

LEASE

THIS LEASE, made this 20th day of September 2013, by and between THE CITY OF HAPEVILLE, first party, (hereinafter called "Landlord"); and PHOENIX THEATRE ACADEMY, INC., d/b/a "ACADEMY THEATRE" second party, (hereinafter called "Tenant").

WITNESSETH

WHEREAS, the parties hereto desire to begin a long and productive relationship; and

WHEREAS, the City of Hapeville desires to provide to City residents, businesses, tourists, and those persons living and working in the downtown area of the City a high quality venue for cultural and leisure events; and

WHEREAS, the City of Hapeville desires to have a reasonable return on their investment in cultural and leisure events over the long term; and

WHEREAS, the City of Hapeville has concluded after sufficient review that Tenant herein can provide high quality cultural and leisure events within the downtown area of the City and manage the premises at issue herein in exchange for the promises and other consideration contained herein; and

WHEREAS, the parties hereto recognize that any extension of this agreement beyond the term contained herein may require the Tenant to pay for utilities and other out of pocket costs relating to the premises, and eventually pay the City of Hapeville a financial return on its investment herein.

NOW, THEREFORE, THE PARTIES HERETO DO COVENANT AND AGREE AS FOLLOWS:

Premises:

1. The Landlord, for and in consideration of the rents, covenants, agreements, and stipulations hereinafter mentioned, reserved, and contained, to be paid, kept and performed by the Tenant, has leased and rented, and by these presents does lease and rent, unto the said Tenant, and said Tenant hereby agrees to lease and take upon the terms and conditions which hereinafter appear, the following described property (hereinafter called premises), to wit:

- a. Building and lot located at 599 N. Central Avenue, Hapeville, GA 30354 and popularly known as the Clamshell (hereinafter called "Building A").
- b. Building and lot located at 597 N. Central Avenue, Hapeville, GA 30354, and popularly known as the former Ace Hardware Store (hereinafter called "Building B").

The leased portion includes the Building and land upon which the building is located, as further described in Exhibit A attached hereto.

No easement for light or air is included in the premises.

Term

2. (a) The original term of this Lease shall be six (6) years for both Building A and Building B, commencing upon completion of renovations and the issuance of a certificate of occupancy for Building B. Said lease shall terminate six (6) years after the issuance of a certificate of occupancy for Building B, unless either party terminates the agreement in writing prior to 90 days of end of lease term.

(b) Tenant shall have exclusive use of Building A during the time that Building B is under renovation. All other terms of this lease shall apply to Tenant's use of Building A with a term beginning on September 30, 2013 and continuing through the completion of the renovation of Building B, upon which time the six (6) year lease of the entire facility (both Building A and Building B) shall commence.

Rental

3. The tenant shall pay to the landlord the base rent as follows:
 - (a) During the construction period for Building B, tenant shall pay to the landlord the sum of \$10.00 per year for the use of Building A alone.
 - (b) For the use of both Building A and Building B, tenant shall pay to the landlord rent based on the following terms:

Year 1 – \$10.00/year
Year 2 – \$10.00/year
Year 3 - \$10.00/year
Year 4 - \$400.00/ month
Year 5 - \$375.00/ month
Year 6 - \$350.00/month

Utility Bills

4. (a) Upon the completion of Building B, Landlord shall pay taxes, water, sewer, gas, electricity, fuel, light, heating, and power bills for leased premises, or utilities used by Tenant in both Building A and Building B for the first three years of this agreement. During the term of this lease, the Landlord shall maintain all utilities in Landlord's name and Tenant will pay Landlord directly when utilities become due under these lease terms.

In year four (4), tenant shall be responsible for water, sewer, gas, electricity, fuel, light, heating, and power bills for leased premises, or utilities used by Tenant up to \$250.00 per month, with Landlord responsible for expenses above that amount.

In year five (5), tenant shall be responsible for water, sewer, gas, electricity, fuel, light, heating, and power bills for leased premises, or utilities used by Tenant up to \$500.00 per month, with Landlord responsible for expenses above that amount.

In year six (6), tenant shall be responsible for water, sewer, gas, electricity, fuel, light, heating, and power bills for leased premises, or utilities used by Tenant up to \$750.00 per month, with Landlord responsible for expenses above that amount.

(b) Landlord shall pay taxes, water, sewer, gas, electricity, fuel, light, heating, and power bills for leased premises, or utilities used by Tenant in Building A during the construction period for Building B.

Maintenance

5. Landlord shall be responsible for maintenance of the major systems of the buildings; provided, however, Tenant shall be responsible for the major systems whenever damage thereto resulted from Tenant's misuse, waste, and/or neglect. Major systems are HVAC, plumbing, and electrical systems. Tenant shall promptly notify Landlord of any needed repairs observed, and agrees to allow agents for Landlord (or its designee) onto the premises at any time so as to complete any maintenance or repairs. All other maintenance (including but not limited to keeping the buildings clean) shall be the responsibility of Tenant at its expense.

Building Renovation

6. Landlord and Tenant agree to ongoing discussions about the renovations of the buildings to create a fully-functioning theatre for use by the Tenant.

Use of Premises

7. Premises shall be used for theatre and arts and related office and/or educational purposes, gift, and food/drink, and no other. Tenant's food sales shall be limited to concessions consisting of food and drink including beer and wine. Premises shall not be used for any illegal purposes; nor in any manner to create any nuisance or trespass; nor in any manner to vitiate the insurance or increase the rate of insurance on premises. Notwithstanding the above, no tenant that uses and/or stores any type of Hazardous Waste shall be allowed to occupy the premises. In the event Tenant ceases to operate or sublease the premises in accordance with this Lease, this Lease shall automatically terminate and the premises and possession shall revert to the Landlord.

*Abandonment of
Premises*

8. Tenant agrees not to abandon or vacate leased premises during the term of this Lease, and agrees to use said premises for the purposes above herein leased until the expiration hereof.

*Destruction of,
Damage to Premises*

9. If premises are totally destroyed by storm, fire, lightning, earthquake or other casualty, this Lease shall terminate as of the date of such destruction, and rental shall be accounted for and prorated as between Landlord and Tenant as of that date. If premises are damaged but not wholly destroyed by any such casualties, rental shall abate in such proportion as use of premises has been destroyed or rendered unusable, and Landlord shall restore premises to substantially the same condition as before damage as speedily as practicable, whereupon full rental shall recommence.

Indemnity

10. Tenant shall indemnify, defend, and hold harmless Landlord (including its Mayor and Council; boards, commissions, divisions, and departments and all members thereof; officers, employees, representatives, and agents; and each of their heirs, successors, and assigns) and the Hapeville Association of Tourism and Trade ("HATT") and its members from and against any and all claims, demands, and actions arising out of Tenant's use of the premises, including any attorneys' fees and costs associated with such claim, demand, or action.

However, nothing herein shall cause Tenant to be liable to Landlord or any other party for environmental contamination of the property prior to Tenant's possession of premises.

Insurance

11. Tenant, at its expense, shall obtain and maintain insurance policies for the premises with the following coverages and provisions:

- (1) A policy of commercial general liability (CGL) with minimum limits of One Million and 00/100 Dollars (\$1,000,000.00) per occurrence for bodily injury and property damage, One Million and 00/100 Dollars (\$1,000,000.00) for personal and advertising injury, and One Million and 00/100 Dollars (\$1,000,000.00) for damage to premises rented to you, by an insurance company licensed and admitted in the State of Georgia; and
- (2) A policy providing workers compensation liability meeting all statutory requirements of the State of Georgia and with a waiver of subrogation in favor of the Landlord; and

Landlord and HATT shall be named as additional insureds under the CGL policy, and all policies must provide Landlord with forty-five days advance notice of any amendment or cancellation. Tenant shall also insure any and all tenant improvements and betterments to the premises, its personal property and content on the premises, and the personal property of others.

*Governmental
Orders*

12. Tenant agrees, at its own expense, to promptly comply with all requirements of any legally constituted public authority, including the City of Hapeville and Fulton County, Georgia as necessary.

Condemnation

13. If the whole of the leased premises, or such portion thereof as will make premises unusable for the purposes herein leased, be condemned by any legally constituted authority for any public use or purpose, then in either of said events the term hereby granted shall cease from the time when possession thereof is taken by public authorities, and rental shall be accounted for as between Landlord and Tenant as of that date.

*Assignment and
Subletting*

14. Tenant shall not be permitted to assign this Lease to any third party. Tenant shall not sublease the premises without Landlord's consent unless said sublease is for fourteen (14) days or less and is clearly arts related. Landlord's consent for a sublease shall not be unreasonably withheld, conditioned, or delayed provided the sublease is clearly arts and/or entertainment related and the subtenant's financial condition and business-reputation equal or exceed that of Tenant. No sublease by Tenant shall relieve Tenant of any liability hereunder.

*Alterations, Changes,
Removal of
Fixtures*

15. Tenant shall make no alterations to the premises without the prior written consent of Landlord unless the alterations are within the interior of the buildings, temporary in nature, and directly related to set and production values of Tenant programming. If permitted under the terms of this Lease, Tenant must meet all applicable code and zoning requirements for any alteration.

All alterations, changes, and improvements built, constructed, or placed on the premises by the Landlord or purchased with the Landlord's funds shall, unless otherwise provided by written agreement between Parties, be the property of the Landlord and shall remain on the premises at the expiration of the lease. Property that the Tenant brings to the buildings or purchases for the buildings, shall remain the Tenant's property at the expiration of this Lease agreement. Tenant or subtenant (if permitted under the Lease) may, if not in default hereunder, prior to the expiration of this Lease, or any extension thereof, remove all fixtures, personal property and equipment which it has placed in premises, provided Tenant repairs any damage to premises caused by such removal which shall reduce the value of the premises for intended uses subsequent to the lease term.

*Cancellation of
Lease by Landlord*

16. It is mutually agreed that in the event the Tenant shall default in the payment of rent when due, and fails to cure said default within fifteen (15) days after written notice thereof from Landlord; or if Tenant shall be in default in performing any of the terms or provisions of this Lease other than the provision requiring the payment of rent, and fails to cure such default within thirty (30) days after the date of receipt of written notice of default from Landlord; or if Tenant is adjudicated bankrupt; or if a permanent

receiver is appointed for Tenant's property and such receiver is not removed within sixty (60) days after written notice from Landlord to Tenant to obtain such removal; or if, whether voluntarily or involuntarily, Tenant takes advantage of any debtor relief proceedings under any present or future law, whereby the rent or any part thereof is, or is proposed to be, reduced or payment thereof deferred; or if Tenant's effects should be levied upon or attached under process against Tenant, not satisfied or dissolved within thirty (30) days after written notice from Landlord to Tenant to obtain satisfaction thereof; then, and in any of said events, Landlord at its option may at once terminate this Lease by written notice to Tenant; whereupon this Lease shall end. Landlord shall have, in addition to the remedy provided above, the right to any other right or remedy available to it under Georgia law, either in law or equity, on account of any Tenant default. Landlord shall also have the right to recover its attorneys' fees and costs associated with any such default by Tenant. The above financial problems of any subtenant shall not impair the rights of the Tenant or constitute a nonmonetary default. Any notice provided in this paragraph may be given by the Landlord, or its attorney, or Agent herein named. Upon such termination by Landlord, Tenant will at once surrender possession of the premises to Landlord and remove all of Tenant's effects therefrom; and Landlord may forthwith re-enter the premises and repossess itself thereof, and remove all persons and effects therefrom, using such force as may be necessary without being guilty of trespass, forcible entry or detainer or other tort.

*Reletting by
Landlord*

17. Landlord, without terminating this Lease, upon Tenant's breaching this Lease, and failing to cure said breach within the time periods described in Section 16 above may enter upon and rent the premises at the best price obtainable by reasonable effort, without advertisement and by private negotiations and for any term Landlord deems proper. Tenant shall be liable to Landlord for the deficiency, if any, between Tenant's rent hereunder and the price obtained by Landlord on reletting, for up to four (4) months but not beyond.

Exterior Signs

18. Tenant shall place no signs upon the outside walls or roof of the leased premises except with the prior written consent of the Landlord; however, Landlord consent shall not be required for signs promoting upcoming events of Tenant provided such signs are in compliance with all rules, regulations, and ordinances governing such signs. Any and all signs placed within the leased premises by Tenant or subtenants shall be maintained in compliance with all rules, regulations, and ordinances governing such signs and the Tenant shall be responsible to Landlord for any damage caused by installation, use, or maintenance of said signs, and Tenant agrees upon removal of said signs to repair all damage incident to such removal which shall reduce the value of the premises for intended uses subsequent to the lease term.

*Entry for
Carding, etc.*

19. Landlord may card premises "For Rent" or "For Sale" thirty (30) days before the termination of this Lease provided the parties are not actively pursuing a renewal or extension. Landlord may enter the premises at reasonable hours to exhibit same to prospective purchasers or tenants and to make repairs required of Landlord under the terms hereof, or to make repairs to Landlord's adjoining property, if any.

*Effect of
Termination
Lease*

20. No termination of this Lease prior to the normal ending thereof, by lapse of time or otherwise, shall affect Landlord's right to collect rent for the period prior to termination thereof.

*Mortgagee's
Rights*

21. Tenant's rights shall be subject to any bona fide mortgage or deed to secure debt which is now, or may hereafter be, placed upon the premises by Landlord. Such secured party shall agree that Tenant's use and occupancy of the premises hereunder shall not be disturbed by any foreclosure.

*No Estate
in Land*

22. This contract shall create the relationship of Landlord and Tenant between the parties hereto; no estate shall pass out of Landlord. Tenant has only a usufruct, not subject to levy and sale, and not assignable by Tenant except by Landlord's consent.

*Holding
Over*

23. If Tenant remains in possession of premises after expiration of the term hereof; with Landlord's acquiescence and without any express agreement of parties, Tenant shall be a monthly tenant at will at rental rate in effect at end of Lease; and there shall be no renewal of this Lease by operation of law.

*Attorney's Fees
and Homestead*

24. If any rent owing under this Lease is collected by or through an attorney-at-law, Tenant agrees to pay ten percent (10%) thereof as attorneys' fees. Tenant waives all homestead rights and exemptions, which it may have under any law as against any obligation owing under this Lease. Tenant hereby assigns to Landlord its homestead and exemption.

*Service of
Notice*

25. Any notice to and service of process on Tenant shall be delivered to its office at 600 King Arnold Street, Hapeville, GA 30354. Any notice to and service of process on Landlord shall be delivered to its Mayor at City of Hapeville City Hall, 3468 N. Fulton Avenue, Hapeville, Georgia 30354

*Waiver of
Rights*

26. No failure of Landlord to exercise any power given Landlord hereunder, or to insist upon strict compliance by Tenant with its obligation hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Landlord's right to demand exact compliance with the terms hereof

Time of Essence

27. Time is of the essence of this agreement.

Definitions

28. "Landlord" as used in this Lease shall include first party, its heirs, representatives, assigns and successors in title to premises. "Tenant" shall include second party, its heirs and representatives, and if this Lease shall be validly sublet shall include also Tenant's sub-lessees as to premises covered by such sublease. "Agent" shall include third party, his successors, assigns, heirs, and representatives. "Landlord", "Tenant", and "Agent", include male and female, singular and plural, corporation, partnership or individual, as may fit the particular parties.

*Building Condition
at Lease*

Commencement

29. At the time of commencement of this lease, Landlord agrees to provide Tenant the building with functioning HVAC, the roof in good condition and electrical and plumbing systems that meet the minimum code requirements of the City of Hapeville, Georgia.

*Special
Stipulations*

Special Stipulations

1. Tenant shall pay HATT fifty cents (\$0.50) for every ticket sold for an Academy Theatre and/or resident company production.
2. Tenant enters into this Lease with the understanding that Landlord will lease, under separate agreement, the first floor of 600 King Arnold Street, Hapeville, Georgia for use as office space for a one-year period.
3. Landlord shall provide to Tenant a designated space within the Landlord's monthly newsletter which is included within the utility bills sent to customers of the Landlord's water/sewer system. Tenant will provide camera-ready artwork for the newsletter.
4. Landlord shall provide a visible link on the homepage of Landlord's website directing traffic to tenant's webpage with a listing of Hapeville performances.
5. Tenant shall provide a discount to Hapeville residents for all classes/school-type programs.

6. Landlord stipulates that the intended use of the building being leased (theatre and arts and related office and/or educational purposes, and other uses found in paragraph 7 above entitled "Use of Premises") meets the applicable code requirements of the City of Hapeville.
7. Tenant to provide monthly record of number of people attending each event, including number of Hapeville residents, captured from zip codes from ticket sales whenever possible.
8. Tenant shall provide quarterly reports of estimated economic benefits derived from Hapeville events.
9. Tenant shall provide their annual 990 tax return to Landlord for financial review.
10. Tenant agrees to name the City of Hapeville, Georgia and HATT as official sponsors of all programs and events held on the premises, and to incorporate the City of Hapeville and HATT logos into any advertisements, internet web sites, posters, handbills, and displays for all such events and programs.
11. Tenant is responsible for obtaining and maintaining a valid business license (occupational tax certificate) with the City of Hapeville during its operations on the premises.
12. Landlord will be responsible for insurance only on the contents of the premises which are owned by Landlord and/or the City of Hapeville.
13. Tenant may apply for a beer/wine license with the City of Hapeville, but must do so at its own expense.
14. Tenant agrees to maintain compliance with all local, state, and federal laws in its operations on the premises.
15. Attached hereto as Exhibit "B" is a General Agreement for Cultural and Leisure Services ("General Agreement") between the Parties in which Tenant agrees to provide certain programs and services to the public at the premises. The Parties specifically adopt and incorporate said General Agreement herein and make said General Agreement a part of this Lease as if fully set forth herein. The Parties make this Lease contingent upon the performance by Tenant of its duties under the attached General Agreement. Should Tenant fail to perform its obligations under the attached General Agreement, Tenant shall be considered to be in breach of this Lease, and Landlord will then have

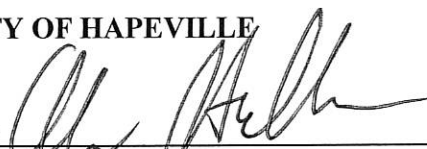
all the remedies for breach provided for herein, including cancellation of this Lease as described in paragraph 16 herein.

16. Landlord represents and warrants it has the full right and authority to enter into this Lease and that Tenant, upon paying the rental herein set forth and performing its other covenants and agreements herein set forth, shall have the right and authority to peaceably and quietly have, hold and enjoy the premises for the term hereof, subject to the terms and provisions of this Lease.
17. Tenant's point of contact with the Landlord shall be the City Manager or such other individual(s) as may be designated by the City Manager.

This Lease (including all Exhibits hereto) contains the entire agreement of the Parties and revokes any prior agreement or understanding between the Parties, with the exception of the separate Commercial Lease Agreement between the Parties for 600 King Arnold Street, Hapeville, GA 30354. No representations, inducements, promises or agreements, oral or otherwise, between the Parties, not embodied herein, shall be of any force or effect. No change, amendment, termination, or attempted waiver of any of the provisions hereof shall be binding upon the other Party unless reduced to writing and signed by all Parties hereto.

IN WITNESS WHEREOF, the parties herein have hereunto set their hands and seals, in triplicate, the day and year first above written.

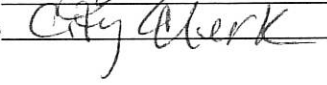
CITY OF HAPEVILLE

BY: 

Alan Hallman, Mayor

LANDLORD

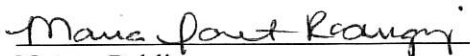
ATTEST: 

Its 

Signed, sealed and delivered as to
Landlord in the presence of:



Unofficial Witness



Notary Public

My Commission expires: 3/11/2016

(NOTARIAL SEAL)



THE ACADEMY THEATRE

BY:

Its:

ATTEST:

Its

Signed, sealed and delivered as to
Landlord in the presence of:

Robert W. Seale

Unofficial Witness

Maria Janet Rodriguez

Notary Public

My Commission expires: 3/11/2016

(NOTARIAL SEAL)



EXHIBIT A

Building A



599 N. Central Avenue, Hapeville, Georgia 30354

Building B



597 N. Central Avenue, Hapeville, Georgia 30354

EXHIBIT B
GENERAL AGREEMENT FOR CULTURAL AND LEISURE SERVICES

This Agreement (hereinafter called "Agreement"), dated as of the _____ day of September, 2013 is entered into by and between the City of Hapeville, Georgia (hereinafter called the "LANDLORD") and Phoenix Theater Academy, Inc. d/b/a Academy Theater (hereinafter "Contractor"). On occasion both entities shall be referred to as "Party" or "Parties."

WITNESSETH:

WHEREAS, the LANDLORD desires to lease certain improved real property which is commonly referred to as the "clamshell" and the "old Ace Hardware", to the Contractor at a reduced rate in order to promote cultural and leisure opportunities within the downtown area of the City of Hapeville in exchange for the provision of such opportunities and services; and

WHEREAS, the Parties agree that the Contractor has sufficient skills, ability, experience, and expertise to provide the City's downtown area with the desired opportunities and services; and

WHEREAS, the Contractor desires to provide the City's downtown area with the desired cultural and leisure services in exchange for a reduced rental rate on the improved real property at issue; and

NOW, THEREFORE, the parties hereto, for, and in consideration of their mutual promises, covenants, and agreements herein contained, do hereby mutually covenant, agree, and consent as follows:

SECTION ONE. LEASE

The LANDLORD hereby agrees to rent the agreed-upon portions of its improved real property known as the "clamshell" and the "old Ace Hardware" for six (6) years under the terms and conditions contained in the Lease between the Parties beginning on a date certain agreed upon by the Parties.

SECTION TWO. SERVICES BY CONTRACTOR

- A. During the term of the lease, Contractor agrees to produce and provide main-stage theatrical work of the quality it has produced in the past, and to make such work available for public viewing by the residents, citizens, business owners and employees, and tourists arriving in, the City of Hapeville at the leased premises under terms similar to those which Contractor has utilized in its past performances.
- B. During the term of the lease, Contractor agrees to produce and provide a Theatre for Youth Artists-in-Schools program which may tour throughout the State of Georgia of a similar quality to the youth programs Contractor has produced in the past.

- C. During the term of the lease, Contractor agrees to produce and provide an Academy Senior Theatre Program which may tour throughout the State of Georgia of a similar quality to the programs Contractor has produced in the past.
- D. During the term of the lease, Contractor agrees to produce and provide classes for youth and adults covering subject matter that is similar to what the Contractor has produced in the past.
- E. During the term of the lease, Contractor agrees to produce and provide Improv Shows, Short Plays, New Play Readings, Children's Shows, Musical Concerts, Radio Theatre Productions, and Open Mic nights of a similar quality to the programs Contractor has produced in the past.
- F. During the term of the lease, Contractor agrees to foster and develop relationships with the Hapeville arts community and with other local performing arts organizations. As necessary, Contractor will attempt to locate visual artists willing to teach art lessons to children and adults on the premises.
- G. During the term of the lease, Contractor will, as necessary or desirable, utilize its relationships with other performing arts companies to provide additional opportunities and services to the residents, citizens, business owners and employees, and tourists of the City of Hapeville. Some of the companies which may be utilized include: Atlanta Radio Theatre Company for production of radio theatre, City Gate Dance Theatre Company for teaching ballet and modern dance classes for youth and adults, Collective 51 for all female production of improv performances, Flying Cat Productions for the production of play festivals, Laughing Matters for the production of improv, murder mystery, and corporate training, Tiger Peach Improv for the production of improv performances, Thimblereg Circuit for the production of circus arts performances, and Working Title Playwrights for conducting readings, workshops, and staged readings of new plays.
- H. LANDLORD shall designate a primary contact for any communications or correspondence relating to this Agreement.

SECTION THREE. WARRANTIES AND REPRESENTATIONS

- A. The Contractor warrants and represents that to the best of its knowledge, no member, employee, officer, agent or official of the LANDLORD, nor any member of their immediate family, has any interest direct or indirect, in this Agreement or any proceeds or benefits arising there from.
- B. The Contractor warrants and represents that it is not presently debarred, suspended, proposed for debarment or suspension, declared ineligible, or excluded from participation in this Agreement by any state or federal department or agency or the City and the Contractor shall not in the performance of this Agreement, knowingly enter into any contract with a person or entity who is debarred, suspended, proposed for debarment or suspension, or otherwise ineligible.

SECTION FOUR. MISCELLANEOUS

- A. Nothing herein nor any actions of the parties shall be construed to create any agency relationship or joint venture between the LANDLORD and the Contractor. The LANDLORD is not an agent or representative of the Contractor and the Contractor is not an agent or representative of the City and neither may bind the other. The Contractor shall be solely responsible for procuring and providing all materials, and facilities (except as otherwise provided herein) necessary or incidental to the performance of the work described herein.
- B. The Contractor is an independent contractor and its employees are not employees of the LANDLORD. The Contractor is solely responsible for the conduct and control of the work to be completed as part of this Agreement. The Contractor is solely responsible for reporting and paying any required local, state and federal taxes relating to its payment hereunder.
- C. The parties expressly agree that the laws of the State of Georgia shall control in all instances involving the interpretation, construction and validity of this Agreement. In the event any portion part or portion of this Agreement is, for any reason, set aside or deemed unlawful, those lawful parts or portions shall survive and continue in full force and effect.
- D. Time is of the essence in the performance of this Agreement.
- E. The Contractor's obligations under this Agreement may not be assigned or transferred to any other person, firm or corporation.
- F. Neither failure nor delay on the part of the LANDLORD to exercise any right, power or privilege under this Agreement shall be deemed to operate as continuing waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise of additional rights, powers, or privileges. No waiver of any breach of any term, condition or covenant shall be construed as a continuing waiver of any subsequent breach hereunder.
- G. Employees, aides, staff, helpers, or any person who receives any form of consideration for services or who performs any services towards the execution of this Contract are deemed to be the sole responsibility of the Contractor for the purposes of all Worker's Compensation and insurance claims.
- H. Nothing contained in the Agreement shall create a contractual relationship with or a cause of action in favor of a third party against the LANDLORD.
- I. Contractor agrees to indemnify, save and hold harmless, and defend the LANDLORD (including its Mayor and Council; boards, commissions, divisions, and departments and all members thereof; officers, employees, representatives, and agents; and each of their heirs, successors, and assigns) and the Hapeville Association of Tourism and Trade ("HATT") and its members, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injuries (including accidental death) which

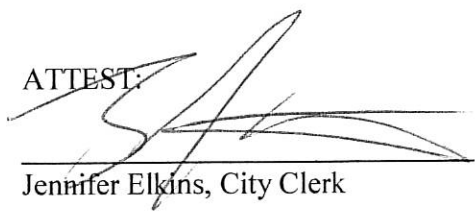
arise out of Contractor's operation and provisions of services, including but not limited to, reasonable attorney's fees and costs.

- J. The Parties acknowledge that they have mutually participated in the negotiation of this Agreement, and no provision of this Agreement shall be construed against or interpreted to the disadvantage of any party herein or thereto by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured, dictated or drafted such provision; that the Parties at all times have had access to attorneys even if they voluntarily chose not to use the same in the negotiation of the terms of and the preparation and execution of this Agreement, and the Parties have had the opportunity to review and analyze this Agreement for a sufficient period of time prior to its execution and delivery thereof; that no representations or warranties have been made on behalf of either party or relied on by either party pertaining to the subject matter of this Agreement, other than those that are set forth herein, and all prior statements, representations and warranties, if any, are totally superseded and merged into this Agreement. The Parties agree that the terms of this Agreement were negotiated at arms length, and that this Agreement was prepared and executed without fraud, duress, undue influence or coercion of any kind exerted by any party upon any other party; and that the execution and delivery of this Agreement is the free and voluntary act of each party executing it.
- K. The execution and delivery of this Agreement, the consummation of the transactions herein contemplated, and the compliance with the terms and provisions hereof, will not conflict with nor result in a breach of, nor be a default under any applicable law or regulation, or any order, writ, injunction or decree of any court or governmental authority or agency, or any agreement or instrument to which the LANDLORD is a party or by which it is bound or to which it is subject.

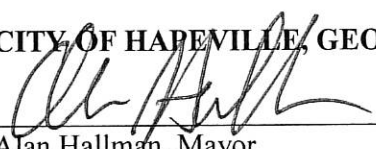
IN WITNESS WHEREOF, the Parties have hereunder duly executed this Agreement on this day and year first written above.

(SEAL)

ATTEST:


Jennifer Elkins, City Clerk

CITY OF HADENVILLE, GEORGIA


Alan Hallman, Mayor

APPROVED AS TO FORM:


Paul Koster, City Attorney

(SEAL)

ATTEST:

Robert W. Dache
Its Artistic Director

6898.46075/815112v1

THE ACADEMY THEATRE
By: [Signature]
Its [Signature]