

AGREEMENT TO TRANSFER EXCLUSIVE RIGHT TO USE
BETWEEN
MONTGOMERY COUNTY, MARYLAND
AND
ROUND HOUSE THEATRE, INC.

Dated October __, 1999

TABLE OF CONTENTS

1.	<u>INCORPORATION OF RECITALS AND USE AGREEMENT</u>	2
2.	<u>GENERAL PURPOSES OF LEASE</u>	3
3.	<u>DEFINITIONS</u>	4
4.	<u>LEASED PREMISES</u>	6
5.	<u>TERM AND EXPIRATION</u>	6
6.	<u>RENTAL AMOUNT</u>	8
7.	<u>ACCEPTANCE OF LATE OR PARTIAL PAYMENT NO WAIVER</u>	12
8.	<u>OPERATING EXPENSES AND REAL ESTATE TAXES</u>	12
9.	<u>USE/OPERATION OF LESSEE'S BUSINESS</u>	13
10.	<u>COVENANTS; ASSIGNMENT AND SUBLETTING</u>	16
11.	<u>FEES AND COSTS OF CONSTRUCTION</u>	19
12.	<u>LESSEE'S INSURANCE</u>	19
13.	<u>LESSEE'S INDEMNIFICATION</u>	26
14.	<u>LIENS, CLAIMS OR ENCUMBRANCES/SUBORDINATION</u>	27
15.	<u>SIGNS; LOADS ON FLOOR</u>	28
16.	<u>CONSTRAINTS</u>	29
17.	<u>BUILDING CONSTRUCTION AND ALTERATIONS</u>	33
18.	<u>LANDSCAPING, OUTSIDE STORAGE AND MAINTENANCE</u>	37
19.	<u>UTILITY, SERVICE, ACCESS AND CONNECTIONS</u>	38
20.	<u>SIGNS OR MONUMENTS</u>	40
21.	<u>PARKING AREAS AND LOADING ZONES</u>	40
22.	<u>MAINTENANCE OF PREMISES</u>	40
23.	<u>DAMAGE TO PREMISES</u>	43
24.	<u>DAMAGE TO PERSONAL PROPERTY AND PERSONS</u>	43
25.	<u>FIRE AND OTHER CASUALTY DAMAGE TO PREMISES</u>	44
26.	<u>DEFAULT; ENFORCEMENT</u>	44
27.	<u>NO WAIVER BY LESSOR</u>	51
28.	<u>OPERATIVE MAINTENANCE AGREEMENT AND COMMON AREA CHARGES</u>	52
29.	<u>ACCESS BY LESSOR AND EASEMENT</u>	52
30.	<u>EXPIRATION</u>	53

31. <u>TENANT HOLDING OVER</u>	54
32. <u>SUCCESSORS AND ASSIGNS</u>	55
33. <u>QUIET ENJOYMENT</u>	55
34. <u>SURRENDER, WAIVER AND AMENDMENT</u>	56
35. <u>NON-DISCRIMINATION IN EMPLOYMENT AND SERVICES</u>	56
36. <u>ARBITRATION</u>	57
37. <u>CONTRACT SOLICITATION</u>	58
38. <u>PUBLIC EMPLOYMENT</u>	59
39. <u>GOVERNING LAW, SEVERABILITY, CONDEMNATION AND COMPLIANCE</u>	59
40. <u>ENTIRE AGREEMENT</u>	60
41. <u>NOTICE</u>	60
42. <u>NON-MERGER</u>	61
43. <u>CAPTIONS, PRONOUNS</u>	62
44. <u>CONDEMNATION</u>	62
45. <u>RULES AND REGULATIONS</u>	63
46. <u>BROKERS</u>	63
47. <u>ESTOPPEL CERTIFICATES</u>	63
48. <u>LIEN FOR RENT</u>	64
49. <u>NO OPTION</u>	65
50. <u>PRONOUNS</u>	65
51. <u>CAPTIONS AND PARAGRAPH NUMBERS</u>	65
52. <u>TIME OF THE ESSENCE</u>	65
53. <u>NO PARTNERSHIP</u>	65
54. <u>LESSEE'S AUTHORITY</u>	65

Schedule A - Site Plan

Schedule B - Grantor Ground Lease and Land Description

Schedule C - MOU Between Grantor and Montgomery County concerning
Exclusive Use License for Theater

Schedule D - Conceptual Theater Plans

Schedule E - Rent Commencement Certificate

AGREEMENT TO TRANSFER EXCLUSIVE RIGHT TO USE

THIS AGREEMENT TO TRANSFER EXCLUSIVE RIGHT TO USE (hereinafter "Agreement" or "Lease"), made this, ____ day of _____, 1999, by and between MONTGOMERY COUNTY, MARYLAND, a political subdivision of the State of Maryland, hereinafter called "County" or "Lessor" and ROUND HOUSE THEATRE, INC., with its principal offices located at 12210 Bushey Drive, Suite 101, Silver Spring, Maryland 20902, hereinafter called "Lessee" or "Tenant".

W I T N E S S E T H

That for and in consideration of the covenants and conditions contained in this Agreement, Lessor assigns, leases and demises unto the Lessee, and the Lessee takes from the County, the exclusive right to use the Theater Premises, as such use right is established and defined by the Use Agreement (hereinafter defined), on the terms and conditions set forth herein. The Theater Premises is intended to be constructed by Grantor on a portion of the land upon which Chevy Chase Bank, FSB ("Grantor") has acquired a 65-year ground lease on the parcel (the "Property") known as 7501 Wisconsin Avenue, Bethesda, Maryland, dated April 2, 1998, with 7501 Wisconsin Avenue, LLC, a Maryland Limited Liability Company ("Owner"). Grantor's construction is intended to include office and commercial space and related facilities located in Montgomery County, Maryland, and a plan of this project is shown on the Site Plan attached hereto as Schedule "A". A Memorandum of the Ground Lease between Owner and Grantor was recorded in Liber 15693 at Folio 237 in the Land Records of Montgomery County, Maryland. A copy of the Memorandum of Ground Lease is attached

to, incorporated by reference in, and made a part of this Agreement ("Ground Lease") as Schedule "B" hereto.

Grantor and the County have entered into a "Memorandum of Understanding Concerning Grant of Exclusive Use License for Theater" (hereinafter "MOU" or "Use Agreement"), dated as of the date hereof, for the use of the Theater intended to be constructed on the Property. This Lease is expressly subject to the terms and conditions of that Use Agreement, a copy of which is attached hereto and made a part hereof as Schedule "C".

Lessor and Lessee understand that Grantor intends to construct one or more office buildings and a theater building (said theater building is hereafter referred to as the "Facility" or "Theater"), consisting of approximately 29,437 square feet, as part of the Optional Method of Development Project for 7501 Wisconsin Avenue, Bethesda, Maryland (the "Project"). Lessor and Lessee desire to enter this transfer of the exclusive use license obtained by Lessor from Grantor, subject to the Use Agreement with respect to the Theater, in accordance with the terms of this Agreement.

The terms "must" and "shall" are deemed to have the same meaning throughout this document, and describe an essential requirement upon the person or entity to whom it applies.

NOW, THEREFORE, for and in consideration of the terms of this Agreement, the parties agree as follows:

1. INCORPORATION OF RECITALS AND USE AGREEMENT. The above recitals are incorporated by reference into and made a part of this Agreement as if fully set forth in this Agreement. In addition, the Use Agreement between Grantor and Lessor is incorporated by reference into and made a part of this Agreement, and Lessee is subject to, and

agrees to comply with, all of the terms and conditions stated in that Use Agreement. In the event of any conflict between the terms of the Use Agreement and the terms hereof, the terms of the Use Agreement shall control.

2. GENERAL PURPOSES OF LEASE. The Lessor hereby declares and Lessee agrees the general purposes of this Lease to be to:

A. Fulfill the purpose for which the land was acquired and is being, or has been, improved by Grantor, as stated in the Use Agreement, namely, for use as a performing arts theater and associated uses described therein and in this Agreement.

B. Protect the County, as Lessor, Lessee, and any future tenants against improper building upon and use of the Property.

C. Encourage development of the Theater:

(1) to enhance advancement in recreation and arts delivery, production, education, research, and development, and related, associated, or supporting endeavors, and promote an environment conducive to the advancement of the arts in general.

(2) to develop strong relationships by, between, with and among those individuals and groups in the County interested in the arts, so they can share the advantages of common facilities in the production and performance of the arts that will result in more efficient use of capital investment and manpower.

(3) to provide flexibility for change to accommodate unforeseen knowledge, technology, and advancement in the arts.

D. The Premises shall be used and continuously occupied by Lessee to manage and operate the facility as a performing arts theater, as stated in the MOU, including

use as an educational center offering classes and training in the theater and related arts, live performances, exhibitions of films, meetings and events for cultural and recreational purposes, as well as the sale of food and beverages, programs, promotional items including apparel with logos of the Theater, or of plays or acts performing there, soundtracks, etc., and for such other uses and purposes which are usual and customary for similar Theater facilities and for no other use or purpose; provided, however, the Premises may not be used for any purpose other than as permitted under an approved site plan or site plan amendment or for any use which is not permitted under the zoning ordinance applicable to the Premises, nor shall the Premises contain a restaurant, a grille or other sit-down or take out eating establishment. Any food concessions in the Premises shall be available only for Theater patrons and not the general public. The Premises may also be used for occasional conferences and meetings provided that no meetings or conferences may be held by or on behalf of any banking or financial institutions other than Grantor and that the dates of such conferences or meetings shall not interfere with Grantor's scheduled use of the Premises.

3. DEFINITIONS. When used in this Lease, the following terms have the meanings set forth below:

A. The term "County" means Montgomery County, Maryland, as the transferor of its use rights arising from its Use Agreement with Grantor. Any statements which indicate the County's approval have reference only to consent as related to the conveyance of this Property interest and do not refer to approvals required of the County in its governmental capacity. Approval of the County as Lessor under this Agreement, if any, will not be unreasonably withheld or delayed, unless expressly stated otherwise herein.

B. "Days" means business days wherever reference is made herein to less than thirty (30) days. Otherwise the term "days" means calendar days.

C. "Facility" or "Premises" means the Theater Facility or "Theater" plus any improvements constructed by Grantor on or within those Premises. The Facility is outlined in red on the site plans approved by the Montgomery County Planning Board, which are incorporated by reference into, and made a part of, this Lease as Schedule A.

D. "Improvements" means any structure, fixture or other improvements, including fixed or attached equipment now located or hereinafter erected in or upon the Property by Grantor, including, but in no way limited to, the Facility and specifically excluding the Lessee Improvements.

E. "Lease Commencement Date" means the date on which Grantor has substantially completed its construction of the Theater in accordance with the Theater plans and the MOU, and the certificate of occupancy has been granted for the Theater, and written notice thereof has been given to the Lessee by Grantor or Lessor.

F. "Lessee" means Roundhouse Theater, Inc., a Maryland corporation, its successors and permitted assigns. Except as otherwise expressly provided in this Lease, Lessee's interest in this Lease may not be transferred, subleased or assigned without the approval of the Lessor, which consent may be granted or withheld in its sole and absolute discretion.

G. "Plans" mean the conceptual Theater plans approved by the Montgomery County Planning Board or other governing body for development of the Theater, attached hereto as, or identified on, Schedule "D".

H. "Rent Commencement Date" shall mean (a) 120 days following the Lease Commencement Date, or (b) the date the Theater opens for business to the public, whichever first occurs.

4. LEASED PREMISES.

Lessor hereby transfers and/or leases unto the Lessee for the consideration set forth herein: (i) its rights to use the Premises, as established and defined by the Use Agreement, on the terms and conditions set forth herein for the operation, management and use of a Theater facility and administrative offices on the Premises, and (ii) in connection with the use of the Theater Facility, any rights to use public roads and accessways on the Property as a member of the public, parking facilities, loading docks, dumpster sites and other public areas on the Property set forth in the Use Agreement.

This Lease is subject to the terms and conditions of the Use Agreement attached hereto and made a part hereof as Schedule C.

5. TERM AND EXPIRATION.

A. Initial Term. The initial term of this Lease shall be for a period of two (2) years, commencing upon the Rent Commencement Date, as defined in this Lease, and expiring, unless renewed or terminated, or decreased by some expired term of the ground lease pursuant to the terms of this Lease or the attached Use Agreement, on midnight following the last day of the second year of the Lease term.

B. Renewal Term. If the Lease has not been terminated as provided herein, then the Lease shall be deemed automatically renewed for equal, consecutive, renewal terms of two (2) years each during the period of Grantor's initial 65 year ground lease term. At the

end of the initial lease term or any renewal term, should Lessee, in Lessee's sole discretion, determine that Lessee does not wish the Lease to renew, then Lessee shall provide the County with notice of its intent not to exercise this renewal right not later than one hundred eighty (180) days before the date the then applicable lease term would expire.

C. Option to Terminate. The Lessor may, at its option, terminate the provisions of this Lease at any time, subject to the terms of this Lease and the Use Agreement. Furthermore, Lessor may terminate this Lease for Lessee's default, including failure to pay rent or to meet any other financial obligation, or for Lessee's failure to continue to put the facility to the public use(s) required under this Lease and/or the Use Agreement.

(1) Notwithstanding, and in addition to the foregoing, Lessor shall have the right to terminate this Lease at any time, subject to Sections 10 and 15L of the MOU, in the event that a theater is no longer required to be part of the Project (or so much thereof as is then existing) by the Bethesda Central Business District Sector Plan.

(2) Within five (5) days after the Rent Commencement Date, Lessee shall promptly execute and deliver to Lessor, a Rent Commencement Certificate in the form of Schedule F attached hereto, acknowledging the Delivery of Possession Date of the Premises and certifying the Rent Commencement.

(3) For purposes of this Lease, the term "Lease Year" shall mean each successive twelve (12) month period during the term hereof. If the Rent Commencement Date occurs on the first day of a calendar month, the first Lease Year shall be the twelve (12) month period commencing on such day and terminating on the day preceding the anniversary thereof. If the Rent Commencement Date occurs on a

day other than the first day of a calendar month, the first Lease Year shall be the approximately twelve (12) month period commencing on the Rent Commencement Date and terminating on the last day of the twelfth (12th) month after the month in which occurs the Rent Commencement Date. Each subsequent Lease Year shall consist of twelve (12) calendar months and shall begin on the day after the expiration of the preceding Lease Year.

6. RENTAL AMOUNT.

A. Minimum Annual Rent. Subject to the terms and conditions of this Lease, Lessee shall pay to the Lessor an annual base rent of One (\$1.00) Dollar, which amount is payable in full, without set off, deduction, except as may be specifically provided herein, or demand, on the first day of each Lease Year during the term of this Lease, beginning on the Rent Commencement Date ("Minimum Annual Rent").

B. Additional Rent (including Reserve Fund Payments) Lessee shall also pay, as additional rent ("Additional Rent"), all other sums of money as shall become due and payable by or to Lessor or by Lessee, or to any other party as more specifically provided in this Lease and the Use Agreement, including, but not limited to, the Reserve Fund Payments which are due hereunder.

(1) As additional rent hereunder, upon the Rent Commencement Date, Lessee shall pay and discharge as they become due, promptly and before delinquency, all taxes other than real estate taxes which shall be paid by Grantor, assessments, rates, charges, license fees, municipal liens, levies, excises, or imposts, whether general or special, or ordinary or extraordinary, of every

name, nature and kind whatsoever, including all governmental charges of whatsoever name, nature, or kind, which may be levied, assessed, charged or imposed, or which may become a lien or charge on or against the Premises or any Improvements now or hereafter thereon, or on or against Lessee's estate hereby created which may be subject to taxation, or on or against the Lessor by reason of its interest in the Premises underlying this Lease, during the entire term hereof, excepting only those taxes herein specifically excepted. If Lessee shall desire to contest any tax, assessment or levy, Lessee shall, prior to the date upon which the tax, assessment or levy becomes due or late, provide to the Lessor security in the amount of the claim, plus costs and interest unless the appeals process stays the enforcement of any such levy. The final judgment of a court of competent jurisdiction that determines the validity and/or amount of any such assessment, tax or levy shall be conclusive.

(2) All rebates on account of any such taxes, rates, levies, charges, or assessments required to be paid and paid by Lessee under the provisions hereof shall belong to Lessee.

(3) Unless otherwise specified herein, Additional Rent shall be paid by on or before the date any payment is due, if such payment is payable to a third party, including the County as the governmental entity collecting those monies, and within thirty (30) days of invoice from Lessor to Lessee, if payable to Lessor as a result of this Agreement. Notwithstanding any provision in this Lease, Lessee must pay Lessor or any Escrow Agent designated for such

purpose all monies due for the Reserve Fund payments without the necessity of Lessor submitting any invoice for payment. Lessor shall have the same remedies for default in the payment of Reserve Fund amounts or other Additional Rent as are available to Lessor in the case of a default in the payment of Minimum Annual Rent.

C. Reserve Fund Payments Lessee shall contribute, as additional rent, an annual sum in an amount agreed to by the County and the Lessee, but subject to the approval of the Grantor (not to be unreasonably withheld) to a reserve fund ("Reserve Fund") to be held by an escrow agent approved by the County and the Grantor, which shall be used exclusively for repairs, maintenance and alteration of the exterior and structural and mechanical portions of the Theater which have been constructed or contributed by Grantor. The amount of the payment into the Reserve Fund shall be based on a commercially reasonable estimate of the amount needed to keep the Premises in a first class condition, and which shall specifically include estimated reserves, and may vary and be staggered from year to year. For instance, if revenues from the Lessee (or any replacement thereof) are expected to be stagnant or to increase at a marginal rate, and if the amount of maintenance is expected to be less costly in the earlier years, during the earlier years more than what is necessary to maintain shall be paid into the Reserve Fund so that sufficient funds will be in the account at a later date when the maintenance costs increase at a rate greater than the revenues of the Lessee from the operation of the Theater. The payment shall be based on the future expected needs of the Premises assuming that the Lessee will be in occupancy in perpetuity, notwithstanding that this Lease may expire in accordance with its terms or otherwise be terminated. It shall be reasonable for

the Grantor to withhold approval of the amount if a third-party building management or construction consultant engaged by the Grantor determines that the amount proposed is not appropriate. During the pendency of any time when the parties have not agreed on the amount, the annual amount shall be \$50,000. Such fund shall be deposited in an interest bearing account in an institution whose accounts are federally insured. Disbursements from the escrow account shall require the consent of the Grantor, not to be unreasonably withheld. During any time that this Lease is not in effect, the Grantor may withdraw from the Reserve Fund to fund maintenance, repairs or alterations of the Premises. If, during the effectiveness of this Lease, after notice and a 10-day cure period, the Lessee does not properly maintain the Premises or otherwise fails to fulfill any obligation under the Use Agreement or hereunder, the Grantor and Lessor shall have the right to withdraw from the Reserve Fund to fund any such obligation, including, without limitation, maintenance, repairs or alterations of the Premises. Lessee acknowledges that any payments made or to be made to the Reserve Fund and any balance of the Reserve Fund at any time are not Lessee's Property and Lessee waives any claim thereto; provided, however, that the foregoing shall not limit Lessee's rights to cause a withdrawal from the Reserve Fund on the terms set forth in Section 22.A.

D. The Minimum Annual Rent, and all Additional Rent, shall be paid promptly when due, in lawful money of the United States of America, without deduction, diminution, abatement, counterclaim or set off of any amount or for any reason whatsoever, and except as may be specifically provided in this Lease, without notice or demand. Any Rental Amount, Additional Rent or other required payment not made by Lessee within 30 days of the date due are subject to a 3% late fee.

E. The parties expressly acknowledge that the Lessor has no obligation to make any payment of monies arising from the MOU or this Lease.

7. ACCEPTANCE OF LATE OR PARTIAL PAYMENT NO WAIVER.

If Lessor shall at any time accept Minimum Annual Rent or Additional Rent after it shall become due and payable, such acceptance shall not excuse delay upon subsequent occasions, or constitute a waiver of Lessor's rights hereunder. If Lessee makes any payment to Lessor by check, the same shall be by check of Lessee only, and Lessor shall not be required to accept a check of any other person; provided, however, that Lessor will accept a cashier's check or a certified check drawn on a Federally insured financial institution located in the Metropolitan Washington, D.C. area. Any check received by Lessor shall be deemed received subject to collection. No endorsement or statement on any check or other communication accompanying a check for payment of any amounts payable hereunder shall be deemed an accord and satisfaction and Lessor may accept such check in payment without prejudice to Lessor's right to recover the balance of any sums owed by Lessee hereunder or to pursue any other remedy available in this Lease; or under law, against Lessee.

8. OPERATING EXPENSES AND REAL ESTATE TAXES.

A. Except as otherwise expressly provided in this Lease, Lessee shall be responsible for and shall pay all of the costs and expenses incurred in connection with the operation, management, leasing and maintenance of the Premises, including but not limited to Lessee's insurance and all electricity, gas, water, sewer and all other utilities used or consumed in, at or about the Premises. Lessee hereby acknowledges and agrees that its obligations in these respects extend to the land upon which the Premises is situated, as well as the building

comprising the Premises and all of the systems thereof (i.e., electrical, plumbing, mechanical, etc.). Lessee hereby agrees to maintain the Premises in good condition and repair. Notwithstanding any of the foregoing, Grantor shall, and Lessee shall not, be responsible for the payment of any principal, interest or ground lease payments on any mortgages, deeds of trust, ground leases or other financing encumbrances placed by Grantor with respect to Grantor's ownership, or ground lease, interest in the Premises.

B. Lessee shall not be responsible for the payment of any Real Estate Taxes assessed against the Premises in accordance with the terms of the Use Agreement. "Real Estate Taxes" shall mean any real property taxes which may be assessed on the Theater and the underlying land, and these shall be paid, or caused to be paid, by Grantor.

C. Lessee hereby also agrees to pay its proportionate share of combined services between Lessee and Grantor arising from the Lessee's use of any shared utility services benefiting the Premises, but that were provided by Grantor at Grantor's expense (but excluding the costs of construction of the Premises incurred by Grantor or site maintenance costs as required of Grantor under the terms hereof or of the MOU, as contemplated by the MOU).

9. USE/OPERATION OF LESSEE'S BUSINESS.

A. General. Lessee agrees to use, occupy and continuously operate the Premises in accordance with usual and customary theater practices, including non-seasonal periods when no public performances are scheduled, solely for the purposes set forth in Section 2.D of this Lease and subject to any restriction therein contained in the certificate of occupancy, which shall be obtained by Lessee (if required by law and not required to be

obtained by Grantor) at Lessee's own cost and expense, and for no other purpose. Lessee acknowledges that the lobby and foyer portions of the Theater may be counted as public use space as defined and required pursuant to sections 59-A 2.1 and 59-C 6.2 of the Montgomery County Zoning Ordinance, provided such reference shall be deemed to allow the general public equal access to obtaining a theater ticket, but shall not be deemed to permit the general public to use any portion of the Premises except in connection with an individual's authorized presence at a Theater activity. Lessee will not use or occupy the Premises for any unlawful, disorderly or extra hazardous purpose. Lessee at its own cost and expense will comply with all present and future laws, regulations and governmental requirements of any governmental authority having jurisdiction over the Premises.

B. Indemnification for Artistic Content. Grantor and Lessor hereby acknowledge and agree that they will have no approval rights with respect to the artistic content of the shows or performances held or put on by Lessee at the Premises; provided, however, that Lessee shall be solely responsible for, and shall indemnify and hold Lessor harmless from and against any and all claims, liabilities, demands, suits, cause or causes of actions, judgments, obligations, fines, penalties, costs and expenses and reasonable attorneys fees suffered or incurred by Lessor and/or arising out of, or in any way connected to any claims, suits or proceedings brought against Lessor based on the artistic content of the shows or performances held or put on by Lessee at the Premises.

C. Fire Prevention. Lessee, at its expense, shall install and maintain fire extinguishers as may be required from time to time by any agency having jurisdiction, or by the underwriters insuring the building, in which the Premises are located.

D. Operation and Payment of Expenses. Throughout the term of this Lease.

Lessee covenants and agrees to:

- (1) Pay before delinquency any and all taxes, assessments and public charges levied, assessed or imposed upon Lessee's business or upon Lessee's fixtures, furnishings or equipment in the Premises;
- (2) Pay when and as due all license fees, permit fees and charges of a similar nature for the conduct by Lessee of any business or undertaking authorized hereunder to be conducted in the Premises;
- (3) Not permit the accumulation of any rubbish or garbage in, on or about the Premises or any other part of the Property except in areas designated by Grantor for such use;
- (4) Not use the plumbing facilities for any purpose other than that for which they were constructed, or dispose of any foreign substances therein;
- (5) Comply with all applicable rules and regulations governing the operation of Lessee's business at the Premises;
- (6) Not paint or permanently decorate any part of the exterior of the Premises without obtaining Grantor's prior written consent, which consent may be granted or withheld in its sole discretion;
- (7) Maintain and repair all trade fixtures and movable equipment installed in or on the Premises, whether installed by Grantor, Lessee or Lessor on behalf of Lessee;

(8) Install, operate and maintain a separate security system for the Premises, and provide and supervise security personnel for all performances at the Premises; and

(9) Not use any area on the Property outside of the Theater for any purpose whatsoever, other than for access to the Theater, parking in the areas provided, use of the loading dock adjoining the Theater for its intended purpose, and use of any dumpster area for its intended purpose to the extent the use thereof has been provided by the Grantor. This is not intended to prevent theater patrons from using public use areas.

10. COVENANTS: ASSIGNMENT AND SUBLETTING.

A. It is agreed and understood that the Lessee will not have the right to sublease, assign or otherwise transfer in whole or in party, by operation of law or otherwise, the rights under this Lease, without the consent of Lessor, to be withheld in Lessor's sole discretion; any attempt thereof by Lessee, without Lessor's consent, shall be null and void. Further, Lessee shall not have the right to grant a license to use or allow others to occupy the Theater, without the consent of Lessor, to be withheld in Lessor's sole discretion; any attempt thereof by Lessee, without Lessor's consent, shall be null and void; provided, however, that the same shall not prevent the Lessee from contracting for a performance or series of the same performances at the Theater by independent performers or groups or permitting others to temporarily occupy the Theater for the uses permitted hereunder.

B. If Lessee is (at any time) a limited liability company, limited liability partnership, corporation, partnership or other entity, any transfer, sale, assignment, conveyance,

pledge or encumbrance of a controlling share of such entity's issued and outstanding capital stock, partnership, membership or other ownership interests or voting rights (whether the result of a single transaction or a number of transactions) shall be deemed an assignment under this paragraph which requires Lessor's prior consent thereto. "Controlling share" shall mean (i) with respect to the stock, partnership, membership or other ownership interests, more than twenty-five percent (25%) of such interest, and (ii) with respect to voting rights, more than twenty-five percent (25%) of the right to vote on any matter. The addition, substitution and withdrawal of the voting members or board of directors in a non-stock, non-profit corporation in the normal course (e.g., not designed to avoid the strictures of this section), provided there is no material change in the general purpose and operation of such corporation, shall not be deemed an assignment hereunder.

C. In the event of a default by Lessee under this Lease, Lessor shall be entitled to, but not required to, collect Minimum Annual Rent and Additional Rent directly from any subtenant or assignee, and this provision must be made known in any agreement between Lessee and a subtenant or assignee.

D. Lessee must comply with, and any sublease or assignment between the Lessee and a subsequent Theater Operator shall contain, the following covenant provisions:

(1) The Theater Operator shall be required to encourage (in writing) all of its patrons to use Metro or other public transportation to get to and from the Premises.

(2) Lessee acknowledges that the Premises are located immediately adjacent to a residential neighborhood. Accordingly, Lessee shall use reasonable

efforts to use and occupy the Premises in a manner which will cause minimal disruption of adjacent neighborhoods, provided that Lessee shall otherwise have the right to operate in the Premises the uses permitted under Section 2.D and other provisions of this Agreement. Such efforts shall include adherence to the following policies, which Lessee shall disseminate in writing to its employees, actors and contractors, that attempt to minimize disruption of the residential area: (a) all deliveries to the Premises shall be made during normal business hours; (b) major sets must be constructed off-site or entirely within the Premises; (c) trash collection shall be handled in the same manner as the adjacent buildings operated by Grantor; (d) patrons shall be encouraged to use public transportation and to park in public lots on the Property or elsewhere and; (e) employees, actors and contractors shall not be permitted to congregate around the exterior of the Premises following the end of evening performances in the Premises, nor be authorized to park in any adjacent residential neighborhood.

(3) Lessee acknowledges that Grantor controls the use and operation of all areas outside the Theater on the Property, including any parking areas adjacent to the Premises' loading dock and the loading dock. The Theater loading dock is subject to regulation by Grantor and Grantor has the right to control use of the loading dock, subject to reasonable rules and regulations which authorize Lessee to use its loading dock in a manner which will not

unreasonably interfere with Grantor's (and its designees including tenants) use thereof or of adjacent areas.

11. FEES AND COSTS OF CONSTRUCTION.

Lessee shall pay all appropriate fees and charges imposed by utility companies associated with Lessee's construction, if any, and management and operation of the Premises. Lessor is not responsible for any fees or costs associated with Lessee's construction.

12. LESSEE'S INSURANCE.

A. Mandatory Insurance Requirements During Any Lessee's Construction

Period:

(1) During any periods of construction on the Premises by Lessee, the Lessee must obtain at its own cost and expense and keep in force and effect the following insurance coverages with an insurance company(ies) licensed to do business in the State of Maryland. Such coverages may be provided by Lessee's contractors or subcontractors, but must comply with the same requirements as those applicable to Lessee. Lessee must provide evidence of coverage by submitting a certificate of insurance and/or certified copies of the insurance policies. Lessee's insurance shall be primary.

(a) Commercial General Liability: Minimum Three Million Dollars (\$3,000,000.00) combined single limit for bodily injury and property damage coverage per occurrence, including the following coverages: Contractual Liability as afforded by Lessee's commercial general liability policy; Premises and Operations; Independent

Contractors; Products and Completed Operations; Personal Injury; Contractual Liability; and Broad Form Property Damage.

(b) Worker's Compensation/Employer's Liability: Meeting all requirements of Maryland law and with the following minimum limits: (1) Bodily Injury by Accident - \$100,000 each accident; (2) Bodily Injury by Disease - \$500,000 policy limits; and (3) Bodily Injury by Disease -\$500,000 each employee.

(c) Automobile Liability Coverage: Minimum Five Hundred Thousand Dollars (\$500,000.00) combined single limit for bodily injury and property damage coverage per occurrence including the following: (1) owned automobiles; (2) hired automobiles and (3) non-owned automobiles.

(d) Builder's All Risk Property Insurance: Lessee shall provide a Builder's All Risk Property Policy including fire and extended coverage to protect the interest of the County, contractor and sub-contractors against loss caused by the perils insured in the amount of one hundred percent (100%) of the insurable, full replacement value of the contents of the Premises, including any inventory, fixtures, or real or personal property, and anything constructed or installed in the Premises by Lessee. The coverage must be written on a completed value form. The policy shall also endorse a demolition and debris removal

clause, extra expense and loss of use coverages with a sub-limit of \$500,000 per occurrence.

(e) Additional Insured: Montgomery County Government and Grantor shall be named as an additional insured on all liability policies.

(f) Policy Cancellation: Forty-five (45) days written notice of cancellation or material change of any of the policies is required.

(g) Certificate Holders: Montgomery County Government, Department of Public Works and Transportation, Division of Facilities & Services, 110 North Washington Street, Rockville, Maryland 20850 and Grantor.

(2) Mandatory Insurance Requirements During the Operations Period.

(a) Upon the earlier of the commencement of the Lease term and completion of the Facility, the issuance of the use and occupancy certificate, or the Rent Commencement Date (the "Operations Period"), the Lessee must obtain at its own cost and expense and keep in force and effect during the Lease Term the following insurance coverages with an insurance company(ies) licensed to do business in the State of Maryland. Lessee must provide evidence of coverage by submitting a certificate of insurance and/or certified copies of the insurance policies. Lessee's insurance shall be primary.

i) Commercial General Liability: Minimum Three Million Dollars (\$3,000,000.00) combined single

limit for bodily injury and property damage coverage per occurrence, including the following coverages:

Contractual Liability as afforded by Lessee's commercial general liability policy; Premises and Operations; Independent Contractors; Fire Legal Liability; and Personal Injury Coverage.

ii) Automobile Liability: Minimum Five Hundred Thousand Dollars (\$500,000.00) combined single limit for bodily injury and property damage coverage per occurrence including the following, if applicable,:

- a) Owned automobiles;
- b) Hired automobiles; and
- c) Non-owned automobiles.

iii) Fire Extended Insurance: Lessee shall be responsible for fire, theft and vandalism insurance on the contents of the Premises and on anything constructed or installed in the Premises by Lessee.

iv) Boiler and Machinery Insurance: The limit of coverage: 100% value of the items subject to such insurance which are contained within the Premises.

(b) Lessee must provide the above coverage for all the objects in the Premises in the form of repair or replacement blanket and comprehensive coverage. The repair/replacement cost provision will

include the following: (a) to pay for repair/replacement valued at the time of replacement; (b) to permit reconstruction of another site; and (c) to pay replacement cost when the insured commences replacement within two (2) years from the date of loss or damage.

(c) The Boiler and Machinery policy must provide Boiler & Machinery Surveys and Inspection required by applicable law.

(d) Plate Glass Insurance. No insurance shall be required, however, Lessee shall be solely responsible for maintaining or replacing all plate glass in, or enclosing, the Premises. Lessee shall replace such damaged glass within 48 hours of the date such damage is sustained.

(e) Lessor and Grantor and any Mortgagee of the Property shall be named as additional insureds on all liability policies.

(f) Forty-five (45) days written notice of cancellation or material change of any of the policies is required.

(g) Montgomery County Government, Department of Public Works and Transportation, Division of Facilities & Services, 110 North Washington Street, Rockville, Maryland 20850 is to be the Certificate holder on behalf of Lessor.

(3) Lessee may carry any additional coverages as it deems appropriate.

(4) Lessee must not conduct or permit to be conducted any activity or place any equipment in or about the Premises, which will increase the rate of insurance premiums on the Premises.

(5) Policy Requirements. All insurance policies required to be procured by Lessee under this Lease (i) shall be issued by insurance companies licensed in the State of Maryland and shall have such form and content as shall be approved by Lessor; (ii) shall be written as primary policy coverage and not contributing with or in excess of any coverage carried by Lessor or Grantor; and (iii) shall contain an express waiver of any right of subrogation by the insurance company against Grantor and Lessor, their agents and employees if the same is obtainable at standard rates. With respect to all insurance policies required to be procured by Lessee under this paragraph within fifteen days after the Lease Commencement Date, and at least thirty (30) days before the expiration of any expiring policies previously furnished, Lessee shall deliver to Lessor certified copies of, or duplicate originals of, each such policy or renewal thereof, with evidence of payment of applicable premiums.

(6) Lessor's Right to Maintain Coverage. In the event Lessee shall fail to provide such insurance, or shall fail to pay the premiums when due, then Lessor or Grantor, following five (5) days written notice to Lessee, shall have the right to cause such insurance to be issued and to pay the premiums therefor, or any premiums in default, and to collect same as Additional Rent on demand together with interest on the amount of such premiums from the date of payment by Lessor until the date of repayment by Lessee at the rate of two percent (2%) over the then prime rate of interest set forth in "The Wall Street Journal", adjusted on a monthly basis.

(7) No Limitation. Neither the issuance of any insurance policy required under this Lease nor the minimum limits specified herein shall be deemed to limit or restrict Lessee's liability under this Lease.

(8) Compliance With Insurance Requirements. Lessee shall comply with all reasonable requirements of Grantor's, Lessor's, Lessee's and any Mortgagee of the Property's insurance carriers under this Agreement and shall not do or permit to be done any act or thing upon the Premises that will invalidate or be in conflict with fire insurance policies covering the Premises or any part thereof, fixtures and property in the Premises or any other insurance coverage referred to in this paragraph, and shall comply with all rules, orders, regulations or requirements of the Board of Fire Underwriters having jurisdiction, or any other similar body in the case of such fire insurance policies, and the applicable insurance rating bureau or similar body in the case of all other such insurance policies as they may apply to the Premises.

(9) Lessee's Contractors' Insurance. Lessee shall require any contractor of Lessee performing work in the Premises to carry and maintain, at no expense to Lessor, Workmen's Compensation or similar insurance in form and amounts required by law and Lessee's requirements under this Lease, and comprehensive general liability insurance, including contractor's liability coverage, contractual liability coverage, completed operations coverage, broad form property damage endorsement and contractor's protective liability coverage, to afford protection with single limits of not less than Two Million

Dollars (\$2,000,000.00) with respect to personal injury, death or property damage.

13. LESSEE'S INDEMNIFICATION.

Lessee, as a material part of the consideration for Lessor's execution of this Lease, covenants with the Lessor and Grantor that Lessee holds the Lessor and Grantor, jointly and severally, harmless from and against, and shall promptly pay for any loss, damage, judgments, claims, obligations, suits, claim of damage, liability or expense of any kind, including reasonable attorneys' fees, or for any damage or injury to persons or property during the term of this Lease from any cause whatsoever, whether negligent or intentional, or otherwise by reason of the use, occupation, or enjoyment of the Premises or Improvements thereon by Lessee, its employees, agents, visitors, tenants, licensees or concessionaires. Lessee shall indemnify and pay for defense of the Lessor and Grantor in any action or suit brought against them, and hold either and/or both of them harmless from all losses, damages, judgments, claims, obligations, suits, claims of damage, liability or expense whatsoever on account of any such damage or injury; provided, however, that the foregoing indemnification for loss, damage, claim of damage, liability or expense of injury to persons or property, shall not apply to the extent due to any grossly negligent act or omission of either the Lessor or Grantor, or their employees or agents.

Lessee shall promptly pay, satisfy and discharge any and all judgments, orders and decrees which may be rendered or recovered against Lessor in connection with the foregoing. In no event shall the limits of any insurance policy provided for herein be deemed to limit Lessee's liability to the Lessor as herein set forth.

14. LIENS, CLAIMS OR ENCUMBRANCES/SUBORDINATION.

A. Free of Liens. Lessee shall at all times keep the Premises free and clear of mechanic's, materialmen's and other liens, and of all charges, claims and encumbrances caused or created by Lessee or anyone claiming through or under Lessee. In no event will the Lessee have any rights to acquire the Grantor's or Lessor's interest in the Premises free.

B. Discharge of Lien. If any mechanic's or other lien shall at any time be filed against the Premises for work performed by or for Lessee, Lessee shall either cause the same to be discharged of record within thirty (30) days after the date of filing of the same, or, if Lessee shall desire to contest any such lien, Lessee shall, within thirty (30) days after the date of the filing of the lien, furnish to the Lessor security in the amount of the claim, plus costs and interest, or shall procure a bond in said amount from a reputable bonding company. The final judgment of any court of competent jurisdiction, including any appeal rights, determining the validity and/or amount of any such lien shall be conclusive, and any lien must be immediately discharged.

C. Failure to Discharge Lien. If Lessee shall fail to discharge any lien not permitted by this Lease or to provide Lessor with security therefor as herein above provided, then the Lessor may at its option, pay or discharge any such lien, and Lessee shall pay Lessor all amounts spent by Lessor, including costs, expenses and reasonable attorneys' fees, incurred by Lessor together with interest at the rate provided in Section 11-107(a) of the Courts and Judicial Proceedings Article, Annotated Code of Maryland, as amended, or in the event that this Section is repealed and not re-enacted, then interest shall be at the rate of two percent over the then prime rate of interest set forth in the "Wall Street Journal," adjusted on a monthly

basis, which payment shall constitute Additional Rent due hereunder and shall be paid within thirty (30) days after Lessor provides written notice of the Additional Rent to Lessee. Nothing herein shall require Lessor or Grantor to pay or discharge the lien, and Lessee expressly holds Lessor and Grantor harmless from any payment or liability arising from the lien. Lessor may exercise the remedies available for default in this Lease if the lien is not paid or discharged as required by this Lease.

15. SIGNS: LOADS ON FLOOR.

A. Lessee may install and maintain one marquee sign on the exterior of Premises, subject to the prior written approval of Grantor as to the design, size and location of the marquee sign. Tenant may install banners and adornments affixed to the interior and exterior of the Premises provided they conform to all applicable legal and insurance requirements but subject to Grantor's right to require Lessee to remove any such banners or adornments upon written notice to Lessee. Lessee shall pay for all costs in connection with such signage and shall be responsible for the cost of proper installation and removal thereof and for any personal injury, death, or property damage caused thereby. In the event Grantor or Lessor deems it necessary to remove such sign, then Grantor or Lessor shall have the right to do so, provided, however, that if the sign has received Lessor's (as Landlord) or Grantor's prior written approval, and is consistent with applicable law and the specifications and requirements provided by Grantor and Lessor, then Grantor or Lessor shall replace said sign as soon as practicable. Nothing herein restricts the County's regulatory authority as a government entity.

B. Grantor shall have the right to prescribe the weight, and method of installation and position of safes or other heavy fixtures or equipment. Lessee shall not use the Premises in such a manner and shall not install in the Premises any fixtures, equipment or machinery that will place a load upon the floor exceeding the floor load per square foot area which such floor was designed to carry as shown on the Theater plan attached hereto as Schedule E. All damage done to the Premises by taking in or removing a safe or any other article of Lessee's equipment, or due to its being in the Premises, shall be repaired at the expense of Lessee. Lessee shall hold harmless and indemnify Lessor and Grantor and shall be responsible for any personal injury or death to any person, or property damage caused to the Premises from violation of this section.

16. CONSTRAINTS.

During the Operations Period, Lessee's use of the Premises is subject to the following permitted uses and performance standards:

A. No Nuisance. No activity shall be conducted, nor shall anything be done, on the Premises which may be or become an annoyance or nuisance to the County, general public, or any lessee by reason of unsightliness or the excessive emission of fumes, odors, glare, vibration, gasses, radiation, dust, waste, smoke or noise.

B. No Toxic and Hazardous Materials.

(1) As used in this Lease, the term "Hazardous Material" means any flammable items, explosives, radioactive materials, hazardous or toxic substances, materials or wastes or related materials, including any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "infectious wastes,"

"hazardous materials" or "toxic substances" now or subsequently regulated under any federal, state or local laws, regulations or ordinances including, without limitation, oil, petroleum-based products, paints, solvents, lead, cyanide, DDT, printing inks, acids, pesticides, ammonia compounds and other chemical products, asbestos, PCBs and similar compounds, and including any different products and materials which are subsequently found to have adverse effects on the environment or the health and safety of persons.

(2) Lessee shall not cause or permit any Hazardous Material to be generated, produced, brought upon, used, stored, treated, discharged, released, spilled or disposed of on, in, under or about the Premises by Lessee or its agents, affiliates, sublessees or assignees, provided that Lessee may maintain household amounts of cleaning solvents, paints and related items customarily located in and used in connection with the operation of a performing arts theater within the prop room which shall have an exhaust fan, and provided that reasonable precautions are taken with respect to their safe storage and use and that no special exhaust system is required therefor.

(3) In the event that Hazardous Materials are discovered upon, in, or under the Premises or the Property or any adjacent areas and any governmental agency or entity having jurisdiction over the Premises or the Property or any adjacent areas requires the removal of such Hazardous Materials, and the presence of such Hazardous Materials on the Premises results from any use, act or omission of Lessee or any of its agents, affiliates, sublessees, licensees, or assignees (including independent performers or performance companies, of whatever status), Lessee shall promptly complete such

removal or other remedial action ordered by such governmental agency at Lessee's sole cost and expense. Notwithstanding the foregoing, Lessee shall not take any remedial action in or about the Premises without first notifying Grantor and Lessor of Lessee's intention to do so and affording Grantor and Lessor the opportunity to protect their interests with respect thereto. Lessee immediately shall notify Grantor and Lessor in writing of: (i) any spill, release, discharge or disposal of any Hazardous Material in, on, or under the Premises, (ii) any enforcement, cleanup, removal or other governmental or regulatory action instituted, contemplated, or threatened (if Lessee has received notice thereof) pursuant to any Hazardous Materials laws, (iii) any claim made or threatened by any person against Lessee, or the Premises, relating to damage, contribution, cost recovery, compensation, loss or injury resulting from or claimed to result from any Hazardous Materials, and (iv) any reports made to any governmental agency or entity arising out of or in connection with any Hazardous Materials in, on, under, to, about or removed from the Premises, including any complaints, notices, warnings, reports or asserted violations in connection therewith. Lessee also shall supply to Grantor and Lessor as promptly as possible, and in any event within five (5) business days after Lessee first receives or sends the same, copies of all claims, reports, complaints, notices, warnings or asserted violations relating in any way to the Premises or Lessee's use or occupancy thereof.

(4) The respective rights and obligations of Grantor and Lessor and Lessee under this paragraph shall survive the expiration or earlier termination of this Lease.

(5) Indemnity. Lessee hereby indemnifies and holds Grantor and Lessor harmless with regard to any loss, expense, damage or cause of action related to a breach of Lessee's obligations occurring during the Lease term and prior thereto from and after the first date on which Lessee enters the Property or ~~any period in which~~ Lessee is in possession or use of all or part of the Premises concerning toxic and hazardous materials, (including radioactive materials, controlled substances and medical waste) including but not limited to, reasonable counsel fees, expert fees, court costs, litigation related expenses (including those reasonable fees, costs and expenses incurred on appeal), expenses for legally required clean up, enforcement expenses, and incidental and consequential damages resulting from the use or storage of the referenced materials on the Premises. Lessee shall indemnify, defend and hold Grantor and Lessor harmless from and against any and all actions (including, without limitation, remedial or enforcement actions of any kind, administrative or judicial proceedings, and orders or judgments arising out of or resulting therefrom), costs, claims, damages (including without limitation, attorneys', consultants' and experts' fees, court costs and amounts paid in settlement of any claims or actions), fines, forfeitures or other civil, administrative or criminal penalties, injunctive or other relief (whether or not based upon personal or bodily injury, property damage, or contamination, or adverse effects upon the environment, water tables or natural resources), liabilities or losses arising from a breach of this prohibition by Lessee, its agents, affiliates, sublessees or assignees.

C. Outdoors Activities. All of the operations normally carried on by Lessee shall be carried on within the fully enclosed Theater.

17. BUILDING CONSTRUCTION AND ALTERATIONS.

A. Building codes. Construction or alterations of any building shall be in conformance with the then existing applicable standards, codes and ordinances.

B. Cleaning of Premises. During any Construction Period, all building sites shall be kept clean on a daily basis and all trash, rubbish and debris removed therefrom after any construction work is done thereon.

C. Premises Condition. As specified in the MOU, the Grantor, in satisfaction of the guidelines of the Sector Plan and the conditions of the Project Plan Approval, intends to construct the Theater in accordance with its Project Plan and approved site plan ("Site Plan"), including the Conceptual Theater Plans submitted as a part of such Project Plan application, so long as the Grantor constructs the Office Building; provided, however, that the Theater shall be constructed in accordance with any changes to the Conceptual Theater Plans as may be mutually agreed to by Lessor and the Grantor. The Grantor intends to complete its obligations with respect to construction of the Theater prior to the issuance of the initial Certificate of Occupancy for the office building to be constructed on the Property by the Grantor, as described in the Project Plan ("Office Building"). Installation of the furnishings, fixtures and equipment which are the responsibility of the Grantor may be completed within three (3) months after the issuance of the initial Certificate of Occupancy for the Office Building if the Grantor posts security in the form of a bond in the full amount of the costs of the purchase of the remaining furnishings, fixtures and equipment (other than those

not the responsibility of the Grantor). Notwithstanding anything herein, construction of the Theater, and the grant of the same thereafter, shall be contingent upon Grantor obtaining all approvals necessary for the development of the Property as contemplated in the Project Plan and upon the issuance of the building permit for the Office Building, and Grantor's actual construction of the Office Building as described in the Project Plan. Lessee agrees to take and use the Premises subject to this subparagraph C. As provided in the Montgomery County Planning Board's Opinion Approving Site Plan 8-99013, any substantial change to the design of the proposed theater beyond the scope of work approved in the Project Plan shall be approved by the Planning Board or its designee. Furthermore, neither the Memorandum of Understanding nor the lease shall supersede the requirement of the approved Project Plan or Site Plan for the proposed development.

D. Lessee's Improvements. Grantor intends to construct a theater facility on the premises as described above, and in the Use Agreement. Lessee hereby agrees that any improvements to the Premises made by Lessee shall be at its own cost and expense (referred to herein as "Lessee's Improvements"). Lessee hereby acknowledges and agrees that such Lessee's Improvements shall become a part of this Lease, and specifically include the light and sound package for the theater, sound amplification, stage equipment (i.e., rigging, curtains and props), and any security system for the Premises. All Lessee's Improvements shall be constructed or installed by Lessee as Alterations to the Premises under the provisions of this Section.

(1) Lessee will not make or permit anyone to make any alterations, additions or improvements (collectively, the "Alterations"), structural or otherwise, in

or to the Premises, without the prior written consent of Grantor. Grantor may withhold its consent, in its sole discretion, with regard to proposed Alterations which, in the opinion of Grantor, affect the structure, exterior, appearance or first class nature of the Premises, or the mechanical, plumbing or electrical systems of the Premises.

(2) If any Alterations are made without the prior written consent of Grantor, the Lessor or the Grantor may cause Lessee to correct or remove the same, or the Lessor or the Grantor may correct or remove the same, and Lessee shall be liable for any and all reasonable expenses incurred by Lessor or the Grantor (as the case may be) in this respect, plus interest at two percent (2%) over the prime rate of interest as published in the Wall Street Journal, as Additional Rent. Additionally, and without limiting Lessor's termination rights for non-monetary defaults, if any exterior Alterations are made without the prior written consent of Grantor, Lessor shall have the right to, among other things, terminate this Lease by providing Lessee with at least ten (10) days prior written notice thereof.

(3) Lessee shall provide to Grantor, with a copy to Lessor, the final plans and specifications designed by Lessee's architects and engineers, if any, for any Alterations for Grantor's approval. All of such Alterations permitted by Grantor must conform to all rules and regulations established from time to time by the Underwriters' Association of the State of Maryland and conform to all requirements of the federal and State of Maryland governments or any other governmental agency having jurisdiction over the Premises or the Project. Lessee shall obtain and deliver to Grantor and Lessor a copy of Lessee's permit for the construction of Lessee's proposed Alterations prior

to commencing the work. As a condition precedent to such written consent of Grantor.

Lessee agrees to obtain and deliver to Lessor written and unconditional waivers of mechanics' and materialmen's liens upon the Premises and the land upon which it is situated for all work, labor and services to be performed, and materials to be furnished in connection with such work, signed by all contractors, subcontractors, materialmen and laborers to become involved in such work.

E. No Representations by Landlord. Neither Lessor nor any agent or employee of Lessor has made any representations or promises with respect to the Premises except as herein expressly set forth, and no rights, privileges, easements or licenses are granted to Lessee except as herein set forth. Neither Grantor nor any agent or employee of Grantor has made any representations or promises to Lessee with respect to the Premises, except as provided in the Use Agreement, conceptual theatre plans, the site plan, and the various documents and agreements filed with the Planning Board and Montgomery County with regard to the development of the Property and the plans and specifications for the construction of the Theater facility.

F. No Liability for Approval of Plans. Neither the Lessor, nor the Grantor, nor any employee or agent thereof shall be liable for monetary damages to any occupant or Lessee or to anyone submitting plans or requests for approval, or to any other party by reason of mistake in judgment, negligence, or nonfeasance, arising out of or in connection with the approval, disapproval or failure to approve any such plans or requests or for any other action in connection with its or their duties hereunder. Likewise, anyone so submitting plans to the Lessor for approval by either Grantor or Lessor, by submitting such plans or requests, and any

person when he becomes an occupant or Lessee, agrees that he or it will not bring any action or suit to recover any monetary damages against the Lessor, the Grantor or any employee or agent of Lessor or the Grantor for such approval or disapproval.

G. Coordination of Plans. Any amendments, supplements or additions to the approved plans, specifications and construction schedules for all construction (including but not limited to roads and utilities) shall be provided to and coordinated by Lessee with the Grantor.

H. Cooperation by Lessee. Lessee agrees to cooperate with Grantor in Grantor's construction of the Theater and application for the certificate of use and occupancy, provided that such cooperation shall be at Grantor's expense and provided that Lessee shall not be paid for its employees' or agents' time in attending any meetings or hearings. Lessee's obligation shall include execution of any applications, as applicable, and performance of any work required of the Lessee under the terms of the Use Agreement and the plans for the construction of the Premises which is a condition precedent to the issuance of the certificate of use and occupancy, all in a timely manner so that Grantor's construction will be completed according to Grantor's schedule, and the certificate of use and occupancy for the Theater may be granted promptly upon Grantor's substantial completion of construction.

18. LANDSCAPING, OUTSIDE STORAGE AND MAINTENANCE.

The Lessor undertakes no obligation regarding the following matters:

A. Landscaping. Landscaping shall be in accordance with the Site Plan submitted by Grantor and shall be maintained by Grantor. Lessee shall have no obligations with respect thereto.

B. Storage of Fuel Oil, etc. There shall be no permanent or other storage facilities for fuel oil, other bulk fluids or gasses, such as bulk oxygen systems, whatsoever.

C. Maintenance and Safe conditions. Lessee shall keep the Premises, the Theater, the Lessee Improvements, and appurtenances in a safe, clean, neat, wholesome condition, and shall comply in all respects with all government health and policy requirements. Lessee shall remove at its own expense any rubbish, garbage or trash of any character which may accumulate from or on the Premises. Rubbish, trash and garbage shall be kept in a sanitary and acceptable manner inside buildings, except as otherwise permitted by Grantor.

D. Vacant Buildings. When the Premises are vacant, Lessee shall adequately secure them against vandalism and intrusion by trespassers.

19. UTILITY, SERVICE, ACCESS AND CONNECTIONS.

The Lessor undertakes no obligation regarding the following matters:

A. Lessee, at its own expense shall arrange with such public utility companies for the payment of all utilities consumed in the Premises. Lessee shall pay promptly to such utility company, or to Lessor, as Additional Rent, as the case may be, the cost for all such utilities consumed and all charges for water and all other utilities and services used by Lessee within the Premises and supplied from any source including Lessor, as well as the cost of any deposits and meters.

B. Lessee shall not install any equipment of any kind or nature whatsoever in the Premises which will or may necessitate any changes, replacements or additions to, or in the use of, the water system, heating system, plumbing system, or air conditioning system thereof without first obtaining the consent of Grantor.

C. Lessee agrees to comply with all mandatory energy and water conservation controls and requirements applicable to the Premises that are imposed or instituted by the federal, State of Maryland or local governments, including, without limitation, controls on the permitted range of temperature settings in buildings, and requirements necessitating curtailment of the volume of energy or water consumption or the hours of operation of the Premises. Any terms or conditions of this Lease that conflict or interfere with compliance with such controls or requirements shall be suspended for the duration of such controls or requirements.

D. Except for satellite receiving transmission dishes, all electrical and telephone connections and installations of wires installed by Lessee to the Premises shall be made underground. Where reasonably possible any generator, transformer, electric, gas or other meter of any type or other apparatus installed by Lessee shall be placed on or below the surface of the land, or in structures, and where placed on the surface shall be adequately screened and fenced. No such equipment shall be placed outside the building except with written permission of Grantor and approval by the Montgomery County Planning Board or its designee.

E. Interruption of Services. Lessee shall contract directly with the utility providers. Neither Grantor nor Lessor is responsible for providing utility service. Neither Grantor nor Lessor shall be liable for failure to furnish, or for suspension or delays in furnishing, utility services for any reason except for Grantor in the event of its gross negligence or willful misconduct. Moreover, no such failure, suspension or delay shall be construed as an eviction of Lessee, or work an abatement of rent, or relieve Lessee of its obligations hereunder.

20. SIGNS OR MONUMENTS.

A. Defined. For the purpose of this paragraph a sign or monument is the display of any words, numerals, figures, devices, designs or trademarks by which anything is made known and visible to the general public.

B. Approval of Plans. All plans and specifications for signs or monuments to be erected on the exterior of the Premises and visible to the general public shall be subject to the Use Agreement, applicable laws, ordinances, rules, regulations and governmental requirements.

21. PARKING AREAS AND LOADING ZONES.

A. Parking Facilities. Lessee shall not authorize parking on any access road, street or driveway, either public or private, or any place other than in the parking garage provided for and so designated. Lessee shall be responsible for taking reasonable measures to ensure compliance with parking regulations by its employees, actors, tenants and contractors.

B. Grantor and Roundhouse Parking Arrangement. Parking on the Property is governed by the provisions of the Use Agreement. Lessor shall have no responsibility for the parking.

C. Loading and Unloading Areas. Loading and unloading is governed by Grantor and the provisions of the Use Agreement.

22. MAINTENANCE OF PREMISES.

A. Lessee's Obligation. Lessee shall, at its expense, keep the Premises and all improvements, fixtures and other property contained therein in a neat, clean safe and sanitary condition, free from vermin, and in good order and repair (including all painting and

decorating necessary to maintain a clean and sightly appearance), in Lessor's or Grantor's reasonable opinion. Included in the foregoing shall be the obligation of maintaining and promptly repairing: (i) any pipes, lines, ducts, wires or conduits contained within the Premises; (ii) the glass windows and all fixtures or appurtenances composed of glass, that are contained in or on the Premises; (iii) Lessee's sign; (iv) the floors and floor coverings, doors, windows, exterior and interior walls, roof, partitions and ceilings in the Premises; and (v) heating, ventilating, air conditioning, electrical and plumbing equipment, systems and fixtures installed in or on the Premises. Lessee agrees to surrender the Premises at the expiration or other termination of the term of this Agreement, broom clean and in as good order and condition as they were on the Commencement Date, ordinary wear and tear, and casualties and damages caused by the elements, fire and other casualty not caused by Lessee, obsolescence and acts of God excepted. Lessee shall not commit or suffer to be committed any waste upon the Premises. Lessee shall contract for the following services: (i) Vermin control on a periodic basis, as may be required; (ii) Periodic maintenance and cleaning of kitchen and exhaust equipment, if any; (iii) Maintenance of bathroom facilities; (iv) Maintenance, repair, and replacement of the heating and air-conditioning system, the electrical system and the plumbing system of the Premises (including but not limited to changing all air conditioning filters at least five (5) times per year and having the air conditioning and heating systems professionally inspected and serviced at least twice per year); (v) Maintenance and repair of the elevator in the Premises; and (vi) Maintenance and repair of any security system installed by Tenant in the Premises. Lessee shall keep any garbage, trash, rubbish, refuse and set construction and building materials in rat proof containers, if reasonably necessary, in the Premises, and shall

take reasonable vermin control measures on the Premises on a regular basis, and shall, at its sole cost, cause such trash to be placed at least once a day in trash compactors or dumpsters in accordance with municipal regulations and/or as directed by Lessor or Grantor. To the extent that items originally constructed by Grantor require repair or replacement then, with the consent of the Grantor (which consent shall not be unreasonably withheld, conditioned or delayed), the Lessee may cause a withdrawal from the Reserve Fund to pay third parties directly for labor, materials, services and work performed or provided at market rates for such repair or maintenance.

B. Lessor's Right, but not Obligation to Repair. In the event of the violation of any of the restrictions set forth herein, Lessor may, but is not required to, notify Lessee in writing, giving specifics as to the nature of the alleged violation and any recommended remedial action. In the event Lessee has not taken steps to remedy the violation in a manner reasonably acceptable to Lessor within thirty (30) business days of Lessee's receipt of such notice, Lessor shall have the right to go upon the Premises to put the same in good order, condition and repair and all reasonable costs associated with any such work shall be charged against the Lessee as additional cost, markup, overhead, additional rent and/or rent payable within thirty (30) days of invoice, which shall include reasonable details of the costs charged as additional rent. Lessee also shall pay Lessor an administrative fee of ten percent (10%), plus interest until paid by Lessee at two percent (2%) over the prime rate of interest as published in the Wall Street Journal.

23. DAMAGE TO PREMISES.

All injury, breakage or damage to the Premises or the contents thereof shall be promptly repaired or replaced by Lessee, except to the extent of insurance proceeds made available to Grantor or Lessor for such purposes, in accordance with the terms of the Use Agreement.

24. DAMAGE TO PERSONAL PROPERTY AND PERSONS.

All property of Lessee, its agents, employees, contractors, servants, invitees, permitted subtenants or assignees, or licensees, or of any other person, in or on the Premises, shall be at the sole risk of Lessee or that other person or party. Neither Grantor nor Lessor shall be liable to Lessee or any such person or party for any damage to or theft or loss of such property whether or not caused by the act (including theft) or failure to act of any person, or by the leaking of the roof, or by the bursting, leaking or overflowing of water, sewer, steam or sprinkler pipes, or heating or plumbing fixtures, air conditioning or heating failure, gas, noxious odors or noise, or any other act or thing, including the malfunction of electrical wires or fixtures or security and protective systems. Lessor shall not under any circumstances be liable for the interruption of or any loss to Lessee's business that may result from any of the acts or causes described above. Lessor shall not be liable for any personal injury to Lessee, its agents, employees, contractors, servants, invitees, permitted subtenants or assignees, or licensees, or to any other person, arising from the use, occupancy or condition of the Premises.

25. FIRE AND OTHER CASUALTY DAMAGE TO PREMISES.

If the contents of the Premises shall be damaged by fire or other casualty, the Lessee shall repair, restore or rebuild such contents to the condition which existed as of the Lease Commencement Date subject to the provisions of Sections 22B and 23 above. Pursuant to the Use Agreement, the Grantor shall insure and, upon an insured casualty, to the extent of insurance proceeds made available to Grantor, Grantor shall repair, restore, or rebuild the portions of the Premises originally constructed or installed by Grantor.

If the Premises are substantially damaged by fire or other casualty to such extent that, in Lessor's or Lessee's reasonable judgment, the damage cannot be fully repaired within one hundred eighty (180) days from the date of such damage, then either Lessor or Lessee shall have the option of terminating this Lease by giving written notice to the other of such decision within one hundred twenty (120) days after the date of such damage, and the term of this Lease shall terminate thirty (30) days after such notice is received by the non-giving party. Lessee shall remain responsible for payment to the full extent necessary to repair, restore or rebuild the contents of the Premises even in the event the Lease is thereby terminated, subject to Lessee's right to remove its equipment, fixtures and removable personal trade property at the time of Lease termination.

26. DEFAULT; ENFORCEMENT.

A. Lease for the Benefit of Parties. The provisions of this Lease shall run for the term of this Lease and any extensions or renewals hereof and be binding upon and inure to the benefit of the Lessor and Lessee. These provisions shall be enforced, as provided hereinafter, by the Lessor or by Lessee for their respective benefit or protection.

B. Remedies. A violation of any provision herein contained shall give to the Lessor or Lessee the right to bring proceedings in law or equity against the party or parties violating or attempting to violate any of said covenants, conditions, restrictions and reservations, to enjoin them from so doing, to cause any violation to be remedied, and/or to recover damages resulting from such violation.

In addition, violation of any covenants, conditions, restrictions, and reservations shall give to the Lessor the right to enter upon the Premises to remove at the expense of the Lessee, any structure, thing or condition that may be contrary to the provisions hereof after providing Lessee with not less than thirty (30) days written notice of the violation and providing an opportunity to cure the problem. Any re-entry due to breach or default of this Lease shall be by a decision under the "arbitration" clause of this Lease. Such remedies shall be cumulative and not exclusive.

C. Default of Lessee. Lessee's violation of any of the provisions set forth herein shall, at the Lessor's option, be deemed to create a default under this Lease and to give rise to Lessor's right of termination or eviction, provided that said violation has not been cured within thirty (30) days after written notice has been given to Lessee, and provided that Lessee has not taken steps to remedy said violation in a manner reasonably acceptable to the Lessor within said thirty (30) days after the written notice. In addition, the following events shall be expressly included in those events that are a default ("default") of Lessee under this Lease:

- (1) Failure of Lessee to pay when due any installment of Minimum Annual Rent, or any sums, charges, expenses and costs of any kind or nature identified in this Lease as Additional Rent, where such failure to pay shall

continue for a period of thirty (30) days after written notice thereof has been delivered by Lessor to Lessee, provided, however, that Lessor shall not be required to provide such notice of default more frequently than twice in any consecutive twelve (12) month period, after which no notice needs to be given; or

(2) Failure of Lessee to perform, observe, or comply with any term, covenant, condition, agreement or provision of this Lease to be performed, observed or complied with by Lessee, other than as set forth in 26 C. (1) above, where such failure shall continue for a period of fifteen (15) days after written notice thereof has been delivered by Lessor to Lessee unless the default is of such a nature that it cannot be reasonably cured within said fifteen (15) days, in which event Lessee shall have an additional thirty (30) day period to cure such default provided that Lessee commences and diligently pursues the cure of such default within both such periods; or

(3) An action for the taking of this Lease or the Premises, or any part thereof, upon execution or by other process of law directed against Lessee, or upon or subject to any attachment at the instance of any creditor of or claimant against Lessee, which shall not be discharged or disposed of within thirty (30) days after the levy thereof; or

(4) If Lessee fails to take possession of the Premises within one hundred twenty (120) days after the Rent Commencement Date or vacates or

abandons the Premises prior to the normal expiration of the term, or if Lessee is dissolved or is terminated for any reason; or

(5) The involvement of Lessee, in financial difficulties as evidenced by (a) its admitting in writing its inability to pay its debts generally as they become due, or (b) voluntary or involuntary placement into bankruptcy or if it becomes insolvent including its filing a petition (or having an involuntary petition filed against it which is not discharged within sixty (60) days of the date of such filing) in bankruptcy or for reorganization or for the adoption of an arrangement under the United States Bankruptcy Act (as now existing or in the future amended), or an answer or other pleading admitting the material allegations of such a petition or seeking, consenting to or acquiescing in the relief provided for under such Act, or (c) its making an assignment of all or a substantial part of its property for the benefit of its creditors, or (d) its seeking or consenting to or acquiescing in the appointment of a receiver or trustee for all or a substantial part of its property or of the Premises, or (e) its being adjudicated a bankrupt or insolvent, or (f) the entry of a court order without its consent, which order shall not be vacated or stayed within sixty (60) days from the date of entry, appointing a receiver or trustee for all or a substantial part of its property or approving a petition filed against it for an arrangement in bankruptcy or for a reorganization pursuant to the aforesaid Bankruptcy Act or for any other judicial modification of the rights of creditors.

D. Payments of Rent. The provisions of this paragraph 26 shall apply notwithstanding the payment by Lessee of a security deposit under this Lease and/or the continued willingness and ability of Lessee to pay rent and otherwise perform hereunder. The receipt by Lessor of payments of rent, as such, accruing subsequent to the time of Lessee's default under this paragraph and before Lessor has actual notice of the occurrence of an event of default under this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph.

E. Remedies Upon Default. Upon the occurrence of a default, Grantor or Lessor shall have the right then or at any time thereafter either:

(1) EXCEPT AS OTHERWISE PROVIDED IN THIS LEASE, TO GIVE LESSEE WRITTEN NOTICE OF GRANTOR'S OR LESSOR'S INTENT TO TERMINATE THIS LEASE ON THE DATE OF THE NOTICE OR ON ANY LATER DATE SPECIFIED IN THE NOTICE, AND ON SUCH DATE LESSEE'S RIGHT TO POSSESSION OF THE PREMISES SHALL CEASE AND THIS LEASE SHALL THEREUPON TERMINATE: THE LESSEE HEREBY EXPRESSLY WAIVES ANY STATUTORY NOTICE TO QUIT; and/or

(2) Without demand or notice, except as provided herein, to reenter and take possession of all or any part of the Premises, and expel Lessee and those claiming through Lessee, and remove the property of Lessee and any other person, either by summary proceedings or by action at law or in equity, without being deemed guilty of trespass and without prejudice to any remedies for

nonpayment or late payment of rent or breach of covenant. If Lessor elects to reenter under this subparagraph, Lessor may terminate this Lease, and, from time to time, with or without terminating this Lease, may relet all or any part of the Premises as agent for Lessee for such term or terms and at such rental and upon such other terms and conditions as Lessor may deem advisable, with the right to make alterations and repairs to the Premises. No such reentry or taking of possession of the premises by Lessor shall be construed as an election to terminate this Lease unless a written notice of such intention given to Lessee under subparagraph E (1) above, or unless the termination be decreed by a court of competent jurisdiction at the instance of Lessor.

F. Liability of Lessee. If Lessor terminates this Lease pursuant to subparagraph E. above, Lessee shall remain liable (in addition to accrued liabilities) for (1) Minimum Annual Rent, Additional Rent and any other sums provided for in this Lease until the date this Lease would have expired had such termination not occurred, and any and all reasonable expenses (including attorney's fees, disbursements, brokerage fees and leasing concessions) incurred by Lessor in reentering and repossessing the Premises, in making good any default of Lessee, in painting, improving, altering, repairing or dividing the Premises, in protecting and preserving the Premises by use of watchmen and caretakers, and in reletting the Premises, and any and all reasonable expenses which Lessor may incur during the occupancy of any new tenant; less (2) the net proceeds of any reletting received by Lessor prior to the date this Lease would have expired if it had not been terminated. Lessee agrees to pay to Lessor the difference between items (1) and (2) above for each month during the term, at the

end of each such month. Any suit brought by Lessor to enforce collection of such difference for any month shall not prejudice Lessor's right to enforce the collection of any difference for any subsequent month, and, in the event Lessor elects to defer any action to enforce collection of the difference between items (1) and (2) above until the expiration of the stated term of this Lease, such cause of action shall not be deemed to have accrued until the stated expiration of said term. In addition to the foregoing, and without regard to whether this Lease has been terminated, Lessee shall pay to Lessor all costs incurred by Lessor, including reasonable attorney's fees, with respect to any lawsuit or action instituted by Lessor to enforce this Lease. Lessee's liability shall survive the institution of summary proceedings and the issuance of any writ of restitution. The provisions contained in this subparagraph shall be in addition to and shall not prevent the enforcement of any claim Lessor may have against Lessee for anticipatory breach of the unexpired term of this Lease.

G. Right of Grantor or Lessor to Cure Lessee's Default: Late Payments.

If Lessee fails to make any payment due or perform any act required hereunder, then after ten (10) days notice from Grantor or Lessor (which such notice may be the notice of default specified in paragraph 26 (E), Grantor or Lessor may, but shall not be required to, make such payments or perform such act, and the amount of the expense thereof, with interest at the rate of two percent (2%) over the then prime rate of interest as published in "The Wall Street Journal", accruing from the date paid by Grantor or Lessor, shall be paid by Lessee to Grantor or Lessor, as the case may be as Additional Rent hereunder due and payable immediately upon Lessee's receipt of an invoice for such expense; but the making of such

payment or the performing of such act by Grantor or Lessor shall not operate to cure such default or to stop Lessor from the pursuit of any remedy to which Lessor would otherwise be entitled.

H. No Subordination. Notwithstanding any other provision herein, the parties hereto agree that this Lease and any interest conveyed hereunder are not to be subordinated to the terms of financing or the financing entity or to any other instrument, individual or entity.

I. Right to Enjoin. In the event of any breach or threatened breach by Lessee or any persons claiming through Lessee of any of the provisions contained in this Lease, Lessor shall be entitled to enjoin such breach or threatened breach and to invoke any right or remedy allowed at law, equity or otherwise including, notwithstanding, and in addition to reentry, summary proceedings or other specific remedies provided for in this Lease.

J. Remedies Cumulative. All rights and remedies of Lessor and Lessee under this Lease shall be cumulative and shall not be exclusive of any other rights and remedies provided to Lessor now or hereafter existing under law.

27. NO WAIVER BY LESSOR.

A. If either party hereto shall institute legal or administrative proceedings and a compromise or settlement thereof shall be made, the same shall not constitute a waiver of any covenant herein contained nor of any of either party's rights hereunder, unless the order or compromise specifically so provides. No waiver by either party hereto of any breach of any covenant, condition or agreement herein contained shall operate as an invalidation or as a continual waiver of such covenant, condition or agreement, or of any subsequent breach

thereof. No payment by Lessee or receipt by Lessor of a lesser amount than the rent herein stipulated shall be deemed to be other than on account of the earliest stipulated rent, nor shall any endorsement or statement on any check or letter accompanying a check for rent be deemed an accord and satisfaction, and Lessor may accept such payment without prejudice to Lessor's right to recover the balance of such rent or to pursue any other remedy provided in this Lease or by law. No reentry by Lessor, and no acceptance by Lessor of keys from Lessee, shall be considered an acceptance of a surrender of this Lease. Lessee hereby agrees that it shall give thirty (30) days written notice to Lessor prior to any claim of actual eviction.

28. OPERATIVE MAINTENANCE AGREEMENT AND COMMON AREA CHARGES.

The Use Agreement establishes Grantor's and Lessee's obligations for the purpose of general grounds, common areas, parking and building or common areas maintenance.

29. ACCESS BY LESSOR AND EASEMENT.

A. Lessee shall permit Lessor, or its representatives, to enter the Premises at reasonable times and in a reasonable manner (and shall provide Lessor with a set of all keys necessary for entering the Premises) in order to inspect and protect the same, or to exhibit the same to prospective tenants during the last six (6) months of the term of this Lease. In the event Lessee fails to do so, Lessee shall permit Lessor, at Lessor's option and Lessee's expense, and subject to the provisions of this Section, to repair and maintain the Premises. Lessor or its agent shall have the right but no obligation to enter the Premises at all reasonable times and upon at least forty-eight hours' written notice. However, in the event of an emergency, Lessor

may enter the Premises without notice and make whatever repairs are necessary to protect the Premises in the event Lessee has failed to correct same. Lessee shall reimburse Lessor for the cost of such repairs required to be made by Lessee on demand. There shall be no abatement of rent and no liability by reason of any injury to or interference with Lessee's business arising from the making of any repairs, alterations or improvements in or to any portion of the Premises, unless caused by the negligence or willful misconduct by Lessor, its agents or employees.

B. Accommodation of Lessee. Lessor shall use reasonable efforts to minimize the interference with Lessee's business activities when exercising the Lessor's rights under this Section of the Lease.

30. EXPIRATION.

A. Lessee agrees to surrender the Premises at the expiration or other termination of the term of this Lease, broom clean and in as good order and condition as they were on the Rent Commencement Date, obsolescence, ordinary wear and tear, and casualties and damages caused by the elements, fire and other casualties, acts of God excepted. Lessee shall not commit or suffer to be committed any waste upon the Premises.

B. Surrender of Improvements. At the expiration or earlier termination of this Lease and extensions thereof, all buildings, alterations, additions or improvements upon the Premises made by Lessee, shall become the property of Grantor and remain upon and be surrendered with said Premises as a part thereof at the end of the Lease term.

C. Removal of Trade Fixtures. All of Lessee's removable trade fixtures, furnishings and equipment shall be removed by the Lessee, provided that if Lessee is in

default. Lessee shall not remove such items without the consent of the Lessor, and, if the default relates to payments into the Reserve Fund, without the consent of the Grantor. The Lessee, at its expense, shall immediately repair any damage to the Premises or Improvements by reason of removal of any such trade fixture, furnishings and equipment. If Lessor elects to enter thereon and take possession at the termination of this Lease, all repairs not previously made may at the option of Lessor be corrected at the expense of the Lessee, normal wear and tear excepted. Lessee agrees that it shall not have the right to remove any built in items provided by Lessee such as wiring, plumbing fixtures, HVAC equipment, seating, carpeting or other built-in items required for the operation of the Theater.

31. TENANT HOLDING OVER.

If Lessee shall not immediately surrender possession of the Premises at the expiration or termination of this Lease, or any renewal or month-to-month holdover period created, Lessor shall be entitled to retake or recover possession of the Premises as hereinbefore provided in case of expiration, termination or default on the part of the Lessee and have available to it any and all other remedies available at law or in equity. If, without consent of Lessor, the Lessee shall fail to surrender possession of the Premises immediately upon the expiration of the term hereof, the Lessee hereby agrees that Lessee shall become a tenant by the month, subject to all of the terms and conditions of this Lease, at a rental rate equal to two (2) times the fair market rent for the Premises as unilaterally determined by Lessor, (in addition to all other sums, costs and fees otherwise due and payable hereunder), commencing said monthly tenancy with the first day next after the end of the term above described; and Lessee shall give to Lessor at least thirty (30) days' written notice of any intention to quit the

Premises, and Lessee shall be entitled to thirty (30) days' written Notice to Quit the Premises, except in the event of nonpayment of rent in advance or of the breach of any other covenant herein contained by Lessee, in which event Tenant shall not be entitled to any Notice to Quit, the usual thirty (30) days' Notice to Quit being hereby waived. The determination of the fair market rental shall be determined by an independent appraisal by an appraiser who is selected jointly by the Lessor and the Lessee.

32. SUCCESSORS AND ASSIGNS. The parties hereto agree that all of the terms, covenants and conditions, agreement, rights, privileges, obligations and duties contained in this Lease shall extend to and bind the respective, successors and assigns of said parties, subject to Section 10; and if there shall be more than one Lessee, they shall all be bound jointly and severally by the terms, covenants and agreements herein. No attempted assignment to any assignee of Lessee shall be effective unless the assignment to such assignee has been approved by the Lessor in writing, in its sole discretion, in accordance with Section 10.

33. QUIET ENJOYMENT.

Upon payment by the Lessee of the rents herein provided and upon the observance and performance of all covenants, terms and conditions on Lessee's part to be observed and performed, Lessee shall peaceably and quietly hold and enjoy the Premises for the term hereby demised without hindrance or interruption by the Lessor or any other person or persons lawfully or equitably claiming by, through or under the Lessor, subject to the terms and conditions of this Lease.

The Lessor and Lessee each represent to the other that it has the full right, power, and authority to enter into this Lease for the term herein granted and that the leased

property may be used by the Lessee during the entire term and extensions thereof for the purposes herein set forth provided Lessee conforms to the provisions of this Lease and all applicable laws and regulations.

34. SURRENDER, WAIVER AND AMENDMENT.

No agreement to amend or to accept a surrender of this Lease or a waiver of either party's obligations hereunder shall be valid unless in writing signed by the Lessor and Lessee. No employee of the County or its agent shall have any power to accept the keys of said Premises prior to the termination of this Lease except to enter the Premises in accordance with the terms hereof. The delivery of keys to any employee of the Lessor or its agent shall not itself operate as a termination of the Lease or a surrender of the Premises. The failure of any party to seek redress for violation of, or to insist upon the strict performance of any covenant or condition of this Lease, shall not prevent a subsequent act, which would have originally constituted a violation from having all the force and effect of an original violation. The receipt and acceptance by the Lessor of rent with knowledge of the breach of any condition or covenant of this Lease shall not be deemed a waiver of such breach. The right to enforce any such condition or covenant is in the sole jurisdiction of the Lessor. The failure by either party to enforce any of the conditions or covenants set forth herein or hereinafter adopted, against the other or against any other lessee in the Premises, shall not usually be deemed a waiver of any such conditions or covenants.

35. NON-DISCRIMINATION IN EMPLOYMENT AND SERVICES.

Lessee agrees to comply with the non-discrimination in employment policies in County contracts as required by Section 11B-3 and Section 27-19 of the Montgomery County

Code 1994, as amended, as well as all other applicable state and federal laws regarding employment discrimination.

36. ARBITRATION:

Lessor and Lessee agree that, in the event of any dispute between them under this Agreement, the matter will be submitted to arbitration in accordance with the following provisions:

A. Arbitration shall be commenced by a written demand made by Lessor or Lessee upon the other. The written demand shall contain a clear and complete statement of the issues sought to be arbitrated. The parties agree that the arbitrator that shall hear and resolve the matter shall be the Bethesda Intermediary Theater Authority ("BITA") and a copy of such demand for arbitration shall be filed on the Chairman of BITA at the same time it is filed on Lessor or Lessee, as the case may be. Upon receipt of such written notice, the Chairman of BITA shall select a time, date, and place for a hearing and will give Lessor and Lessee thirty (30) days' prior written notice of it. The date for the hearing will not be more than sixty (60) days after the date of the delivery of the demand for arbitration.

B. At the hearing, Lessor and Lessee will each be allowed to present testimony and tangible evidence and to cross examine each other's witnesses. The Chairman of BITA may make additional rules for the conduct of the hearing or the preparation for it. BITA shall render its written decision to Lessor and Lessee not more than thirty (30) days after the last day of the hearing.

C. The arbitration will be governed by the Arbitration Law of the State of Maryland, and, when not in conflict with such law, by the general procedures in the Commercial Arbitration Rules of the American Arbitration Association.

D. BITA shall not have power to add to, modify, detract from, or alter in any way the Lease or any amendments or supplements to this Lease. The written decision of BITA as the arbitrators, will be conclusive and binding upon Lessor and Lessee. BITA is not authorized to make an award of punitive or exemplary damages.

E. Lessor and Lessee will each pay for its own costs and the services of its own attorneys and witnesses. Any common costs relating to the arbitration will be split between the parties, unless expressly directed otherwise by BITA.

F. The decision of the arbitrators will be final and non-appealable, and may be enforced according to the laws of the State of Maryland.

G. In no event shall the Grantor be bound by this section, and all disputes with Grantor shall be resolved in accordance with the terms of the Use Agreement, provided, however, that at Grantor's sole discretion, Grantor may elect to have any dispute it is involved in governed by the arbitration provisions of this section.

37. CONTRACT SOLICITATION.

Lessee represents that Lessee has not retained anyone to solicit or secure this Lease from Montgomery County, Maryland, upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting for bona fide employees or bona fide established commercial, selling or leasing agencies maintained by Lessee for the

purpose of securing business or an attorney rendering professional legal services consistent with applicable canons of ethics.

38. PUBLIC EMPLOYMENT.

Lessee understands that, unless authorized under Section 11B-52 and Chapter 19A of the Montgomery County Code 1994, it is unlawful for any person transacting business with the County to employ a public employee for employment contemporaneous with his or her public employment.

39. GOVERNING LAW, SEVERABILITY, CONDEMNATION AND COMPLIANCE.

A. Governing Law. This Lease shall be construed and governed by the laws of the State of Maryland wherein the Premises are located. Should any provisions of this Lease and/or of its conditions be deemed illegal or not enforceable under the laws of the said jurisdiction, it or they shall be considered severable, and the balance of this Lease and its conditions shall remain in force and be binding upon the parties as though the said provisions had never been included.

B. Lease not Redeemable. The purpose of this Lease is not primarily residential and shall not be redeemable as provided in Section 8-110 of the Real Property Article, Annotated Code of Maryland.

C. Compliance with Law. It is understood, agreed and covenanted by the Lessee that it shall promptly comply with, observe and perform all of the requirements of all the statutes, ordinances, rules, orders and regulations now in effect or hereinafter promulgated whether required by the Federal Government, State of Maryland, Montgomery County Government or Montgomery County Fire Marshal's Office.

D. No Waiver of Government Immunity. The responsibilities and obligations of the County as set forth in this Lease shall not constitute a waiver by the County of any provision of the Local Government Tort Claims Act, Courts and Judicial Proceedings Article Section 5-301, et seq., Annotated Code of Maryland.

E. Limitation of Liability. The Lessor's liability to Lessee, its employees, agents, visitors, tenants, licensees or concessionaires for recovery of any loss, expense or judgment under this Lease shall be limited as set forth herein and as set forth in the Local Government Tort Claims Act, Courts and Judicial Proceedings Article, Section 5-301, et seq., Annotated Code of Maryland. It is understood that Lessee has no rights under the Use Agreement except as provided therein (although Lessee's rights hereunder are subject to the Use Agreement), and has no privity with the Grantor.

40. ENTIRE AGREEMENT.

This Lease, Schedules, Exhibits, and/or Addenda, if any, attached hereto and forming a part hereof, sets forth all the covenants, promises, agreements, conditions and understandings between the Lessor and Lessee concerning the Premises and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by them.

41. NOTICE. All notices required or permitted hereunder shall be deemed to have been given if mailed in any United States Post Office by certified mail, postage prepaid, addressed to Lessor or Lessee, respectively, at the following addresses or to such other

addresses as the parties may designate in writing from time to time, or if sent by a reputable overnight courier. All notices shall be deemed to be received three (3) days after depositing it with the U.S. Postal Service. Such notices shall be deemed given as of the date received, or the date such notices would have been received but for the addressee's refusal thereof. Lessee hereby elects domicile at the Premises for the purpose of service of all notices, writs or other legal documents, or process, in any action or proceeding which Lessor may undertake under this Lease.

COUNTY:

Montgomery County, Maryland
Department of Public Works and
Transportation
Division of Facilities and Services
Office of Real Estate Management
110 North Washington Street, Room 318
Rockville, Maryland 20850
Attn: Chief, Division of Facilities
and Services

With a copy to:

County Attorney
Montgomery County
101 Monroe Street, Third Floor
Rockville, Maryland 20850

and

Director, Department of Recreation
12210 Bushey Drive
Silver Spring, Maryland 20902

LESSEE:

Roundhouse Theater, Inc.
12210 Bushey Drive
Silver Spring, Maryland 20902
ATTN: Mr. Ira Hillman

With a copy to:

William Scott, Esquire
Stein, Sperling, Bennett, De Jong,
Driscoll, Greenfeig and Metro, P.C.
25 West Middle Lane
Rockville, Maryland 20850

42. NON-MERGER.

The exclusive right to use of the Lessor and the transferred interest to use of the Lessee shall, and at all times during the period of this Lease, be separate and apart and shall

in no event be merged, notwithstanding the fact that this Lease or the leasehold estate created hereby, or any interest in either thereof, may be held directly or indirectly by or for the account of any person who shall own the fee estate in the Premises of any portion thereof; and no such merger of estates provisions contained in this Lease shall survive the execution of the Deed and shall not be merged by operation of law upon the execution of any Deed conveying the fee simple title to any entity owning the leasehold estate.

43. CAPTIONS, PRONOUNS. The captions, and paragraphs numbers, appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of this Lease, nor in any way affect this Lease.

The use of the neuter singular pronoun to refer to the Lessor or Lessee shall be deemed a proper reference even though Lessor or Lessee may be an individual, a partnership, a joint venture, a corporation, or a group of two or more individuals, partnerships, joint ventures or corporations. The necessary grammatical changes required to make the provisions of this Lease apply in the plural sense where there is more than one Lessor or Lessee and to either corporations, associations, partnerships, or individuals, males, or females, shall in all instances be assumed as though in each case fully expressed.

44. CONDEMNATION.

If the whole or a substantial part of the Premises shall be taken or condemned by any governmental authority for any public or quasi-public purpose, then the term of this Lease shall terminate as of the date when title vests in such governmental authority, and Lessee shall have no claim against Lessor (or otherwise) for any portion of the amount that may be awarded as damages as a result of such taking or condemnation or for the value of any unexpired term of the Lease or for any injury, damage or loss to Lessee's business; provided, however, that Lessee may separately assert any claim that it may have against the condemning authority for compensation for tangible personal property and fixtures owned by Lessee and for relocation

expenses and business damages compensable by statute. The rent due and payable by Lessee hereunder, however, shall be abated on the date when such title vests in such governmental authority. If less than a substantial part of the Premises is taken or condemned by any governmental authority for any public or quasi-public purpose, the rent shall be equitably adjusted based on fair market value of the Premises on the date when title vests in such governmental authority and this Lease shall otherwise continue in full force and effect. For purposes hereof, a "substantial part" of the Premises means more than fifty percent (50%) of the Premises.

45. RULES AND REGULATIONS.

Lessee, its agents and employees shall abide by and observe such reasonable rules or regulations as may be promulgated from time to time by Lessor for the operation and maintenance of the Premises, provided, that, same are not inconsistent with the provisions of this Lease and a copy thereof is sent to Lessee.

46. BROKERS.

Lessor and Lessee each represent and warrant one to the other that neither of them has employed any broker in carrying on the negotiations relating to this Lease. Lessor shall indemnify and hold Lessee harmless, and Lessee shall indemnify and hold Lessor harmless, from and against any claim for brokerage or other commission arising from any breach of the foregoing representation and warranty.

47. ESTOPPEL CERTIFICATES.

Upon thirty (30) days' prior written notice by either party hereto, the other party hereto shall execute and deliver to the requesting party, or to any person designated by the requesting party, a statement in writing certifying (a) that this Lease is in full force and effect, and has not been modified since its execution (or, if there have been modifications, identifying the same by the date thereof and specifying the nature thereof), (b) whether, to the knowledge of

the responding party, there are then existing any defaults under this Lease (and, if so, specifying the same), (c) the address to which notices should be sent and if the responding party is a corporation, the name and address of its registered agent in the jurisdiction where the Premises is located, (d) by the Lessor the dates on which the Minimum Annual Rent and other amounts payable by Lessee hereunder have been paid, (e) by the Lessee that the contemplated transfer or financing, if any, does not constitute a default under this Lease and that no consent of the party so certifying is required for such transfer or financing, and (f) such other matters as the requesting party, or any prospective purchaser or mortgagee, may reasonably require. Any such statement delivered pursuant hereto shall provide that such statement may be relied upon by the requesting party, or any prospective purchaser or mortgagee. If either party shall fail to so deliver such statement, in a reasonable manner, the same shall constitute a default hereunder.

48. LIEN FOR RENT.

Lessee hereby grants to Lessor a lien on all personal property of Lessee in or on the Premises and such property shall be subject to such lien of Lessor for payment of all rent, additional rent, security deposits, if any, and all other sums agreed to be paid by Lessee herein or for services or costs relating to the Premises that Lessee may hereafter agree to pay to Lessor. Said lien shall be in addition to and cumulative of the Lessor's lien rights provided by law. Lessor may file and sign for Lessee a Uniform Commercial Code financing statement (UCC-1) describing such lien and personalty. Notwithstanding the foregoing, Lessor agrees to subordinate such lien to a first priority lien in favor of a vendor or equipment lessor or an institution providing purchase money financing for the acquisition of such personalty by Lessee; provided such subordination shall be in a form reasonably acceptable to Lessor.

49. NO OPTION.

The submission of this Lease for examination by Lessee does not constitute a reservation of or option for the Premises, and this Lease shall become effective only upon execution and delivery thereof by Lessor and Lessee.

50. PRONOUNS.

Feminine or neuter pronouns shall be substituted for those of the masculine form, and the plural shall be substituted for the singular number, in any place in which the context may require such substitution.

51. CAPTIONS AND PARAGRAPH NUMBERS.

The captions, paragraph numbers and index appearing in this Lease are for convenience of reference only, and shall not be deemed to define, limit, describe, explain, modify or amplify the interpretation or construction of any provision of this Lease.

52. TIME OF THE ESSENCE.

Time is of the essence in the performance of all obligations under this Lease.

53. NO PARTNERSHIP.

Nothing contained in this Lease shall be deemed or construed to create a partnership or joint venture of or between Lessor and Lessee, or to create any relationship between the parties hereto other than that of landlord and tenant.

54. LESSEE'S AUTHORITY.

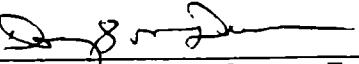
Lessee shall, concurrently with the signing of this Lease, furnish to Lessor certified copies of the resolutions of its board of directors (or of the executive committee of its board of directors) authorizing Lessee to enter into this Lease; and it shall furnish to Lessor evidence (reasonably satisfactory to Lessor and its counsel) that Lessee is a duly organized corporation under the laws of the state of its incorporation, is qualified to do business in the State of Maryland, is in good standing under the laws of the state of its incorporation and the State of

nd authority to enter into this Lease, and that all corporate action
ee to enter into this Lease has been duly taken. Lessee shall also
(which such evidence shall be reasonably satisfactory to Lessor and
1 or persons executing this Lease on behalf of Lessee is an officer
e, and that he or they as such officers were duly authorized to sign

EREOF, the parties hereto do hereby execute this Lease as of the
written.

MONTGOMERY COUNTY, MARYLAND

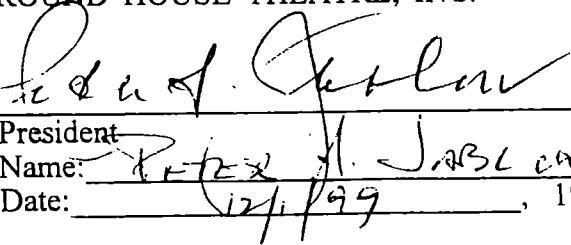
By:


Douglas M. Duncan, County Executive

Date: 10/26/99, 1999

ROUND HOUSE THEATRE, INC.

By:


President
Name: Peter L. Peterson
Date: 12/1/99, 1999

APPROVED AS TO FORM AND LEGALITY
OFFICE OF THE COUNTY ATTORNEY

By: Richard H. McRae
Associate County Attorney
Dated: 10-21-99

STATE OF MARYLAND, _____, to wit:

ON THIS 26th day of October, 1999, before me, the undersigned officer, personally appeared Douglas M. Duncan, County Executive for Montgomery County, Maryland, known to me to be the person whose name is subscribed to the foregoing, who did fully acknowledge that he executed the same as his voluntary act and deed for the purposes therein contained.

WITNESS my hand and official seal the same day and year first above written.

Cindy A. Sullivan
CINDY A. SULLIVAN Notary Public
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires January 31, 2000

STATE OF MARYLAND, _____, to wit:

ON THIS 1st day of December, 1999, before me, the undersigned officer, personally appeared Peter A. Takis, of Round House Theatre, Inc., known to me to be the person whose name is subscribed to the foregoing, who did fully acknowledge that he executed the same as his voluntary act and deed for the purposes therein contained.

WITNESS my hand and official seal the same day and year first above written.

Beverly Murray
Beverly Murray
Notary Public

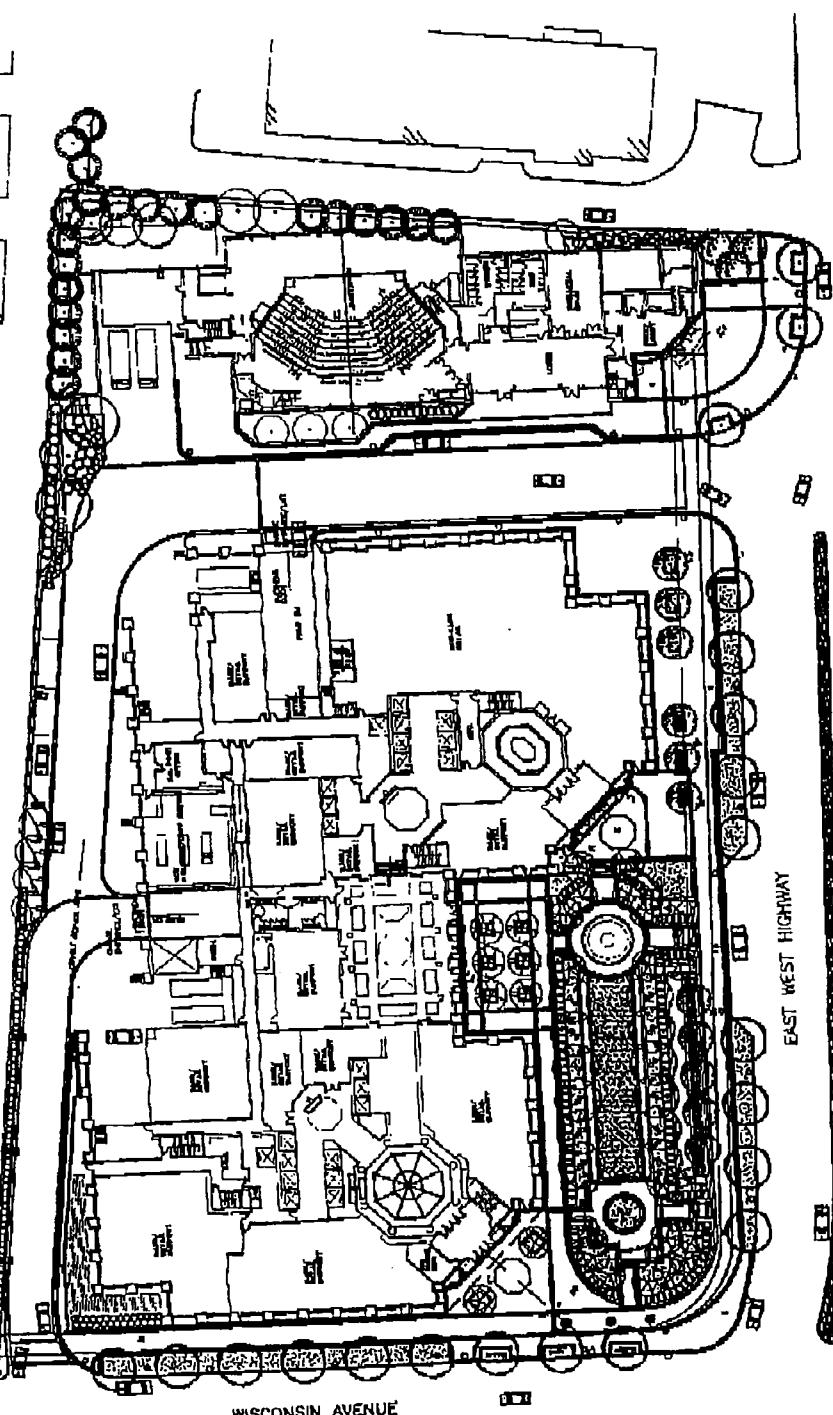
My Commission Expires: 3/26/03

EXHIBIT A

Site Plan

BBGM

BRENNAN HERGMAN MONK / ARCHITECTS & INTERIORS



WISCONSIN AVENUE

THESE ARE THE TESTIMONIES AND EVIDENCES WHICH PROVE THE
ACCURACY OF THE PREDICTION OF THE PROPHET MUHAMMAD.

DATE

EXHIBIT B

Memorandum of Ground Lease

Liber 15693 at Folio 237

97-1346 (SLT)
10F 4 MONTGOMERY CO
LAND

7-1-418038, 4:8027, 418016A
416371 8 416282

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE is made and executed this 11 day of March, 1998, by and between 7501 WISCONSIN AVENUE, LLC, a Maryland limited liability company (herein called "Landlord"), and CHEVY CHASE BANK, F.S.B., a federal savings bank (herein called "Tenant").

WHEREAS, Landlord is the owner of the land and improvements located at 7501 Wisconsin Avenue, Bethesda, Maryland more particularly described on Exhibit A hereto (the "Property").

WHEREAS, Landlord and Tenant entered into a Ground Lease Agreement dated as of March 2, 1998 (the "Lease"); and

WHEREAS, the parties hereto desire to enter into this Memorandum of Lease for the purpose of recording a document in the Land Records of Montgomery County, Maryland that will provide public notice of the existence of the Lease and certain of its terms and conditions.

NOW, THEREFORE, the parties hereto do hereby certify and agree as follows:

1. **Parties.** The Landlord under the Lease is 7501 Wisconsin Avenue, LLC., a Maryland limited liability company. The Tenant under the Lease is Chevy Chase Bank, F.S.B., a federal savings bank, its successors and assigns.

2. Legal Description of Property. The legal description of the Property is attached as Exhibit A.

3. **Term.** The term of the Lease commenced on the date hereof and shall expire on the earlier of (i) December 31, 2062, or (ii) sixty years from the last day of the year in which the Completion Date shall occur, unless the term is sooner terminated in accordance with the provisions of the Lease. The Completion Date is defined in the Lease to mean the date as of which Tenant and any subtenants take actual occupancy of not less than twenty percent (20%) of the total net leaseable office and retail space initially constructed upon the Property by Tenant following the date hereof.

4. Successors and Assigns. The Lease provides that the provisions of the Lease are binding upon and inure to the benefit of Landlord and Tenant and each of their respective representatives, successors and assigns.

1286

4-1-76
Searched by Clerk of Circuit
Court, Maryland

RETURN TO:
COMMERCIAL SETTLEMENTS, INC.
1413 K Street, N.W.
12th Floor
Washington, D.C. 20005

5. Purchase Rights. Pursuant to the Lease, Tenant has the right and option to purchase the Property in accordance with the provisions of the Lease.

6. Prohibition on Landlord's Right to Sell, Assign or Mortgage. Except for Tenant's right and option to purchase the Property in accordance with the provisions of the Lease, Landlord has agreed except following (i) a foreclosure of a Leasehold Mortgage, or (ii) a conveyance or assignment of Tenant's interest in the Lease to a Leasehold Mortgagee in lieu of such a foreclosure, or (iii) delivery of a Final Nonpayment Notice to Tenant. Landlord shall not sell, assign, or convey its fee interest in the Demised Premises or its interest under the Lease (an "Assignment") at any time during the Term nor shall Landlord permit its fee interest in the Demised Premises or its interest under the Lease to be subject to any judgment, pledge, mortgage or other lien or encumbrance unless the existence of such judgment or other lien or encumbrance shall have been caused by the act or failure to act by Tenant (collectively, a "Lien on the Fee") at any time during the Term. Landlord may make an Assignment or create a Lien on the Fee (in either case subject to all other terms and conditions of this Lease) at any time after a foreclosure of a Leasehold Mortgage, a conveyance or assignment of Tenant's interest in this Lease to a Leasehold Mortgagee in lieu of such foreclosure, or delivery to Tenant of a Final Nonpayment Notice; provided, however, if Landlord creates a Lien on the Fee as permitted by this sentence, Landlord agrees that it will cause such Lien on the Fee to be released within ninety (90) days after Landlord shall have cured in full the default giving rise to the Final Nonpayment Notice. Any attempted Assignment or Lien on the Fee shall be null and void except following the circumstances described in the preceding sentence. Any Assignment or Lien on the Fee permitted hereunder shall be subject to all terms of the Lease including but not limited to Tenant's rights under Article XXI of the Lease, and the documentation for any such permitted transaction shall so indicate. If Landlord attempts to make an Assignment not permitted under the Lease, Tenant's sole and exclusive remedy shall be an action to set aside such Assignment, to specifically enforce its rights under Section 14.1 of the Lease and to recover Tenant's reasonable costs and expenses, including reasonable attorneys' fees and costs. If Landlord creates a Lien on the Fee in violation of Section 14.1 of the Lease or if Landlord creates a Lien on the Fee as permitted by Section 14.1 of the Lease and then fails to cause such Lien on the Fee to be released within the period of time required following the cure in full of the default giving rise to the Final Nonpayment Notice, then in either of such events, Tenant's sole and exclusive remedy shall be to payoff the indebtedness secured by such Lien on the Fee and to setoff against Rent the amount so paid. Under no circumstance shall Landlord enter into any easement, covenant, restriction or other agreement effecting fee simple title to the Property without the prior written consent of Tenant. If at any time during the Term, there shall be a Lien on the Fee which is not permitted by Section 14.1 of the Lease, Landlord shall pay and discharge the same within thirty (30) days following written Notice from Tenant. If any Lien on the Fee is incurred by reason of non-compliance with the provisions of Section 14.1 of the Lease, Landlord may nevertheless contest the validity or application of any Lien on the Fee by appropriate proceedings in the name of Landlord or Tenant, or in the names of both of them, without cost or expense to Tenant, provided Landlord (A) furnishes to Tenant

security, reasonably satisfactory to Tenant, against loss or injury by reason of such non-payment or delay therein. (B) prosecutes the contest in good faith and at its expense with due diligence and dispatch, and (C) such proceedings shall operate during the pendency thereof to prevent (i) the collection of, or realization upon, the Lien on the Fee so contested, and (ii) the sale, forfeiture or loss of Landlord's interest in the Property to satisfy such Lien on the Fee or by any failure to pay such Lien on the Fee.

7. Information. Set forth below are the names and addresses for the Landlord and Tenant (as of the date hereof) and their various representatives as of the date hereof:

(a) If to Tenant:	Chevy Chase Bank, F.S.B. 8401 Connecticut Avenue Chevy Chase, Maryland 20815 Attn: General Counsel
with a copy to:	Shaw, Pittman, Potts & Trowbridge 2300 N Street, N.W. Washington, D.C. 20037 Attn: Sheldon J. Weisel, Esq.
(b) If to Landlord:	7501 Wisconsin Avenue, LLC c/o Robert W. Bogue, Jr. Calvert Investment Counsel 206 Village Square, Village of Cross Keys Baltimore, Maryland 21210
with copies to:	Ballard Spahr Andrews & Ingersoll, LLP 300 East Lombard Street, 19th Floor Baltimore, Maryland 21202 Attn: Fred Wolf, III, Esq.

8. Assignment. Tenant, its successors and assigns, may mortgage, assign or transfer this Lease and the leasehold estate without prior written notice to or consent from Landlord. The Lease provides leasehold mortgagees with certain rights and options as set forth therein.

9. Purpose of Memorandum of Lease. This Memorandum of Lease, when recorded in the Land Records of Montgomery County, Maryland, is intended to serve as public notice of the existence of the Lease and of certain of its terms and conditions. This Memorandum of Lease does not describe or refer to all of the terms or conditions contained in the Lease, nor is this Memorandum of Lease intended to modify, amend or vary any of the terms or conditions set forth in the Lease.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Memorandum of Lease to be duly executed by their respective authorized officers and managers and have affixed their seals, all as of the day and year first above written.

WITNESS:

LANDLORD:

7501 WISCONSIN AVENUE, LLC,
a Maryland limited liability company

Sheldon Weisel

Sheldon J. Weisel

By: Robert W. Bogue [SEAL]

Name: Robert W. Bogue, Jr.

Title: Manager

Sheldon Weisel

Sheldon J. Weisel

By: Robert H. Myers [SEAL]

Name: Robert H. Myers, Jr.

Title: Manager

Sheldon Weisel

Sheldon J. Weisel

By: Frederick P. Fulton [SEAL]

Name: Frederick P. Fulton

Title: Manager

Leslie A. Nicholson

Leslie A. Nicholson

TENANT:

CHEVY CHASE BANK, F.S.B.,
a federal savings bank

By: B. Francis Sauer, II [SEAL]

Name: B. Francis Sauer, II

Title: Chairman and Chief Executive Officer

STATE OF MARYLAND)
District of Columbia ss:

I, Michelle Jean Marshall, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Robert W. Bogue, Jr., as Manager for 7501 Wisconsin Avenue, LLC, party to the foregoing Memorandum of Lease bearing the date of April 2, 1998, personally appeared before me in said jurisdiction, the said Robert W. Bogue, Jr., being personally well known to me as (or proved by the oath of credible witnesses to be) the person named as such Manager, and he acknowledged the foregoing Memorandum of Lease to be the act and deed of 7501 Wisconsin Avenue, LLC.

Sworn to before me this 1st day of April, 1998.

Michelle Jean Marshall SEAL
Notary Public

My Commission Expires: My Commission Expires September 30, 2000

490073.010
March 26, 1998

STATE OF MARYLAND)
District of Columbia) ss:

I, Michelle Jean Marshall

I, Michelle Jean Marshall, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Robert H. Myers, Jr., as Manager for 7501 Wisconsin Avenue, LLC, party to the foregoing Memorandum of Lease bearing the date of April 2, 1998, personally appeared before me in said jurisdiction, the said Robert H. Myers, Jr., being personally well known to me as (or proved by the oath of credible witnesses to be) the person named as such Manager, and he acknowledged the foregoing Memorandum of Lease to be the act and deed of 7501 Wisconsin Avenue, LLC.

Sworn to before me this 1st day of April, 1998.

Michelle Jean Marshall [SEAL]

Notary Public

MICHELLE JEAN MARSHALL
My Commission Expires: My Commission Expires September 30, 2000

490073.010
March 26, 1998

6

STATE OF MARYLAND)
District of Columbia) ss:

I, Michelle Jean Marshall

a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Frederick P. Fulton, as Manager for 7501 Wisconsin Avenue, LLC, party to the foregoing Memorandum of Lease bearing the date of April 2, 1998, personally appeared before me in said jurisdiction, the said Frederick P. Fulton, being personally well known to me as (or proved by the oath of credible witnesses to be) the person named as such Manager, and he acknowledged the foregoing Memorandum of Lease to be the act and deed of 7501 Wisconsin Avenue, LLC.

Sworn to before me this 1st day of April, 1998.

Michelle Jean Marshall [SEAL]
Notary Public

MICHELLE JEAN MARSHALL

My Commission Expires: My Commission Expires September 30, 2000

490073.010
March 26, 1998

STATE OF MARYLAND)
County of Montgomery) ss:

I, Patricia E. Clark, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that B. Francis Truett II, as Chairman + CEO for Chevy Chase Bank, F.S.B., party to the foregoing Memorandum of Lease bearing the date of April 1, 1998, personally appeared before me in said jurisdiction, the said B. Francis Truett II, being personally well known to me as (or proved by the oath of credible witnesses to be) the person named as such Chairman + CEO, and he acknowledged the foregoing Memorandum of Lease to be the act and deed of Chevy Chase Bank, F.S.B.

Sworn to before me this 1st day of April, 1998.

Patricia E. Clark [SEAL]
Notary Public

My Commission Expires: 12-1-99

PATRICIA E. CLARK
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires December 1, 1999

490073.010
March 26, 1998

EXHIBIT C

MOU

**DESCRIPTION OF
TAX ASSESSMENT PARCELS
P299, P351, P324,
N322 AND N323
CHEVY CHASE ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND**

Being a description of Tax Assessment Parcels P299, P351, P324, N322 and N323 as shown on Tax Maps HN342 and HN122 of Montgomery County, Maryland, and being more particularly described as follows:

Beginning for the same at a point marking the easterly right-of-way line of Wisconsin Avenue, (width varies) as shown on State Road Commission Plat No. 7141, said point also marking the southern line of Lot 23, George G. Bradley Subdivision as recorded in Plat Book 8 as Plat 6335; thence leaving said easterly right-of-way line of Wisconsin Avenue and running with the southerly line of Lots 15 thru 23 of said George G. Bradley Subdivision

1. North 84° 44' 34" East, 529.26 feet to an iron pipe found marking the common northerly corner with Parcel "A", Waverly House, as recorded in Plat book 101 as Plat 11383 among the aforesaid Land Records; thence leaving said southerly line of Lot 15, George G. Bradley Subdivision and running with said Parcel "A", Waverly House
2. South 03° 57' 06" East, 282.20 feet to a point on the northerly line of East-West Highway (95 feet wide) as shown on State Road Commission Plat No. 7141; thence leaving said Parcel "A", Waverly House and running with said northerly line of East-West Highway the following two (2) courses and distances
3. South 79° 51' 13" West, 448.87 feet to a point; thence
4. 61.71 feet along the arc of a non-tangent curve to the right having a radius of 40.00 feet and a chord bearing and distance of North 55° 57' 06" West, 55.77 feet to a point on the aforesaid easterly right-of-way line of Wisconsin Avenue; thence running with said easterly right-of-way line of Wisconsin Avenue
5. North 11° 44' 58" West, 286.90 feet to the point of beginning containing 153,781 square feet or 3.52987 acres of land.

MEMORANDUM OF UNDERSTANDING
CONCERNING GRANT OF EXCLUSIVE USE LICENSE
FOR THEATER

This Memorandum of Understanding Concerning Grant of Exclusive Use License for Theater ("Agreement") is made as of the 31st day of October, 1999, by Chevy Chase Bank, FSB (the "Grantor") to Montgomery County, Maryland, a body politic (the "County") for the grant of an exclusive use license for a theater to be constructed by Grantor as a part of the Optional Method of Development Project for 7501 Wisconsin Avenue, Bethesda, Md.

RECITALS

R-1. The Grantor has acquired the property known as 7501 Wisconsin Avenue, Bethesda, Maryland 20814 ("Property") pursuant to that certain sixty-five year Ground Lease dated April 2, 1998, a memorandum of which was recorded in Liber 15693 at folio 237 in the land records of Montgomery County, Maryland ("Ground Lease"). The Grantor intends to develop the Property as an Optional Method Development project and to provide a theater ("Theater") as its major public amenity substantially in accordance with the Bethesda Central Business District Sector Plan, approved and adopted July, 1994 ("Sector Plan").

R-2. The Sector Plan contains the certain guidelines with regard to the Theater relating to such matters as (a) Facilities, (b) Visibility, (c) Parking, (d) Timing, and (e) Theater Company and Cost Allocation.

R-3. The Grantor filed Project Plan Application Number 9-98003 ("Project Plan") for the development of the Property which included conceptual plans for the Theater including sheets entitled "Ground Level Plan", "Upper Level Plan", and "Lower Level Plan", "Theater Section", and textual material entitled "General Finishes Description" (collectively, the "Conceptual Theater Plans"). The Montgomery County Planning Board's Resolution, adopted on July 16, 1998, (date of Mailing July 21, 1998), approved the Project Plan Application ("Project Plan Approval") as being in accord with the Sector Plan, and included the following conditions with regard to the Theater:

3. The Theater

The proposed development shall include a 400-seat performing arts theater with the following conditions:

- a. The architectural design of the theater shall be reviewed in detail at the time of Site Plan.*
- b. The applicant shall develop a complete program for selection of the theater operator and include it in the Site Plan submittal. The applicant proposes to lease the proposed theater to a third party public entity which will lease the theater to an operator.*
- c. Prior to approval of record plats of subdivision for the proposed development, the theater operator shall be selected in accordance with the approved selection program and a Lease Agreement for the theater approved by the Planning Board.*
- d. The selected theater operator shall have the opportunity to review the architectural design of the theater during the design development stage. The applicant shall make necessary changes to the theater design to accommodate the needs of the operator so long as not to increase the scope of work as proposed.*
- e. The Site plan enforcement document for the proposed development shall include measures which prevent the theater from staying vacant for an extended period of time if the operator goes into default. It also shall specify the applicant's responsibilities when the theater does not have an operator and remains vacant.*
- f. The applicant shall make an adequate number of underground parking spaces available to theater patrons and employees at market rates during the theater's hours of operation.*
- g. The theater shall be constructed in accordance with the phasing plan to be reviewed at the time of the Site Plan.*
- h. In the Site Plan, the area between the theater and the main building, including the internal driveway, shall be designed as one cohesive space which complements the theater and the ground floor retail uses. The driveway shall be designed as a street with streetscape elements such as special paving, street trees, lighting, seating and other features which reflect the theater theme. Elimination of the small drop-off area shall be considered at the time of Site Plan to reduce the width of paving and allow a continuous drop-off area for the theater. A portion of the area shall be designed for use as an overflow space for theater patrons during intermissions. The west façade of the theater building shall incorporate openings or windows to provide visual linkage between the street and the theater lobby. The solid portion of the façade shall consider using window displays or other features to reinforce the theater theme, to advertise the theater program and to animate the street.*

R-4. The County's governmental functions include the provision of public recreation and cultural enhancement for the citizens and businesses of Montgomery County, Maryland. For many years, the County has leased County property to theater and to other cultural and recreational groups in fulfillment of such governmental functions.

R-5. In compliance with the intent of the "fair and competitive proposal format" Theater Guidelines of the Sector Plan for

selecting an operator, the Montgomery County Department of Recreation published a Request for Expressions of Interest for Prospective Operators for an initial lease period, which was duly advertised in one or more newspapers of general circulation during the month of September, 1998.

R-6. The deadline for responses expired, Roundhouse Theater was the only theater company to have submitted an Expression of Interest in response to such Request, and was duly chosen to be the initial professional equity theater company to operate the Theater.

Now Therefore, in consideration of the Recitals, and other good and valuable consideration, the Grantor, by its execution hereof, and the County by its acceptance of this Agreement, intending to be legally bound, agree as follows:

1. Agreement to Construct.

A. The Grantor, in satisfaction of the guidelines of the Sector Plan and the conditions of the Project Plan Approval, agrees to construct the Theater in accordance with its Project Plan and approved site plan ("Site Plan"), including the Conceptual Theater Plans submitted as a part of such Project Plan application, so long as the Grantor constructs the Office Building; provided, however, that the Theater shall be constructed in accordance with any changes to the Conceptual Theater Plans as may be mutually agreed to by the County and the Grantor. The Grantor agrees to have completed its obligations with respect to construction of the Theater prior to the issuance of the initial Certificate of Occupancy for the office building to be constructed on the Property by the Grantor, as described in the Project Plan ("Office Building"). Installation of the furnishings, fixtures and equipment which are the responsibility of the Grantor may be completed within three (3) months after the issuance of the initial Certificate of Occupancy for the Office Building if the Grantor posts security in the form of a bond in the full amount of the costs of the purchase of the remaining furnishings, fixtures and equipment (other than those not the responsibility of the Grantor). Notwithstanding anything herein to the contrary, Grantor's obligations herein to construct the Theater and the grant of the same thereafter shall be contingent upon Grantor obtaining all approvals necessary for the development of the Property as contemplated in the Project Plan and upon the issuance of permits required therefor including the issuance of the building permit

for the Office Building, and Grantor's actual construction of the Office Building as described in the Project Plan.

B. In connection with the finishing of the interior of the Theater, the Grantor shall endeavor to notify the Theater Operator when carpeting will be installed and when the walls will be wall-papered or painted. The Theater Operator shall have the right, in accordance with a schedule agreed to by the Grantor, to install the Pre-Finish Items (hereinafter defined) prior to the installation of the carpeting or wall-paper or painting of the walls, as the case may be. It is understood that Grantor's obligation under this paragraph is to provide the Theater Operator with an opportunity to install the Pre-Finish Items within the scope of the Grantor's construction schedule as amended to reflect the actual progress of construction; Grantor shall not be obligated to delay or alter its own construction schedule, and shall not be liable if the Theater Operator fails to meet Grantor's construction schedule. The Pre-Finish Items shall mean those items which the Theater Operator intends to install which would require removal of or result in partial damage to the carpet or to the finished walls if installed after Grantor had completed the carpeting, wall-papering or painting, as the case may be (e.g., permanent cabling for lighting, sound or stage equipment). In addition should the Theater Operator desire to install other items prior to the completion of any additional elements of Grantor's interior finishing (i.e., other than carpeting, wall-papering or painting) because such items may cause removal or partial damage to Grantor's additional elements, Grantor will afford the Theater Operator with the same opportunity for installation of such other items by the Theater Operator as the Pre-Finish Items, provided the Theater Operator shall have given the Grantor reasonable advance written notice of the same.

2. Grant of Exclusive Use License for Theater.

A. The Grantor hereby grants to the County, on the terms and conditions set forth herein, an exclusive license for the use of the Theater as a performing arts theater (and related uses, but for no other use) for so long as the Office Building exists on the Property as permitted by the Site Plan and the Project Plan for the County to utilize for cultural and recreational purposes in a manner consistent with the terms of the Sector Plan and Project Plan Approval. The license shall be deemed coupled with an interest and is irrevocable, except as otherwise set forth herein. No portion of the Theater may be used as a banking facility or for operating an automatic teller

machine by which funds are disbursed without the express written consent of Grantor, in its sole discretion. This grant shall be effective, without any further instrument, upon the completion of construction of the Theater and issuance of a certificate of use and occupancy for the Theater. The Grantor shall use commercially reasonable efforts to ensure that the benefit of warranties, and professional seals, drawings and certifications inure to the benefit of not only the Grantor, but to the County and the Theater Operator as well. The term of this Agreement shall be in perpetuity, so long as the Office Building as approved pursuant to the Project Plan and Site Plan exists on the Property, and so long as this Agreement is a requirement of the Site Plan or any amendment thereto. Notwithstanding the foregoing, the Grantor reserves the right to use the Theater for four (4) occasions per calendar quarter, on dates mutually agreeable to the Grantor and the Theater Operator. The failure of Grantor to use the Theater on four (4) occasions in any quarter shall not constitute a waiver of Grantor's right to use the Theater in any subsequent quarter.

B. The Theater shall not be used for any purpose other than as permitted under an approved site plan or site plan amendment, or for any use which is not permitted under the applicable zoning regulations; the foregoing shall be incorporated into the Theater Lease. Subject to the foregoing, the Theater space may be used as a performing arts theater, as well as an educational center offering classes and training in the theater and related arts, live performances, exhibitions of films, meetings and events for cultural and recreational purposes, as well as the sale of food and beverages, programs, promotional items including apparel with logos of the Theater, or of plays or acts performing there, soundtracks, etc., and for such other uses and purposes which are usual and customary for similar Theater facilities.

3. Description of Improvements. The Theater shall be constructed in conformity with the Conceptual Theater Plans as set forth in the Project Plan Application, except as changes to the Conceptual Theater Plans are mutually agreed to by the Grantor and the County. Grantor's obligations with respect to construction of the Theater shall not include the provision of stage lighting and controls, sound equipment, stage equipment, drapes and other theater-related equipment. It is understood and agreed that the lobby and foyer portions of the Theater may be counted as public use space as defined and required pursuant to section 59-A 2.1 and 59-C 6.2 of the Montgomery County Zoning Ordinance, provided that such counting as public use space shall

not unreasonably interfere with the customary use of the lobby and foyer in connection with the performances at the Theater.

4. Parking:

A. The Grantor will provide 150 parking spaces at market rates for Theater patron use after 6 pm on weekdays, and on weekends and holidays. Such parking will be on the P-1 level adjacent to a direct elevator to the Theater. If the Grantor shall determine, in good faith, that the operation of such parking is not economically viable, it may notify the Theater Operator that it desires to terminate or modify (including decreasing the number of spaces available) the parking arrangement. Within ten (10) days of receipt of such notice, the Theater Operator shall have the right to agree to pay, and to pay for any increase in parking rates or any other payment which would result in the operation of the parking being economically feasible by written notice to the Grantor. Upon the failure of the Theater Operator to make such election, or to thereafter timely make the applicable payments, the Grantor may, to the extent permitted by the then current Site Plan approval, terminate or modify (including decreasing the number of spaces available) such parking, or Grantor may seek to modify such Site Plan approval. In addition, the Grantor agrees to cause the operator of the parking garage to be built on the Property to provide to the Theater Operator's employees up to ten (10) monthly parking permits for non-reserved spaces during business hours only, at prevailing market rates, for use in the parking garage.

B. The surface area adjacent to the Theater loading dock is not part of the Theater or the exclusive use rights granted herein, shall remain the property of the Grantor, and shall be kept clear for circulation of vehicles entering and exiting the loading docks serving any adjacent building on the Property. The Theater loading dock is subject to regulation by the Grantor and the Grantor shall have the right to control use of the Theater loading dock, at any time, if such use interferes with the Grantor's use of the adjacent parking areas or operation of the Office Building.

5. Assignment, Lease or Conveyance by County to Theater Operator. The County may lease, assign or otherwise convey any or all of its use rights to a resident theater operating company ("Theater Operator") for such period or periods ("Theater Lease") consistent with the terms hereof, and upon such additional terms and conditions, as the County may determine.

For all purposes hereof, the phrase "Theater Lease" shall be deemed to include any occupancy, license or other arrangement whereby a Theater Operator or other theater operating entity is allowed use of the Theater. The County itself shall not be allowed to use the Theater. As recommended by the Sector Plan, the Theater Operator selected shall have an established professional reputation for artistic quality, management proficiency and financial stability. The minimum qualifications for such company shall be as follows:

- (a) a fully professional (Equity Contract) resident theatre company,
- (b) minimum 5 year history as a viable 501 c (3) corporation,
- (c) minimum 4 play annual season with 15 performances per show,
- (d) a three year history of audited financial records,
- (e) a minimum 1,000 subscriber base in existence for three years,
- (f) directed by professional artistic and administrative staff,
- (g) Board of Directors which meets at least four times a year,
- (h) meets state and local arts council grants eligibility requirements;
- (i) qualifies for Helen Hayes award eligibility,
- (j) preference should be given to qualified Montgomery County theater companies.

The Theater Lease shall be substantially in accordance with the form Lease attached hereto as Exhibit A ("Form Theater Lease"), unless the County and Grantor agree otherwise; provided, however, that no change which affects the Grantor (including without limitation, those provisions referenced in Section 15.G hereof), or any provision relating to what is a permitted use or what is a restricted use, or relating to the subject matter of Section 9 hereof, shall be made without the consent of the Grantor, which may be withheld in the Grantor's sole discretion. It is understood however, that the Theater Lease shall always be subject to the terms hereof, and nothing in the Theater Lease may act to modify anything in this Agreement. On or about the date of execution of this Agreement, the County is entering into the Theater Lease with the selected Theater Operator pursuant to a Theater Lease in the same form as the Form Theater Lease attached hereto. In accordance with the terms hereof and of the Theater Lease, the selected Theater Operator shall operate and manage the Theater.

6. Selection of Theater Operator. In accordance with the Sector Plan requirements, the County shall select a Theater Operator utilizing a fair and competitive proposal format (which includes the advertising referred to in Recital R-5).

7. Advisory Committee. Initially, the Director of the Montgomery County Department of Recreation ("Director") shall appoint an advisory committee, which advisory committee, together with the Director, shall be known as the Bethesda Intermediary Theatre Authority ("BITA"). Initially, the Director will act as the chair ("Chair") of BITA and in that capacity annually convene the other members of BITA to perform the functions of BITA which shall be as follows:

- (a) review and give advice regarding the status of Theater operations for compliance with the terms of the Theater Operator's Theater Lease,
- (b) assist and give advice in the mediation of any and all concerns raised either by the Grantor, the County or the Theater Operator regarding compliance with the terms of this Agreement and the Theater Lease,
- (c) recommend renewal, modification or termination of the Theater Lease, and
- (d) select the replacement of or successor to the Theater Operator as appropriate.

In addition to the Chair, the members of BITA will be comprised of six (6) other individuals (the "Members"). The non-Chair Members of BITA, other than the Individual Members listed below, will be appointed by the Chair based upon the nomination of the chief executive officer of each of the organizations or agencies listed below corresponding to the Organizational Members. The term of the Chair shall last so long as he or she is the Director of the Montgomery County Department of Recreation (or in the case of a successor organization to the County, so long as the Chair is an officer or department head of such successor organization). Any successor Director, officer or department head, as applicable, to the prior Chair shall serve as the new Chair. The Individual Members listed below shall be selected by the Chair and the Organizational Members at BITA's first meeting, and thereafter at each meeting where each such Member's term is up for election. The non-Chair Members of BITA will serve for three year terms, except for the initial "B" and "C" Members' terms. The term of each class of Member shall be served in a staggered A, B, C rotation. The initial term of the "B" Members is 2 years (but all terms thereafter shall be 3

years), and the initial term of "C" Members is 1 year (but all terms thereafter shall be 3 years).

BITA MEMBERS:

Director of Montgomery County Department of Recreation (Chair);

Organizational Members: representatives of:

Bethesda Urban Partnership ("A" Member);

The Arts Council of Montgomery County ("B" Member);

The Maryland-National Capital Park and Planning Commission ("C" Member)

The Building Owner ("A" Member);

Individual Members:

A representative from an equity contract theater NOT located in Montgomery County, Md. ("B" Member);

A citizen residing within the Bethesda Urban District or surrounding locale (who, for the first year rotation, must be a member of A Committee for A Bethesda Cultural District ("ABCD")) ("C" Member).

All Members shall be volunteers and shall receive no compensation for serving as a Member of BITA.

If the County shall terminate its involvement in this exclusive use license and the non-Chair Members of BITA shall have appointed its successor in accordance with Paragraph 10, the new Chair shall be appointed by the successor organization and shall be an officer of such organization or a department head. BITA shall establish bylaws to govern organizational matters of BITA, including selection of replacements in the event of death or resignation, and requirements for time, place and notice of meetings.

BITA may meet more frequently than once a year if called into session by the Chair or at least three other members, for cause. All recommendations of non-Chair Members of BITA will be advisory to the Chair, except for the appointment of the Individual Members and any successor to the County in accordance with Paragraph 10. The non-Chair Members of BITA shall advise the Chair in the selection of the Theater Operator, and, in case of a future change of tenants, advise in the selection of the new tenant. The non-Chair Members of BITA shall advise the

Chair regarding due diligence over the Theater Operator's operations as they directly affect the terms of the Theater Lease. BITA, the County and the Montgomery County Department of Recreation (and any successor organization to the County hereunder) are expressly prohibited from intervening or seeking to influence artistic programming, marketing, personnel selection, fundraising, financial operations, board business or any other internal operations of the Theater Operator.

8. Final Plans and Independent Consultation. The final plans and specifications for the Theater shall be prepared by the Grantor and shall be in accordance with the Conceptual Theater Plans, unless the Grantor agrees otherwise. It is understood that the Grantor may consult with the representatives of one or more qualified resident theater operating companies or other consultants in designing the final plans and specifications for the Theater. The Chair and other Members of BITA, and the Grantor shall each be free to consult with others familiar with the project in performing their various functions and responsibilities. The Grantor shall consider any suggestions by the Chair and other Members of BITA in connection with finalizing the plans, provided that the suggestions are in accordance with the Conceptual Theater Plans. The building permit fee and application for the construction of the Theater shall be made by the Grantor, but for the benefits to the County and the Theater Operator as contemplated herein, and the County shall use best efforts to cause any building permit or application fee for the Theater to be waived.

9. Maintenance, Insurance, Taxes and Utilities.

A. As set forth in the Sector Plan and required by Project Plan Approval, the Grantor will provide general site maintenance and site security consistent with general site maintenance and general site security customarily provided at first-class office buildings in the Montgomery County, Maryland area; it being understood, however, that any additional security related to Theater operations including performances shall be the obligation of the Theater Operator, and not of the Grantor; any such additional security shall be contracted for by the Theater Operator, and the Theater Operator shall not be liable for any additional security not hired by the Theater Operator or for which the Theater Operator has not otherwise agreed to pay. The Grantor shall not be required to make any further contribution or assistance of any kind to the Theater, except as set forth above. The specific maintenance that shall be the obligation of the Theater Operator shall include without limitation the

maintenance and snow removal of the exterior area adjacent to the Theater from the back of the curb surrounding the Theater to the Theater, including the sidewalks and landscaping in such area, and replacement of all light bulbs within such area and on the exterior of the Theater; in connection with any snow removal, the Theater Operator shall not use salt or other corrosive materials. The Grantor shall provide snow removal for the Office Building and driveway areas consistent with that typically provide by first class office buildings; the Theater Operator shall have the right to supplement such snow removal on weeknights, weekends and holidays.

B. The Theater Lease (and as reflected in the Form Theater Lease) shall require, in accordance with the provisions of the Sector Plan, that the Theater Operator (i) maintain the Theater in an attractive and safe condition, and that the Theater Operator maintain public liability insurance for all aspects of its operations and use, and (ii) pay all personal property taxes, income and other taxes, utility costs and charges relating to the Theater (other than real estate taxes).

C. The Theater Lease (and as reflected in the Form Theater Lease) shall require that the Theater Operator contribute an annual sum in an amount agreed to by the County and the Theater Operator, but subject to the approval of the Grantor (not to be unreasonably withheld) to a reserve fund ("Reserve Fund") to be held by an escrow agent approved by the County and the Grantor, which shall be used exclusively for repairs, maintenance and alteration of the Theater. The amount of the payment into the Reserve Fund shall be based on a commercially reasonable estimate of the amount needed to keep the Theater in a first class condition, shall specifically include estimated reserves, and may vary and be staggered from year to year. For instance if revenues from the Theater Operator (or any replacement thereof) are expected to be stagnant or to increase at a marginal rate, and if the amount of maintenance is expected to be less costly in the earlier years, during the earlier years more than what is necessary to maintain shall be paid into the Reserve Fund so that sufficient funds will be in the account at a later date when the maintenance costs increase at a rate greater than the revenues of the Theater Operator (or any replacement thereof). The payment shall be based on the future expected needs of Theater assuming that the Theater Operator will be in occupancy in perpetuity, notwithstanding that the Theater Lease may expire in accordance with its terms or otherwise be terminated. It shall be reasonable for the Grantor to withhold approval of the amount if a third-party building

management or construction consultant engaged by the Grantor determines that the amount is not appropriate. During the pendency of any time when the parties have not agreed on the amount, the annual amount shall be \$50,000. Such fund shall be deposited in an interest bearing account in an institution whose accounts are federally insured. Disbursements from the escrow account shall require the consent of the Grantor, not to be unreasonably withheld. During any time that the Theater Lease is not in effect, the Grantor shall have the right to withdraw from the Reserve Fund to fund maintenance, repairs or alterations of the Theater. If, during the effectiveness of the Theater Lease, after notice and a 10-day cure period, the Theater Operator does not properly maintain the Theater or otherwise fails to fulfill any obligation thereunder or hereunder, the Grantor (in addition to any rights of the County under the Theater Lease) shall have the right to withdraw from the Reserve Fund to fund any such obligation, including without limitation, maintenance, repairs or alterations of the Theater.

10. Termination by County.

A. Should the County determine, at any time, that the County's interests are no longer served or enhanced by this exclusive use license, the County shall have the absolute right, at any time, but subject to the provisions of Paragraph 10.B, without causing the Property to be non-conforming under applicable zoning law, to terminate and abandon its involvement in this exclusive use license for the Theater which will have the effect of terminating any and all rights and obligations of the County hereunder.

B. In the event the County desires to terminate its involvement as provided in Paragraph 10.A, the County shall notify BITA. The non-Chair Members of BITA shall then appoint a substitute party for the County under this Agreement, which substitute party shall be either the M-NCPCC, a federal, state or local governmental agency or other non-profit arts entity. Following appointment of such successor entity, the County's involvement in this exclusive use license shall be terminated. Such substitute entity shall then appoint the new Chair of BITA in place of the Director. The new party shall assume the responsibilities of the County hereunder.

C. In no event shall any termination by the County cause the Property or any portion thereof to be non-conforming or unlawful under applicable zoning law.

11. Casualty. In the event of any damage to the Theater, the Grantor shall, to the extent of insurance proceeds made available, repair any elements of the Theater that the Grantor originally constructed, and the Theater Operator shall be responsible for the repair of any portion of the Theater or installation of any items in the Theater which were installed or constructed by the Theater Operator; provided, however, in the event of a substantial casualty to the Office Building and the Theater such that no more than the floor area allowable under a standard method of development remain in the Office Building, and the Grantor does not elect to repair or rebuild the Office Building (or elects to repair or rebuild only a portion of the Office Building such that upon completion of the repair or rebuilding, the Office Building shall contain no more than the floor area allowable under a standard method of development), the Grantor shall have no obligation with respect to repair of the Theater, subject to approval of the Planning Board or its designee to the extent required by the Montgomery County zoning ordinance.

12. Theater Name. The Theater Operator shall have the right to name the Theater and elements within the Theater, and any compensation to be paid for the naming of the Theater or elements therein shall belong solely to the Theater Operator to hold in trust exclusively for the improvement, finishing (including for the purchase of stage lighting and controls, sound equipment, stage equipment, and drapes), alteration or operation of the Theater, which includes payments to the Reserve Fund as required herein. The name of the Theater and elements within the Theater shall last only so long as the then current Theater Operator shall be in possession of the Theater under the Theater Lease. Any subsequent Theater Operator shall have the right to re-name the Theater and elements within the Theater. Grantor reserves the right to approve in advance, from time to time, any name for the Theater and for elements within the Theater, which will not be unreasonably withheld; provided, however, that if the proposed name or names of the Theater and of elements within the Theater are the same as or similar to Grantor, its affiliates or principals or to the name of any other banking or financial institution, Grantor may withhold consent in its sole discretion.

13. Exterior Signs. The only signage permitted for the Theater shall be its marquee sign, and any adornments (e.g., banners) permitted by applicable law. All remaining sign allocations for the Property shall be allocated to and for the Office Building.

Any violation of applicable law with respect to signs or adornments (e.g., banners) affixed to or relating to the Theater shall be enforced solely against the Theater Operator, shall be deemed to apply only to the Theater, and shall not affect the Office Building or the remainder of the Property.

14. Load and Alterations.

(a) The Grantor shall have the right to prescribe the weight, and method of installation and position of safes or other heavy fixtures or equipment within the Theater in accordance with building and industry standards. The Theater shall not be used in such a manner, nor shall there be installed in the Theater any fixtures, equipment or machinery that will place a load upon the floor exceeding the floor load per square foot area which such floor was designed to carry.

(b) No equipment of any kind or nature whatsoever in the Theater which will or may necessitate any changes, replacements or additions to, or in the use of, the water system, heating system, plumbing system, or air conditioning system thereof shall be installed without first obtaining the prior written consent of the Grantor, which consent may be conditioned upon the payment by the Theater Operator for the cost of any modifications to existing systems in the Theater.

15. Miscellaneous.

A. The County agrees to enforce the terms of the Theater Lease. In addition, if the Theater Operator fails to make any payment or perform any act required herein or under the Theater Lease to be performed by the Theater Operator, then after ten (10) days notice from the Grantor, the Grantor may, but shall not be required to, make such payments or perform such act, and the amount or the expense thereof, with interest at the rate of two percent (2%) over the then prime rate of interest as published in "The Wall Street Journal", accruing from the date paid by the Grantor, shall be paid by the Theater Operator to the Grantor immediately upon the Theater Operator's receipt of an invoice for such amount or expense; upon the failure of the Theater Operator to make such payment within sixty (60) days, then the Grantor shall have the right to enforce the the terms and conditions of the Theater Lease, in the place and stead of the Landlord thereunder.

B. Notwithstanding anything herein to the contrary, the obligations of the parties hereunder (other than the obligation to

pay money) shall be excused and extended for a period equal to the period of prevention, delay or stoppage due to strikes, civil riots, war, invasion, fire or other casualty, Acts of God, unavailability of labor or materials, adverse weather conditions not reasonably anticipated, act or failure to act of governmental authorities or other causes beyond the reasonable control of such parties.

C. Time is of the essence of this Agreement, and all dates and time periods specified herein shall be strictly observed.

D. Each party waives trial by jury in connection with any suit brought with respect to this Agreement, and all matters of facts shall be determined by the trial judge.

E. In the event of any action between the Grantor and the Theater Operator (whether or not the County is also a party) the prevailing party in any action (including appeal therefrom) commenced due to the breach hereof shall be entitled to recover its costs, expenses, expert fees and attorney's fees incurred in the enforcement of this Agreement from the non-prevailing party; provided that in no event shall the County be subject to this paragraph, either directly, indirectly or otherwise.

F. The Theater Operator, by execution of the Theater Lease is deemed to have agreed to the terms hereof as if the Theater Operator were a party hereto (including without limitation with respect to 15.D and 15.E).

G. Wherever in the Theater Lease, the County as landlord thereunder is to be indemnified, released, or added as an additional insured or named insured, or to receive the benefit of a waiver of subrogation, reference to "Landlord" therein shall be deemed to include a reference to the Grantor and its lenders, and, to the extent required under the Ground Lease, the ground lessor and its lenders as well. The Grantor shall use reasonable efforts to obtain a waiver of subrogation for the County and the Theater Operator, so long as such waiver shall not result in additional premium charges.

H. During the pendency of any time during which the Theater is vacant and there is no Theater Operator obligated under a Theater Lease, the Grantor shall be responsible for the maintenance of the Theater. In addition, the Grantor shall at all times maintain property insurance on the elements of the Theater originally constructed by the Grantor, and shall use commercially reasonable efforts to obtain a waiver of

subrogation from its property insurer for the benefit of the Theater Operator.

I. If any provision of this Agreement or the application thereof to any person or circumstances shall to any extent be held void, unenforceable or invalid, then the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is held void, unenforceable or invalid shall not be effected thereby, and each provision of this Agreement shall be valid and enforced to the full extent permitted by law.

J. Nothing herein shall limit the right of the Grantor from seeking to amend its Project Plan and the Project Plan Approval.

K. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

L. Subject to the terms of Section 10, in the event the County elects to terminate its involvement in this exclusive use license, then (i) so long as the Theater Operator is in compliance with the Theater Lease, the Grantor agrees not to terminate the Theater Operator, and (ii) the Theater Lease shall remain in effect and the Theater Operator shall attorn to the successor to the County. At all times and notwithstanding any agreement of the parties thereto, the Theater Lease shall operate to provide the Grantor with the protections and benefits contemplated herein.

M. The Grantor acknowledges that this Agreement shall not create an obligation on the part of the County to make any out-of-pocket payments in connection with this Agreement. Without limitation of the foregoing, (i) the County shall have no obligation with respect to costs of construction of the Theater and all related fees and charges associated with the construction of the Theater, including those imposed by utility companies; and (ii) any obligation or liability of the County arising in any way from this Agreement, if any, is subject to, limited by, and contingent upon the appropriation and availability of funds, as well as the types of liabilities and damage limitations stated in the Maryland Local Government Tort Claims Act, currently found at Maryland Code Annotated, Courts & Judicial Proceedings Art., §§5-301, et seq. To the extent permitted by law, (i) the responsibilities and obligations of the County as set forth in this Agreement shall not constitute a waiver by the County of governmental immunity, and Judicial

Proceedings Article Section 5-301, et seq., Annotated Code of Maryland, and (ii) to the extent permitted by law, the County's liability to the Grantor, any lessee or assignee theater operator, its employees, agents, visitors, tenants, licensees, concessionaires, or any third party, for recovery of any loss, expense or judgment under this Agreement shall be limited to the types and amounts of liability as set forth in the Local Government Tort Claims Act, Courts and Judicial Proceedings Article, Section 5-301, et seq., Annotated Code of Maryland.

N. From and after the effectiveness of the grant of this exclusive use license as set forth in Paragraph 2 hereof, the Grantor agrees to add the County as an additional insured under the Grantor's commercial general liability policy. Such policy shall provide that (i) thirty (30) days written notice to the County of cancellation or material change of the policy is required, and (ii) the address for the County as additional insured shall be as follows: Montgomery County Government, Department of Public Works and Transportation, Division of Facilities & Services, 110 North Washington Street, Rockville, Maryland 20850.

O. Without limiting the provisions hereof which provide that the County has no interest in the Theater until the grant of the exclusive use license is effective in accordance with Paragraph 2, the Grantor shall indemnify and hold the County harmless, except in the case of the County's negligence or intentional misconduct, with regard to any loss, expense, damage or cause of action related to a release or storage caused by the Grantor during construction of the Theater of toxic or hazardous materials, radioactive materials, controlled substances and medical waste, including but not limited to, reasonable counsel fees, court costs, litigation related expenses, expenses for legally required clean up, enforcement expenses, and consequential damages to the Property and/or personal injury or death to a third-party resulting from the release use or storage of the referenced materials on the Property caused by the Grantor during construction of the Theater.

P. The Grantor represents that it is the ground lessee of the Property, and that the ground lessor has consented to this Agreement. The Grantor agrees that any conveyance, sale, encumbrance or other disposition of the Grantor's interest will not act to defeat this Agreement, and that there is no encumbrance upon its leasehold interest that is superior to this Agreement. The parties further represent that they have the right to make this Agreement, and each party hereto agrees that

it will execute such further assurances of this Agreement as may be requisite.

Q. Each party agrees to give to the other an estoppel certificate, stating (i) whether a copy of this Agreement including exhibits is true and correct, and whether the same has been amended, (ii) the identity of the parties hereto, (iii) to such party's actual knowledge without any independent inquiry, whether the Theater Operator, or any other party hereto, is in non-monetary default under this Agreement or the Theater Lease, (iv) whether the Theater Operator is in monetary default and the amount of the monetary default, and (v) to such party's actual knowledge without any independent inquiry, such other matters as may reasonably be requested.

R. The Grantor will provide to the County a counterpart original of this Agreement, but not including its exhibits, which the County, at its expense, may record in the applicable land records, but without the exhibits attached.

S. This Agreement including its Exhibits, attached hereto and forming a part hereof, sets forth all the covenants, promises, agreements, conditions and understandings between the Grantor and the County concerning the subject matter of this Agreement and there are no covenants, promises, agreements, conditions, or understandings, either oral or written, between them other than as herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Grantor and the County unless reduced to writing and signed by them.

T. All notices required or permitted hereunder shall be deemed to have been given if delivered (i) personally, (ii) by overnight express courier, or (iii) by certified mail, postage prepaid, addressed to the Grantor or the County, respectively, at the following addresses or to such other addresses as the parties may designate in writing from time to time. All notices sent by hand delivery or overnight express courier shall be deemed effective when delivered, and notices delivered by certified mail shall be deemed effective three (3) days after mailing with the U.S. Postal Service.

To the Grantor: Mr. Page Lansdale
 Chevy Chase F.S.B.
 8401 Connecticut Avenue
 Chevy Chase, MD 20815

with a copy to:

Leslie Nicholson, Vice President and
General Counsel
Chevy Chase F.S.B.
8401 Connecticut Avenue
Chevy Chase, MD 20815

To the County:

Montgomery County, Maryland
Department of Public Works and
Transportation
Division of Facilities and Services
Office of Real Estate Management
110 North Washington Street, Room 318
Rockville, Maryland 20850
Attn: Chief, Division of Facilities
Services

with a copy to:

County Attorney
Montgomery County
101 Monroe Street, Third Floor
Rockville, Maryland 20850

and

Director
Department of Recreation
12210 Bushey Drive
Silver Spring, Maryland 20902

To the Theater Operator: at the Theater

U. Neither this Agreement nor the Theater Lease shall
supersede the requirements of the approved Project Plan or Site
Plan for the proposed development.

IN WITNESS WHEREOF, the Grantor and the County have executed this Agreement as of the date first above written.

GRANTOR:

Witness:

Theresa L. Landsdale

CHEVY CHASE BANK, FSB

By: Theresa L. Landsdale
Print Name: J. PAGE LANDDALE
Its: GBP
Date: 11/15/99

MONTGOMERY COUNTY, MARYLAND

Candy Doh

By: Bruce Romer
Bruce Romer, Chief
Administrative Officer
Date: 10-26-99

Recommended by:

MONTGOMERY COUNTY DEPARTMENT OF
RECREATION

By: Greg Bayor
Greg Bayor, Director
Date: 10-26-99

APPROVED AS TO FORM AND LEGALITY,
OFFICE OF COUNTY ATTORNEY

By: Richard H. Mulrane
Associate County Attorney
Date: 10-21-99

STATE OF MARYLAND :
: SS:
COUNTY OF MONTGOMERY :

I HEREBY CERTIFY that on this 26th day of October, 1999, before me, the undersigned officer, personally appeared BRUCE ROMER, who acknowledged himself to be the Chief Administrative Officer of MONTGOMERY COUNTY, MARYLAND, a body politic, and that he, as such officer, being authorized to do so, executed the foregoing Agreement for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)

Cindy A. Sullivan
Notary Public

MY COMMISSION EXPIRES:

CINDY A. SULLIVAN
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires January 31, 2000

STATE OF MARYLAND :

: SS:

COUNTY OF MONTGOMERY :

I HEREBY CERTIFY that on this 20th day of October, 1999, before me, the undersigned officer, personally appeared GREG BAYOR, who acknowledged himself to be the Director of Montgomery County Department of Recreation, a department of Montgomery County, Maryland, a body politic, and that he, as such officer, being authorized to do so, executed the foregoing Agreement for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)

Cindy A. Sullivan
Notary Public

MY COMMISSION EXPIRES:

CINDY A. SULLIVAN
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires January 31, 2000

STATE OF MARYLAND :
COUNTY OF MONTGOMERY : ss:

I HEREBY CERTIFY that on this 15 day of November, 1999, before me, the undersigned officer, personally appeared J. Page Lansdale, who acknowledged himself/herself to be the GVP of CHEVY CHASE BANK, FSB, and that he/she, as such officer, being authorized to do so, executed the foregoing Agreement for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)

MY COMMISSION EXPIRES: 9/1/00

Sheila A. Bera
Notary Public Sheila A. Bera

ATTORNEY CERTIFICATION: This Agreement has been prepared by or under the supervision of an attorney duly admitted to practice before the Court of Appeals of Maryland.

Charles T. Hethway
Charles T. Hethway, Attorney

G:\Dept\RE\CTH\55468\GrantOrDedicationTheaterfinal4.doc

EXHIBIT D

Conceptual Theater Plans

The conceptual plans for the Theater including sheets entitled "Ground Level Plan", "Upper Level Plan", and "Lower Level Plan", "Theater Section", and textual material entitled "General Finishes Description" filed as part of the Grantor's Project Plan Application Number 9-98003 for the development of the Property.

EXHIBIT A

FORM THEATER LEASE (NOT ATTACHED)

EXHIBIT E
RENT COMMENCEMENT CERTIFICATE

THIS RENT COMMENCEMENT CERTIFICATE ("Certificate") is made this _____ day of _____, ___, by and between MONTGOMERY COUNTY, MARYLAND ("County"), and ROUND HOUSE THEATRE, INC., a Maryland corporation ("Tenant").

WHEREAS, County and Tenant have entered into an Agreement To Transfer Exclusive Right To Use dated _____, 1999 ("Lease");

WHEREAS, the Rent Commencement date of the term of the Lease, as described in Section 6B(1) thereof, is dependent upon the occurrence of certain events; and

WHEREAS, those certain events have occurred and County and Tenant now desire to specify the Rent Commencement Date of the Lease for purposes of establishing the term of the Lease and the date rent begins to accrue under the Lease.

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, County and Tenant warrant and represent each to the other as follows:

1. The Rent Commencement Date is _____, ____.
2. The Commencement Date of the initial term of the Lease is _____, ____.
3. The Expiration Date of the initial term of the Lease is _____, ____.

IN WITNESS WHEREOF, County and Tenant do hereby execute, seal and deliver this Certificate on the day and year first above written.

WITNESS:

COUNTY:

MONTGOMERY COUNTY, MARYLAND

By: _____
County Executive

WITNESS:

TENANT:

ROUNDHOUSE THEATRE, INC.

By: _____
President