



JOHN ANSON FORD AMPHITHEATRE

LICENSE AGREEMENTS

EXHIBIT A

STANDARD TERMS AND CONDITIONS

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STANDARD TERMS AND CONDITIONS

JOHN ANSON FORD AMPHITHEATRE LICENSE AGREEMENTS

§ 100. DEFINITIONS. For purposes of this Agreement, including all Exhibits thereto, the following definitions shall govern its interpretation.

§ 101. "Agreement" shall mean the agreement by and between the Licensee and the County of Los Angeles, which agreement shall include the primary document and all exhibits referenced therein.

§ 102. "Commission" shall mean the Arts Commission of the County of Los Angeles.

§ 103. "County" shall mean the County of Los Angeles.

§ 104. "Event/Performance" shall mean the event, performance and/or associated rehearsals identified in Section 3 ("Purpose/Date/Time") of the main document to this Agreement.

§ 105. "Managing Director" shall mean the Managing Director of the John Anson Ford Theatres, and/or his designee.

§ 106. "Ford Theatre" shall mean the John Anson Ford Theatres located at 2580 Cahuenga Boulevard, Los Angeles, California.

§ 107. "Licensee" shall mean the agency or individual contracting with the County of Los Angeles under the terms of this Agreement, including the Licensee's employees, agents, assigns, contractors and anyone else involved in any manner in the exercise of the rights therein given to the Licensee.

§ 108. "State" shall mean the State of California.

§ 200. ASSURANCES/CERTIFICATIONS. The Licensee provides the following assurances and certifications, and agrees to the following terms:

§ 201. Compliance with Laws (a) The Licensee certifies and agrees to fully comply with and observe, in all respects, all laws, ordinances, rules and regulations of the local fire department, police department, health department and any other governmental agency, department or bureau, whether federal, State or municipal, in connection with the use of the Ford Theatre hereunder. In addition, Licensee agrees to obtain any and all necessary permits which may be required by the fire department, police department, or any other governmental agency in connection with Licensee's use of the Ford Theatre hereunder. In the event the Ford Theatre is closed as a result of Licensee's failure to comply with any local ordinances, rules, or regulations, or to obtain any necessary permits, Ford Theatre shall have no obligations, responsibility or liability whatsoever in connection therewith. The Licensee shall indemnify and hold the County, its officers, employees and agents harmless from any loss, damage or liability resulting from a violation by the Licensee, its agents, officers and employees of any such laws, rules, regulations, ordinances, and directives.

(b) Licensee covenants and agrees to pay all federal and state social security, unemployment insurance, disability and all other wage taxes or imports now or hereafter imposed for the

persons hired or performing services in connection with this Agreement who are employees of Licensee, and Licensee shall indemnify and hold the County and the Ford Theatre harmless from any and all claims for such taxes and payments. Throughout the term of this License Agreement, at the Licensee's sole cost and expense, the Licensee shall keep or cause to be kept in full force and effect, an existing Workers Compensation Insurance Policy covering all persons hired by the Licensee.

(c) The Licensee agrees not to permit any performance in the Ford Theatre which is obscene, indecent or offensive as measured by the local community standards.

§ 202. Copyrights/Privacy Rights. The Licensee shall neither violate nor infringe upon any copyright, right of privacy, or other statutory or common law right of any person, firm or corporation, nor, if authorized to do radio or television broadcasts pursuant to amendment hereto, violate the rules and regulations of the Federal Communications Commission or the Code of Good Practices of the National Association of Broadcasters, and the Licensee will not defame or harm, the reputation of any person, firm or corporation as a result of its use of the Ford Theatre. The Licensee shall, at Licensee's sole cost and expense, obtain any and all government permits, approvals, copyright licenses, intellectual or creative property use authorizations or concurrences required for the performance or use of the Ford Theatre. Further, the Licensee agrees to promptly pay any royalty fees or other charges required from private persons or corporations for the production and presentation of the performance hereunder. The Licensee shall indemnify, defend and hold the County, its officers, employees and agents harmless from any sanctions or other liability which may be assessed against the County by reason of the Licensees failure to comply with the foregoing.

§ 203. Civil Rights Laws. The Licensee assures and certifies that it shall comply with all applicable federal and State statutes to the end that no person shall, on the grounds of race, religion, ancestry, national origin, sex, age, condition of physical disability, marital status or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program or activity supported by this Agreement.

§ 204. Safety and Working Conditions. The Licensee shall comply with the provisions of the federal Occupational Safety and Health Act of 1970, as amended (29 USC § 651 *et seq.*) and the California Occupational Safety and Health Act and successor statutes, as well as other applicable health and safety statutes, ordinances, regulations and rules. Licensee assures that no employee will be required or permitted to work under working conditions which are unsanitary, hazardous or otherwise detrimental to the person's health or safety.

§ 205. Drug Free Workplace Compliance. The Licensee hereby warrants and certifies that it shall comply with California Drug-Free Workplace Act of 1990 (*Cal. Gov. Code* § 8350 *et seq.*), as amended, including provision of the requisite certification as set forth therein.

§ 206. Conflict of Interest/Contracts Prohibited. (a) The Licensee represents and warrants that no County employee whose position enables him/her to influence the award of this Agreement, and no spouse or economic dependent of such employee, is or shall be employed in any capacity by the Licensee, or shall have any direct or indirect financial interest in this Agreement.

(b) The Licensee represents and warrants that it is aware of, and its authorized officers have read, the provisions of Los Angeles County Code Chapter 2.180 entitled "Contracting With Current or Former County Employees" (available at: <http://ordlink.com/codes/lacounty/>) and that execution of this Agreement will not violate those provisions. Anyone who is a former employee of the County at the time of

execution of this Agreement or who subsequently becomes affiliated with the Licensee in any capacity shall not participate in the provision of services provided under this Agreement or share in the profits of Licensee earned for a period of one year from the date he/she separated from County employment.

§ 207. Lobbying. The Licensee certifies that each County lobbyist as defined in Los Angeles County Code § 2.160.010, retained by Licensee, shall fully comply with the County Lobbyist Ordinance (Los Angeles County Code Chapter 2.160). Failure on the part of any County lobbyist retained by Licensee to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this Agreement upon which County may immediately terminate or suspend this Agreement.

§ 208. County Layoffs. Should the Licensee require additional or replacement personnel after the effective date of this Agreement, the Licensee agrees to give due consideration for such employment openings to qualified permanent County employees who are targeted for layoff or qualified former County employees who are on a re-employment list during the life of this Agreement.

§ 209. GAIN/GROW Program Participants. Should the Licensee require additional or replacement personnel after the effective date of this Agreement, the Licensee agrees to give due consideration for such employment openings to participants in the County's Department of Public Social Services' Greater Avenue for Independence (GAIN) and General Relief Opportunities for Work (GROW) Programs who meet Licensee's minimum qualifications for the open position. Upon request from Licensee, the County will refer GAIN/GROW participants by job category to the Licensee for consideration.

§ 210. Fraud/Abuse/Ethical Standards. (a) The Licensee, in performing all obligations under the terms of the Agreement, certifies and assures that it shall undertake reasonable efforts to safeguard against fraud and abuse with respect to use of County property, and/or expenditure of public funds allocated and paid under this Agreement, if any.

(b) The Licensee agrees to establish, maintain, implement, and enforce standards of ethical conduct for all its employees. Such standards shall include, but not be limited to, the prohibition against (1) solicitation or receipt of bribes and/or solicitation or receipt of illegal gratuities; (2) concealing, mutilating or destroying public records or public property; (3) failing to account for public money or public property; and (4) conspiracy to commit an offense against or to defraud the County of Los Angeles, the State, or the federal government.

§ 211. Notice to Employees Regarding Safely Surrendered Baby Law. The Licensee shall notify and provide to its employees, and shall require each subcontractor, if any, to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is attached to this **Exhibit A** of this Agreement and is also available on the Internet at www.babysafela.org for printing purposes.

§ 212. Licensee's Acknowledgment of County's Commitment to the Safely Surrendered Baby Law. The Licensee acknowledges that the County places a high priority on the implementation of the Safely Surrendered Baby Law. The Licensee understands that it is the County's policy to encourage all County contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster in a prominent position at the Licensee's place of business. The Licensee will also encourage its subcontractors, if any, to post this poster in a prominent position in the subcontractor's place of business. The County's Department of Children and Family Services will supply the Licensee with the poster to be used.

§ 213. Licensee's Warranty of Compliance with County's Defaulted Property Tax Program. Licensee's acknowledges that County has established a goal of ensuring that all individuals and businesses that benefit financially from County through contact are current in paying their property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon County and its taxpayers. Unless Licensee qualifies for an exemption or exclusion, Licensee warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of this contract will maintain compliance, with the Los Angeles County Code Chapter 2.206.

§ 214. Termination for Breach of Warranty to Maintain Compliance with County's Defaulted Property Tax Reduction Program. Failure of Licensee to maintain compliance with the requirements set forth in Paragraph § 213 "Licensee's Warranty of Compliance with County's Defaulted Property Tax Program" shall constitute default under this contract. Without limiting the rights and remedies available to County under any other provision of this contract, failure of Licensee to cure such default within 10 days of notice shall be grounds upon which County may terminate this contract and/or pursue debarment of Licensee, pursuant to County Code Chapter 2.206.

§ 215. Inspection/Evaluation. Licensee acknowledges its personal inspection and evaluation of the Ford Theatre (including dressing rooms), the surrounding area, and the extent to which the physical condition thereof will affect Licensee's operations. Licensee accepts the licensed premises in their present physical condition, and agrees to make no demands upon the County for improvements or alterations thereof.

§ 216. Title. Licensee acknowledges the title of the County, and/or any other public agencies having jurisdiction thereon, in and to the Ford Theatre and the improvements located thereon, and covenants and agrees never to assail, contest or resist said title.

§ 300. DEPOSITS

§ 301. Required Deposit. Licensee shall deposit with the Managing Director the required deposit(s) in the amount(s) and within the timeframe(s) identified in Section 4 of the primary document to this agreement for the purpose of securing the performance by the Licensee of the Licensee's obligation to make the monetary payments in a timely fashion as set forth in the Agreement and the obligation of the Licensee to leave the premises in a clean and undamaged condition in accordance with § 613 hereof.

§ 302. Additional Deposit. The Licensee may also be required to deposit an additional sum as identified in the Agreement with the Managing Director to secure the contractual promise of the Licensee to vacate the premises upon notice as set forth in the Agreement. The Ford Theatre shall retain, as additional deposit, all ticket revenue received at the box office and release it to the Licensee, less expenses, License fee, and additional costs, after the performance.

§ 303. Return of Deposit. Upon the Licensee's peaceably and timely vacating the premises without any arrearage in the payments due to the County and upon leaving the premises in a clean, undamaged condition, the County shall refund to the Licensee the appropriate amounts from the referred deposits after deducting from the deposits the actual cost to the County for cleaning and/or repairing the premises as well as any other fees agreed upon herein. In the event that the cost of cleaning and/or repairing the premises (following the Licensee's vacating the premises) together with the sum of other fees agreed upon herein exceeds the amount of such deposit, the Licensee hereby agrees to pay the County any such excess sums due to

the County under the terms of this Agreement including, but not limited to, security, parking, custodial, rentals, labor, concession and merchandising fees, and communication costs necessitated by the use of the premises herein permitted (as applicable). In the event that all sums due the County herein exceed the total sum of all deposits herein, the Licensee shall immediately pay the County remaining sums of money due the County.

§ 400. INDEMNIFICATION AND INSURANCE

§ 401. Indemnification. The Licensee shall indemnify, defend and hold harmless the Los Angeles Philharmonic, the Ford Theatre Foundation and the County of Los Angeles and its Special Districts, and their elected and appointed officers, employees, volunteers and agents, from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with Licensee's acts and/or omissions arising from and/or related to this agreement. Such indemnification shall extend to defense costs and legal fees, and claims for damages of any nature whatsoever, including, without limitation, claims for bodily injury, death or personal injury (including any Workers' Compensation suits, liability, or expense), or property damage (including damage to County's property), arising from or connected with Licensee's operations hereunder or which may be caused or alleged to be caused by any act, or omission to act, on the part of the Licensee or any of its employees or agents, resulting in any infringement upon personal rights, such as libel, slander, invasion of privacy, and copyright violation, or by any act or omission to act on the part of the Licensee, its employees or agents, which results in a dangerous or defective condition on the premises, or otherwise arising from or connected with use of the Ford Theatre by or on behalf of the Licensee by any person pursuant to this Agreement. The foregoing indemnity set forth in this § 401 shall not extend to any claims arising from the negligence or willful misconduct of Licensor, its agents, employees, representatives or contractors including without limitation, Licensor's maintenance or use of the building or any structural or premises-related defects of the building.

§ 402. Insurance. (a) **General.** Without limiting the Licensee's indemnification of the County, and during the term of and except as otherwise provided in this Agreement, the Licensee shall provide and maintain, and shall require all of its sub-contractors and vendors to maintain, the following programs of insurance specified in this Agreement. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by the County, Ford Theatre Foundation or Los Angeles Philharmonic, and such coverage shall be provided and maintained at Licensee's own expense.

(b) **Insurance Coverage Requirements.** Licensee shall maintain the following programs of insurance:

- 1) General Liability insurance (written on ISO policy form CG 00 01 or its equivalent) with limits not less than the following:

- General Aggregate – \$2 million
- Each Occurrence – \$1 million
- Products and Completed Operations – \$1 million
- Personal and Advertising Injury – \$1 million
- Fire Legal Liability – \$50,000

This insurance shall list the Los Angeles Philharmonic, Ford Theatre Foundation and County of Los Angeles and its Special Districts, and their elected and appointed officers, employees, volunteers and agents, as additionally insured

with respect to liability arising from and/or related to this Agreement.

- 2) Automobile Liability insurance (written on ISO policy form CA 00 01 or its equivalent) with limit of liability of not less than \$1 million for each accident. Such insurance shall include coverage for all “owned,” “hired” and “non-owned” vehicles, or coverage for “any auto.”
- 3) Workers Compensation and Employers’ Liability insurance providing workers compensation benefits, as required by the *California Labor Code* or by any other State, and for which Licensee is responsible. This insurance shall include Employers’ Liability coverage with limits of not less than \$1 million for each accident.

(c) **Insurer Financial Ratings:** Insurance is to be provided by an insurance company acceptable to the County with an A.M. Best rating of not less than A:VII, unless otherwise approved by the County.

(d) **Evidence of Insurance:** Certificate(s) or other evidence of coverage satisfactory to the County shall be delivered to the Managing Director prior to any use of the Ford Theatre by Licensee. Such evidence of insurance shall:

- 1) Specifically identify this Agreement;
- 2) Clearly evidence all coverages required in this Agreement;
- 3) Contain the express condition that County is to be given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance;
- 4) Include copies of the additional insured endorsement to the commercial general liability policy, adding the Los Angeles Philharmonic, Ford Theatre Foundation and the County of Los Angeles and its Special Districts, and their elected and appointed officers, employees, volunteers and agents, as additionally insureds for all activities arising from this Agreement.
- 5) Identify any deductibles or self-insured retentions for County’s approval. The County retains the right to require Licensee to reduce or eliminate such deductibles or self-insured retentions as they apply to County, or, require Licensee to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State.

(e) **Failure to Maintain Coverage.** Failure on the part of the Licensee to procure or maintain the required insurance, or to provide evidence of insurance coverage acceptable to County, shall constitute a material breach of contract upon which County may immediately terminate or suspend this Agreement. County, at its sole option, may obtain damages from Licensee resulting from said breach.

Alternatively, County may purchase such required insurance coverage, and without further notice to Licensee, County may deduct from sums due to Licensee any premium costs advanced by County for such insurance.

(f) **Notification of Incidents, Claims or Suits:** Licensee shall report to County:

- 1) Any accident or incident relating to services performed under this Agreement which involves injury or property damage which may result in the filing of a claim or lawsuit against Licensee and/or County. Such report shall be made in writing within 24 hours of occurrence.
- 2) Any third party claim or lawsuit filed against Licensee arising from activities related to this Agreement.
- 3) Any injury to a Licensee employee or agent which occurs on County property. This report shall be submitted on a County “Non-employee Injury Report” to the Managing Director.
- 4) Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies or securities entrusted to Licensee under the terms of this Agreement.

(g) **Compensation for County Costs:** In the event that Licensee fails to comply with any of the indemnification or insurance requirements of this Agreement, and such failure to comply results in any costs to County, Licensee shall pay full compensation for all costs incurred by County.

(h) **Insurance Coverage Requirements for Sub-contractors and Vendors:** Licensee shall ensure any and all sub-contractors and vendors performing services under this Agreement meet the insurance requirements of this Agreement by either:

- 1) Providing evidence of insurance covering the activities of sub-contractors and vendors, or
- 2) Providing evidence submitted by sub-contractors and vendors evidencing that sub-contractors and vendors maintain the required insurance coverage. County retains the right to obtain copies of evidence of sub-contractor and vendor insurance coverage at any time.

§ 403. Self-Insurance and Self-Insured Retentions. Self-insurance programs are subject to separate approval by the County upon review of evidence of Licensee’s financial capacity to respond. Additionally, such programs must provide the County with at least the same protection from liability and defense of suits as would be afforded by first-dollar insurance. The County will consider a self-insured program as an alternative to commercial insurance from the Licensee upon review and approval of the following:

(a) A formal declaration to be self-insured for the type and amount of coverage indicated. This can be a corporate resolution or a certified statement from a corporate official or an authorized principal of a partnership or a sole proprietorship. Licensee must notify the County immediately of discontinuation or substantial change in the program.

(b) Agreement to provide the County at least the same defense of suits and payment of claims as would be provided by first-dollar commercial insurance.

(c) Agreement to notify the County immediately of any claim, judgment, settlement, award, verdict or change in Licensee's financial condition which would have a significant negative effect on the protection that the self-insurance program provides the County.

(d) Name, address and telephone number of Licensee's legal counsel and claims representative, respectively, for the self-insurance program.

(e) Financial statement that gives evidence of Licensee's capacity to respond to claims falling within the self-insured program. Resubmission is required at least annually for the duration of the affected operation or more frequently at County's request. **FAILURE TO COMPLY WILL RESULT IN WITHDRAWAL OF COUNTY APPROVAL.**

§ 404. Public Entities. (a) To the extent both parties to this Agreement are public entities, and this provision is activated in writing by the County in the foregoing Agreement, the following provision shall be substituted for §§ **401, 402** and **403** herein:

In contemplation of the provisions *California Government Code* Section 895.2 imposing certain tort liability jointly upon public entities solely by reason such entities being parties to an Agreement as defined by *California Government Code* Section 895, the parties hereto, as between themselves, pursuant to the authorization contained in Sections 895.4 and 895.6, will each assume the full liability imposed upon it, or any of its officers, agents, or employees by law for injury caused by negligent or wrongful act or omission occurring in the performance of this Agreement to the same extent that such liability would be imposed in the absence of Section 895.2. To achieve the above-stated purpose, each party indemnifies and holds harmless the other party solely by virtue of Section 895.2. The provision of *California Civil Code* Section 2778 is made a part hereto as if fully set forth herein. Licensee certifies that it has adequate self insured retention of funds to meet any obligation arising from this Agreement.

§ 405. Failure to Procure Insurance. Except as otherwise provided in writing by the County, failure on the part of the Licensee to procure or maintain required program(s) of insurance or otherwise evidence compliance with this § **400**, shall constitute a material breach of contract upon which the County may immediately terminate this Agreement.

§ 500. CANCELLATION OF EVENT/PERFORMANCE

§ 501. Force Majeure. (a) The parties will be excused from the performance of this Agreement in whole or in part, only by reason of the following causes:

- (1) when such is prevented by operation of law;
- (2) when such is prevented by an irresistible superhuman cause, including but not limited to flood, earthquakes and fires; and,

(3) when such is prevented by an act of the public enemies of the State or of the United States of America, or by strike, mob violence, fire, delay in transportation beyond the control of Licensee, or unavoidable casualty.

(b) In the event the Licensee performance is excused in accordance with this § 501, and the Event/Performance is canceled, the County agrees to reimburse the Licensee the License fee paid to the County pursuant to Section 4 of this Agreement; excluding extraordinary costs and expenses incurred by the County at the direct request of the Licensee. Reimbursement shall be without interest and may, in the Managing Director's sole discretion, be reduced by costs incurred by the County as a direct result of instructions from the Licensee with respect to the canceled Event/Performance.

§ 502. Cancellation of Event/Performance. (a) Except as otherwise expressly provided herein, in the event the Licensee cancels the Event/Performance at the Ford Theatre, Licensee forfeits the License fee paid to the County pursuant to Section 4 of this Agreement, and shall remain responsible for other costs associated incurred by the County with respect to the Event/Performance as provided in this Agreement.

(b) The Managing Director, in his/her sole discretion, may reimburse the Licensee the License fee paid to the County pursuant to Section 4 of this Agreement; excluding extraordinary costs and expenses incurred by the County. Reimbursement may be made if the Licensee provides information to the Managing Director that cancellation of the Event/Performance could not otherwise be avoided by exercise of Licensee's reasonable due care. To the extent reimbursement is approved pursuant to this § 502, it shall be without interest.

§ 600. OPERATIONAL RESPONSIBILITIES

§ 601. County Rules. Licensee shall comply with and abide by all applicable rules, regulations and directions of the County.

§ 602. Permits/Licenses. Licensee shall comply with all applicable County and local ordinances and all State and federal laws, and in the course thereof obtain and keep in effect all permits and licenses required to conduct the permitted activities at the Ford Theatre.

§ 603. Event/Performance Start Time. The Event/Performance start time(s) shall be as set forth in the primary document to this Agreement. In the event that the start time is changed by the Licensee after tickets have been placed on sale, the Licensee will be subject to a penalty of one thousand dollars (\$1,000) unless a plan to notify ticket buyers and the public of the time change is approved by the Managing Director. If and when the planned notification activities have been carried out to the satisfaction of the Managing Director, the penalty will be withdrawn.

§ 604. Front of House. (a) The Ford Theatre gates shall be open to all patrons not less than two hours prior to the advertised start time of each evening Event/Performance and one hour prior to morning events. The house (theatre) doors are opened one hour before the Event/Performance is scheduled to begin. Set-up may continue after the house is open. The start of the Event/Performance may be delayed no more than five minutes; up to fifteen minutes are allowed in cases of extreme emergency as authorized by the Managing Director. Licensee will be assessed a violation fee of \$250.00 for each event that does not allow the house to be opened or that does not begin in accordance with this § 604.

(b) Except as otherwise expressly authorized by the Managing Director, all performances

other than films which are longer than one hour will have a minimum of one fifteen (15) minute intermission. Films and performances that are less than one hour in duration may be performed without an intermission. It shall be the Licensee's responsibility to inform the Ford Theatre's Event Services Manager of the length of the performance, the approximate time of intermission, and an acceptable time for seating latecomers. Licensee will be assessed a violation fee of \$500.00 for each event that does not provide for an intermission in accordance with this **§ 604**.

(c) Except as otherwise provided, programs may not be sold. Any unused programs must be retrieved by Licensee at the end of the performance. County will not be responsible for unused programs left on the premises.

(d) Except as otherwise expressly authorized by the Managing Director, no fund-raising activities will be allowed.

§ 605. Technical. (a) Access for rehearsal(s) will only be permitted at the date(s) and time(s) specified in this Agreement. Access for set-up and/or strike time beyond the date(s) and time(s) specified herein must be arranged for separately and will require an additional fee as determined by the Managing Director. All production elements must be struck at the conclusion of the Event/Performance.

(b) Licensee is required to attend a minimum of two production meetings with Ford Theatre technical staff. The first shall occur prior to contract signing and provide the basis for a preliminary estimate of technical crew costs (attached hereto as Exhibit C). The second shall occur no later than 30 days prior to Licensee's first use of the Ford Theatre and provide the basis for final Ford technical crew assignments and, if appropriate, a corresponding revised estimate of technical crew costs.

§ 606. Technical Crew. Unless otherwise expressly provided in this Agreement, Licensee shall utilize Ford Theatre's Stage Supervisor, Electrician and Sound Engineer for the set-up, performance, strike and restoration of the Ford Theatre. In consultation with Ford Theatre technical staff, Licensee may arrange for additional Ford Theatre technical crew to assist with mounting of Licensee's Event/Performance. The cost of such labor will be deducted from Licensee's settlement or deposit. The County will provide a written estimate (subject to change) of such costs.

§607. Curfew and Length of Performance Policy. (a) All Events/Performances shall end no later than 11:00 p.m. (PST) or at such earlier time announced in publicity materials.

(b) Ford Theatre theatrical lighting and sound will be turned off at 11:00 p.m. (PST). To the extent the Event/Performance extends beyond this time, Licensee shall pay the County a \$1,000 violation fee per occurrence.

(c) Except as expressly authorized by the Managing Director, no event shall exceed four (4) hours in total length.

§ 608. Sound Limit Policy. (a) Any sound system used in licensed Events/ Performances must be approved by the Managing Director. The sound level output as measured at the sound mixing console located at the rear of the amphitheatre may not exceed 95 dBA at any time.

(b) To the extent the sound levels exceed the limitations set forth in this § 608, License shall be assessed a \$500 violation fee per occurrence. Continued violation of the sound limit policy may, in the sole discretion of the Managing Director, result in termination of the event.

§ 609. Conduct. Licensee shall conduct the permitted activities in a courteous and non-profane manner, operate without interfering with the use of the facilities by the County or the public, except as herein permitted, and remove any agent, servant or employee who fails to conduct permitted activities in the manner heretofore described.

§ 610. Credit. (a) Licensee shall credit Los Angeles County as a co-sponsor in all authorized printed programs and in all advertising, including radio and television, concerning the Events/Performances. Programs will include the following statement:

“The John Anson Ford Theatre is a regional park of the County of Los Angeles devoted to the presentation of the performing arts and operated by the Los Angeles County Arts Commission.”

(b) The Licensee agrees that all authorized uses of film, video and/or audio recordings shall carry the following or similar credit approved by the Managing Director:

“Recorded at the John Anson Ford Amphitheatre, a regional park of the County of Los Angeles devoted to the presentation of the performing arts and operated by the Los Angeles County Arts Commission.”

(c) Any credit provided in accordance with this § 610, shall not give rise to any liability whatsoever on the part of the County.

§ 611. House Staff and Security. The County shall provide a basic house staff comprised of a House Manager, Ushers and, as needed, minimal security personnel. In consultation with Licensee, but at the sole discretion of the Managing Director, additional house staff and/or security guards may be required for each Event/Performance. The cost of additional house staff and security guards required will be deducted from Licensee’s settlement or deposit. The County will provide a written estimate (subject to change) of the costs of any additional house staff or security guards required.

§ 612. Risk of Loss. Licensee shall assume the risk of loss, damage or destruction to any and all fixtures and personal property belonging to the Licensee that are installed or placed within the area occupied unless such claims arise from the negligence or willful misconduct of Ford Theatre, its agents, employees, representatives or contractors.

§ 613. Maintenance/Repair/Replacement. (a) Licensee shall conduct its operation in an orderly way with continuous attention to the storage of equipment not in use and the clean up of trash and debris generated by Licensee. Licensee will leave the premises in as clean and good condition as when entered upon (normal wear and tear excepted). If Licensee does not comply with this provision, as determined by the Managing Director in his/her sole discretion, the County may put the premises in good and clean condition and Licensee will reimburse County upon demand for all costs incurred.

(b) To the satisfaction of the County, at the completion of permitted activities (and prior to vacating the premises) Licensee shall restore the premises to the conditions that existed prior to the

commencement of the permitted activities, other than for ordinary wear and tear or damage or destruction by irresistible superhuman causes beyond the control of the Licensee. This shall include removal of all rubbish and debris, as well as structures placed on the premises by the Licensee, in order that the premises will be neat and clean and ready for normal use by the County on the day following the final use of the premises permitted under this Agreement. If Licensee does not comply with this provision, as determined by the Managing Director in his/her reasonable discretion, the County may put the premises in good and clean condition and Licensee shall reimburse County upon demand for all costs incurred.

(c) Partial or total destruction of the Ford Theatre, from any cause whatsoever, shall not raise any obligation on the part of the County to rebuild, replace, renovate, regrade, replant or restore. If such destruction makes the premises unfit for the Licensee's use, this Agreement shall automatically terminate without liability to the County except to return unused sums identified in Section 4 of this Agreement.

(d) Upon the expiration of this Agreement or upon any termination hereof, any and all equipment, fixtures, or other improvements erected or placed upon the premises by Licensee and to which the Licensee has retained title shall be removed at the Licensee's sole expense, and Licensee shall quit and surrender the premises to County in broom clean condition, and in such condition as was existing at the time the Licensee went into possession, normal wear and tear expected. County may charge Licensee a reasonable storage charge for equipment, fixtures, or other improvements not removed from the premises within ten (10) days after the expiration or termination of this Agreement. All reasonable removal, transportation and storage charges incurred by the County hereunder shall be borne by the Licensee.

§ 614. Right to Enter. Licensee shall allow the Managing Director to enter the premises at any time to determine compliance with the terms of this Agreement, and shall allow the Managing Director, the County and/or other authorized governmental representatives access for any other purpose incidental to the performance of the responsibilities of those governmental entities.

§ 615. Costs. Licensee shall bear the sole costs, wages, expenses and fees, including copyright fees, if any, incidental to the Licensee's use of the Ford Theatre, and keeping the premises free of all liens. The Licensee agrees to indemnify, defend and hold the County, its officers, employees and agents harmless from any sanctions or other liability which may be assessed against the County by reason of the Licensees failure to comply with the foregoing.

§ 616. Responsible Representative. Licensee shall keep a responsible representative available on the Ford Theatre premises during all permitted hours of the entire event. This representative shall maintain copies of this Agreement and the receipt for consideration herein, for display upon request.

§ 617. Smoking Prohibited. Except as expressly provided by law, the Licensee shall prohibit smoking in areas covered by *California Labor Code* section 6404 and/or applicable County ordinances.

§ 618. Additional Covenants. The Licensee shall not:

(a) change the topography of the Ford Theatre grounds or erect or install any improvements thereon, except as may be authorized in writing by the County;

(b) sell tickets of admission for or otherwise permit the audience to be seated during the Event/Performance upon the stage of, or the hillside surrounding, the Ford Theatre without the prior consent of the Managing Director – the maximum allowable seating capacity at the Ford Theatre is 1,241;

(c) use any part for the Ford Theatre premises for lodging, overnight sleeping, or any unlawful purposes;

(d) overload any floor, ceiling or wall of the Ford Theatre stage or the amphitheatre, or the truss, gridiron or hanging equipment or any other fixture therein;

(e) place any additional lock of any kind upon any window or interior or exterior door of the premises, or make any change in any existing door or window lock or the mechanism thereof, without the Managing Director's written permission;

(f) impede the flow of vehicle traffic upon, nor restrict public access to or from, County property except as necessary during rehearsals and performances.

§ 700. RESERVATION OF RIGHTS.

§ 701. Parking, Concessions and Merchandizing. (a) Except as otherwise expressly set forth in this Agreement, the County reserves the exclusive right to control and operate food, drink, concession and merchandising services at the Ford Theatre. Licensee shall give the Ford Theatre concessionaire the right of first refusal on all food catered for receptions and/or parties.

(b) The County has subleased the Ford Theatre parking lots to the Los Angeles Philharmonic, which reserves the exclusive right to control and operate the parking. Except as otherwise expressly provided, Licensee shall receive fifteen (15) parking passes for Licensee's personnel for each Event/Performance. Cars parked on the hill that do not display a pass will be towed. Additional passes for parking in the lower lots may be purchased from the Ford Box Office in advance or from the parking staff the day of the event. Parking at the Ford Theatre is extremely limited; Licensee is urged to encourage personnel to car pool or use the auxiliary parking lots and shuttle.

(c) Licensee shall not park any vehicles in front of or cause any blockage at any time of any fire lane or disabled parking spaces. Any vehicles standing in the fire lane or any vehicles without disabled placards parked in disabled parking spaces will be towed or Licensee will be charged \$100.00 per vehicle to be deducted from deposit.

(d) There shall be no post-performance receptions. Permission for pre-performance receptions must be obtained from the Managing Director.

(e) The sale of merchandise (including location of booths/tables) at the Ford Theatre must be pre-approved by the Managing Director or his designee. The County reserves the right to refuse to carry any merchandise at its sole discretion. Of the total gross merchandise sales and/or booth fees, the Ford Theatre Foundation shall receive a percentage or a fee according to the specifications outlined in Exhibit B of this agreement.

§ 702. Television/Radio/Recording Rights. (a) Except as expressly provided in this Agreement, all television and radio broadcasting (live or delayed) of the Event/Performance, and transcription and recording rights (whether video, audio, or other), are reserved to the County, and may not be exercised by Licensee without a written amendment hereto.

§ 703. Complimentary Tickets. (a) Licensee agrees that a mutually agreed upon number not to exceed thirty-two (32) complimentary pre-designated house seats (excluding press comps) for the Event/Performance will be reserved for County use at the disposition of the Managing Director.

(b) The County reserves the right to distribute complimentary tickets to charitable organizations. Best efforts will be made not to interfere with tickets that might otherwise be sold.

(c) Additional complimentary tickets shall be made available to Licensee upon request. Complimentary tickets are not to be sold.

§ 704. Box Office Advances and Refunds. Advances on box office will not be made except in the case of production emergencies for nonprofit organizations only. All requests for box office advances must be authorized by the Managing Director and Licensee's board of directors in writing, under signature of the Licensee's chief fiscal officer. Any box office advance must be guaranteed by the board of directors. If the Licensee's performance does not occur for any reason, including rain, all ticket sales will be refunded to purchasers.

§ 705. Signs/Advertising. (a) Licensee shall not use the Ford Theatre premises for any advertising purposes whatsoever and shall not place or cause to be placed any sign, advertising or other matter, on the premises without the Managing Director's written permission. There will be a \$500 violation fee against Licensee for affixing unauthorized signage.

(b) The County shall at all times have the right to post the premises with signs declaring the County's non-responsibility for Licensee's obligation.

§ 706. Other Performance in Los Angeles County. Except as expressly authorized by the Managing Director, Licensee shall not present material identical to that in its Ford Theatre Event/Performance at any other site in Los Angeles County three months before or after the Event/Performance. This prohibition includes free performances and open rehearsals.

§ 800. INDEPENDENT STATUS

(a) The Licensee shall at all times be acting as an independent contractor. This Agreement is not intended, and shall not be construed to create the relationship of agent, servant, employee, partner, joint venture, or association, as between the County and the Licensee. Licensee understands and agrees that all of Licensee's personnel are employees solely of the Licensee and not of the County for purposes of workers' compensation liability.

(b) As an independent contractor, Licensee has no power or authority to bind the County in any manner, including without limitation to any obligations, agreements or contracts, except as expressly provided for in this Agreement.

§ 900. TERMINATION/CANCELLATION OF PERMITTED ACTIVITIES

§ 901. Termination of Agreement for Default. (a) This Agreement may be terminated in whole or in part by the County by providing to Licensee a written Notice of Default if the Licensee fails to perform any material covenant or condition of this Agreement, as determined by the Managing Director. If otherwise permitted by a written amendment to this Agreement, future right to use material recorded at the Ford Theatre may also be revoked for such breach.

(b) The Licensee shall have not more than ten (10) calendar days from the date of the Notice of Default in which to cure the Default(s), however, in her reasonable discretion, the Managing Director, may extend this period or authorize a longer period for cure.

(c) Without limitation of any additional rights or remedies to which it may be entitled, if the County terminates all or part of the Licensee's event/performance for Licensee's Default, the County, in its sole direction, may procure a replacement performance(s) and the Licensee shall be liable for all excess County costs incurred in connection with seeking the replacement performance(s), as determined by the County in its sole discretion.

§ 902. Termination for Improper Consideration. (a) The County may, by written notice to the Licensee, immediately terminate the right of the Licensee to proceed under this Agreement if it is found that consideration, in any form, was offered or given by the Licensee either directly or through an intermediary, to any County officer, employee or agent with the intent of securing the Agreement or securing favorable treatment with respect to the award, amendment or extension of the Agreement or the making of any determinations with respect to the Licensee's performance pursuant to the Agreement. In the event of such termination, the County shall be entitled to pursue the same remedies against the Licensee as it could pursue in the event of default by the Licensee.

(b) Licensee shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861.

(c) Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

§ 1000. GENERAL PROVISIONS

§ 1001. Contract Modifications/Amendments. This Agreement fully expresses the agreement of the parties. Except where expressly provided herein, any modification or amendment of the terms or conditions of this Agreement must be by means of a separate written document approved by the Managing Director. No oral conversation between any officer or employee of the parties shall modify or otherwise amend this Agreement in any way.

§ 1002. Limitations/Assignments. (a) Title to all personal property or real property improvements in or on the premises by the County shall remain the County's. Title to all personal property placed in or on the premises by Licensee shall remain the Licensee's provided said property can be removed without damaging the realty. All improvements to real property and fixtures placed in or on the premises by the Licensee shall become the property of the County.

(b) This Agreement is a license and not a lease and is a personal, revocable and unassignable permission to use the Ford Theatre for the express purposes set forth in this Agreement. It confers no interest in real property. Any attempt by the Licensee to assign this Agreement shall be void and shall constitute a material breach of this Agreement upon which the County may immediately terminate this Agreement in accordance with the provisions of § 901 (Termination of Agreement for Default).

§ 1003. Notices. (a) The Managing Director shall be the County representative to whom the Licensee shall forward all notices, documents, reports, and records as required herein. Notices to the Licensee shall be addressed as listed in this Agreement.

(b) Notices, demands and communications to be given hereunder by either party shall be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed communicated as of the date of mailing.

(c) If the name and/or address of the person designated to receive the notices, demands or communications changes, the affected party shall notify the other party in writing of such change in accordance with this section, within five (5) working days of said change.

§ 1004. Attorney Fees. If either party hereto brings court action to enforce the terms hereof or declare rights hereunder, the prevailing party, on trial or appeal, shall be entitled to have its reasonable attorney fees, as determined and fixed by the court, paid by the losing party.

§ 1005. Waivers. (a) Waivers of the provisions of this Agreement shall be in writing and signed by the Managing Director.

(b) No waiver of a breach of any provision of this Agreement shall constitute a waiver of any other breach of that provision or of any other provision of this Agreement.

§ 1006. Validity. The invalidity of any provision of this Agreement shall not void or affect the validity of any other provision.

§ 1007. Entire Agreement. (a) This Agreement constitutes the entire, full, complete and exclusive statement of understanding between the parties which supersede all previous written or oral agreements, and all prior communications between the parties relating to the subject matter of this Agreement.

(b) Licensee warrants that it has received a copy of this Agreement, including all exhibits thereto, and upon execution of this Agreement, it shall be Licensee's responsibility to retain on file, and to abide by the entire Agreement.

§ 1008. Captions. The section headings appearing herein shall not be deemed to govern, limit, modify or in any way affect the scope, meaning or intent of these terms and conditions.

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