

**PROFESSIONAL SERVICES A G R E E M E N T
AND
USER AGREEMENT**

(Ballet Nouveau Colorado)

THIS PROFESSIONAL SERVICES AGREEMENT AND USER AGREEMENT (this "Agreement") is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the "City") and **BALLET NOUVEAU COLORADO**, a Colorado non-profit corporation, located at 3001 Industrial Lane, Unit 12, Broomfield, Colorado 80020 ("Contractor").

RECITALS

A. The City is the owner, and Arts and Venues Denver ("AVD"), a Division of the City's Department of General Services, is the operator, of the Ellie Caulkins Opera House ("ECOH").

B. Contractor is engaged in the business of the education, development and presentation of dance.

C. Contractor, in collaboration with the band, Paper Bird, has created a multi-media dance production called "Carry On" (the "Event").

D. The City desires Contractor to perform Carry On at the ECOH and provide the production and marketing services related thereto as set forth in this Agreement, and Contractor desires to perform Carry On and provide such related services.

NOW, THEREFORE, the parties agree as follows:

1. COORDINATION AND LIAISON: Contractor shall fully coordinate all services under this Agreement with the Director of AVD, or his or her designee ("Director").

2. TERM: This Agreement shall commence on July 18, 2012 (the "Effective Date") and shall expire on November 7, 2012 (the "Term").

3. COMPENSATION AND PAYMENT:

a. Share of Proceeds from Ticket Sales: Contractor shall accept as the sole compensation for services rendered and costs incurred under this Agreement an amount equal to seventy percent (70%) of Gross Gate Receipts (as hereinafter defined) from ticket sales for the Event (the "Contractor's Compensation"). The City shall receive an amount equal to thirty

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percent (30%) of Gross Gate Receipts from ticket sales for the Event. The ticket pricing schedule set forth in **Exhibit B** hereto has been agreed to by the City and Contractor. Notwithstanding the foregoing, since this Agreement is being entered into prior to the Event taking place, neither the City nor Contractor makes any representation that any amount of proceeds from ticket sales will be available. Further, the parties hereto agree that the City shall be reimbursed as provided in Subparagraph 3.c below prior to and as a condition of the payments contemplated by this Subparagraph a being made.

b. Calculation of Gross Gate Receipts: For purposes of this Agreement, “Gross Gate Receipts” shall mean the difference between all proceeds generated from ticket sales for the Event and the following:

- (i) Three Thousand and No/100 Dollars (\$3,000.00) for the cost and expenses incurred by City for administrative overhead and marketing and promoting the Event; and
- (ii) The lesser of (1) Fourteen Thousand and No/100 Dollars (\$14,000.00) or (2) the actual cost and expenses incurred by City for providing stagehands, ushers, ticket takers, public address personnel, box office personnel, security, and safety personnel (including, fire, police, and paramedics) to staff the Event, supplying in-house sound and lighting for the Event and in-house equipment to set-up, operate, and strike the Event, including the labor therefor, and administrative costs of labor (collectively, the “House Costs”) for the Event. House Costs shall also include up to Three Thousand and No/100 Dollars (\$3,000.00) in cost and expenses incurred by City for renting equipment for the Event from outside vendors;
- (iii) An amount equal to Two and 25/100 Dollars (\$2.25) for each ticket sold to the Event; and
- (iv) The amount of any Chargebacks that Ticketmaster L.L.C. receives from its merchant bank under that certain Ticketmaster User Agreement between Ticketmaster L.L.C. and Argus Event Staffing, L.L.C. (the proceeds under which have been assigned to the City) prior to the date that the City pays Contractor under this Agreement. For purposes of this

Agreement, "Chargebacks" shall mean the amounts that the merchant bank is charged back by a cardholder or a card issuer under the card organization rules.

c. **Reimbursable Expenses:** Contractor is entitled to no reimbursable expenses under this Agreement. However, the City shall reimburse itself from the proceeds generated from ticket sales for the Event an amount equal to the sum of the amounts set forth in Subparagraphs 3.b(i), 3.b(ii), 3.b(iii), and 3.b(iv) above. The City shall be reimbursed prior to any payments being made under Subparagraph 3.a above.

d. **Additional Expenses:** The City will deduct from Contractor's Compensation any actual cost and expenses (including, without limitation, labor cost and service charges) incurred by the City on account of special facilities, equipment, and material, or extra services furnished by the City at the request of Contractor, or necessitated by Contractor's occupancy of the Permitted Premises; provided, however, if the City rents equipment for the Event from outside vendors, only those cost and expenses that exceed Three Thousand and No/100 Dollars (\$3,000.00) shall be treated as an additional expense under this Subparagraph d. For avoidance of doubt, special facilities, equipment, and material, and extra services furnished by the City for purposes of this Subparagraph d shall mean those services provided by the City that are above and beyond the House Services (as hereinafter defined) to be provided by the City in accordance with Subparagraph 5.a below.

e. **Payment Date:** Subject to subparagraph 3.d, the City will pay to Contractor the Contractor's Compensation on or before November 7, 2012.

4. SERVICES TO BE PERFORMED BY CONTRACTOR:

a. Contractor shall diligently undertake and perform the performance, production, and marketing services set forth on **Exhibit A** (the "Scope of Work") to the City's satisfaction.

b. Contractor is ready, willing, and able to provide the services required by this Agreement.

c. Contractor shall faithfully perform the services required by this Agreement in accordance with the terms of this Agreement and the standards of care, skill, training, diligence, and judgment provided by highly competent individuals performing services of a similar nature.

5. CITY OBLIGATIONS:

a. The City will furnish to Contractor the services and the labor for the Event set forth below (collectively, the “House Services”), the cost and expenses for which shall be included in the House Costs:

- (i) Stagehands, ushers, ticket takers, public address personnel, security, and safety personnel (including, fire, police, and paramedics) to staff the Event;
- (ii) In-house sound and lighting for the Event, including the labor therefor; and
- (iii) In-house equipment to set-up, operate, and strike the Event, including the labor therefor.

If Contractor determines that it is necessary or desirable for Contractor to hire employees, help, or laborers to handle and govern the conduct of attendees at the Event, all such employment must first be approved by the Director.

b. The City will provide an estimate of all House Costs prior to the Event for Contractor’s approval, which approval shall not be unreasonably withheld, conditioned, or delayed.

c. The City will provide a standard light plot, in-house sound equipment, and, if requested, in-house pianos for the Event. If, however, Contractor requires special or additional lighting, sound, or pianos, Contractor shall contact the AVD Manager of Events, Elizabeth Miller (the “AVD Manager of Events”) at (720) 865-4239 or Elizabeth.Miller@denvergov.org no later than thirty (30) days prior to the Event to coordinate requirements. The actual cost and expenses incurred by AVD for providing special or additional lighting, sound, and/or pianos, including the labor therefor, and any cost related to tuning pianos, shall be paid by Contractor in accordance with Subparagraph 3.d above.

d. The City will provide the following marketing, advertising, and promotional activities for the Event:

- (i) The City will promote the Event on the five (5) digital marquees operated by AVD at the Denver Performing Arts Complex.
- (ii) The City will include the Event on the website calendar at Artscomplex.com.

- (iii) The City will promote the Event on the following Facebook pages: The Denver Performing Arts Complex, Create Denver, and AVD.
- (iv) The City will offer via e-mail to City employees a special deal for the Event.
- (v) The City will promote the event on the AVD Link eNewsletter.

6. USER AGREEMENT:

a. Permitted Premises. The City grants to Contractor and Contractor accepts from the City the use, for the term set forth in Subparagraph 6.b below, of that portion of the AVD facilities, located at Speer Boulevard and Arapahoe Street, Denver, described as follows:

THE ELLIE CAULKINS OPERA HOUSE IN THE QUIGG
NEWTON DENVER MUNICIPAL AUDITORIUM
EXCLUDING THE CHAMBERS GRANT SALON AND THE
STUDIO LOFT (the "Permitted Premises").

b. Permitted Uses; Term of User Agreement. Contractor may use the Permitted Premises for the rehearsal, performance, setting up, and striking of the Event for the following days and periods during each day:

- (i) Load-in / Rehearsal on September 6, 2012 at such times as are agreed to by Contractor and the AVD Manager of Events.
- (ii) Rehearsal on September 7, 2012 at such times as are agreed to by Contractor and the AVD Manager of Events.
- (iii) Performance of the Event on September 7, 2012 beginning at 8:00 p.m..
- (iv) Load-out at such times as are agreed to by Contractor and the AVD Manager of Events.

Additional rehearsal dates or load-in or load-out dates must be arranged for prior thereto with the AVD Manager of Events, and will be subject to the availability of the Permitted Premises.

c. Assignment of tenancy. Contractor's tenancy of the Permitted Premises shall not be assigned or sublet without the written permission of the Director.

d. Broadcasting rights. Contractor's right to use the Permitted Premises pursuant to this Paragraph 6 does not include the right to broadcast from the Permitted Premises. Broadcast

is defined as “the dissemination of video film, or radio content via electronic means including, but not limited to, high definition, standard and cable television, radio, web casting, web streaming, downloads, and/or other forms of digital transmission, digital broadcast, or digital distribution effectuated by means of the internet in all forms of television media now and hereafter known.” All such rights are expressly granted to and/or reserved by the City.

e. Advertising on the Permitted Premises. Contractor’s right to use the Permitted Premises pursuant to this Paragraph 6 does not include any rights to sell or lease advertising on the Permitted Premises. The City retains all rights to sell or lease advertising on the Permitted Premises, and to approve any incidental display of products, logos, etc. by Contractor. Further, the City reserves the right to make photographic, audio, and video recordings in the Permitted Premises to use for customary advertising and publicity and other non-commercial uses.

f. Compliance with applicable laws. Contractor shall use and occupy the Permitted Premises in a safe and careful manner and shall comply with all applicable Municipal, State, and Federal laws and rules and regulations pertaining to the AVD facilities, including the ECOH, promulgated by the City, and all other rules and regulations prescribed by the Fire and Police Departments and other governmental authorities, as may be in force and effect during the tenancy. It is agreed by and between the parties hereto that the Rules and Regulations of AVD shall be and are a part of this Agreement as though they were set out in full herein, and are specifically incorporated as a part hereof by reference.

g. Sale of liquor, unlawful, and prohibited acts. Contractor shall not use the Permitted Premises or any part thereof for the possession, storage, or sale of liquor, or for any unlawful purpose or in any manner so as to injure persons or property, in, on or near the Permitted Premises. Contractor shall not do any act or suffer any act to be done during the term of its tenancy of the Permitted Premises, which will in any way mar, deface, alter, or injure any part of the Permitted Premises. If at any time, in the judgment of the Director, the use of the Permitted Premises by Contractor is illegal, indecent, or obscene the Director shall so notify Contractor and, Contractor shall either cease and desist from continuing such objectionable use or surrender the Permitted Premises hereunder forthwith upon demand of the Director. Contractor hereby releases the City and its officers, agents, employees and representatives from any loss or damage occasioned by such cancellation.

h. Food and beverage sales. Contractor shall not sell or cause to be sold or sampled items of food or drink at or in the Permitted Premises. Centerplate Catering, the concessionaire of the Permitted Premises, has the exclusive right to sell food and beverages at the Permitted Premises.

i. Fliers and brochures. Except for the distribution of printed programs for the Event, Contractor shall not distribute fliers or literature of any kind without the prior approval of AVD.

j. Merchandise sales. Contractor, upon the prior written approval from the City, may sell novelties, curios, and souvenirs ("Merchandise") related to the presentation of the Event. If such sales are conducted, Contractor shall:

- (i) Ensure proper inventory controls of merchandise are followed.
- (ii) Ensure proper verification of sales.
- (iii) Ensure submittal of appropriate sales tax to the proper taxing authority.
- (iv) Within forty-eight (48) hours of the Event (the "Merchandise Payment Date"), Contractor shall submit payment to the City in an amount equal to 10% of the revenue from the sale of CDs and DVDs, and 20% of the revenue from all other merchandise sold, less any appropriate taxes. Contractor shall include with such payment a copy of the merchandise settlement and sales summary. Any payments not made to the City within thirty (30) days of the Merchandise Payment Date, shall accrue interest at the rate of eighteen percent (18%) per annum, commencing on the 5th calendar day after the date such amount is due and owing until such amount is paid to the City.

k. Ingress and egress. All portions of the sidewalks, entrances, passages, vestibules, halls, and all ways of access to public utilities on the Permitted Premises shall be kept unobstructed by Contractor and shall not be used for any purpose other than ingress or egress to and from the Permitted Premises. The doors, stairways, and openings into any place in the Permitted Premises, including hallways, corridors, and passageways, and house lighting attachments, shall in no way be obstructed by Contractor.

l. Vacation of Permitted Premises. In the event any portion of the Permitted Premises is not vacated by the date and time set forth in Subparagraph 6.b(iv) above, then the City shall be and is hereby authorized to remove from the Permitted Premises, at the expense of Contractor, all goods, wares, merchandise and property of any kind or description which may be then occupying a portion of the Permitted Premises. The City shall not be liable for any damage to or loss of such goods, wares, merchandise or property sustained either during the removal or storage of same and the City, its agents, employees, and officials are hereby expressly released from any and all claims for such damage or loss. The City shall notify Contractor of any equipment or articles inadvertently left at the Permitted Premises by Contractor and provide Contractor with a reasonable opportunity to remove the same prior to their removal or disposal by the City. By the date and time set forth in Subparagraph 6.b(iv) above, Contractor shall deliver to the City the Permitted Premises in as good a condition and repair as the same existed prior to the beginning of the term set forth in Subparagraph 6.b above, except for normal wear and tear.

m. City responsibility. The City assumes no responsibility for any property placed in the Permitted Premises, and the City is hereby expressly released and discharged from any and all liabilities for any loss, injury, or damages to any person or property that may be sustained by reason of the occupancy of the Permitted Premises under this Agreement. All watchmen or other protective services desired by Contractor must be arranged for by special agreement with the City, and any cost and expenses incurred by the City therefor shall be paid by Contractor to the City in accordance with Subparagraph 3.d of this Agreement. In the receipt, handling, care or custody of property of any kind shipped or otherwise delivered to the City, either prior to, during, or subsequent to the use by Contractor of the Permitted Premises, the City and its officers, agents, and employees shall act solely for the accommodation of Contractor and neither the City nor its officers, agents, or employees shall be liable for any loss, damage, or injury to such property.

n. Property left at Permitted Premises. The City shall have the sole right to collect and have custody of all articles left on the Permitted Premises by persons attending any function held on the Permitted Premises. Any property left on the Permitted Premises by Contractor

shall, after a period of thirty (30) days from the last date of tenancy hereunder, be deemed abandoned and, at the City's sole option, become the property of the City, without further notice.

o. Control and management of Permitted Premises. The City hereby reserves the right to control and manage the Permitted Premises and to enforce all necessary and proper rules for the management and operation of the same and for its authorized representatives to enter the Permitted Premises at any time and on any occasion. The City also reserves the right, but not the duty, through its duly appointed representatives, to eject any objectionable person or persons from the Permitted Premises and Contractor hereby waives any and all claims for damages against the City or any and all of its officers, agents, or employees resulting from the exercise of this authority.

p. Force majeure and casualty. Contractor hereby expressly waives any and all claims for compensation for any and all loss or damage sustained by reason of any defect, deficiency, failure, or impairment of the water supply system, drainage system, heating system, steam system, electrical system, ventilation system, or refrigeration system on or related to the Permitted Premises. In the event the Denver Performing Arts Complex or any part thereof is damaged by fire, or if for any other reason, including strikes, failure of utilities or any act of God which, in the judgment of the Director, renders the fulfillment of this Agreement by the City impossible, Contractor hereby expressly releases and discharges the City and its agents from any and all demands, claims, actions, and causes of actions arising from any of the causes aforesaid.

q. Police, Fire, and Paramedics. Denver Police, Denver Fire, and Paramedic personnel that are required by the City to be on duty during the Event will be paid as House Costs. Denver Police: Required to maintain proper conduct of all in attendance, and enforce all applicable rules and regulations relating to public permitted premises. Denver Fire: Required fire personnel are pursuant to Section 2813 of the Denver Fire Code. The Denver Fire Prevention Bureau will appoint the officers. Special stage effects involving pyrotechnic displays (including fireworks and flash powders) are prohibited for this Event except upon obtaining a special fee permit from the Denver Fire Prevention Bureau (see attached **Addendum One**). If a pyrotechnician is required, arrangements must be made through the Denver Fire Prevention Bureau, the cost for which will be considered an additional expense under Subparagraph 3.d above. Paramedic: Required to assist with medical emergencies. Determination of the necessity

or advisability of using police, fire and paramedic personnel shall be solely within the judgment of the safety levels as determined by the City.

r. Rigging. If rigging is required for the Event, it must meet the **Addendum Number Two** specifications and be approved by the City.

s. Copyright licensing. Contractor warrants that all copyrighted material to be performed has been duly licensed and authorized by the copyright owners or their representatives and agrees to indemnify and hold the City and County of Denver harmless from any and all claims, losses, or expenses incurred with regard thereto.

t. House seats. The City retains the use of the following House Seats for the Event:

Box 101 – 109

Box 201 – 209

Orchestra, Row M: 25 – 28

Orchestra Row L, seats 25-28

Orchestra, Row N: 45 – 48

Orchestra, Row P: 46 – 49

Right Orchestra, Row B – N

Parterre Left:	Row A: 148-170
	Row B: 150-171
	Row C: 152-172
	Row D: 153-171
	Row E: 155-172
	Row F: 155-170
	Row G: 161-165; 169-170
	Row H: 161-163; 165-166

Parterre Center:	Row E: 119-154
	Row F: 117-154

Parterre Right:	Row F: 101-116
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Row G: 101-102; 106-110

Row H: 101-102; 104-106

u. Americans with Disability Act. The parties hereto recognize that the City is subject to the provisions of Title II of the Americans with Disabilities Act (“ADA”) and that Contractor is subject to the provisions of Title III of the ADA (including all revised regulations dated September 15, 2010 and effective March 15, 2011). Concerning compliance with the ADA and all regulations thereunder, the City is responsible for the permanent building access requirements such as wheelchair ramps, elevators, restrooms, doors and walkways. Contractor is responsible for the non-permanent accessibility standards and requirements, such as, but not limited to, seating accessibility, sign language interpreters, signage and all other auxiliary aids and services customarily provided by Contractor. Contractor represents that it has viewed or otherwise apprised itself that such access to the premises and common areas and accepts such access, common areas and other conditions of the premises as adequate for Contractor’s responsibilities under the ADA. Contractor shall be responsible for ensuring that the Permitted Premises complies and continues to comply in all respects with the ADA, including accessibility, usability and configuration insofar as Contractor modifies, rearranges or sets up the Permitted Premises in order to accommodate the Event. Contractor shall be responsible for any violations of the ADA that arise from Contractor’s reconfiguration of the seating areas or modification of other portions of the Permitted Premises in order to accommodate the Event. Contractor shall be responsible for providing auxiliary aids and services that are ancillary to its production and for ensuring that the policies, practices and procedures it applies in its production are in compliance with the ADA.

7. STATUS OF CONTRACTOR: Contractor is an independent contractor retained to perform professional or technical services for limited periods of time. Neither Contractor nor any of its employees or subcontractors is an employee or officer of the City under Chapter 18 of the Denver Revised Municipal Code, or for any purpose whatsoever.

8. CANCELLATION: In the event Contractor cancels or terminates this Agreement for any reason, Contractor shall pay to the City an amount equal to Ticketmaster Fees for the Event plus the actual cost and expenses incurred by the City for marketing and promoting the Event, administrative overhead for the Event, and House Costs.

9. TERMINATION:

a. The City has the right to terminate this Agreement with cause upon written notice effective immediately, and without cause upon twenty (20) days prior written notice to Contractor. However, nothing gives Contractor the right to perform services under this Agreement beyond the time when its services become unsatisfactory to the Director.

b. The City may terminate this Agreement if Contractor or any of its officers or employees are convicted, plead *nolo contendere*, enter into a formal agreement in which they admit guilt, enter a plea of guilty or otherwise admit culpability to criminal offenses of bribery, kick backs, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with Contractor's business. Termination for the reasons stated in this paragraph is effective upon receipt of notice.

c. Upon termination of this Agreement, with or without cause, Contractor shall have no claim against the City by reason of, or arising out of, incidental or relating to termination, except for compensation for work duly requested and satisfactorily performed as described in this Agreement; provided, however, that such compensation shall be offset by the cost and expenses incurred by the City for marketing and promoting the Event, administrative overhead for the Event, and House Costs.

d. If this Agreement is terminated, the City is entitled to and will take possession of all materials, equipment, tools and facilities it owns that are in Contractor's possession, custody, or control by whatever method the City deems expedient. Contractor shall deliver to the City all documents in any form that were prepared under this Agreement and all other items, materials and documents that have been paid for by the City. These documents and materials are the property of the City. Contractor shall mark all copies of work product that are incomplete at the time of termination "DRAFT-INCOMPLETE".

10. EXAMINATION OF RECORDS: Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access and the right to examine any pertinent books, documents, papers and records of the Contractor, involving transactions related to this Agreement until the latter of three (3) years after the final payment under this Agreement or expiration of the applicable statute of limitations.

11. WHEN RIGHTS AND REMEDIES NOT WAIVED: In no event will any payment or other action by the City constitute or be construed to be a waiver by the City of any breach of covenant or default that may then exist on the part of Contractor. No payment, other action, or inaction by the City when any breach or default exists will impair or prejudice any right or remedy available to it with respect to any breach or default. No assent, expressed or implied, to any breach of any term of this Agreement constitutes a waiver of any other breach.

12. INSURANCE:

a. General Conditions: Contractor agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Contractor shall keep the required insurance coverage in force at all times during the Term of this Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of this Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the above-described policies are canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement and shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, Contractor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. If any policy is in excess of a deductible or self-insured retention, the City must be notified by Contractor. Contractor shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of Contractor. Contractor shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

b. **Proof of Insurance:** Contractor shall provide a copy of this Agreement to its insurance agent or broker. Contractor may not commence services or work relating to this Agreement prior to placement of coverage. Contractor certifies that the certificate of insurance attached as **Exhibit C**, preferably an ACORD certificate, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the certificate. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Contractor's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

c. **Additional Insureds:** For Commercial General Liability, Contractor and subcontractor's insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

d. **Waiver of Subrogation:** For all coverages, Contractor's insurer shall waive subrogation rights against the City.

e. **Subcontractors:** All subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of Contractor. Contractor shall include all such subcontractors and subconsultants as additional insured under its policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors and subconsultants maintain the required coverages. Contractor agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.

f. **Workers' Compensation/Employer's Liability Insurance:** Contractor shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. Contractor expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Contractor's officers or employees who may be eligible under any statute or law

to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement, and that any such rejections previously effected, have been revoked as of the date Contractor executes this Agreement.

g. Commercial General Liability: Contractor shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.

h. Personal Automobile Insurance: Contractor shall ensure personal automobile insurance is in force with limits of \$100,000 bodily injury per person; \$300,000 bodily injury per accident; \$50,000 property damage for all vehicles used in performing services under this Agreement. The policy will include a business use endorsement. Contractor represents, as material representations upon which the City is relying, that Contractor does not own any motor vehicles and that in performing Services under the Agreement, Contractor's owners, officers, directors, and employees use their personal vehicles. Contractor shall ensure that any person operating a motor vehicle in performing Services under the Agreement shall keep in full force Personal Auto Liability coverage with minimum required limits.

i. Additional Provisions:

- (i) For Commercial General Liability, the policy must provide the following:
 - (1) That this Agreement is an Insured Contract under the policy;
 - (2) Defense costs are in excess of policy limits;
 - (3) A severability of interests or separation of insureds provision (no insured vs. insured exclusion); and
 - (4) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.
- (ii) For claims-made coverage: The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier
- (iii) Contractor shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At its own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit,

Contractor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

13. DEFENSE AND INDEMNIFICATION

a. Contractor hereby agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from, and against all liabilities, claims, judgments, suits, or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement ("Claims"), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify the City for any acts or omissions of Contractor or its subcontractors either passive or active, irrespective of fault, including the City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of the City.

b. Contractor's duty to defend and indemnify the City shall arise at the time written notice of the Claim is first provided to the City regardless of whether claimant has filed suit on the Claim. Contractor's duty to defend and indemnify the City shall arise even if the City is the only party sued by claimant and/or claimant alleges that the City's negligence or willful misconduct was the sole cause of claimant's damages. The City shall provide Contractor with immediate notice of any Claim which may fall under Contractor's duty to defend and indemnify the City.

c. Contractor will defend any and all Claims which may be brought or threatened against the City and will pay on behalf of the City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of the City shall be in addition to any other legal remedies available to the City and shall not be considered the City's exclusive remedy.

d. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of Contractor under the terms of this indemnification obligation. Contractor shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

e. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

14. **TAXES, CHARGES AND PENALTIES:** The City is not liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts that the City may be required to pay under the City's prompt payment ordinance D.R.M.C. § 20-107, *et seq.* Contractor shall promptly pay when due all taxes, bills, debts and obligations it incurs performing the services under this Agreement and shall not allow any lien, mortgage, judgment or execution to be filed against City property

15. **ASSIGNMENT; SUBCONTRACTING:** Contractor shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract performance obligations, under this Agreement without obtaining the Director's prior written consent. Any assignment or subcontracting without such consent will be ineffective and void, and shall be cause for termination of this Agreement by the City. The Director has sole and absolute discretion whether to consent to any assignment or subcontracting, or to terminate this Agreement because of unauthorized assignment or subcontracting. In the event of any subcontracting or unauthorized assignment: (i) Contractor shall remain responsible to the City; and (ii) no contractual relationship shall be created between the City and any subconsultant, subcontractor or assign.

16. **INUREMENT:** The rights and obligations of the parties to this Agreement inure to the benefit of and shall be binding upon the parties and their respective successors and assigns, provided assignments are consented to in accordance with the terms of this Agreement.

17. **NO THIRD PARTY BENEFICIARY:** Enforcement of the terms of this Agreement and all rights of action relating to enforcement are strictly reserved to the parties. Nothing contained in this Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the City or Contractor receiving services or benefits pursuant to this Agreement is an incidental beneficiary only.

18. **NO AUTHORITY TO BIND CITY TO CONTRACTS:** Contractor lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Denver Revised Municipal Code.

19. **SEVERABILITY**: Except for the provisions of this Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of this Agreement or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the parties can be fulfilled.

20. **CONFLICT OF INTEREST**:

a. No employee of the City shall have any personal or beneficial interest in the services or property described in this Agreement. Contractor shall not hire, or contract for services with, any employee or officer of the City that would be in violation of the City's Code of Ethics, D.R.M.C. §2-51, *et seq.* or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

b. Contractor shall not engage in any transaction, activity or conduct that would result in a conflict of interest under this Agreement. Contractor represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of Contractor by placing Contractor's own interests, or the interests of any party with whom Contractor has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate this Agreement in the event it determines a conflict exists, after it has given the Contractor written notice describing the conflict.

21. **NOTICES**: All notices required by the terms of this Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to Contractor at the address first above written, and if to the City at:

Director of AVD
1245 Champa Street, First Floor
Denver, Colorado 80204

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail via United States mail are effective upon deposit with the U.S. Postal Service. The parties may designate substitute addresses where

or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

22. NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THIS AGREEMENT:

a. This Agreement is subject to Division 5 of Article IV of Chapter 20 of the D.R.M.C., and any amendments (the “Certification Ordinance”).

b. Contractor certifies that:

- (i) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.
- (ii) It will participate in the E-Verify Program, as defined in § 8 17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

c. Contractor also agrees and represents that:

- (i) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
- (ii) It shall not enter into a contract with a subconsultant or subcontractor that fails to certify to Contractor that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
- (iii) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program.
- (iv) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and it is required to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.
- (v) If it obtains actual knowledge that a sub-consultant or subcontractor performing work under the Agreement knowingly employs or contracts

with an illegal alien, it will notify such sub-consultant or subcontractor and the City within three (3) days. Contractor will also then terminate such sub-consultant or subcontractor if within three (3) days after such notice the sub-consultant or subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the sub-consultant or subcontractor provides information to establish that the sub-consultant or subcontractor has not knowingly employed or contracted with an illegal alien.

- (vi) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S, or the City Auditor, under authority of D.R.M.C. 20-90.3.

d. Contractor is liable for any violations as provided in the Certification Ordinance. If Contractor violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, Contractor shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Contractor from submitting bids or proposals for future contracts with the City.

23. **DISPUTES**: All disputes between the City and Contractor arising out of or regarding this Agreement will be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b)-(f). For the purposes of that administrative procedure, the City official rendering a final determination shall be the Director as defined in this Agreement.

24. **GOVERNING LAW; VENUE**: This Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, the Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into this Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal

action relating to this Agreement will be in the District Court of the State of Colorado, Second Judicial District.

25. **NO DISCRIMINATION IN EMPLOYMENT**: In connection with the performance of work under this Agreement, Contractor may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender variance, marital status, or physical or mental disability. Contractor shall insert the foregoing provision in all subcontracts.

26. **COMPLIANCE WITH ALL LAWS**: Contractor shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, Revised Municipal Code, ordinances, rules, regulations and Executive Orders of the City and County of Denver.

27. **LEGAL AUTHORITY**: Contractor represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement. Each person signing and executing this Agreement on behalf of Contractor represents and warrants that he or she has been fully authorized by Contractor to execute this Agreement on behalf of Contractor and to validly and legally bind Contractor to all the terms, performances and provisions of this Agreement. The City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate this Agreement if there is a dispute as to the legal authority of either Contractor or the person signing this Agreement to enter into this Agreement.

28. **NO CONSTRUCTION AGAINST DRAFTING PARTY**: The parties and their respective counsel have had the opportunity to review this Agreement, and this Agreement will not be construed against any party merely because any provisions of this Agreement were prepared by a particular party.

29. **ORDER OF PRECEDENCE**: In the event of any conflicts between the language of this Agreement and the exhibits, the language of this Agreement controls.

30. **PARTIES' MARKS**: City and Contractor each acknowledge that the other party owns certain names, trademarks, service marks, copyrights and other intellectual property

associated with their respective businesses (collectively referred to as the “Marks”), and each owns certain merchandising rights in and to the Marks, and all goodwill associated with or symbolized by the Marks. It is agreed and understood that in marketing and promoting the Event, City and Contractor may make various references to each other and may display the Marks of City and Contractor. Each party grants to the other a non-exclusive, non-transferable license to use its Marks from the Effective Date until the date of the Event, subject to the following terms and conditions, solely in connection with advertising and promoting the Event and activities incidental thereto.

a. Upon termination or expiration of this Agreement, both parties shall cease all use of the Marks of the other party as soon as practicable, but, in any event, within thirty (30) calendar days, unless the particular media which has been approved requires a longer lead time, but in no event longer than ninety (90) days.

b. Neither party will challenge or assist in a challenge to the validity of the other party’s Marks, any registrations thereof, or the ownership thereof. Each party will be solely responsible for taking such actions, as it deems appropriate to obtain trademark, service mark, or other protection of its respective Marks.

c. Neither party is granted any right or license under this Agreement to sell or otherwise distribute for sale any of the promotional or advertising materials or items related thereto that are created pursuant to this Agreement, unless specifically set forth herein. If a party desires to sell or distribute for sale any of such materials or other merchandising or novelty items bearing the Marks of the other party, then such party shall request permission to do so from the other party and, if granted, the parties shall negotiate in good faith a separate licensing agreement covering such materials or items before they may be sold or distributed for sale.

31. SURVIVAL OF CERTAIN PROVISIONS: The terms of this Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of this Agreement survive this Agreement and will continue to be enforceable. Without limiting the generality of this provision, the Contractor’s obligations to provide insurance and to indemnify the City will survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

32. **ADVERTISING AND PUBLIC DISCLOSURE**: Except as otherwise provided in Paragraph 29, Contractor shall not include any reference to this Agreement or to services performed pursuant to this Agreement in any of Contractor's advertising or public relations materials without first obtaining the written approval of the Director. Any oral presentation or written materials related to services performed under this Agreement will be limited to services that have been accepted by the City. Contractor shall notify the Director in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials.

33. **CITY EXECUTION OF AGREEMENT**: This Agreement will not be effective or binding on the City until it has been fully executed by all signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

34. **AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS**: This Agreement is the complete integration of all understandings between the parties as to the subject matter of this Agreement. No prior, contemporaneous or subsequent addition, deletion, or other modification has any force or effect, unless embodied in this Agreement in writing. No oral representation by any officer or employee of the City at variance with the terms of this Agreement or any written amendment to this Agreement will have any force or effect or bind the City.

35. **USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS**: Contractor shall cooperate and comply with the provisions of Executive Order 94 and its Attachment A concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in contract personnel being barred from City facilities and from participating in City operations.

36. **COUNTERPARTS OF THIS AGREEMENT**: This Agreement may be executed in counterparts, each of which is an original and constitute the same instrument.

37. **ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS**: Contractor consents to the use of electronic signatures by the City. This Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The parties agree not to deny the legal effect or enforceability of

this Agreement solely because it is in electronic form or because an electronic record was used in its formation. The parties agree not to object to the admissibility of this Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

[Remainder of this page intentionally left blank]

Contract Control Number: THTRS-201207018-00

Contractor Name: BALLET NOUVEAU COLORADO

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at
Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

DOUGLAS J. FRIEDNASH, Attorney
for the City and County of Denver

By _____

By _____

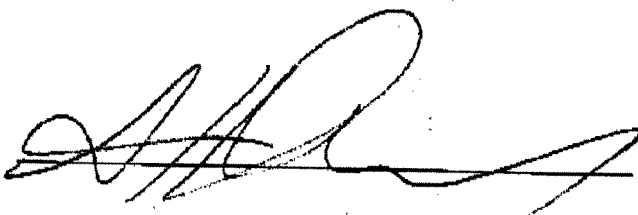
By _____



Contract Control Number: THTRS-201207018-00

Contractor Name: BALLET NOUVEAU COLORADO

By:



Name:

Garrett Ammen
(please print)

Title:

Artistic Director
(please print)

ATTEST: [if required]

By:

Name:

(please print)

Title:

(please print)



EXHIBIT A

SCOPE OF WORK

- Contractor will perform, hire, pay, and coordinate with additional performers (including Paper Bird), and manage all aspects of the live production of *Carry On* to be performed at the ECOH on Friday September 7, 2012 at 8:00pm (the "**Event**"), which Event shall include a minimum of ninety (90) minutes of performance time. The services to be provided by Contractor related thereto will include, without limitation, the services described in this Exhibit A in preparation for the Event and subsequent to the Event.
- Contractor will provide AVD with the correct performance name, 75 words or more of promotional copy, the Contractor's logo, and a high resolution image for the promotion of the Event.
- Contractor will prepare and supply a final press release to local television venues, the Denver Post, Westword, and other local and regional papers. The final press release shall include the AVD and Western Arts Alliance information, and shall be approved by AVD prior to Contractor delivering the release to news media.
- Contractor will work and collaborate with AVD on marketing schedules and press relations.
- Contractor will design creative for all marketing assets including brochures, fliers, posters, and marquees.
- Contractor will print and distribute brochures, fliers, and posters for the Event.
- Contractor will coordinate and manage rehearsals and pre-event preparations.
- Contractor will work with AVD to determine tiered ticketing prices for the Event prior to sale date.
- Contractor will work with the AVD Manager of Events to configure all performance needs.
- Contractor will promote the Event on its website and include Event information in email announcements to its patrons.
- Contractor is responsible for preparing and paying for its printed program; provided that at least one-page of the program shall be reserved for use by AVD. AVD has no objection to Contractor working with contributing performers to produce one program. No less than Two Thousand (2,000) printed programs must be delivered to AVD on or before five (5) days before the date of the Event. These programs will then be distributed by AVD.
- On the day of the Event, Contractor's sound technician or supervisor shall be at the ECOH no later than one (1) hour before the scheduled sound check.

Required Technical Information

- The following information shall be supplied by Contractor to the AVD Manager of Events as soon as possible, but no later than thirty (30) days prior to the Event:
 - (a) A complete current technical sheet, including complete stage plot;
 - (b) A complete current sound plot;
 - (c) Information on any specialty equipment, such as, rigging, electrical equipment requiring more than 110 volts AC, projection equipment, etc.;
 - (d) Special services required of ECOH which would not ordinarily be found in the theatre; and
 - (e) An updated backline equipment list.

All such information shall detail actual staging requirements for the Event. Any subsequent changes shall be communicated to the AVD Manager of Events in a timely manner but no later than fourteen (14) days prior to the Event. In the event Contractor fails to timely supply the AVD Manager of Events with the above-required information and such failure results in the need for additional labor or equipment, the costs for such labor and equipment shall be borne by Contractor.

EXHIBIT B

TICKET PRICING SCHEDULE

- \$60 Rows B – G in the Orchestra
- \$50 seats are in Center Orchestra, Rows H – M
- \$45 seats are in Center Orchestra, Rows N – X
- \$40 seats in Parterre
- \$30 seats in Mezzanine
- \$20 seats in Loge and Balcony
- The seats identified in Subparagraph 6.t of the Agreement are reserved for use by AVD.
- Contractor will receive forty-two (42) VIP complementary tickets and up to ten (10) media complimentary tickets.
- Paper Bird will receive sixteen (16) complementary tickets.

EXHIBIT C
CERTIFICATE OF INSURANCE
(ATTACHED)



BALLNOU-01

SULRICH

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/30/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Colorado Nonprofit Insurance Agency 455 Sherman Street Suite 207 Denver, CO 80203	CONTACT NAME: PHONE (A/C, No, Ext): (303) 894-0298 FAX (A/C, No): (303) 894-0161 E-MAIL ADDRESS:														
INSURED Ballet Nouveau Colorado 3001 Industrial Ln. Unit 12 Broomfield 80020	<table border="1"><thead><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A : Alliance of Nonprofits for Ins</td><td></td></tr><tr><td>INSURER B : Pinnacol Assurance</td><td></td></tr><tr><td>INSURER C : National Union Fire Insurance Co</td><td></td></tr><tr><td>INSURER D : North American Elite</td><td></td></tr><tr><td>INSURER E :</td><td></td></tr><tr><td>INSURER F :</td><td></td></tr></tbody></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Alliance of Nonprofits for Ins		INSURER B : Pinnacol Assurance		INSURER C : National Union Fire Insurance Co		INSURER D : North American Elite		INSURER E :		INSURER F :	
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INSURER E :															
INSURER F :															

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY	X	2012-16009	6/27/2012	6/27/2013	EACH OCCURRENCE \$ 1,000,000	
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000	
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					MED EXP (Any one person) \$ 20,000	
						PERSONAL & ADV INJURY \$ 1,000,000	
	GEN'L AGGREGATE LIMIT APPLIES PER:					GENERAL AGGREGATE \$ 2,000,000	
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC					PRODUCTS - COMP/OP AGG \$ 2,000,000	
A	AUTOMOBILE LIABILITY	X	2012-16009	6/27/2012	6/27/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000	
	<input type="checkbox"/> ANY AUTO					<input type="checkbox"/> SCHEDULED AUTOS	BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS					<input type="checkbox"/> NON-OWNED AUTOS	BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/>					PROPERTY DAMAGE (Per accident) \$	
	UMBRELLA LIAB					EACH OCCURRENCE \$	
	EXCESS LIAB					AGGREGATE \$	
	DED <input type="checkbox"/> RETENTION \$					\$	
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y / N N / A	4044410	10/1/2011	10/1/2012	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)					E.L. EACH ACCIDENT \$ 100,000	
	If yes, describe under DESCRIPTION OF OPERATIONS below					E.L. DISEASE - EA EMPLOYEE \$ 100,000	
						E.L. DISEASE - POLICY LIMIT \$ 500,000	
C	Volunteer Accident		MHH010307	6/27/2012	6/27/2013	Aggregate Limit 750,000	
D	Commercial Property		CWB0004496-08-16009	6/27/2012	6/27/2013	BPP 200,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

The City and County of Denver, its elected and appointed officials, employees and volunteers are named as additional insured with regards to the commercial general liability policy and the business auto liability policy.

CERTIFICATE HOLDER**CANCELLATION**

City and County of Denver
Arts & Venues Denver
1245 Champa St. 1st Floor
Denver, CO 80204

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Jeanette Wilson

DENVER THEATRES AND ARENAS AGREEMENT
CITY AND COUNTY OF DENVER, COLORADO

ADDENDUM NO. ONE

Special stage effects involving pyrotechnic displays (including fireworks and flash powders) are prohibited except by special fee permit from the Fire Prevention Bureau.

Requests for pyrotechnic permits should be made at least one month in advance of the show to the Fire Prevention Bureau, Denver Fire Department, 745 West Colfax Avenue, Denver, Colorado 80204.

These should include:

- 1 - Show Name
- 2 - Date of Show
- 3 - Facility
- 4 - Name of Pyrotechnician
- 5 - Licensed in what State
- 6 - What type of equipment, devices, and containers will be used and how many
- 7 - What type of material, powders, fireworks, and other special effects will be used and in what quantities in piece of apparatus.

When pyrotechnic or open-flame special effects are permitted for use in a public facility, the following conditions shall be strictly adhered to:

1. The Bureau shall determine the size, duration, and those items pertinent to all pyrotechnics and demonstrations.
2. An additional fireman shall be provided backstage to supervise set-up and display of pyrotechnics.
3. The backstage fireman shall have authority to call for house lights when, in his judgment, a hazardous condition exists.
4. No pyrotechnic device shall be used within 25 feet of any public area.
5. Prior to the pyrotechnics or demonstrations, the stage manager shall announce that the use of flames, and/or fireworks in the spectator area is prohibited and that this will result in interruption or discontinuance of performance.
6. Spectators found to be burning papers, torches, or similar items, or using sparklers, fireworks, or pyrotechnic devices shall be removed from the seating area and held in violation of this Fire Code.
7. All pyrotechnic special effects shall be controlled by a licensed Pyrotechnician carrying a current certification.
8. The storage of all pyrotechnic powders shall be in metal containers stored in approved and locked wood containers or magazines. Storage shall not be located near any potential ignition source.
9. The preparation of all pyrotechnic devices shall be in an area away from all ignition sources and where smoking is prohibited. Open flame pods shall not be filled until latest available opportunity and shall be temporarily covered with foil until use.
10. Upon application for pyrotechnic permit, a bond or certificate of issuance in compliance with current code standards shall be submitted. See Section 1503, Denver Fire Code.

ALLOWED DISPLAYS:

Fixed sparklers
Fixed torches - Lycopodium - vertical only - 4 foot flame and 10 foot clearance overhead
(Total clearance above fire base shall be 14 feet)

Reports (see allowable limits for reports/salutes/flame pods)
Flash pans - 1/2 ounce
Fixed smoke producing devices - smoke shall be confined to stage area only
Flash paper - single 4 inch by 4 inch sheets

PROHIBITED ITEMS (Without Action):

Hand held torches
Air tosses with any open flame or pyrotechnic device
Roman candles
Air bursts
Liquid fuel
LP Gas

REPORTS/SALUTES:

A 4" tube, 12" high, covered with a double sheet of foil shall be located with no more than 400 grains of FFF black powder. (Tape used to bind foil to tube shall not cross top of tube).
A 2" tube, 12" high, covered with a double sheet of foil, shall use more than 150 grains of FFF black powder. (Tape used to bind foil to tube shall not cross top of tube).

FLAME PODS:

An open 4" tube, 12" high, shall use no more than 600 grains of red dot smokeless shotgun powder.
An open 2" tube, 12" high, shall use no more than 400 grains of red dot smokeless shotgun powder.
All firing tubes shall be of such design and construction so as not to promote a hazard by fire or explosion.
All reports, salutes, and flame pods must be fired electrically.

Any variance with the above standards must first meet Bureau approval. In no case will the above powder limitations be increased.

**DENVER THEATRES AND ARENAS RENTAL AGREEMENT
CITY AND COUNTY OF DENVER, COLORADO**

ADDENDUM NO. TWO

The usage of ceiling anchorage devices.

Article I. Procedures and General Requirements.

The Tenant agrees to follow the procedures and general requirements set forth hereunder for the usage of the ceiling anchorage device.

A. Eye-bolts:

1. Loading:

- a) Static load in vertical position: The maximum static load in vertical position to be imposed on an individual eye-bolt shall not exceed 4,000 pounds. Static load herein defined as an object's dead load permanent fixed without motion, such as light fixtures, loud speakers, etc.
- b) Load accompanied with impact in vertical position: The above specified load shall be reduced to 50% (2,000 pounds) per bolt where impact loading conditions exist. High impact loading conditions shall include jerking or rigging all in vertical direction.
- c) Angular loading: All rigging and swinging of a load in an angular direction shall be done by utilizing at least two bolts at a time, thus distributing the static load of 2,000 pounds specified in paragraph (b) on two bolts, i.e., 1,000 pounds each. This load may be increased to 100% for stationary objects permanently attached at an inclined angle. In no case shall the direction of the pull exceed a 30° angle with the vertical. The set of two-bolts shall be connected by means of a "Vee" shaped wire rope sling of equal length.
- d) Hoisting: As the resultant force at the eye-bolt will be doubled during the process of hoisting, all allowable loads prescribed in paragraphs (a) through (c) shall be reduced to 50% during hoisting or lifting by tackles.

2. Testing:

In general, when the applied loads are in conformity with specified loads in Section 1, the testing of the anchorage device is not mandatory. Testing however, when required, shall be done in accordance with the following requirements.

- a) Instrument: Instruments to be used for testing purposes shall be Dillon "Dynamometer" or equal for gradual application of test load. The instrument shall be equipped with 10,000 pound capacity dial and 8,000 pound cable type come-along.
- b) Loading: The maximum test load shall not exceed 8,000 pounds per bolt, which shall be applied gradually in as vertical position as possible. A safety cable attached to the adjacent bolt shall always be in place before the application of the test load. All ropes and fastenings to be used for this purpose shall have a minimum holding strength of 12,000 pounds. A successful testing shall not warrant to increase the applied loads specified in Section 1.

B. Wire Ropes and Fittings:

1. Wire Ropes:

All wire ropes to be used for rigging and similar purposes shall conform to the Federal Specifications RR-W-401a and shall be zinc-coated in accordance with ASTM A 474-62T. The ropes shall be pre-formed, flexible hoisting type with 6x19 construction. They shall be manufactured from improved plow steel or better, composed of six (6) strands with fiber core or IWRC (Independent Wire Rope Core), meeting with the breaking strength listed in the table below.

**TABLE
BREAKING STRENGTH*
FOR VARIOUS SIZES OF WIRE ROPES**

Dia. in Inch	Improved Plow Steel		Extra Improved
	Fiber Core	IWRC	FLOW STEEL IWRC
3/16	3,100 lbs.	3,200 lbs.	-----
1/4	5,480	5,880	6,800 lbs.
5/16	8,520	9,160	10,540
3/8	12,200	13,120	15,100
7/16	16,540	17,780	20,400
1/2	21,400	23,000	26,600

*The safe carrying load shall not exceed 1/4 of the Breaking Strength shown. Any other type of wire rope construction may be substituted, provided the actual imposed load shall not exceed the 1/4 of the suggested manufacturer's breaking load for that type. In no case shall the size of the rope be less than 3/8" diameter with a breaking strength of 12,000 pounds.

1. Fittings:

- a) **General:** The wire rope fittings shall include splicing sleeves, clips, clamps, thimbles, safety latches. All fittings shall be assembled by trained personnel in the field of wire ropes and accessories. In all cases, the fastening shall be provided with a safety factor of four (4) to the manufacturer's recommended holding strength for any type of connection.
- b) **Splicing Sleeves:** The splicing sleeves may be of copper or aluminum and shall be applied within hand tool or hydraulic tool. In no case the holding strength of any splice shall be less than 10,000 pounds.
- c) **Clips:** The wire rope clips shall be high strength "U" bolt and saddle or twin base type. There shall be a minimum of two clips per fastening up to 7/16" diameter rope and three clips for 1/2" diameter and over. They shall be spaced six (6) wire rope diameters apart to provide adequate holding power. The clips shall be tightened before the rope is placed under tension. After the load is applied on the rope, the clip shall be tightened again to take care of any lessening in rope diameter caused by tension of the load. A wire rope thimble shall be used in the eye of the rope to prevent kinks. It shall be noted that the base of the clips bears on the live end of the rope, the "U" of the bolt bears on the dead end. This will prevent any possibility of the rope being cut or kinked with subsequent failure.