
LEASE AGREEMENT

between

CITY OF MINNEAPOLIS,
as Issuer and Lessor

and

HENNEPIN THEATRE TRUST,
as Tenant

Dated as of _____, 2005

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(This Table of Contents is not part of this Agreement and is for convenience of reference only.)

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LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of _____ (the “Agreement”), between the City of Minneapolis, a municipal corporation of the State of Minnesota, as issuer and lessor (the “Issuer”), and Hennepin Theatre Trust, a Minnesota nonprofit corporation, as tenant (the “Tenant”),

WITNESSETH:

[ADD RECITALS DESCRIBING CITY OWNERSHIP AND OTHER BACKGROUND]

That the Issuer hereby demises and leases to the Tenant and the Tenant leases from the Issuer the Facility herein described, for the Term (hereinafter defined), upon the further terms and conditions herein set forth; and

That the Issuer and the Tenant, each in consideration of the representations, covenants, and agreements of the other as set forth herein, mutually represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. The following terms, unless the context hereof shall require otherwise, shall have the meanings set forth below; provided, however, that any additional capitalized terms used herein and not defined herein (unless such capitalization is due solely to application of the rules of grammar) shall have the meanings assigned to such terms in the Basic Resolution or the Supplemental Bond Resolution, unless the context or use herein requires another or different meaning. Definitions of certain terms used in the Basic Resolution and the Supplemental Bond Resolution and which may appear in this Agreement are set out in Exhibit J hereto.

“Additional Charges” means the payments (other than Basic Rent) required to be made under Section 2.03.

“Administrative Fee” means the fees payable to the Trustee for the account of the Issuer in the amount and at the times specified in Section 2.03(i) hereof.

“Agreement” means this Lease Agreement, entered into by the Issuer and the Tenant, as from time to time amended or supplemented.

“Basic Rent” means, collectively, the payments of Basic Rent required to be made by the Tenant under Section 2.02 hereof.

“Basic Resolution” means Resolution No. 2004R-257, entitled “Amended and Restated Basic Resolution and Indenture,” adopted on June 18, 2004 by the Issuer, as amended to the date of execution and delivery hereof, and any amendments or supplements thereto.

“Bonds” means the \$ _____ City of Minneapolis, Minnesota Taxable Limited Tax Supported Development Revenue Bonds, Common Bond Fund Series 2005-1.

“Broadway Touring Show” means a professionally produced musical production or play, whether or not such production has a story line, mounted for touring and customarily, but not exclusively, performing an eight (8) show “Broadway week” for one or more weeks. Domestic tours of major foreign theatre companies, including but not limited to the Royal National Theatre of Great Britain, The Royal Shakespeare Company, and The Stratford Theatre Festival shall fall under the definition of “Broadway Touring Show.” “Broadway Touring Show” includes a touring show listed as a current touring show in a publication, trade journal or data base of national standing including but not limited to *Variety*, *Playbill*, the *Independent Broadway Data Base* (IBDB) or any successors, affiliates or derivative publications, trade publications or data bases. Tenant agrees if a Broadway Touring Show is available in versions utilizing both an Actors’ Equity Association cast and a non-Actors’ Equity Association cast, Tenant agrees that where commercially feasible, it will present the version utilizing the Actors’ Equity Association cast. “Broadway Touring Show” also includes a production by Tenant which utilizes Actors’ Equity Association cast members and which is booked to tour.

“Broadway Season” means a series of Broadway Touring Shows which a customer may purchase together as a package.

“Code” means the Internal Revenue Code of 1986, as amended.

“Condemnation” or the phrase “eminent domain,” as used herein, means and shall include any taking or requisition by governmental authority or by a person, firm or corporation acting under governmental authority and a conveyance made under threat of condemnation, provided where the condemning authority is not the Issuer such conveyance is made with the approval of the Issuer, and a “Condemnation Award” means payment for property taken or requisitioned and payment for property conveyed under threat of Condemnation.

“Consultant” means SFX Entertainment, Inc., [as of the date hereof doing business as Clear Channel Entertainment], CCE Spinco, Inc. or any other entity which may act as the Consultant under the Consulting Agreement.

“Consulting Agreement” means the agreement entered into between the Tenant and the Consultant pursuant to Section 4.05.

“Costs of Issuance” means all costs incurred in connection with the issuance and sale of the Bonds, including without limitation: (1) Underwriters’ discount and fees; (2) Bond Counsel fees; (3) Underwriters’ counsel fees; (4) Tenant’s counsel fees; (5) rating agency fees; (6) Trustee fees; (7) Accountant’s fees related to the issuance of the Bonds; (8) printing costs; (9) costs incurred in connection with the public approval process; (10) bank fees and (11) Financial Advisor fees.

“CPED” means the Department of Community Planning and Economic Development of the City of Minneapolis.

“Event of Default” means any of the occurrences defined as such in Section 8.01 hereto.

“Facilities” means each Facility collectively.

“Facility” means with respect to each of the State Theatre, Orpheum Theatre and Pantages Theatre:

- (a) the Facility Premises;
- (b) all of the improvements located and subsisting on the Facility Premises, including but not limited to the facilities constituting the State Theatre, Orpheum Theatre or Pantages Theatre, as the case may be, together with all buildings, fixtures and site improvements on the Facility Premises;
- (c) Facility Equipment; and
- (d) all additions to, replacements of and substitutions for any of the foregoing which may be made as permitted or required by this Agreement, except that any of the foregoing which

are released or taken by Condemnation, as authorized or contemplated by this Agreement, shall not constitute a part of the Facility.

“Facility Equipment” means the tangible personal property, fixtures, equipment and trade fixtures described on Exhibit B hereto, and any equipment or other personal property replacing such items as described in Section 4.09 with a value of \$5,000 or more but does not include Tenant’s Equipment.

“Facility Premises” means the real estate, including easements, appurtenances, hereditaments, and all other right, title and interest therein, described in Exhibits A-1, A-2 and A-3 hereto, together with all other right, title or interest, additions, reductions or substitutions thereto or thereof as permitted hereunder.

“First Class Historic Theatres” has the meaning set forth in Section 4.06 (a).

“First Class Performing Arts Attraction” includes not only the best available “Broadway Touring Shows,” but also live performances including concerts, dance, comedy, theatre, which are or may become the typical attractions at First Class Performing Arts Facilities. “First Class Performing Arts Attractions” also include productions by Tenant which utilize Actors’ Equity Association cast members and which have the potential to tour.

“First Class Performing Arts Facility” means the following list of cities and venues: (i) Ordway Center (St. Paul); (ii) Playhouse Square Center (Cleveland); (iii) The Benedum Center in Pittsburgh; (iv) Denver Center for the Performing Arts; and (v) The Tampa Bay Performing Arts Center, as the same may be amended or modified by the Issuer and the Tenant from time to time.

“Guarantor” means SFX Entertainment, Inc. [as of the date hereof doing business as Clear Channel Entertainment], CCE Spinco, Inc., or any other entity which may act as the Guarantor under the Guaranty.

“Guarantor, Manager and City Undertaking and Agreement” means the Guarantor, Manager, and City Undertaking and Agreement of even date herewith among the Guarantor, the Manager, the Consultant and the Issuer, and consented to by the Tenant.

“Guaranty” means the Guaranty Agreement between the Guarantor and the Issuer of even date herewith.

“Hennepin Theatre District” means the portion of Hennepin Avenue between Tenth Street and Fifth Street in the City of Minneapolis.

“Hereby,” “herein,” “hereof,” “hereto” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subsection; the term “heretofore” means before the date of execution and delivery hereof, and the term “hereafter” means after the date of execution and delivery hereof.

“Imposition” means real property taxes and special assessments levied upon or with respect to each Facility or any part thereof, all fees, charges and rentals for utility service or extension for a Facility or any part thereof, all other charges lawfully made by any governmental body for public

improvements that may be or become secured by a lien on a Facility or any part thereof and all other charges incurred in the operation, maintenance, use, occupancy and upkeep of each Facility, including, but not limited to, ad valorem, sales and other excise taxes and any taxes levied upon or with respect to rentals, income or profits from each Facility or any part thereof which, if not paid, would become a lien thereon.

“Management Agreement” means the agreement entered into between the Tenant and the Manager pursuant to Section 4.04.

“Manager” means Historic Theatre Group, Ltd. or any other entity which may act as the Manager under the Management Agreement.

“Net Proceeds” means, with respect to any insurance payment or Condemnation Award, the amount (including earnings thereon) remaining after deduction of all expenses reasonably incurred by the Issuer and the Tenant in the collection thereof, including, but not limited to, attorney fees, witness fees and any extraordinary expenses of the Issuer and the Tenant in connection therewith.

“Orpheum Theatre” means the theatre of approximately 2,652 seats and related facilities located at 920 Hennepin Avenue in Minneapolis.

“Pantages Theatre” means the theatre of approximately 999 seats and related facilities located at 710 Hennepin Avenue in Minneapolis.

“Permitted Encumbrances” shall mean those encumbrances described on Exhibits A-1, A-2 and A-3 hereto [WHICH WILL LIST ACTUAL ENCUMBRANCES, IF ANY, ACCEPTABLE TO TENANT AS OF LEASE COMMENCEMENT AND WILL INCORPORATE CERTAIN ELEMENTS OF THE DEFINITION IN THE BASIC RESOLUTION], together with any additional encumbrances permitted to be created by Tenant under this Agreement or the Basic Resolution.

“Prohibited Imposition” means any Imposition levied by the Issuer, including any surcharge, “restoration fee,” levy or similar tax, charge or fee, which is specifically imposed on or payable solely by the Facilities, the Facility Premises, the use of the Facilities, or the Tenant and not imposed on or payable by any other properties, uses, entities of a general use, class, geographic area or district defined in State statute, the city charter of the Issuer, or city ordinances of the Issuer. Prohibited Impositions shall not include any special assessment for public improvements or to abate nuisances pursuant to Chapter 226 or Chapter 227 of the Code of Ordinances.

“Representative” means the Person or Persons designated as such from time to time to act on behalf of the Issuer or the Tenant, as the case may be, who shall have full authority to give written consents, approvals, certificates or statements of any kind authorized hereby to be given by the Issuer to the Tenant, or by the Tenant to the Issuer, the recipient of which may rely on any written consent, approval, certificate or statement so signed as being that of the Representative and shall not be affected by any oral or written instrument to the contrary. The initial Representative of the Issuer shall be the Person designated by certificate of the Issuer at Bond Closing. The initial Representative of the Issuer shall be the CPED Deputy Director. The initial Representative of the Tenant shall be the person holding the office of President of the Manager.

A different Representative may be designated to act on behalf of the Issuer or the Tenant, as the case may be, as evidenced by a written certificate furnished to the other party and the Trustee, containing a specimen signature of such Persons, and, in the case of the Representative of the Issuer, signed by the Director or Deputy Director of CPED, and in the case of the Representative of the Tenant, signed by the Manager, the Consultant and the Guarantor.

“State Theatre” means the theatre of approximately 2,150 seats and related facilities located at 805 Hennepin Avenue in Minneapolis.

“Supplemental Bond Resolution” means the Issuer’s Resolution No. _____, adopted on _____, as amended.

“Tenant” means Hennepin Theatre Trust, a Minnesota nonprofit corporation and an organization described in Section 501(c)(3) of the Code.

“Tenant’s Equipment” has the meaning set forth in Section 4.15.

“Term” means the term of this Agreement, commencing on the date hereof, and ending on the later of (a) [THIRTY YEARS FROM DATE OF COMMENCEMENT] _____, 2035, or (b) _____, 203_[FINAL BOND MATURITY DATE], or on such earlier date as this Agreement may be sooner terminated in accordance with the terms hereof.

ARTICLE II

USE, OCCUPANCY AND RENTALS

Section 2.01. Possession and Use. The Issuer hereby delivers to the Tenant sole and exclusive possession of the Facilities, and the Issuer covenants and agrees that Tenant shall have quiet and peaceable possession and enjoyment of the Facilities during the Term, subject to the right of the Issuer to take possession thereof as contemplated in Article VIII hereof, or a right of entry for the purpose of inspection pursuant to Section 6.04 hereof (and subject to the provisions of the Guarantor, Manager and City Undertaking and Agreement). The Tenant shall have the right to use the Facilities throughout the Term for all lawful purposes, subject however to the other provisions hereof.

Section 2.02. Basic Rent and Tenant Credits.

(a) The Tenant hereby agrees to pay Basic Rent for the Facilities as set forth below:

(i) on January 1, 2006 and on the first day of each month thereafter (or if such date is not a Business Day, then on the first Business Day thereafter), through May 1, 2006, an amount equal to one-fifth of the interest due on the Bonds on June 1, 2006;

(ii) on June 1, 2006 and on the first day of each month thereafter (or if such date is not a Business Day, then on the first Business Day thereafter), through November 1, 2006, an amount equal to one-sixth of the interest due on the Bonds on December 1, 2006;

(iii) on January 1, 2006 and on the first day of each month thereafter (or if such date is not a Business Day, then on the first Business Day thereafter), through November 1, 2006, one-eleventh of the principal due on the Bonds on December 1, 2006;

(iv) on December 1, 2006 and on the first day of each month thereafter during the Term (or if such date is not a Business Day, then on the first Business Day thereafter), an amount equal to the sum of: (A) one-sixth of the interest due on the Bonds on the next Interest Payment Date (as defined in the Supplemental Bond Indenture); and (B) one-twelfth of the principal of the Bonds on the next succeeding December 1 (whether due to maturity or mandatory sinking fund redemption pursuant to the Supplemental Bond Resolution); and

(v) on any Redemption Date for the Bonds, the Redemption Price (including any premium due and payable on such Redemption Date).

(b) The Basic Rent shall be reduced by the following:

(i) earnings, if any, on the Reserve Deposit with respect to the Bonds, which earnings are to be credited (subject to approval of the Guarantor in the Guarantor's sole discretion) to the Tenant as of each April 1 and October 1 during the Term provided, however, that no credit shall be given to the Tenant for earnings arising during the continuation of an Event of Default or to the extent such earnings are applied pursuant to Section 2.03(j) hereof,

and provided, further, that \$_____ of such earnings shall be paid to the Issuer on each October 1 prior to crediting any of such earnings to the Tenant;

(ii) money deposited in a subaccount of the Common Reserve Account as Collateral Proceeds or Retained Funds (subject to approval of the Guarantor in the Guarantor's sole discretion);

(iii) proceeds of the Bonds (including accrued interest), if any, deposited in the Debt Service Account at Bond Closing; and

(iv) the Reserve Deposit with respect to the Bonds (subject to approval of the Guarantor in the Guarantor's sole discretion).

The money referred to in clauses (ii) and (iv) shall be applied (subject to approval of the Guarantor in the Guarantor's sole discretion) to the last installments of Basic Rent. The amounts referred to in clauses (i) and (iii) of this Section 2.02(b) shall be applied (in the case of clause (i), subject to approval of the Guarantor in the Guarantor's sole discretion) to the earliest installments of Basic Rent. Any amounts referred to in this Section 2.02(b) that are to be applied to reduce Basic Rent shall be deposited by the Trustee in the Debt Service Account on the date the Basic Rent replaced by such amounts is due and payable. Basic Rent shall be reduced pursuant to this Section 2.02(b) only to the extent that the amounts referred to in this Section 2.02(b) are actually deposited in the Debt Service Account.

(c) All sums held by the Issuer in the Common Bond Fund under the terms of this Agreement and all earnings derived from the investment of such sums shall be deemed property of the Issuer, and no such earnings shall be credited against any installments of Basic Rent or otherwise accrue to the Tenant, except as may otherwise be expressly provided herein.

(d) Section 2.02(b) and (c) as between Tenant and Guarantor for amounts that may accrue to Tenant are subject to the provisions of the Guarantor, Manager and City Undertaking and Agreement which shall control in case of inconsistency. [Review draft prepared by McGrann, Shea]

Section 2.03. Additional Charges. The Tenant agrees to pay the following items to the following Persons as Additional Charges under this Agreement:

(a) to the appropriate public or private Person entitled to payment, Impositions required to be paid with respect to the Facility to the extent and in the manner provided in Section 4.10 hereof;

(b) to each insurer entitled to payment, any premium required to be paid for the Tenant to carry and maintain all insurance required of the Tenant under this Agreement;

(c) to the Issuer, (i) all reasonable expenses incurred by the Issuer upon request of the Tenant or its agent, including legal fees, in relation to the Facility for services which are not otherwise required to be performed by the Issuer under the terms of this Agreement, (ii) all other reasonable expenses, including legal fees, incurred by the Issuer in order to enforce any

obligation of the Tenant under this Agreement and (iii) all other indemnity payments required under Section 6.06 hereof;

(d) to the Issuer, the amount of any advances of funds made by the Issuer under the provisions of Section 4.14 hereof, with interest thereon from the date of each such advance at the higher of: (i) the rate of interest then and thereafter from time to time publicly announced by Wells Fargo Bank, National Association, as its "base rate" or (ii) one-eighth of one percent (.125%) greater than the interest rate due on the outstanding Bond then bearing the highest interest rate, but in no event shall such interest rate exceed such rate as is permitted by law;

(e) to the Issuer, interest at the higher of: (i) the rate of interest then and thereafter from time to time publicly announced by Wells Fargo Bank, National Association, from time to time as its "base rate" or (ii) one-eighth of one percent (.125%) greater than the interest rate due on the outstanding Bond then bearing the highest interest rate, on each payment required in this Section 2.03 (other than pursuant to Section 2.03(d) hereof) and in Section 2.02 hereof to be made to the Issuer, after the date such payment is due, and to any other Person entitled thereto, the interest or penalty necessary to cure the default for failure to make any other payment required to be made in this Section 2.03 until the amount in default has been fully paid, subject to the provisions of Article VIII hereof respecting Events of Default, but in no event shall such interest rate exceed such rate as is permitted by law;

(f) to the appropriate governmental officials, all permit and license fees required under any law or governmental regulation with respect to the maintenance or operation of all or any portion of the Facility;

(g) to the appropriate governmental agency, any fees charged for purposes of continuing or supplementing the registration of Bonds initially registered under Minnesota Statutes, Chapter 80A, as amended, or any other applicable securities laws or for filing any other reports lawfully required under the Act or any other applicable law, together with the costs of legal, accounting and other expenses of every nature incurred in the preparation of such reports or the information required therefor, to the extent such costs are properly allocable to the Bonds;

(h) to the Trustee, payment of all annual fees and expenses and reimbursement of advances in respect of the Bonds reasonably incurred or made by the Trustee in accordance with any provisions of the Basic Resolution, the Supplemental Bond Resolution and this Agreement, including the reasonable compensation and expenses of the Trustee's counsel and of all persons not regularly in the employ of the Trustee, except any such expense or advance as may arise from the negligence, bad faith or willful misconduct of the Trustee;

(i) to the Trustee, on _____ and on the first Business Day of each month thereafter during the Term, the Issuer's Administrative Fee of \$_____;

(j) in the event the Tenant is directing Reserve Deposit investments and the Trustee has sent a notice of deficiency in accordance with Section ___ of the Supplemental Bond Resolution, the Tenant shall deposit an amount equal to the deficiency with the Trustee within five days of receipt of such notice, and during the pendency of such deficiency the Tenant shall receive no credit for any Reserve Deposit earnings.

Section 2.04. Tenant's Obligations Unconditional. All Basic Rent and Additional Charges and all other payments required of the Tenant hereunder, whether as the purchase price for one or more of the Facilities or a part thereof or otherwise, shall be paid without notice or demand (other than such notice, demand and right of performance or cure as provided herein and in the Guarantor, Manager and City Undertaking and Agreement) and, except as expressly provided in this Agreement, without setoff, counterclaim, abatement, deduction or defense including, but not limited to, abatements or reductions due to any future claims of the Tenant against the Issuer or otherwise. Except as expressly provided in this Agreement, the Tenant shall not suspend or discontinue any payments of Basic Rent and shall pay the Additional Charges and shall perform and observe all of its other agreements in this Agreement and shall not terminate this Agreement for any cause, including, but not limited to, any acts or circumstances that may constitute failure of consideration, destruction or damage to one or more of the Facilities or the Facility Premises, the taking of one or more of the Facilities or Facility Premises by Condemnation or otherwise, the lawful prohibition of the Tenant's use of one or more of the Facilities, the interference with such use by any private Person, the invalidity or unenforceability or lack of due authorization or other infirmity of this Agreement or lack of authority, right or power of the Issuer to enter into this Agreement, eviction by paramount title, commercial frustration of purpose, bankruptcy or insolvency of the Issuer, change in the tax or other laws or administrative rulings or actions of the United States of America or of the State or any political subdivision thereof or failure of the Issuer to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement, the Basic Resolution, the Supplemental Bond Resolution or for any other cause, whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the Basic Rent, the Additional Charges and other amounts payable by the Tenant hereunder shall continue to be payable in all events unless the obligation to pay the same shall be terminated pursuant to the provisions of this Agreement.

Section 2.05. Tenant's Remedies. Nothing contained in this Article II shall be construed to release the Issuer from the performance of its obligations pursuant to this Agreement, and if the Issuer should fail to perform any such obligation, the Tenant may institute such action against the Issuer as the Tenant may deem necessary to compel the performance of such obligation, so long as such action shall not violate the terms of Section 2.04 hereof, in addition to any other rights or remedies expressly provided to Tenant in this Agreement. The Tenant may, at the Tenant's own cost and expense, prosecute or defend any action or proceeding against third parties or take any other action which the Tenant deems reasonably necessary in order to secure or protect its right of possession and use thereof hereunder, including contesting any lien claims under Section 4.11 hereof or Impositions under Section 4.11 hereof or any insurance claim or Condemnation proceedings under Section 5.03 hereof. In this event the Issuer agrees to cooperate fully with the Tenant; provided that the Tenant furnishes the Issuer an undertaking to pay all costs and expenses incurred by the Issuer and to indemnify the Issuer and save the Issuer harmless against any risks, claims or liabilities arising out of such action, including any reasonable attorneys' fees.

Section 2.06. Adjustments at Commencement of Lease Term. The disposition of receipts and revenues collected or held by the Issuer or its agents and generated by or in respect of operations of the Facilities following the commencement of the Term, and the allocation, pro-

ration and settlement of all other applicable funds and accounts and monies relating to financing, maintenance, management and operation of the Facilities with respect to periods prior to and following the commencement of the Term, shall be governed by the _____ [NAME OF SEPARATE AGREEMENT] among the Issuer, the Tenant, the Manager and the Consultant, dated the date hereof.

ARTICLE III

ISSUANCE OF BONDS; COSTS OF ISSUANCE

Section 3.01. Issuance of Bonds.

(a) Upon the execution and delivery of this Agreement, the Issuer shall cause the Bonds to be delivered to the Underwriters against payment of the purchase price therefor and upon the filing with the Issuer of the Opinion of Bond Counsel as to the legality of the Bonds and all other documents and opinions reasonably required by Bond Counsel to be furnished to the Issuer before delivery of the Bonds in accordance with the Supplemental Bond Resolution.

(b) Upon issuance of the Bonds, the Issuer shall cause the proceeds of the Bonds to be deposited as required by the Basic Resolution and the Supplemental Bond Resolution.

(c) The Issuer acknowledges that on the date hereof pursuant to the Guaranty there has been delivered to the Trustee by the Guarantor on behalf of the Tenant an Approved Letter of Credit in satisfaction of the requirement of the Minimum Deposit in respect of the Bonds under the Basic Resolution (in lieu of a Reserve Deposit).

Section 3.02. Costs of Issuance. The Tenant shall be solely responsible for paying all Costs of Issuance and the Issuer shall have no liability therefor. The Tenant shall not by reason of the payment of any Costs of Issuance or other costs be entitled to any interest in the Facility other than the leasehold interest created by this Agreement and any options to purchase granted hereunder or to any reimbursement from the Issuer or for any abatement or diminution of Basic Rent or Additional Charges payable hereunder.

Section 3.03. Liability of Issuer. In no event shall the covenants and agreements contained herein be construed as a joint venture of the Issuer and the Tenant under which the Issuer could be held liable either jointly and severally with the Tenant or otherwise for any claims arising out of the operation of the Facility by the Tenant as herein provided.

Section 3.04. Modification or Refunding of Bonds. The Bonds (and any bonds which refund the Bonds) will not be refunded in whole or in part nor will the terms thereof be modified without the consent of the Tenant, the Manager, the Consultant and the Guarantor, provided that consent shall not be required following termination of this Agreement (or, if a new Agreement is entered into pursuant to Section 8.08, following termination of any such new Agreement) for default as provided in Article VIII of this Agreement.

ARTICLE IV

OPERATION, MAINTENANCE, MODIFICATIONS, FEES AND INSURANCE

Section 4.01. Uses. During the Term:

(a) First Class Performing Arts Attractions. The Facilities shall be used as venues for presentation of First Class Performing Arts Attractions.

(b) Other Events. The Facilities may be used as venues for events which may include, in addition to First Class Performing Arts Attractions, (i) musical, dramatic, theatrical, comedic, dance or other artistic presentations that are consistent with the Facilities' roles as First Class Performing Arts Facilities, and (ii) receptions, dinners and other catered events, weddings, religious services or ceremonies, fundraising events, conventions, commercial events and other public, private or commercial gatherings or assemblies, so long as the foregoing are compatible with First Class Performing Arts Facilities and do not interfere with scheduling of First Class Performing Arts Attractions.

(c) Ancillary Uses. Ancillary uses such as one or more restaurants, bars, clubs, coffee shops, catering services, parking services, or other business enterprises, may be incorporated into the Facilities so long as such uses are consistent with, do not interfere with and are compatible with the Facilities' primary use as First Class Performing Arts Facilities.

(d) Prohibited Uses. The Facilities shall not be used for any (i) sexually oriented business as defined in Minneapolis City Code sections 549.340 or (ii) any gambling or gambling related activities other than incidental activities such as casino-related parties. No part of the Facilities shall be used as an Adults-Only Bookstore, Adults-Only Motion Picture Theatre, Adult Entertainment Center, Massage Parlor, Rap Parlor or Sauna as such terms are defined in the Minneapolis City Code of Ordinances.

Section 4.02. Operation.

(a) Tenant shall use commercially reasonable efforts to present a Broadway Season.

(b) Tenant shall use commercially reasonable efforts to provide a diverse variety of First Class Performing Arts Attractions.

(c) Tenant will use commercially reasonable efforts to schedule events and maximize use of the Facilities as described in Section 4.01(b).

(d) Tenant shall comply with the performance standards set out in the matrix attached as Exhibit C.

(e) Tenant shall comply with the Broadway Touring Show casting requirements provided in Section 1.01 of this Agreement.

(f) Tenant shall maintain an “open calendar” policy which assures any presenter access to open dates on the calendars of the Facilities, if the presenter has secured the rights to present the act or production in question. Tenant will not grant (or allow Manager to grant) to Consultant or any other presenter (other than Tenant) favored access to the Facilities except for such arrangements as are usual and customary in the entertainment industry. Subject to Tenant not being in default under this Agreement or under the Consulting Agreement beyond any applicable cure period (in which case the Guarantor, Manager and City Undertaking and Agreement shall govern), Tenant shall retain at all times the exclusive right to present a Broadway Season in the Facilities, provided that Tenant shall, in the Consulting Agreement, offer Consultant the right of first refusal to participate in the presentation of Broadway Touring Shows at the Facilities.

(g) Every third year during the Lease term, Tenant, with the assistance of the Manager and the Consultant, shall provide to the CPED Director for review, a ten (10) year pro-forma budget for the operations of the Tenant.

(h) Tenant shall maintain the geographic “non-competition” provision for Broadway Touring Shows contained in the Consulting Agreement.

Section 4.03. Tenant’s Charitable, Educational and Patronage Undertakings.

(a) Tenant shall provide opportunities for theatre arts education and community engagement to a wide diversity of persons, including persons underserved by the Tenant’s activities. The Tenant will annually present to the CPED Director a plan that details its intended educational programming and outreach plans for the coming year. Tenant will establish an education advisory committee to assist it in formulating its annual plan and evaluating its programs and outreach efforts. In calendar year 2006, the Tenant will convene a group of advisors from the local arts and education communities in order to secure their input on how to carry out educational programming and outreach efforts. Tenant will continue to promote its presentations through a variety of media targeted to a diversity of audiences including, by way of example, KMOJ, B96, WRNB, Insight News, Minneapolis Spokesman, St. Paul Recorder, LaPrensa, Latino Midwest, Vida Y Sabor, La Voz Latina, Asian Pages, Asian American Press and Lavender Magazine.

(b) Tenant shall spend no less than \$1,000,000 (cash and in-kind) in each calendar year for education and presenting and/or co-producing activities. Examples of such activities include (i) presenting and/or co-producing two locally produced productions (including professional productions) which are ethnically and culturally diverse, per year in the Hennepin Theatre District for the first three (3) years after the commencement of the Lease, and up to four (4) such locally produced productions each year by the year 2010; (ii) developing programs for individual skill building, group access, and linkages to other organizations; (iii) fostering programs such as the existing Critical View student reviewer program; and (iv) facilitating youth initiatives aimed at connecting young people to the Hennepin Theatre District. Tenant’s expenditures shall not be reduced by the \$250,000 worth of public service advertising which Consultant has agreed to provide for Tenant’s mission.

(c) Tenant shall raise private, corporate and foundation funds to support its mission of preserving the Facilities and providing superior educational and cultural opportunities for the citizens of Minneapolis and the upper Midwest. To this end, Tenant shall (i) create a fund functioning as an endowment in the amount of at least \$5,000,000 by December 31, 2023 to support its operating activities; (ii) create a separate fund functioning as an endowment of at least \$5,000,000 by December 31, 2034 to support the preservation, enhancement and maintenance of the Facilities; (iii) achieve by December 31, 2018, three (3) consecutive years between 2014 and 2018 with operating reserves equal to or greater than two (2) months of Tenant's annual management and general operating budget; and (iv) achieve by December 31, 2026 three (3) consecutive years with operating reserves equal to or greater than four (4) months of Tenant's annual management and operating budget. Tenant will provide to the CPED Director on an annual basis an annual audited financial statement of the Tenant, and an update of the Tenant's progress in reaching the above requirements. Failure to create the above funds and achieve the requisite financial requirements will be an event of default under this Lease and will preclude exercise of the purchase option provided in Section 7.03 below.

(d) Tenant shall annually provide to the Issuer any changes, modifications or amendments to the Tenant's Strategic Plan, fund raising plan, CEO and Board of Trustees Succession Plans.

(e) The Tenant or any successor shall present at least 180 Events per year based on a four year rolling average as provided in Exhibit C to this Agreement.

(f) The Tenant or any successor shall satisfy the following annual patronage requirements based upon a four year rolling average as provided in Exhibit C to this Agreement: (i) attract at least 192,000 patrons per year; and (ii) attract at least 165,000 patrons per year who pay more than a nominal amount for admission.

The Tenant's numerical requirements in Sections 4.03(e) and (f) shall become subject to default if the Tenant fails to satisfy the numerical requirements in Sections 4.03(e), (f)(i), or (f)(ii) provided the Tenant shall be allowed a probationary fifth year following such four year rolling average in order to achieve the numerical requirement. If the Tenant satisfies the particular numerical requirement in the probationary fifth year standing alone, without regard to the preceding four years or the four year rolling average, the Tenant shall not become subject to default.

Section 4.04. Management Agreement. It is a condition precedent to Issuer's execution and delivery of this Agreement that Tenant enter into a Management Agreement. Execution and delivery by Tenant and Manager of the Management Agreement in substantially the form attached hereto as Exhibit D will satisfy such condition precedent. The term of the Management Agreement shall commence not later than the date hereof and shall continue for the Term of this Agreement. The Management Agreement shall contain at a minimum the following duties on the part of Manager:

(a) the timely payment on behalf of Tenant of all payments required under this Agreement to the Issuer or the Trustee, when due;

(b) the funding and supervision on behalf of Tenant of all capital repairs required in order to maintain the Facilities in a condition comparable to the First Class Historic Theatres, including the responsibility, in the event that one or more of the Facilities is damaged by fire or casualty, to proceed in accordance with this Agreement to repair, rebuild, or replace the damaged portion(s) of the Facilities, or to apply all or a portion of insurance proceeds to prepay Basic Rent, or to proceed otherwise as this Agreement may provide;

(c) the performance on behalf of Tenant of the routine maintenance, repairs and replacement of fixtures, furniture, furnishings, stage equipment for the Facilities;

(d) the responsibility to procure insurance coverage on behalf of Tenant as required by this Agreement;

(e) the timely payment on behalf of Tenant with respect to the Facilities of all water, electricity, sewage, telephone and other customary operating expenses under a triple net lease;

(f) the hiring of staff for all positions relative to the Facilities, including box office, stage employees, concessions, maintenance, administrative and ushering employees; and

(g) the responsibility to book the Facilities for the entire term of this Agreement.

In addition, the Management Agreement will require the Manager to provide to the Issuer a list of the Manager's key corporate officers as of the commencement of this Agreement and a notice to the Issuer of any change during the term of the Management Agreement.

Section 4.05. Consulting Agreement. It is a condition precedent to Issuer's execution and delivery of this Agreement that Tenant enter into a Consulting Agreement pursuant to which Consultant will provide services to Tenant with respect to the booking of a Broadway Season. Execution and delivery by Tenant and Manager of the Consulting Agreement in substantially the form attached hereto as Exhibit E will satisfy such condition precedent. The term of the Consulting Agreement shall commence not later than the date hereof and shall continue for the Term of this Agreement.

Section 4.06. Maintenance.

(a) Tenant shall at its own expense make ordinary maintenance and capital repairs and improvements to the Facilities over the Term as provided herein. The words or phrases "maintenance," "capital repairs," "improvements," "capital repairs and improvements" and similar words or phrases of like import as used herein denote ordinary and necessary maintenance, or ordinary and necessary capital repairs and replacements required to maintain the facilities as First Class Historic Theatres which would be customarily carried out in buildings of similar age, condition and character. The words or phrases "maintenance," "capital repairs," "improvements," "capital repairs and improvements" and similar words or phrases of like import as used herein shall not be construed to require any initiatives or extraordinary undertakings such as restorations, renovations, alterations or additions. Facilities which will be used as comparisons in determining the level of maintenance and capital repairs appropriate to the Facilities include the

historic theater components of The Pittsburgh Cultural Trust, Playhouse Square Center in Cleveland, and the Denver Center for the Performing Arts (the “First Class Historic Theatres”).

(b) Issuer and Tenant will submit to arbitration any dispute arising from an alleged failure on the part of Tenant to undertake ordinary maintenance and capital repairs and improvements to the Facilities as provided herein. The Manager and the Guarantor shall be parties to the arbitration. In the event that arbitration results in a determination that the maintenance, capital repairs or improvements to the Facilities must be completed, failure to do so in accordance with such determination will entitle the Issuer to give notice to the Guarantor under the Guaranty and if the Guarantor fails to promptly commence and diligently perform the repairs, the Issuer may immediately draw down the Letter of Credit described in Section 3(b)(iii) of the Guarantee and undertake the required maintenance, capital repairs or improvements to the Facilities, all as more fully set out in the Guaranty and the Guarantor, Manager and City Undertaking and Agreement. Failure by the Guarantor to replenish the Letter of Credit, after such drawing, will be an Event of Default hereunder.

(c) Tenant shall at its own expense keep and maintain all portions of each of the Facilities, including any adjoining sidewalks, in a clean and orderly condition free of accumulation of dirt, rubbish, snow and ice.

(d) Within six (6) months following the commencement of this Agreement, Tenant shall pay for the services of an expert mutually acceptable to Tenant, the Manager and the Issuer, who will complete within nine (9) months days following commencement of this Agreement an identification and review of the capital elements of the Facilities, and propose a schedule (which may include capital elements already identified in Exhibit F) for improvements based on the useful lives for those elements and provide such schedule to the Issuer. Tenant and Manager shall implement the plan and will exercise their best professional judgment as to the precise timing for Tenant to complete the improvements set forth in the schedule. In January of each year, Tenant will submit to the Issuer a report identifying the capital improvements made to the Facilities during the previous twelve (12) months. After consultation with Manager, Tenant will also submit to the Issuer each year during the term of this Agreement, a capital repair and improvement plan for the ensuing year. At five (5) year intervals, Tenant, at its expense, using an expert mutually acceptable to Tenant, Manager and Issuer, will update the schedule of capital improvements.

(e) Tenant shall cause Manager to expend such amount, not to exceed \$1.5 million, as may be necessary to complete the deferred capital repairs and improvements which are listed on Exhibit F attached (as may be supplemented or modified by the schedule developed in Section 4.06(d) except that the total cost shall in no event exceed \$1.5 million). Within 120 days following the completion of the schedule developed in Section 4.06(d) of this Agreement, the Tenant shall cause the Manager to undertake the repairs and improvements in accordance with the schedule and Exhibit F, in good faith. Issuer and Tenant anticipate such repairs and improvements which are scheduled for the first year of the plan are likely to be completed within twelve (12) months of commencement of the work. The actual times of initiation of such repairs and improvements are subject to customary qualifications such as force majeure, unavailability of labor or materials, and scheduling of presentations at the Facilities. However, in all

circumstances the repairs set forth in the first year of the schedule shall have been completed by prior to the start of the third full Broadway Season after execution of this Agreement.

Section 4.07. Other Modifications, Emergencies.

(a) In addition to matters described in Section 4.06(d) or (e), Tenant may, from time to time at the Tenant's own expense, make any alterations or deletions to any of the Facilities that the Tenant may deem desirable for its business purposes and that shall not adversely affect the operating integrity of the Facilities or reduce the value thereof; provided, however, that alterations or deletions (other than an addition or improvement to Facility Equipment and excluding matters described in Section 4.06(d) or (e)), the aggregate estimated cost of which for any one Facility in a calendar year exceeds \$150,000, shall be made only with the consent of the Issuer or its duly designated agent, which shall not be unreasonably withheld and which consent shall be deemed given if neither the Issuer nor its agent replies within fifteen (15) calendar days from the receipt of the Tenant's written request for consent. All additions, modifications and improvements made by the Tenant, other than in accordance with Section 4.15 hereof, shall become a part of the Facility and the property of the Issuer. All alterations and modifications to the Facility shall comply with Section 6.09 of this Agreement and shall be made in accordance with all applicable laws, statutes, rules, regulations, building codes and orders of any authority having jurisdiction over performance of the Tenant's work, including, without limitation and to the extent applicable, the Americans with Disabilities Act of 1990, subject, however, to Section 6.08.

(b) In the case of casualty, unsafe condition or other emergency which in the reasonable judgment of the Tenant or the Manager under the circumstances requires immediate action to preserve the Facilities or any of them or to protect the health, safety or welfare of patrons or employees of the Facilities or any of them, the Tenant or the Manager may take any and all such actions, including alterations, additions, modifications, improvements, or deletions of or to the Facilities, temporary or permanent, as the Tenant or the Manager may deem necessary or appropriate under the circumstances, without obtaining the Issuer's approval thereof and without regard to any other requirements or limitations provided in Section 4.07(a) or elsewhere in this Agreement which otherwise would be applicable thereto; provided that the Tenant or the Manager shall use commercially reasonable efforts to give notice to the Issuer of events, circumstances and actions described in this Section 4.07(b).

Section 4.08. Liens. The Tenant shall not permit mechanics' liens or other liens to be filed or established or to remain against the Facilities for labor, materials, services or money furnished or to be furnished in connection with the Facilities at the request of Tenant (or in respect of repairs or improvements which the Tenant is obligated to perform under this Agreement). Tenant shall give promptly give notice to Issuer of the filing of any such lien and shall cause it to be discharged within 30 days of its filing, unless contested as permitted under Section 4.11 of this Agreement. If the lien is contested as provided in Section 4.11, then Tenant may permit the lien so contested to remain unpaid during the period of the contest and any appeal therefrom.

Section 4.09. Removal of Facility Equipment. Unless otherwise agreed in writing by the Issuer in its absolute discretion the Tenant shall not remove or permit the removal of any Facility

Equipment (other than Facility Equipment that the Tenant customarily rents to third parties and is covered by rental insurance) from the Facility Premises except in accordance with the provisions of this Section 4.09:

(a) In any instance in which the Tenant, in its sound discretion, determines that any item of Facility Equipment has become inadequate, obsolete, worn out, unsuitable, undesirable, unsafe or unnecessary for the operation of a Facility, the Tenant may remove and dispose of such item and substitute and install other Facility Equipment which (i) has a similar purpose or function and is of substantially equivalent or better quality as the removed Facility Equipment, or (ii) has substantially equal or greater fair market value but not necessarily the same function in the operation of a Facility as the removed Facility Equipment; provided that such removal and substitution, if any, shall not impair the operating integrity, productive capacity, historic designation status as provided in Section 6.09 of this Agreement, or structural integrity of a Facility.

(b) The Tenant shall pay all costs of removal and substitution authorized under this Section 4.09 and repair all damage to the Facility and adjacent buildings or structures resulting therefrom. All substituted Facility Equipment shall be free of all liens and encumbrances and shall become a part of the Facility, and the Tenant shall, at the request of the Issuer, cause title to the substituted Facility Equipment to be formally placed in the name of the Issuer by bill of sale. The Tenant shall cooperate with the Issuer and shall pay all costs, including attorney's fees, incurred in establishing title to and a security interest in the Facility Equipment so substituted, and the Issuer shall cooperate with the Tenant in securing a release of the removed property.

Section 4.10. Taxes and Other Governmental and Utility Charges. The Tenant shall pay when due and payable all Impositions. With respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years with interest, the Tenant shall be obligated to pay only such installments and interest as are required to be paid during the Term. The Tenant may, at its own expense and in good faith, contest any such Imposition in which case Tenant may permit the items so contested to remain unpaid during the period of the contest and any appeal therefrom in accordance with Section 4.11.

It is recognized by the Tenant and the Issuer that under the provisions of Minnesota Statutes, Section 272.01, subdivision 2, and Section 469.155, subdivision 5, a tax may be imposed and may be required to be collected from the Tenant during the Term for the privilege of using and possessing each Facility in the same amount and to the same extent as though the Tenant were the owner of all real and personal property comprising each Facility. The Tenant recognizes that, in accordance with the foregoing provisions, the Tenant's tax liability is a personal liability of the Tenant and not in rem taxation secured by a lien on a Facility or any part thereof.

At the request of the Issuer or Trustee, the Tenant shall deliver proof that property taxes accrued during the Term and due on each Facility have been paid in full. Such proof shall be in the form of a canceled check, receipt or such other evidence as the Issuer or Trustee may require.

Upon the occurrence of an Event of Default, the Tenant shall, if requested in writing by the Issuer, cause to be established a "Tax and Insurance Escrow Fund" to be held at the option of

the Issuer with the Issuer or the Trustee, into which the Tenant shall make monthly payments which will be, in the aggregate, sufficient to pay all taxes and insurance premiums for the Facility, when due. Such escrow shall not be pledged to payment of the Bonds.

During the Term, Issuer covenants and agrees that it will not impose or receive (and if received, shall pay promptly pay over to Tenant) any Prohibited Imposition.

Section 4.11. Contests. Tenant at Tenant's expense may contest by appropriate legal proceedings conducted in good faith and with diligence the amount, validity or application, in whole or in part, of any Imposition or any lien referred to in Section 4.08, provided that

(a) no contest may involve the possibility of forfeiture, sale or disturbance of Issuer's interest as landlord in the Facilities,

(b) if Issuer shall notify Tenant that the Facilities or any part thereof are subject to imminent loss through foreclosure of the Imposition or lien then Tenant shall discharge or bond over same as reasonably required by Issuer,

(c) upon final determination of any contest and appeal therefrom, Tenant shall pay and satisfy in full any amount found to be due, together with costs, penalties and interest, and shall comply with any obligation found to be controlling,

(d) Tenant shall promptly give notice to Issuer of the commencement and final determination of any such contest, and

(e) at Tenant's request, when required by law or where other good cause appears, Issuer shall join in any such contest on condition that Tenant shall hold harmless and indemnify Issuer from and against any loss, cost or damage Issuer shall suffer by reason of such joinder.

Section 4.12. Insurance.

(a) The Tenant shall provide for the purchase and maintenance of such insurance as will protect the Tenant and the Issuer against risk of loss or damage to each Facility and any other property permanently located or exclusively used at each Facility Premises and against claims which arise or result from the maintenance and use of the Facilities, including operations conducted in connection with construction or reconstruction of improvements thereupon and from any other operations of the Tenant.

(b) The insurance required by this Section 4.12 shall include "all risk" property insurance (at full replacement value), liability insurance (at minimum limits of \$1,000,000 for injury or death to one person, \$2,000,000 for injury or death to more than one person and \$500,000 with respect to property damage or, at the option of the Issuer, a combined single limit of \$2,000,000). With respect to all such liability insurance coverage, the Issuer shall be named as an additional insured, and with respect to all such insurance covering each Facility against physical loss or damage, the Issuer shall be named as mortgagee-loss payee. The Net Proceeds of property insurance resulting from claims for loss or damage to the Facilities shall be applied as provided for in Section 5.01 hereof, and the balance of any Net Proceeds resulting from claims for the loss or damage to property other than the Facilities shall be remitted to the Tenant.

(c) All such insurance shall be taken out and maintained in responsible insurance companies licensed to do business in the State. Said companies shall be selected by the Tenant, but all insurance policies required under this Section 4.12 shall be filed with and approved by the Issuer or its duly designated agent. Upon the anniversary date of such property insurance, the Tenant shall increase the coverage to the extent reasonably determined by the Issuer or its duly designated agent, upon inquiry to and comment from the Tenant, to be necessary to insure each Facility at its full replacement value (but which increase shall be consistent with industry standards for comparable properties) unless the Issuer shall receive a certification from the Tenant that all insurance policies in effect comply with the provisions hereof and provide coverage adequate to insure each Facility at its full replacement value. Each policy shall contain a provision that the insurer shall not cancel or substantially modify the policy without giving written notice to the Issuer at least thirty (30) days before the cancellation becomes effective. Before the expiration of any policy, the Tenant shall furnish the Issuer evidence satisfactory to the Issuer or its duly designated agent that the policy has been renewed or replaced by another policy, which renewal or replacement policy shall be filed and approved as hereinabove provided for the original policy or that there is no necessity therefor under the terms hereof. In lieu of separate policies, the Tenant may maintain blanket policies having the coverage required by the Issuer, with delivery of appropriate certificates evidencing such coverage. The Tenant's obligations to procure and maintain insurance hereunder shall be in addition to and shall not limit any other obligation assumed by the Tenant under the terms of this Agreement. The Issuer does not in any way represent that the insurance required and approved as herein provided, whether in scope of coverage or limits, is adequate or sufficient to protect the Tenant's business or interest. Where special or unusual hazards peculiar to the Facilities are foreseeable, the Tenant shall take such steps to insure itself and the Issuer against such hazards and shall be responsible for any damage which results from the occurrence of such hazard. During the Term the Tenant shall comply with the orders, rules and regulations of the Board of Fire Underwriters where the Facilities are located and with all other requirements of the policies of insurance required of the Tenant under this Section 4.12.

(d) Tenant shall not, without the prior written consent of all insurance companies which have issued any insurance of any kind whatsoever pursuant to any provision of this Section 4.12, sell or otherwise permit to be kept, used or sold in, upon or about any of the Facilities any gasoline, distillate or other petroleum products or any other substance or material of any explosive or radiological nature, except those items or products specifically disclosed to the Issuer in writing, and then only in such quantities as approved by such insurance companies and at all times stored in such a manner so as to not endanger any part of any of the Facilities or their occupants, business patrons or invitees.

Section 4.13. Risk of Loss. Excepting only ordinary wear and tear, and subject to the provisions of Sections 5.01, 5.02 and 6.02 hereof, the Tenant shall be solely responsible for damage to or loss to each Facility, individually, however caused, after execution of this Agreement (until and unless this Agreement is terminated as to such Facility or Tenant is excluded from possession of such Facilities, under Articles VII or VIII).

Section 4.14. Advances. If the Tenant shall fail to make any repairs (subject, however, to arbitration as set out in Section 4.06(b)), pay any liens, Impositions or other charges (subject, however, to Tenant's right to contest as set out in Section 4.11), or pay Basic Rent or any other

sums required by this Agreement to be paid, the Issuer may, but shall not be obligated to, take such action as may be necessary after not less than five (5) Business Days notice to the Tenant to cure such failure, including advancement of money, and the Tenant shall be obligated to repay all such advances on demand pursuant to Section 2.03 hereof. Any such action or cure by Issuer shall not be deemed a cure of any Event of Default on the part of Tenant.

Section 4.15. Installation and Removal of Tenant's Equipment. Nothing in this Agreement shall prevent the Tenant, after the date hereof, from purchasing or installing Tenant's Equipment. Tenant's Equipment shall be exclusive of and shall not include Facility Equipment, or replacement Facility Equipment as described in Section 4.09. Tenant's Equipment shall be purchased and installed using Tenant's funds or under a conditional sale or lease purchase contract or subject to a vendor's lien or security agreement as security for the unpaid portion of the purchase price thereof or from entering into any other loan agreement secured by a lien or security interest in such machinery and equipment acquired at the Tenant's own expense, provided that no such lien or security interest shall attach to any part of the Facility. The Tenant shall promptly pay when due the purchase price and all costs and expenses of the acquisition and installation of each item of Tenant's Equipment pursuant to this Section 4.15 and shall promptly perform all obligations the Tenant may have under any such loan agreement. Tenant's Equipment shall remain the sole property of the Tenant (or any lessor thereof if such items are leased by the Tenant), in which the Issuer shall have no interest, and may be modified or removed by the Tenant at any time; provided that the Tenant shall repair and restore any and all damage to a Facility resulting from the installation, modification or removal of any such items. The Issuer will grant reasonable entry rights to lienholders with respect to such items for the purpose of inspection or repossession thereof.

Section 4.16. Signage; Disclaimer. The Tenant shall post, or permit the Issuer to post, a notice addressed to contractors and others providing labor and materials with respect to each Facility stating, in effect, that the Issuer disclaims any responsibility for payment of labor, materials, or other work with respect to such Facility.

ARTICLE V

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 5.01. Damage and Destruction.

(a) If during the Term a Facility is partially destroyed or is damaged by fire or other casualty or stolen, to such extent that the claim for loss resulting therefrom is not greater than \$50,000, the Tenant shall promptly repair, replace and restore the property damaged or destroyed or otherwise lost to substantially the same condition as existed before such occurrence or to any other condition which, with such changes, alterations and modifications (including the substitution and addition of other property), may be desired by the Tenant, provided that such

changes, alterations and modifications shall not materially impair the operating integrity, productive capacity, historic designation status, or value of the Facility and shall be suitable for continued operation of the Facility for the purposes specified in this Agreement, and the Tenant shall pay the costs thereof and be entitled to all Net Proceeds of insurance paid in respect of such claim. If, however, the claim for loss resulting therefrom exceeds \$50,000, the Tenant shall promptly give written notice thereof to the Issuer. Unless Section 7.02(a) (iv) hereof is applicable and the Tenant exercises the Tenant's option to terminate this Agreement (to the extent of the Facility or Facilities to which Section 7.02(a)(iv) is applicable) pursuant thereto, all proceeds of insurance resulting from such claim shall be paid to the Issuer and the Net Proceeds thereof shall be applied in accordance with Section [406] of the Supplemental Bond Resolution.

(b) Unless Section 7.02(a) (iv) hereof is applicable, in the case of claims in excess of \$50,000, the Tenant shall promptly proceed to repair, replace and restore the property damaged or destroyed or otherwise lost to the same extent as required above in the case of claims for \$50,000 per occurrence or less; provided that before any work of repair, replacement or restoration is undertaken the Tenant shall cause plans and specifications therefor to be prepared, certified and approved in accordance with Section [406] of the Supplemental Bond Resolution, and the Issuer shall apply so much as may be necessary of the Net Proceeds to payment of the costs of such repair, replacement or restoration, either upon completion thereof or as the work progresses, upon compliance with Section [406] of the Supplemental Bond Resolution. If the Net Proceeds of insurance are not sufficient to pay such costs of repair, replacement or restoration in full, the Tenant shall deposit with the Issuer money sufficient to pay that portion of the cost thereof in excess of Net Proceeds, whereupon the Issuer shall pay for the completion of such repair, replacement or restoration.

Section 5.02. Condemnation. If, during the Term, Condemnation proceedings are commenced against all of the Facilities, a Facility or any part of a Facility, the Tenant shall promptly give written notice thereof to the Issuer. Unless Section 7.02(a) (v) hereof is applicable and the Tenant exercises the Tenant's option to terminate this Agreement (to the extent of the Facility or Facilities to which Section 7.02(a)(v) is applicable) pursuant thereto, all proceeds of the Condemnation Award shall be paid to the Issuer and the Net Proceeds thereof shall be applied as hereinafter provided. The Tenant shall promptly, so far as possible repair, replace and restore the Facilities or Facility and such parts thereof, as the case may be, to substantially the same condition as existed before the taking or to any other condition which, with such changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Tenant, provided that such changes, alterations and modifications shall not materially impair the operating integrity, productive capacity, historic designation status or value of the Facilities and shall be suitable for continued operation of the Facilities for the purposes specified in this Agreement. So far as practicable the Issuer shall acquire or, if already owned by the Issuer, shall furnish such land in lieu of that taken by Condemnation as may be needed for such restoration, if requested in writing by a Representative of the Tenant, on such terms and conditions as the Issuer deems appropriate and reasonable. The Issuer shall apply so much of the Net Proceeds as may be necessary to pay the cost of acquisition of the land. Before any work of repair, replacement or restoration is undertaken, the Tenant shall cause plans and specifications to be prepared and certified to in accordance with Section [406] of the Supplemental Bond Resolution and the Issuer shall apply so much as may be necessary of the Net Proceeds to the payment of the cost of such restoration, replacement, or repair, either on completion thereof or as

the work progresses, upon compliance with said Section [406]. If the Net Proceeds are not sufficient to pay such costs in full, the Tenant shall nevertheless restore the same and shall pay to the Issuer that portion of the cost in excess of the amount of the Net Proceeds. The Net Proceeds of any Condemnation Award or portion thereof separately awarded for damages to or taking of the property of the Tenant or for damages on account of the taking of or interference with the Tenant's rights to possession or use of such Facilities or Facility or parts thereof shall be and remain at all times the property of the Tenant.

Section 5.03. Tenant's Right to Contest. Nothing in this Article V shall be construed as preventing the Tenant from contesting in good faith the adequacy of any proposed insurance payment or Condemnation Award, provided that the Tenant shall first notify the Issuer of its intention to do so. Subject to the provisions of Section 2.05 hereof, the Issuer shall cooperate fully with the Tenant in filing any proof of loss with respect to any insurance policy covering casualties referred to in Section 5.01 hereof, in the handling and conduct of any litigation arising with respect thereto and in the handling and conduct of any prospective or pending Condemnation proceedings affecting the Facilities or a Facility or any part thereof. In no event shall the Issuer voluntarily settle or consent to the settlement of any prospective or pending Condemnation proceeding, action or negotiation in lieu of condemnation proceedings, or insurance claim with respect to the Facility or any part thereof without the written consent of the Tenant. Nothing herein shall require the Issuer to assert the invalidity of any taking of the Facilities or a Facility or any part thereof by the condemning authority.

Section 5.04. Disposition of Unused or Surplus Net Proceeds. If, after a reasonable period of time, the Facilities or Facility in question has not been repaired, restored or replaced as provided in Section 5.01 or Section 5.02 hereof, any Net Proceeds paid to the Issuer shall continue to be held by the Issuer for the purposes set forth in Section 5.01 or Section 5.02 hereof, whichever is applicable, provided that such Net Proceeds may then be used to make advances for the Tenant in accordance with Section 4.14 hereof (subject, however, to applicable provisions of the Guarantor, Manager and City Undertaking and Agreement). [Review draft prepared by McGrann, Shea] Any balance of Net Proceeds after repair, restoration or replacement of the Facilities or Facility in question as herein provided shall be credited to a separate subaccount for Retained Funds in the Common Reserve Account and applied pursuant to Section 2.02 hereof or, if the Bonds have been discharged under the terms of the Supplemental Bond Resolution, shall be paid to the Tenant (or otherwise paid or applied in accordance with the Guarantor, Manager and City Undertaking and Agreement). [Review draft prepared by McGrann, Shea]

Section 5.05. Rights in Additional Property. Any additional property or rights or interests therein acquired under Section 5.01 or Section 5.02 hereof shall be available for use or occupancy by the Tenant without the payment of any Basic Rent other than that provided in Section 2.02 hereof and shall be and become a part of the Facilities or a Facility as the case may be and subject to the terms of this Agreement, and the Tenant shall, at the request of the Issuer, cause title to any such property to be formally placed in the name of the Issuer by bill of sale or limited warranty deed, as the case may be. The Tenant shall not, by reason of the loss or the payment of any costs of repair, restoration or replacement, be entitled to any reimbursement from the Issuer or any abatement or diminution of the Basic Rent payable under Article II hereof or of the other sums payable by the Tenant hereunder. The Tenant shall have no equity in the Facilities or a Facility by reason of the acquisition of such property or any rights or interests

therein, and the Tenant's right to use and to purchase such property and rights and interest therein shall be governed entirely by the terms of this Agreement.

ARTICLE VI

REPRESENTATIONS AND COVENANTS

Section 6.01. Tenant's Material Representations. As a material inducement to the Issuer entering into the Agreement, the Tenant makes the following representations:

(a) The Tenant has power to enter into this Agreement and use the Facilities for the purposes set forth herein.

(b) The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby and the fulfillment of the terms and conditions hereof do not and shall not conflict with or result in a breach of any of the terms or conditions of any restriction or any agreement or instrument to which the Tenant is now a party or to which the Tenant may be bound and do not and shall not constitute a default under any of the foregoing or result in the creation or imposition of any lien, charge or encumbrance of any nature upon the Tenant's interest under this Agreement or any other property or assets of the Tenant contrary to the terms of any instrument or agreement.

(c) To the actual knowledge of the Tenant, the use of the Facilities for the purposes and in the manner contemplated by this Agreement conforms in all material respects to all presently applicable development, pollution control, water conservation and other laws, regulations and rules of the Federal government and the State and the respective agencies thereof.

(d) Except as set out in Section 6.02, the Tenant does not rely on any warranty of the Issuer, either express or implied, as to the fitness for any particular purpose or the merchantability of the Facility Equipment or as to the title to or condition of the Facility Premises or that the Facilities will be suitable to the Tenant's needs.

(e) All certificates delivered or representations made by or on behalf of the Tenant on the date hereof are true and correct in all material respects.

(f) Except as provided in Section 4.09, the Facility Equipment at all times during the Term will be located and used on the Facility Premises, provided that the Facility Equipment (subject to the other conditions to removal set forth herein) may be removed to another location within the City of Minneapolis with the written consent of the Issuer, which consent will not be unreasonably withheld or delayed.

(g) The Tenant acknowledges that the Issuer retains full legal title to the Facilities, notwithstanding the delivery thereof to and the possession and use thereof by the Tenant.

(h) The Tenant and the Guarantor have paid or will make provision for payment of all federal and state withholding taxes which are or which become due and payable during the Term.

(i) The Tenant is a nonprofit corporation in good standing under the laws of Minnesota and is an organization described in Section 501(c)(3) of the Code exempt from federal income tax under Section 501(a) of the Code.

In making the representations contained in this Agreement, except as specifically stated, the Tenant has relied upon the Tenant's own independent investigation of the facts and law and has not relied upon any representations made by the Issuer or any of its officers, agents, employees or legal counsel as to such matters, except as otherwise expressly set forth herein.

Section 6.02. Issuer's Representations and Warranties. As a material inducement to the Tenant entering into this Agreement (and the Guarantor entering into the Guaranty), the Issuer makes the following representations:

(a) Zoning – The Issuer represents and warrants that the three Facilities are permitted uses in the City Code of Ordinances at Chapter 549 and specifically, Section 549.30. The Pantages Theatre, the State Theatre and the Orpheum Theatre are all currently lawfully nonconforming Facilities as to off street parking. All said representations and warranties are further indicated in the letter from the Issuer's CPED, Zoning Section dated _____ 2005.

(b) Building Code – The Issuer represents and warrants that the Facilities are not currently subject to violations of the City Code of Ordinances at Chapters 85, 101, 105 and 107. All said representations and warranties are further indicated in the report from the Issuer's Department of Regulatory Services dated _____ 2005.

(c) Environmental – The Issuer represents and warrants that to the best of the Issuer's knowledge, no "hazardous materials" as that term is defined in Section 6.10 of this Agreement, have been found at any of the Facilities except as otherwise indicated in the reports disclosed and made available to Tenant by the Issuer's CPED, Economic Policy and Development Division in the Summary dated _____, 2005.

(d) Title – The Issuer represents and warrants that the Facility Premises are subject only to the Permitted Encumbrances indicated in Exhibits A-1, A-2 and A-3 to this Agreement as of the date of this Agreement. The Issuer has provided to the Tenant a title commitment for each Facility and Facility Premises and Tenant has reviewed and not objected to the Permitted Encumbrances. Issuer makes no other representations as to the insurability or marketability of title to the Facilities and Facility Premises.

(e) Applicability of Minnesota Statutes, Section 116J.993 et seq. – The Issuer represents that Minnesota Statutes, Section 116J.992 et seq. (the "Business Subsidy Act") is not applicable to the Facilities and Facility Premises. The Issuer is issuing new bonds to defease the existing bonds thereby exempting the Tenant from the Business Subsidy Act.

(f) Litigation – The Issuer represents that the only lawsuit in which it is a party regarding each Facility and each Facility Premises is a contested title registration matter involving the Pantages Theatre filed in Hennepin County District Court as Court Matter Number 20786 on January 4, 2005. The Issuer shall be responsible for and the Tenant shall bear no responsibility for the costs incurred by the Issuer or any costs of restoration, repair or

replacement with respect to the Pantages Theatre or the Stimson Building as a result of this litigation. The Issuer makes no other representations or warranties as to personal injury and property claims and lawsuits filed regarding each Facility and each Facility Premises.

Section 6.03. Assignment to the Trustee; Covenant for the Benefit of the Issuer and the Holders. The Tenant authorizes the Issuer to assign to the Trustee its interest hereunder to receive Basic Rent and other amounts required to be deposited in the Common Bond Fund, which is pledged as security for the payment of the principal or Redemption Price of and interest on the Bonds and all other Common Fund Bonds payable from the Common Bond Fund, the maintenance of the Common Reserve Account and the payment of all fees, expenses or other items, to the extent and in the manner provided in the Supplemental Bond Resolution and the Basic Resolution. Such pledge however shall not impair the validity and continuance of this Agreement as long as the Tenant shall not be in default hereunder beyond applicable notice and cure periods. Each of the terms and provisions of this Agreement is a covenant for the use and benefit of the Issuer and, to the extent provided in the Supplemental Bond Resolution and the Basic Resolution, the Holders of all such Bonds.

Section 6.04. Inspection and Access. The Tenant agrees that the Issuer and its duly authorized agents shall have the right at all reasonable times after reasonable written notice to Tenant and Manager to examine and inspect the Facilities and for that purpose to enter upon each of the Facility Premises and agrees that the Issuer shall also have such rights of access thereto as may be reasonably necessary to cause the Facilities to be properly maintained and improved in accordance with Article IV hereof in the event of failure by the Tenant to perform these obligations (subject, however, to the procedures described in Section 4.06).

Section 6.05. Financial Statements, Certificate of Compliance and Other Reports. In addition to the reporting requirements set forth in Section 6.07 hereof, the Tenant shall cause to be furnished to the Financial Advisors, Underwriters, and the Issuer a copy of the financial statements and reports set forth below:

(a) financial statements of the Tenant within one hundred twenty (120) days after the close of each fiscal year of the Tenant, prepared in accordance with generally accepted accounting principles, which shall include a balance sheet as of such year end and an operating statement and statement of changes in financial condition for the twelve months then ended, which statements shall be audited by a firm of independent certified public accountants acceptable to the Issuer;

(b) any quarterly financial statements of the Tenant as soon as practicable following the close of each quarter of the calendar year, when requested by the Issuer; and

(c) the federal tax return of the Tenant within five (5) days after filing thereof with the appropriate governmental agencies.

At the same time the annual financial statements are submitted, the Tenant shall also furnish the Issuer and the Underwriter a certificate, in form and substance approved by the Issuer, executed by an officer of Tenant (which may rely on a certification as to such matters by the Tenant's Representative) certifying that, during the same fiscal year covered by said financial

statements and continuing to the date of execution, the Tenant has fully complied with the terms and conditions of this Agreement, except as otherwise fully disclosed in said certificate.

The Tenant shall furnish upon request to the Minnesota Department of Employment and Economic Development, or any successor, with all reports required under the Act. The Tenant shall, at the request of the Issuer, also furnish to the Issuer and the Underwriter at such times and in such form as the Issuer may reasonably require a copy of such reports containing such information about the Tenant, the Manager, the Guarantor, or the Facilities as is necessary to comply with any lawful reporting or continuing registration requirements imposed by an Issuer of the State under the Act, the Minnesota securities laws, or any other applicable State law then in effect or such other information as is necessary to comply with Federal securities law.

Section 6.06. Indemnity by Tenant. The Tenant shall protect, indemnify and save the Issuer harmless from and against all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees and expenses of the Issuer), causes of action, suits, claims, demands and judgments of any nature arising from:

(a) any injury to or death of any person or damage to property in or upon the Facilities, the Facility Premises or any Facility or growing out of or connected with the use or nonuse of the Facilities, the Facility Premises or any Facility or any part thereof during the Term hereof, including any and all acts or operations relating to the improvement of the Facilities or a Facility, provided that the indemnity shall be effective only to the extent of any loss that may be sustained by the Issuer in excess of the Net Proceeds received by the Issuer from any insurance carried with respect to the loss sustained. The foregoing indemnification obligations shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Tenant, customers, suppliers or affiliated organizations under any worker's compensation acts, disability benefit acts or other employee benefit acts or any other laws;

(b) claims of third parties arising from violation of any agreement or condition of this Agreement, except by the Issuer;

(c) claims of third parties arising from violation of any contract, agreement or restriction relating to the Facilities or a Facility which has been or shall have been approved by or entered into by the Tenant or which shall have existed at the commencement of the Term and to which the Tenant shall have been a party or by which the Tenant shall have been bound, except by the Issuer;

(d) violation of any law, ordinance or regulation affecting the Facilities or a Facility or a part thereof or the ownership, occupancy or use thereof including, without limitation, any provision of the Americans with Disabilities Act of 1990; and

(e) any statement or information concerning the use of Bond proceeds, expenditures related to the Bonds, the Tenant, the Manager, the Guarantor, or any "principal users" of the Facilities or a Facility or "related persons" furnished by the Tenant, agents or employees, either in a document required by Bond Counsel or otherwise furnished in response to a request from the Issuer or its duly authorized agent; provided that such statement or information is untrue or

incorrect in any material respect or omits any information which should be contained therein for the purpose for which the same is to be used or which is necessary to make the statements therein concerning any of the matters set forth above not misleading in any material respect; and provided, further, that:

(i) in the event of settlement of any litigation commenced or threatened arising from a claim based upon any such untrue statement or omission, such indemnity shall be limited to the aggregate amount paid under a settlement effected with the written consent of the Tenant Representative; and

(ii) such indemnity shall extend to each person, if any, who “controls” the Issuer, as that term is defined under Section 15 of the Securities Act of 1933, as amended, or Section 20(a) of the Securities Exchange Act of 1934, as amended, and to any other officer, agent or employee of the Issuer.

With respect to all indemnity under this Section 6.06, the Issuer shall promptly notify the Tenant in writing of any claim or action brought against the Issuer or any other Person indemnified as aforesaid, in respect of which indemnity may be sought against the Tenant, setting forth the particulars of such claim or action, and the Tenant shall assume the defense thereof, including the employment of counsel and the payment of all expenses, and in this event the Issuer agrees to cooperate fully with the Tenant, provided that the Tenant furnishes the Issuer an undertaking to pay all costs and expenses incurred by the Issuer with respect to such matters. The Issuer or any such indemnified Person may employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall not be payable by the Tenant unless such employment has been authorized by the Tenant, or in the opinion of counsel to the Tenant is required by professional rules or statute. Tenant shall not be liable hereunder for any settlement reached without its prior written consent.

Section 6.07. Security Interest in Facility Equipment; Reports to Issuer.

(a) This Agreement shall be deemed a security agreement creating a security interest in the Facility Equipment to secure payment of amounts and performance due hereunder by the Tenant, and the Tenant shall cause the Trustee to execute, file and record all instruments, including financing statements or continuation statements, necessary to perfect or continue the perfection of the Issuer’s security interest in the Facility Equipment.

(b) If so requested by the Issuer on or within ninety (90) days after the close of each fiscal year of the Tenant and so long as any Bonds remain outstanding under the Supplemental Bond Resolution, the Tenant shall file with the Issuer a certificate of a Tenant Representative describing, as of the end of such fiscal year: (i) each item of Facility Equipment not described in this Agreement or a previous similar certificate, (ii) any other item of Facility Equipment which during such fiscal year required supplemental filings in order to continue perfection of the security interest of the Issuer in such item of the Facility, and (iii) all steps taken and instruments executed during the fiscal year to perfect or continue the perfection of the security interest of the Issuer in and to all Facility Equipment.

(c) If so requested by the Issuer within thirty days after filing with the Issuer the certificate required in Section 6.07(b) hereof, the Tenant shall cause to be furnished to the Issuer an Opinion of Independent Counsel to the effect that all steps requisite to perfection or continuance of perfection of the security interest of the Issuer in and to the Facility Equipment have been duly taken. Any such opinion shall specify the further refilings and renewals required in order to continue perfection of such security interest throughout the Term. The Tenant shall execute all instruments, including financing statements and continuation statements, deemed necessary or advisable in the opinion of Independent Counsel for perfection of and continuance of the perfection of such security interest.

(d) All obligations of the Tenant under this Section 6.07 are subject to the condition that, at the request of the Tenant, the Issuer shall execute all instruments, including financing statements, prepared by the Tenant and required of the Issuer in the opinion of Independent Counsel to perfect or continue the perfection of such security.

Section 6.08. Covenants, Rules, Laws and Regulations. The Tenant agrees to comply with the covenants and restrictions running with the Facility Premises, if any, and all applicable governmental laws, regulations, requirements and rules and prohibitions of public or private nuisances with respect to the use, maintenance and operation of the Facilities, including any conditions as to use set forth in the Americans with Disabilities Act of 1990, subject, however, to the right of the Tenant to continue any such use or operation consistent with the other provisions of this Agreement and said covenants and any regulations or restrictions adopted by the Issuer during the continuance of any lawsuit or other legal proceeding in which the legality of such use or operation is in dispute and is defended by the Tenant in good faith. In case any portion of the Facility Equipment shall be required to be changed or replaced or in case any additional or other Facility Equipment is required to be installed on such item of Facility Equipment in order to comply with such laws, regulations, requirements and rules and such requirement is not duly contested as provided above, the Tenant agrees to promptly make such changes, additions and replacements at the Tenant's sole expense.

Section 6.09. Historic Designation. The Issuer represents and warrants that the current historic designation status of the Facilities is correctly and completely described on Exhibit G. The Tenant covenants and agrees that Tenant will protect such historic designation and status. The Issuer covenants and agrees that any actions or determinations following the date hereof concerning creation or recognition of historic status or designation shall be subject to the consent of Tenant, Manager and Guarantor, which consent may be withheld in the absolute discretion of Tenant, Manager or Guarantor if any such creation or designation could, in the reasonable judgment of Tenant, Manager or Guarantor, have a material adverse effect on their operation and management of the Facilities or any of them.

Section 6.10. Hazardous Materials. Tenant covenants, warrants and represents to the Issuer, its successors and assigns, (i) that except as permitted by law, including all applicable statutes, regulations and rulings, it will not use or permit the Facilities to be used, whether directly or through contractors, agents or tenants, for the generating, transporting, treating, storage, manufacture, emission of, or disposal of any dangerous, toxic or hazardous pollutants, chemical wastes or substances as defined in the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980 ("CERCLA"), or the Federal Resource

Conservation and Recovery Act of 1976 (“FRCRA”), or the Minnesota Environmental Response and Liability Act, Minnesota Statutes, Chapter 115A (“MERLA”), or any other federal, state or local environmental laws, statutes, regulations, requirements and ordinances (“Hazardous Materials”); (ii) that to the best of Tenant’s knowledge without inquiry, there have been no investigations or reports citing the Tenant or its operations as violating the foregoing by any governmental authority which in any way pertain to Hazardous Materials; (iii) that to the best of Tenant’s knowledge, Tenant’s operation of the Facilities will not violate any federal, state or local law, regulation, ordinance or requirement governing Hazardous Materials; (iv) that to the best of Tenant’s knowledge, Tenant will not cause the Facilities to contain any formaldehyde, urea formaldehyde, or asbestos, except as may have been disclosed in writing by the Issuer to the Tenant prior to or at the time of execution and delivery of this Agreement; and (v) that at its expense it will take, or cause to be taken, any and all action required to investigate, remedy, correct or modify any adverse or potentially adverse environmental conditions at the Facilities which any accurate environmental report discloses to exist or which is otherwise discovered by the Tenant and which are caused by Tenant or those acting by or through Tenant so that the Facilities comply with applicable environmental laws, statutes, regulations, requirements and ordinances.

In addition to the foregoing, the Tenant shall not install or maintain, or permit the installation or maintenance of any aboveground or underground storage tanks for the storage of petroleum, petroleum byproducts, or other Hazardous Materials in, about, or under any of the Facilities or the Facility Premises unless (i) the Tenant has obtained the prior consent of the Issuer for such installation and maintenance, and (ii) the Tenant installs and maintains each such storage tank in compliance with all applicable Federal, State and local laws, including the Minnesota Petroleum Tank Release Cleanup Act, Minnesota Statutes, Chapter 115C, as amended.

The Tenant agrees to indemnify and reimburse the Issuer, its successors and assigns, for any breach of these representations and warranties and to indemnify and hold the Issuer harmless from any loss, damage, expense or cost arising out of or incurred by the Issuer which is a result of a breach, misstatement of or misrepresentation of the above covenants, representations and warranties, together with all attorneys’ fees incurred in connection with the defense of any action against the Issuer arising out of the above. These covenants, representations and warranties are for the benefit of the Issuer, and any successor or assign of the Issuer, and shall be deemed to survive termination of this Agreement.

The Issuer acknowledges that the Tenant has relied upon the representations and warranties of the Issuer set out in Section 6.02(c) and on the environmental reports, listed on Exhibit I hereto and which were provided by the Issuer to Tenant, Manager and Guarantor, in making the representations and warranties in this Section 6.10. In addition, Tenant’s obligations, if any, to remediate Hazardous Materials and to indemnify the Issuer as set forth in this Section 6.10 (or as otherwise provided in this Agreement) (a) shall not extend to conditions in existence on the date of commencement of this Agreement as disclosed in such environmental reports, or (b) if not disclosed in such environmental reports, shall not exceed an annual amount (unexpended amounts shall not aggregate or carry over from any prior year or years) equal to \$25,000 for each of the first through fifth years of the Term and \$50,000 for each of the sixth through tenth years of the Term.

Section 6.11. Tenant to Maintain Existence. The Tenant agrees and warrants that the Tenant is a Minnesota nonprofit corporation and an organization recognized as exempt from federal income tax under Section 501(c)(3) of the Code, and, unless otherwise agreed to by the Issuer, throughout the Term shall maintain its existence, shall continue to remain such an entity organized and in good standing under the laws of the State and recognized as exempt under Section 501(c)(3) of the Code, and shall not dispose of all or substantially all of its assets. Tenant shall not assign or transfer this Agreement, either in whole or in part, or sub-lease, encumber, pledge or mortgage the Facilities in any manner, nor shall title thereto, either legal or equitable or any right, interest or property therein, pass to or vest in any other person nor shall ownership or control of Tenant be transferred or assigned in any manner without the prior written consent, in its sole discretion, of the Issuer. For these purposes, a change in control of Tenant will be deemed to have occurred if there is (i) a replacement within any twelve (12) month period of fifty percent (50%) or more of the members of the Board of Trustees of the Tenant; or (ii) a consolidation, merger, acquisition, or affiliation involving Tenant in which Tenant (or substantially all of its assets) becomes owned by or accountable to or controlled by another entity where a majority of the governing board of such other entity were not members of the Board of Trustees of Tenant. Violation of this term shall be an event of default under this Agreement.

Section 6.12. Surrender of Facility. Unless the Tenant shall exercise the Tenant's options under this Agreement to purchase the Facilities and except as otherwise provided in this Agreement at the expiration or earlier termination of this Agreement, the Tenant shall surrender possession of the Facilities to the Issuer peaceably and promptly upon receipt of notice of termination from the Issuer, in as good condition as at the date hereof, loss by fire or other casualty to the extent covered by insurance, condemnation and ordinary wear, tear and obsolescence only excepted. The Tenant hereby grants the Issuer reasonable access to and over the Facility Premises for purposes of such removal. The Issuer shall use reasonable care in removing the Facilities but shall not be responsible to pay for or repair any damages to the Facility Premises resulting from said removal. In the event that the Tenant shall hold the Facilities after the expiration or termination of this Agreement with the consent of the Issuer, express or implied, such holding over shall, in the absence of written agreement on the subject, be deemed to have created a month-to-month tenancy terminable on thirty (30) days notice by either party to the other, at a monthly rental equal to the amount set forth in Section 2.02(a)(iv), and the amount set forth in Section 2.03 hereof, and otherwise shall be subject to all of the terms and provisions of this Agreement.

Section 6.13. Identification of Facility. The Tenant shall not allow the name of any person, association or corporation (other than the Tenant) to be placed on any of the Facilities as a designation that might be interpreted as a claim of ownership contrary to the Issuer's interest therein.

Except as provided herein, the Issuer's governing body shall have the sole discretion to approve any request to change the name, identification or similar designation of any of the Facilities during the Term. With the approval of the Representative of the Issuer, the Tenant may secure and accept the temporary, corporate sponsorship of any of the Facilities for a period of not more than five (5) years, but only if the net proceeds of the sponsorship are used

exclusively to fund the Tenant's community engagement and education programs or to fund the Tenant's endowment obligation under this Agreement.

Nothing herein, however, shall prohibit the Tenant from securing and accepting (1) sponsorship rights to the Facilities (e.g., Official Airline of the Orpheum Theatre, etc.), (2) sponsored events at the Facilities (e.g., Proud Sponsor or MOVIN' OUT, etc.), or (3) sponsorships relative to the Hennepin Theatre District.

ARTICLE VII

TENANT'S OPTIONS

Section 7.01. Prepayment and Abatement of Basic Rent. The Tenant may at any time and from time to time pay to the Issuer amounts to prepay all or any part of the Basic Rent payable under this Agreement (to the extent such amounts are not otherwise required to be paid and no Event of Default is continuing hereunder) and any such amounts shall be deposited in a separate subaccount for Retained Funds in the Common Reserve Account and credited and applied against installments of Basic Rent as provided herein. Except during the continuance of an Event of Default, if at any time the sum of (a) prepaid Basic Rent, (b) the Reserve Deposit, if held in cash, (c) any other amounts that have at any time been deposited in a separate subaccount of the Common Reserve Account in the Common Bond Fund or in an account for Restricted Funds in accordance herewith (other than earnings on amounts in such subaccount or account), and (d) amounts held in the Redemption Fund deposited by the Tenant and not payable for Bonds which have theretofore been duly called for redemption to the extent such foregoing amounts have not been applied to the redemption, purchase or discharge of Bonds or as credit to the benefit of the Tenant, equal the amount required to redeem all then Outstanding Bonds at the date on which they mature or may be prepaid in accordance with their terms after such notice of redemption as may be required by the Supplemental Bond Resolution and in accordance with law and to pay interest thereon to that date and any redemption premium then due, under circumstances not resulting in termination of this Agreement, the Tenant shall be entitled to use the Facilities from the date on which such conditions exist until the expiration of the Term or the earlier termination of this Agreement under the provisions hereof, without the payment of Basic Rent but otherwise on the terms and conditions herein set forth.

Section 7.02. Termination of Agreement. When any Bonds remain Outstanding (determined in accordance with Section 9.12 hereof) the Tenant shall have the option to terminate this Agreement, subject to the following conditions:

(a) Such option may be exercised only if one of the following events shall have occurred:

(i) if all of the Bonds shall have matured or will mature or be subject to redemption in accordance with their terms on their then next succeeding interest payment date for which notice of redemption can be given pursuant to Section [303] of the Supplemental Bond Resolution; or

(ii) if provision is otherwise made by the Tenant for payment of all Bonds and any interest accrued thereon in such manner that such Bonds will be discharged under Article VI of the Basic Resolution on or before the date of termination; or

(iii) if as a result of any changes in the Constitution of the State or the Constitution of the United States of America, or of any legislative or administrative action, whether state or federal, or of any final decree, judgment or order of any court or administrative body, whether state or federal, entered after the contest thereof by the Tenant in good faith, (A) the agreements contained in this Agreement shall have become unenforceable or impossible to

perform in any material respect in accordance with the intent and purposes of the parties as expressed herein, or (B) unreasonable burdens or excessive liabilities shall have been imposed upon the Tenant, including by way of illustration, but not limited to, the imposition of new State or local ad valorem property, income or other taxes or charges not imposed on the date of this Agreement (other than ad valorem taxes upon privately owned property and special assessments levied in amounts proportionate to and not exceeding the benefits of future public improvements to the Facility Premises), and as a result of such unreasonable burdens or excessive liabilities, the Tenant has determined to discontinue operation of the Facilities or any Facility or any portion thereof; or

(iv) if a Facility shall have been damaged or destroyed to such extent that (A) in the opinion of an Independent Engineer expressed in a certificate filed with the Issuer and the Trustee, the Facility cannot be reasonably restored within a period of six (6) months to the condition thereof immediately preceding such damage or destruction, or (B) the Tenant is thereby prevented from carrying on its normal operations of the Facility for a period of six (6) months, or (C) in the opinion of an Independent Engineer expressed in a certificate filed with the Issuer and the Trustee, the cost of restoration thereof would exceed twenty percent (20%) of the principal amount of the Bonds then Outstanding and allocated to the Facility in question; or

(v) if by reason of Condemnation, title shall have been taken to all or substantially all of a Facility or so much thereof that, in the reasonable judgment of the Tenant, (A) the Tenant will be prevented from carrying on its normal operations for six (6) months, or (B) the estimated cost of restoration would exceed twenty percent (20%) of the principal amount of the Bonds then Outstanding and allocated to the Facility in question, and would also exceed the Net Proceeds of the Condemnation Award.

The Tenant may voluntarily at its election terminate this Agreement as provided in this Section, provided that (1) the Issuer consents to such termination; or (2) the Tenant concurrently purchases the Facility or Facilities to which the conditions in this Section 7.02(a) apply and such purchase occurs pursuant to Section 7.03 of this Agreement. The Tenant may terminate this Agreement completely if the conditions for termination apply to all of the Facilities, or the Tenant may terminate this Agreement only as to a particular Facility or Facilities or portion or portions thereof to which the conditions for termination under those clauses apply, and thereafter this Agreement shall continue in effect with respect to those Facilities or that Facility or portion or portions thereof to which the conditions for termination under those clauses do not apply.

For purposes of this Section 7.02, the principal amount of the Bonds is allocated to each Facility as follows:

- (I) Orpheum Theatre: 57%
- (II) State Theatre: 31%
- (III) Pantages Theatre: 12%

The Issuer and the Tenant based this allocation of the Bond proceeds upon the approximate revenues the Tenant expects to realize from each of the Facilities. In the event one

or more of the Facilities is damaged and destroyed as indicated in Section 5.01 of the Lease and the Lease is terminated as it applies to the Facility per Section 7.02(a)(iv) of the Lease, the remaining, outstanding amount of the Bonds allocated to the damaged and destroyed Facility to be prepaid under Section 7.01 of the Lease shall be based on this percentage allocation to the Facility in Section 7.02 (a) of the Lease.

In the event one or more of the Facilities is condemned as indicated in Section 5.02 of the Lease and the Lease is terminated as it applies to the condemned Facility per Section 7.02(a)(iv) of the Lease, the remaining, outstanding amount of the Bonds allocated to the condemned Facility to be prepaid under Section 7.01 of the Lease shall be based on this percentage allocation to the Facility in Section 7.02(a) of the Lease.

(b) If the Tenant determines to exercise its option to terminate this Agreement the Tenant must give the notice required by Section 7.02(c) hereof within one hundred twenty (120) days after such event; provided, however, that the Issuer or its duly designated agent may consent to an extension of such notice period, upon written request by the Tenant, which request shall state in detail the reasons for such request. The notice period shall be extended during the time the Issuer is considering the request.

(c) The Tenant shall give written notice to the Issuer and the Trustee of its intention to exercise the option, stating therein a date of termination (“Termination Date”) not less than thirty nor more than sixty (60) days after the date the notice is mailed, and shall, at the request of the Issuer, make arrangements (including the payment of the fees of the Trustee, Paying Agent and other fees) satisfactory to the Issuer for the giving of any notice pursuant to Section [303] of the Supplemental Bond Resolution for redemption of outstanding Bonds on any permissible date on which any Bonds are to be called for redemption, and for the transmittal of funds needed for such redemption on or prior to that date.

(d) On or before the Termination Date, the Tenant shall pay to the Issuer cash or a certified check in an amount equal to the sum of the following:

(i) an amount which, when added to (A) principal amounts and accrued interest thereon held in the Property Insurance and Award Fund, (B) the Reserve Deposit, if held in cash, (C) all other sums that have at any time been deposited under this Agreement or the Supplemental Bond Resolution in a separate subaccount of the Common Reserve Account in the Common Bond Fund or in an account for Restricted Funds (other than earnings on sums in such subaccount or account), and (D) amounts held in the Redemption Fund deposited by the Tenant and not payable for Bonds which have been duly called for redemption (to the extent all such foregoing additional amounts have not theretofore been applied to the redemption, purchase or discharge of any Bonds or as credit to the benefit of the Tenant), shall be equal to the sum required to redeem all then Outstanding Bonds (or, where less than all of the Facilities are being purchased, the allocable amount of Bonds for the Facility or Facilities being purchased as set out in Section 7.02(a) above) on the date on which they mature or may be prepaid in accordance with their terms after such notice of redemption as may be required by Section [303] of the Supplemental Bond Resolution and in accordance with law and to pay interest thereon to that date and any redemption premium then due;

(ii) an amount equal to the Trustee's and the Paying Agent's and any escrow agent's fees and expenses accrued and to accrue until final payment and redemption of the Bonds;

(iii) an amount satisfactory to the Issuer to pay or discharge all attorneys' fees and other expenses reasonably incurred or to be incurred by the Issuer in connection with the termination of this Agreement and all other liabilities of the Issuer or the Tenant of any nature under this Agreement, accrued and to accrue on or before termination; and

(iv) a sum equal to the total amount of Administrative Fees due hereunder on or before the then earliest permissible redemption date of the Bonds.

(e) On the date set for termination of this Agreement (or, as applicable, to less than all of the Facilities) under this Section 7.02, a closing shall be held at the office of the Issuer or any other office mutually agreed upon, and the Issuer shall upon receipt of the sum, if any, payable under Section 7.02(d) hereof, execute and deliver to the Tenant such release as the Tenant reasonably determines is necessary to terminate this Agreement (or, as applicable, to less than all of the Facilities), and the Tenant shall thereafter no longer be entitled to possession of or have any leasehold or other equity interest in such Facilities (unless and to the extent the Tenant simultaneously exercises its purchase option under Section 7.03 hereof); and all obligations of the Tenant hereunder, except under Article IV, Article V, Sections 6.06 and 6.10 hereof shall terminate; provided, however, that the Tenant shall also not be relieved of any obligation which would otherwise have arisen under this Agreement to pay or reimburse the Issuer for the payment of all other fees, costs and expenses unaccounted for in the prepayment price and reasonably incurred subsequent to such closing in connection with the Bonds (but only if and to the extent such fees, costs or expenses would have been payable under Section 7.02(d) if incurred prior to such closing). Amounts received by the Issuer pursuant to Section 7.02(d) shall be deposited as Prepaid Net Revenues in the Common Reserve Account, except that there shall be deposited in the Redemption Fund any amounts thereof which the Issuer directs to be applied to the redemption of Bonds.

Section 7.03. Purchase of Facilities. In connection with the termination of this Agreement (or, as applicable, to less than all of the Facilities) pursuant to Section 7.02 hereof, the Tenant shall have the option to purchase the Facilities (or, as applicable, to less than all of the Facilities), subject to the following conditions:

(a) Not less than thirty-five (35) nor more than one hundred eighty (180) days prior to termination of this Agreement, the Tenant shall give notice to the Issuer and the Trustee of the Tenant's intention to purchase such Facilities. At the request of the Issuer, the Tenant shall make timely arrangements satisfactory to the Issuer for the giving of any notice pursuant to Section [303] of the Supplemental Bond Resolution required for the redemption of outstanding Bonds on any permissible date on which any Bonds are to be called for redemption, and for the transmittal of funds needed for such redemption on or before such date.

(b) On or before the closing date for the purchase of such Facilities and termination of this Agreement (or, as applicable, to less than all of the Facilities), the Tenant shall pay to the Issuer cash or a certified check in an amount equal to the sum of money required to be paid

under Sections 7.02(d) and 7.03(f) hereof to terminate this Agreement on such date. Tenant's obligations under this Agreement shall survive termination of this Agreement and purchase of such Facilities by the Tenant under this Section to the extent provided in Section 7.02(e) hereof.

(c) The closing shall be held at the office of the Issuer or any other office mutually agreed upon at which the Issuer shall convey to the Tenant title to such Facilities, subject to:

(i) Subleases and those liens and encumbrances, if any, created, permitted or acquiesced to by the Tenant or to the creation of which the Issuer did not in writing consent and which were created subsequent to the date hereof;

(ii) those liens and encumbrances, if any, resulting from the failure of the Tenant to perform or observe any of its agreements in this Agreement;

(iii) Permitted Encumbrances, other than this Agreement and any other liens and security interests related to the Bonds;

(iv) the rights and title of any condemning authority arising from the exercise of the power of eminent domain; and

(v) those liens and encumbrances, if any, to which title to such Facilities was subject on the date of execution and delivery hereof.

(d) The Issuer shall convey title to such Facilities by a quit claim deed and bill of sale subject only to the encumbrances set forth in Section 7.03(c) hereof, which quit claim deed and bill of sale shall be delivered upon payment to the Issuer of the sums specified above. The Issuer shall be obligated at its own expense to remove any encumbrances against the Facility Premises which the Issuer created during the Term, except those encumbrances set forth in Section 7.03(c) hereof and to provide the Tenant, at the Tenant's expense, with termination statements and releases of the Issuer's security interest in such Facilities.

(e) The Tenant shall take title to such Facilities subject to all applicable laws or ordinances, rules or regulations of governmental authority.

(f) The Tenant shall pay the Issuer the sum of One Dollar (\$1.00) and shall pay all costs and expenses of the preparation of the quit claim deed and bill of sale and the delivery thereof and all taxes, recording fees and charges required for the Issuer to convey title to the Tenant.

Section 7.04. Expiration of Term and Purchase of Facilities. If the Tenant shall pay or cause to be paid all installments of Basic Rent and Additional Charges set forth in this Agreement, then this Agreement shall expire, without right of renewal, and the Tenant may purchase the Facilities by payment of the amount specified in 7.03(f) hereof and the Issuer shall convey title to the Facilities to the Tenant in accordance with Section 7.03(c), (d) and (e) hereof.

Section 7.05. Rights of Manager and Guarantor. Notwithstanding other provisions of this Article VII, Issuer and Tenant acknowledge and agree that the exercise of rights and elections by Tenant and the payment and application of funds as provided herein are controlled in certain

respects by applicable provisions of the Guarantor, Manager and City Undertaking and Agreement.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.01. Events of Default. During the Term, the following shall be “Events of Default” under this Agreement, and the term “Event of Default” shall mean, whenever it is used in this Agreement, any one or more of the following events (and the term “default” shall mean any event which would, with the passage of time or giving of notice or both, be an “Event of Default” hereunder):

(a) The Tenant shall fail to pay any Basic Rent or Additional Charges on or before five (5) Business Days following written notice to the Tenant of the Tenant’s failure to pay any such amounts when due.

(b) The Tenant or the Guarantor shall fail to cure any other default or to observe and perform any other covenant, condition or agreement on its part to be performed hereunder or in the Guaranty, for a period of thirty (30) days after written notice, specifying such default and requesting that it be remedied, is received by the Tenant, unless the Issuer shall agree in writing to an extension of such time prior to its expiration and for such longer period as may be reasonably necessary to remedy such default, provided that the Tenant or the Guarantor are proceeding with reasonable diligence to remedy the same.

(c) The Tenant shall:

(i) admit in writing its inability to pay its debts generally as they become due;
or

(ii) file a petition in bankruptcy to be adjudicated a voluntary bankrupt or a similar petition under any insolvency act; or

(iii) make an assignment for the benefit of its creditors; or

(iv) consent to the appointment of a receiver (or other similar official) of itself or of the whole or any substantial part of its property; or

(v) file a petition or answer seeking reorganization or arrangement of the Tenant under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof.

(vi) on a petition in bankruptcy filed against it, is adjudicated a bankrupt, or a court of competent jurisdiction shall enter an order or decree appointing, without the consent of the Tenant, a receiver (or other similar official) of the Tenant or of the whole or substantially all of its property or approving a petition filed against it seeking reorganization or arrangement of the Tenant under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof and such adjudication, order or decree shall not be vacated or set aside or stayed within ninety (90) days from the date of the entry thereof.

(d) An event of default occurs under the Guaranty.

Section 8.02. Remedies. Whenever any Event of Default shall have occurred and be subsisting, any one or more of the following remedial steps may, to the extent permitted by law, be taken:

(a) The Issuer may, at its option, declare to be immediately due and payable all installments of the Basic Rent payable under Section 2.02 of this Agreement for the remainder of the Term, which shall not exceed the sum required to pay in full all Outstanding Bonds, including interest and any premiums thereon (assuming prepayment of the Bonds under the Supplemental Bond Resolution on their then earliest permissible redemption date), and to pay all other indebtedness hereunder, including Trustee and Paying Agent fees, but with credit given to (i) all amounts held in the Property Insurance and Award Fund, (ii) all amounts held as Restricted Funds, (iii) amounts held in the Redemption Fund deposited by the Tenant and not payable for Bonds duly called for redemption, and (iv) any amounts (other than earnings) which were deposited in the Common Reserve Account and not applied to the redemption, purchase or discharge of any Bonds or as credit to the benefit of the Tenant, whereupon the same shall become immediately due and payable by the Tenant; in addition, the Issuer may declare immediately due and payable all Administrative Fees payable hereunder for the original term of this Agreement.

(b) The Issuer may, with or without terminating this Agreement, apply any funds in the Property Insurance and Award Fund to discharge any of the Tenant's obligations under this Agreement, including the payment of Basic Rent accelerated under the provisions of Section 8.02(a) hereof.

(c) The Issuer may require the Tenant to furnish copies of all books and records of the Tenant pertaining to the Facilities and all other business operations of the Tenant.

(d) The Issuer may exercise any remedies available to it under the Uniform Commercial Code of the State.

(e) The Issuer may enter the Facilities and take possession of one or all of the Facilities and/or remove the Facility Equipment without termination of this Agreement and use commercially reasonable efforts to operate or sublease the Facilities for the account of the Tenant, holding the Tenant liable for the difference in the rent and other amounts received from such operator or subtenant and any rents and charges paid by the Tenant hereunder and the rents and charges specified in this Agreement.

(f) The Issuer may terminate this Agreement, enter the Facilities, exclude the Tenant from possession of the Facilities, take possession of and/or remove the Facility Equipment and use commercially reasonable efforts to lease the Facilities to another party in accordance with applicable law, but holding the Tenant liable for all rent and charges due up to the effective date of such leasing and for any difference between such new rents and charges and the rents and charges specified in this Agreement.

(g) The Issuer may, with or without terminating this Agreement, enter the Facilities, exclude the Tenant from possession of the Facilities, take possession of and/or remove the Facility Equipment and operate the Facilities itself and hold the Tenant liable for the difference

between any rents and charges paid by the Tenant and Net Revenues realized from the operation of the Facilities by the Issuer and the rents and charges specified in this Agreement.

(h) The Issuer may terminate this Agreement, exclude the Tenant from possession of the Facilities and, upon ten (10) days written notice to the Tenant, sell all or any part of the Facility Equipment at the best price obtainable (provided such sale is permitted by applicable law), such sale to be on such terms and conditions as the Issuer, in the Issuer's sole discretion, shall determine, and apply the proceeds of such sale less any expenses thereof for the account of the Tenant, holding the Tenant liable for the difference between any rents and charges paid by the Tenant and the proceeds so applied and the rents and charges specified in this Agreement.

(i) The Issuer may, with or without terminating this Agreement, exercise any remedies it may have against the Guarantor as provided in the Guaranty Agreement.

(j) The Issuer may take whatever action at law or in equity may appear necessary or appropriate to collect the Basic Rent and Additional Charges and any other sums then due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Tenant under this Agreement.

In the event of any proceedings in bankruptcy, including a reorganization or an arrangement affecting the Tenant, and the rejection of this Agreement in any such proceedings, then the Issuer shall have the right and option to treat this Agreement as being a loan agreement with Basic Rent hereunder being repayment of principal and interest on a loan.

Any rents, Net Revenues or Net Proceeds collected pursuant to action taken under this Section 8.02 for the account of the Tenant shall, to the extent permitted by law, be applied in accordance with the provisions of the Supplemental Bond Resolution and the Basic Resolution.

If an Event of Default occurs and remains uncured the Issuer may direct the Trustee to immediately draw all amounts available under any Approved Letter of Credit or Subsequent Approved Letter of Credit and deposit the same in the Common Reserve Account, subject, however, to applicable provisions of the Guarantor, Manager and City Undertaking and Agreement.

Section 8.03. Nonexclusive Remedies. No remedy herein conferred upon or reserved to the Issuer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer to exercise any remedy reserved to the Issuer in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

Section 8.04. Attorneys' Fees and Expenses. In the event the Tenant shall default (beyond applicable notice and cure periods) under any of the provisions of this Agreement and the Issuer should employ attorneys or incur other expenses for the collection of rent or charges for the enforcement of performance of any obligation or agreement on the part of the Tenant or

the protection of its security interest in the Facilities, the Tenant shall, on demand, pay to the Issuer the reasonable fee of such attorneys and such other expenses so incurred (whether or not a lawsuit is actually commenced in connection therewith).

Section 8.05. Effect of Waiver. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive the same breach at a future date nor to waive any other breach hereunder. All waivers shall be in writing.

Section 8.06. Waiver of Stay, Extension or Redemption Laws. The Tenant covenants (to the extent that the Tenant may lawfully do so) that the Tenant shall not at any time insist upon or plead or in any manner whatsoever claim or take the benefit or advantage of any stay, extension or redemption law wherever enacted or at any time hereafter in force which may affect the covenants or the performance of this Agreement or the provisions of the Supplemental Bond Resolution; and the Tenant (to the extent that the Tenant may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that the Tenant shall not hinder, delay or impede the execution of any power herein granted to the Issuer but shall suffer and permit the execution of every such power as though no such law had been enacted.

Section 8.07. Rights of Manager and Guarantor; Performance by Third Parties. Notwithstanding other provisions of this Article VIII, Issuer and Tenant acknowledge and agree that the exercise of rights and remedies by Issuer is controlled in certain respects by applicable provisions of the Guarantor, Manager and City Undertaking and Agreement. Specifically but without limitation, the Issuer covenants and agrees that (a) the Issuer shall provide notice to Manager, Guarantor and Consultant of any Event of Default (or notices given to Tenant of any condition or occurrence which, with passage of time or giving of notice or both would constitute an Event of Default) and no notice of default to Tenant will be effective unless Manager, Guarantor and Consultant have received same, and (b) Manager, Guarantor and Consultant will be afforded opportunity to cure and shall have such other rights and may take such other actions as are set out in the Guarantor, Manager and City Undertaking and Agreement.

The Issuer may also permit other third parties to perform any and all acts or take such action as may be necessary on behalf of the Tenant to prevent or correct any Event of Default, so long as not inconsistent with the rights of the Guarantor, Manager and Consultant under the Guarantor, Manager and City Undertaking and Agreement. The acceptance by the Issuer of any such performance by third parties shall not in any way diminish or absolve the Tenant of primary liability hereunder.

Section 8.08. New Agreement. If this Agreement is rejected or disaffirmed pursuant to bankruptcy law or other law affecting creditors' rights or Tenant's interest is sold, assigned or otherwise transferred pursuant to judicial proceedings, or this Agreement or terminated or Tenant is replaced as tenant pursuant to exercise of rights and remedies by the Issuer under this Agreement or by the Issuer, the Manager or the Guarantor pursuant to the Guarantor, Manager and City Undertaking and Agreement (or otherwise), then Issuer shall enter into a new Agreement with Manager or the replacement Tenant which will contain substantially the same terms in all respects to this Agreement, as modified to reflect the then-current date.

The Agreement that replaces this Agreement will provide for:

- (a) continuation of the Management Agreement;
- (b) continuation of the Consulting Agreement;
- (c) the Manager to cure any subsequent Event of Default until a new tenant has been selected;
- (d) the Issuer to consult with the Manager in the selection of the successor Tenant who shall be qualified as a “nonprofit, charitable entity” under Section 501(c)(3) of the Internal Revenue Code; and
- (e) the successor Tenant to either assume the Management Agreement and the Consulting Agreement or enter into a new Management Agreement or new Consulting Agreement on terms satisfactory to the Issuer, the Manager and the Guarantor.

ARTICLE IX

GENERAL

Section 9.01. Schedules and Exhibits. The Exhibits to this Agreement are hereby incorporated by reference and made a part hereof as though the same shall have been set forth in full herein.

Section 9.02. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when given by hand delivery or registered or certified mail, postage prepaid, with proper addresses as indicated below. The Issuer, the Tenant and the Underwriter may, by written notice given by each to the other, designate any address or addresses to which notices, certificates or other communications to them shall be sent when required as contemplated by this Agreement. Until otherwise provided by the respective parties, all notices, certificates and communications to each of them shall be addressed as follows:

To the Issuer:

City of Minneapolis
Community Planning & Economic Development
200 Crown Roller Mill
105 Fifth Avenue South
Minneapolis, Minnesota 55401
Attention: Manager, Business Finance

with copies to:

City of Minneapolis
City Attorney's Office
300 Metropolitan Centre
333 South Sixth Street
Minneapolis, Minnesota 55402
Attention: Deputy City Attorney, Civil Division

City of Minneapolis
Department of Finance
325M City Hall
350 South Fifth Street
Minneapolis, Minnesota 55415

To the Trustee:

Wells Fargo Bank, National Association
6th Street and Marquette
MAC N9303-110
Minneapolis, Minnesota 55479
Attention: Corporate Trust Department

To the Tenant: Hennepin Theatre Trust
805 Hennepin Avenue
Minneapolis, Minnesota 55402
Attention: President

with copies to:

Historic Theatre Group, Ltd.
805 Hennepin Avenue
Minneapolis, Minnesota 55402

Clear Channel Entertainment
220 West 42nd Street
New York, New York 10036

Clear Channel Entertainment
2000 West Loop South - 13th Floor
Houston, Texas 77027
Attention: General Counsel

To the Underwriters: RBC Dain Rauscher Inc.
60 South 6th Street – 13th Floor
Minneapolis, Minnesota 55402

Piper Jaffray & Co.
800 Nicollet Mall, Suite 1300
Minneapolis, Minnesota 55402

Section 9.03. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Issuer and the Tenant and their respective successors and assigns.

Section 9.04. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 9.05. Amendments, Changes and Modifications. Except as otherwise herein provided, this Agreement may be effectively amended, changed, modified, altered or terminated only if in writing and if such action is consistent with covenants made under the Basic Resolution and the Supplemental Bond Resolution.

Section 9.06. Execution Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.07. Law Governing. This Agreement shall be construed in accordance with the laws of the State of Minnesota; provided however, that the parties shall be entitled to all rights conferred by any applicable Federal statute, rule or regulation.

Section 9.08. Required Approvals. All consents and approvals required in this Agreement to be obtained from the Issuer, the Bank, the Tenant or the Underwriter shall be in writing.

Section 9.09. Confidentiality. To the extent permitted by law, the Issuer agrees to treat all financial information submitted to the Issuer by or on behalf of the Tenant, the Manager, the Consultant or the Guarantor as confidential information and will not voluntarily disclose such information, without prior written consent of the Tenant, the Manager, the Consultant or the Guarantor, as the case may be, to any Person other than its City Council, members of its staff, Bond Counsel, the Underwriters or Standard & Poor's, except as may be required in the opinion of legal counsel to the Underwriter in connection with the offer or sale of Common Fund Bonds. If the Issuer receives a request pursuant to the Minnesota Government Data Practices Act for access to any financial information provided by or on behalf of the Tenant, the Manager, the Consultant or the Guarantor, the Issuer shall treat such information as data classified by law as not public to the extent it has not been made public to the knowledge of the Issuer (or shall assert any other available exemption from disclosure) and shall not make such information public. If the Issuer determines that under applicable law the Issuer must disclose any such financial information, the Issuer shall use its best efforts to give the Tenant, the Manager, the Consultant or the Guarantor, as the case may be, five (5) days' notice of such determination prior to disclosure thereof in order to permit those parties to exercise whatever legal remedies are available to them. The Tenant hereby consents to future submission of material information relating to the Facilities and the Tenant by the Issuer to the Trustee and hereby authorizes the Trustee to provide such information to a repository for such information in connection with any continuing disclosure obligations of the Issuer relating to Common Fund Bonds.

Section 9.10. Tenant Acts. Where the Tenant is permitted or required to do or accomplish any act or thing hereunder, the Tenant may cause the same to be done or accomplished by a third party with the same force and effect as if done or accomplished by the Tenant.

Section 9.11. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any of the provisions hereof.

Section 9.12. Outstanding Bonds. Whenever any reference is made in this Agreement to "Outstanding Bonds" or "Bonds then Outstanding" or the like, such Bonds shall for purposes of construing this Agreement, be deemed to be still outstanding if the Bonds have been discharged under the Basic Resolution and the Supplemental Bond Resolution or otherwise paid, canceled or retired, other than as a result of the prepayment of Basic Rent or of any other payment from or on behalf of the Tenant accepted by the Issuer for the purpose of discharging or purchasing Bonds, even though such Bonds are not deemed outstanding for purposes of applying the Basic Resolution and the Supplemental Bond Resolution.

Section 9.13. Issuer Consents. Except where the Issuer has reserved the right to exercise its sole discretion in connection with the giving of any consents or approvals hereunder, all other consents and approvals required of the Issuer hereunder shall not be unreasonably withheld. Consents and approvals may be requested from the Representative of the Issuer, and any such

consent or approval provided in writing by the Representative of the Issuer shall be deemed conclusively to be the consent or approval of the Issuer for purposes of this Agreement.

IN WITNESS WHEREOF, the Issuer and the Tenant have caused this Agreement to be executed in their names, all as of the date first above written.

CITY OF MINNEAPOLIS

Finance Officer

HENNEPIN THEATRE TRUST, as Tenant

President

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT B

FACILITY EQUIPMENT

All plumbing, ventilation, air conditioning, heating (including any boiler), lighting fixtures and appurtenances thereto which are affixed to the Facility Premises and any other fixtures constituting a part of the Facility Premises, together with all machinery and equipment used in the Facilities.

[SCHEDULE TO BE PROVIDED]

EXHIBIT C
PERFORMANCE STANDARDS

EXHIBIT D
MANAGEMENT AGREEMENT

EXHIBIT E
CONSULTING AGREEMENT

EXHIBIT F
CAPITAL REPAIRS AND IMPROVEMENTS

EXHIBIT G
HISTORIC DESIGNATION STATUS

EXHIBIT H
GUARANTOR, MANAGER AND CITY UNDERTAKING AND AGREEMENT

EXHIBIT I
ENVIRONMENTAL REPORTS

EXHIBIT J

DEFINITIONS OF CERTAIN TERMS USED IN BASIC RESOLUTION AND SUPPLEMENTAL BOND RESOLUTION

“A *Subaccount*” means the subaccount of the IDB Account so named;

“*Accumulated Revenues*” at any time means all Available Revenues, including earnings thereon, then retained by the Issuer in the Common Bond Fund and any amounts, including earnings thereon, then credited to and retained in the Issuer Subaccount and A Subaccount of the IDB Account;

“*Act*” means Minnesota Statutes, Chapter 469, Minnesota Statutes, Chapter 475, and all other power or authorizing authority of the Issuer, as the same may be from time to time amended, supplemented or redesignated, or all of them;

“*Additional Common Fund Bonds*” means Common Fund Bonds issued pursuant to Section 202 of the Basic Resolution in accordance with Section 311(d) of the Basic Resolution and a Supplemental Bond Resolution authorizing the issuance of Additional Common Fund Bonds to pay the cost of completion of a Facility;

“*Administrative Fee*” means the fees to be paid by a Contracting Party to the Issuer at the times and in the amounts specified in the applicable Revenue Agreement and designated therein as Administrative Fees;

“*Administrative Fee Account*” means the account by that name in the Common Bond Fund created and established by Section 402 of the Basic Resolution;

“*Approved Letter of Credit*” means in respect of a series of Common Fund Bonds a letter of credit delivered pursuant to Section 402(d) of the Basic Resolution to the Trustee at or prior to the applicable Bond Closing for compliance with the Minimum Deposit requirement of Section 202 of the Basic Resolution, which letter of credit may be drawn upon by the Trustee to obtain funds (a) promptly in accordance with the applicable Supplemental Bond Resolution or Revenue Agreement upon the occurrence of any failure to pay any Net Revenues when due under the applicable Revenue Agreement, (b) during a period of at least one (1) year following the Bond Closing at any time that the Reserve Deposit in respect of such series may be withdrawn from the Common Reserve Account only for (i) the last payments of the principal or Redemption Price of or interest on the applicable series of Common Fund Bonds; and (ii) any purpose for which funds in the Debt Service Account may be withdrawn, but only after exhaustion of the Administrative Fee Account, the Debt Service Account (as determined before any transfers thereto pursuant to Section 404(a) of the Basic Resolution for the specific purpose for which such withdrawal is required) and the Deficiency Account and the applicable Supplemental Bond Resolution; and (c) within forty-five (45) days prior to the expiration of such letter of credit (“Expiring Letter”) at any time, provided that Common Fund Bonds of such series are then Outstanding (and not scheduled to finally mature on or prior to such expiration), and provided there has not been delivered to the Trustee prior to such time cash sums for deposit in the

applicable Reserve Deposit subaccount in the Common Reserve Account, Subsequent Approved Letters of Credit or any combination of such sums and such Subsequent Approved Letters of Credit, whereby any such sums, together with any amounts drawable under such Subsequent Approved Letters of Credit for at least one (1) continuous year immediately following such expiration, equal the maximum amount drawable under such Expiring Letter; an Approved Letter of Credit shall be in form and substance and issued by a financial institution satisfactory to the Issuer in its sole discretion;

“*Articles and Sections*,” mentioned by number only, means the respective Articles and Sections of the Basic Resolution so numbered;

“*Authorized Newspaper*” means a newspaper or newspapers furnishing financial news as part of its or their service and printed in the English language, which newspaper or newspapers separately or collectively (a) are published daily or weekly in Minneapolis or its metropolitan areas and circulated throughout the State, and (b) are generally circulated in the City of New York, New York;

“*Available Revenues*” means at the time of determination:

(a) all Net Revenues theretofore received and retained by the Issuer in the Common Bond Fund;

(b) all other amounts (including earnings and Reserve Deposits) then held by the Issuer pursuant to the terms of the Basic Resolution in the Common Bond Fund, but excluding (i) earnings on Reserve Deposits funded other than by Common Fund Bond proceeds if such earnings are exempted by the Issuer pursuant to Section 402(d) of the Basic Resolution from the lien created hereby and (ii) Restricted Funds; and

(c) such other amounts as the Issuer may from time to time designate;

“*Available Surplus*” means in respect of any calendar year the amount by which Available Revenues retained as of December 31 of such year are greater than (i) the Projected Debt Service Deficiency, if any, for the next following calendar year and (ii) the Common Reserve Requirement as of such December 31;

“*Bank*” means U.S. Bank National Association, in Minneapolis, Minnesota, or any successor bank issuing a subsequent Letter of Credit;

“*Basic Resolution*” means the Amended and Restated Basic Resolution and Indenture and any amendments or supplements hereto permitted hereby;

“*Bond Closing*” means the respective dates on which there is delivery and payment for each series of Common Fund Bonds;

“*Bond Counsel*” means any firm of nationally recognized bond counsel selected by the Issuer;

“*Borrower*” means a Person, other than the Issuer or a Tenant, who enters into a Loan Agreement with the Issuer to finance or refinance a Facility;

“*Business Day*” means any day other than a Saturday, Sunday or recognized national holiday on which national banks are generally closed;

“*Code*” means the Internal Revenue Code of 1986, as amended;

“*Collateral Proceeds*” means any proceeds (other than Prepaid Net Revenues or Retained Funds or Restricted Funds) from the sale of all or a part of a Facility or from a lump sum settlement in connection with such Facility received by the Issuer, whether before or after foreclosure, after deducting all the Issuer’s expenses and giving credit for any Issuer equity in connection therewith;

“*Common Bond Fund*” means the fund established and designated in Section 402 of the Basic Resolution from which the principal or Redemption Price of and interest on the Common Fund Bonds are payable;

“*Common Fund Bonds*” means any bonds or obligations from time to time issued by the Issuer pursuant to the Basic Resolution and the applicable Supplemental Bond Resolution;

“*Common Reserve Account*” means the reserve account so created and established by Section 402 of the Basic Resolution and forming a part of the Common Bond Fund, which Common Reserve Account is to be used for the payment of principal or Redemption Price of and interest on the Common Fund Bonds under the circumstances described herein;

“*Common Reserve Requirement*” means at any time in respect of Bonds not theretofore discharged (a) all Reserve Deposits not theretofore credited against Net Revenues or otherwise to the benefit of a Contracting Party in accordance with the applicable Revenue Agreement, plus (b) all Prepaid Net Revenues, Collateral Proceeds or Retained Funds in respect of any series of Common Fund Bonds Outstanding which have been withdrawn and used only for the payment of (i) interest on Common Fund Bonds as or after it becomes due and payable, including accrued interest on any Common Fund Bonds redeemed before maturity pursuant to the applicable Supplemental Bond Resolution, increases in interest resulting from a series of Common Fund Bonds becoming taxable for federal tax purposes, interest accruing on any Common Fund Bond after its stated maturity, if such bond is not then paid or redeemed, and to the extent that payment of such interest is lawful, interest upon overdue installments of interest due on Common Fund Bonds at the rate borne by such Common Fund Bonds, (ii) the principal amount or Redemption Price of any Common Fund Bonds at their stated maturities or when called for redemption and prepayment in accordance with any applicable Supplemental Bond Resolution, (iii) the discharge of Common Fund Bonds of any series in accordance with Article VI of the Basic Resolution, or the purchase of any such bonds in accordance herewith or with any applicable Supplemental Bond Resolution, (iv) any amounts due under the Reimbursement Agreement or under Section 405(b) of the Basic Resolution, (v) any amounts for which the Issuer has a right of reimbursement from a Contracting Party or Guarantor paid in the reasonable discretion of the Issuer to prevent impairment of the first lien created hereby or any equity or security interest of the Issuer in any Facility, and (vi) any Surety Rights. Notwithstanding any other provision

herein, amounts constituting Net Revenues received by the Issuer after they were due and payable may be transferred to any subaccount in the Common Reserve Account to the extent amounts in such account were withdrawn because of the delay in receipt of such Net Revenues;

“*Construction Contract*” means any contract entered into by the Issuer or any Contracting Party and a contractor or contractors under which the contractor agrees to construct, install and supply on the Facility Premises all or a part of such building, improvements or equipment as are provided in the Plans and Specifications for such Facility;

“*Construction Fund*” means any account established for each Facility by the Issuer in its official books and records pursuant to Section 311 of the Basic Resolution;

“*Contracting Party*” means any Person who contracts with the Issuer under a Lease, Loan Agreement or other Revenue Agreement;

“*Debt Service Account*” means the account by that name in the Common Bond Fund created and established by Section 402 of the Basic Resolution;

“*Deficiency Account*” means the account by that name in the Common Bond Fund created and established by Section 402 of the Basic Resolution;

“*Disbursing Agreement*” means any Disbursing Agreement for a series of Common Fund Bonds pursuant to which funds are disbursed from the applicable Construction Fund;

“*Facility*” means any revenue-producing properties from time to time owned, leased or otherwise financed in whole or in part by the Issuer pursuant to the Basic Resolution and operated, used or leased for one or more of the purposes authorized by the Act and more specifically identified in the applicable Revenue Agreement;

“*Facility Costs*” means those costs of a Facility permitted under the Act to be financed from the proceeds of Common Fund Bonds as identified in the applicable Revenue Agreement;

“*Facility Premises*” means the premises upon which a Facility is located as more specifically identified in the applicable Revenue Agreement;

“*Guarantee*” means an agreement whereby any Person guarantees the performance in whole or in part of any Contracting Party under a Revenue Agreement;

“*Guarantor*” means a Person liable pursuant to a Guarantee for the performance of a Contracting Party under a Revenue Agreement;

“*Hereby,*” “*herein,*” *of the Basic Resolution,*” *hereto,*” “*hereunder*” and similar terms refer to the Basic Resolution as a whole; the term “*heretofore*” means before the date of execution of the Basic Resolution, and the term “*hereafter*” means after the date of execution of the Basic Resolution;

“*Holder*” when used with reference to any Common Fund Bond or Common Fund Bonds, means any Person who shall be the bearer of any Outstanding Common Fund Bond not

registered or registered as to principal to bearer or the registered owner of any Outstanding Common Fund Bond which shall at the time be fully registered or registered as to principal other than to bearer, and, when used with reference to any coupon or coupons, means the bearer of the Basic Resolution;

“*IDB Account*” means, collectively, the “Issuer Subaccount” and the “A Subaccount” of the “IDB Account” created and established pursuant to the IDB Account Resolution and subject to all terms and conditions applicable to such account as established thereunder or pursuant thereto;

“*IDB Account Resolution*” means Resolution No. 2004R-255 of the Issuer, adopted on June 18, 2004, as amended;

“*Independent Counsel*” means any attorney (or firm of attorneys) designated by the Issuer and duly admitted to practice law before the highest court of any state who is not a full-time employee or officer of the Issuer or the Contracting Party for the Facility to which the engagement of such attorney (or firm of attorneys) relates and who or which shall be reasonably satisfactory to the Issuer;

“*Independent Engineer*” means an engineer or engineering firm designated by the Issuer, registered and qualified to practice the profession of engineering under the laws of the State who or which is not a full-time employee of either the Issuer or the Contracting Party for the Facility to which the engagement of such engineer (or engineering firm) relates and who or which shall be reasonably satisfactory to the Issuer;

“*Issuer*” means the City of Minneapolis, Minnesota, and any successor or successors to its powers, duties and obligations hereunder;

“*Issuer Subaccount*” means the subaccount of the IDB Account so named;

“*Lease*” means any written agreement whereby the Issuer leases one or more than one Facility to a Person;

“*Letter of Credit*” means an irrevocable letter of credit issued by a Bank in favor of the Trustee or the Issuer pursuant to the Reimbursement Agreement, meeting the requirements of Section 405 of the Basic Resolution;

“*Loan Agreement*” means any written agreement, other than a Lease or Operating Agreement, between the Issuer and a Borrower in connection with the financing of a Facility with proceeds of a series of Common Fund Bonds whereby the Borrower agrees to pay to the Issuer or its order such amounts at such times as the Issuer determines to be appropriate under such written agreement;

“*Minimum Deposit*” means in respect of any series of Common Fund Bonds the sum not less than the lesser of (A) the maximum aggregate principal and interest on the Common Fund Bonds of such series scheduled to become due in any future calendar year (determined with respect to such series as of the date of the Bond Closing thereof and taking into account redemptions only if made pursuant to a mandatory redemption schedule) or (B) fifteen percent

(15%) of the original face amount of such series, unless the net amounts received by the Issuer from issuing such series (after all expenses of issuing such series) is less than ninety eight percent (98%) of such original face amount, in which case fifteen percent (15%) of such net amount;

“*Net Revenues*” means revenues received by the Issuer in respect of any series of Common Fund Bonds and all Facilities and designated shall mean (a) all amounts required under the applicable Revenue Agreement to be paid to the Issuer by or on behalf of the applicable Contracting Party for the purpose of providing funds which if paid when due will equal and fund when due all payments of principal and interest on Common Fund Bonds of the applicable series scheduled as of such Bond Closing to become due thereafter and (b) any other amounts required pursuant to a Revenue Agreement to be deposited in the Common Bond Fund subsequent to Bond Closing (but such term shall not include Reserve Deposits, Prepaid Net Revenues, Collateral Proceeds, Administrative Fees, Retained Funds, Restricted Funds, Surety Proceeds, amounts required under a Revenue Agreement to be deposited in the Common Reserve Account or any charges payable to the Issuer for specific costs to be paid by the Contracting Party or any Guarantor under the applicable Revenue Agreement or any related Guarantee, except as and to the extent any such amounts shall be applied or credited against amounts otherwise payable as Net Revenues). The operating costs of any Facility shall not include any allowance or payment for depreciation, renewal, replacement or improvement of or additions to capital assets; any portion of the salary or wages paid to any officer or employee of the Issuer or any liability incurred by the Issuer or any officer or employee for damage to persons or property in excess of the amount of such liability compensated by insurance. The Net Revenues of any such Facility constitute all those revenues from time to time received by the related Operating Fund in a given calendar month, determined, in the discretion of the Issuer, to exceed total operating costs incurred or payable in such month.

“*Operating Agreement*” means a written agreement, other than a Revenue Agreement, between the Issuer and any other Person under which such Person operates or occupies any Facility pursuant to Section 303 of the Basic Resolution;

“*Operating Fund*” means the fund or funds established in accordance with Section 303 of the Basic Resolution for the purpose of paying operation and maintenance expenses incurred in connection with the operation of any Facility by the Issuer itself or by any Person under the Operating Agreement pursuant to Section 303 of the Basic Resolution;

“*Operator*” means any Person, other than the Issuer, who operates or occupies any Facility under an Operating Agreement;

“*Opinion of Bond Counsel*” means a written opinion of Bond Counsel delivered to the Trustee;

“*Opinion of Counsel*” means a written opinion of legal counsel (who or which may be counsel, except as otherwise expressly provided herein, for the Issuer or a Contracting Party of the Facility to which the opinion relates) and who or which is satisfactory to the Trustee, delivered to the Trustee;

“*Opinion of Independent Counsel*” means a written opinion of legal counsel who or which is not a full-time employee of either the Issuer or the Contracting Party of the Facility to which the opinion relates and who or which is satisfactory to the Trustee;

“*Outstanding*” when used herein with reference to Common Fund Bonds and as of any particular date, means all Common Fund Bonds of all series theretofore and thereupon being authenticated and delivered except:

(a) any Common Fund Bond canceled by the Trustee or surrendered to the Trustee for cancellation at or before said date;

(b) any Common Fund Bond discharged pursuant to Article VI of the Basic Resolution or concerning which moneys sufficient, together with any investment earnings thereon, to pay on the date of maturity or Redemption Date the principal or Redemption Price of the Basic Resolution, as the case may be, with interest to the date of maturity or Redemption Date, shall have theretofore or thereupon been deposited with the Trustee or one or more Paying Agents or escrow agents in trust (whether upon or prior to maturity or the Redemption Date of such Common Fund Bond) and, except in the case of a Common Fund Bond to be paid at maturity, of which notice of redemption shall have been duly given; and

(c) any Common Fund Bond for which another Common Fund Bond shall have been authenticated and delivered pursuant to the applicable Supplemental Bond Resolution in lieu of the Basic Resolution or in substitution therefor; provided, however, that in determining whether the Holders of the requisite principal amount of any particular Common Fund Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver thereunder, Common Fund Bonds owned by the Issuer or the Contracting Party with respect to the Facilities financed thereby or any affiliate of such Contracting Party shall be disregarded and deemed not to be Outstanding except that, in determining whether the Trustee or the Issuer, as the case may be, shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Common Fund Bonds which the Trustee knows to be so owned shall be so disregarded (an “*affiliate*” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person; for the purposes of the definition, “*control*,” when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms “*controlling*” and “*controlled*” have meanings correlative to the foregoing); provided, further, that Common Fund Bonds so owned which have been pledged in good faith may be regarded as “*Outstanding*” if the pledgee establishes to the satisfaction of the Trustee or the Issuer, as the case may be, the pledgee’s right to act as a Holder with respect to such Common Fund Bonds and that the pledgee is not the Issuer or the Contracting Party or any affiliate of the Contracting Party; provided, further, that a Common Fund Bond which would be considered “*Outstanding*” but for the fact that money, or money together with investment earnings thereon, sufficient for the payment or redemption of the Basic Resolution has theretofore been deposited in full with the Trustee or any Paying Agent or escrow agent

in trust for the Holder of the Basic Resolution (or that the Basic Resolution has theretofore been discharged with respect to the series of which such Common Fund Bond is a part pursuant to Article VI of the Basic Resolution) shall, for the purposes of Article III (to the extent that a default referred to herein or under the applicable Revenue Agreement might adversely affect the exemption from federal income taxation of interest on such Common Fund Bond) and Article VIII (to the extent that any supplement, amendment, modification or waiver referred to therein might adversely affect the exemption from federal income taxation of interest on such Common Fund Bond), be deemed to be "Outstanding" unless such Common Fund Bond shall be due and payable in accordance with its terms or through redemption proceedings or otherwise as provided in the Basic Resolution and the Supplemental Bond Resolution authorizing said series; provided, further, that the Trustee or the Issuer shall be fully protected in requiring and relying on an Opinion of Counsel with respect to whether any such default, supplement, amendment, modification or waiver might adversely affect the exemption from federal income taxation of interest on any such Common Fund Bond;

"Paying Agent" means any paying agent for Common Fund Bonds or coupons appointed by or pursuant to Section 702 of the Basic Resolution, and its successor or successors and any other corporation or association which may at any time be substituted in its place pursuant to the Resolution and the applicable Supplemental Bond Resolution;

"Permitted Encumbrances" means any lease and any mortgage or security agreement securing obligations under a Revenue Agreement and, as of any particular time and for any particular Facility:

(a) liens for taxes and special assessments not then delinquent or duly contested as permitted under the applicable Revenue Agreement;

(b) utility, access and other easements and rights-of-way, building, zoning and subdivision ordinances and regulations and any other restrictions and exceptions that Independent Counsel or an Independent Engineer certifies will not interfere with or impair the operation of or marketability of title to the Facility (or, if it is not being operated, the operations for which it was designed and last modified);

(c) any mechanic's, laborer's, materialman's, supplier's or vendor's lien or right in respect of the Basic Resolution if payment is not yet due under the contract in question or is duly contested in the manner permitted under the applicable Revenue Agreement;

(d) such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on title as normally exist with respect to properties similar in character to a Facility and do not, in the Opinion of Bond Counsel or Opinion of Independent Counsel, materially impair the property affected thereby for the purpose for which it was acquired or is held by the Contracting Party or materially impair the marketability of title to such property;

(e) any lien which, in the Opinion of Bond Counsel, will not materially impair the security of the Holders; and

(f) other restrictions, easements and encumbrances, if any, which are defined as Permitted Encumbrances under the applicable Revenue Agreement;

“*Person*” means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of the Basic Resolution;

“*Plans and Specifications*” means the plans and specifications, including any modifications of the Basic Resolution, for the construction and improvement of a Facility;

“*Prepaid Net Revenues*” means any sum deposited in the Common Reserve Account required under a Revenue Agreement to be so deposited (a) upon termination of such agreement, or (b) upon the sale of the Facility financed in whole or in part by such agreement or (c) pursuant to any prepayment provision in such agreement, but only to the extent the amount of such sum is determined by the amount of funds necessary at the time of such termination, sale or prepayment to purchase, redeem or otherwise discharge all Common Fund Bonds Outstanding which financed such Facility in whole or in part;

“*Projected Debt Service Deficiency*” means in respect of a calendar year (a) the amount, if any, by which amounts projected to be withdrawn from the Common Bond Fund (other than transfers for (i) the last payments of the principal or Redemption Price of or interest on the applicable series of Common Fund Bonds; and (ii) any purpose for which funds in the Debt Service Account may be withdrawn, but only after exhaustion of the Administrative Fee Account, the Debt Service Account (as determined before any transfers thereto pursuant to Section 404(a) for the specific purpose for which such withdrawal is required) and the Deficiency Account during such year (or remaining due from a prior year) exceed during such year all amounts projected to be deposited in the Common Bond Fund (other than transfers and deposits pursuant to Section 404(a) or 405(a) of the Basic Resolution) and the earnings thereon (other than Retained Earnings), less (b) all reductions estimated to occur in such year in the Common Reserve Requirement (not considering any additions to the Common Reserve Requirement during such Year);

“*Redemption Price*” when used with respect to a Common Fund Bond or portion of the Basic Resolution, means the principal amount of such Common Fund Bond or portion of the Basic Resolution plus the applicable premium, if any, payable upon redemption of the Basic Resolution in the manner contemplated in accordance with its terms pursuant hereto or to the applicable Supplemental Bond Resolution;

“*Reimbursement Agreement*” means any agreement between the Issuer and a Bank pursuant to which a Letter of Credit is issued and which provides for the Issuer’s reimbursement obligation with respect to any draw under the Letter of Credit and related matters, as the same may be amended, supplemented or replaced by any substitute agreement in connection with delivery of a substitute Letter of Credit;

“*Reserve Deposit*” means in respect of any series of Common Fund Bonds funds meeting the requirements of Section 202 of the Basic Resolution deposited in the Common Reserve Account as the applicable Minimum Deposit and any amounts paid to the Issuer or Trustee and deposited in the Common Reserve Account under or in substitution for any amounts payable under an Approved Letter of Credit or Subsequent Approved Letter of Credit;

“*Restricted Funds*” means any amounts, including earnings, transferred from the construction fund established in respect of a series of Common Fund Bonds after completion of the Facility financed in whole or part thereby, which amounts are required under the applicable Revenue Agreement to be applied or held for application solely to the purchase, redemption or discharge of Common Fund Bonds of such series;

“*Retained Earnings*” means any earnings on sums held in the Common Reserve Account of the Common Bond Fund or any subaccounts therein required under a Revenue Agreement to be applied to or credited against any payments due thereunder or to be credited to the applicable Contracting Party;

“*Retained Funds*” means Retained Earnings or Retained Revenues held in one or more subaccounts of the Common Reserve Account in accordance herewith;

“*Retained Revenues*” means any amounts (other than Reserve Deposits, Prepaid Net Revenues or Retained Earnings) required pursuant to a Revenue Agreement to be credited to or deposited in the Common Reserve Account to be held by the Issuer and applied to or credited against any payments due under a Revenue Agreement or to be credited to the applicable Contracting Party;

“*Revenue Agreement*” means any revenue or other agreement other than an Operating Agreement, including, without limitation, a Lease or Loan Agreement, authorized by the Act and entered into with the Issuer by a Contracting Party to finance a Facility;

“*State*” means the State of Minnesota;

“*Subsequent Approved Letter of Credit*” means in respect of a series of Common Fund Bonds a letter of credit delivered to the Trustee on or prior to the later of the expiration date of an Approved Letter of Credit delivered to the Trustee pursuant to Section 402(d) of the Basic Resolution in respect of such series or any other related Subsequent Approved Letter of Credit then drawable upon which has been delivered to the Trustee; provided such letter of credit may be drawn upon by the Trustee to obtain funds (a) promptly (as determined by the Issuer) in accordance with the applicable Supplemental Bond Resolution or Revenue Agreement upon the occurrence of any failure to pay any Net Revenues when due under the applicable Revenue Agreement, (b) during a period of at least one (1) year following such later of expiration dates at any time that a Reserve Deposit in respect of such series may be withdrawn from the Common Reserve Account for the last payments of the principal or Redemption Price of or interest on the applicable series of Common Fund Bond, and the applicable Supplemental Bond Resolution, and (c) within forty-five (45) days prior to the expiration of such letter of credit (“Expiring Letter”) at any time, provided that Common Fund Bonds of such series are then Outstanding (and not scheduled to finally mature on or prior to such expiration) and provided there has not been

delivered to the Trustee prior to such time cash sums for deposit in the applicable Reserve Deposit Account of the Common Reserve Account, another Subsequent Approved Letter of Credit or any combination of such sums and other Subsequent Approved Letters of Credit, whereby any such sums, together with any amounts drawable under such other Subsequent Approved Letters of Credit, during the one (1) continuous year immediately following such expiration, equal the maximum amount drawable under such Expiring Letter; a Subsequent Approved Letter of Credit shall be in form and substance and issued by a financial institution satisfactory to the Issuer in its sole discretion;

“*Supplemental Bond Resolution*” means a resolution authorizing the issuance of a series of Common Fund Bonds pursuant to Section 202 of the Basic Resolution;

“*Surety*” means any Person who has paid Surety Proceeds;

“*Surety Proceeds*” means payments or proceeds under any letter of credit, insurance policy, guaranty or other surety or security instrument payable to Holders of any series of Common Fund Bonds upon the failure or inability of the Issuer to pay when due any principal or Redemption Price of or interest on such bonds, unless such proceeds or payments are required by the applicable Supplemental Bond Resolution or Revenue Agreement, or such letter of credit, policy, guaranty or instrument to be deposited in the Common Bond Fund or IDB Account;

“*Surety Rights*” means the rights of any Holders to receive payment of principal or Redemption Price of or interest on Common Fund Bonds, or any rights or claims of a Surety for money permitted to be satisfied from the Common Bond Fund, to which rights or claims a Surety becomes subrogated or entitled under the applicable Supplemental Bond Resolution upon payment by such Surety of Surety Proceeds;

“*Tenant*” means any Person who leases a Facility from the Issuer under a Lease Agreement;

“*Trustee*” means Wells Fargo Bank, National Association, or any corporation or association which may at any time be substituted in its place pursuant to Section 709 of the Basic Resolution, and means one or more Persons, as the context may require; and

“*Underwriter*” means Piper Jaffray & Co., Minneapolis, Minnesota and RBC Dain Rauscher, Inc., Minneapolis, Minnesota, or any other firm or firms of underwriters appointed by the Issuer.