only to the extent of the City's rights thereto, an exclusive, royalty free license to make any lawful use of the name, identity and image of all or part of the Premises and to retain

all revenues from such use; except, however, the Tenant acknowledges and agrees that City retains the right for itself to use the name, identity, and image of all or part of the Premises in any manner the City desires.

8.8. Signage.

8.8.1. Signs During Construction. During Tenant's performance of the Capital Improvements, and subsequent Alterations, Tenant may display or permit its Contractors, investors and sponsors to display signs and banners upon the Premises advertising such party's involvement in the project. Any such signs and banners must comply in all respects with Applicable Laws, including but not limited to the regulations of the Department, as amended from time to time.

8.8.2. Campus and Event Signs. Subject to Section 7.3 and Section 8.6 above and Section 8.9 below, throughout the Term, Tenant may erect, maintain and display in or on any part of the Premises any and all billboards, messages, advertisements, postings and signs (collectively, "Signs") in accordance with Applicable Laws, including but not limited to the regulations of the Department, as amended from time to time. Notwithstanding the foregoing, Tenant must obtain the written approval of the Commissioner before erecting, posting, or displaying any Sign in a manner or position that makes it visible from outside of the Premises. The requirements of the immediately preceding sentence shall not apply to Signs that are primarily intended to be viewed by patrons in and on the Premises and are, in the reasonable judgment of the Commissioner, only incidentally visible from outside of the Premises. In the event the Commissioner's approval is required in accordance with this Section 8.8.2, the Commissioner shall approve or disapprove a Sign within thirty (30) days of submission. Failure by the Commissioner to approve or disapprove a sign within such time period shall be deemed to be the Commissioner's approval of such sign. In the event the Department's approval is required in accordance with this Section 8.8.2, Tenant shall make its submission to the Department, and the Department shall make its determination, in accordance with the Department's normal procedures in effect from time to time.

8.8.3 Pre-existing Signs. Notwithstanding the preceding provisions of this Section 8.8 to the contrary, Tenant may continue and maintain any and all Signs erected, maintained or displayed in, on or upon all or any portion of the Premises as of the Commencement Date.

8.8.4. City Signs. Tenant acknowledges and agrees that City may post or erect signs on the Premises as City deems necessary or desirable for municipal purposes or to protect the public's health, safety, and welfare.

8.9. Publicizing Fairmount Park.

8.9.1. If at any time during the Term, Tenant installs or erects any new signs (including the replacement of any sign existing on the Commencement Date) at the driveway entrances to the Premises that identify the Center, Tenant shall cause the signs to include the words "Fairmount Park" or such other wording that the Commissioner approves in advance in writing. Tenant shall cause the entrance signs to conform to the style of other signs approved by

the Department and to comply in all respects with the Department's regulations and policies regarding signs.

8.9.2. At all times during the Term, Tenant shall cause the words "Fairmount Park" to be included as part of the address of the Center wherever the Center's address appears in (a) its regularly used stationery letterhead for the Center, (b) its signs (except those signs existing on the Commencement Date), and (c) to the extent Tenant has control over text or copy, all printed, broadcast, electronic and other media publicity and advertising relating to Tenant, the Center or Events (including, without limitation, mass mailings and newspaper advertisements and fall out brochures). When Tenant does not have control over text or copy, Tenant shall use its good faith and commercially reasonable efforts to ensure that the words "Fairmount Park" are included within the address of the Center whenever the Center's address appears.

8.9.3. At all times during the Term, Tenant shall cause the words "Fairmount Park" to be included in all broadcast and other publicity and advertising with an audio component relating to Tenant, the Center or Events (for example, without limitation, Tenant shall cause radio advertisements to state, "Mann Center for the Performing Arts in Fairmount Park" or similar words approved in advance by the Commissioner) for which Tenant has control over text or copy. When Tenant does not have control over text or copy, Tenant shall use its good faith and commercially reasonable efforts to ensure that the words "Fairmount Park" are included within the address of the Center whenever the Center's address appears. The requirements of this Section 8.9.3 shall be in addition to the requirements of Section 8.9.2 above.

8.10. Deliveries. Tenant shall receive deliveries to the Premises only in areas designated for such purposes. Tenant shall insert appropriate provisions in all its Contracts covering work under this Sublease to require compliance of all Contractors with the requirements of this Section 8.10, and Tenant shall diligently enforce such requirements.

8.11. Trash Removal.

8.11.1. Tenant must contract with a private refuse disposal company for the handling, disposal and removal of all trash, garbage and other refuse from or on the Premises. Tenant shall pay all the costs associated with the collection, handling, and disposal of all such trash, garbage and other refuse. After each Event, Tenant shall collect, remove, and compact all trash, garbage and other refuse from the Premises or the Parking Facilities reasonably promptly but not later than 24 hours following the end of such performance.

8.11.2. Tenant shall provide and use suitable covered receptacles for all such garbage, trash and other refuse on the Premises. Tenant shall not pile boxes, cartons, barrels, pallets, debris or similar items in an unattractive or unsafe manner on or about the Premises.

8.11.3. At all times other than during Events and for 24 hours following each Event, Tenant shall not be responsible for collection or removal of trash, garbage, and other refuse from the Premises and Parking Facilities, except for Trash from an Event that Tenant failed to remove in accordance with the requirements of Section 8.11.1.

8.12. Event Schedule. Throughout the Term, Tenant shall develop and maintain a calendar and schedule of all Events for each calendar year during the Term ("Event Schedule").

Tenant shall cause the Event Schedule to identify each Event expected to take place in the upcoming calendar year, to the extent then known or reasonably capable of estimation based on then-available information. At such time as the Event Schedule for a calendar year is confirmed and made available to the general public, Tenant shall submit such confirmed Event Schedule to the Commissioner (for informational purposes only). Tenant may, in its sole discretion, revise the Event Schedule from time to time, but Tenant must promptly provide a copy of the revised Event Schedule to the Commissioner (for informational purposes only). Tenant shall diligently implement, produce, and carry out the Event Schedule.

8.13. Pricing. Neither Tenant nor any of its Contractors may charge prices for any food, beverages, Alcoholic Beverages, merchandise, or other services, products, or materials sold on the Premises that exceed “**Street Prices**”. The Street Price for any product or service sold by any Subcontractor shall be determined as follows:

1. The Street Price will be the comparable prevailing market price, if any, charged for equivalent food, beverage, merchandise or service sold or offered by comparable multi-purpose entertainment and sporting venues in the Greater Philadelphia metropolitan area.

2. If the product or service offered is neither sold by the Contractor in non-theater locations nor readily available from comparable businesses in Southeastern Pennsylvania, and does not fall within any other category described in this Section 8.13, the Street Price shall be based on reasonable comparisons mutually agreed to by Tenant and City.

3. For purposes of establishing the Street Price of an item, any difference in the size or quality of a product or service shall constitute a price differential.

4. Upon request by the Commissioner, Tenant shall submit to City a pricing report demonstrating compliance by Tenant and its Contractors with the pricing requirements in this Section 8.13.

8.14. Security. During each Event, Tenant must provide personnel and take measures as may be reasonably necessary or prudent to keep the Premises and Parking Facilities, all property on the Premises and Parking Facilities, regardless of ownership, and all persons on the Premises and Parking Facilities, safe and secure. At all other times, Tenant must provide properly functioning security equipment as may be reasonably necessary to provide year-round security for the Premises. Tenant acknowledges and agrees that the City will have no obligation or responsibility by virtue of this Sublease or the Lease to provide security to the Premises or Parking Facilities or any Events other than the City’s customary municipal police services provided to the general public.

8.15. Maintenance and Operation of the Parking Facilities.

8.15.1. Subject to the provisions of this Section 8.15, the City and Tenant shall each have access through and across the Parking Facilities at all times for vehicular and pedestrian ingress and egress. During the Event Season, the City shall make the Parking Facilities available to Tenant for each Event at the Premises, commensurate with the reasonable

parking requirements of each Event. Tenant shall have exclusive control of the required Parking Facilities for the duration of the Event. Tenant shall also have the right to use the Parking Facilities to the extent reasonably required for set up prior to and break down after each Event. Outside of the Event Season, Tenant may request use of the Parking Facilities from the City, and the City shall make the Parking Facilities available to Tenant for Events with the prior written consent of the Commissioner, which shall not be unreasonably withheld.

8.15.2. In connection with any Tenant activity, event, function, program or gathering for which a permit from the Department, Office of Special Events (a “**Special Permit**”) is required, Tenant shall apply for such permit and any such application by Tenant shall be processed on the same schedule and granted or denied using the same criteria as any other application for a Special Permit. Such criteria may include the approval of the Department by resolution. In connection with any application for a Special Permit, however, Tenant shall not be required to make a “contribution” to the Department or any other payment which may be waived in the discretion of the Commissioner, but shall still be required to pay the application fee, overtime for City employees and the security deposit.

8.15.3. Except as made available to Tenant pursuant to Section 8.15.1, the Parking Facilities shall be available to the City, and may be made available to others, for parking, for recreational uses, and for such other uses that do not unreasonably interfere with Events at the Premises for which Parking Facilities are to be made available hereunder.

8.15.4. Subject to the immediately following sentence, the City shall notify Tenant from time to time of dates on which the City will use the Parking Facilities or make the Parking Facilities available to others pursuant to a Special Permit that includes the use of the Parking Facilities. During the Event Season, the City shall not make the Parking Facilities available to others pursuant to a Special Permit that includes the use of the Parking Facilities if such use would materially interfere with Tenant’s anticipated use of the Parking Facilities for an Event. Tenant shall notify City of Tenant’s anticipated parking needs, including dates, times and approximate number of spaces required, as Tenant develops its Event Schedule, as Tenant makes its Event Schedule available to the general public and as Tenant revises its Event Schedule. For purposes of this Section 8.15 and of Section 8.16, notices may be given by mail, overnight delivery service, email or fax between Tenant’s designated Parking Facilities Liaison and the Commissioner or designee of the Commissioner. Any such notice may be preceded by telephone discussions. Each party shall promptly acknowledge to the other receipt of any such notice.

8.15.5. The parties shall reasonably cooperate with the goal of allowing full use of Fairmount Park, including satisfaction of attendant parking needs, without material interference with Tenant’s operations. Should a scheduling conflict arise concerning the use of the Parking Facilities, such conflict shall be resolved with deference to the reasonable needs of Tenant for Events during the Event Season, and with deference to the reasonable needs of the City for use outside the Event Season.

8.15.6. If the City or the Department issues a Special Permit to any party to conduct or hold any activity, event, function, program, or gathering in or near the Parking Facilities (or any part thereof) which causes material (*i.e.* other than *de minimus*) damage to the

Parking Facilities, PAID shall cause the City (at the sole expense of the City) to use commercially reasonable efforts to restore the Parking Facilities no later than forty-eight (48) hours prior to the next Event at the Premises. If the Parking Facilities are materially damaged during Tenant's control of the Parking Facilities, Tenant shall use commercially reasonable efforts to restore the Parking Facilities no later than the earlier of (i) seven days after such damage occurs, or (ii) forty-eight (48) hours prior to the next activity, event, function, program or gathering for which the Parking Facilities will be needed.

8.15.7. At such times as Tenant is in control of the Parking Facilities, Tenant, at its own cost and expense, shall maintain high-quality operational standards at the Parking Facilities, and shall at all times comply with the Parking Facilities Specifications. Tenant acknowledges that the Parking Facilities Specifications are only the minimum requirements which Tenant must satisfy, and that Tenant must take all other steps as are reasonably necessary and prudent to provide high-quality, safe and efficient vehicular parking services on the Parking Facilities during each Event.

8.15.8. In addition to all of the requirements set forth in the Parking Facilities Specifications, one (1) member of Tenant's personnel (the "**Parking Facilities Liaison**") shall be reasonably available from time to time during the Term of this Sublease to work with the City of Philadelphia Police Department to: (i) review, evaluate and discuss the operation of the Parking Facilities and off-street parking outside the Premises related to each Event, and (ii) develop and revise plans for monitoring Tenant's operations of the Parking Facilities and off-street parking outside the Premises related to each Event. The Parking Facilities Liaison shall meet with the Commissioner, or his or her designee, from time to time as often as may be reasonably necessary to address complaints received by City and/or Tenant regarding parking on the Parking Facilities and off-street parking outside the Premises related to any Event at the Premises.

8.15.9. At such times as Tenant is in control of the Parking Facilities, as between Landlord, City and Tenant, Tenant shall be responsible for the safety and security of patrons and invitees using or entering upon the Parking Facilities for Events at the Premises. At all other times, Tenant shall not be responsible for the safety and security of all persons using or entering upon the Parking Facilities, except for any dangerous conditions caused by Tenant or caused during Tenant's control of the Parking Facilities.

8.16. Maintenance and Operation of Tenant's Lots.

8.16.1. Tenant intends to construct and install two paved parking lots and related improvements as part of Tenant's Master Plan in accordance with Article 11 hereof in the locations shown on **Exhibit A-1** (upon Substantial Completion of Tenant's Lots, "**Tenant's Lots**"). This Section 8.16 shall be effective only upon Substantial Completion of Tenant's Lots.

8.16.2. Tenant may use Tenant's Lots at all times for Events at the Premises for which the parking needs will be satisfied solely by the use of Tenant's Lots and for which use of the Parking Facilities will not be required, whether or not such Events appear on the Event Schedule. This will include, by way of example and not limitation, programs at the education center, rehearsals and parking by employees and staff.

8.16.3. Tenant shall make Tenant's Lots available to the City from time to time, at the request of the City, in accordance with Section 8.15, and also for use to support Park activities that do not conflict with Events appearing on the Event Schedule or other intended use by Tenant of Tenant's Lots, provided such use is for parking purposes or for such other use that is not of a nature that would cause undue damage to Tenant's Lots. Once Tenant has granted the City's request to use Tenant's Lots on a specified date, Tenant shall not schedule a competing Event or other use of Tenant's Lots for such date. Tenant shall not be entitled to proceeds of any such use of Tenant's Lots, notwithstanding any other provision herein to the contrary.

8.16.4 If any such use of Tenant's Lots by the City causes material (*i.e.* other than *de minimus*) damage to Tenant's Lots, PAID shall cause the City (at the sole cost and expense of the City) to use commercially reasonable efforts to restore Tenant's Lots no later than forty-eight (48) hours prior to the next Event at the Premises.

8.16.5. Should a scheduling conflict arise concerning Tenant's Lots, such conflict shall be resolved with deference to the needs of Tenant.

8.16.6. Tenant's Lots shall otherwise remain available for use by the general public.

8.16.7. Tenant, at its own cost and expense, shall maintain high-quality operational standards at Tenant's Lots, and shall at all times comply with the Parking Facilities Specifications. Tenant acknowledges that the Parking Facilities Specifications are only the minimum requirements which Tenant must satisfy, and that Tenant must take all other steps as are reasonably necessary and prudent to provide high-quality, safe and efficient vehicular parking services on Tenant's Lots during each Event.

8.16.8. Subject to the provisions of Section 8.16.4 above, the City shall have no obligation to maintain, clean, repair, replace, improve, landscape, mow, light or remove ice and snow from Tenant's Lots, all of which shall be Tenant's responsibility, at Tenant's sole cost and expense.

8.16.9. At such times as Tenant is in control of Tenant's Lots, as between Landlord, City and Tenant, Tenant shall be responsible for the safety and security of patrons and invitees using or entering upon Tenant's Lots when attending Events at the Premises. At all other times, Tenant shall not be responsible for the safety and security of all persons using and entering upon the Tenant's Lots, except for any dangerous conditions caused by Tenant or during Tenant's control of Tenant's Lots. At such times as City is in control of Tenant's Lots, as between Landlord, City and Tenant, City shall be responsible for the safety and security of invitees using or entering upon Tenant's Lots.

ARTICLE 9
CONTRACTORS AND ECONOMIC OPPORTUNITY PLAN

9.1. Subcontractors. Tenant may, in its discretion, enter into one or more Contracts to hire, employ, license, or sublicense, Contractors to help Tenant fulfill its rights, obligations, and responsibilities under this Sublease. Without limiting the immediately preceding sentence, Tenant may hire Contractors to do all or any combination of the following: (1) operate the Concession facilities, the Catering facilities, and the Parking Facilities or any of them, including but not limited to the serving of Alcoholic Beverages, and (2) maintain, repair, replace, and improve the Premises (and any Improvements located thereon) as permitted under this Sublease.

9.2. Compliance With This Sublease and Applicable Laws. Tenant shall insert appropriate provisions in all Contracts covering work under this Sublease to require compliance by all of Tenant's Contractors with this Sublease. Tenant shall insert appropriate provisions in all Contracts covering work under this Sublease to require compliance by all of Tenant's Contractors with Applicable Laws, including but not limited to obtaining all necessary permits, licenses, approvals and inspections required under Applicable Laws. Tenant shall use commercially reasonable good faith efforts to enforce the requirements in its Contracts, including but not limited to the requirement that Tenant's Contractors comply with this Sublease. Without limiting the preceding provisions of this Section 9.2, this Section 9.2 shall apply to all of Tenant's Maintenance, Repair, and Capital Improvements under this Sublease. Tenant shall not engage, employ or contract with any Person who (1) does not possess all applicable approvals and licenses necessary to conduct business in the City, (2) is an adjudicated tax delinquent with respect to any City tax which remains unpaid, or (3) otherwise is lawfully prohibited from doing business with the City, and Tenant shall include in its contracts with any such parties, or otherwise obtain from such parties, a certification as to such matters.

9.3. Monitor and Audit. Tenant must diligently monitor each Contractor's facilities and employees for compliance with this Sublease. Tenant must periodically audit the sales of each Contractor engaged in sales of food, beverage, Alcoholic Beverages, merchandise, or other items under this Sublease. Tenant must also periodically audit the operations and revenue of any Contractors hired by Tenant to operate and manage the Parking Facilities.

9.4. Economic Opportunity Plan. In hiring and employing Contractors, Tenant must comply with the Economic Opportunity Plan (the "EOP") set forth in **Exhibit E**. Without limiting the preceding sentence, Tenant must cause its Contractors to include opportunities for participation by minority-owned, women-owned and disabled persons-owned business enterprises. Tenant shall endeavor with good faith and diligence to foster competition by subcontracting to as many different Contractors as practicable, consistent with this Sublease.

9.5. Contracts. Tenant must cause all its Contracts to be on terms consistent with the EOP and this Sublease. Each Contract must specify that:

1. work performed by the Contractor shall be in accordance with the terms of this Sublease;

2. nothing contained in the Contract shall impair the rights of Landlord or City under this Sublease;
3. nothing contained in the Contract or this Sublease shall create any obligation of Landlord or City to any Contractors;
4. City is a third party beneficiary of the Contract;
5. Contractor shall be bound by the same requirements as Tenant including, without limitation, maintenance and preservation of records, and audit by government representatives, under this Sublease as such requirements relate to such Contract.

9.6. Copies of Contracts. Tenant shall submit to the Commissioner (for informational purposes only) copies of all executed Contracts entered into by Tenant in connection with the Capital Improvements having a contract value in excess of Fifty Thousand Dollars (\$50,000).

9.7. Tenant Not Relieved of Obligations. No Contract shall relieve Tenant of any requirement, limitation, or obligation under this Lease. Tenant shall be fully responsible for the acts and omissions of its Contractors and the acts or omissions of all persons either directly or indirectly employed by Tenant.

9.8. Contractors' Insurance. Tenant must cause all Contractors to obtain and maintain the types and amounts of insurance specified in Article 14 below and to submit certificates of insurance to the City evidencing the required insurance. Tenant must further cause all Contractors to comply with the applicable insurance requirements set forth in Article 14 below.

9.9. Contractors' Certificates and Licenses. Prior to entering into any Contract, Tenant shall obtain from the Contractor (i) an executed Contractor's Certificate of Non-Indebtedness in form and substance acceptable to the City and provide the original to City, and (ii) a copy of such Contractor's valid current business privilege license from City.

9.10. Contracts Void. Any purported Contract in violation of this Article 9 shall be of no force and effect and void.

ARTICLE 10

MAINTENANCE AND REPAIRS; RENEWAL AND REPLACEMENTS

10.1. Definitions.

10.1.1. "Maintain" and "Maintenance". In this Sublease, the words "**Maintain**" and "**Maintenance**" mean all work to maintain, repair, replace, and renew the Premises and all parts of the Premises, including but not limited to all improvements, fixtures, plumbing systems, heating and ventilation systems, air conditioning systems, electrical systems, acoustical systems, and other building and mechanical systems, foundation and structural supports, roofs, water, and sewer lines, sidewalks and curbs, and all landscaped areas, turf, and trees, in and on the Premises.

10.1.2. "Repair" and "Repairs". In this Sublease, the words "**Repair**" and "**Repairs**" mean all necessary and prudent repairs, replacements, and renewals to and of the

Premises and all parts of the Premises, regardless of whether such repairs and replacements are structural, nonstructural, ordinary, extraordinary, foreseen, or unforeseen. The words “Repair” and “Repairs” include all necessary and prudent replacements and renewals of all improvements, fixtures, plumbing systems, heating and ventilation systems, air conditioning systems, electrical systems, acoustical systems, and other building and mechanical systems, foundation and structural supports, roofs, water, and sewer lines, sidewalks and curbs, and all landscaped areas, turf, and trees, in and on the Premises.

10.2. Maintenance. Except as explicitly set forth below in Section 10.7, throughout the Term Tenant shall, at its sole cost and expense, promptly Maintain the Premises safe, in good condition, proper operating order, and in neat and clean appearance. Without limiting the immediately preceding sentence, Tenant must (1) employ, or enter into Contracts to provide, appropriate numbers of properly qualified and trained maintenance personnel, and (2) provide all materials, services, and supplies necessary to properly and efficiently Maintain the Premises. Except in the case of emergencies, Tenant’s obligation to perform Maintenance is subject to the provisions of Article 11 below.

10.3. Repairs. Throughout the Term Tenant must, at its sole cost and expense, promptly perform all necessary and prudent Repairs to restore and keep the Premises and all parts of the Premises safe, in good condition, proper operating order, and in neat and clean appearance. Tenant’s obligation to perform Repairs includes but is not limited to Repair required as a result of vandalism or malicious mischief. Except in the case of emergencies, Tenant’s obligation to perform Repairs is subject to the provisions of Article 11 below.

10.4. Quality and Class of Maintenance and Repairs. Without limiting the above provisions of this Article 10, Tenant’s obligation to Maintain and Repair the Premises includes the obligation to, at all times during the Term, Maintain and Repair the Premises in quality and class at least equal to the original work, if applicable and to the extent practicable, taking into account the age and utility of the Premises.

10.5. Turf and Landscape. Tenant’s obligation to Maintain and Repair the Premises includes the obligation to, at all times during the Term, Maintain and Repair the landscaping, turf and trees on the Premises in accordance with the rules and regulations of the Department, which may change from time to time, and in a manner reasonably satisfactory to the Commissioner. All of Tenant’s Maintenance and Repair of the landscaping, turf, and trees on the Premises shall be subject to the review and reasonable approval of the Commissioner or his or her designee. To facilitate Tenant’s day-to-day landscaping work, however, Tenant may submit a general landscaping maintenance plan (“**Landscaping Plan**”) for the Commissioner’s written approval. If the Commissioner approves any Landscaping Plan that Tenant submits to it, then Tenant may comply with the Landscaping Plan without having to obtain additional Department approval, provided that the Tenant complies in all material respects with the terms and conditions of the Landscaping Plan.

10.6. Keep Premises Clean. Without limiting the specificity of the preceding provisions of this Article 10, Tenant shall put, keep, Maintain and Repair, all portions of the Premises, including the Improvements, in a clean and orderly condition, free of garbage, debris, rubbish, and unlawful obstructions.

10.7. Snow and Ice. Tenant shall keep the Premises clear of accumulated snow and ice. City shall be permitted, at City's sole cost and expense, to continue City's practice under the Concession Agreement of plowing streets and areas leading up to the stage doors of the Amphitheater and clearing snow and ice from fire hydrants in or around the Premises. Tenant acknowledges and agrees that City shall have no liability to Tenant or Landlord in connection therewith or in connection with any failure to plow snow and clear snow and ice as permitted under the Lease.

10.8. No Waste or Damage To Premises. Tenant shall not cause any waste, damage or injury to the Premises, and, subject to the provisions of Article 25 below regarding Damage or Destruction, Tenant shall promptly Repair (or cause to be repaired) any injury or damage to the Premises or any part of the Premises caused by Tenant or any other Person. Notwithstanding the preceding sentence, Tenant shall not be obligated to Repair any damage caused by the gross negligence or willful misconduct of Landlord or the City.

10.9. Ownership. All Maintenance and Repairs, and all materials or property attached to the Premises as part of such work shall, upon completion or installation, be and become part of the Premises and owned by the City.

10.10. No Obligation of City. Except as provided in Section 5.2 [Utilities], Section 8.15.6 [Parking] and Section 8.16.4 [Tenant's Lots] hereof, Tenant acknowledges and agrees that Landlord and City shall have no obligation whatsoever to Maintain or Repair the Premises or to alter, build, or rebuild any portion of the Premises, including but not limited to the Improvements and alterations, or either of them (whether such work be interior or exterior, structural or nonstructural, ordinary or extraordinary, foreseen or unforeseen). Except as otherwise set forth in this Sublease, Tenant expressly waives any and all rights to make repairs to the Premises or any part thereof at the expense of Landlord or the City which right may be provided for in any current or future Applicable Laws.

10.11. Performance of Work on the Premises. Without limiting the generality of any other provision of this Sublease, Tenant acknowledges and agrees that, under the Lease, City reserves the right to make repairs and perform work in, on and about the Premises that may be necessary or desirable following an Event of Default by Tenant for failing to perform any needed Maintenance or Repair as required under this Sublease. In the case of an emergency, however, Tenant acknowledges and agrees that City may come onto the Premises immediately and perform all repairs necessary and desirable to abate the emergency and secure the Premises. Nothing in this Lease shall create or imply any duty upon City to make any such repairs or perform any such work. City's performance of maintenance or repairs under this Section 10.11 shall not waive any Event of Default by Tenant's failure to perform the necessary Maintenance or Repair. City shall not in any event be liable for inconvenience, annoyance, disturbance or other damage to Tenant by reason of making such repairs or on account of bringing materials, supplies and equipment into the Premises during the course of any work on the Premises. Tenant shall pay to City, within a reasonable time following the City's written request, the City's actual cost of any and all such maintenance or repairs performed by City, plus ten percent (10%) of those costs to compensate City for its administrative costs incurred in performing the maintenance and repairs.

ARTICLE 11
CAPITAL IMPROVEMENTS; INITIAL CONSTRUCTION; ALTERATIONS

11.1. Capital Improvements.

11.1.1. Throughout the Term, subject to Section 11.1.2, Section 11.1.3 and Section 11.2 below, Tenant may, at its sole cost and expense, perform any and all capital improvements, capital modifications, capital alterations or capital additions (including, but not limited to, reconfiguration and expansion) to the Premises (“**Capital Improvements**”), subject to the following conditions:

11.1.2. Before commencing any Capital Improvement, Tenant must obtain the prior, final approval of the Department for the proposed Capital Improvement. If the Department disapproves any or all of the Capital Improvement proposed by Tenant, then Tenant shall not commence or perform the disapproved Capital Improvements. Landlord acknowledges and agrees that, by resolution dated September 8, 2004, the Commission approved the Capital Improvements proposed by Tenant in its Master Plan. Tenant must obtain the approval of the Department in accordance with this Section 11.1.2 for any material change to its Master Plan.

11.1.3. Before applying to the Department for approval of any Capital Improvements, Tenant shall specify in writing to the Commissioner: (1) the anticipated minimum capital investment for each of the Capital Improvement items; (2) the projected construction schedule within which such Capital Improvement(s) are expected to be completed; (3) the period of time within which the investments for the Capital Improvement(s) are expected to be expended; and (4) any known concerns about the proposed Capital Improvements of the communities surrounding the Premises after public notice by Tenant of such Capital Improvement(s) and Tenant’s propose strategies for ameliorating such concerns.

11.2. Plans and Specifications. Tenant must not commence or perform any Capital Improvements unless and until Tenant has obtained the written, final approval of the Commissioner for Tenant’s complete plans and specifications (“**Plans and Specifications**”) for Tenant’s proposed Capital Improvements. Tenant must present Plans and Specifications to the Commissioner that are:

11.2.1. detailed in the then-current industry standard for the subject Capital Improvement(s), and shall include, at a minimum, the following, as applicable:

1. completed, detailed architectural, mechanical, heating, ventilating and air conditioning, electrical, plumbing and structural plans and specifications;
2. with respect to items to be purchased and installed, the name of the manufacturer, and a detailed description of the item to be purchased, including any manufacturer’s brochure, catalog or sample;
3. a schedule of completion or, if applicable, a schedule of completion for each phase of the improvements, and

4. a certification by each of Tenant's Architect and engineer employed by Tenant in conjunction with Tenant's proposed Capital Improvement(s) stating the expected life of the proposed Capital Improvement(s) and the estimated cost of completion.

11.2.2. Tenant must submit its Plans and Specifications for a Capital Improvement at least two (2) months prior to the commencement of the subject Capital Improvement.

11.2.3. Under the Lease, Landlord shall require the Commissioner to endeavor to approve or disapprove Tenant's Plans and Specifications not later than ninety (90) days following receipt of them from Tenant. Also under the Lease, Landlord shall require the Commissioner to state with reasonable specificity the City's objections to the Plans and Specifications or any element of them. Tenant agrees to promptly meet with the Commissioner and other City officials to resolve any of the Commissioner's objections to the Plans and Specifications. After disapproval by the Commissioner, Tenant shall have no right to commence or perform any Capital Improvements unless and until Tenant has received the written, final approval of the Commissioner for the Plans and Specifications.

11.2.4. For purposes of this Sublease, the term "**Material Change**" means any change that would adversely affect the exterior appearance of the Premises, that would affect the structure of any Improvement in or on the Premises that is capital in nature, or that would cost in excess of \$25,000.

11.2.5. Tenant shall make no Material Changes to the final, approved Plans and Specifications (including the construction schedule, other than as a result of Force Majeure) without the prior written approval of the Commissioner. In the case of any Material Change that would not be visible from the exterior of the Premises, under the Lease Landlord shall require the Commissioner not to unreasonably withhold, delay, or condition, his or her approval.

11.2.6. For each Capital Improvement that will create impermeable surface on ground in the Premises that is open or landscaped as of the Commencement Date, or that will alter the grade or slope of open or landscaped ground in the Premises, Tenant must include in its Plans and Specifications submitted to the Commissioner a storm water runoff management plan that is satisfactory to the Commissioner and that incorporates then-current best practices for storm water management.

11.3. Tenant's Performance of Capital Improvements. After Tenant has obtained approval of the Department for a proposed Capital Improvement, and obtained approval of the Commissioner for the Plans and Specifications for that proposed Capital Improvement, Tenant shall diligently cause the subject Capital Improvement(s) to be completed in accordance with such Plans and Specifications and this Article 11.

11.4. Materials. Tenant shall cause all Capital Improvements and all materials used as part of or constituting the Capital Improvements to be of high quality, and all construction to be performed and completed in a good and workmanlike manner, free from defects.

11.5. Certifications Upon Completion.

11.5.1. Upon completion of each Capital Improvement, Tenant shall furnish to City:

1. a written statement from each of Tenant's Architect and engineer and general contractor performing the work certifying that the Capital Improvement(s) have been completed in accordance with the Plans and Specifications approved by the Commissioner and in compliance with all Applicable Laws;
2. one set of reproducible "as-built" Mylar record drawings prepared by Tenant's Architect who designed and supervised the Capital Improvements,
3. a certificate from an electrical underwriter in form and substance satisfactory to City, certifying that all electrical work, if any, has been completed in accordance with then-current electrical underwriting standards;
4. a written guaranty, running to the benefit of City, that guarantees the workmanship and materials for a minimum of one (1) year following the date of completion of the subject Capital Improvement(s);
5. for informational purposes only, a detailed schedule setting forth the amount of costs of such Capital Improvement(s).

11.5.2. The provisions of this Section 11.5 shall apply to each phase of all Capital Improvements performed or constructed by or on behalf of Tenant.

11.5.3. Tenant's performance or construction of any Capital Improvement(s) shall be deemed complete upon delivery by Tenant and acceptance by the City, of the items set forth in Section 11.5.1 above.

11.6. Ownership of Capital Improvements. All Capital Improvements, if any, and all other property attached to or used in connection with the Capital Improvements, or any other property or equipment or material made or installed on the Premises by or on behalf of Tenant, shall immediately upon completion or installation become part of the Premises and owned by the City. Ownership of such completed Capital Improvements upon expiration or earlier termination of this Sublease shall be governed by the provisions of Article 18 below.

11.7. Labor and Materialmen's Bonds. Tenant must cause each of its Contracts for the construction, installation, alteration, repair of or addition of or to each Capital Improvement to contain a provision obligating the Contractor to make prompt payment for all material furnished, labor supplied or performed, rental for equipment employed and services rendered by public utilities, in connection with the construction of the subject Capital Improvement, whether the said material, labor, equipment or services enter into and become component parts of the Capital Improvement. Each such Contract having an estimated cost in excess of Twenty Five Thousand Dollars (\$25,000) shall obligate the Contractor to furnish Tenant, prior to the date on which such Contractor commences work under such Contract, with a bond in the form set forth as **Exhibit G**, which is attached to and part of this Sublease (which shall name City as co-obligee) for the

prompt payment by such Contractor of any amounts due for materials, supplies, labor, services and equipment. The bonds shall be issued by a surety company with a Best's rating of AAA or better.

11.8. Prohibition Against Liens. Tenant will not create and will not permit to remain, and will, within thirty (30) days after notice of the filing thereof, pay or cause to be paid in full or cause to be removed of record by bonding over the same, discharge, or by order of a court of competent jurisdiction, at Tenant's sole cost and expense, all liens, encumbrances and charges upon the Premises or any part thereof or the income therefrom, arising out of the ownership, use or occupancy of the Premises or any part thereof or the income therefrom by Tenant or any Person(s) taking, claiming or holding by, through or under Tenant, or by reason of any labor or materials furnished or claimed to have been furnished, or by reason of any construction, alteration, addition, repair or demolition of any part of the Premises, including without limitation the construction, alteration, addition, repair or demolition related to any of the Capital Improvements by or on behalf of Tenant.

11.9. Waiver of Liens.

11.9.1. Before Tenant commences any Capital Improvement or Maintenance or Repairs which could result in a lien being placed against the Premises, Tenant shall file or cause to be filed in the Office of the Prothonotary of the Court of Common Pleas of Philadelphia effective waivers of mechanics liens, between itself and any and all Contractors having a contract with an estimated cost in excess of Fifty Thousand Dollars (\$50,000), in form reasonably satisfactory to City. In addition, Tenant shall include effective waivers of mechanics' liens in all Contracts with its Contractors and materialmen in connection with each Capital Improvement, and require that such waivers are included in all contracts between Contractors and their subcontractors, and require in all such Contracts the execution by each Contractor a release of mechanics' liens in recordable form upon final payment.

11.9.2. Nothing contained in this Sublease shall be construed in any way as constituting the consent or request of Landlord or City, express or implied, to any contractor, subcontractor, laborer or materialmen for the performance of any labor or the furnishing of any materials for any specific alteration, addition, improvement, repair or other work to the Premises or any part thereof (including without limitation the Capital Improvements), nor as giving Tenant any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any lien against the interest of City in the Premises, or any part thereof.

11.9.3. All persons dealing with Tenant are hereby placed on notice that such persons shall not look to Landlord, City, or to either of their interests in the Premises or their credit or assets, for payment or satisfaction of any obligations incurred in connection with any Capital Improvement or the construction, alteration, repair, restoration, replacement or reconstruction of the Premises by or on behalf of Tenant. Tenant has no power, right or authority to subject the Premises, Landlord's interest in the Premises, City's interest in the Premises, or the credit or assets of either Landlord or City, to any mechanic's or materialman's lien or claim of lien whatsoever.

11.10. Dust and Soil Erosion Control. Tenant shall undertake best practices to control erosion and ensure that dirt, litter, construction materials, and debris do not blow, issue, or flow from the Premises, or from construction vehicles that enter or leave the Premises, onto or into roads, storm water inlets, and property outside the Premises.

11.11. Maintenance, Repair, and Alterations. Without limiting the other provisions of this Article 11, the provisions of this Article 11 apply to Tenant's performance of Maintenance and Repairs and to all of Tenant's alterations of capital elements of the Premises.

ARTICLE 12 ENVIRONMENTAL MATTERS

12.1. Environmental Compliance; Liability of Tenant and Landlord. Commencing on the Commencement Date, Tenant shall at all times comply with applicable Environmental Laws affecting the Premises. Tenant shall at its own expense maintain in effect any permits, licenses or other governmental approvals relating to Hazardous Substances, if any, required for Tenant's use. Tenant shall make all disclosures required of Tenant by any such Environmental Laws, and shall comply with all orders, with respect to Tenant's and its employees', agents', Contractors' and invitees' use of the Premises, issued by any governmental authority having jurisdiction over the Premises and take all action required by such governmental authorities to bring Tenant's and its employees', agents', contractors' and invitees' activities on the Premises into compliance with all Environmental Laws affecting the Premises. Tenant shall take all necessary and prudent steps to prevent Contamination in, on, or about the Premises, whether potentially resulting from conditions existing on or before the Commencement Date or caused by Tenant from and after the Commencement Date.

12.2. No Tenant Obligation For Pre-Existing Contamination. Tenant shall not be obligated to take any action (including, without limitation, removal, disposal or containment of any Contamination and/or Hazardous Substances) to effect compliance, or prevent noncompliance, with Applicable Laws governing the Premises if such non-compliance results exclusively from the presence of any Contamination and/or Hazardous Materials in, on, about, or beneath the Premises existing prior to Tenant's first use, occupancy, possession, or operation of the Premises under the Concession Agreement and all previous agreements between Tenant or its predecessors-in-interest and the City. Tenant shall be liable, however, for all claims, liabilities, damages, suits, actions, costs, and expenses pertaining to the removal, disposal, or containment of Contamination and Hazardous Substances in, on, about, or beneath the Premises if the claims, liabilities, actions, costs, and expenses of any removal, disposal, or containment have been caused or exacerbated, directly or indirectly, in whole or in part, by the acts or omissions of Tenant or its predecessors-in-interest at any time during Tenant's use, occupancy, possession or operation of the Premises under this Sublease, the Concession Agreement, or any earlier time.

12.3. Landlord and City Not Obligated to Tenant. Tenant acknowledges and agrees that Landlord and City shall have no liability to Tenant, its officers, employees, agents, representatives, invitees, licensees, sublessees, assigns, Contractors and subcontractors, or any person claiming by, through, or under Tenant or any of them, for any claims, liabilities, damages,

injuries (including death), actions, costs and expenses caused to or suffered by Tenant or any of them arising from any Hazardous Substances or Contamination existing in, on, about, or beneath the Premises on or before the Commencement Date or the time Tenant or Tenant's predecessors-in-interest first occupied, used, or operated the Premises, or at any time after the Commencement Date. Additionally, Landlord and City shall have no obligation to take any action (including, without limitation, removal, disposal or containment of any Contamination and/or Hazardous Substances) to effect compliance, or prevent noncompliance, with Applicable Laws governing the Premises regardless of whether such non-compliance results, directly or indirectly, from the presence of any Contamination and/or Hazardous Materials in, on, about, or beneath the Premises prior to the Commencement Date or since the first use, occupancy, possession, or operation of the Premises by Tenant or Tenant's predecessor-in-interest.

12.4. Notices. If at any time Tenant shall become aware, or have reasonable cause to believe, that any Contamination occurred in, on, about, or beneath the Premises, Tenant shall promptly upon discovering the Contamination, give written notice of that condition to Landlord and City. In addition, upon becoming aware of, or having reasonable cause to believe that, Contamination has occurred, Tenant shall immediately notify Landlord and City in writing of: (1) any enforcement, cleanup, removal, or other governmental or regulatory action instituted, completed, or threatened pursuant to any Environmental Laws; (2) any claim made or threatened by any person against Landlord, City, Tenant or the Premises arising out of or resulting from any Contamination; and (3) any reports made to any local, state, or federal environmental agency arising out of or in connection with any Contamination.

12.5. Indemnity for Environmental Matters. Without in any way limiting Tenant's indemnification obligations under Article 13 below, but subject to the limitation in Section 13.3 below, Tenant shall indemnify, defend (by counsel reasonably acceptable to Landlord and City), protect, and hold harmless Landlord, City, and their officials, officers, commissioners, employees, agents, successors and assigns, from and against

1. any and all claims, suits, actions, liabilities, damages, costs and expenses, arising after the Commencement Date, or during the previous use, occupancy, possession, or operation of the Premises by Tenant or its predecessors-in-interest, from, related to, or in connection with the death of or injury to any person or damage to any property whatsoever, or

2. any fine or penalty whatsoever imposed by any governmental authority having jurisdiction under any Applicable Law, arising in either case from or caused in whole or in part, directly or indirectly, on or after the Commencement Date, or during the previous use, occupancy, possession or operation of the Premises by Tenant or its predecessors-in-interest, by (a) the presence in, on, under, or about the Premises or any discharge or release in or from the Premises of any Hazardous Substance, or (b) Tenant's failure to comply with its covenants under Section 12.1 above.

12.6. Costs Included; Survival. The indemnity obligations of Tenant under this Article 12 shall include, without limitation, whether foreseeable or unforeseeable, any and all reasonable costs incurred in connection with any site investigation, and any and all costs for repair, cleanup, detoxification or decontamination, or other remedial action of or relating to the Premises. The

obligations of Tenant under this Article 12 shall survive the expiration or earlier termination of this Sublease.

ARTICLE 13
INDEMNIFICATION; RELEASE; INSURANCE

13.1. Tenant's Indemnification of City. Subject to Section 13.3 below, Tenant shall promptly indemnify, defend, and save harmless Landlord, City, their officials, officers, commissions, employees, agents, representatives, successors and assigns, from and against any and all claims, liabilities (including but not limited to those in connection with loss of life, bodily and personal injury, or damage to property, real or personal) obligations, damages, penalties, suits, causes of action, costs, charges and expenses, administrative or enforcement actions, public or private cost recovery actions, demands, damages, civil or criminal fines, and expenses, in law or in equity, including all reasonable attorneys' and experts' fees and litigation costs (collectively, "**Claims**"), which may be imposed upon, incurred by, or asserted against, Landlord or City arising out of this Sublease, the Premises, or the condition of the Premises, and any omission or act taken by Tenant or its officials, officers, directors, employees, agents, Contractors, shareholders, licensees, guests or invitees, and any Person for which Tenant is legally responsible, in, on, or relating to, the Premises, any Event, or Tenant's actions under this Sublease, including without limitation, the following:

1. any act, work, or thing done in, on or about the Premises and any act performed in relation to the Improvements or any part of the Premises or Improvements;
2. any use, possession, occupation, condition, operation, management, Maintenance or Repair of the Premises or any part of the Premises, or any portion of a sidewalk, curb, passageway, entrance or space adjoining the Premises for which Tenant is responsible pursuant to the express terms of this Sublease;
3. any act or omission on the part of the Tenant, including any of its officials, officers, directors, employees, agents, Contractors, shareholders, licensees, guests or invitees;
4. any accident, injury or damage to Tenant or any Person or any property occurring on the Premises, or on any portion of a sidewalk, curb, entrance or space adjoining the Premises for which Tenant is responsible pursuant to the express terms of this Lease;
5. any breach, failure, violation, or nonperformance, on the part of Tenant to keep, observe and perform: (A) any of the provisions, requirements, responsibilities, obligations, limitations, or conditions of this Sublease required to be kept, observed and performed by Tenant, (B) any agreements or restrictions of record pertaining to the Premises or the ownership, occupancy, or use of the Premises, or (C) Applicable Laws;
6. any Contamination in or on the Premises, subject, however to Section 12.2 hereof;

7. any Taxes or Impositions imposed against the Premises or any part of the Premises, or any action taken in connection with any Taxes or Impositions, including without limitation any Taxes or Impositions attributable to the execution, delivery or recording of this Sublease; and

8. any infringement or misuse (other than by Landlord or City) of patents, copyrights, trademarks, service marks or other proprietary rights.

13.2. Defense of Landlord and City. In case any action or proceeding is brought against Landlord and City, or either of them, by reason of any Claim for which Tenant has indemnified Landlord and City under Section 13.1 above, then upon written notice from Landlord or City, or both, as the case may be, Tenant shall at its sole cost and expense resist or defend, or cause to be resisted and defended, such action or proceeding by attorneys reasonably acceptable to Landlord and City, or either of them, as the case may be. Notwithstanding the preceding provisions of this Section 13.2, Tenant shall not be obligated to obtain the approval of Landlord or City in each and every instance where the Claim is resisted or defended by counsel of an insurance carrier obligated to so resist or defend such claim. Also, Landlord and City may each engage at its respective expense its own counsel to participate in the defense of any such claim.

13.3. Tenant Not Obligated To Indemnify or Defend. Notwithstanding Section 13.1 above, Tenant shall not be obligated to defend or indemnify Landlord for any Claims which result solely and exclusively from the gross negligence or willful misconduct of Landlord, its officials, officers, employees, agents, successors or assigns. Notwithstanding Section 13.1 above, Tenant shall not be obligated to defend or indemnify City for any Claims which result solely and exclusively from the gross negligence or willful misconduct of City, its officials, officers, commissions, employees, agents, successors or assigns.

13.4. Release. In consideration for the rights granted to Tenant by this Sublease, Tenant, for itself and its predecessors-in-interest, officials, officers, employees, agents, successors, assigns, Contractors, licensees, invitees, and guests, and any person claiming by, through, or under Tenant or any of them ("**Releasors**"), does remise, quitclaim, release and forever discharge Landlord and City from any and all, and all manner of, actions and causes of action, suits, claims and demands whatsoever in law or in equity that Tenant or any of the Releasors may have against Landlord or City relating in any way whatsoever, directly or indirectly, to (1) this Sublease, (2) the Premises and all conditions existing in, on, or about the Premises, and (3) the use, occupancy, possession, operation, and maintenance of the Premises or any part of the Premises by Tenant or any of the Releasors. Tenant voluntarily and knowingly assumes all risk of loss, including death, that may be sustained by Tenant or any of the Releasors, and the public in general, in connection with the Premises. Notwithstanding the foregoing provisions of this Section 13.4, this release shall not apply to any such claims that result solely and exclusively from the gross negligence or willful misconduct of Landlord or City on the Premises after the Commencement Date.

13.5. Survival. The provisions of this Article 13 as they apply to occurrences, or actual or contingent liabilities, arising during the Term, shall survive the expiration or any earlier termination of this Sublease.

ARTICLE 14 INSURANCE

14.1. Required Insurance Policies. Tenant, at its sole cost and expense, shall purchase and maintain (or cause to be purchased and maintained), during the Term and the period of time required to fulfill Tenant's indemnification and defense obligations under this Sublease, the policies and amounts of insurance listed and described below in this Section 14.1 from insurers authorized to do business in the Commonwealth of Pennsylvania, covering all of Tenant's obligations under this Sublease. Unless waived in writing by City, each such policy shall be issued by an insurance company duly authorized to conduct business in the Commonwealth of Pennsylvania with an A. M. Best Company, Inc. general policyholders rating of at least "A". All insurance, except the Professional Liability Insurance, shall be written on an "occurrence" basis (not a "claims made" basis) for the minimum limits of liability set forth below:

A. Tenant's Insurance. During Tenant's use, occupancy, operation, management, Maintenance, and Repair of the Premises:

A.1. Commercial General Liability Insurance, with broad form endorsement, covering personal and bodily injury, death and property damage with a combined single limit of Ten Million Dollars (\$10,000,000.00). The liability insurance required under this Subsection 14.1.1 shall include blanket contractual liability coverage, independent contractor's liability endorsement and products and completed operations, premises operations, personal injury liability (employee exclusions deleted) employees as additional insured, cross liability and broad form property damage (including loss of use) liability.

A.2. Commercial Automobile Liability Insurance, including all owned, non-owned and hired vehicles with a combined single limit of not less than Two Million Dollars (\$2,000,000.00) for bodily injury (including death) and property damage liability.

A.3. Worker's Compensation Insurance, as required by Applicable Law.

A.4. Employers' Liability Insurance with minimum limits of Two Million Dollars (\$2,000,000.00). Such insurance shall include coverage under the Broad Form All States Endorsement.

A.5. Contractual Liability Insurance, applicable to all of Tenant's obligations (including indemnity obligation) under this Sublease.

A.6. Garagekeeper's Liability Insurance, legal liability form -- primary with limits not less than Two Million Dollars (\$2,000,000.00) per location. Comprehensive

and collision coverages; deductible not to exceed Five Thousand Dollars (\$5,000.00) per loss.

A.7. All Risk Property Insurance Coverage, to be included under Tenant's blanket property insurance policy for full replacement value of the Premises (which amount shall be subject to review and reasonable approval by the City) including flood and earthquake. The City is to be named as the loss-payee on the Property Insurance policy required under this subsection 14.1.A7 and all insurance money paid on account of damage or destruction to the Premises shall be applied or paid as directed by City. Unless this Sublease is terminated by Tenant pursuant to Section 15.2 below, the Tenant shall use such insurance money to cause the preparation of Plans and Specifications for repair or restoration of the Premises in accordance with the provisions of Article 10 and Article 11 above, and in accordance with such Plans and Specifications (as approved by the City) immediately restore the Premises in accordance with provisions of Article 11.

A.8. Professional Liability Insurance, with respect to any design, engineering, testing, or consulting services rendered with respect to the Premises (including, without limitation, the Capital Improvements), a minimum of Two Million Dollars (\$2,000,000.00) per loss subject to a deductible of not more than Twenty Five Thousand Dollars (\$25,000.00) per loss. Coverage for occurrences happening during the performance of any services on the Premises shall be maintained in full force and effect under the policy or "tail" coverage for a period of at least two (2) years after the expiration or earlier termination of this Sublease.

A.9. Business Interruption Insurance covering loss of profits (and revenue) and necessary continuing expenses for interruptions caused by any one occurrence covered by the insurance referred to in Sections 14.1.A.7 above.

A.10. Boiler and Machinery Insurance against loss or damage from explosion, rupture, bursting, collapsing or mechanical breakdown of boilers or pressure vessels and all attached equipment parts and appurtenances, if and to the extent applicable to the Amphitheater or the Premises.

A.11. Liquor Liability for liability arising out of the manufacture, distribution, sale or service of Alcoholic Beverages at limits not less than \$1,000,000 combined single limit per occurrence.

B. Contractors' Insurance during all Capital Improvements:

B.1. Commercial General Liability Insurance with a minimum limit of \$2,000,000 per occurrence combined single limit insuring against any claims for bodily injury, death, and property damage occurring on, in or about the Premises and any Improvements thereon. Coverage must include premises operations, blanket contractual liability, personal injury liability, products and completed operations, independent contractors, cross liability, employees as additional insureds, broad form property damage liability, and explosion, collapse and underground ("XCU") coverage.

B.2. Commercial Automobile Liability Insurance with a combined single limit for each occurrence of not less than \$2,000,000, insuring against liability arising from the maintenance and use of all owned, non-owned, hired, leased, rented trucks, automobiles and other vehicles for bodily injury, death or property damage liability.

B.3. Workers' Compensation as required by Applicable Laws.

B.4. Employer's Liability with minimum limits of Two Million Dollars (\$2,000,000.00). Such insurance shall include coverage under the Broad Form All States Endorsement.

B.5. Contractors Pollution Liability Insurance covering against environmental exposures associated with bodily injury, property damage and cleanup costs arising from pollution releases that may occur during demolition and/or construction at a minimum limit of \$5,000,000.

B.6. Professional Liability Insurance covering errors and omissions, including liability assumed under Contract, with a minimum limit of \$2,000,000, deductible not to exceed \$25,000. Professional Liability Insurance may be written on a claims-made basis provided that coverage for occurrences arising out of the performance of the services required under the Lease or Sublease shall be maintained in full force and effect under the policy or "tail" coverage for a period of at least two (2) years after completion of the services.

B.7. Umbrella Liability Insurance at limits totaling \$10,000,000 per occurrence when combined with insurance required under Sections 14.1.B.1, 2 and 3 above.

14.2. Evidence of Insurance. Tenant shall have no rights under this Sublease until Tenant has caused the required evidence of insurance to be furnished to the City. Tenant must cause a certificate of insurance evidencing the required coverage to be submitted to the City of Philadelphia Risk Manager (One Benjamin Franklin Parkway – 14th Floor, 1515 Arch Street, Philadelphia, PA 19102) simultaneously with the execution and delivery of this Sublease. Upon request by the City from time to time, Tenant shall furnish, and shall cause its Contractors to furnish, certified copies of original policies of all insurance required under this Sublease within thirty (30) days following City's request.

14.3. Notice of Coverage Changes. Tenant shall cause its insurer, and shall cause its Contractors' insurers, to provide, by United States registered or certified mail, return receipt requested, postage prepaid, at least thirty (30) days prior written notice to the City in the event Tenant's or its Contractors' coverage is materially changed, canceled, non-renewed, or scheduled to lapse.

14.4. Landlord and City As Additional Insureds. Tenant shall cause its insurers, and shall cause its Contractors' insurers, to name Landlord and City as additional insured and "loss payee" on all policies required under this Sublease. Also, Tenant shall cause its insurers, and shall cause its Contractors' insurers, to include an endorsement on their insurance policies stating

that the coverage afforded to City as additional insured will be primary to any other coverage available to them.

14.5. Replacement Policies. At least ten (10) days prior to the expiration of each or any policy required under this Article, Tenant shall deliver to the City an original certificate of insurance evidencing a replacement of such policy to become effective immediately upon the termination of the previous policy.

14.6. Proof of Premiums. Tenant shall furnish the City with proof that the premiums for all insurance policies required under this Article have been paid in full; such proof shall be provided in writing at the time of the delivery to City of the required certificate of insurance.

14.7. No Limit On Damages. If Tenant fails to cause the insurance policies required under this Article to be maintained in the amounts required hereby, Landlord and City shall not be limited in the proof of any damages which either of them may claim against the Tenant or any other person or entity to the amount of the insurance premium or premiums not paid or incurred and which would have been payable upon such insurance, but both Landlord and City shall also be entitled to recover as damages for such breach the uninsured amount of any loss and damages, expenses of suit and costs, including without limitation, reasonable cancellation fees, suffered or incurred during any period when Tenant shall have failed or neglected to provide insurance as required under this Sublease.

14.8. No Limit On Indemnifications. The insurance requirements set forth in this Article shall in no way be intended to modify, limit or reduce the indemnification obligations of the Tenant to Landlord and City or to limit Tenant's liability under this Sublease to the limits of the required policies of insurance.

14.9. Adjustment of Loss. Provided Tenant has caused the insurance policies required under this Article to be maintained in the amounts required hereby, any loss under any policy of insurance required to be furnished under this Sublease shall be adjusted solely by Tenant.

14.10. Total Coverage. Limits of liability for insurance required under this Article may be provided by primary insurance or a combination of both primary and excess insurance coverage.

14.11. Waiver of Subrogation. Each policy of insurance required under this Sublease, excepting Worker's Compensation policies, shall include a provision for a waiver of subrogation in favor of Landlord and Tenant.

14.12. Landlord and City Not Obligated to Insure. Tenant acknowledges and agrees that Landlord and City each have no obligation to insure, and no liability for any damage (except to the extent caused by Landlord's or City's gross negligence or willful misconduct after the Commencement Date), to any Improvements, Tenant's Property or other personal property of Tenant or its invitees, or to any part of the Premises.

ARTICLE 15
DAMAGE OR DESTRUCTION

15.1. Damage. If, during the Term, there occurs any damage to or destruction of the Premises or any part of the Premises resulting from any cause whatsoever, Tenant shall give prompt notice of such damage to City, and Tenant shall, at its sole cost and expense, promptly take such action as is reasonably necessary to assure that neither the Premises nor the Improvements constitute a nuisance or otherwise present a health or safety hazard. The foregoing obligation shall not be contingent upon the availability of any Insurance Proceeds but Tenant shall be entitled to reimbursement out of any Insurance Proceeds for such costs and expenses.

15.2. Cancellation. Tenant shall have the right, under the circumstance described in the next sentence that would excuse the obligation of Tenant to restore the Premises, to terminate this Sublease, by notifying Landlord and City in writing within sixty (60) days after such date of damage or destruction. If, during the last five (5) years of the Initial Term or the last five (5) years during the Renewal Term (if any), the Premises shall be damaged so that it is reasonably determined by City and Tenant that the cost would make restoration thereof unfeasible, notwithstanding the availability of Insurance Proceeds therefor, Tenant may terminate this Sublease within sixty (60) days after such damage by giving written notice to City. Within three hundred sixty (360) days after such termination, Tenant shall, to the extent of available Insurance Proceeds, raze the then existing Improvements on the Premises and clear the Premises of debris and rubble and restore the Premises to open park space (unless otherwise specified by City in writing to Tenant). In the Lease, Landlord shall require City to make available to Tenant any Insurance Proceeds payable to City attributable to such damage or destruction of the Premises to be used by Tenant to raze the existing Improvements, clear the land of debris and rubble, and restore the Premises to open park space; and any remaining Insurance Proceeds shall be paid into a trust designated by the Department.

15.3. Restoration. If this Sublease is not terminated as provided in Section 15.2 above, Tenant shall, to the extent of available Insurance Proceeds, proceed with the repair or restoration of the damaged Premises within one hundred eighty (180) days following such damage or destruction or, if the estimated cost of such restoration is covered by insurance, then such later date as the Insurance Proceeds are available, but in no event longer than two (2) years from such damage or destruction, subject in either case to the Force Majeure provisions of Section 26.4 hereof, and subject further to extension by Landlord if Tenant shows good cause for extension, and a reasonable likelihood that Tenant will have the resources to repair or restore within a commercially reasonable timeframe, all determined on a commercially reasonable basis. Once commenced, such restoration shall be diligently prosecuted to completion. In the Lease, Landlord shall require City to make available to Tenant any Insurance Proceeds payable to City attributable to such damage or destruction of the Premises (and not damage or destruction of City's personal property) and to be used for the restoration and repair of the Premises as herein provided. Tenant shall comply in all respects with Article 11 in performing any restoration and Repair and shall promptly provide documents satisfactory to the City, in the Commissioner's reasonable discretion, to substantiate Tenant's costs and expenses for such restoration and Repair. Landlord and City shall have no liability to Tenant, and Tenant shall not be entitled to

terminate this Sublease, by virtue of any delays in completion of repairs and restoration, except to the extent caused solely by City.

15.4. Insurance Proceeds. Except as provided in Section 15.2 above, Tenant acknowledges and agrees that the unused portion of Insurance Proceeds payable to City as a result of any damage or destruction shall be the exclusive property of City.

15.5. Waivers. Tenant hereby waives any rights now or hereafter conferred upon it by statute or other law to surrender this Sublease or to quit or surrender the Premises or any part of the Premises, or to receive any suspension, diminution, abatement or reduction of Rent or other sums and charges payable by Tenant under this Sublease on account of any such destruction or damage other than as expressly provided in this Article 15.

ARTICLE 16 EMINENT DOMAIN

16.1. Notice. Landlord and Tenant each agree to give the other written notice of any taking by eminent domain (“**Taking**”) or proposed taking of all or any part of the Premises or leasehold estate promptly after either receives written notice thereof.

16.2. Total Taking. If the whole or substantially all of the Premises or any leasehold estate shall be taken for a public or quasi-public use by the exercise of the power of eminent domain or by purchase under threat of condemnation by any governmental agency, or if any appurtenances of the Premises or any vaults or areas outside the boundaries of the Premises or rights in, under or above the streets adjoining the Premises or the rights and benefits of light, air or access from or to such streets, shall be so taken, or the grade of any such streets shall be changed, in any such case in a manner that the remaining portion of the Premises is not capable of being adapted and economically operated for the purposes of this Sublease and in substantially the same manner as it was operated prior thereto under this Sublease in Tenant’s good faith business judgment (a “**Total Taking**”), this Sublease shall terminate in its entirety on the date the condemning authority actually consummates such taking of the Premises, and the Rent required to be paid by Tenant hereunder shall be appropriately prorated and paid to such date of taking or reduced as provided below.

16.3. Partial Taking. If less than substantially all of the Premises or any leasehold estate shall be taken for any public or quasi-public use under the power of eminent domain or by purchase under threat of condemnation by any governmental agency, or if any appurtenances of the Premises or any vaults or areas outside the boundaries of the Premises or rights in, under or above the streets adjoining the Premises or the rights and benefits of light, air or access from or to such streets, shall be so taken, or the grade of any such streets shall be changed, in any such case in a manner that the remaining portion of the Premises can be adapted and economically operated for the purposes of this Sublease and in substantially the same manner as it was operated prior thereto under this Sublease in Tenant’s good faith business judgment (any of the foregoing, a “**Partial Taking**”), this Sublease shall continue in full force and effect. Subject to Tenant’s receipt of condemnation proceeds in accordance with Section 16.6 below, Tenant shall proceed, with reasonable diligence, to perform any necessary Repairs and Capital Improvements

and to restore the Premises to an economically viable unit in strict accordance with all Applicable Laws and the requirements of this Sublease, and as nearly as possible to the condition the Premises was in immediately prior to such Partial Taking, except for any reduction in area caused thereby. Tenant shall not be obligated to expend any amounts in excess of the net condemnation proceeds actually received by Tenant which are specified or fairly allocable to restoration in order to effectuate such restoration.

16.4. Temporary Taking. If the temporary use (but not leasehold title) of the whole or any part of the Premises shall be taken as aforesaid, this Sublease shall not be affected in any way. Tenant shall be entitled to all condemnation proceeds as a result of such temporary taking.

16.5. Proceedings. In any condemnation proceeding affecting the Premises, both parties, and City, shall have the right to appear in and defend against such action as they deem proper in accordance with their own interests. To the extent possible, the parties shall cooperate to maximize the condemnation proceeds payable by reason of the condemnation. Issues between Landlord and Tenant required to be resolved pursuant to this Article 16 shall be joined in any such condemnation proceeding to the extent permissible under then applicable procedural rules of such court of law or equity for the purpose of avoiding multiplicity of actions and minimizing the expenses of the parties.

16.6. Award. In the event of any Taking (1) as a result of which Tenant does not terminate this Sublease in accordance with this Article 16, such portion of any award or condemnation proceeds for such Taking as shall be specified for or fairly allocable to restoration of the Premises (including such amounts otherwise payable to Landlord, City or Tenant) shall first be allocated to the entire cost of restoration, and thereafter shall be allocated and distributed among Landlord, City and Tenant, *pro rata*, as their respective interests in the portion of the Premises or any leasehold estate that is taken may appear based upon the loss and damage suffered by each by reason of such Taking; or (2) as a result of which Tenant terminates this Sublease in accordance with this Article 16, any award or condemnation proceeds shall be allocated and distributed between Landlord, City and Tenant, *pro rata*, as their respective interests may appear based upon the loss and damage suffered by each by reason of such Taking.

ARTICLE 17 DEFAULT

17.1. Events of Default of Tenant. Tenant shall commit an event of default under this Sublease if any of the following events (each an “**Event of Default**” and, collectively, “**Events of Default**”) shall occur (subject to notice and Tenant’s right to cure pursuant to Section 17.8 below):

1. Tenant shall have failed to pay Rent, any Additional Rent, or any other sums due from Tenant to Landlord or the City hereunder; or
2. Tenant shall have violated or failed to keep, observe or perform any of its obligations under the other terms, covenants, agreements, provisions, conditions, or limitations contained in this Sublease; or

3. Tenant Abandons the Premises; or

4. Tenant shall file or have filed against it a petition of bankruptcy or for arrangement, composition, reorganization or other relief concerning its indebtedness under any federal or state statute, or makes a general assignment for the benefit of creditors, or is adjudicated bankrupt or declared insolvent by the decree of a court of competent jurisdiction, or initiates any proceedings for, or consents to, the appointment of a receiver or similar official of its assets, or if any such proceeding is initiated against it and any such proceeding or receivership shall continue unstayed and in effect for a period of sixty (60) days.

17.2. Remedies of Landlord. Upon the occurrence of an Event of Default, Landlord shall have the following rights and remedies:

1. To institute any and all proceedings permitted by law to recover all unpaid sums and amounts then due and payable by Tenant under this Sublease, and any and all amounts necessary to compensate Landlord and City for all damage caused by such Event of Default under this Sublease (but Tenant shall not be liable for consequential damages); and

2. To institute any and all proceedings in equity to compel specific performance with respect to Tenant's obligations under this Sublease and one or more actions to seek and obtain injunctive or other equitable relief, from any court of competent jurisdiction capable of issuing or granting such relief, to compel Tenant to comply with, or refrain or cease from breaching or violating, the terms, covenants and conditions of this Sublease.

17.3. Additional Remedies of Landlord: Termination and Possession.

17.3.1. Each of the following shall be a termination event (each a "**Termination Event**" and, collectively, "**Termination Events**") under this Sublease:

1. Tenant Abandons the Premises; or

2. Tenant fails to comply with any provision of Article 9 or Article 20 hereof within sixty (60) days after written notice from Landlord; or

3. Tenant fails to commence to repair or restore the Premises after damage or destruction in accordance with Article 15 hereof within two (2) years after the occurrence of such damage or destruction and fails to complete such repair or restoration within four (4) years after the occurrence of such damage or destruction, subject to the Force Majeure provisions of Section 26.4 hereof, and subject further to extension by Landlord if Tenant shows good cause for extension, and a reasonable likelihood that Tenant will have the resources to repair or restore within a commercially reasonable timeframe, all determined on a commercially reasonable basis; or

4. There exists an Event of Default not cured by Tenant within six (6) months after written notice from Landlord of such Event of Default, provided that, in the case of an Event of Default not involving the payment of money and not reasonably susceptible of cure within such six (6) month period, such period shall be extended for such time as may reasonably be required to cure provided Tenant shall have commenced cure within such six (6) month period and shall thereafter actively and in good faith proceed with and continue the cure of such Event of Default until the state of facts giving rise to such Event of Default shall be fully corrected.

17.3.2. Upon the occurrence of a Termination Event, Landlord shall have, in addition to the remedies set forth in Section 17.2 above, the following additional remedies:

1. To immediately suspend or terminate this Sublease by giving written notice to Tenant. Within one hundred twenty (120) days after such receipt of written notice of termination, Tenant shall surrender and vacate the Premises and the Improvements in broom-clean condition, and Landlord may reenter and take possession of the Premises and the Improvements and eject all parties in possession or eject some and not others or eject none. Termination shall not relieve Tenant from the payment of any sums then due to Landlord hereunder plus interest thereon from the date due at the Default Rate, or from any claim for damages previously accrued or then accruing against Tenant up to the date of termination. Notwithstanding anything herein to the contrary, upon Landlord's termination of this Sublease in accordance with this Section 17.3.2.1, any sublease, sub-sublease, Contract, or license permitted under this Sublease will automatically terminate;

2. Landlord may at its election, whether or not Tenant Abandons the Premises, continue this Sublease in effect, until such time as Landlord elects to terminate Tenant's right to possession, for a period not to exceed six (6) months, reenter the Premises, and, without terminating this Sublease, at any time and from time to time, subject to the rights of subtenants, if any, provided with nondisturbance agreements pursuant to Section 23.8 below, relet the Premises and Improvements or any part or parts of them for the account and in the name of Tenant or otherwise. Landlord may at its election eject all persons or eject some and not others or eject none; provided that no subtenant, if any, provided with a nondisturbance agreement shall be ejected. Any reletting may be for the remainder of the Term or for a longer or shorter period. Landlord shall be entitled to all rents from the use, operation, or occupancy of the Premises or Improvements or both. In the event of any re-entry by Landlord, then, for a period not to exceed six (6) months after the re-entry by Landlord of the Premises, Tenant shall nevertheless pay to Landlord on the due dates specified in this Sublease the equivalent of all sums required of Tenant under this Sublease, plus Landlord's reasonable expenses, plus interest thereon from the date due at the Default Rate, less the proceeds of any reletting or attornment which shall be applied, when received, as follows: (1) to Landlord to the extent that the proceeds for the period covered do not exceed the amount due from and charged to Tenant for the same period, and (2) the balance to Tenant. After the expiration of the aforesaid six (6) month period, Tenant's liability to Landlord under this Sublease shall automatically cease and terminate except for Tenant's continuing

indemnity and release obligations arising under provisions hereof that expressly survive termination. No act by or on behalf of Landlord under this provision shall constitute a termination of this Sublease unless Landlord gives Tenant notice of termination.

3. Tenant's Personal Property Located in the Premises. Landlord may at its election use Tenant's personal property and trade fixtures located on and used in connection with the management and operation of the Premises without compensation, or store them for the account and at the cost of Tenant. The election of one remedy for any one item shall not foreclose an election of any other remedy for another item or for the same item at a later time.

4. Damages. Should Landlord terminate this Sublease pursuant to this Section 17.3 as a result of a Termination Event, Landlord shall be entitled to damages suffered by Landlord and City and all reasonable costs and expenses incurred by Landlord and City by reason of the event or state of facts giving rise to the Termination Event and termination by Landlord (including but not limited to the cost of any Maintenance and Repairs Tenant failed to perform), plus interest at the Default Rate.

5. Confession of Judgment. **If this Sublease is terminated pursuant to this Section 17.3, to appear through any attorney of any court of record as attorney for Tenant as well as for all Persons claiming by, through or under Tenant, and to sign an agreement for entering in any court of competent jurisdiction an action in ejectment against Tenant and all persons claiming by, through or under Tenant and therein confess judgment for the recovery by Landlord of possession of the Premises, for which this Sublease shall be sufficient warrant; thereupon, if Landlord so desires, an appropriate writ of possession may issue forthwith, without any prior writ or proceeding whatsoever, and provided that if for any reason after such action shall have been commenced it shall be determined and the possession of the Premises remain in or be restored to Tenant, Landlord shall have the right for the same Termination Event under Section 17.3 and upon any subsequent Termination Event or Termination Events under Section 17.3, or upon the termination of this Sublease or Tenant's right of possession as hereinbefore set forth, to bring one or more further action or actions as hereinbefore set forth to recover possession of the Premises and confess judgment for the recovery of possession of the Premises as hereinbefore provided. In any action in ejectment and or for sums brought hereon, Landlord shall first cause to be filed in such action an affidavit made by Landlord or someone acting for Landlord, setting forth the facts necessary to authorize the entry of judgment, of which acts such affidavit shall be prima facie evidence, and if a true copy of this Sublease (and of the truth of the copy such affidavit shall be sufficient evidence) shall be filed in such suit, action or actions, it shall not be necessary to file the original as a warrant of attorney, any rule of court, custom or practice to the contrary notwithstanding.**

Initials of Tenant's Signatories: _____

17.4. No Waiver of Default.

17.4.1. No failure by Landlord to insist upon the strict performance of any provision, condition or limitation of this Sublease or to exercise any right or remedy consequent upon a breach thereof by Tenant, and no acceptance by Landlord of full or partial payment due under this Sublease during the continuance of any such breach (with or without knowledge of the breach), shall constitute or be construed to constitute a waiver of any such breach or of such term, covenant, agreement, provision, condition or limitation.

17.4.2. No term, covenant, agreement, provision, condition or limitation of this Sublease to be kept, observed, or performed by Tenant, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by the party to be bound. Any waiver of any breach shall be limited to the breach so waived, and shall not affect or alter this Sublease; and each and every term, covenant, agreement, provision, condition and limitation of this Sublease shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

17.5. Landlord's Performance of Tenant's Obligations. Upon the occurrence and during the continuance of an Event of Default hereunder, City may, but shall not be required to, on behalf of Tenant, perform such covenant and/or take such steps, including entering upon the Premises, as may be necessary or appropriate to meet the requirements of any such covenant or condition, and all costs and expenses incurred by City in so doing, including reasonable legal fees, shall be paid by Tenant to City upon demand, together with interest at the Default Rate or such lesser rate as represents the maximum rate which City lawfully may charge in respect of Tenant, from the respective dates of City's incurring of the costs, on all sums so incurred by City, which sums and interest thereon shall be Additional Amounts under this Sublease. City's proceeding under the rights reserved to City under this Section 17.5 shall not in any way prejudice or waive any rights as Landlord or City might otherwise have under this Sublease against Tenant by reason of Tenant's Event of Default.

17.6. Tenant's Responsibility For Landlord's Fees and Expenses. Tenant shall pay within a reasonable time after written demand therefor by City, as Additional Amounts, all City's reasonable costs, charges and expenses, including the reasonable fees of counsel, agents and others retained by City (or, if City uses its own employees for such services, the reasonable amount that City would have paid had it engaged the services of outside counsel or others) incurred by City (a) in any litigation in which Tenant causes City to become involved, (b) in connection with any action brought by City to enforce any right or remedy against Tenant upon an Event of Default by Tenant under this Sublease, and/or (c) in pursuing or enforcing any of its rights or remedies under this Sublease and/or this Article 17.

17.7. Landlord's Rights are Cumulative. No right or remedy conferred upon or reserved to Landlord in this Sublease is intended to exclude any other right or remedy provided in this Sublease or by law or equity, but each and every such right or remedy shall be cumulative and in addition to every other right or remedy given under this Sublease or now or hereafter existing at law or in equity.

17.8. Notice and Tenant's Right to Cure An Event of Default. Notwithstanding anything otherwise stated in this Article 17, Landlord agrees that it shall not exercise any of its remedies as provided in Section 17.2 above or at law or in equity unless Landlord shall have first given written notice to Tenant of an Event of Default, and Tenant, within a period of thirty (30) days thereafter, (1) shall have failed to pay the sum or sums due if the Event of Default consists of the failure to pay money, or (2) if the Event of Default consists of something other than the failure to pay money, Tenant shall have failed, (a) within sixty (60) days thereafter to cure the Event of Default, or, (b) in the case of an Event of Default not reasonably susceptible of cure within 60 days, to begin the correction of the Event of Default or thereafter fails to actively and diligently in good faith proceed with and continue the correction of the Event of Default until it shall be fully corrected; provided, however, that no such notice from Landlord shall be required nor shall Landlord be required to allow any part of such notice period if Tenant's Event of Default shall give rise to an emergency or imminent threat to the Premises or the health, safety or welfare of any Person or the general public or if Tenant Abandons the Premises; and provided further that if Tenant fails to comply with any provision of Article 9 and Article 20 hereof, the City shall have the right to seek immediate injunctive relief.

ARTICLE 18

SURRENDER OF THE PREMISES; OWNERSHIP OF IMPROVEMENTS

18.1. Surrender. Upon the expiration or earlier termination of this Sublease, Tenant shall peaceably and quietly surrender and deliver up to Landlord, free and clear of all occupancies, liens and encumbrances (other than those liens and encumbrances existing on the Commencement Date or otherwise imposed or asserted by or with the consent or knowledge of Landlord or in accordance with the terms of this Sublease), possession of the Premises, including all Improvements, and including without limitation all installations, additions, alterations, Capital Improvements, equipment (except Tenant's personal property), fixtures and facilities thereon, temporary or permanent, whether installed by Landlord, City, Tenant or a Person with whom Tenant contracted, or whom Tenant employed, hired, or otherwise permitted to enter and/or perform work or services on the Premises, and regardless of any actual or potential rights of such Person or Persons under any arrangement, contract or agreement with Tenant. In the event Tenant does not so surrender the Premises, Landlord, upon or at any time after any such expiration or termination of this Sublease, may, without further notice, enter upon and re-enter upon the Premises and possess and repossess itself thereof, by force, summary proceedings, ejectment or otherwise, and may dispossess Tenant and remove Tenant and all other persons and property from the Premises and may have, hold and enjoy the Premises, as and to the extent the foregoing may be permitted by Applicable Law.

18.2. Ownership of Improvements.

18.2.1. All existing Improvements shall be City's property and remain in and on the Premises. All Capital Improvements constructed by Tenant on the Premises after the Commencement Date in accordance with Article 11 shall be the property of the City and shall remain in and on the Premises upon the expiration or earlier termination of this Sublease in accordance with the terms hereof. Without limiting the foregoing, Tenant shall not be required

to demolish or remove any Improvements (including but not limited to Capital Improvements) upon the expiration or earlier termination of this Sublease, except any Capital Improvements designated by the Department at the time the Department approves them in accordance with Article 11 above.

18.2.2. Tenant acknowledges and agrees that Landlord and City shall not be responsible for any loss or damage occurring to any of Tenant's Property which property shall remain on the Premises or any part thereof after the expiration or earlier termination of this Sublease, and Tenant hereby releases and indemnifies Landlord and City from any claims for such loss or damage. If Tenant chooses to remove any of Tenant's Property at the expiration of this Sublease, Tenant, at Tenant's sole cost and expense, shall repair any damage caused by such removal.

18.2.3 Landlord and City shall from time to time and on not less than thirty (30) days' notice from Tenant to Landlord execute and deliver to Tenant a waiver of landlord's lien as to Tenant's personal property and trade fixtures, in form and substance reasonably acceptable to Landlord, in favor of any party providing purchase money financing of the personal property or trade fixtures as to which such waiver is sought, and in favor of any party providing Tenant with Leasehold Financing in accordance with the terms of this Sublease.

18.3. No Abandonment or Removal.

18.3.1. For purposes of this Sublease, Tenant shall be deemed to have abandoned ("Abandon" or "Abandoned" as the context requires) the Premises if Tenant, without the advance approval of the Department by resolution, does or permits any of the following: (1) vacates the Premises with no apparent intention to return; (2) fails to promptly commence operating the Mann and the programs contemplated by this Sublease, or (3) ceases to host or sponsor Events in the Premises between June 1 and September 1 in any calendar year.

18.3.2. Notwithstanding Section 18.3.1 above, Tenant shall not be deemed to have Abandoned the Premises if Tenant (1) temporarily closes any portion of the Premises to perform Capital Improvements under Plans and Specifications that have been approved by the Commissioner, (2) such closure is necessitated by damage to or destruction of the portion of the Premises closed by Tenant, or the closed portion of the Premises was condemned under power of eminent domain; or (3) such closure is otherwise necessitated by Force Majeure.

18.3.3. Except as explicitly permitted in this Article 18, Tenant shall not at any time during the Term Abandon the Premises or any part of them and shall not remove any of Tenant's Property (except in the ordinary course of business or to replace worn out or obsolete property) or any of the Improvements from the Premises.

ARTICLE 19 SUBLEASES, MORTGAGES AND TRANSFERS

19.1. General Provisions. Except as set forth in Article 9 above and Section 19.4 below, Tenant shall not (1) sub-sublease, assign, mortgage, pledge, encumber, sublicense or

transfer in any manner whatsoever all or any part of this Sublease or all or any part of the Premises, or (2) assign or delegate to any Person Tenant's obligations for the operation, maintenance and repair of the Premises, or any of them (each of 1 and 2 being referred to in this Sublease as a "Transfer"). "Transfer" shall not include any Contract entered into by Tenant under Article 9 above.

19.2. Operation of Law. The prohibition against Transfer set forth in Section 19.1 shall include a prohibition against any assignment, contracting, subcontracting or sublicensing which would otherwise occur by operation of law, merger, consolidation, reorganization or other change in the controlling interest in Tenant's corporate or proprietary structure, or any Transfer by a receiver or trustee in any federal or state bankruptcy, insolvency or other proceedings, or any further Transfer after any consent to one such Transfer may have been given by City under this Sublease (to the extent required).

19.3. Ineffective Transfer. Any purported assignment, contract, subcontract, mortgage, pledge, encumbrance, sublicense or other disposition in violation of this Article 19 shall be null and void, and, without limiting the generality of any other provision in this Sublease, may at Landlord's option, constitute an Event of Default by Tenant without opportunity to cure.

19.4. Permitted Transfers. Notwithstanding the foregoing provisions of this Article 19 or any other provision of this Sublease:

1. Tenant may, with written notice to, but without the consent of, Landlord or City, freely Transfer, in whole or in part, any or all revenues and rights to revenues of Tenant arising out of this Sublease, or Tenant's operation of the Premises, but Tenant shall nevertheless remain fully responsible and liable for compliance with all the provisions of this Sublease;

2. Tenant may, with written notice to, but without the consent of, Landlord or City, pledge, grant security interests in, enter into leases of, or enter into title retention agreements with respect to, any of Tenant's trade fixtures, furniture, equipment and other moveable personal property (including, but not limited to, Tenant's personal property) but not any of the Improvements or Tenant's Capital Improvements;

3. Tenant shall have the right, subject to the terms and provisions of this Sublease, at any time during the Term of this Sublease without the consent of Landlord, to sell or grant to Persons (whether on a long-term or short-term, or continuing or periodic basis, but in no event longer than the Term of this Sublease) licenses, subleases, sublicenses, concessions or similar rights and otherwise grant such Persons rights to use and enjoy any part of the Premises for any purpose related to the ordinary course of the use, operation, exploitation or management of the use(s) permitted by this Sublease in, at or upon the Premises, including, but not limited to, the Amphitheater, the box office, the concession facilities, the catering facilities and the Parking Facilities, including, but not limited to, the Contractors, provided that (a) Tenant shall not be relieved of any obligations and liabilities, actual or contingent, accruing under this Sublease

during the Term, (b) in no event shall Tenant directly or indirectly engage, employ or contract with any Person who (i) does not possess all applicable approvals and licenses necessary to conduct business in the City, (ii) does not comply with the provisions of Article 20 hereof, or (iii) otherwise is lawfully prohibited from doing business with the City; and

4. Tenant shall have the unrestricted right from time to time to execute and deliver a mortgage, deed of trust, pledge and/or collateral assignment (each a "**Leasehold Financing**") of its interest in and to this Sublease as security in connection with financing or indebtedness in any form whatsoever. Landlord shall reasonably endeavor to enter into a reciprocal notice, cure and transfer agreement with the mortgagee in a Leasehold Financing on terms mutually acceptable to it and such mortgagee and to otherwise agree to amendments, modifications and clarifications of the terms of this Sublease (other than Rent and Term) as may be reasonably required by such mortgagee.

19.5. No Release. The Transfer by Tenant of any right, interest in, or obligation under this Sublease shall not relieve Tenant of any obligations and liabilities, actual or contingent, accruing under this Sublease during the Term unless the Department approved the Transfer in advance and the transferee assumes the obligations of Tenant pursuant to an instrument acceptable to City. Tenant acknowledges and agrees that the Department may withhold its approval of any proposed Transfer by Tenant for any reason or no reason or may condition its approval upon any conditions the Department deems necessary or desirable.

19.6. Prohibited Transfer a Default. Any Transfer made or given by Tenant in violation of Section 19.1 above shall be void and shall, at the sole option of Landlord, be deemed an Event of Default without opportunity to cure, entitling Landlord to exercise any or all of its remedies as provided in this Sublease. A consent by the Department and Landlord to one Transfer shall not be deemed to be a consent to any subsequent Transfer.

ARTICLE 20

SPECIFIC LAWS: DISCRIMINATION PROHIBITED; NO DEBT TO CITY; PROHIBITED GIFTS

20.1. Nondiscrimination. This Sublease is entered into under the terms of the Philadelphia Home Rule Charter and in its performance Tenant shall not discriminate nor permit discrimination against any person because of race, color, religion, national origin or sex, sexual orientation, gender identity, or disability. In the event of such discrimination, Landlord may, subject to the provisions of Section 17.8 of this Sublease, exercise any remedy provided to Landlord in Article 17 or at law or in equity.

20.2. Membership.

20.2.1. In accordance with Chapter 17-400 of The Philadelphia Code, Tenant agrees that its payment or reimbursement of membership fees or other expenses associated with participation by its employees in an exclusionary private organization, insofar as such participation confers an employment advantage or constitutes or results in discrimination with

regard to hiring, tenure of employment, promotions, terms, privileges or conditions of employment on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin or ancestry, constitutes substantial breach of this Sublease entitling Landlord, subject to the provisions of Section 17.8 of this Sublease, to all rights and remedies provided herein or otherwise available in law or equity.

20.2.2. Tenant agrees to include Section 20.1 and Section 20.2.1, with appropriate adjustments for the identity of the parties, in all Contracts which are entered into for work to be performed pursuant to this Sublease.

20.2.3. Commission on Human Relations. Tenant further agrees to cooperate with the Commission on Human Relations of the City in any manner which the Commission on Human Relations deems reasonable and necessary for that Commission to carry out its responsibilities under Chapter 17-400 of The Philadelphia Code. Failure to so cooperate shall constitute, without limiting the generality of any other provision in this Sublease, a substantial breach of this Sublease entitling Landlord, subject to the provisions of Section 17.8 of this Sublease, to all rights and remedies provided in this Sublease or otherwise available in law or equity.

20.3. No Debt to City. Tenant warrants that Tenant, its affiliates, and all entities under common control with Tenant or controlled by Tenant are not currently indebted to City. Further, Tenant covenants that Tenant, its affiliates, and all entities under common control with Tenant, will not at any time during the Term be indebted to City for or on account of any delinquent taxes (including but not limited to taxes collected by City on behalf of the School District of Philadelphia), water bills, sewer bills, liens, judgments, fees or other debts for which no written agreement or payment plan satisfactory to City has been established. Tenant shall remain current during the Term with all such payments (to the extent Tenant is responsible therefor pursuant to the terms of this Sublease) and shall inform City in writing of Tenant's receipt of any notices of delinquent payments within five (5) days after receipt. Tenant acknowledges and agrees that any violation of this Section 20.3 shall constitute a material breach of this Sublease entitling Landlord, subject to the provisions of Section 17.8 of this Sublease, to exercise one or more of its remedies at law, in equity, or otherwise provided in this Sublease. In addition, Tenant acknowledges and agrees that false certification or representation by Tenant is subject to prosecution under 18 Pa.C.S.A. § 4904.

20.4. Prohibited Gifts, Gratuities, and Favors.

20.4.1. Tenant must not offer or give, directly or indirectly, anything of value to any official or employee in the Executive or Administrative branch of the City, including any gift, gratuity, favor, entertainment or loan, the receipt of which would violate Executive Order No. 002-04 issued by the Mayor of Philadelphia on August 12, 2004.

20.4.2. Any person who offers or gives anything of value to any City official or employee the receipt of which would violate Executive Order No. 002-04 shall be subject to sanctions with respect to future City contracts. Such sanctions may range from disqualification from participation in particular City contract(s), to debarment, depending on the nature of the particular violation. The terms and duration of such sanctions shall be pursuant to such rules as

the Procurement Commissioner promulgates with respect to contracts subject to competitive bidding, or as the Director of Finance promulgates with respect to all other contracts.

20.5. Philadelphia 21st Century Minimum Wage and Benefits Standard. In accordance with Chapter 17-1300 of the Philadelphia Code (the “**City Minimum Wage Law**”), Tenant represents that it shall comply with the requirements of that chapter as the terms of that chapter exist on the date of execution of this Sublease. Tenant shall promptly provide to the City documents and information verifying its compliance with the City Minimum Wage Law and be subject to sanctions for non-compliance pursuant to that chapter. Tenant will notify its affected employees with regard to the wages that are required to be paid pursuant to that chapter. The inclusion of this Section 20.5 in this Sublease shall not broaden any obligation or liability of Tenant under the City Minimum Wage Law.

20.6. Financial Assistance. In accordance with Chapter 17-1400 of the Philadelphia Code, Tenant represents that no contributions have been made by Tenant or by any party whose contribution is attributed to Tenant that would render Tenant ineligible to apply for or receive Financial Assistance under the provisions of Philadelphia Code Sections 17-1404(1) and 17-1405; and Tenant agrees to complete the Certifications and Covenants of Recipient Of Financial Assistance attached to this Sublease as **Exhibit H**.

ARTICLE 21 NOTICES

21.1. Notices. All notices, demands, requests, consents, certificates, waivers or other communications from either party to the other with respect to this Sublease or the Premises shall be in writing and shall be effective only if sent by (1) certified or registered United States mail, postage prepaid, return receipt requested, or (2) by hand delivery with receipt obtained, or (3) by overnight courier service providing receipted proof of delivery, addressed as follows:

If to the Landlord: Philadelphia Authority for Industrial Development
2600 Centre Square West
1500 Market Street
Philadelphia, PA 19102
Attention: President

With a copy to City: Commissioner
Department of Parks and Recreation
One Benjamin Franklin Parkway – 10th Floor
1515 Arch Street
Philadelphia, PA 19102

and to: Commissioner of Public Property
City of Philadelphia
Room 790 City Hall
Philadelphia, PA 19107

and to: City Solicitor
City of Philadelphia Law Department
One Benjamin Franklin Parkway – 17th Floor
1515 Arch Street
Philadelphia, PA 19102

If to the Tenant: The Mann Center for the Performing Arts
123 South Broad Street, Suite 1930
Philadelphia, PA 19103
Attention: President & CEO

with a copy to: Ballard Spahr Andrews & Ingersoll, LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599
Attention: Tina Makoulian, Esquire

or to such other address as the party to receive notice may from time to time designate by written notice to the other in the manner above described. Notices sent by registered or certified mail shall be effective three business days after mailing. Notices sent by hand delivery shall be effective on the date of delivery if delivered during a business day, or on the next business day if not delivered during a business day. Notices sent by overnight courier service shall be effective on the business day following the day that such notice was received by such courier service for delivery.

ARTICLE 22 ESTOPPEL CERTIFICATES

22.1. Estoppel Certificates. Landlord and Tenant shall, promptly following request by the other from time to time, execute, acknowledge and deliver an Estoppel Certificate to the requesting party or its designee. The term “**Estoppel Certificate**” shall mean a certificate, certifying (1) that this Sublease is unmodified and in full force and effect, or, if modified, stating the nature of such modification and certifying that this Sublease, as so modified, is in full force and effect and the date to which the Rent and other charges or sums due are paid in advance, if any, (2) that there are no uncured defaults on the part of either party, or if there exist any uncured defaults on the part of either party, stating the nature and extent of such uncured defaults, and (3) the correctness of such other information respecting the status of this Sublease as may be reasonably required by the other party. The failure by City or Tenant, as the case may be, to so execute and deliver an Estoppel Certificate within thirty-five (35) business days following written request as required above, shall be conclusive upon such party that as of the date of said request for the same (a) that this Sublease is in full force and effect, without modification except as may be represented by the requesting party, (b) that there are no uncured events of default by either party under this Sublease except as may be represented by the requesting party, and (c) that no Rent has been paid in advance.

ARTICLE 23
APPROVALS BY LANDLORD AND CITY; RECOGNITION OF TENANT

23.1. Approvals by Master Landlord. Except where the provisions of this Sublease explicitly require separate approvals by both Landlord and City, any approval granted by City shall be deemed approval by Landlord.

23.2. Enforcement by City. Tenant acknowledges and agrees that all of Landlord's rights and remedies under this Sublease may be exercised and enforced directly by City. In addition, and without limiting the preceding sentence, Tenant acknowledges and agrees that City is a third party beneficiary of all provisions in this Sublease that require Tenant to obtain the approval or consent of the City or to provide information or documents to City or any department, board, or commission of the City. Wherever this Sublease requires the approval of both Landlord and City, Tenant may submit the matter requiring such approval simultaneously to Landlord and City.

23.3. Person Granting and Manner of Approvals. Tenant acknowledges and agrees that, except as explicitly provided otherwise in this Sublease, wherever this Sublease requires the approval, consent, or review of the City or any department, board, commission or officials of the City, such approval, consent or review shall not be valid and binding on the City unless given, made or performed by department, board, commission or officials designated and in the manner specified. Wherever this Sublease requires Tenant to obtain approval of the City and does not specify the department, board, commission, or officials from whom such Tenant must obtain such approval, then such approval shall not be valid or binding on the City unless obtained from the Commissioner of the Department, or such member of the Department staff as the Commissioner may designate in writing, and in the manner required.

23.4. Review Under Sublease Not a Guarantee or Warranty. Tenant acknowledges and agrees that review, approval and or inspection by the City, or acceptance of any Plans and Specification or Capital Improvements shall not constitute any representation, warranty or guaranty by City as to the substance or quality of the Plans and Specifications, the Capital Improvements or any other matter reviewed, approved or accepted. Neither Tenant nor any other Person may rely in any way on such approval (other than as authorization to Tenant to proceed with such Capital Improvements) and at all times Tenant, including its architects, engineers, employees, agents, contractors and subcontractors, must use their own independent judgment as to the accuracy and quality of all such Plans and Specifications and other matters.

23.5. Review Under Sublease Not Review Required Under Applicable Laws. Review and/or approval by City, under this Sublease, of the Premises and/or Tenant's operation and management of the Premises shall not constitute and shall not be deemed to constitute approval otherwise required by City and all City departments, boards and commissions in connection with any aspect of the Tenant's operation and management of the Premises. At all times Tenant must rely upon and use its own judgment as to the condition of the Premises, its operation and management of the Premises and the compliance of conditions, operations and management with all of the Applicable Laws.

23.6. Landlord's Satisfaction of Its Obligations; Limitation on Recourse. Tenant acknowledges and agrees that Landlord shall have completely and satisfactorily fulfilled all of its obligations under this Sublease by executing the Lease with City and obtaining the Recognition Agreement from the City. Tenant shall have no recourse to Landlord, and Tenant waives and releases any claim it may have, for any action by City exercising Landlord's rights under this Sublease. Tenant specifically agrees to look solely to Landlord's interest in Landlord's leasehold estate for the recovery of any judgment, covenant, agreement, obligation, warranty, representation, or undertaking under the Sublease, or otherwise, from Landlord. It is agreed that Landlord and its officials, officers, employees, agents, and representatives shall not be personally liable for any such judgment or claim issued or arising in connection with this Sublease.

23.7. Recognition of Tenant. Simultaneously with the execution of the Lease, Landlord shall obtain from City a Recognition Agreement in the form attached hereto as **Exhibit I** (the "**Recognition Agreement**"). Tenant's obligations under this Sublease are contingent upon Tenant's receipt of a copy of the fully executed Lease and original Recognition Agreement executed by the City.

23.8. Non-Disturbance of Sub-Subtenant. Landlord agrees to enter into a non-disturbance agreement with a restaurant sub-subtenant occupying the portion of the Premises identified as "Dining Pad for Tent" on the Master Plan pursuant to a sub-sublease with Tenant, provided that Tenant first shall have obtained the approval of the Commissioner of such non-disturbance agreement and such sub-sublease, which approval shall not be unreasonably withheld or delayed. Tenant acknowledges and agrees that it would not be unreasonable for the Commissioner to withhold approval of any such non-disturbance agreement and sub-sublease that would impose any obligation on Landlord or the City to (a) allocate or expend funds, (b) operate, maintain or repair the Center, (c) restore or rebuild the Center after fire or other casualty, (d) provide services to such sub-subtenant, (d) recognize any "Exclusives" granted to such sub-subtenant, or (e) recognize or return any deposit or prepayment of consideration by such sub-subtenant not actually received by Landlord or the City.

ARTICLE 24

TENANT'S BOOKS AND RECORDS; AUDIT AND INSPECTION

24.1. Maintenance of Books and Records. Tenant shall maintain full and complete books of accounts and other records, maintained in accordance with generally accepted accounting principles (to the extent applicable to Tenant) consistently applied, including but not limited to the orderly arrangement of documents to support these records. Tenant shall also keep detailed, accurate records for each of the Cultural Events and all other Events regarding tickets sold at each price level, free admissions in accordance with this Sublease, Educational and Outreach Programs, concession prices and sales, and Tenant's costs and expenses for hosting or sponsoring such Events and Educational and Outreach Programs.

24.2. Tenant's Audited Financial Statements. Tenant shall submit its annual tax returns and its audited financial statements to the Commissioner, upon completion and certification by Tenant's Certified Public Accountant and tax preparer.

24.3. Inspection and Audit. At any time during the Term (but not more than once in any year during the Term of this Sublease), Tenant shall permit City to perform, at its sole cost and expense, an inspection or audit of Tenant's full and complete books of account and other records for the immediately preceding three years. At all times during normal business hours during the Term, Tenant shall make available for examination by City, in a location within the City of Philadelphia, all of its records with respect to all matters covered by this Sublease, and shall permit City to inspect, audit, examine, and make excerpts or transcripts from such records, and to make inspection audits or examinations of all Contracts, invoices, materials and other data relating to all matters covered by this Sublease.

24.4. Maintenance of Records. For purposes of City's right to inspect or audit Tenant's books and records pursuant to the terms of Section 24.3 above, Tenant shall retain its full and complete books of account and other records, maintained for purposes of compliance with this Article 24, for at least three (3) years following the expiration or earlier termination of this Sublease, or longer if required by Applicable Laws. Tenant shall permit City to inspect any equipment used by Tenant, including, but not limited to, cash registers and recording machines, and all reports or data generated from or by such equipment.

24.5. Tenant Must Cooperate With Inspection. Tenant shall reasonably cooperate and assist the City in any inspection, audit or examination City elects to conduct pursuant and shall protect from disclosure to third parties not involved in the inspection or audit all of Tenant's books and records and other data and information discovered, examined or copied during the course of such inspection, audit or examination. Tenant shall provide to City any other documents and records not specifically mentioned in this Article 24 that City may reasonably request from time to time.

ARTICLE 25

QUIET ENJOYMENT; LANDLORD'S RIGHT TO INSPECT

25.1. Quiet Enjoyment. Landlord covenants that, except as set forth in Article 17 regarding an Event of Default by Tenant, or in Section 25.3 below, Tenant shall have quiet possession of the Premises without hindrance or molestation by or from Landlord, the City, or any Person taking, claiming or holding by, through or under Landlord or the City, and all of the rights, easements, licenses, privileges, appurtenances and facilities granted herein during the Term, subject, however, to the terms and conditions of this Sublease.

25.2. Coordination of Events and Other Activities. Tenant agrees to consult with City and reasonably cooperate and coordinate the scheduling of Events at the Premises with activities, events, functions, programs or gatherings in any part of Fairmount Park to accommodate the respective interests of City and Tenant.

25.3. Landlord's Right to Inspect Premises. Landlord reserves the right to enter the Premises and the Improvements during normal business hours upon at least seventy-two (72) hours prior notice for purposes of conducting normal and periodic inspections of the Premises and to determine Tenant's compliance with the terms, conditions, and requirements of this Sublease, including but not limited to inspecting the Capital Improvements. Tenant shall permit

City to enter the Premises at any time and without advance notice to Tenant to perform City's normal police, fire, and other municipal functions.

ARTICLE 26 GENERAL

26.1. Integration Clause; Entire Agreement. This Sublease, together with the Exhibits, contains all the promises, agreements, conditions, inducements and understandings between Landlord and Tenant relating to the Premises, and there are no promises, agreements, conditions, inducements, understandings, warranties or representations, oral or written, expressed or implied, between them other than as set forth in this Sublease, together with the Exhibits. In no event shall an Event Schedule or Schedule of Fees and Charges, be deemed to be promises, agreements, assurances, guarantees, conditions, inducements, understandings, warranties or representations outside of or in addition to those set forth in this Sublease. Without in any way limiting the foregoing, the Concession Agreement is superseded by this Sublease.

26.2. Invalidity of Certain Provisions; Severability. If any provision of this Sublease shall, to any extent, be held invalid or unenforceable, then the remaining provisions of this Sublease, and the application of such provisions to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Sublease shall be valid and enforceable to the fullest extent permitted by law.

26.3. Captions. The captions of this Sublease are for convenience only, are not a part of this Sublease, and do not in any way define, limit or describe the scope, intent or terms of this Sublease.

26.4 Time; Force Majeure.

26.4.1. Time is of the essence of this Sublease.

26.4.2. Notwithstanding Section 26.4.1 above, if Tenant cannot perform, observe, or satisfy any of the responsibilities, obligations, requirements, conditions, restriction, or limitations applicable to it under this Sublease because of a Force Majeure, then Tenant shall be excused from having to perform, observe, or satisfy such responsibility, obligation, requirement, condition, restriction, and limitation for the duration of the Force Majeure (if it is a continuing event or occurrence) or until Tenant can reasonably take measures to perform, observe, or satisfy such responsibility, obligation, requirement, condition, restriction, or limitation notwithstanding the Force Majeure. In no event, however, shall any Force Majeure excuse Tenant from the performance, observance, or satisfaction of any responsibility, obligation, requirement, condition, restriction, and limitation applicable to it under this Sublease for longer than three (3) years from the commencement or occurrence of such Force Majeure.

26.5. Use of Neuter Pronouns. The use in this Sublease of the neuter pronoun in any reference to Landlord or Tenant shall be deemed to include any individual of the Landlord or Tenant, and any use in this Sublease of the words "successors and assigns" of Landlord or Tenant shall be deemed to include the heirs, legal representatives, successors and assigns of

Landlord or Tenant. When the context of this Sublease requires, the neuter gender includes the masculine and feminine, and the singular includes the plural.

26.6. Amendment. This Sublease shall not be amended except by an instrument in writing executed by Landlord and Tenant. No oral representations, whenever made, by any official or employee of Landlord or Tenant shall be effective to amend the terms of this Sublease. This Sublease cannot be amended, modified, or supplemented by any course of conduct between the Landlord and Tenant.

26.7. Governing Law; Interpretation. This Sublease shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. The language in all parts of this Sublease shall in all cases be construed as a whole according to its fair meaning, and not strictly for or against either Landlord or Tenant. Landlord and Tenant agree that they have each participated equally in the negotiation and writing of this Sublease and that the rule of construing or interpreting any ambiguities in an agreement against the drafter of the agreement shall not apply in connection with this Sublease.

26.8. Binding on Successors. Subject to Article 19 above, the provisions in this Sublease shall extend to and be binding upon the parties hereto and their respective heirs, personal representatives, successors and assigns.

26.9. No Third-Party Beneficiaries. Subject to Article 23, nothing in this Sublease is intended to confer a third party beneficiary right upon any Person.

26.10. Survival. Any and all agreements set forth in this Sublease which, by its or their nature, would reasonably be expected to be performed after the termination or expiration of this Sublease shall survive and be enforceable after such termination or expiration. Any and all liabilities, actual or contingent, which shall have arisen during the Term in connection with this Sublease, shall survive any termination or expiration of this Sublease. Any express statement of survival contained in any Article or Section of this Sublease shall not be construed to affect the survival of any other Article or Section, which shall be determined pursuant to this Section 26.10.

26.11. No Brokers. Tenant represents and warrants to Landlord that Tenant has had no dealings, negotiations or consultations with respect to the Premises or this transaction with any broker or finder and that no broker or finder called the Premises to Tenant's attention for lease and/or operation, or took any part in any dealings, negotiations or consultations with respect to the Premises or this Sublease. In the event that any broker or finder claims to have submitted the Premises to Tenant, to have induced Tenant to lease and/or operate the Premises or to have taken part in any dealings, negotiations or consultations with respect to the Premises or this Sublease, Tenant will be responsible for and, without limiting the generality of any other provision of this Sublease, will indemnify and save Landlord and City harmless from and against all costs, fees (including, without limitation, reasonable attorneys' fees), expenses, liabilities and claims incurred or suffered by Landlord and City as a result thereof.

26.12. Memorandum. A memorandum of this Sublease in form and content mutually satisfactory to Landlord and Tenant, and any modifications thereof or additions thereto, shall be

duly executed by Landlord and Tenant and shall be duly recorded by Tenant in the City of Philadelphia, Department of Records.

26.13. Sole Cost and Expense. Any provision of this Sublease requiring Tenant to perform any obligation at its “sole cost and expense”, or words of similar import, shall not prohibit Tenant from requiring parties other than Landlord and City to reimburse Tenant for or contribute towards all or any part of such cost or expense or from performing such obligation.

26.14. Authority. Landlord and Tenant each represents that the individual executing this Sublease has full authority to execute and deliver this Sublease on behalf of such party and to bind such party thereto.

26.15. Waivers. No breach of any term, covenant or condition in this Sublease by Tenant shall be deemed waived for any reason unless waived in writing by Landlord or City. The waiver by Landlord or City of any breach of any provision herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained.

26.16. No Partnership. The parties hereto agree that nothing contained in this Sublease shall be deemed or construed as creating a partnership, joint venture, or association between Landlord and Tenant, nor cause either party to be responsible in any way for the debts or obligations of the other party, and neither the method of computing Rent nor any other provision contained in this Sublease nor any acts of the parties hereto shall be deemed to create any relationship between Landlord and Tenant other than the relationship of landlord and tenant.

26.17. No Implied Consent. **Landlord’s failure to respond orally or in writing to any request or offer from Tenant to modify or waive any of Tenant’s obligations under this Sublease does not constitute the Landlord’s consent to Tenant’s request or offer. Tenant agrees it must strictly and promptly comply with its obligations under this Sublease unless and until its request or offer to modify or waive any provision of this Sublease is explicitly accepted in writing by the Landlord.**

26.18. “Must” and “Shall”. As used in this Sublease, the words “must” and “shall” are imperative and impose affirmative obligations for prompt performance by the party to whom the obligation applies.

26.19. Multiple Counterparts. This Sublease may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

26.20. Use of Premises. Notwithstanding anything to the contrary contained herein, the use of the Premises by the citizens of the City of Philadelphia, Commonwealth of Pennsylvania and the general public shall be subject to Tenant’s right to receive payment for tickets (except for the free admissions to Cultural Events pursuant to Section 7.1.2 hereof) and compliance of all persons with Applicable Laws and any reasonable rules and regulations established by Tenant which are not inconsistent with the terms of this Sublease.

ARTICLE 27
TENANT'S REPRESENTATIONS AND WARRANTIES

27.1. Representations and Warranties. Tenant hereby represents and warrants to Landlord and the City as follows:

27.1.1. Subsistence. Tenant is a Pennsylvania not-for-profit corporation duly formed and presently subsisting under the laws of the Commonwealth of Pennsylvania.

27.1.2. Due Authorization. Tenant has duly authorized the execution and delivery of this Sublease and the agreement terminating the Concession Agreement, and the parties who have executed and delivered this Sublease and the agreement terminating the Concession Agreement on behalf of Tenant are the parties authorized to do so.

[The rest of this page is left intentionally blank. Signatures appear on the following page.]

IN WITNESS OF THE TERMS, CONDITIONS, COVENANTS, AND AGREEMENTS SET FORTH ABOVE, Landlord and Tenant have caused their duly authorized officials and representatives to execute this Sublease as of the date first written above.

LANDLORD:

PHILADELPHIA AUTHORITY FOR
INDUSTRIAL DEVELOPMENT

By: _____
James McManus
Chairman

TENANT:

THE MANN CENTER FOR THE
PERFORMING ARTS, a
Pennsylvania non-profit corporation

By: _____
Catherine M. Cahill
President and CEO

Attest: _____
Secretary