

# Performing Arts Center Authority

## Broward Center for the Performing Arts

### License Agreement

This Revocable License Agreement for Temporary Use of Facility ("Agreement" or "License Agreement"), dated \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between Performing Arts Center Authority, an independent special district in the State of Florida (also operating as a public entity in Broward County, Florida) ("PACA"), and:

Group: **The School Board of Broward County,  
Florida  
(Hereinafter referred to as "LICENSEE.")**

Contact: Shawn Cerra  
Address: 600 Southeast Third Avenue  
City, State, Zip Code: Fort Lauderdale, Florida 33301  
Telephone: 754-321-2550  
Fax:  
Representative

is for the LICENSEE's limited, temporary, and revocable license for the use of the Facility described below and to conduct the event(s)/performance(s) as follows:

Facility ("Facility")	Load-In/Event/Load-Out Date(s)	Load-In/Event/Load-Out Time(s)	LICENSEE Fee
Au-Rene Theater	Thursday, May 31, 2018 / McFatter Technical Center	Graduation / 2:00pm	\$7,735.00
Au-Rene Theater	Friday, June 1, 2018 / Blanche Ely High School	Graduation / 2:00pm	\$7,735.00
Au-Rene Theater	Saturday, June 2, 2018 / Hallandale High School	Graduation / 2:00pm	\$7,735.00
Au-Rene Theater	Saturday, June 2, 2018 / Fort Lauderdale High School	Graduation / 7:00pm	\$7,735.00
Au-Rene Theater	Sunday, June 3, 2018 / Coconut Creek High School	Graduation / 2:00pm	\$7,735.00
Au-Rene Theater	Sunday, June 3, 2018 / Northeast High School	Graduation / 7:00pm	\$7,735.00
Au-Rene Theater	Monday, June 4, 2018 / Stranahan High School	Graduation / 2:00pm	\$7,735.00
Au-Rene Theater	Monday, June 4, 2018 / Boyd Anderson High School	Graduation / 7:00pm	\$7,735.00
Au-Rene Theater	Tuesday, June 5, 2018 / Dillard High School	Graduation / 7:00pm	\$7,735.00
Au-Rene Theater	Wednesday, June 6, 2018 / Hollywood Hills High School	Graduation / 7:00pm	\$7,735.00

The LICENSEE and PACA (collectively referred to as the "Parties" or "parties") agree that the licensed Facility described above is located in the Broward Center for the Performing Arts, located at 201 Southwest Fifth Avenue, Fort Lauderdale, Florida 33312 (collectively referred to as the "Premises"), for the exclusive purpose of the event(s)/performance(s) listed above (hereinafter referred to as "Engagement"). PACA and LICENSEE mutually agree as follows:



by LICENSEE to PACA at least ten (10) calendar days prior to the first day of the Engagement. In the event such additional deposit is not paid when due, PACA may terminate this License agreement for cause.

- 1.6 No ticket sales for Engagement(s) are permitted by either party until after this Agreement is fully executed by both parties and PACA receives payment for deposit and all supporting legal documents, including, but not limited to, IRS Form W-9, IRS Letter of Determination indicating 501(c)3 status, if applicable, a Florida Consumer's Certificate of Exemption (from sales tax), if applicable, when due as indicated in Section 1.1.
- 1.7 Subject to PACA's right to withhold amounts from the final Settlement as provided for in this Agreement, and provided LICENSEE has complied with all the terms and conditions of this Agreement and is not in default hereunder, at the end of the Engagement, the funds then on deposit pursuant to Section 1.1 shall be credited to the LICENSEE without interest.
- 1.8 All Personnel, Box Office, and equipment charges related to the Engagement and outlined in the attached Appendix A and Appendix B and ticketing agreement Appendix A shall be paid prior to or at Settlement. LICENSEE will be provided with an estimate of expenses, including stagehand expenses, upon request, following the required Discovery Meeting with the Event Manager, which expenses shall be paid in full prior to or at Settlement.

PACA and LICENSEE agree that applicable written labor agreements, the Fair Labor Standards Act ("FLSA"), or other applicable laws may require the payment of labor expenses in excess of those agreed upon by the parties in this Agreement. In such instances, the parties agree that the amount required by such Agreement or laws that is in excess of the estimated expense amount provided to LICENSEE shall be calculated and included as part of the actual expense amount to be paid by LICENSEE. In the event that the actual expenses exceed the estimated expenses (including, but not limited to, employee, labor or stagehand expenses) provided to LICENSEE, PACA shall provide to the LICENSEE prior to or at the time of Settlement, an updated written expense list showing the actual expenses incurred by the LICENSEE, and the LICENSEE shall be obligated to pay in full the total amount of the actual expenses to PACA which shall be due and payable prior to or no later than at the time of Settlement. Whenever determined possible in PACA's sole discretion, PACA will attempt to provide such written estimate at least fifteen (15) calendar days prior to the first day of the Event/Engagement.

- 1.9 LICENSEE is further required to reimburse PACA at the time of Settlement for any and all other fees or charges incurred by PACA on behalf of the LICENSEE in accordance with this Agreement. LICENSEE shall be obligated to pay, and PACA shall have the right to collect any other outstanding or unpaid charges due PACA from LICENSEE at the time of Settlement.

## 2. Settlement

- 2.1 Upon signing the Theater Rental and Service Agreement, the School Board of Broward County, FL will issue a **Purchase Order of at least \$77,350.00 based on estimated costs. Final purchase order will vary based on actual costs.** PACA guarantees that the use of the AuRene Theater will not exceed this amount as long as the number of graduations do not exceed **ten (10)** and limited to the contracted dates. The fees include the 4% production service fee as stated on page 16 of this agreement at the bottom of Appendix B.
- 2.2 Within ten (10) PACA's business days after the conclusion of each Engagement, PACA and LICENSEE shall settle the Receipts, determining the Fees due PACA referred to as ("Settlement"). In the event the Receipts are insufficient to pay the Fees, LICENSEE shall pay the balance due to PACA within fifteen (15) calendar days after the receipt of written notification from PACA as to the amount due and owing to PACA in the form of a certified check, cashier's check, or money order. If LICENSEE is a public entity, a check issued from the public entity will be acceptable to PACA.
- 2.3 PACA may, in the sole discretion of its President/CEO or his or her designee, collect the Fees out of gross

receipts from the sale of tickets and/or merchandise (hereinafter referred to as "Receipts") and said Receipts are hereby assigned by LICENSEE to PACA to the extent of the Fees to be paid by LICENSEE under this Agreement. ~~LICENSEE further assigns the Receipts to PACA to the extent of any other obligation owed by LICENSEE to PACA under any other agreement, and LICENSEE gives PACA the right to collect any such outstanding funds or obligations from such Receipts at Settlement.~~

- 2.4 Upon collection of the Receipts assigned pursuant to Section 2.2, PACA may use the Receipts for any corporate, public or lawful purpose, and PACA shall not be obligated to LICENSEE for gains or any interest received from such Receipts thereof.
- 2.5 Unless the fees and charges specified herein are paid by LICENSEE as agreed to herein, all rights granted to LICENSEE herein for use of Facility shall immediately terminate upon written notice by PACA's President/CEO or his or her designee. Past due fees shall bear interest at the rate of eighteen percent (18%) per annum from due date and shall be payable in full by LICENSEE at the time of Settlement or within Five (5) calendar days of termination, whichever occurs first.

### 3. Insurance

- 3.1 LICENSEE shall furnish PACA with a certificate of general public liability insurance showing that there is in effect and will remain in effect throughout the term of this Agreement, occurrence basis liability insurance listing "Performing Arts Center Authority" as additional insureds, with a combined single limit of not less than One Million Dollars (\$1,000,000) for Bodily Injury and Property Damage. LICENSEE shall provide the required insurance certificate no later than ten (10) calendar days prior to the commencement of the Engagement, and it must contain the following wording: "The coverage indicated as in effect through this certificate of insurance fully satisfies all requirements (established in Section 3.1 of the License Agreement) between the Insured as LICENSEE and the Performing Arts Center Authority." It shall also contain the following wording: The "Performing Arts Center Authority" is an additional insured under this insurance certificate during the term of this LICENSEE Agreement. In the event LICENSEE fails to deliver to PACA a certificate of insurance in accordance with this subparagraph within the required time period stated herein, LICENSEE hereby authorizes PACA to, and PACA shall have the right to, purchase insurance coverage, as it deems appropriate, and LICENSEE further agrees to pay to PACA all costs, incurred in obtaining such insurance required of LICENSEE, which shall be paid by LICENSEE to PACA within fifteen (15) calendar days after receipt of written notification from PACA notifying LICENSEE of the outstanding amounts due and owing to PACA or prior to the date of performance, whichever is earlier or at the time of Settlement, whichever is earlier.
- 3.2 LICENSEE is a public entity subject to Section 768.28, Florida Statutes, and LICENSEE shall furnish the Contract Administrator with written verification of liability protection in accordance with state law prior to final execution of this Agreement.

### 4. Damage

- 4.1 LICENSEE shall assume full responsibility for and pay for all costs associated with repair and replacement of equipment or facility damaged during Engagement, regardless of nature or cause except to the extent caused by the acts or omissions of PACA, its officers, employees, or agent(s). The amount of all estimated damage restitution shall be estimated at the sole discretion of PACA's Technical Director and may be deducted at the sole discretion of PACA's Event Manager as part of LICENSEE's costs payable at the time of Settlement.
- 4.2 LICENSEE may request a pre-Engagement inspection of the Premises to assess the condition of the equipment and Facility. If such an inspection is not requested, LICENSEE waives any right to claim a deduction on PACA's damage assessment for payments owing by LICENSEE for such damages. If an inspection is requested and conducted of the equipment and the Facility, the LICENSEE and PACA's staff shall approve in writing at least two (2) hours prior to the commencement of the Engagement any damage which shall not

be considered by PACA as part of the damage assessment. If the parties are unable to reach an agreement of such damage within the stated time period, then the judgment of such damage as determined by PACA's staff shall govern and control in its sole discretion.

## 5. **Safety and Security**

- 5.1 The Facility at all times shall remain subject to the oversight and control of PACA. At all times, PACA shall have the right to protect the safety of all persons and the security of PACA's property upon the premises, as well as ensuring compliance with all applicable law. To carry out the provisions of this Section, PACA employees and officers shall have free access at all times to all parts of the premises. LICENSEE shall pay for sufficient security, as solely determined by PACA, to maintain order and to protect the Facility and PACA's property under the provisions of this Agreement. PACA shall retain all such security personnel, and LICENSEE shall reimburse the cost of their services at PACA's prevailing rate.
- 5.2 LICENSEE shall comply with all regulations of the City of Fort Lauderdale and Broward County, Florida, and in particular, with their building and fire codes. In the event that PACA, in its sole judgment, determines that a violation has occurred, is about to occur or is at risk of occurring, and that the public safety is at risk, it may take such steps (including refusing admittance to additional guests, whether or not ticketed) as it deems necessary to protect the public safety. At all times, LICENSEE shall keep attendance within the stated capacity of the Facility.
- 5.3 In the event that PACA at any time determines, in its sole discretion, that an emergency or threat of emergency exists (including, but not limited to, a weather-related emergency, a bomb threat, a threat of terrorist activity or biochemical hazard, a fire alarm or an unruly audience that poses a significant threat to human safety or to property), the LICENSEE and all of its agents and representatives shall follow all instructions of PACA personnel, including, but not limited to, cessation of offensive or inflammatory conduct, evacuation of the building and delay or cancellation of the event, or other action that is intended either to ameliorate the emergency condition or to protect persons or property. Prior to entering into the premises, LICENSEE shall instruct all of its personnel, agents and representatives regarding the existence and content of this provision.

## 6. **Event Services, Facilities, and Equipment**

- 6.1 PACA agrees to furnish, at no additional charge to LICENSEE, general lighting from permanent fixtures, existing outlets, and equipment in the Facilities specified, such as air conditioning, electrical, and water for use solely related to the Engagement. Failure to furnish any of the preceding items as a result of circumstances beyond the control of PACA (including "Force Majeure" as defined under Section 8.9), shall not be considered a breach of this Agreement. LICENSEE shall return the Facility and the equipment in the same condition in which they were received from PACA within the time period stated in the Agreement.
- 6.2 LICENSEE must arrange a production meeting with PACA staff no later than twenty-one (21) calendar days prior to the commencement date of the Engagement to finalize all facility, equipment, and labor requirements. No other services or equipment will be available other than those approved in writing by the LICENSEE and PACA's staff at such meeting excepts those services and equipment stated in this Agreement. Such written executed documentation of the additional services and equipment, upon its complete execution, shall be deemed to be made a part hereof and incorporated herein by reference. Failure by LICENSEE to arrange the production meeting shall limit available services and equipment to those provided in this Agreement. If the execution of this Agreement occurs less than twenty-one (21) calendar days prior to the first day of the Engagement, then LICENSEE shall arrange a production meeting upon execution of the License Agreement.
- 6.3 For each performance-oriented event listed in the Engagement lasting one (1) hour or more, an intermission of not less than twenty (20) minutes shall be held unless approved in writing in advance by PACA's staff and subject to modification by PACA's staff in its sole discretion when necessary to meet unusual conditions.

- 6.4 PACA reserves the right to permit rehearsals or other use of the licensed Facility during the Engagement provided that said use, as determined ~~by mutual agreement in the sole discretion of PACA's staff~~, does not prohibit LICENSEE's use of the Facility and does not have a negative impact on the LICENSEE, ~~as determined in its sole discretion.~~
- 6.5 PACA reserves for itself, its officers, employees, and agents engaged in the operation and maintenance of the Facility and Premises the right in their sole discretion to enter upon and have free unrestricted access to said Facility and Premises at all times.
- 6.6 In the event that LICENSEE cancels the Engagement for any reason, except as stated in Section 8.9 herein, LICENSEE shall forfeit any deposit, LICENSEE Fees, other fees and all other funds or receipts paid to PACA or received by PACA pursuant to this Agreement. In such event, LICENSEE shall also be liable to PACA for costs incurred by PACA related to the Engagement and/or related to its cancellation in addition to the forfeited funds stated herein. All such outstanding costs shall be paid in full by LICENSEE to PACA within ten (10) calendar days after the date of written notification by PACA to LICENSEE of such costs.
- 6.7 In the event that the LICENSEE files for bankruptcy prior to the commencement or completion of the Engagement or in the event that PACA determines in the sole discretion of its staff that the LICENSEE's financial standing may be impaired and LICENSEE may not have the financial ability to pay the amount owed when due to PACA, then, in such event, PACA may demand at any time the full amount of the estimated expenses, costs, and fees estimated to be due and owing by the LICENSEE. In such event, LICENSEE shall pay in full the amounts due and owing to PACA within ten (10) calendar days after the date of written notification by PACA to LICENSEE or by the date of the commencement of the Engagement whichever occurs earlier.

## 7. Concessions

- 7.1 Except as otherwise provided herein, PACA specifically reserves the exclusive right to sell and/or distribute any and all concessions and catering services including, without limitation, food, beverages (including, but not limited to, alcohol), confections, candies, ice cream, non-show related compact discs, tapes, programs, T-shirts, and other merchandise. ~~Upon mutual agreement, in writing between PACA staff and LICENSEE, PACA may also sell and/or distribute show related items.~~
- ~~7.2 With express, prior written consent of PACA's staff, which consent may be withheld in its discretion, LICENSEE may contract with an outside vendor for furnishing show related merchandise mentioned in Section 7.1 above. In such event, LICENSEE shall pay PACA twenty five percent (25%) of gross receipts after deduction of applicable State of Florida sales tax, which shall include all funds paid or payable for merchandise sales. If LICENSEE requests PACA to provide a seller of merchandise, LICENSEE agrees to pay PACA for the seller out of LICENSEE's net receipts the greater of \$100.00 or 5% of the Gross Receipts. LICENSEE agrees that applicable Florida sales tax will be deducted from Gross Receipts if PACA provides seller. In the event gross receipts are insufficient to make such payment, LICENSEE shall pay the funds due within five (5) calendar days after receipt of notification from PACA for such payment. LICENSEE shall not deduct from gross receipts any expenses relating to cash shortages, bad debts, other taxes of any kind (except State of Florida sales and State of Florida use taxes), returned checks, and bank charges, and other charges for returned checks. LICENSEE agrees that any such contract or arrangement with an outside vendor shall include a provision that PACA reserves the right in its sole discretion to review and, as necessary, audit the receipts of the LICENSEE and such vendor relating to the Engagement.~~
- ~~7.3 Settlement of concessions or merchandise sales shall be made by the parties within two (2) hours after the end of each Engagement. For multiple performance or events, daily settlement sheets shall be provided to PACA within two (2) hours after the end of each Engagement, with final settlement and payment of funds due and payable to PACA within two (2) hours after the end of the last performance/event of the Engagement.~~

8. **Miscellaneous**

~~8.1 **Advertising** LICENSEE shall obtain the prior written approval of PACA's Marketing staff for all advertising materials relating to the Engagement prior to such materials being distributed, printed, published, or broadcast. In no event shall any advertising be commenced until there is a fully executed Agreement between PACA and LICENSEE for the engagement. All advertising for the Engagement shall include: the complete name and address (Broward Center for the Performing Arts, 201 Southwest Fifth Avenue, Fort Lauderdale, Florida 33312), the name Ticketmaster (PACA's official ticketing services provider), the Box Office telephone number (954 462 0222) for single tickets and subscriptions, or for group ticket sales (954) 660 6307 and Website (www.browardcenter.org). LICENSEE shall provide PACA's Event Manager within two (2) calendar days after LICENSEE's execution of this Agreement with a public contact telephone number for questions concerning Engagement.~~

~~If PACA undertakes to provide any marketing, advertising, or any data analysis on behalf of the LICENSEE as set forth in an exhibit attached to this Agreement, or as approved in advance in writing hereafter by LICENSEE and PACA's marketing staff, PACA does not guarantee or warrant the effectiveness of its marketing, advertising or data analysis efforts. In such event, PACA shall not be liable for the end result, including any potential failures or an inability to achieve the contemplated results, related to its marketing, advertising or data analysis efforts that it specifically agrees to provide to, or on behalf of, LICENSEE under this Agreement.~~

~~Any Fees due PACA resulting from marketing services as set forth in an exhibit to this Agreement or as approved in writing as stated herein above shall be deducted from available Receipts at the time of Settlement. In the event the Receipts are insufficient to pay the Fees, LICENSEE shall pay the balance due to PACA in the form of a certified check, cashier's check, or money order, prior to commencement of such marketing services.~~

8.2 **Announcements** -- ~~PACA reserves the right in the sole discretion of PACA's staff to make brief announcements prior to the performance/event and during intermission that relate briefly to future attractions. PACA is also entitled to make such announcements and any other announcements, as it deems necessary in its sole discretion at any time in the interest of public safety and for the comfort of patrons or guests.~~

8.3 **Sponsorship** -- LICENSEE acknowledges that PACA has and/or may obtain sponsors for the Facility and/or for other performances that occur, or may occur, therein during the Term as stated in Section 11.1 of this License Agreement. PACA will attempt to ensure that sponsorships do not conflict with those obtained by LICENSEE for the Engagement; however, LICENSEE acknowledges and agrees that, in case of conflict, PACA's agreements with its sponsors shall prevail over sponsorship agreements connected with LICENSEE and/or the Engagement. LICENSEE agrees to cooperate fully with PACA and its Facility sponsors in connection with promotions arranged by PACA for its sponsors. LICENSEE shall furnish a copy of the related sponsorship agreement to PACA's Event Manager, prior to LICENSEE's execution thereof, in order for PACA's staff to determine, in its sole discretion, if there are any potential conflicts. LICENSEE agrees that PACA's staff in its sole discretion may exercise the right to include any and all presentations of the LICENSEE covered under this License Agreement in PACA's sponsorship packaging without any revenue sharing obligations to the LICENSEE.

8.4 **Assignment of Rights** -- LICENSEE shall not assign this Agreement or any rights hereunder nor sublet said Facility without the prior written approval of PACA's President/Chief Executive Officer, which approval may be withheld in its sole discretion.

~~8.5 **Broadcast Rights** PACA reserves all radio, television broadcast, with no exceptions. If LICENSEE desires to exercise any radio and television broadcast relating to the Engagement, LICENSEE shall obtain the~~

~~prior written consent of PACA's Event Manager, which consent may be withheld in its sole discretion. If broadcast rights are approved by PACA at the time of entry into this Agreement as stated in Section 8.5 herein or subsequently by PACA's Event Manager as stated in Section 8.5 herein, then, an additional fee equal to the Base License Fee indicated in Section 1.2 will be charged to the LICENSEE, plus any additional sales taxes, if applicable. If film/video broadcast are approved by PACA as stated herein, the LICENSEE agrees to include the wording "Filmed on location in the Au Rene Theater at the Broward Center for the Performing Arts in Fort Lauderdale, Florida" and include the approved Broward Center logo in all film/video broadcast. If audio only broadcast rights are approved by PACA as stated herein, the LICENSEE agrees to include the audio acknowledgement "Recorded on location in the Au Rene Theater at the Broward Center in the Performing Arts in Fort Lauderdale, Florida" on all audio broadcasts. The parties agree that at the time of entry into this Agreement the parties have not yet reached an agreement upon any broadcast rights except as stated in Section 8.5 herein unless an exhibit signed by both parties is simultaneously attached hereto.~~

- 8.6 **Copyrights** -- LICENSEE shall be responsible for all costs arising from the use of all materials, including, but not limited to, patented, trademarked, franchised, or copyrighted music, materials, devices, processes, or dramatic rights or intellectual properties used in or incorporated in the Engagement. LICENSEE agrees to indemnify, defend, and hold harmless PACA from any claims or costs, including, but not limited to, attorney's fees, paralegal's fees, and court costs, which may arise from question of use of any such material described in Section 8.6 herein in accordance with the "Indemnification" provisions in Section 10 below. LICENSEE shall be solely responsible for securing in advance of the commencement of the Engagement any and all rights to use all materials including any such patented, trademarked, franchised, or copyrighted music, materials, devices, processes, or dramatic rights or intellectual properties used in or incorporated in the Engagement.
- 8.7 **Removal of Property** -- If LICENSEE does not vacate the Facility within four (4) hours after the ending time of each Engagement specified in this Agreement, then PACA is authorized to remove from the Facility, at the sole expense of the LICENSEE, all goods, wares, merchandise, equipment, materials, and other property of any kind placed by, or on behalf of, the LICENSEE in or on such Facility. In such event, PACA shall not be liable for any damages or losses relating to the removal of such properties, and LICENSEE shall pay PACA the actual total amount of such expenses incurred by PACA in the form of a certified check, cashier's check, or money order within ten (10) calendar days after the date of PACA's written notification to LICENSEE of such amount.
- 8.8 **Compliance With Laws** -- LICENSEE shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations (including those of PACA), in performing its duties, responsibilities, and obligations pursuant to this Agreement, including LICENSEE's obligation to pay all sales and use taxes, as applicable.

LICENSEE shall use and occupy the Facility and the Premises in a safe and careful manner and shall comply with all laws, rules, regulations, codes, and ordinances of the City of Fort Lauderdale, Broward County, the State of Florida, the United States, and PACA as may be amended from time to time. The Facility and the Premises shall not be used for any unlawful purpose, or objectionable acts as determined in the sole discretion of PACA's staff or in any manner which causes, or may cause, damage to any part of the Facility and/or the Premises. LICENSEE agrees to provide, at its sole expense, all necessary licenses and permits required in accordance with all applicable laws, as amended from time to time, for use of the Facility.

- 8.9 **Force Majeure** -- In the event that PACA, (in PACA staff's sole discretion), determines that the Facility is damaged or destroyed by fire or other cause beyond the control of LICENSEE or PACA and without fault of the LICENSEE, thereby preventing LICENSEE's use of the licensed Facility for the purpose of the Engagement, this Agreement shall immediately terminate upon written notice by PACA, through its President/Chief Executive Officer or one of PACA's management staff, to LICENSEE. In such event, LICENSEE shall pay within ten (10) calendar days after such written notice for all services rendered and all costs incurred by PACA prior to such destruction or damage as stated in such notice. PACA reserves the right in PACA staff's sole discretion to cancel, interrupt, or terminate, without any prior notice to LICENSEE, the Engagement in the interest of public safety or public health if, in the sole discretion and judgment of



PACA, such cancellation, interruption, or termination is warranted. In the event of any such termination or cancellation due to public health or public safety, PACA shall promptly notify LICENSEE orally (to be followed by written notice) and return to LICENSEE all funds paid by LICENSEE to PACA up to and including, the date of such termination or cancellation unless such cancellation or termination resulted from the acts or omissions of LICENSEE. ~~In the event any cancellation or termination under Section 8.9 herein resulted from the acts or omissions of LICENSEE, PACA shall have the right in PACA staff's sole discretion to retain any funds paid to LICENSEE and to hold LICENSEE responsible for paying all outstanding costs in accordance with this Agreement in addition to any costs incurred or already committed to be incurred by PACA which cannot be prevented or recouped by PACA as determined in PACA's sole discretion.~~ Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure").

If the performance of this Agreement, or any obligation hereunder is prevented by reason of hurricane, earthquake, or other casualty caused by nature, or by labor strike, war, or by a law, order, proclamation, regulation, ordinance of any governmental agency, the party so affected, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, provided that the party so affected shall first have taken reasonable steps to avoid and remove such cause of non-performance and shall continue to take reasonable steps to avoid and remove such cause, and shall promptly notify the other party in writing and resume performance hereunder whenever such causes are removed; provided, however, that if such non-performance exceeds sixty (60) days, the party that is not prevented from performance by the force majeure event shall have the right to terminate this Agreement upon written notice to the party so affected. This section shall not supersede or prevent the exercise of any right the parties may otherwise have to terminate this Agreement.

- 8.10 **Management Discretion** -- LICENSEE and PACA agree that any decision affecting any matter not herein expressly provided for shall be made within the sole discretion of PACA's President/Chief Executive Officer or PACA's management's staff.
- 8.11 **Objectionable Acts** -- PACA reserves the right, in PACA staff's sole discretion, to eject or cause to be ejected from the Facility and the Premises any person or persons committing unlawful acts or objectionable acts as determined in the sole discretion of PACA's staff or unlawful acts. Neither PACA, nor any of its officers, agents, or employees shall be liable to the LICENSEE for any damages resulting from the exercise of PACA's right and/or the exercise of PACA's or PACA staff's discretion under this section.
- 8.12 **Non-Discrimination and EEO Compliance** -- No party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement, the solicitation for or purchase of goods or services relating to this Agreement, or in subcontracting work in the performance of this Agreement and shall not otherwise unlawfully discriminate in violation of the Broward County Code, Chapter 16.5.

The LICENSEE shall not unlawfully discriminate against any person in its operations and activities or in its use of expenditure of funds in fulfilling its obligations under this Agreement. The LICENSEE shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by PACA, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, the LICENSEE shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.

LICENSEE acknowledges that the Center presents performances for the public and will periodically, as mutually agreed upon, may ~~determined by the Center~~, provide Open Caption Language and/or a Sign Language Interpreter(s), or Audio Description for performances. The Center has the unrestricted right to

provide such services at its sole discretion and expense. LICENSEE agrees that such services may be provided and shall be cooperative with any reasonable needs that may be required to provide the above-mentioned services to the Center's patrons.

By execution of this Agreement, the LICENSEE represents to PACA that it has not been placed on discriminatory vendor list (as provided in Section 287.134, Florida Statutes, as amended). PACA hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle PACA to terminate this Agreement and recover from LICENSEE all monies paid by PACA pursuant to this Agreement, and may result in debarment from PACA's competitive procurement activities.

## 9. Confidentiality

Subject to Florida's law (as amended), the LICENSEE designates that all financial, attendance, and patron detail, including any performance, event, ticket sales, or other activity occurring at the PACA venue provided to PACA by LICENSEE in connection with this Agreement is a trade secret as defined by Florida's laws (as amended). LICENSEE agrees that PACA has the unrestricted and perpetual right to use all confidential and trade secret information for PACA's business purposes, provided that the information is not released in a form that specifically identifies it with a particular LICENSEE, unless otherwise authorized by law or otherwise required by any authorized governmental entity, including for audit purposes.

In the event that LICENSEE designates certain information (including those stated above in Section 9 herein) as confidential and exempt from public disclosure under Florida's laws and/or federal laws (excluding information relating to financial statements and audit statements of PACA), the LICENSEE shall be solely responsible for such designation and shall be responsible for indemnifying PACA in accordance with the "Indemnification" provisions as stated in Section 10 of this Agreement. The obligation of the "Confidentiality" section and the "Indemnification" provisions of the Agreement shall survive any expiration, cancellation or termination of this Agreement.

## 10. Indemnification

~~LICENSEE shall at all times hereafter indemnify, hold harmless and defend COUNTY and all of COUNTY's current and former officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorneys' fees, court costs, and expenses (collectively, a "Claim"), raised or asserted by any person or entity not a party to this Agreement, which Claim is caused or alleged to be caused, in whole or in part, by any intentional, reckless or negligent act or omission of LICENSEE, its current or former officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement. In the event any Claim is brought against an Indemnified Party, LICENSEE shall, upon written notice from COUNTY, defend each Indemnified Party against each such Claim by counsel satisfactory to COUNTY or, at COUNTY's option, pay for an attorney selected by County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the Contract Administrator and the County Attorney, any sums due LICENSEE under this Agreement may be retained by COUNTY until all of COUNTY's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by COUNTY.~~

### 10.1 *Each party agrees to be fully responsible for the acts and omissions of its agents or employees to the extent permitted by law.*

Nothing herein is intended to serve as a waiver of sovereign immunity by any party nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. LICENSEE is a state agency or political subdivision as defined in

Section 768.28, Florida Statutes, and shall be fully responsible for the acts and omissions of its agents or employees to the extent permitted by law.

**11. Term and Termination**

11.1 The term of this Agreement shall commence upon complete contract signing by both parties through **June 8, 2017** subject to earlier termination as provided for in Section 11.2.

11.2 This Agreement may be terminated for cause by action of PACA through its President/Chief Executive Officer, or by LICENSEE if the party in breach has not corrected the breach within two (2) calendar days after written notice from the aggrieved party identifying the breach. This Agreement may also be terminated for convenience by action of PACA through its President/Chief Executive Officer, upon not less than two (2) calendar days' prior written notice. PACA's President/Chief Executive Officer may also terminate this Agreement, as he/she deems appropriate in its sole discretion under the circumstances in the event he/she determines that termination is necessary to protect the public health, safety, or welfare. In such event, oral notice will be sufficient followed as soon as practicable thereafter by written notice. Any written notice required by Section 11.2 hereunder shall be done in accordance with Section 12 below.

**12. Notices**

In order for a notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail with a contemporaneous copy via e-mail to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change in accordance with the provisions of this Section.

FOR PACA:  
Vice President of Operations  
Attn: Shelly Bradshaw  
Performing Arts Center Authority  
Broward Center for the Performing Arts  
201 Southwest Fifth Avenue  
Ft. Lauderdale, FL 33312-7112  
Email: [sbradshaw@browardcenter.org](mailto:sbradshaw@browardcenter.org)  
With simultaneous e-mail to: [\\_purquilla@browardcenter.org](mailto:_purquilla@browardcenter.org)

With copy to:

Chief Financial Officer  
Attn: Timothy Weeks  
Performing Arts Center Authority  
Broward Center for the Performing Arts  
201 Southwest Fifth Avenue  
Ft. Lauderdale, FL 33312-7112  
Email: [tweeks@browardcenter.org](mailto:tweeks@browardcenter.org)

FOR LICENSEE:

To the Representative listed on page one (1) at the address shown on page one (1).

PACA may change the information for PACA provided in Section 12 or the LICENSEE may change the information on page one using the notices' procedures stated in Section 12 herein.

**13. Law, Jurisdiction, Venue, Waiver of Jury Trial**

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. The parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, LICENSEE AND PACA HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

**14. Entire Agreement and Representation of Authority**

14.1 This Agreement, including any addendum attached, or referred to or specifically incorporated by reference herein, contains the entire understanding of the parties, and there are no other agreements or understandings, written or oral, with respect to this License Agreement except the Ticketing Service Agreement, if applicable and if fully executed by both parties. This Agreement may not be changed or altered, except in writing, and signed by both parties through their authorized representative. This Agreement incorporates and makes a part hereof any attached PACA Technical Rider, the attached Ticketing Service Agreement, and the attached Schedule of Fees and Charges. The attached Appendix A, "Au-Rene Theater Rental and Box Office Schedule of Fees and Charges," and the attached Appendix B, "PACA's Production Services Fees," are made a part hereof and incorporated herein for all purposes.

14.2 Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

**15. Third Party Beneficiaries**

Neither PACA nor LICENSEE intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

**16. Joint Preparation**

This Agreement has been jointly prepared by the parties hereto, and shall not be construed more strictly against either party.

**17. Severability**

In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

**18. Independent Contractor**

LICENSEE is an independent contractor under this Agreement. In providing Services under this Agreement, neither LICENSEE nor its agents shall act as officers, employees, or agents of PACA. LICENSEE shall not have the right to bind PACA to any obligation not expressly undertaken by PACA under this Agreement.'

**19. Truth-In-Negotiation Representation**

LICENSEE's compensation under this Agreement is based upon representations supplied to PACA by

LICENSEE, and LICENSEE certifies that the information supplied, including without limitation in the negotiation of this Agreement, is accurate, complete, and current at the time of contracting. PACA shall be entitled to recover any damages it incurs to the extent such representation is untrue.

**20. Incorporation by Reference**

Any and all Recital clauses stated above are true and correct and are incorporated herein by reference. The attachments, Appendix A and B, Insurance Addendum and Ticketing Appendix are hereby incorporated into and made a part of this Agreement.

**21. No Waiver of Sovereign Immunity**

Noting herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

**22. Excess Funds**

Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBCC.

(The remainder of this page is intentionally left blank.)

Date Sent: REVISED January 16, 2018

Event Code: AR063-18

LICENSE AGREEMENT BETWEEN PERFORMING ARTS CENTER AUTHORITY AND LICENSEE FOR TEMPORARY USE OF FACILITY AT **THE AU-RENE THEATRE AT THE BROWARD CENTER FOR THE PERFORMING ARTS** IN FORT LAUDERDALE, BROWARD COUNTY, FLORIDA

IN WITNESS WHEREOF, the parties have executed this instrument or caused it to be executed by their representative duly authorized as of the last date of execution of the parties shown below.

**PACA**

WITNESSES

PERFORMING ARTS CENTER AUTHORITY

\_\_\_\_\_  
Signature

By \_\_\_\_\_  
Kelley E. Shanley, President/CEO

\_\_\_\_\_  
Print Name Above

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

**LICENSEE  
FOR SBBC**

(Corporate Seal)

**THE SCHOOL BOARD OF BROWARD COUNTY,  
FLORIDA**

ATTEST:

\_\_\_\_\_  
Nora Rupert, Chair

\_\_\_\_\_  
Robert W. Runcie  
Superintendent of Schools

\_\_\_\_\_  
Print Name & Title of Authorized Person

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

Approved as to form and legal content by:

**Janette M. Smith**

Digitally signed by Janette M. Smith  
Date: 2018.01.18 15:29:54 -05'00'

Office of the General Counsel

## Appendix A Au-Rene Theater Rental Fees and Charges

Base Rent includes load-in on the same day and single performance or event lasting no longer than three and a half (3.5) hours. Additional hourly rates at the rate shown below shall apply if the performance or event exceeds three and a half (3.5) hours. For multiple Engagements or events on the same day, the base rent will also increase accordingly.

**Base Rent** Commercial (For Profit): ~~\_\_\_\_\_ The greater of \$10,000 or 10% of Gross Ticket Sales~~  
 Non-Profit, including Public Entities organized in the state of Florida located in Broward County only (except federal government): ~~The greater of \$8,500 or 10% of Gross Ticket Sales~~ **\$77,350 for total expenses**  
 Damage Deposit To be determined by PACA's Management staff in its sole discretion.

<del>Included in Base Rent</del>	<del>Additional over 3.5 hours</del>
<del>Front of House</del>	<del>\$125 per hour</del>
<del>Security/Police</del>	<del>\$150 per hour</del>
<del>Cleaning/Maintenance</del>	<del>\$100 per hour</del>

**Florida Sales Tax** Florida Sales and Use Tax and all other applicable taxes or fees, as maybe required by state or federal laws, will be added to all applicable license and use fees and charges.

**Non-Ticketed Events** ~~Non ticketed events will be subjected to a \$3.00 per seat usage fee~~

**Merchandise Sales** ~~25% of gross merchandise sales plus applicable Florida Sales Tax.~~

**Technical Production**  
**Stage Personnel** As required at prevailing rates **inclusive in the \$77,350 guarantee**

**Equipment Rental** Required at prevailing rates, Appendix B **inclusive in the \$77,350 guarantee**

## Appendix B Au-Rene Theater Equipment Licensee Fees and Charges

### ~~Orchestra Package \$450/event (Everything except the shell is shared with the Amature Theatre)~~

#### ~~Includes:~~

<del>orchestra shell</del>	<del>orchestra risers:</del>
<del>orchestra chairs 115</del>	<del>10 4'x8'x8"</del>
<del>cello chairs 6</del>	<del>10 4'x8'x16"</del>
<del>music stands and lights 95</del>	<del>20 4'x8'x24"</del>
<del>conductors podium</del>	<del>kick rail available</del>

#### ~~Draperies~~

~~Theater comes equipped with full stage black masking. Additional rental soft goods:~~

<del>White filled scrim/cyclorama</del>	<del>43'x 63'</del>	<del>\$75/day or \$225/wk</del>
<del>Black sharkstooth scrim</del>	<del>36'x 63'</del>	<del>\$75/day or \$225/wk</del>

#### ~~Lighting~~

#### ~~Follow spots 4 Super troopers~~

~~\$500 per day, \$1,500 per week (if 3 days or more)~~      ~~\$100 per day, \$300 per week (if 3 days or more)~~

#### ~~Sound System~~

~~\$750 per day, \$2,250 per week (if 3 days or more)~~

#### ~~Monitor System~~

~~\$1,000 per day, \$3,000 per week (if 3 days of more)~~

#### ~~Additional microphones~~

~~Wireless Microphones \$75 each, \$225 per week (if 3 days or more)~~

~~Lavelier Microphones \$75 each, \$225 per week (if 3 days or more)~~

#### ~~LCD Projector — Christie 10K~~

~~\$500 per day, \$1,500 per week (if 3 days or more)~~

#### ~~9' x 12' Fast-fold dual surface projection screen — 9' x 16' Fast-fold dual surface projection screen~~

~~\$75 per day, \$200 per week (if 3 days or more)~~      ~~\$125 per day, \$375 per week (if 3 days or more)~~

#### ~~Pianos (Piano tuning extra, charged at prevailing rate)~~

~~9' Steinway grand, Model D, \$200 per day, \$600 per week (if 3 days or more)~~

~~7' Steinway, Model B. \$150 per day, \$400 per week (if 3 days or more)~~

~~48" Yamaha upright \$75 per day, \$225 per week (if 3 days or more)~~

#### ~~Dance Floor/ Marley~~

~~Black lonseal "Lonstage" floor \$100 per day, \$300 per week (if 3 days or more)~~

#### ~~Chain Motors~~

~~6 CMI 1 ton chain motors w/60' chain~~

~~\$100 per unit per day \$300 per unit per week (if 3 days or more)~~

#### ~~Red Carpet Runner~~

~~25' long X 3' wide \$35 per day~~

#### ~~Internet Connection (Where available)~~

~~\$50 per day, \$150 per week (if 3 days or more)~~

**A 4% Production Services Fee will be calculated on the total Production Invoice and will be added to the final settlement amount payable by LICENSEE.**



## Insurance Addendum

### Performing Arts Center Authority Tenant LICENSEE's Liability Insurance Policy (TULIP)

*Revised January 17, 2007*

The Performing Arts Center Authority ("PACA") requires general liability insurance for approved, third-party LICENSEEs (such as "LICENSEE," as defined in License Agreement) of PACA facilities. This insurance requirement can be satisfied by providing a certificate of insurance showing evidence of proper general liability insurance. Due to the inability of some third party users to obtain general liability insurance on their own, PACA is now enrolled in the Tenant User's Liability Insurance Policy (TULIP) designed for third-party facility LICENSEEs who need to purchase general liability insurance.

TULIP is a low-cost insurance policy that protects both the facility user(s) (such as LICENSEE) and PACA. The policy applies to bodily injury or property damage arising out of the use of PACA premises by external users (third parties with no relation to the institution and no institutional financial support). Premium costs for Class 1, 2, 3 Users will be paid by the third party user (such as LICENSEE) and are outlined below:

<b>Renters</b>	<b>Daily Rate</b>
Amaturo Theatre	\$350.00
Au-Rene Theatre	\$900.00
New River Room	\$200.00
Einstein Room (and other small venues at BCPA)	\$150.00
Parker Playhouse	\$550.00

#### FAQs:

1. Who is responsible for the cost of the TULIP?

*The third party user (such as LICENSEE) is responsible for the cost of the TULIP and will pay for it via the event settlement or invoice.*

2. What is the coverage and limits of this policy?

<b>Coverage</b>	<b>Limit</b>
Each Occurrence	\$1,000,000.00
Personal & Advertising Injury	\$1,000,000.00
Fire Damage (any one fire)	\$50,000.00
Medical Payments (any one person)	Excluded

3. Is Workers' Compensation included as part of this policy?

*No. Workers' Compensation must be separately secured by the user. .*

4. What proof will there be that the coverage is in place?

*The user will receive a certificate of insurance upon request to PACA.*

5. Is it necessary to use PACA's TULIP program?

*It is necessary to provide proof of insurance coverage within the time period stated in the License Agreement. It is not necessary to obtain this coverage through PACA.*

## Ticketing Appendix

### Au-Rene Theater Box Office Schedule of Fees and Charges

**Box Office** - The fees listed below will be subtracted from the gross tickets sales at settlement. The facility surcharge fee and printing fee will be collected on all consignment tickets upon delivery.

#### Box Office Service Fee inclusive in the price of the ticket

**Box Office Service Fee:** calculated on gross tickets sales exclusive of consignment and group sales

~~Commercial: 3.5% of Gross Ticket Sales, minimum of \$500~~

~~Non-Profit: 2.5% of Gross Ticket Sales, minimum of 500~~

**Credit Card Fees**                      ~~4% of Gross Credit Card Sales~~

**Group Sales**                              ~~10% of Gross Group Sales~~

**Approved Third Party Group Sales**

~~5% of Gross Third Party Group Sales.~~

**Consigned Tickets**                      ~~Commercial: \$0.50/ticket printing fee~~

~~Non-Profit: \$0.25/ticket printing fee~~

**Complimentary Tickets**                ~~Commercial: \$0.50/ticket printing fee~~

~~Non-Profit: \$0.25/ticket printing fee~~

**Zero Priced Tickets**                      ~~Commercial \$1.00/ticket printing fee~~

~~Non-Profit \$1.00/ticket printing fee~~

~~Tickets available for redemption through TicketMaster call center, web or walk-up~~

~~\$800 Ticket Printing fee per graduation inclusive of \$77,350 guarantee~~

**Facility Surcharge**                      ~~Commercial: \$4.50 per ticket~~

~~Non-Profit: 7.5% of Gross Ticket Sales~~

**Florida Sales Tax**                      Florida Sales and Use Tax and all other applicable taxes or fees, as maybe required by state or federal laws, will be added to all applicable license and use fees and charges.

**Admission Sales Tax**                      ~~6% of total ticket sale~~

#### Box Office Service Fee outside of the advertised ticket price

External Box Office Service Fees are subject to change without notification

**Processing Fee**                              ~~18% of the gross tickets sales for all tickets processed through the call center or web sales.~~

**Walk Up Fee**                                ~~\$2.00 per ticket — box office sales windows only~~

**Group Sales**                                ~~\$2.00 per ticket as of October 1, 2013~~

**Subscription Sales**                      ~~\$10.00 per order~~