

55.

MASTER LEASE AGREEMENT

BETWEEN

MONTGOMERY COUNTY, MARYLAND (landlord)

And

ROUND HOUSE THEATRE, INC. (tenant)

Dated June 21, 2004

## LIST OF EXHIBITS

- Exhibit A Description of Silver Theatre and Annex Addition
- Exhibit A-1 Description of Theatre
- Exhibit A-2 Description of Round House Theatre Education Center
- Exhibit B Intentionally Deleted.
- Exhibit C Round House Services
- Exhibit D Form of Annual Budget Plan
- Exhibit E List of Theatre Plans
- Exhibit E-1 List of Round House Theatre Education Center Plans
- Exhibit F Loading Dock and Alley Area
- Exhibit G Alley Reciprocal Easement Agreement
- Exhibit H Mobile Production Easement
- Exhibit I See Exhibit A-1
- Exhibit J County Maintenance Services and Round House Maintenance Obligations
- Exhibit K Fixtures and Equipment included with the Theatre
- Exhibit L Declaration of Easements
- Exhibit M Ground Lease for Public Spaces

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MASTER LEASE AGREEMENT  
BETWEEN THE ROUND HOUSE THEATRE, INC.  
AND MONTGOMERY COUNTY, MARYLAND

THIS MASTER LEASE AGREEMENT (the "Lease") is entered into this 21<sup>st</sup> day of June, 2004 between MONTGOMERY COUNTY, MARYLAND, a body corporate and politic (the "County") and ROUND HOUSE THEATRE, INC., a non-profit corporation organized under the laws of the State of Maryland ("ROUND HOUSE").

RECITALS

RECITAL 1. The County is a political subdivision with home rule powers and governmental functions. One governmental function of the County's is the provision of public recreation and cultural enhancement for the citizens and businesses of Montgomery County, Maryland.

RECITAL 2. The County owns a building in Downtown Silver Spring known as the Silver Theater and Annex Addition located at 8633 and 8641 Colesville Road in Silver Spring, Maryland as more particularly described in Exhibit A. A portion of the building, with an address of 8641 Colesville Road, is hereby leased to ROUND HOUSE as Tenant as shown on Exhibit A-1. It is expressly understood that a portion of the Silver Theatre and Annex Addition is leased to the American Film Institute. This area is delineated on Exhibit A-1 and is specifically excluded from the leased premises. The premises demised to ROUND HOUSE is referred to as the "Theater."

RECITAL 3. The County owns a building in Downtown Silver Spring known as the Wayne Avenue Garage located at 925 Wayne Avenue in Silver Spring, Maryland. A portion of the building comprising the Wayne Avenue Garage is hereby leased to ROUND HOUSE as Tenant as shown on Exhibit A-2. The premises demised to ROUND HOUSE in the Wayne Avenue Garage building is referred to as the "Round House Theatre Education Center."

RECITAL 4. The Theater and the Round House Theatre Education Center are located

and included in an area designated for urban renewal by the County pursuant to its authority under Montgomery County Code 1994 as amended, Section 56-10 *et seq.*

RECITAL 5. The County has entered into a General Development Agreement dated April 20, 1998, as amended with PFA Silver Spring, LLC ("PFA") for the redevelopment of the retail urban renewal area in accordance with the Amended Urban Renewal Plan adopted by the County.

RECITAL 6. The County has contracted with PFA to provide the design and construction of the Theater and the Round House Theatre Education Center.

RECITAL 7. ROUND HOUSE is a not-for-profit organization dedicated to the live performing arts and education in furtherance of the performing arts.

RECITAL 8. ROUND HOUSE desires to support the downtown areas of Montgomery County by locating its theatres and schools in these areas.

RECITAL 9. ROUND HOUSE is currently locating its mainstage in downtown Bethesda (the "Mainstage"), and is locating a live stage in downtown Silver Spring at the Theater (the "Livestage") along with a school for the performing arts at the Round House Theatre Education Center and offices and classrooms to be located in the Civic Building to be constructed in the Silver Spring Urban Renewal Area (collectively, the educational and other programs and operations at the Civic Building and in the Wayne Avenue Garage retail space are referred to as the "Theatre School"). The Mainstage, Livestage and Theatre School, along with any other ROUND HOUSE operations or programs in Montgomery County are referred to herein as the "ROUND HOUSE Facilities."

RECITAL 10. The space in the Civic Building to be occupied by the Theatre School will be added to this Master Lease by amendment (in accordance with the terms of such amendments) when it is completed and ready for occupancy.

RECITAL 11. The County is supporting ROUND HOUSE in its overall mission as described above through favorable lease terms for the ROUND HOUSE Facilities. In recognition of the significant support of ROUND HOUSE's endeavors by the County, the parties agree that if ROUND HOUSE's collective operations of, and at, the ROUND HOUSE Facilities are self-sufficient, then rental shall accrue for the Theater at 25% of any Net Revenues (defined below) beyond ROUND HOUSE's then current expenses and Goal for the Operating Reserve

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If they become self sufficient, they pay rent

Fund and Endowment Account (defined below).

RECITAL 12. The State of Maryland has approved the County's request to designate a portion of the Silver Spring Central Business District (including the location of the Theater) as an Arts and Entertainment District. ROUND HOUSE and the County intend that the Theater be used to support and further implement the County's governmental objective of providing recreation and cultural enhancement programs. In furtherance of this objective, ROUND HOUSE will use the Theater to present and program live performances, and ROUND HOUSE will use the Round House Theatre Education Center and the Theatre to present educational programs that encourage the development of live theater as an art form, all as further described in Exhibit B. The educational uses and programming will be targeted to a broad audience including, but not limited to Montgomery County Public Schools and will include training in all areas of the theater: performance, technical development, applied practical education, teamwork skills, and imbuing all with the sense of achievement that live performance brings.

RECITAL 13. The Theater has been designed and constructed as part of the Redevelopment Project in accordance with the design shown on the Theater Plans which have been reviewed and approved by ROUND HOUSE and which reflect the ROUND HOUSE corporate mission.

RECITAL 14. The Round House Theatre Education Center has been designed and constructed in accordance with the design shown on the Round House Theatre Education Center Plans which have been reviewed and approved by ROUND HOUSE and which reflect the ROUND HOUSE corporate mission.

RECITAL 15. ROUND HOUSE and the County desire to enter into this Lease upon the terms and purposes herein stated.

NOW THEREFORE in consideration of ROUND HOUSE's providing the services described in Exhibit C (the "ROUND HOUSE Services") and in consideration of the terms and conditions of this Lease, the County agrees to lease the Theater and the Round House Theatre Education Center to ROUND HOUSE and ROUND HOUSE agrees to lease the Theater and the Round House Theatre Education Center from the County. The terms of the lease are as follows:

1. DEFINITIONS:

- (a) **Affiliate** means any person or entity, whether for profit or not-for-profit, or public or

private, that directly or indirectly is controlled by or that is under common control by ROUND HOUSE and another entity.

- (b) **Annual Budget Plan** means a budget based on an annual operating plan either in the form (but not necessarily with the same content) attached hereto as Exhibit D, or in some other mutually acceptable format, that projects Revenues, Expenses, Operating Reserve Fund balance and expenditures, and Net Revenues, if any, for full operation of any ROUND HOUSE Facilities and satisfying ROUND HOUSE's performance of ROUND HOUSE Services.
- (c) **Applicable Law** means any federal, state or local law, regulation, or permit applicable to the Theater, the Round House Theatre Education Center, the Redevelopment Project, or the parties to this Lease. Applicable Law includes orders of courts or administrative agencies having jurisdiction over any of the parties hereto, this Lease, the Theater, the Round House Theatre Education Center, or the Redevelopment Project.
- (d) **Approval and Approved**, whenever required in this Lease, means the written approval by an authorized representative of the party from whom approval is required. Unless the context indicates that "Approval" is within the sole discretion of the party from whom an Approval is sought, an approval shall not be unreasonably withheld, conditioned or delayed. Approval by a party does not relieve the other party of any obligations that it has under this Lease or under Applicable Law.
- (e) **Closed Event** means any use of, or at, any ROUND HOUSE Facilities that is not open to the general public through the purchase of tickets from ROUND HOUSE or someone selling tickets on behalf of ROUND HOUSE.
- (f) **County** means Montgomery County, Maryland a political subdivision of the State of Maryland in its capacity as property owner and signator to this Lease. County does not mean Montgomery County in the capacity in which it regulates, and/or issues licenses, permits or approvals.
- (g) **Endowment Account** means one or more accounts, at a bona fide, federally insured financial institution or other conventional investment house regulated by the Securities and Exchange Commission, that is specifically designated for use only at or on behalf of ROUND HOUSE Facilities, including, but not limited to, funds that are designated for

the ROUND HOUSE Services, and/or ROUND HOUSE's use, management, operation, maintenance, improvement, or repair of ROUND HOUSE Facilities. The County acknowledges that ROUND HOUSE intends to maintain the Endowment Account at a level that is five (5) times its annual operating expenses for ROUND HOUSE Facilities as recommended by the National Arts Strategies in its' Capitalization Targets for Nonprofit Arts Organizations. The Endowment Account shall be funded by contributions to ROUND HOUSE by third parties, which funds are specifically donated or intended for use at or on behalf of ROUND HOUSE Facilities. The Endowment Account may include certificates of deposit and similar instruments issued by similar bona fide federally insured financial institutions whether issued by institutions in the metropolitan Washington, D.C. area or otherwise.

(h) **Excluded Expenses** means ROUND HOUSE costs and expenses that are not Expenses under this Lease for purposes of calculating Net Revenues

Excluded Expenses include, but are not limited to expenditures by ROUND HOUSE or others for:

1. any amount of County overhead associated with ROUND HOUSE Services, including, but not limited to any overhead associated with costs of use, operation, maintenance, programming and upkeep of the any ROUND HOUSE Facilities unless such sums are actually paid by ROUND HOUSE;
2. depreciation of capital items;
3. payments to the Operating Reserve Fund (defined below);
4. deposits into and reinvestment of interest in the Endowment Account; and
5. allocations to a Restricted Account

(i) **Excluded Revenues** means funds received by ROUND HOUSE that are not Revenues under this Lease for purposes of calculating Net Revenues and that are maintained in an Endowment Account or maintained as a Restricted Account.

Excluded Revenues include, but are not limited to:

1. The principal from any Naming Rights Agreement or endowment made to ROUND HOUSE in connection with any ROUND HOUSE Facilities, or for ROUND

HOUSE's activities at, or arising from any ROUND HOUSE Facilities where the endowment or proceeds from the Naming Rights Agreement are maintained in either an Endowment Account or a Restricted Account;

2. Charges, credits, compensation and income to third parties unaffiliated with ROUND HOUSE that engage in a Closed Event except to the extent of any portion of such charges, credits, compensation or income that is paid to ROUND HOUSE;
  3. Donated capital assets; and
  4. Capital assets purchased by ROUND HOUSE from a source of funds other than Revenues.
- (j) **Expenses** means, for each Fiscal Year or portion of a Fiscal Year, the aggregate amount expended by ROUND HOUSE for the performance of ROUND HOUSE Services or in connection with any ROUND HOUSE Facilities and which are to be reported on the accrual basis of accounting consistent with Generally Accepted Accounting Principles ("GAAP") for nonprofit organizations, except as otherwise set forth or required in this Lease.

Expenses include, but are not limited to expenditures by ROUND HOUSE for:

1. use, operation, programming, maintenance, repair, management (including but not limited to accounting, legal and professional fees), and upkeep of the ROUND HOUSE Facilities (including but not limited to consultant's fees);
2. purchase of capital items for any ROUND HOUSE Facilities;
3. replacement of equipment at any ROUND HOUSE Facilities;
4. cost of goods sold related to the sale of food, drink, or merchandise at or from the ROUND HOUSE Facilities or related to programming of the ROUND HOUSE Facilities (whether on-site or elsewhere);
5. salaries and other employee costs of personnel of ROUND HOUSE who's work is allocated on a regularly scheduled full or part-time basis to ROUND HOUSE Services, and/or to ROUND HOUSE Facilities shall, to the extent of such allocation, be considered Expenses;
6. payment of taxes, assessments and other similar charges related to ROUND HOUSE

Facilities; and

7. costs of items paid for out of the Operating Reserve Fund and the costs of other improvements or other expenditures at or on behalf of the ROUND HOUSE Facilities, or spent in fulfillment of the ROUND HOUSE Services that are paid for out of an Endowment Account, a Restricted Account, or out of the proceeds of any Naming Rights Agreement.
- (k) **Fiscal Year** means the one-year period beginning July 1 of the applicable year through the next succeeding twelve (12) months expiring on June 30.
- (l) **Lease Commencement Date** means March 14, 2003 for the Theatre and June 18, 2004 for the Round House Theatre Education Center.
- (m) **Mobile Production Unit** means a vehicle that houses television and radio or other media transmission, recording and production equipment relating to live broadcasts or other transmissions or recordings of events or activities taking place at or in connection with the Theater.
- (n) **Naming Rights Agreement** means an agreement between ROUND HOUSE and a person or entity that donates to ROUND HOUSE, or purchases from ROUND HOUSE: (1) the privilege of having any portion of any ROUND HOUSE Facilities bear the name of a person or entity designated by the donor or purchaser (which designation, if at the Theater or the Theatre School, will require the prior Approval of the County); or (2) have the furniture, fixtures or equipment at any of the ROUND HOUSE Facilities bear the name of a person or entity designated by the donor or purchaser (which designation will not require the Approval of the County); and/or (3) the privilege of having any festival, program, activity or event involving, occurring at, or arising from any of the ROUND HOUSE Facilities bear the name of a person or entity designated by the donor or purchaser (which designation will not require the Approval of the County). The parties acknowledge that there may be multiple requests and agreements for such naming rights.
- (o) **Net Revenues** means the Revenues remaining after deducting Expenses from the Revenues. Net Revenues are to be calculated on an "accrual basis" according to GAAP.
- (p) **Invitation Only Event** means an event that is by invitation only, at, or in connection with, the ROUND HOUSE Facilities and to which ROUND HOUSE controls admission.

- (q) **Notice** means any notice that is required to be given to or by either party to this Lease. Notices must be in writing from a person authorized to give the notice and must be given in accordance with the requirements of this Lease.
- (r) **Operating Reserve Fund** means an account maintained by ROUND HOUSE for the benefit of the ROUND HOUSE Facilities in accordance with Article 9 of this Lease.
- (s) **Original Program** means a new Program or Invitation Only Event which is produced at (or directly in connection with) any of the ROUND HOUSE Facilities, and takes place or is originally released at any of the ROUND HOUSE Facilities.
- (t) **PFA** means PFA Silver Spring, LLC, the designated developer of the Redevelopment Project, or any of its affiliates, or such other entity designated by the County as the developer of the Redevelopment Project if for some reason, PFA Silver Spring, LLC no longer holds such designation from the County.
- (u) **Preliminary Annual Budget Plan** means a draft of the Annual Budget Plan.
- (v) **Program** means any public or private event, program, festival, seminar or other use of the Theater, occurring at, or in connection with the Theater.
- (w) **Public Program or Public Programming** means any use of, or at, the Theater that is open to the general public in whole or in part through the purchase or provision of tickets from ROUND HOUSE or someone selling or providing tickets on behalf of ROUND HOUSE.
- (x) **Restricted Account** means money received by ROUND HOUSE in connection with any of the ROUND HOUSE Facilities that is reserved for a specific ROUND HOUSE Facilities purpose or programming and that is maintained on ROUND HOUSE's books as a "restricted account."
- (y) **Revenues** means, for each Fiscal Year or portion of a Fiscal Year, the aggregate gross dollar amount received by ROUND HOUSE in connection with the performance of ROUND HOUSE Services or in connection with any of the ROUND HOUSE Facilities and which, except as otherwise set forth or required in this Lease, are to be reported on the accrual basis of accounting consistent with GAAP for nonprofit organizations. Revenues include, but are not limited to:
- (1) One hundred percent (100%) of the price, fees, rents or other amounts charged

for:

- (i) all services, tickets, or Programs at or in connection with the ROUND HOUSE Facilities (except where such price, fees, rents or other amounts are considered Excluded Revenues);
  - (ii) all donations made on behalf of or in connection with any of the ROUND HOUSE Facilities, including funds provided by the County in connection with the ROUND HOUSE Facilities;
  - (iii) licensing, concession or other fees for use of any portion of any of the ROUND HOUSE Facilities by third parties;
  - (iv) paid advertising in connection with Programs or use of any of the ROUND HOUSE Facilities;
  - (v) goods, wares, or merchandise sold at, in, on, or from any of the ROUND HOUSE Facilities;
  - (vi) beverages and food sold by ROUND HOUSE, at, in, on or from any of the ROUND HOUSE Facilities; or
  - (vii) amounts retained by ROUND HOUSE as its share of the proceeds from any other person or entity occupying or using any portion of any of the ROUND HOUSE Facilities;
- (2) One hundred percent (100%) of funds withdrawn from Endowment Accounts or transferred out of Restricted Accounts or from the Operating Reserve Fund shall be considered Revenues in the year in which they are withdrawn from such accounts at which time the costs and expenses paid therewith shall be eligible to be considered Expenses for the purpose of calculating Net Revenues hereunder.
- (3) One hundred percent (100 %) of the price, fees, rents or other amounts charged for all services, activities or other operations which are directly related to the ROUND HOUSE Facilities, and their respective activities which are sold or rendered at, in, on or from the ROUND HOUSE Facilities by ROUND HOUSE or that are retained by ROUND HOUSE as its share of the proceeds from any other person or entity occupying or using any portion of the such facilities;

- (4) One hundred percent (100%) of the interest and investment income that is not reinvested in an Endowment Account;
- (5) Money given by third parties to support the costs of any Program scheduled at or in connection with the ROUND HOUSE Facilities, unless such sums are placed in a Restricted Account or an Endowment Account in which case they shall not become Revenues until released therefrom; and
- (6) One hundred percent (100%) of income, royalties, receipts or other amounts net of related expenses earned by ROUND HOUSE or an Affiliate as its share of the proceeds from the off-site sale, rent or distribution of any product or merchandise created in association with an Original Program.

To the extent actually received and retained (prior to deduction of Expenses) by ROUND HOUSE or an Affiliate, Revenues includes any charge, credit, compensation, interest and income of any kind pursuant to Sub-articles 1 through 6 above, including but not limited to cash and payment of checks, drafts, vouchers, notes and instruments.

(z) **ROUND HOUSE** means Round House Theatre, Inc., a not-for-profit corporation organized under the laws of the State of Maryland with its mailing address being P.O. Box 30688, Bethesda, Maryland 20824-0688 (or such other location as it may designate in writing).

(aa) **ROUND HOUSE Account** means the account(s) set up and maintained by ROUND HOUSE for the deposit of Revenues and payment of Expenses in the normal course of business, and for other day-to-day operations of any of the ROUND HOUSE Facilities, and the performance of ROUND HOUSE Services. Revenues received shall be deposited into the ROUND HOUSE Account unless otherwise specifically set forth herein. Payments required to be made by ROUND HOUSE shall be made from the ROUND HOUSE Account unless otherwise specifically set forth herein. ROUND HOUSE Accounts will be maintained at a bona fide, federally insured financial institution or other conventional investment house regulated by the Securities and Exchange Commission. Nothing herein is intended to restrict Round House's right to purchase Certificates of Deposit and similar instruments issued by similar bona fide federally insured institutions.

(bb) **ROUND HOUSE Services** means the services to be provided by ROUND HOUSE as consideration for this Lease as described in Exhibit C.

(cc) **Round House Theatre Educational Center Plans** means the detailed construction drawings and specifications prepared by Walker Parking listed on Exhibit E-1 attached hereto, which have been approved by ROUND HOUSE and the County (even if not actually physically attached), and any amendments thereto that have been Approved by the County and ROUND HOUSE. A complete set of the documents that constitute the documents listed in Exhibit E-1 shall be maintained at the Montgomery County Department of Public Works and Transportation, Division of Facilities and Services and at the Round House Theatre Educational Center when it is completed.

(dd) **Self Sustaining Operation(s)** means, for any Fiscal Year that the collective operations of the ROUND HOUSE Facilities generate Revenues that at least equal the sum of: (1) Expenses for that Fiscal Year; plus (2) any debts carried over from shortfalls in prior Fiscal Years; plus (3) Goals for the Operating Reserve Fund and Endowment Account.

(ee) **Theater** means the portion of the annex to the Silver Theater hereby leased by ROUND HOUSE and located at 8641 Colesville Road which is described in Exhibits A and A-1, and as more particularly described in the Theater Plans.

(ff) **Theater Plans** means the detailed construction drawings and specifications prepared by Gensler and Associates listed on Exhibit E attached hereto, which have been approved by ROUND HOUSE and the County (even if not actually physically attached, and any amendments thereto that have been Approved by the County and ROUND HOUSE. A complete set of the documents that constitute the documents listed in Exhibit E shall be maintained at the Montgomery County Department of Public Works and Transportation, Division of Facilities and Services and at the Theater when it is completed.

## 2. INCORPORATION OF RECITALS AND DEFINITIONS

The recitals and definitions are incorporated into this Lease.

## 3. PREMISES: THEATER AND EQUIPMENT AND ROUND HOUSE THEATRE EDUCATION CENTER

The County leases the Theater and the Round House Theatre Education Center to ROUND

HOUSE and ROUND HOUSE leases the Theater and the Round House Theatre Education Center from the County. The Theater is being leased to ROUND HOUSE with the equipment and fixtures listed on Exhibit K.

4. TERM

Unless earlier terminated due to default of this Lease by ROUND HOUSE or due to termination for convenience as provided in Article 6, the initial term of this Lease is approximately ten (10) years commencing on the Lease Commencement Date and expiring on June 30, 2014. Unless extended pursuant to the provisions of Article 5 hereof, the term will expire at midnight on June 30, 2014.

5. RENEWALS

Provided that the early termination rights described in Article 6 have not been exercised, upon conclusion of the initial lease term cited in Article 4 or any extension pursuant to this Article 5, this Lease shall be automatically renewed upon the same provisions and conditions, except as stated herein, or as then in effect through amendment to the Lease, for up to four (4) additional, consecutive ten (10) year terms. The parties may agree by amendment to this Lease to additional renewal periods in addition to those provided for in the preceding provisions of this Article.

6. TERMINATION FOR CONVENIENCE

(a) **Termination by the County.** The County may terminate this Lease for any or all of the ROUND HOUSE Facilities covered by this Lease for convenience upon not less than twelve (12) months Notice to ROUND HOUSE. The Lease, or its applicability to any of the ROUND HOUSE Facilities, shall terminate on the date specified in the notice and ROUND HOUSE shall deliver the premises to the County in accordance with the provisions of Article 34. The County will work with ROUND HOUSE to ensure that the date of any such termination for convenience does not occur while there is any outstanding Program scheduled for the Theater. Once the County provides any such Notice of termination for convenience, ROUND HOUSE must not schedule any new Programs beyond the date given in the Notice for such termination.

(b) **Termination by ROUND HOUSE.** ROUND HOUSE may terminate this Lease, or its

applicability to any ROUND HOUSE Facilities expressly subject to this Lease, upon twelve (12) months advance written notice to the County. The Lease, or its applicability to any of the ROUND HOUSE Facilities, shall terminate on the date specified in the notice and ROUND HOUSE shall deliver the premises to the County in accordance with the provisions of Article 34.

7. **CONSIDERATION**

(a) **Base Rent.** In consideration of ROUND HOUSE providing the ROUND HOUSE Services to reasonable standards of excellence for non-profit live stage, theater and public programming, and theater education programs, the County leases to ROUND HOUSE at no monetary rental the Theater and the furniture, fixtures and equipment, if any, listed in Exhibit K and the Round House Theatre Education Center. The parties agree that rent is being provided by ROUND HOUSE by performance of the ROUND HOUSE Services which are supported by ROUND HOUSE's expertise, and the good will of the ROUND HOUSE name and brand, and "in kind" payment is being made for the ROUND HOUSE Services by the County's construction of the Theater and the Round House Theatre Education Center and the entering into this Lease for the Theater and Round House Theatre Education Center. ROUND HOUSE shall commence Round House Services (scheduling on a year round basis) within ninety (90) days following the Lease Commencement Date as applicable to the Theater and the Round House Theatre Education Center.

(b) **Additional Rent.** ROUND HOUSE shall engage in fundraising as necessary so that it can provide ROUND HOUSE Services on a full time basis, year round and attempt to attain Self Sustaining Operations. In the event that ROUND HOUSE achieves Self Sustaining Operations, ROUND HOUSE shall, as additional rent, pay the County, twenty-five percent (25%) of the Net Revenues within one hundred and ninety-five (195) days following the commencement of the Fiscal Year immediately following the Fiscal Year in which the Net Revenues were realized. Other sums of money due and owing under this Lease are also additional rent and shall be paid within thirty (30) days Notice that such sums are due under the Lease. The County shall provide ROUND HOUSE with copies of backup information necessary to explain the determination of any such additional rent.

(c) **Further Consideration.** As further consideration for this Lease and to aid the County in furthering the development of arts and entertainment and economic development

within Montgomery County, ROUND HOUSE agrees to provide the County with the following: Two (2) complementary (no charge) tickets to all Public Programs, provided ROUND HOUSE may reissue any such complementary tickets which are not claimed (picked up or requested to be held in "will call" for pickup) by the County within twenty-four (24) hours of such Program. Further, for Public Programs with a performance period that is greater than seven (7) days, the County may purchase up to five percent (5%) of the total tickets available for such Public Program at the lowest price (whether for members, students, seniors or otherwise) charged by ROUND HOUSE (or on ROUND HOUSE's behalf) for tickets for such Public Program. To avail itself of this reduced rate, the County must purchase such tickets at least thirty days prior to the date of the Public Program for which the tickets are purchased. The mutual terms and conditions of this Lease are further consideration by each party to enter into this Lease.

(d) **Material Inducements.** The parties agree that the consideration recited herein is sufficient and that the base rent, additional rent and further consideration are all material inducements to the County to enter into this Lease..

#### **8. THEATER FACILITIES REVENUES AND ANNUAL BUSINESS PLAN**

(a) **Revenues.** ROUND HOUSE must develop programs and provide the ROUND HOUSE Services and shall operate the Theater and the Round House Theatre Education Center in a manner that is consistent with ROUND HOUSE's purpose. ROUND HOUSE shall operate the ROUND HOUSE Facilities, including the Theater and the Round House Theatre Education Center in a manner that is reasonably intended by ROUND HOUSE to ultimately generate sufficient Revenues to achieve and maintain Self Sustaining Operations. ROUND HOUSE makes no representations or warranties that Self Sustaining Operations will ever be achieved or, if achieved, maintained during the term (or any renewals) of this Lease. Failure to achieve Self Sustaining Operations will not be a default by ROUND HOUSE unless it is due to a failure to provide ROUND HOUSE Services or to operate the ROUND HOUSE Facilities. Nothing herein is intended to compromise ROUND HOUSE in its programming or pursuit of its currently chartered purposes.

(b) **Preliminary Annual Budget Plan and Annual Budget Plan.** By February 1<sup>st</sup> of each year for the following Fiscal Year, ROUND HOUSE must provide the County with its

Preliminary Annual Budget Plan and supporting documentation, including but not limited to an annual operating plan, and its most recently completed financial statement that includes Endowment Account and Restricted Account balances. ROUND HOUSE shall provide the County with such other supporting documentation as the County may reasonably request. ROUND HOUSE must provide the County with its Annual Budget Plan by April 1<sup>st</sup> of each year.

(c) **Allocation of Net Revenues.** The parties acknowledge that the ROUND HOUSE operates as a not-for-profit enterprise, however, in any Fiscal Year in which there are Net Revenues, ROUND HOUSE and the County agree that Net Revenues shall be distributed first to maintain any required balance in the Endowment Account and the Operating Reserve Fund, second to repay any loans from the County, third to pay additional rent as described above, and then any remaining Net Revenues shall be retained by ROUND HOUSE.

#### 9. OPERATING RESERVE FUND

The parties agree that ROUND HOUSE will establish the Operating Reserve Fund, which shall be funded from Net Revenues, if any, and other sources as deemed appropriate by ROUND HOUSE. The Operating Reserve Fund shall be established and maintained to pay for: (a) necessary capital repairs to ROUND HOUSE Facilities and replacements of furniture, fixtures and equipment necessary to provide the ROUND HOUSE Services; (b) maintenance of any of the ROUND HOUSE Facilities beyond that budgeted for a given Fiscal Year by the County or ROUND HOUSE and (c) ongoing development of Public Programs and other ROUND HOUSE Services at the Theater, Round House Theatre Education Center, and any other ROUND HOUSE Facilities. The Operating Reserve Fund shall be maintained by ROUND HOUSE in separate, interest-bearing accounts at a bona fide federally insured financial institution. ROUND HOUSE intends to maintain six (6) months of operating expenses in the Operating Reserve Fund. Disbursements shall be made from the Operating Reserve Fund in amounts and for purposes Approved by the parties. If any sums remain in the Operating Reserve Fund upon the expiration of the Lease Term or termination of the Lease for other than the Convenience of the County as provided in Article 6(a), and there are no programmed or anticipated capital repairs to any of the ROUND HOUSE Facilities, the Operating Reserve Fund shall be distributed as follows: first, to pay expenses related to the ROUND HOUSE Facilities,

second, to reimburse the County any outstanding amounts it may have loaned to ROUND HOUSE; and third, twenty-five percent (25%) of the remaining funds to the County and the remaining seventy-five percent (75%) to ROUND HOUSE.

**10. RECORDS AND REPORTING**

(a) **Books and Records.** ROUND HOUSE shall maintain and keep, or shall cause to be maintained and kept, in accordance with GAAP full and accurate books and records at the Theater, at ROUND HOUSE's headquarters, or at such other location as shall be Approved by the County, of all Expenses, Revenues, Excluded Expenses and Excluded Revenues, the ROUND HOUSE Account, the Operating Reserve Fund, Endowment Accounts and Restricted Accounts related to the ROUND HOUSE Facilities and of all business conducted or transacted in, upon, from, or relating to the ROUND HOUSE Facilities (the "Books and Records"). ROUND HOUSE shall make available to the County upon reasonable request the Books and Records. ROUND HOUSE shall retain and maintain the Books and Records for no less than five (5) years after the end of the Fiscal Year for which they account. At the County's option and expense it may have an audit prepared of the Books and Records described above and ROUND HOUSE shall make the Books and Records available for that purpose.

(b) **Annual Financial Statements.** ROUND HOUSE shall provide the County with a copy of ROUND HOUSE's annual financial statements relating to the Revenues, Expenses, Excluded Revenues, Excluded Expenses, outstanding amounts drawn from the Endowment Accounts and Restricted Accounts maintained in connection with the ROUND HOUSE Facilities, Naming Rights Agreements and the Operating Reserve Fund. The annual financial statements must be prepared in accordance with GAAP and shall be audited by ROUND HOUSE's certified public accountants. In the event that the County wishes to have an additional audit performed by an accounting firm Approved by the County, it may do so at the County's expense. The financial statements are to be prepared at ROUND HOUSE's expense and provided to the County within one hundred and eighty (180) days after the end of the Fiscal Year.

**11. USE OF THE THEATER AND ROUND HOUSE THEATRE EDUCATION CENTER**

It is understood and agreed between the parties that the use of the Theater and the Round House Theatre Education Center is for provision of the ROUND HOUSE Services by ROUND HOUSE. ROUND HOUSE agrees to use, occupy and operate the Theater and the Round House Theatre Education Center solely for the purposes set forth in this Article and in accordance with Exhibit C. The Theater and the Round House Theatre Education Center may not be used in any manner or for any purpose that is in violation of Applicable Law. The use of the Theater and the Round House Theatre Education Center are limited to the following purposes as set forth in subsections (a)-(g), inclusive, of this Article 11 and in accordance with Exhibit C:

- (a) The exhibition, transmission, and production of live theater, music productions and other performing arts;
- (b) Educational programs and community outreach programs specifically related to the foregoing subparagraph (a);
- (c) Other activities and purposes specifically related to the current charter of ROUND HOUSE;
- (d) Any and all other reasonable purposes ancillary thereto, and in support thereof, including but not limited to the establishment of office space, creation and maintenance of lobby exhibits and displays, prop construction and maintenance, the operation of concession stands and a café, all as depicted on the Theater Plans, retail sales and/or rentals related to ROUND HOUSE productions, and the operation and maintenance of production and editing facilities (subject to the provisions of Article 16.c.2 below), provided that any such use does not interfere with the provision of ROUND HOUSE Services and does not substantially reduce any of the seating located in the Theater. Such uses must be in support of ROUND HOUSE's providing of the ROUND HOUSE Services;
- (e) Retail sales permitted (but not required) in sub-article (c) above shall only include the sale of merchandise relating to ROUND HOUSE's current charter, ROUND HOUSE productions, or the ROUND HOUSE Services as described in Exhibit C, including but not limited to, the sale of production memorabilia, apparel and promotional merchandise, the sale of books related to live theater, performing arts or music productions and/or rental of prerecorded audio and/or video products, audio and/or video

software, CD Interactive and CD ROM Systems, and entertainment and other software related to live theater, performing arts or music productions, as well as sales related to a Closed Event (but only during the Closed Event), and the sale of merchandise from sponsors of Programs (but only during the Program event) and merchandise related to Programs (nothing herein gives ROUND HOUSE the right to sell any property belonging to the County or to sell any other merchandise at the Theater);

(f) For fundraising activities related to the ROUND HOUSE Services, and the ROUND HOUSE Facilities; and

(g) Licensing of the Theater, or portions thereof for a Closed Event for income generating purposes associated with ROUND HOUSE's use, occupancy and operation of the Theater and the provision of ROUND HOUSE Services.

## **12. INDEMNIFICATION FOR ARTISTIC CONTENT**

The County hereby acknowledges and agrees that it will have no approval rights with respect to the artistic content of the use of the Theater or the Round House Theatre Education Center. ROUND HOUSE shall be solely responsible for, and shall indemnify and hold the County 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 the County and/or arising out of, or in any way connected to any claims, suits or proceedings brought against the County based on the artistic content of the use of the Theater or the Round House Theatre Education Center by ROUND HOUSE or anyone permitted by ROUND HOUSE to use the Theater or Round House Theatre Education Center. This indemnification shall also apply to any claims of direct or indirect infringement of any intellectual property rights or claims. This indemnification does not apply to any use of the Theater by the County pursuant to Article 23 below.

## **13. NAMING RIGHTS**

Provided that the tax exempt status of the County's financing of the Theater or the Round House Theatre Education Center is not jeopardized, ROUND HOUSE shall have the right to enter into one or more Naming Rights Agreements to name furniture, fixtures, equipment, rooms, walls and other elements comprising the Theater or the Round House Theatre Education

Center, and any compensation to be paid therefor shall belong to ROUND HOUSE and be considered Revenue to the extent described in this Lease. Names given to such elements shall last so long as ROUND HOUSE shall be in possession of the Theater or Round House Theatre Education Center, as applicable. The County has the right to Approve (which approval may be exercised in its sole discretion) of the naming of any room, theater(s), or any other portion of the building that comprise(s) the Theater or the Round House Theatre Education Center.

**14. PARKING**

ROUND HOUSE understands that the Theater and the Round House Theatre Education Center are located in the Silver Spring Parking Lot District and that no on-site parking will be provided pursuant to this Lease. The Theater and the Round House Theatre Education Center will, once the garages are built, be located near two public parking garages currently known as the Town Square Garage and the Wayne Avenue Garage. Parking will be available to visitors to the Theater and the Round House Theatre Education Center to the same extent and upon the same terms and conditions as to the general public. While the County makes no commitment that valet parking will be available, valet parking may be available to ROUND HOUSE in connection with PFA's operation of Gateway Plaza at the corner of Colesville Road and Georgia Avenue. ROUND HOUSE agrees to comply with the requirements of the Declaration of Easements pertaining to the Gateway Plaza, a copy of which is attached hereto as Exhibit L and the restrictions contained in the Ground Lease for the Gateway Plaza, a copy of which is attached as Exhibit M.

**15. USE OF LOADING DOCK AND MOBILE PRODUCTION UNIT PARKING**

(a) **Loading Dock and Alley.** ROUND HOUSE may use the alley easement and loading dock area shown on Exhibit F to accept and unload deliveries for the Theater. These areas are not part of the Theater and are not part of the leased premises. ROUND HOUSE understands that the dock serves other space in the vicinity of the Theater and agrees to abide by reasonable rules, of which it receives notice, relating to use of the alley and the loading dock, as such rules may be established and amended from time to time. ROUND HOUSE agrees that it shall contact PFA at 9600 Blackwell Drive, Ste. 200, Rockville, Maryland 20850, to determine what, if any, rules may apply to the loading dock area serving the Theater. ROUND HOUSE

further agrees to coordinate its use of the loading dock with the tenant of the Silver Theatre and to cooperate with other users of the alley pursuant to a certain Reciprocal Easement Agreement, a copy of which is attached hereto as Exhibit G, so that there is no unreasonable interference with the use of the alley by others. ROUND HOUSE shall abide by the terms of the Reciprocal Easement Agreement and will hold the County harmless from and against any costs, expenses, claims or losses arising out of ROUND HOUSE's use of the alley and loading dock.

(b) **Alley easement by Wayne Avenue Garage.** ROUND HOUSE acknowledges and agrees that it will abide by the terms of the easement for the public alley that abuts the Wayne Avenue Garage, a copy of which has been recorded in the land records for Montgomery County, Maryland and which has previously been provided to ROUND HOUSE.

(c) **Mobile Production Unit Parking.** A Mobile Production Unit Easement Area is available for the parking of a Mobile Production Unit in connection with the transmission of programs or events occurring at, or arising from use of, the Theater. A copy of the Mobile Production Unit Easement is attached hereto as Exhibit H. ROUND HOUSE covenants that it will abide by the terms of such easement agreement and hold the County harmless from and against any costs, expenses, claims or losses arising out of ROUND HOUSE's use of the Mobile Production Unit Easement Area in connection with the Theater. The tenant of the Silver Theatre will have priority usage of the Mobile Production Unit Easement Area. Therefore, ROUND HOUSE will need to coordinate any use it wishes to make of the Mobile Production Unit Easement Area with both the tenant of the Silver Theatre and the County. In the event that ROUND HOUSE fails to coordinate use of the Mobile Production Unit Easement Area and its use interferes with use of the Mobile Production Unit Easement Area by the tenant of the Silver Theatre, the County or the tenant of the Silver Theatre may have ROUND HOUSE's mobile production unit and/or equipment removed at ROUND HOUSE's sole expense. Additionally, ROUND HOUSE agrees to provide PFA with notice of any intended use by it of the Mobile Production Unit Easement Area. Parking for the Mobile Production Unit will be provided at the Mobile Production Unit Easement shown on Exhibit H. ROUND HOUSE agrees to provide the County and PFA with as much advance Notice of use of the Mobile Production Unit Easement as possible and to coordinate use of the Mobile Production Unit in a way that minimizes interference with surrounding activities. ROUND HOUSE must not use the Mobile Production Unit Easement for long-term storage of a Mobile Production Unit. Therefore, if a Mobile

Production Unit is located on the easement area and is not used for thirty (30) consecutive days, ROUND HOUSE must relocate the Mobile Production Unit until it is to be used again for an event or program arising out of its activities at the Theater. Such required removal is without prejudice to the right of ROUND HOUSE to continue to use the Mobile Production Unit Easement at other times for transmission or broadcast of any Program or event arising out of ROUND HOUSE's activities at the Theater. ROUND HOUSE agrees that it will locate any Mobile Production Unit on the Mobile Production Unit Easement in a manner that leaves a minimum of twelve (12) feet of vehicular passage area between the unit and the opposing sidewalk.

#### **16. CONTROLLED ACCESS AND SHARED FACILITIES**

(a) **Theater.** ROUND HOUSE acknowledges that the County currently does not provide personnel for controlling access to the Theater or any other security services. ROUND HOUSE will contact County Police or fire and rescue as appropriate in emergency situations and when security is required, ROUND HOUSE will make its own arrangements for whatever security it desires (if any) that is beyond the alarm system being constructed as part of the Theater pursuant to the Theater Plans. The County will provide security monitoring for the Round House Theatre Education Center.

(b) **Keys.** The County, on the Lease Commencement Date will provide ROUND HOUSE with keys to the Theater and the Round House Theatre Education Center, as applicable. The County will retain its own set(s) of keys, but will not enter the Theater or the Round House Theatre Education Center, other than for provision of County Services described in Article 18 (which must, where reasonably practical, be provided in a manner that minimizes interference with any Programming), without notifying ROUND HOUSE. ROUND HOUSE will not change the locks to the Theater or the Round House Theatre Education Center without advance Notice to the County and without providing the County with a duplicate set of all such keys.

(c) **Shared facilities.**

- (1) ROUND HOUSE acknowledges that the Theater when completed may house facilities and equipment serving the both the Theater and the Silver Theater. ROUND HOUSE agrees to provide access to any shared facilities on Exhibit I to the County and representatives and contractors serving the Silver Theater at all

reasonable times and in a manner that does not disrupt a Program or unreasonably interfere with a ROUND HOUSE Program at the Theater. ROUND HOUSE further agrees that if ROUND HOUSE is unavailable to coordinate the access to the shared facilities for any reason, the County may coordinate and provide the access to or on behalf of ROUND HOUSE, provided that the County does not allow non-authorized individuals unsupervised access to any other areas of the Theater and that such access is, if practical, at a reasonable time and performed in a manner that does not unreasonably interfere with a ROUND HOUSE Program.

- (2) ROUND HOUSE acknowledges that the County has installed video infrastructure and connectivity between the Theater and the AFI central technical area of the Silver Theatre for the purpose of creating an audio/visual recording area in the Theatre for the use of the County, ROUND HOUSE, AFI and others (collectively the Theatre and the video infrastructure and connectivity are the "Recording Facilities"). ROUND HOUSE acknowledges that the County is reserving the right to possess and use the Recording Facilities at times and in a manner that does not interfere with ROUND HOUSE Services. The parties recognize that there is an artistic, educational and entertainment value in maximizing the use of the Recording Facilities and that they need to work with AFI to come up with a protocol and agreement as to how the Recording Facilities will be managed, used, operated, scheduled and marketed (all of which must be in a manner that does not unreasonably interfere with the provision of Round House Services). The parties also recognize that to the extent that others are permitted to use the Recording Facilities, ROUND HOUSE and AFI will, after AFI and/or ROUND HOUSE have covered operating costs associated with the Recording Facilities, equally share the net proceeds generated by third party usage of the Recording Facilities. The County, AFI and ROUND HOUSE will establish a management and scheduling priority protocol for use of the Recording Facilities, giving primary recognition to ROUND HOUSE's, AFI's, the County's and educational demands for the Recording Facilities.

## 17. OPERATING RESTRICTIONS

Throughout the term of the Lease, as it may be extended, ROUND HOUSE covenants and agrees to:

- (a) Pay when and as due all additional rents, license fees, permit fees and charges of a similar nature for the conduct by ROUND HOUSE of any business or undertaking authorized in this Lease to be conducted at the Theater or at the Round House Theatre Education Center, as applicable;
- (b) Not permit the accumulation of any rubbish or garbage in, on or about the Theater or the Round House Theatre Education Center except in areas designated by the County, or if in the vicinity of the loading docks by the Theater, in areas designated by PFA, for such use;
- (c) Not use the plumbing facilities for any purpose other than that for which they were constructed, or dispose of any foreign substances therein; While paintbrushes used for water-based paints only may be rinsed in the slopsink backstage at the Theater and in the classroom sinks in the Round House Theatre Education Center, paints and other liquids (other than water) used in connection with the construction or erection of sets or props must never be disposed of in the sinks, toilets or other drains. Any such materials must be disposed of off-site in an appropriate manner.
- (d) Comply with all Applicable Laws;
- (e) Not paint or permanently decorate any part of the exterior of the Theater or the Round House Theatre Education Center except as provided in the Theater Plans or in the Round House Theatre Education Center Plans, or in Exhibit J attached hereto, respectively, without obtaining the County's prior Approval;
- (f) Not use any area on the property outside of the Theater or the Round House Theatre Education Center for any purpose other than for access to the Theater or as otherwise expressly provided for in this Lease, or as available to the general public. ROUND HOUSE shall use the loading dock for its intended purpose, and shall use any dumpster area for its intended purpose to the extent the use thereof has been provided by or on behalf of the County. This is not intended to limit use of the Mobile Production Unit Easement in accordance with its terms or to prevent ROUND HOUSE or Theater

patrons from otherwise using public areas in accordance with applicable law; and

(g) Not use the Theater or the Round House Theatre Education Center in a manner that exceeds prescribed power usage, weights and methods of installation and position in the Theater or in the Round House Theatre Education Center. ROUND HOUSE shall not install in the Theater or in the Round House Theatre Education Center any fixtures, equipment or machinery that will place a load upon the floors, walls, or ceilings, including, but not limited to the suspended wire rope tension grid, exceeding the load that such area was designed to carry. All damage done to the Theater or the Round House Theatre Education Center by ROUND HOUSE (or someone acting on behalf of, or through, ROUND HOUSE) taking in or removing a safe or any other equipment, props or scenery, or due to such equipment being improperly installed or utilized in the Theater or in the Round House Theatre Education Center, shall be repaired at the expense of ROUND HOUSE.

(h) To exercise extreme care when using the suspended wire rope tension grid and not to use it only for the purpose for which it is intended.

#### **18. COUNTY SERVICES**

The County agrees that it will provide certain maintenance and repair services at the Theater and at the Round House Theatre Education Center as described, and in accordance with the schedule set forth, in Exhibit J attached hereto and incorporated herein. ROUND HOUSE shall make the Theater and the Round House Theatre Education Center available to the County when necessary and for such period as necessary for the proper performance of maintenance and repair work described in Exhibit J. ROUND HOUSE and the County shall coordinate the scheduling of necessary maintenance and repair work to minimize (to the extent commercially reasonable) interference with Programs. ROUND HOUSE acknowledges that there may be times when emergency repairs are required and Programs may need to be adjusted or rescheduled to allow for such emergency repairs. The County will, at its expense, provide utilities (water, sewer, gas and electricity) to the Theater in accordance with the Theater Plans and to the Round House Theatre Education Center in accordance with the Round House Theatre Education Center Plans and pay for usage charges for the consumption of such utilities. The County is not liable for any failure to supply utilities or services unless such failure is due to negligence of the County.

ROUND HOUSE must notify the County of any interruption in services and allow the County a reasonable amount of time to correct the problem. The County is responsible for snow and ice removal or treatment of the walkways and surfaces adjacent to the Theater and the Round House Theatre Education Center as necessary. ROUND HOUSE acknowledges that such service will be provided at such time as the County has generally scheduled such service for other of its properties in downtown Silver Spring. ROUND HOUSE acknowledges that PFA is responsible for maintenance and snow and ice removal in the alley and loading dock area as provided in the Reciprocal Easement Agreement. The County agrees to enforce the terms of the Reciprocal Easement Agreement if PFA materially fails to perform its obligations thereunder.

#### 19. ROUND HOUSE SERVICES

Commencing not later than 90 days after the Lease Commencement Date for respectively the Theater and the Round House Theatre Education Center, ROUND HOUSE must provide the ROUND HOUSE Services related to each (on a full time year round basis) and on-site management and staffing necessary to develop and provide the ROUND HOUSE Services with actual Programming beginning no later than 180 days following the Lease Commencement Date respectively for the Theater and the Round House Theatre Education Center. Without limiting ROUND HOUSE's obligation to perform ROUND HOUSE Services, ROUND HOUSE must provide the ROUND HOUSE portion of the maintenance as provided in Exhibit J for each such premises. ROUND HOUSE is responsible for setting up for, and cleaning up after, Programs and Closed Events. Without limiting ROUND HOUSE's obligation to perform ROUND HOUSE Services, ROUND HOUSE is responsible for providing for the maintenance, repair and replacement, if necessary, of equipment, furniture and furnishings used at the Theater or at the Round House Theatre Education Center (any such items replaced by ROUND HOUSE that are severable from the Premises shall be deemed to be owned by ROUND HOUSE). ROUND HOUSE must arrange and pay for activation and usage of telephone and, if it desires, Internet services. The County agrees that it will request the franchisee(s) under a cable franchise agreement(s) with the County to install without charge to the County or ROUND HOUSE one activated outlet at the Theater. ROUND HOUSE acknowledges that pursuant to the cable franchise agreement(s) with the County, the franchisee(s) are required to provide only basic service and the equipment necessary to receive such service. The County agrees to require its

franchisee(s) to provide such service without charge to the County or ROUND HOUSE. If ROUND HOUSE desires a higher level of service, the County will request that such additional service be provided free of charge. If the franchisee does not agree to provide the additional service requested by ROUND HOUSE free of charge, ROUND HOUSE will be responsible for payment of charges associated with such additional service or may elect not to acquire it. ROUND HOUSE is responsible for all costs and expenses associated with the provision of any telephone, cable and Internet services it desires to use at the Theater or at the Round House Theatre Education Center other than the installation and wiring costs which are to be paid by the County pursuant to the Theater Plans or the Round House Theatre Education Center Plans. ROUND HOUSE shall be responsible for any damages resulting from ROUND HOUSE's provision of, or failure to provide, activation or continuation of such services on it's own behalf.

## 20. TAXES

To the extent, if any, that property taxes are payable during the initial lease term and any extensions thereto based upon the leasehold estate hereby created, the parties agree that any such tax shall be paid by ROUND HOUSE. Additionally, any sales, entertainment business, personalty or other taxes imposed as a consequence of the occupancy or use of, or activities at, the Theater or at the Round House Theatre Education Center by ROUND HOUSE, or anyone acting on behalf of or through ROUND HOUSE, shall be promptly paid by ROUND HOUSE. ROUND HOUSE shall pay such taxes as they become due and payable during the term of the Lease, and before the assessment of any fine, penalty, interest or other charge which may be added thereto for the nonpayment thereof. ROUND HOUSE shall have the right to receive directly any and all notices of such taxes and to pay such taxes directly. ROUND HOUSE shall furnish to the County, copies of tax bills and official receipts of the proper governmental authorities or other proof reasonably satisfactory to the County, evidencing the full payment of any and all such taxes payable by ROUND HOUSE hereunder. Notwithstanding the foregoing, if by law any tax may be paid, at the option of the taxpayer, in installments, then ROUND HOUSE may pay the same in installments whether or not interest accrues thereon, and ROUND HOUSE shall only be responsible for such installments properly allocable to the Lease Year. Any rebate made on account of any tax paid by ROUND HOUSE shall belong to ROUND HOUSE and be paid to ROUND HOUSE for ROUND HOUSE's account. If ROUND HOUSE

fails to make payment of any tax provided for herein, at the County's option, it may pay such tax and ROUND HOUSE shall owe the full amount of such payment as additional rent to be paid within thirty (30) days of demand for payment. Any and all taxes paid by ROUND HOUSE on behalf of the Theater or the Round House Theatre Education Center or their respective operations hereunder shall be included, without limitation, into the definition of Expenses.

**21. LIENS, CLAIMS OR ENCUMBRANCES**

(a) ROUND HOUSE shall at all times keep the Theater and the Round House Theatre Education Center free and clear of mechanic's, materialmen's and other liens, and of all charges, claims and encumbrances caused or created by ROUND HOUSE or anyone claiming through or under ROUND HOUSE.

(b) If any mechanic's or other lien shall at any time be filed against the Theater or the Round House Theatre Education Center for work performed by or for ROUND HOUSE, ROUND HOUSE shall either cause the same to be discharged of record within thirty (30) days after the date of filing of the same, or, if ROUND HOUSE shall desire to contest any such lien, ROUND HOUSE shall, within thirty (30) days after the date of the filing of the lien, furnish to the County security in the amount of the claim, plus costs and interest, or shall procure a bond in such 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 must be immediately discharged.

(c) Failure to make such payment shall be construed a material breach of this Lease. The County is not required to pay for or bond off any such lien; however, if it does so, any amount expended by the County shall be construed as additional rent to be paid by ROUND HOUSE within thirty (30) days of demand.

**22. THEATER AND COMMUNITY INPUT**

ROUND HOUSE agrees to meet and confer at least one time per year with the Silver Spring Citizen's Advisory Board and the Montgomery County Arts and Humanities Council about matters involving the ROUND HOUSE Services and the Theater. It is understood that such meetings are for consultation only and ROUND HOUSE is not bound to implement any suggestions or comments made in these meetings. Upon request by the County, ROUND

HOUSE will meet up to two additional times per year with either group or with a representative of the County.

**23. COUNTY USE OF FACILITIES**

ROUND HOUSE shall permit the County, without charge, to make use of the Theater for public events at least two days per calendar year and to make use of the Round House Theatre Education Center for public events or meetings at least 4 days per calendar year. These events/meetings shall be set up in coordination with ROUND HOUSE. The County will be responsible for the coordination, staffing, set-up and removal of any facilities and equipment necessary to implement these events. The County is responsible for cleaning up after its uses of the Theater and/or the Round House Theatre Education Center. The failure of the County to use the Theater or the Round House Theatre Education Center as provided herein during any year shall not constitute a waiver of the County's right to use the Theater or the Round House Theatre Education Center in any subsequent calendar year. The County will provide ROUND HOUSE with as much advance Notice as is practicable when it intends to use the Theater or the Round House Theatre Education Center under this Article. The County's rights hereunder may at no time interfere with any prescheduled event or rehearsal at the Theater or at the Round House Theatre Education Center, as applicable. ROUND HOUSE agrees to exercise reasonable efforts to coordinate its schedule with any use of the Theater or the Round House Theatre Education Center requested by the County under this Article.

**24. CAPITAL IMPROVEMENTS AND ALTERATIONS**

ROUND HOUSE must not undertake any alterations, changes, improvements or additions to the Theater or the Round House Theatre Education Center without the prior Approval of the County which the County may exercise in its sole and absolute discretion. The County's failure to respond within forty-five (45) days to a properly submitted request under this Article will be deemed to be disapproval of the request. Once the Approval of the County has been obtained, ROUND HOUSE must comply with all restrictions relating to the Theater or the Round House Theatre Education Center, as applicable, and must obtain all necessary permits for any alteration, change, improvement or addition. ROUND HOUSE must comply with all applicable laws and regulations. ROUND HOUSE must make any Approved alteration, change,

improvement or addition requested by it in accordance with Approved construction drawings and specifications, and all costs associated therewith shall be considered Expenses hereunder and may be paid by ROUND HOUSE out of the ROUND HOUSE Account, Endowment Funds, Operating Reserve Funds or Restricted Funds.

ROUND HOUSE must submit to the County a full set of construction plans and specifications clearly setting forth the work proposed to be performed, along with an electronic copy of such plans and specifications. The County must respond in writing to the request for Approval within forty-five (45) days from its receipt of the construction plans and specifications. In its capacity as County and not in its regulatory capacity, the County shall inspect the Theater or the Round House Theatre Education Center, as applicable, upon completion of the work to determine adherence to submitted specifications and compliance with applicable codes and regulations. In the event that the completed work is not reasonably satisfactory to the County, ROUND HOUSE must correct the work at the expense of the ROUND HOUSE Account, Endowment Funds, Operating Reserve Fund, or Restricted Funds.

#### **25. FURNITURE, FIXTURES AND EQUIPMENT**

ROUND HOUSE leases with the Theater, the furniture, fixtures and equipment owned by the County which are scheduled in Exhibit K attached hereto. At the termination of the tenancy, ROUND HOUSE must deliver to the County the furniture, fixtures and equipment scheduled in Exhibit K in good, clean condition, reasonable wear and tear excepted. However, if ROUND HOUSE replaces at its cost and expense any of the furniture or equipment at the Theater (the "Replacements"), and provided that ROUND HOUSE has delivered to the County Department of Public Works and Transportation the original furniture or equipment it is replacing, ROUND HOUSE may, at the termination of this Lease, remove any such Replacements. All moveable partitions, trade fixtures, floor coverings or equipment installed within the Theater at ROUND HOUSE's expense shall remain the Property of ROUND HOUSE and may be removed by ROUND HOUSE at the expiration or other termination of this Lease. ROUND HOUSE must, at its expense, repair any damage caused by removal of any of ROUND HOUSE's property from either the Theater or the Round House Theatre Education Center. The furniture, fixtures and equipment shall be maintained in accordance with Exhibit J. Nothing herein is intended to waive any statutory or common law rights the County has with respect to any furniture, fixtures or

equipment upon the leased premises.

**26. CONDITION OF THEATER**

Without limiting the County's obligations hereunder, ROUND HOUSE must maintain the Theater and the Round House Theatre Education Center clean and neat in appearance at all times.

**27. LIABILITY, PROPERTY DAMAGE AND FIRE INSURANCE**

(a) **Insurance provided by ROUND HOUSE.** During the term of this Lease, and any renewal hereof, ROUND HOUSE, at its expense, agrees to obtain and maintain insurance policies for the Theater and the Round House Theatre Education Center (and not as part of a blanket policy) with the following coverages and provisions:

(1) A policy of general Commercial Liability insurance with a minimum limit of liability of Three Million and 00/100 Dollars (\$3,000,000.00) per occurrence and Four Million and 00/100 Dollars (\$4,000,000.00) in the aggregate for bodily injury and property damage, including fire legal liability, premises and operations, independent contractors, personal injury and broad form property damage issued by an insurance company licensed in the State of Maryland.

(2) A policy providing Workers Compensation Liability meeting all statutory requirements of the State of Maryland, and the following minimum Employers' Liability limits:

Bodily Injury by Accident - \$100,000 each accident

Bodily Injury by Disease - \$500,000 policy limits

Bodily Injury by Disease - \$100,000 each employee

(3) An All Risk Property policy covering 100% replacement cost of all fixtures, furniture and equipment owned by ROUND HOUSE at the Theater and at the Round House Theatre Education Center. The policy shall also provide coverage for anyone using the Theater or the Round House Theatre Education Center under ROUND HOUSE.

(4) Automobile Liability Coverage with a minimum limit of liability of One Million Dollars (\$1,000,000), combined single limit, for bodily injury and property damage

coverage per occurrence including the following: owned automobiles, hired automobiles, and non-owned automobiles.

(5) The General Liability policy must name the County as an additional insured; and the All Risk Property policy must name the County as Loss payee. All policies must provide the County with forty-five days advance notice of material amendment or cancellation.

(b) The County may from time to time reasonably modify the limits and coverages required under this Lease. The County must provide ROUND HOUSE with ninety (90) days notice of any change in its insurance requirements. ROUND HOUSE shall thereafter provide such modified insurance coverage provided that it is available upon commercially reasonable terms.

ROUND HOUSE must at least ten (10) days prior to the Commencement Date or its occupancy of the Theater and the Round House Theatre Education Center, respectively, whichever comes first, deliver to the County a certificate(s) of insurance evidencing the foregoing insurance. The certificate of insurance must be issued to Montgomery County, Division of Facilities and Services, Second Floor, 101 Orchard Ridge Drive, Gaithersburg, Maryland 20878.

**(c) Insurance to be provided by the County.** The County shall provide through its self insurance program or commercial insurance, property insurance against loss or damage by fire, windstorm, tornado and hail and all other hazards covered by the usual extended coverage and "all special causes of loss" endorsements of whatsoever kind ("Property Insurance"), including, without limitation, coverage for loss or damage by water, flood and subsidence. The Property Insurance shall be in an amount to be the estimated net replacement value of the Theater and the County's equipment housed therein and the Round House Theatre Education Center as determined by the County from time to time. Such insurance shall cover the Theater and the County's equipment housed therein and the Round House Theatre Education Center, but shall not cover any of the property of ROUND HOUSE. In the event of any damage to the Theater or the Round House Theatre Education Center, the County shall, to the extent of insurance proceeds made available for use at the

Theatre or the Round House Theatre Education Center, as applicable, or funds allocated, if any, to the Theatre or the Round House Theatre Education Center, as applicable, through the County's self-insurance program, repair any elements of the Theater or the Round House Theatre Education Center and replace any equipment at the Theater that the County originally constructed, rehabilitated or installed, and ROUND HOUSE shall be responsible for the repair or replacement of any portion of its property within the Theater or the Round House Theatre Education Center. The parties shall have no obligation to make such repairs or replacements unless there are sufficient insurance proceeds, Operating Reserve Fund balances to be applied to such repairs or replacements, or Revenues to cover the costs of these items.

**28. HOLD HARMLESS**

ROUND HOUSE agrees to hold the County harmless from, and indemnify it from and against any and all claims, actions, damages, liability and expenses, including reasonable attorney's fees (collectively, "Claims"), in connection with breach of this Lease by ROUND HOUSE or arising out of the use of the Theater or the Round House Theatre Education Center by ROUND HOUSE, its employees, agents, licensees, invitees, concessionaires or contractors, including but not limited to claims of loss of life, personal injury and/or damage to property arising from or out of any occurrence, occasioned wholly or in part by, and to the extent of, any act or omission of ROUND HOUSE, its employees, agents, licensees, invitees, concessionaires or contractors with respect to the provision of ROUND HOUSE Services, obligations of ROUND HOUSE pursuant to this Lease, or pursuant to use of the Theater, the Loading Dock, the Mobile Production Easement Area, or the Round House Theatre Education Center by such persons. ROUND HOUSE is not to be liable for damage or injury to the extent caused by the negligent acts or omissions of the County or its employees. ROUND HOUSE agrees to hold the County harmless from any penalty, damage or charge incurred or imposed upon the County due to ROUND HOUSE's, its employees, agents, licensees, invitees, concessionaires or contractors violation of any law or ordinance in connection with the Theater or the Round House Theatre Education Center. This indemnification includes holding the County harmless from reasonable costs arising out of any suit or claim involving actions covered by the indemnification provided in this sub-article. The County must give ROUND HOUSE immediate notice of any claims or

demands made upon it or of which it has knowledge.

**29. RESPONSIBILITIES OF ROUND HOUSE**

ROUND HOUSE covenants and agrees as follows:

- (a) ROUND HOUSE must not strip, overload, damage or deface the Theater, suspended wire rope grid, the Round House Theatre Education Center, the hallways, stairways or other approaches to the Theater or the Round House Theatre Education Center or the fixtures in such Leased Premises. ROUND HOUSE must not commit or allow any waste to be committed in or upon the Theater or the Round House Theatre Education Center.
- (b) ROUND HOUSE must employ appropriate precautions with respect to the double doors above the stage in the Theatre to ensure the safety of its employees, contractors, agents, and invitees. ROUND HOUSE shall keep the doors closed or with appropriate safety barriers (except as reasonably used for theatrical purposes during a production at the Theater) and shall not allow the public or its patrons to have access to the elevated double doors at any time.
- (c) ROUND HOUSE must not keep gasoline or other flammable material or any explosive within the Theater, the Round House Theatre Education Center, or any easement area referenced in this Lease which will increase the rate of fire insurance on such premises beyond the ordinary risk established for the type of operations described in Exhibit C. ROUND HOUSE may keep paints used in the production of sets and props at the Theater, and with respect to the Round House Theatre Education Center, used in connection with the education activities at the Round House Theatre Education Center, provided that such paints are properly closed and maintained in a flammables cabinet. Any increase in the insurance rate due to actions of the ROUND HOUSE in violation hereof must be paid by ROUND HOUSE. ROUND HOUSE must not willfully do any act or thing in or about the Theater or the Round House Theatre Education Center which may make void or voidable any insurance on the Theater or the Round House Theatre Education Center. ROUND HOUSE agrees to conform to all rules and regulations established from time to time by the County in its regulatory capacity, the Maryland Insurance Rating Bureau, or any other authority having jurisdiction over such matters.

(d) ROUND HOUSE must not use the Theater or the Round House Theatre Education Center, or allow the Theater or the Round House Theatre Education Center to be used, for any illegal or unlawful purpose or for any activity that will constitute a legal nuisance to adjacent properties or the neighborhood.

(e) ROUND HOUSE must not place any placard, sign, lettering or awning upon the Theater or the Round House Theatre Education Center except in such place and manner as shown on the Theater Plans or in the Round House Theatre Education Center Plans, or in such other place and manner as shall have been first Approved by County in its sole and absolute discretion.

(f) ROUND HOUSE will not allow its employees, agents, or contractors to misuse the Theater or the Round House Theatre Education Center, or use the Theater, the Round House Theatre Education Center, or the Mobile Production Easement Area in a way that is contrary to Applicable Law. ROUND HOUSE shall provide such security and exercise reasonable control and oversight to preclude its invitees from misusing or damaging the Theater or the Round House Theatre Education Center. ROUND HOUSE is responsible for repairs necessitated by its invitees only if it failed to provide proper security or to exercise reasonable control and oversight over its invitees.

(g) ROUND HOUSE must comply with all reasonable rules and regulations for use of the Theater or the Round House Theatre Education Center that may be from time to time promulgated by the County. The County must deliver a copy of its rules and regulations to ROUND HOUSE. Provided that the rules and regulations do not prevent or unreasonably interfere with use of the Theater or the Round House Theatre Education Center for the purposes stated in Article 10, violation of the rules and regulations is a violation of this Lease.

30. DEFAULT

(a) The County is entering into this Lease with ROUND HOUSE for the sole purpose of facilitating and obtaining the ROUND HOUSE Services. Therefore, if ROUND HOUSE fails to develop and carry out the ROUND HOUSE Services to reasonable standards of excellence for non-profit live theater and cultural arts performances, public programming and education, then, subject to ROUND HOUSE's right to cure as set forth

in Article 30 (b), below, the County may terminate this Lease.

(b) ROUND HOUSE shall be in default of this Lease upon the occurrence of any of the following:

- (i) Failure to perform under any material term, covenant or condition of this Lease and the continuation of such failure for sixty (60) days (or such additional period as may reasonably be required to correct the defect with the prompt exercise of due diligence) after notice from County specifying the failure to perform.
- (ii) The commencement of any action or proceeding for the dissolution or liquidation of ROUND HOUSE, or for the appointment of a receiver or trustee of ROUND HOUSE's property, and the failure to discharge any such action within thirty (30) days.
- (iii) The making of any assignment for the benefit of ROUND HOUSE's creditors.
- (iv) The abandonment of the Theater by ROUND HOUSE.

(c) If an event described in subparagraph 30(a) or (b) occurs and ROUND HOUSE fails to cure the default event within the applicable cure period (or such additional period as may reasonably be required to correct the defect with the prompt exercise of due diligence) after written notice from County, at the option of County, ROUND HOUSE's right of possession shall end one hundred and eighty (180) days after the Notice was provided and the County may recover possession under the laws of Maryland. The County may also pursue any other legal remedies available to it under Maryland law.

### 31. EMINENT DOMAIN

If the Theater, loading dock area, or any part thereof, the Mobile Production Easement Area, or the Round House Theatre Education Center is taken in condemnation proceedings or acquired under threat of condemnation, ROUND HOUSE shall have no claim against the County and shall have no claim or right to any portion of the amount that may be awarded as damages or paid as a result of any such taking. The full award for any such taking shall belong to the County. Upon such taking if the Leased Premises are no longer usable for their intended

purpose,, the term of this Lease shall terminate and ROUND HOUSE shall have no claim for the value of any unexpired term of the Lease.

**32. ASSIGNMENT AND SUBLEASING**

ROUND HOUSE is not entitled to assign this Lease, or sublease or transfer any right or interest in all or any part of the Theater or the Round House Theatre Education Center to any third party. Notwithstanding the foregoing, ROUND HOUSE may grant concessions or revocable licenses to third parties for certain activities that complement the ROUND HOUSE Services provided such uses are within the areas designated for such uses on the Theater Plans, or if applicable on the Round House Theatre Education Center Plans. No other assignment, license, concession, or sublease is permitted. Additionally, ROUND HOUSE may allow Closed Events at the Theater or the Round House Theatre Education Center, provided that such Closed Events do not exceed thirty percent (30%) of the overall programming and use of the Theater or the Round House Theatre Education Center, respectively. The parties may agree in writing to changes to these percentages, if in the sole discretion of both parties, circumstances warrant such changes.

**33. ACCESS**

The County and its employees, agents and contractors may have access to the Theater and the Round House Theatre Education Center at all reasonable times, during normal working hours for the purpose of inspection, or in the event of fire or other property damage, or for the purpose of performing any work required to be performed by County, or which County considers necessary or desirable, or for any other purpose for the reasonable protection of the Theater or the Round House Theatre Education Center. To the extent commercially reasonable, the County will exercise this right in a manner that does not materially interfere with ROUND HOUSE Services at the Theater or at the Round House Theatre Education Center. ROUND HOUSE must not alter or change the exterior locks installed on the Theater or the Round House Theatre Education Center without the County's prior Approval, and in the event of an approved change, shall provide County with keys to the Theater or the Round House Theatre Education Center, as applicable. Subject to all of the provisions of this Lease, ROUND HOUSE shall have twenty-four (24) hour access to and exclusive possession of the Theater and the Round House Theatre

Education Center.

**34. SURRENDER OF POSSESSION**

At the expiration or other termination of this Lease, ROUND HOUSE must remove all of its goods and effects from the Theater and the Round House Theatre Education Center. ROUND HOUSE must deliver to County the Theater and the Round House Theatre Education Center, and all keys, access cards, locks and other fixtures therein, including the property described in Exhibit K, clean and in good repair, order and condition in all respects, reasonable wear and tear and casualty excepted.

**35. HOLDOVER**

If ROUND HOUSE continues in possession of the Theater and/or the Round House Theatre Education Center after the conclusion of the term of this Lease, or any renewals hereof, ROUND HOUSE shall be a month to month tenant. The tenancy thus created may be terminated by either party giving the other thirty (30) days notice of such termination. A month to month tenancy hereby created shall be governed in all other respects by the terms of this Lease. Failure to vacate the Theater or the Round House Theatre Education Center upon other termination of this Lease does not create a holdover tenancy. Under such circumstances ROUND HOUSE shall be deemed a trespasser and be subject to ejection.

**36. NOTICE OF DEFECTS**

ROUND HOUSE must give the County prompt notice of accidents in or damages to the Theater or the Round House Theatre Education Center.

**37. COMPLIANCE WITH LAWS**

ROUND HOUSE must promptly comply with and observe all Applicable Laws. Provided that ROUND HOUSE is complying with Applicable Laws, nothing contained herein shall preclude ROUND HOUSE from contesting the validity of any Applicable Laws.

**38. BENEFIT AND BURDEN**

All of the terms and provisions of this Lease shall inure to the benefit of and be binding upon the County or its successors or assigns and upon ROUND HOUSE.

**39. DISPUTES**

The County and ROUND HOUSE agree that any dispute concerning a question of fact arising under this Lease which is not resolved by agreement of the parties shall be decided by a court of competent jurisdiction in the State of Maryland.

**40. COVENANT OF QUIET ENJOYMENT**

The County covenants that ROUND HOUSE, provided that it fully performs the ROUND HOUSE Services and its obligations under this Lease, shall peaceably and quietly have possession of the Theater and the Round House Theatre Education Center. ROUND HOUSE acknowledges that the County is a governmental entity and that as such its obligations to make expenditures hereunder and the adoption of the budgets necessary to provide services as described herein are subject to appropriation by the County Council. In the event the County Council fails to appropriate funds necessary for the County to provide services described herein, ROUND HOUSE may, but is not obligated to, terminate this Lease within one hundred and eighty (180) days of receipt of notice from the County of such non-appropriation by providing the County with one hundred and eighty (180) days Notice of such termination.

**41. WAIVER**

No waiver or any breach of any covenant, condition or agreement herein contained shall operate as a waiver of the covenant, condition or agreement itself or of any subsequent breach thereof.

**42. WAIVER OF JURY TRIAL**

The parties agree and do hereby waive trial by jury on any dispute or matter arising from this Lease.

**43. NON-DISCRIMINATION**

ROUND HOUSE agrees to comply with the nondiscrimination in employment policies in County contracts as required by Section 11B-33 and 27-19 of the Montgomery County Code 1994, as amended, as well as all other applicable state and federal laws and regulations regarding employment discrimination. ROUND HOUSE assures the County that in accordance with

applicable law, it does not, and agrees that it will not, discriminate in any manner on the basis of age, color, creed, national origin, race, religious belief, sexual preference or handicap.

**44. CONTRACT SOLICITATION**

Neither party has retained anyone to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage or contingent fee.

**45. PUBLIC EMPLOYMENT**

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

**46. INTEGRATED AGREEMENT**

This Lease contains all of the agreements and conditions made between the parties and may not be modified orally or in any other manner other than by an agreement in writing signed by all the parties or their respective successors in interest. This Lease supercedes any other writings pertaining to use and occupancy of the Theater or the Round House Theatre Education Center, and the ROUND HOUSE Services, including but not limited to the right of entry dated March 14, 2003.

**47. NOTICES**

All notices required or described to be given in this Lease must be in writing and shall be hand delivered or given by certified or registered mail, return receipt requested. Notice will be effective when received or refused by the addressee, its employees or agents. Notices to the respective parties must be addressed as follows:

ROUND HOUSE:

Round House Theatre  
8641 Colésville Road  
Silver Spring, MD 20901

County:

Notices for everything except maintenance

related matters (with copies to the Chief  
Division of Facilities and Services, DPWT):

Attention: Managing Director  
And Artistic Director

And to:

P.O. Box 30688  
Bethesda, MD 20824-0688

With a copy to:  
Stuart Greenfeig, Esquire  
25 West Middle Lane  
Rockville, MD 20850

Attn: Chief Administrative Officer  
101 Monroe Street, Second Floor  
Rockville, Maryland 20850  
Notices for maintenance related matters (with  
copies to the Chief Administrative Officer  
at the above referenced address):  
Attn: Chief, Division of Facilities and Services  
Montgomery County, Maryland  
Department of Public Works and Transportation  
101 Orchard Ridge Drive, 2nd Floor  
Gaithersburg, Maryland 20878

With a copy to:  
County Attorney  
101 Monroe Street, Third Floor  
Rockville, Maryland 20850

Either party may change its mailing address hereunder by giving notice to the other party  
in the manner set forth above.

**48. RESIDENT AGENT**

The Resident Agent for ROUND HOUSE is Stuart S. Greenfeig, Esq, and his address for  
receipt of notice and service of process is 25 West Middle Lane, Rockville, Maryland 20850.  
ROUND HOUSE must notify the County of any change in Resident Agent or address for service  
of process.

**49. GENERAL PROVISIONS**

- (a) **Governing Law:** This Lease is governed by the laws of the State of Maryland and any action brought hereunder or arising herefrom or from the occupancy or tenancy of the Theater or the Round House Theatre Education Center shall be brought in the Circuit Court for Montgomery County, Maryland.
- (b) **Severability:** If any term of this Lease is invalid or unenforceable, the remainder of this Lease shall remain in force.
- (c) **Exhibits:** The exhibits attached to this Lease are incorporated herein as if fully set forth unless expressly provided otherwise.

**50. MEMORANDUM OF LEASE**

Either party may upon request and at its own expense record a memorandum of this Lease in a form and substance reasonably acceptable to the other party.

**51. AUTHORITY**

The County and ROUND HOUSE hereto represent that each has the lawful authority to enter into this Lease in accordance with its terms, and that all required governmental and corporate (respectively) approvals have been obtained.

**52. ENVIRONMENTAL MATTERS**

The parties acknowledge and agree that ROUND HOUSE is not responsible for the environmental condition of the Theater or the Round House Theatre Education Center except to the extent that it, its agents, employees, contractors, subcontractors, or invitees bring any hazardous material onto the property or cause any environmental damage to the Theater or the Round House Theatre Education Center or the property upon which either is located.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have caused this Lease to be executed as of the above written date.

WITNESS:

County: MONTGOMERY COUNTY,  
MARYLAND

By: Diane R. A. Jones

By: Joseph F Beach  
Name: Joseph Beach  
Title: Assistant CAO

ATTEST:

TENANT:  
ROUND HOUSE THEATRE, INC.

By: Anita J. Williams

By: Stuart A. Greenberg, Sec.

Approved as to Form & Legality  
Office of the County Attorney

Recommended  
Silver Spring Regional Services Center

By: Diane R. A. Jones  
Diane R. Schwartz Jones  
Associate County Attorney

By: Gary Stith  
Gary Stith, Director