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October 22, 2009

Clerk
Circuit Court for Baltimore City
Courthouse East
111 North Calvert Street
Baltimore, Maryland 21202

RE:

vs. Buena Vista Theatrical Group, Ltd., et al.
Case No.: 24C08000796
Our File: 2982-17-15

Dear Madame Clerk:

Enclosed for filing please find a Motion For Summary Judgment, Memorandum of Law in Support of Motion For Summary Judgment, Request For Hearing and proposed Order. A second copy of the Motion For Summary Judgment is included to be date stamped and returned to us in the envelope provided.

Thank you for your cooperation.

Very truly yours,



Kathleen M. Bustraan

KMB/laj/406674
Enclosures
cc: All Counsel of Record

Plaintiff	*	IN THE
v.	*	CIRCUIT COURT
BUENA VISTA THEATRICAL GROUP LTD, et al.	*	FOR
Defendants	*	BALTIMORE CITY
* * * * *	*	Case No.: 24C08000796
* * * * *	*	* * *

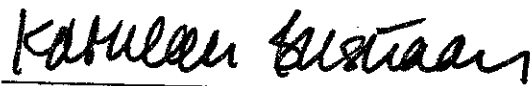
MOTION FOR SUMMARY JUDGMENT

Defendants, Buena Vista Theatrical Group, Ltd., The Walt Disney Company, Disney Theatrical Productions, Ltd., Disney on Broadway and Michael T. Carey, III, by undersigned counsel, and pursuant to Rule 2-501 of the Maryland Rules of Civil Procedure, hereby move the Court to enter summary judgment in their favor with respect to all claims in this case and in support thereof state as follows:

1. There is no genuine dispute of any facts material to this Motion and the movants are entitled to judgment as a matter of law. As is more fully set forth in the attached memorandum of law, the motion asks the Court to enter summary judgment in favor of Buena Vista Theatrical Group, Ltd. and Michael T. Carey, III because all claims asserted against them are barred by the exclusive remedy provisions of the worker's compensation law in Maryland.
2. There is absolutely no evidence in the record in support of any claim against The Walt Disney Company, Disney Theatrical Productions, Ltd. and Disney on Broadway. The Walt Disney Company played no role in the events giving rise to the Plaintiff's claims. Disney Theatrical Productions, Ltd. is simply a registered fictitious

name for Buena Vista Theatrical Group, Ltd. and Disney on Broadway is not a legal entity. Accordingly, the claims against these parties must be dismissed.

WHEREFORE, the Defendants respectfully request that the Court enter summary judgment as to all claims in this case.



Kathleen M. Bustraan
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36 South Charles Street, 10th Floor
Baltimore, Maryland 21201
(410) 539-5881
*Counsel for Buena Vista Theatrical Group,
Ltd., The Walt Disney Company, Disney
Theatrical Productions, Ltd., Disney on
Broadway and Michael T. Carey, III*

CERTIFICATE OF SERVICE

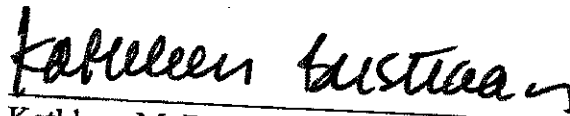
I HEREBY CERTIFY that on this 22 day of October, 2009 a copy of the foregoing Motion For Summary Judgment was mailed first class, postage prepaid to:

Rodger O. Robertson, Esquire
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Silver Spring, Maryland 20910


Kathleen M. Bustraan

/406675

Plaintiff

v.

BUENA VISTA THEATRICAL
GROUP LTD, et al.

Defendants.

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
* Case No.: 24C08000796

* * * * *

**MEMORANDUM OF LAW IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT**

Defendants, Buena Vista Theatrical Group, Ltd. ("BVTG"), The Walt Disney Company, Disney Theatrical Productions, Ltd., Disney on Broadway, and Michael T. Carey, III by undersigned counsel and pursuant to Rule 2-501 of the Maryland Rules of Civil Procedure, submit this memorandum of law in support of their motion for summary judgment and state:

STATEMENT OF UNDISPUTED FACTS

Plaintiff filed suit as a result of injuries he says he sustained on September 5, 2005 during the load out following a performance of *The Lion King* at the Hippodrome Theater in Baltimore, Maryland. Plaintiff says that he was "working as a 'pusher,' responsible for moving already loaded road cases from the Hippodrome theater to the trucks" when a road case collapsed causing injuries. (Complaint, ¶¶13, 15.) Plaintiff asserts claims against all defendants, including Mr. Carey, for failing to provide a "safe working environment." (Complaint, ¶16.)

The crux of the negligence claim is that plaintiff was working to break down the stage set following a performance of *The Lion King* at the Hippodrome Theatre. (Complaint, ¶2.) Rather than utilize the loading dock at the Hippodrome Theatre to load the stage set into vehicles for transport, plaintiff contends, the defendants instructed the crew, including the plaintiff, to roll the road case down the loading dock and into the City street. (Complaint, ¶12.) Plaintiff asserts that the road case was defective and therefore became unstable and collapsed on top of him, causing injuries. (Complaint, ¶15.) On this basis, the plaintiff also sets forth manufacturing defect, design defect, and breach of warranty claims against all defendants. (Complaint, Counts II, III, and IV.)

The performance of *The Lion King* occurred in Baltimore after Buena Vista Theatrical Group, Ltd. ("BVTG") and the Hippodrome Foundation, Inc. ("HFI") entered into an agreement dated as of December 31, 2001 for BVTG's use of the theatre known as the Hippodrome Theatre at France-Merrick Performing Arts Center. (See Exhibit 1, Certification of Seth A. Stuhl, and Theatre Agreement, attached as Exhibit A.) The Theatre Agreement, common in the industry, provided that HFI would provide BVTG with the theatre and the necessary labor to put on a stage production of *The Lion King* in Baltimore. (*Id.*, Theatre Agreement at §2.3.3 A at pps. 3-4.) In return, BVTG agreed to and in fact did reimburse HFI for the cost of that labor, including the cost of workers' compensation insurance. (See Exhibit 2, Certification of Olive Waxter.)

In accordance with the Theatre Agreement, HFI provided all the necessary labor for *The Lion King* performance at the Hippodrome Theatre in September 2005 by arranging for the engagement of that labor through an operating agreement dated June 19,

2002 between The Baltimore Center for the Performing Arts, Inc., a predecessor to HFI, and TMG Hippodrome, LLC (“TMG”). (Exhibit 2 at Exhibit A, Operating Agreement, §12.1A.) Pursuant to the Operating Agreement, TMG was authorized to subcontract out hiring labor for the Hippodrome Theatre. (Id.) Pursuant to a Union Contract between several labor unions and Theatre Management Group, Maryland, LLC (TMGMD), TMGMD agreed to hire union labor to work at the Hippodrome Theatre. (Exhibit 3, Certification of Katrina Buck, and Union Contract, attached as Exhibit A.)

Plaintiff was employed by TMGMD at the time he claims he was injured loading out the stage set for *The Lion King* production, although he also describes Mr. Carey as the “head carpenter for *The Lion King*” and acknowledges that Mr. Carey, then an employee of BVTG, was supervising the load out. (Complaint, ¶3.) As put it, Mr. Carey was “the head carpenter telling us what to do.” (Exhibit 7, Transcript of the Deposition of Richard Delahey, p. 104.) Mr. Carey confirmed this, testifying that the head carpenter is “the person in charge of the load in, load out.” (Exhibit 4, Transcript of the Deposition of Michael T. Carey, III, p. 171.)

Within 10 days of his claimed injury, plaintiff completed an Employee’s Claim Form and filed it with the Maryland Workers’ Compensation Commission. He identified his employer as “Theater (sic) Management Group.” (See Exhibit 3 and Employee’s Claim Form, attached as Exhibit B.) Plaintiff also submitted a copy of the Union Contract, identifying his employer as “Theatre Management Group, Maryland, LLC) in support of his claim. (See Exhibit 3 and Union Contract, attached as Exhibit A.) On this basis, Plaintiff’s workers’ compensation claim was honored and he was awarded

workers' compensation benefits for the injuries that are the subject of this lawsuit. (Exhibit 5, Award of Compensation.)

LEGAL DISCUSSION

I. STANDARD OF REVIEW

Summary judgment practice in Maryland is governed by Maryland Rule 2-501. Maryland Rule 2-501(e) provides that "the court shall enter judgment in favor of or against the moving party, if the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to summary judgment as a matter of law." The "mere existence of *some* alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment". *Seaboard Sur. Co. v. Richard F. Klein, Inc.*, 91 Md. App. 236, 603 A.2d 1357(1992) (emphasis in original) (citation omitted).

The trial court must decide whether a jury could return a verdict in favor of the non-moving party. *Id.* In reaching that decision, the Court must consider the facts reflected in the pleadings, depositions, answers to interrogatories and affidavits in the light most favorable to the non-moving party. *Ashton v. Brown*, 339 Md. 70, 79, 660 A.2d 447 (1995). However, where there is no dispute as to material fact, disposition by summary judgment is proper despite the existence of a number of minor quibbles. *S.L. Hammerman Org., Inc. v. Community Health Facilities, Inc.*, 264 Md. 37, 50 (1971). If there is no dispute as to material fact, summary judgment is proper when the movant is entitled to judgment as a matter of law. *Syme v. Marks Rentals, Inc.*, 70 Md. App. 235, 238 (1987).

II. THE EXCLUSIVE REMEDY PROVISIONS OF WORKERS' COMPENSATION ACT BAR PLAINTIFF'S CLAIMS

Plaintiff was working when he sustained the injuries that are the subject of this case. (Amended Complaint, ¶13.) Plaintiff sought and obtained benefits from the Workers' Compensation Commission for the injuries that are the subject of this claim.¹ As a covered employee, workers' compensation benefits are Plaintiff's exclusive remedy against any employer for his injuries. Md. Lab. & Empl. Code Ann. §§9-508, 9-509 (2009).

Maryland workers' compensation law recognizes that injured workers may be under the control of more than one employer at a given time. In such a situation, both (or all) employers are liable in equal shares for workers' compensation benefits and medical expenses. See *Mackall v. Zayre Corp.*, 293 Md. 221, 229, 443 A.2d 98, 102 (1982); *Keitz v. National Paving & Contracting Co.*, 214 Md. 479, 491, 134 A.2d 296, 301 (1957). Five factors are determinative in evaluating whether an employer-employee relationship exists that qualifies an injured worker to receive workers' compensation benefits: the selection and engagement of the servant, the payment of wages, the power to discharge,

¹ The United States District Court, Hon. Richard D. Bennett presiding, previously considered whether the Plaintiff's receipt of workers' compensation benefits for the injuries that are the subject of this case acted to bar his negligence claims against TMGMD, against whom he previously filed a workers' compensation claim. The Plaintiff argued that he was a "casual employee" and therefore was permitted to recover for his claim sounding in negligence. The United States District Court rejected Plaintiff's contention, noting that Plaintiff applied for and received workers' compensation benefits and in doing so "represented (directly or indirectly) to the Workers' Compensation Commission that he was a covered employee." Any argument to the contrary, Judge Bennett observed, was barred by judicial estoppel. See, *Abrams v. American Tennis Courts, Inc.*, 160 Md. App. 213, 862 A. 2d, 1094, 1102 (2004) (finding that judicial estoppel prevented subsequent tort suit after Plaintiff fraudulently persuaded Workers' Compensation Commission to award benefits). (See Exhibit 8.)

the power to control the servant's conduct, and whether the work is a part of the regular business of the employer. *Loving Helicopters v. Kaufman*, 13 Md. App. 418, 423, 283 A.2d 640, 643 (1971). Of these factors, the right of control is the most decisive. *Id.*

_____ was an employee of both BVTG and TMGMD at the time of his injury because BVTG controlled Mr. _____ work as a pusher during the load out. BVTG's control of the workplace is demonstrated as follows:

(1) Selection and Engagement of Servant and (2) Payment of Wages:

According to the contract between BVTG and the HFI, HFI was required to hire production laborers, such as Mr. _____, on BVTG's behalf. BVTG was responsible for reimbursing HFI for wages and workers' compensation premiums paid to or on behalf of production laborers such as Mr. _____. Specifically, the contract between BVTG and the HFI states at § 2.3.3 "Local Documented Expenses":

Production Labor. The salaries and other costs of engaging all stagehands, wardrobe personnel and musicians (collectively "Production Labor") as required by BVTG or required by local conditions for load-in, load-out, and performances of the Play and any other labor which BVTG determines is necessary to fulfill the requirements of the Technical Rider (attached hereto as exhibit "B"). All of such Production Labor shall be contracted and/or arranged for by OPERATOR on behalf of BVTG, and shall be reimbursed (to the extent of the best estimate of takeout costs by OPERATOR) to OPERATOR pursuant to paragraph 4.1 hereof at the first settlement subject also to paragraph 4.2 hereof. OPERATOR and BVTG agree that included in the cost of such Production Labor shall be all applicable, documented and actually paid by FICA, unemployment insurance and workers' compensation insurance premiums, actual third-party administration fees . . . (emphasis added).

(3) Power to Discharge

BVTG, through the head carpenter, was in charge of the load in and load out. Local laborers, such as _____ were union employees. Production laborers hired to

work for BVTG who turned out to be unsatisfactory to BVTG were terminable at BVTG's request. (Affidavit from Michael T. Carey, III, attached as Exhibit 6.)

(4) Right of Control

The right of control is the most important factor in determining whether an employer-employee relationship exists. Here, _____ acknowledges that Mr. Carey was "the head carpenter telling us what to do." (Exhibit 4, Transcript of the Deposition of Richard Delahey, p. 104.) Mr. Carey confirmed this, testifying that BVTG's head carpenter is "the person in charge of the load in, load out." (Exhibit 4, Transcript of the Deposition of Michael T. Carey, III, p. 171) and explaining that other BVTG personnel also worked with the pushers such as _____ "telling them what they're supposed to be doing" (Exhibit 4, Transcript of the Deposition of Michael T. Carey, III, p. 47).

(5) Regular Business of the Employer

As the Operating Agreement attached as Exhibit 2 demonstrates, it is BVTG's regular business to present live theatre including touring Broadway productions. Mr. Carey's job is to plan both the load in and load out of each show with each local venue. (Exhibit 4, Transcript of the Deposition of Michael T. Carey, III, p. 37.) Ultimately, he says, he organizes and plans with the local venues to set a "game plan" for the load in and load out and makes sure everything is "running smoothly." Plaintiff was allegedly injured during the load out of *The Lion King*, which occurred during the conduct of the regular business of BVTG. Because Plaintiff was injured while working for BVTG, he is limited to a claim for workers' compensation benefits from BVTG. Therefore, the claims he asserts in this case must be dismissed.

Appellate courts in Maryland have consistently held that tort claims for damages against a co-employer or dual employer are barred by the exclusive remedy provisions of the Workers' Compensation Act. Consider the case of *Mackall v. Zayre Corp.*, 293 Md. 221, 443 A.2d 98 (1982). Ms. Mackall was the manager of the wig and millinery section at a Zayre department store. Alden Millinery, a Boston based wig company, actually stocked the wig section at Zayre's and paid Ms. Mackall her wages. Ms. Mackall slipped and fell in a different section of the Zayre store from where she worked, and she filed a workers' compensation claim naming Alden Millinery as her employer. She then filed a third-party premises liability suit against Zayre. Zayre claimed that it was immune from suit because it was Ms. Mackall's co-employer. Both of the Maryland courts of appeal upheld a finding that Ms. Mackall's claim against Zayre was barred by the exclusive remedy provisions of the workers' compensation act. Finding that both Alden Millinery and Zayre participated in the selection and hiring of Ms. Mackall, both paid Ms. Mackall's wages, both had the power to discharge her, the retail sale of wigs and millinery was a part of the regular business of both Alden Millinery and Zayre, and both exercised control over Ms. Mackall in the performance of her duties, the Court of Appeals affirmed a finding that dual employment existed and that Ms. Mackall's tort claims against Zayre Corporation were barred by the exclusivity provisions of the Workers' Compensation Act. *Id.* at 231.

A nearly identical situation obtains here. To fulfill its contractual obligations to BVTG, TMGMD hired Plaintiff to work for BVTG. BVTG paid Plaintiff's wages and workers' compensation insurance premiums through TMGMD, supervised the jobsite

where Plaintiff was injured, had the power to discharge Plaintiff, and Plaintiff was injured doing the work of BVTG. Under the circumstances, Plaintiff's claims against BVTG are barred by the exclusive remedy provisions of the Workers' Compensation Act.

III. PLAINTIFF DOES NOT STATE CLAIMS AGAINST MR. CAREY

In his complaint, Plaintiff describes Mr. Carey as the "head carpenter for *The Lion King*" and acknowledges that Mr. Carey, then an employee of Buena Vista Theatrical Group, Ltd., was supervising the load out. (Complaint, ¶3.) Plaintiff himself says that he was "working as a 'pusher,' responsible for moving already loaded road cases from the Hippodrome theater to the trucks" when the road case collapsed causing injuries. (Complaint, ¶¶13, 15.) Plaintiff's claim against Mr. Carey is for allegedly failing to provide a "safe working environment." (Complaint, ¶16.)

A supervisory co-employee such as Mr. Carey is entitled to immunity under the Maryland Workers' Compensation Act if, at the time of the accident: (1) he is performing a nondelegable duty of the employer; and (2) he performed that duty during the course of his employment. *Hastings v. Mechalske*, 336 Md. 663, 685 (1994). "Under Maryland law the employer owes his employees a nondelegable duty to provide a safe place to work..." *Athas v. Hill*, 300 Md. 133, 148 (1984). Part of an employer's obligation to provide a safe place to work is to see that its employees are properly supervised. *Ramey v. Martin-Baker Aircraft Company, Ltd.*, 874 F. 2d 946 (4th Cir. 1989). The exclusive remedy provisions of the Maryland Workers' Compensation Act immunize a supervisor such as

Mr. Carey from Plaintiff's claim that he failed to supervise the workplace or otherwise did not provide Plaintiff with a safe place to work.

There is no allegation here that Mr. Carey participated in the event that resulted in Plaintiff's injuries. Indeed, Plaintiff sues Mr. Carey only in his role as a supervisor. After all, Mr. Carey's only role here is that he, "saw [it] as the incident was progressing when I heard the local stagehands hollering for him to get out of the way." (Exhibit 4, Transcript of the Deposition of Michael T. Carey, III, p. 89.) A corporate officer or supervisor such as Mr. Carey is immune under the workers' compensation law where his negligence is based upon a general nondelegable duty of the employer. To hold him liable "something extra is required beyond a breach of duty of general supervision and safety, for that duty is owed by the employer, not the employee." *Athas v. Hill*, 54 Md. App. 293, 304 (1983). Because there is no evidence of "something extra," the claims against Mr. Carey fail as a matter of law.

IV. CLAIMS AGAINST THE WALT DISNEY COMPANY, DISNEY THEATRICAL PRODUCTIONS, LTD., AND DISNEY ON BROADWAY FAIL AS A MATTER OF LAW

There is absolutely no evidence in the record in support of Plaintiff's claims against The Walt Disney Company (TWDC), Disney Theatrical Productions, Ltd., and Disney on Broadway. TWDC played no role in the events giving rise to Plaintiff's claims. Disney Theatrical Productions is simply a registered fictitious name for BVTG, and Disney on Broadway is not a legal entity.

CONCLUSION

Plaintiff's claims against BVTG and Mr. Carey fail as a result of the exclusive remedy provisions of the Maryland Workers' Compensation Act. Plaintiff's claims against TWDC fail because TWDC played no role in the events that are the subject of this case. In addition the claims against Disney Theatrical Productions, Ltd. and Disney on Broadway fail because Disney Theatrical Productions, Ltd. is simply a registered fictitious name for BVTG, and Disney on Broadway is not a legal entity. Accordingly, all claims against Buena Vista Theatrical Group, Ltd., The Walt Disney Company, Disney Theatrical Productions, Ltd., Disney on Broadway, and Michael T. Carey, III should be dismissed, with prejudice.

Respectfully submitted,



Kathleen M. Bustra
Lord & Whip, P.A.
Charles Center South
36 S. Charles Street, 10th Floor
Baltimore, Maryland 21201
410 539-5881
*Attorneys for Buena Vista Theatrical Group,
Ltd., The Walt Disney Company, Disney
Theatrical Productions, Ltd., Disney on
Broadway, and Michael T. Carey, III*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22 day of ~~September~~^{Oct}, 2009 a copy of the foregoing Memorandum of Law In Support of Motion for Motion for Summary Judgment was mailed first class, postage prepaid to:

Rodger O. Robertson, Esquire
Law Offices of Joseph M. Jagielski
The Wachovia Building, Suite 1250
7 St. Paul Street
Baltimore, Maryland 21202

Laura Zois, Esquire
Miller and Zois, LLC
Empire Towers, Suite 1001
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Jeffrey R. Schmieler, Esquire
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Silver Spring, Maryland 20910

Albert B. Randall, Jr., Esquire
Franklin & Prokopik
Two North Charles Street
Suite 600
Baltimore, Maryland 21201



Kathleen M. Bustraan

406274

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

Plaintiff

v.

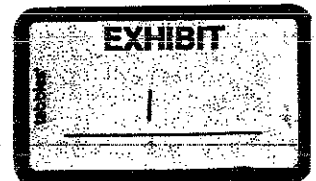
BUENA VISTA THEATRICAL
GROUP LTD, et al.

Defendants.

Case No.: 1:08-CV-00775 (RDB)

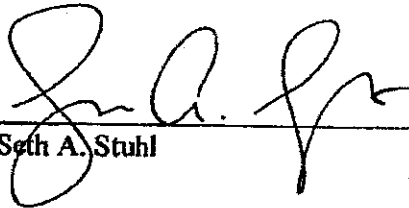
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*
CERTIFICATION

1. I, Seth A. Stuhl, am over eighteen years of age and have personal knowledge of the matters and facts set forth herein and am otherwise competent to testify.
2. I give this certification in connection with the lawsuit entitled *Buena Vista Theatrical Group, Ltd., et al.*, now pending in the United States District Court for the District of Maryland, case no. 1:08-CV-00775 (RDB).
3. I am presently employed as Senior Counsel, Legal & Business Affairs of Buena Vista Theatrical Group, Ltd.
4. Attached hereto as Exhibit A is a true and correct copy of that certain agreement dated as of December 31, 2001 between Buena Vista Theatrical Group, Ltd. and the Hippodrome Foundation, Inc. for the use of the theatre known as the Hippodrome Theatre at France-Merrick Performing Arts Center (the "Theatre Agreement"). Please note that certain minor redactions have been made to the Theatre Agreement to preserve the confidence of sensitive commercial information, the



disclosure of which would place Buena Vista Theatrical Group, Ltd. at a competitive disadvantage.

I HEREBY CERTIFY BASED UPON PENALTY OF PERJURY THAT THE FOREGOING STATEMENTS ARE TRUE AND CORRECT.


Seth A. Stuhl



As of December 31, 2001

Hippodrome Foundation, Inc.
12 North Eutaw Street
Baltimore, MD 21201

Attention: Olive Waxter, Managing Director

Re: "The Lion King" (Gazelle Tour) / Baltimore, MD Engagement

Dear Ms. Waxter:

This letter confirms the principal terms agreed upon between Buena Vista Theatrical Group Ltd. ("BVTG"), a New York corporation, and the Hippodrome Foundation, Inc. ("OPERATOR"), a Maryland corporation, for the use of the theatre known as the Hippodrome Theatre at France-Merrick Performing Arts Center, which has a seating capacity of Two Thousand Two Hundred Eighty Six (2,286) seats (reducible by the number of any seats removed for production kills, ADA requirements and/or non-functioning [e.g. broken seats]), and the related backstage areas and those offices, meeting rooms and/or common spaces, if any, described on Exhibit "1" annexed hereto (collectively, the "Theatre"), located at 12 North Eutaw Street, Baltimore, MD 21201, for the presentation of BVTG's musical play entitled "The Lion King" (the "Play").

1. TERM/PERFORMANCE SCHEDULE

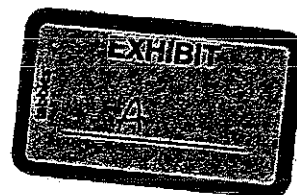
OPERATOR agrees to hold the Theatre available for BVTG's use for house strip commencing with house strip on Wednesday, May 25, 2005. BVTG shall be entitled to exclusive use of the Theatre for a period (the "Term"), commencing with advance load-in (currently scheduled to commence on Monday, May 30, 2005 (and continuing until the completion of load-out and restore (currently scheduled to be completed Thursday, September 8, 2005. BVTG's schedule for the presentation of the Play at the Theatre is attached hereto as Exhibit "A".

2. CONSIDERATION FOR USE OF THEATRE

As full and complete consideration for BVTG's use of the Theatre and provided BVTG has exclusive use of the Theatre and OPERATOR is not in breach of any material obligation to BVTG hereunder, BVTG and OPERATOR agree as follows:

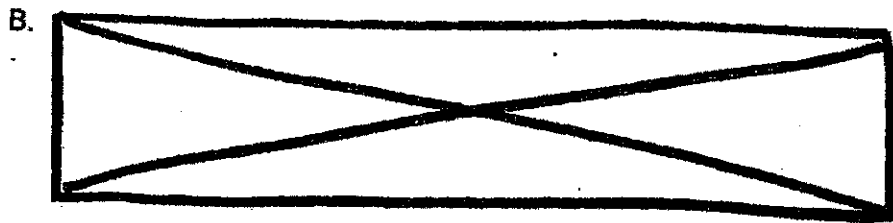
1450 Broadway, Suite 300 - New York, New York 10018 - 212/827-5400 - Fax 212/827-5454

Part of the Magic of The Walt Disney Company © Disney



2.1. Compensation to BVTG

A. NAGWBOR Participation. BVTG shall be entitled to receive one hundred percent (100%) of NAGWBOR less only (i) OPERATOR's Fixed Weekly Expense Fee (as set forth in Paragraph 2.2.2.A below), (ii) OPERATOR's participation in NAGWBOR (as set forth in Paragraph 2.2.2.B below) and (iii) Local Documented Expenses (as such term is defined in Paragraph 2.3.3 below). Notwithstanding the foregoing, no payment shall be made to BVTG in any week unless and until OPERATOR receives the Fixed Weekly Expense Fee and Local Documented Expenses for such week, and to the extent its share of NAGWBOR and interest are insufficient, BVTG shall pay any deficiency to OPERATOR.



C. Interest Income. In addition to the foregoing, at each weekly settlement, BVTG shall receive _____ of the interest earned by OPERATOR on its investment of advance ticket sale proceeds, _____

2.2. Compensation to OPERATOR OPERATOR shall be entitled to receive the following:

A. Fixed Weekly Expense Fee. A Fixed Weekly Expense Fee in the amount of _____, per performance week, provided that if there are fewer than eight [8] performances, such Fixed Weekly Expense Fee shall be prorated at the rate of one-eighth [1/8] thereof per performance. Such Fixed Weekly Expense Fee shall be undocumented and shall include all of OPERATOR's obligations and operating expenses in connection with the presentation of the Play at the Theatre as same are set forth in Paragraph 3, below, exclusive of Local Documented Expenses, and otherwise in accordance with good theatrical practice. Notwithstanding the foregoing, BVTG shall pay OPERATOR an amount equal to 50% of the Fixed Weekly Expense Fee in respect of the load-in and load-out periods, provided that if such periods total less than seven (7) days or more than nine (9) days, there shall be a pro rata adjustment at the rate of 50% of one seventh (1/7th) of the Fixed Weekly Expense Fee per day. _____

B. OPERATOR's Participation in NAGWBOR. A weekly participation calculated as _____ of one hundred percent (100%) of NAGWBOR (if any) in excess of and accruing after the NAGWBOR for the applicable week has reached the sum of _____ shall be pro-rated on the basis of one-eighth (1/8) thereof per performance. If there are fewer than eight (8) performances in a week, OPERATOR shall receive _____ of one hundred percent (100%) of NAGWBOR in excess of such prorated sum.

2.3. Definitions.

2.3.1. "NAGWBOR". As used herein the term "Net Adjusted Gross Weekly Box Office Receipts" means the total of all Gross Weekly Box Office Receipts (as defined below) less, in the following order, Taxes (as defined in Paragraph 2.3.5 below) and the Percentage Commissions (as defined in Paragraph 2.3.6 below). As used herein, the term "Gross Weekly Box Office Receipts" shall mean the gross weekly sums (and the value of goods or services) collected or credited from the sale of tickets during each week in respect of all performances of the Play at the Theatre, it being understood for purposes hereof that no value shall be deemed to have been given for complimentary tickets distributed pursuant to Paragraphs 10 and 13 hereof and that facility fees shall not be considered part of Gross Weekly Box Office Receipts.

2.3.2. Intentionally Omitted

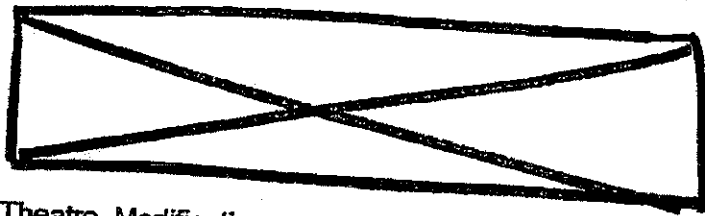
2.3.3. "Local Documented Expenses". All Local Documented Expenses described in this Paragraph 2.3.3 shall be expenses of BVTG. However, to facilitate BVTG's presentation of the Play in the Theatre, OPERATOR agrees to advance the cost thereof, subject to reimbursement by BVTG as provided for in Paragraph 2.1 hereof. As used herein the term "Local Documented Expenses" shall be defined as including the following expenses:

A. Production Labor. The salaries and other costs of engaging all stagehands, wardrobe personnel and musicians (collectively "Production Labor") as required by BVTG or required by local conditions for load-in, load-out, and performances of the Play and any other labor which BVTG determines is necessary to fulfill the requirements of the Technical Rider (attached hereto as Exhibit "B"). All of such Production Labor shall be contracted and/or arranged for by OPERATOR on

behalf of BVTG, and shall be reimbursed (to the extent of the best estimate of takeout costs by OPERATOR) to OPERATOR pursuant to paragraph 4.1 hereof at the first settlement subject also to paragraph 4.2 hereof. OPERATOR and BVTG agree that included in the cost of such Production Labor shall be all applicable, documented and actually paid FICA, unemployment insurance and workers' compensation insurance premiums, actual third party administration fees (e.g., for payroll service) in lieu of third party administration fees, a payroll administration fee equal to ~~---~~ of gross payroll and any other actual costs relating to such Production Labor as same are required by union agreements or governmental agencies. Copies of such union agreements or, if only extracts have been furnished to OPERATOR by the venue, then extracts of such agreements shall be provided to BVTG no later than the date of OPERATOR's execution of this Agreement. All employment taxes and union benefits are as set forth in the attached Exhibit "C". It is agreed and understood that the Play is being presented as an IATSE yellow card attraction and that all Production Labor requirements shall be solely as set forth in the Yellow Card and the Technical Rider and/or as required by local conditions.

- B. Insurance Fee. ~~-----~~ United States Cents (US\$, ~~---~~) per ticket redeemed (as documented and verified by ticket stub count) in respect of the cost of OPERATOR's insurance premium (including any and all administrative fees in connection therewith) for insurance coverage acquired by OPERATOR in accordance with Paragraph 15 below.
- C. Advertising Expenses. The total amount of BVTG-approved third-party advertising expenses (including for purposes hereof, OPERATOR's in-house graphics unit to the extent it performs services which ordinarily would have been performed by a third party) incurred for the entire engagement of the Play at the Theatre in accordance with Paragraph 11.1 hereof, plus the commissions payable in respect thereof, as more fully described in Paragraph 11.2 hereof, and fully and finally determined pursuant to the advertising settlement (the "Advertising Expenses");

D.



E. Theatre Modifications and Restoration. All expenses incurred in connection with any modifications to the Theatre necessary to accommodate the physical production requirements of the Play or the request of BVTG (including, for example, removal of the orchestra shell or stripping of the house) and the restoration of the Theatre to its prior condition at the end of the run, including, without limitation, all associated labor costs and the per diem Fixed Weekly Expense fee applicable to the load-in and load-out periods in accordance with Paragraph 2.2.A hereof. See attached Exhibit "G".

F. ADA Compliance. Actual costs and expenses associated with compliance with the Americans with Disabilities Act ("ADA") for this run of the Play (e.g., signed performances for the hearing impaired, audio-described performances and captioning, including the transportation costs of an ADA interpreter or other ADA labor if none are available locally), exclusive of any permanent or semi-permanent renovations or modifications (e.g., ramps and elevators).

G. Other Pre-Approved Documented Expenses. Such other expenses incurred for the engagement of the Play at the Theatre which expenses are pre-approved by BVTG and thereafter documented by OPERATOR including without limitation, those OPERATOR Obligations described in Paragraph 3.1 hereof as Local Documented Expenses.

2.3.4. Facility Fee. BVTG hereby acknowledges that there shall be a "Facility Fee" of Two United States Dollars (US \$2.00) per ticket sold for the Play, which shall be on top of the ticket price as stated in Exhibit "E".

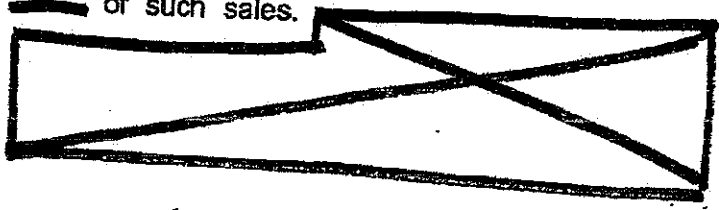
2.3.5. Taxes. If state and/or local admissions taxes are imposed on tickets sold for the engagement of the Play at the Theatre, OPERATOR shall be responsible for remitting the actual amount of such taxes to the appropriate authorities and shall indemnify and hold harmless BVTG from any liability in respect thereof. There is a \$2.00 State of Maryland Seat Tax added to the ticket price.

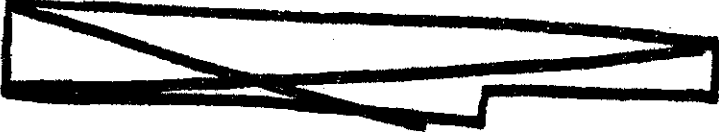
2.3.6. Percentage Sales Commissions. Each week, OPERATOR shall be entitled to retain from GWBOR a sales commission deduction on all tickets sold for the engagement (the "Percentage Commissions") during such week, which shall include without limitation all expenses, charges, levies, fees, commission and credit card charges incurred in connection with ticket sales for the presentation of the Play at the Theatre as follows, provided that not more than one (1) type of percentage commission set forth in this Paragraph 2.3.6 may be charged on any one (1) ticket and Taxes (as defined in Paragraph 2.3.5 above) shall be deducted from GWBOR prior to the calculation of percentage commissions:

A. Subscription Sales. _____ for all OPERATOR subscription sales (such commission to include, without limitation, the cost of the production, printing and distribution of OPERATOR's subscription brochure and all other marketing and/or advertising in connection with OPERATOR's subscription season to the extent allocable to the Play); and with respect to third party subscription sales processed by OPERATOR, the actual third party commission paid by OPERATOR, not to exceed the sum of _____

It is acknowledged that additional single ticket sales to current season subscribers shall be commissioned by OPERATOR as single tickets as set forth in Paragraph 2.3.6.C below;

B. Group Sales. For all group sales (i.e., twenty (20) or more tickets sold to one (1) individual or entity), up to an aggregate of _____ OPERATOR shall receive a commission (inclusive of all expenses, personnel and facilities necessary to operate a group sales department and process all group sales ticket orders) equal to _____ of such sales; and for group sales which exceed _____ OPERATOR shall receive a commission of _____ of such sales.




Notwithstanding the foregoing, in connection with group sales made by BVTG or an affiliate thereof (all in coordination with the group sales efforts of OPERATOR), BVTG shall be entitled to a commission at the applicable rate provided for above. Group sales made by BVTG shall be taken into account in determining aggregate group sales. If there is any overlap between BVTG's and OPERATOR's group sales lists, the commission for sales made to such overlapping groups shall be payable to OPERATOR.

C. Single Ticket Sales.

1. Box Office Credit Card Sales. _____
_____ for all credit card sales.
2. Telephone Sales. _____ for all telephone sales (inclusive of credit card sales).
3. Outlet Sales. _____ for all outlet sales (inclusive of credit card sales).
4. Internet Sales. _____ for all internet sales (inclusive of credit card sales).

D. Documentation/Calculation of Percentage Sales Commissions. OPERATOR shall document the dollar value of all tickets sold for the engagement (which dollar value shall not include any Facility Fee) through each method that such tickets are sold (e.g., group sales, subscription, telephone [including internet], outlet, credit card, etc.), shall deduct Taxes, and thereafter calculate the applicable Percentage Commissions (as same are set forth in this Paragraph 2.3.6) due OPERATOR for such sales. In connection with the foregoing, BVTG acknowledges that other than reporting ticket sales and the attendant Percentage Commissions taken thereon on the weekly box office settlement statement, OPERATOR shall not be obligated to document the actual payment of Percentage Commissions. Percentage Commissions shall be calculated on the full face-value of the ticket (excluding Taxes and any and all surcharges and processing and handling fees). The parties acknowledge

that the percentage and cash amounts which comprise the Percentage Commissions are as agreed to in this Paragraph 2.3.6. OPERATOR and BVTG agree that all of such Percentage Commissions are in consideration for any and all of OPERATOR's costs in connection with the sale of tickets for the Play's engagement at the Theatre, including, but not limited to, ticket printing, group sales personnel, subscription advertising and related costs, credit card redemption, automated ticket distribution, computer rental, software, postage and delivery costs, chargebacks, telephone room costs and all of the OPERATOR's local, regional and national overhead costs whatsoever in connection therewith.

- 2.4 VIP Tickets. The terms and conditions applicable to VIP Tickets sales are contained in Exhibit H, attached hereto and incorporated herein by this reference.

3. OPERATOR OBLIGATIONS/REPRESENTATIONS/WARRANTIES

- 3.1. OPERATOR Obligations. In consideration of the fulfillment by BVTG of its obligations to OPERATOR hereunder, including, without limitation, payment of the Fixed Weekly Expense Fee, OPERATOR shall maintain and operate the Theatre as a first-class theatre suitable in all respects at all times during the Term for the presentation of the Play at the Theatre (unless otherwise excused by a Force Majeure Event as such term is defined in Paragraph 14.2 below), and in connection therewith OPERATOR shall be solely responsible for the following operations and personnel and shall bear any and all expenses in connection therewith (collectively "OPERATOR Obligations"), provided, however, that in no event shall OPERATOR ultimately be responsible for Local Documented Expenses:

- 3.1.1 Front-of-House. All front-of-house operations;

- 3.1.2. Box Office. All standard and customary box office operations (including, but not limited to, the set up and operation of the box office commencing 8 weeks prior to the first public performance of the Play with respect to all ticket sales in advance of the first performance of the Play and the cost of printing all tickets sold for the engagement);

- 3.1.3. Staff/Personnel. All staff and personnel (including all salaries, taxes, benefits [e.g., workers compensation insurance] and payroll administration fees and charges in connection therewith) required for the first-class operation of the Theatre, including, without limitation, any and all general and administrative staff, box office staff, group sales staff,

marketing and publicity staff (including the Theatre's press agent), usher staff, ticket taking staff, house management staff, doorpersons, security, fire and traffic control staff, the Theatre's technical director (if any) and building maintenance and housekeeping staff. With respect to the usher staff, ticket taking staff, house management staff, doorpersons, security, fire and traffic control staff, the Theatre's technical director (if any) and building maintenance and housekeeping staff, it is acknowledged by BVTG that such staff shall be provided during load-in (including reasonable advance calls), load-out and performance periods only;

- 3.1.4. Administrative Services. All general, administrative and accounting services in connection with the operation of a first-class theatre;
- 3.1.5 Utilities. Providing and maintaining all utilities (e.g., heating, air-conditioning, water and electrical power) required to operate a first-class public building dedicated to presenting theatrical performances; and providing and maintaining all utilities required for the Play as per the Technical Rider attached hereto;
- A. Additional Telephone Lines. In the event BVTG requests that OPERATOR install or activate additional phone lines for BVTG's use during the Term, subject to BVTG's prior approval of the cost of such additional phone lines, the installation or venue activation cost and telephone company monthly service charges in connection therewith (which charges shall be pro-rated for periods of less than one [1] month) shall be billed to and paid directly by BVTG;
- 3.1.6 House Lights. Providing and maintaining all house lights and fixtures;
- 3.1.7 Orchestra Chairs/Stands. Providing and maintaining all orchestra chairs and music stands and lights per the Technical Rider;
- 3.1.8. Association Dues. The payment of any and all producing or presenting association (e.g., the League of American Theatre Producers) dues and fees allocated to OPERATOR, exclusive of dues and fees allocated to producer;

- 3.1.9. Theatre Maintenance. Providing and maintaining all general and necessary maintenance, cleaning and repair costs (including all supplies in connection therewith) for the Theatre;
- 3.1.10. Medical Supplies. Providing and maintaining all necessary medical supplies and personnel;
- 3.1.11. Dressing Room Facilities. Providing and maintaining dressing rooms and facilities strictly conforming to Actors' Equity Association Safe and Sanitary Code;
- 3.1.12. Laundry Services. Providing free access to and use of the Theatre's washing machine(s) and dryer facilities per the Technical Rider;
- 3.1.13. Rigging. Providing and maintaining the hemp and counterweight rigging systems available at the Theatre, provided that hemp and rigging that is required by the Play pursuant to the Technical Rider that is in addition to the hemp and rigging at the Theatre shall be billed to and paid directly by BVTG;
- 3.1.14. Piping. Providing pipe or similar items available at the Theatre provided that in the event additional equipment is required by BVTG, the cost of such additional equipment shall be billed to and paid directly by BVTG;
- 3.1.15. Piano/Tuning. Providing and maintaining (e.g., one tuning per week) a performance standard acoustic piano per the Technical Rider;
- 3.1.16. Lighting and Sound Systems. Providing and maintaining the Theatre's light and sound equipment inventory or other similar items or equipment which are part of the house inventory, including, without limitation, follow spots, backstage intercoms and speaker clusters per the Technical Rider (it being acknowledged by BVTG that the furnishing of the foregoing equipment by OPERATOR shall exclude any labor required by BVTG for the operation of such equipment, such labor to be a Local Documented Expense);
- 3.1.17. Permits/Licenses. The costs and expenses of obtaining or renewing all necessary permits and/or licenses required for the daily operation of the venue (provided that any required fire watch equipment and/or personnel shall be a Local Documented Expense). Additional licenses, if any, which

may be required specifically for the Play shall each be treated as a Local Documented Expense.

- 3.1.18. Musicians. Securing and providing all local musicians required by BVTG, if any, (provided, however, that the cost of such musicians shall be a Local Documented Expense, and provided further, however, that any and all additional musicians [e.g. so-called "walkers"] who may be required by the local musicians union within whose jurisdiction the engagement provided for herein is played shall not be a Local Documented Expense and shall be an OPERATOR obligation).
- 3.1.19. Miscellaneous. Any and all other costs incurred in connection with the operation of the Theatre for the presentation of the Play, other than (i) those required by the Technical Rider (attached hereto as Exhibit "B") and, (ii) for the avoidance of uncertainty, those included as Local Documented Expenses in accordance with Paragraph 2.3.3.E hereof.
- 3.2. OPERATOR's Representations and Warranties. OPERATOR represents and warrants and shall indemnify BVTG as follows:
- 3.2.1. that it shall maintain and operate the Theatre as a first-class theatre suitable in all respects at all times during the Term for the presentation of the Play;
- 3.2.2. that it shall comply with all applicable laws, rules and regulations of all governmental and other authorities;
- 3.2.3. that it currently has, to the extent OPERATOR has control thereof, and throughout the Term of this Agreement will have binding and in-force contracts or agreements in good standing or contracts in good faith negotiation with all applicable unions and/or guilds affecting the engagement hereunder;
- 3.2.4. that it will meet, fulfill and comply with all regulations, terms, conditions and requirements of all applicable guild or union contracts; and
- 3.2.5. that all Production Labor (as defined in Paragraph 2.3.3.A above) shall be contracted and/or arranged for by OPERATOR (provided, however, that such Production Labor shall be a Local Documented Expense). Such reimbursement shall include the applicable and actually paid FICA, unemployment insurance and workers' compensation

insurance premiums or any other actual costs relating to payroll required by union agreements or governmental agencies as same are set forth in the attached Exhibit "C".

- 3.2.6. In the event OPERATOR, refuses, fails or neglects to fulfill material OPERATOR Obligations and fails to promptly cure such non-fulfillment after notice from BVTG, the terms of Paragraph 14.3 shall become applicable.
- 3.2.7. OPERATOR shall indemnify BVTG, its parent, subsidiaries, affiliates and their respective officers, employees and licensees, from any damage, cost, penalty, guild fee or award or expense arising from any claim or demand in connection with OPERATOR's breach of this Paragraph 3.
- 3.2.8. OPERATOR shall promptly notify BVTG of any administrative or legal actions brought against OPERATOR that affect BVTG or the Play and OPERATOR shall not, except with the written consent of BVTG, consent to the entry of any judgment or administrative order or enter into any settlement with respect to such actions; provided, however, that BVTG's consent shall not be required in connection with matters involving OPERATOR's employees or business that will not affect BVTG's rights nor give rise to any financial or other liability for BVTG (including, without limitation, any demands by OPERATOR for reimbursement from BVTG). The foregoing sentence shall apply irrespective of whether OPERATOR is obligated under this Agreement to indemnify BVTG in connection with the particular subject matter of the action.

4. PAYMENTS TO BVTG

- 4.1. Compensation Due BVTG at Settlement. OPERATOR shall be responsible for the sale of tickets to performances of the Play at the Theatre and for the proper collection and handling of all receipts from the sale of tickets to performances of the Play at the Theatre. BVTG shall be entitled to receive, and OPERATOR shall pay over to BVTG promptly at the settlement for each week of the run (such settlement to be subject to the final settlement provided for in Paragraph 4.2 below and to take place after the final performance of each such week) all of the compensation due for the previous week pursuant to Paragraph 2 above, unless the parties agree to next-day payment via wire transfer.
- 4.2. Final Settlement. OPERATOR shall provide BVTG with the preliminary final settlement documentation accompanied by any outstanding monies due BVTG as same is reflected on such documentation no later than thirty (30) days following the final performance of the Play at the

Theatre. Thereafter, but in no event later than sixty (60) days following the delivery of said preliminary settlement documentation, OPERATOR shall provide BVTG with full and final settlement documentation along with any additional outstanding monies due BVTG. Notwithstanding anything set forth in this Paragraph 4 to the contrary, and by way of clarification, BVTG acknowledges that OPERATOR shall be entitled to retain the following solely for its own account, and the same shall not reduce the amounts to which OPERATOR otherwise would be entitled in accordance with the settlement procedures herein: facility fees, income and receipts from parking, food and beverage concessions, OPERATOR's or OPERATOR's affiliates' sponsorships, ticket service charges, patron or similar clubs or programs, the local share of Play-related merchandise and receipts from the sale of non-Play-related merchandise (i.e., merchandise containing the name and/or logo of the Theatre, the local presenter, or other productions appearing at the Theatre), risk reward relationship from venue co-promotion (such as, by way of example only, any agreement or arrangement pursuant to which OPERATOR and venue may share, divide or allocate between themselves any source or sources of revenue including rent or charges otherwise payable to or by only one of them) and volume rebates or other discounts or payments resulting from a larger overall relationship with a vendor extending for at least the term of the series (exclusive of benefits conferred by such vendor as part of the approved marketing/sponsorship program for the engagement of the Play at the Theatre). Notwithstanding the foregoing, if prior to or during the Term, any of the contracts or agreements referred to in Paragraph 3.2.3 hereof shall have expired, with new terms under negotiation, BVTG will be liable for retroactive increases in the Production Labor costs paid thereunder, and BVTG agrees to pay such increases promptly upon notice and appropriate documentation from OPERATOR.

5. CONCESSIONS/COAT CHECK

OPERATOR represents and warrants that the venue shall provide and operate all food and drink concessions and the coat check (if available) at the Theatre in a first-class manner at OPERATOR's sole cost and expense. In the event said concessions and coat check is provided for and operated by a third party vendor, OPERATOR hereby represents and warrants that OPERATOR and/or the Theatre currently has, and throughout the Term of this Agreement shall have, a valid written contract or agreement with such third party vendor to provide and operate the concessions and coat check. OPERATOR shall be entitled to retain all receipts from the food and drink concession and coat check operation and BVTG shall not be entitled to share any of the receipts for the same.

6. MERCHANDISE.

BVTG shall have the exclusive right to operate all merchandise sales facilities located in the Theatre and (at its election) located in areas in front of the Theatre; provided however that OPERATOR shall be entitled to operate its permanent sales facilities at or in the vicinity of the Theatre (if any) during the Term hereof, and continue to sell merchandise other than Play-related merchandise from such permanent facilities, if any. BVTG shall have the right to establish and construct such merchandise booths, carts and other display areas as BVTG deems appropriate, subject to fire codes and other regulations, and to engage all staff in connection with such merchandise sales, all at BVTG's sole expense. OPERATOR shall provide to BVTG throughout the Term office space and storage space as available in the Theatre for use by BVTG's merchandising team. In consideration of the foregoing, BVTG agrees to pay to OPERATOR _____

_____, from the sale of merchandise as contemplated in this Paragraph, such payment to be made by BVTG to OPERATOR at the same time settlement is made pursuant to Paragraph 4.1 hereof.

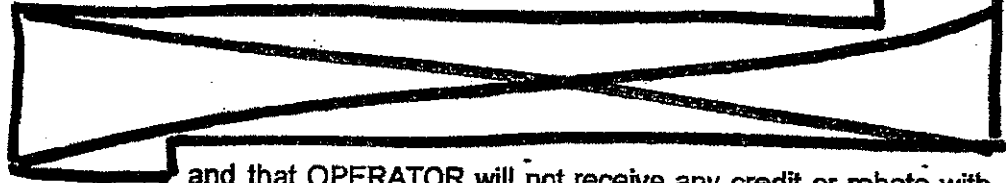
7. PROGRAMS

OPERATOR shall provide a house program to every patron at each performance of the Play at the Theatre at no cost to BVTG or to the patrons attending the Play at the Theatre. Each such program shall include up to twelve (12) pages of copy (including the title page of the program) dedicated solely to BVTG (that is, in no event shall any non-BVTG name, logo or copy of any nature whatsoever appear on said twelve (12) pages other than the Series title), containing all billing and other Play related information required by BVTG and shall otherwise be in a form acceptable to BVTG. _____

_____. OPERATOR shall ensure that, at no additional cost to BVTG, such program shall contain a cover dedicated to the Play (i.e., "The Lion King" [including the BVTG-approved Play logo]), and pursuant to Paragraph 18 below, that no articles, advertising, logos or copy of any nature whatsoever in connection with the Play and/or the Walt Disney Company, its subsidiaries or affiliates (if made known to OPERATOR) shall appear in such program without BVTG's prior written approval and that the entirety of the contents of such program shall be suitable for a family audience. BVTG's merchandise rights hereunder shall include the right to sell souvenir programs at the Theatre, and OPERATOR's third party arrangements with respect to house programs shall not interfere with BVTG's ability to sell such souvenir programs.

8. THIRD PARTY COSTS

OPERATOR warrants that it has and will accurately and truthfully disclose to BVTG all Local Documented Expenses and/or other third party costs to be documented by OPERATOR and paid by BVTG hereunder



and that OPERATOR will not receive any credit or rebate with respect to any and all of such Local Documented Expenses and/or other documented costs to be paid by BVTG hereunder. OPERATOR shall ensure that all customary services provided generally to productions of other attractions at the Theatre at no charge shall also be provided to BVTG at no additional cost to BVTG.

9. DISNEY PUBLIC IMAGE AND REPUTATION

OPERATOR acknowledges that BVTG is extremely sensitive about maintaining the wholesome "Disney" public image and preserving and enhancing the "Disney" reputation for consistently offering family entertainment of the highest caliber. OPERATOR agrees that OPERATOR and its employees and representatives and the Theatre staff, shall utilize reasonable best efforts to avoid taking any action which could poorly reflect upon BVTG or such "Disney" public image or reputation and OPERATOR shall at all times utilize reasonable best efforts to manage the production and presentation of the Play in a manner consistent with such "Disney" public image and reputation. OPERATOR shall utilize reasonable best efforts to ensure that all Theatre staff, concessionaires and vendors uphold "Disney's" standards commencing one and one-half (1-1/2) hours prior to the scheduled performance time and continuing until one-half (1/2) hour after the end of the performance, in the areas of courtesy, dress, grooming and conduct as same are set forth in the attached Exhibit "D" ("Customer Service and Appearance Guidelines"). OPERATOR shall utilize reasonable best efforts to make all staff aware of "Disney's" standards (which efforts shall be deemed to be satisfied by OPERATOR providing Exhibit "D" to the local Theatre staff) and shall utilize reasonable best efforts to ensure that the conduct of the Theatre staff shall be in a manner in accordance with these standards and with the expectations of a family audience.

10. CONTROL OF COMPLIMENTARY TICKETS FOR MARKETING AND SPONSORSHIP PURPOSES

BVTG, in its sole discretion, shall have the exclusive right to trade, barter, sell or give away complimentary tickets in exchange for broadcast media, advertising and publicity for the Play. BVTG hereby agrees that OPERATOR may utilize up to ~~one~~ complimentary tickets for trade or barter in exchange for

broadcast media, advertising and publicity for the Play. Other than as set forth in this Paragraph 10, OPERATOR shall not be entitled to trade, barter, sell or give away complimentary tickets in exchange for broadcast media, advertising and publicity for the Play.

11. PROMOTIONAL RIGHTS

11.1 Control of Advertising and Publicity.

_____ BVTG shall have sole control of all single ticket marketing, advertising and publicity matters relating to the Play which shall include, but not be limited to, creative, media placement, publicity, press matters, promotions, group sales, and travel industry sales; provided, however, that OPERATOR shall assist BVTG in the same as and to the extent BVTG specifically authorizes.

11.2 Advertising Fees and Commissions.

_____ OPERATOR shall be entitled to place print, electronic and outdoor advertisements for the Play, subject to OPERATOR's compliance with Disney standards as determined by BVTG's marketing executives in their sole discretion. In connection therewith, OPERATOR shall be entitled to receive a _____ on all print buy charges and a _____ on all electronic and outdoor buy charges. The foregoing commissions payable to OPERATOR shall be a documented expense payable to OPERATOR pursuant to Paragraph 4 above. It is agreed that no commission or mark-up whatsoever shall be charged by OPERATOR for advertising production work. BVTG shall be responsible for the creation of all creative artwork used for the promotion, publicity and advertising of the Play. Subject to BVTG's prior written approval of each such use, BVTG grants OPERATOR the non-exclusive use of said artwork in connection with promotional and advertising materials BVTG approves, if any. Without limitation of the foregoing, BVTG shall have prior approval of the advertisement OPERATOR proposes to include in the Theatre's season and group sales brochures. OPERATOR agrees to affix a trademark or copyright notice at such place or places and in such form as BVTG designates in connection with the use of the same. OPERATOR shall ensure that no announcements are made from the stage without BVTG's prior approval in each case.

11.3 Requirements For Use Of Performance Footage. OPERATOR acknowledges receipt of, and agrees to comply with, BVTG's requirements for use of performance/rehearsal footage to promote the engagement of the Play at the Theatre, set forth in the attached Exhibit "I". BVTG agrees to inform OPERATOR of any changes to such Exhibit "I" as soon as BVTG becomes aware thereof. BVTG also agrees to reasonably cooperate with OPERATOR in mitigating damages for violations of the restrictions contained in Exhibit "I."

12. TICKET PRICES/SALES REPORTING

12.1 Ticket Prices. Unless otherwise agreed between OPERATOR and BVTG in writing, ticket prices shall be as set forth on Exhibit "E" attached hereto. Notwithstanding the foregoing, BVTG shall have the right to increase ticket prices above the level set forth on Exhibit "E" to cover the cost of Theatre modifications required to accommodate the physical requirements of the Play. Unless otherwise agreed by BVTG in writing, OPERATOR shall not discount tickets for the Play. All seats shall appear on the manifest.

12.2 Sales Reporting. With respect to the sales of tickets to the Play at the Theatre, commencing with the initial on-sale date of tickets to the Play at the Theater, OPERATOR shall provide BVTG (i) limited real-time on-line access to reporting and tickets selling commands on Ticketmaster's ticketing system, if applicable to the engagement, and (ii) a daily sales summary, transmitted to BVTG via facsimile or other means of electronic transmission and in a form as attached hereto as Exhibit "G."

13. HOUSE SEATS/COMPLIMENTARY SEATS

13.1 BVTG shall be entitled to purchase _____ house seats per performance of the Play and OPERATOR shall be entitled to purchase _____ house seats per performance of the Play, each to be held under 50 hour hold. BVTG and OPERATOR shall mutually approve the location of such house seats.

13.2. Complimentary Seats.

13.2.1 BVTG Complimentary Seats. In addition to the complimentary marketing related tickets referenced in Paragraph 10 above, BVTG shall be entitled to complimentary and/or "holds" on tickets for anyone working on the Play and/or for bona-fide charitable purposes, provided that with respect to complimentary tickets for charitable purposes, BVTG and OPERATOR shall mutually agree upon the number of complimentary tickets granted for such purposes. To the extent possible, BVTG shall inform OPERATOR of such tickets needs prior to the "on-sale" date.

Neither OPERATOR, any tour promoter nor the Theatre shall have the right to offer or make available complimentary tickets to the Play without the express approval of BVTG.

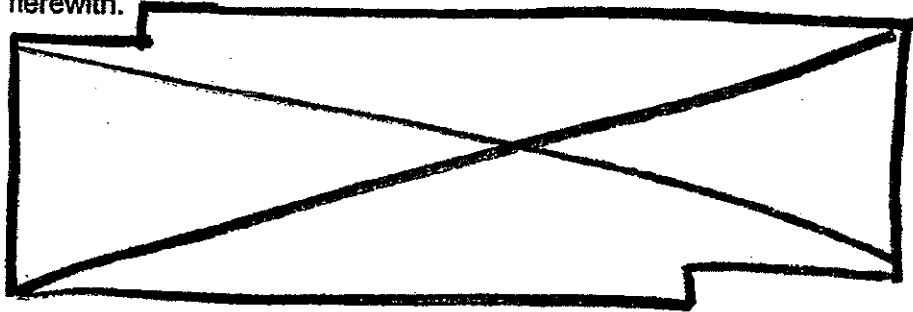
13.2.2 Intentionally Omitted.

14. CANCELATION/FORCE MAJEURE/BREACH

- 14.1. Cancellation. In the event of a change of date or cancellation of the engagement by BVTG after tickets have been printed and/or promotion begun, BVTG's responsibility hereunder shall be limited to OPERATOR's reasonable actual out-of-pocket expenses resulting therefrom which have been authorized by BVTG. All such expenses, if any, shall be presented to BVTG with substantiation within thirty (30) days following the scheduled date(s) of the performances or be deemed waived by OPERATOR. BVTG shall reimburse OPERATOR for such expenses within thirty (30) days following receipt of such statement. Notwithstanding the foregoing, if despite such change or cancellation, BVTG presents the Play elsewhere during what otherwise would have been the Term hereunder, OPERATOR shall be entitled to all of its remedies, both legal and equitable, and its recourse shall not be limited to the expense reimbursement provided for herein.
- 14.2. Force Majeure. In the event that the performance of any of the covenants of this Agreement on the part of BVTG or OPERATOR shall be prevented by an act of God, physical disability, the acts or regulations of public authorities, civil tumult, war, epidemic, terrorism, interruption or delay of transportation service, labor action, the unlawful action of any third party or any cause beyond the reasonable control of BVTG or OPERATOR which materially affects performance(s) of the Play, expressly excluding the breach of contract by a third party (other than involving a labor action or strike), BVTG and OPERATOR shall be relieved of their obligations hereunder with respect to the performance(s) so affected; provided however, that if OPERATOR is unable to furnish the Theatre for any of the reasons set forth in this Paragraph 14.2 for more than two (2) days during the term, BVTG shall be entitled to terminate this Agreement.
- 14.3. Breach. If BVTG or OPERATOR materially breaches or defaults in the performance of any of its respective warranties, agreements, obligations or undertakings hereunder (a "Default"), then either BVTG or OPERATOR, as the case may be, shall have the right to terminate this Agreement and its obligations hereunder immediately upon written notice; _____

_____ OPERATOR acknowledges that BVTG has refused and will refuse profitable offers for other performances of

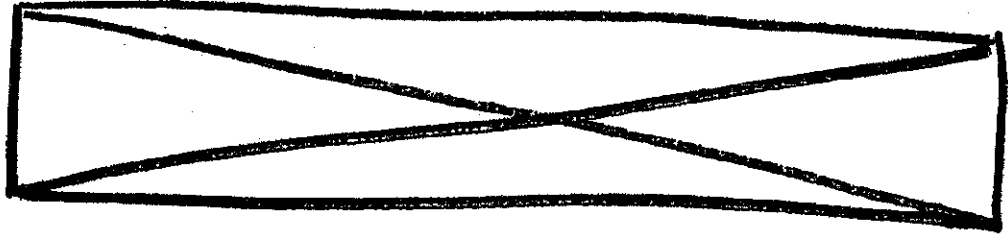
the Play in order to enter into this Agreement and that BVTG has incurred and will incur substantial out-of-pocket expenses in connection herewith.



15. INSURANCE

- 15.1. Waiver of Subrogation. Each party covenants that its respective insurers shall not hold any right of subrogation against the other party hereto. Each party hereto agrees to cause its respective insurance policy or policies to be endorsed, if necessary, to affect this waiver of subrogation.
- 15.2. OPERATOR Indemnification. OPERATOR agrees to indemnify and hold BVTG harmless from and against liability claims for bodily injury or property damage to the extent arising from any actions, claims, or demands by third parties in tort as a result of actions or omissions by OPERATOR or its employees, contractors or invitees.
- 15.3. BVTG Indemnification. BVTG agrees to indemnify and hold OPERATOR harmless from and against liability claims for bodily injury or property damage to the extent arising from any actions, claims, or demands by third parties in tort as a result of actions or omissions by BVTG's employees or its contractors or invitees.
- 15.4. Insurance. Each party hereto agrees to carry and maintain in full force and effect Commercial General Liability Insurance and Non-Owned and Hired Automobile Insurance with minimum limits of One Million United States Dollars (US \$1,000,000) combined single limit on each policy, Commercial Umbrella Liability Insurance with a limit of not less than Five Million United States Dollars (US \$5,000,000), and Worker's Compensation Insurance and Short-Term Disability Insurance (where required by law) and to furnish a certificate to the other party evidencing all insurance called for in this Agreement.
- 15.5. Additional Insured - BVTG. Upon written request from BVTG, OPERATOR agrees to name BVTG, its parents, affiliates, subsidiaries, agents and employees as additional insureds on the Commercial General Liability, Non-Owned and Hired Automobile, Commercial Umbrella Liability Insurance polices required by this Agreement.

Execution of this Agreement by both parties shall be deemed to constitute such written request.



16. SPONSORSHIPS

OPERATOR acknowledges that BVTG may wish to enter into corporate sponsorship agreements for the Play. OPERATOR acknowledges that it has no objection to such sponsorships and will agree to acknowledge the same within the Theatre premises, in advertising materials, in Theatre programs and in such other locations as may be mutually agreed between the parties. BVTG acknowledges that OPERATOR has entered into sponsorship agreements and that the name of the series title sponsor and its logo will appear on all paid and trade advertising, promotion and publicity for the presentation of the Play at the Theatre.

17. INDEPENDENT PARTIES

This Agreement does not constitute nor shall it be construed as constituting, a partnership or joint venture between OPERATOR and BVTG, nor shall either party be deemed to be the agent of the other for any purposes whatsoever. Neither party shall have the right to make representations on behalf of the other party or to obligate or bind the other party in any manner whatsoever, except as may be expressly provided in this Agreement.

18. TRADEMARKS

OPERATOR shall acquire no right under this Agreement to use, and shall not use the name "Buena Vista Theatrical Group Ltd.", the name "Disney" (either alone or in conjunction with or as part of any other word or name) or any fanciful characters, designs, logos or trademarks of The Walt Disney Company or any of its related, affiliated or subsidiary companies:

- 18.1 in any of its advertising, publicity or promotions other than to accurately describe OPERATOR's connection with the Play in its professional credits along with OPERATOR's other accomplishments;
- 18.2 to express or imply any endorsement by BVTG of OPERATOR's services; or
- 18.3 in any other manner whatsoever (whether or not similar to the uses hereinabove specifically prohibited).

19. RESULTS AND PROCEEDS

BVTG shall take possession of and has the exclusive right to use any professional photography, video footage, audio recordings and any other representations of the Play in any media whatsoever created during the Play's presentation at the Theatre other than footage, photographs and recordings produced by members of the press as may be expressly permitted by BVTG pursuant to Paragraph 11 above. In the event BVTG elects to film or videotape the Play at the Theatre, BVTG shall be responsible for arrangements and costs related to such filming. In connection with the foregoing, OPERATOR hereby authorizes BVTG to contact the Theatre directly regarding such arrangements and costs. BVTG shall have the sole and exclusive ownership of any and all of such film and/or videotape and shall have no obligation whatsoever to OPERATOR, the Theatre or any related party with respect to the future use of such footage.

20. CONFIDENTIALITY

The terms of this Agreement are confidential, and shall not be disclosed by OPERATOR or BVTG to any third party (except their management, independent accountant, consulting attorney and other employees and/or any applicable venue and its employees required to know such information in order to fulfill the obligations set forth in this Agreement) under any circumstances without the other party's prior written permission, except as may be required by law or pursuant to third party contractual reporting obligations. Other than with respect to the promotion of the Play (as same is approved by BVTG pursuant to this Agreement), all information concerning the Play, this Agreement, OPERATOR and BVTG (and their affiliates and activities) disclosed to or made available to either party shall be kept confidential and shall not be disclosed by either party to any third parties (except their management, independent accountant, consulting attorney and other employees and/or any applicable venue and its employees required to know such information in order to fulfill the obligations set forth in this Agreement) under any circumstances without the other party's prior written permission, except as may be required by law.

21. BOOKS/AUDIT

21.1. OPERATOR shall maintain true, complete and accurate books of account and records until the completion of the presentation of the Play at the Theatre and for a period of eighteen (18) months thereafter in which there shall be entered all details of every kind and character pertaining to Gross Weekly Box Office Receipts, Percentage Commissions, Production Labor and Documented Local Expenses of each performance of the Play at the Theatre, and the receipts and disbursements in connection therewith and related to the calculation of all amounts due to BVTG hereunder. All such books of account and records shall be open during reasonable business hours for the

inspection and copying by BVTG or its duly authorized representatives or accountants. BVTG shall have full audit rights until the completion of the presentation of the Play at the Theatre and for eighteen (18) months thereafter, and OPERATOR shall cooperate fully in response to any request by BVTG for such purposes. Notwithstanding such eighteen (18) month period which OPERATOR shall retain such books of account and records pertaining to the engagement of the Play at the Theatre, in the event BVTG has provided written notice to OPERATOR within said eighteen (18) month period that BVTG objects to any box office settlement documentation provided pursuant to Paragraph 4. above, OPERATOR shall retain all of such books of accounts and records until BVTG's objection to such box office documentation is cancelled by BVTG.

21.2. BVTG shall bear all expenses of any inspection, copying, and/or audit, but if it discovers that OPERATOR has misstated amounts related to BVTG's payments or receipts hereunder by five percent (5%) or more, then OPERATOR shall reimburse BVTG for: (i) all such reasonable audit expenses; (ii) the full amount of the discrepancy; and (iii) interest on the full amount of the discrepancy calculated from the date such amount was due at the then-current prime rate (as set from time to time by the Bank of America NT & SA.).

22. MARYLAND LAW/EXECUTION IN COUNTERPARTS

This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland without regard to principles of conflict of law. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

23. NOTICES

All notices and requests to either party hereunder shall be in writing. Such notices and requests shall be deemed given on the date of personal delivery or one business day after the date of transmittal by facsimile, cable, or telex. As to any notice which is sent by mail, notice will be deemed given three (3) days after being deposited in the mail. All such notices and requests shall be sent to the following addresses (or such other address as may be given by either party):

To BVTG:

Buena Vista Theatrical Group Ltd.
500 South Buena Vista Street
Burbank, CA 91521-7247
Fax: (818) 972-4770
Attn: Senior VP and General Manager

With a copy to:

Buena Vista Theatrical Group Ltd.
500 South Buena Vista Street
Burbank, CA 91521-9035
Fax: 818-553-5392
Attn: Vice President, Business and
Legal Affairs

With a copy to:

Buena Vista Theatrical Group Ltd.
1450 Broadway, Suite 300
New York, NY 10018
Fax: (818) 972-5439
Attn: Director, Domestic Touring

To OPERATOR:

Hippodrome Foundation, Inc.
12 North Eutaw Street
Baltimore, MD 21201
Fax: (410) 837-7410
Attn: Olive Waxter
Marks Chowning

With a copy to:

PACE Theatrical Group, Inc.
220 West 42nd Street, 14th Floor
New York, New York 10036
Fax: (917) 421-5485
Attn: Scott Zeiger
Lauren Reid
David Lazar

With an additional copy to:

Franklin, Weinrib, Rudell & Vassallo, P.C.
488 Madison Avenue
New York, New York 10022
Fax: (212) 308-0642
Attn: Elliot H. Brown

24. ENTIRE AGREEMENT

All prior understandings and agreements between the parties are merged with this Agreement, which alone fully and completely sets forth the understanding of the parties. This agreement may not be changed or terminated orally and may not be assigned by OPERATOR without BVTG's prior written consent.

Please confirm OPERATOR's acceptance of the foregoing terms by executing the enclosed copy of this letter where indicated below and returning it to BVTG.

BUENA VISTA THEATRICAL GROUP LTD. *MJ*

[Signature]
By: _____
Its: Sr. VP and General Manager
Tax ID: 13 371 0515

ACCEPTED AND AGREED:
The Hippodrome Foundation, Inc.
Olive Waxter

By: *[Signature]*
Its: Managing Director
Tax ID: _____

Index of Contract Exhibits

- A. Schedule of presentation of the Play in the Theatre
- B. Technical Rider
- C. Production Labor Employment Taxes/Charges
- D. Customer Service and Appearance Guidelines
- E. Price Scale Chart
- F. Daily Sales Report Form
- G. Required Theater Modifications (if necessary)
- H. VIP Program Terms and Conditions
- I. Requirements for use of Rehearsal/Performance Footage
- 1. Usable Space

THE LION KING

EXHIBIT "A"

CITY: BALTIMORE	VENUE: HIPPODROME - France Merrick PAC
Dates: 2-Jun-05 - 4-Sep-05	# WEEKS: 13.5

MARKETING TIMELINE

DAY	DATE	EVENT
Tuesday	17-Feb-04	Season Announcement
Tuesday	17-Feb-04	Group Sales solicitation begins
Tuesday	17-Feb-04	Subscription Renewals Begins
Saturday	13-Nov-04	Phones, box office, outlet sales begin
	Jan - Feb, 2005	Tentative on-sale block 2

PERFORMANCE SCHEDULE

DAY	DATE	TIME	# PERFS
Week 1	Thursday	2-Jun-05	6
	Friday	3-Jun-05	
	Saturday	4-Jun-05	
	Saturday	4-Jun-05	
	Sunday	5-Jun-05	
	Sunday	5-Jun-05	
	Sunday	5-Jun-05	
Week 2	Monday	6-Jun-05	8
	Tuesday	7-Jun-05	
	Wednesday	8-Jun-05	
	Thursday	9-Jun-05	
	Friday	10-Jun-05	
	Saturday	11-Jun-05	
	Saturday	11-Jun-05	
	Sunday	12-Jun-05	
	Sunday	12-Jun-05	
	Sunday	12-Jun-05	
Week 3	Monday	13-Jun-05	8
	Tuesday	14-Jun-05	
	Wednesday	15-Jun-05	
	Thursday	16-Jun-05	
	Friday	17-Jun-05	
	Saturday	18-Jun-05	
	Saturday	18-Jun-05	
	Sunday	19-Jun-05	
	Sunday	19-Jun-05	
	Sunday	19-Jun-05	

THE LION KING

EXHIBIT "A"

CITY: BALTIMORE

VENUE: HIPPODROME - France Merrick PAC

Dates: 2-Jun-05 - 4-Sep-05

WEEKS: 13.5

Week 4	Monday	20-Jun-05	DAY OFF
	Tuesday	21-Jun-05	8:00 PM
	Wednesday	22-Jun-05	8:00 PM
	Thursday	23-Jun-05	8:00 PM
	Friday	24-Jun-05	8:00 PM
	Saturday	25-Jun-05	2:00 PM
	Saturday	25-Jun-05	8:00 PM
	Sunday	26-Jun-05	1:00 PM
	Sunday	26-Jun-05	6:30 PM

8

Week 5	Monday	27-Jun-05	DAY OFF
	Tuesday	28-Jun-05	8:00 PM
	Wednesday	29-Jun-05	8:00 PM
	Thursday	30-Jun-05	8:00 PM
	Friday	1-Jul-05	8:00 PM
	Saturday	2-Jul-05	2:00 PM
	Saturday	2-Jul-05	8:00 PM
	Sunday	3-Jul-05	1:00 PM
	Sunday	3-Jul-05	6:30 PM

8

Week 6	Monday	4-Jul-05	DAY OFF Independence Day
	Tuesday	5-Jul-05	8:00 PM
	Wednesday	6-Jul-05	8:00 PM
	Thursday	7-Jul-05	8:00 PM
	Friday	8-Jul-05	8:00 PM
	Saturday	9-Jul-05	2:00 PM
	Saturday	9-Jul-05	8:00 PM
	Sunday	10-Jul-05	1:00 PM
	Sunday	10-Jul-05	6:30 PM

8

Week 7	Monday	11-Jul-05	DAY OFF
	Tuesday	12-Jul-05	8:00 PM
	Wednesday	13-Jul-05	8:00 PM
	Thursday	14-Jul-05	8:00 PM
	Friday	15-Jul-05	8:00 PM
	Saturday	16-Jul-05	2:00 PM
	Saturday	16-Jul-05	8:00 PM
	Sunday	17-Jul-05	1:00 PM
	Sunday	17-Jul-05	6:30 PM

8

THE LION KING

EXHIBIT "A"

CITY: BALTIMORE

VENUE: HIPPODROME - France Merrick PAC

Dates: 2-Jun-05 - 4-Sep-05

WEEKS: 13.5

Week 8	Monday	18-Jul-05	DAY OFF
	Tuesday	19-Jul-05	8:00 PM
	Wednesday	20-Jul-05	8:00 PM
	Thursday	21-Jul-05	8:00 PM
	Friday	22-Jul-05	8:00 PM
	Saturday	23-Jul-05	2:00 PM
	Saturday	23-Jul-05	8:00 PM
	Sunday	24-Jul-05	1:00 PM
	Sunday	24-Jul-05	6:30 PM

8

Week 9	Monday	25-Jul-05	DAY OFF
	Tuesday	26-Jul-05	8:00 PM
	Wednesday	27-Jul-05	8:00 PM
	Thursday	28-Jul-05	8:00 PM
	Friday	29-Jul-05	8:00 PM
	Saturday	30-Jul-05	2:00 PM
	Saturday	30-Jul-05	8:00 PM
	Sunday	31-Jul-05	1:00 PM
	Sunday	31-Jul-05	6:30 PM 1st Block Ends

8

Week 10	Monday	1-Aug-05	DAY OFF
	Tuesday	2-Aug-05	8:00 PM
	Wednesday	3-Aug-05	8:00 PM
	Thursday	4-Aug-05	8:00 PM
	Friday	5-Aug-05	8:00 PM
	Saturday	6-Aug-05	2:00 PM
	Saturday	6-Aug-05	8:00 PM ASL performance
	Sunday	7-Aug-05	1:00 PM
	Sunday	7-Aug-05	6:30 PM

8

Week 11	Monday	8-Aug-05	DAY OFF
	Tuesday	9-Aug-05	8:00 PM
	Wednesday	10-Aug-05	8:00 PM
	Thursday	11-Aug-05	8:00 PM
	Friday	12-Aug-05	8:00 PM ASL performance
	Saturday	13-Aug-05	2:00 PM
	Saturday	13-Aug-05	8:00 PM
	Sunday	14-Aug-05	1:00 PM
	Sunday	14-Aug-05	6:30 PM

8

THE LION KING

EXHIBIT "A"

CITY: BALTIMORE VENUE: HIPPODROME - France Merrick PAC

Dates: 2-Jun-05 - 4-Sep-05

WEEKS: 13.5

Week 12	Monday	15-Aug-05	DAY OFF
	Tuesday	16-Aug-05	8:00 PM
	Wednesday	17-Aug-05	8:00 PM
	Thursday	18-Aug-05	8:00 PM
	Friday	19-Aug-05	8:00 PM
	Saturday	20-Aug-05	2:00 PM ASL performance
	Saturday	20-Aug-05	8:00 PM
	Sunday	21-Aug-05	1:00 PM
	Sunday	21-Aug-05	6:30 PM

8

Week 13	Monday	22-Aug-05	DAY OFF
	Tuesday	23-Aug-05	8:00 PM
	Wednesday	24-Aug-05	8:00 PM
	Thursday	25-Aug-05	8:00 PM
	Friday	26-Aug-05	8:00 PM
	Saturday	27-Aug-05	2:00 PM
	Saturday	27-Aug-05	8:00 PM
	Sunday	28-Aug-05	1:00 PM
	Sunday	28-Aug-05	6:30 PM

8

Week 14	Monday	29-Aug-05	DAY OFF
	Tuesday	30-Aug-05	8:00 PM
	Wednesday	31-Aug-05	8:00 PM
	Thursday	1-Sep-05	8:00 PM
	Friday	2-Sep-05	8:00 PM
	Saturday	3-Sep-05	2:00 PM
	Saturday	3-Sep-05	8:00 PM
	Sunday	4-Sep-05	1:00 PM
	Sunday	4-Sep-05	6:30 PM ASL performance

8

TOTAL PERFS 110
(3 previews, 107 perfs)

EXHIBIT B

**TECHNICAL SPECIFICATIONS
FOR
PACE THEATRICAL GROUP ENGAGEMENTS OF
The Lion King
Gazelle-National Tour**

***** November 5, 2002*****

Disney Theatrical Productions, Ltd.

For your reference, the following information gives a detailed description of certain required terms and conditions contained in the booking agreement for Disney's "The Lion King". If you have any questions, please consult the original agreement or call

Todd Lacy
Associate Producer
Buena Vista Theatrical Group, Ltd.
1450 Broadway Suite 300
New York, NY 10018
212-827-5400 Phone
212-827-5484 Fax

Anne Quart
Production Manager
Buena Vista Theatrical Group, Ltd.
1450 Broadway Suite 300
New York, NY 10018
212-827-5400 Phone
212-827-5484 Fax

David Benken
Technical Supervisor
Buena Vista Theatrical Group, Ltd.
1450 Broadway Suite 300
New York, NY 10018
212-827-5400 Phone
212-827-5454 Fax

Doc Zorthian
Production Supervisor
Buena Vista Theatrical Group, Ltd.
1450 Broadway Suite 300
New York, NY 10018
212-827-5400 Phone
212-827-5484 Fax

Michele Gold
Director, Domestic Touring
Buena Vista Theatrical Group, Ltd.
1450 Broadway Suite 300
New York, NY 10018
212-827-5400 Phone
818-972-5439 Fax

**The following requirements must be met for
"Lion King" Gazelle-National Tour**

- There must be 62' of clearance under the grid. This clearance height must include any obstructions such as water pipes, air ducts, conduit, and pipe travel. The show is flying a sub grid to a height of 62 feet.
- Need to have a clear fly space of 33'-0", left and right of center-line. This space should be clear from the deck to the grid.
- Fly floors must be at least 33' off center-line.
- The show deck is 80'-6" x 36'. There needs to be 41' of clearance to any obstruction left and right of centerline.
- At least 32' of clearance under any jump or gallery that falls within the deck footprint. This must include any obstructions such as water pipes, air ducts and conduit.
- At least 36'-6" of clearance from the first available line set to the nearest obstruction on the back wall.
- The above dimensions are subject to site survey confirmation.

Prior to arrival, before the Advance

- All hanging scenery borders, legs, and soft goods must be removed from the first available lineset to 37' up stage. The act curtain may be able to stay in some cases. However, we will then need 37' from the first available lineset after the curtain.
- Any hard-wired electrics that are less than 37' upstage of the first available lineset and can not fly above 62' must be removed. This includes any cable swags.
- All orchestra shells and movie screens that do not have bottom clearance of 62' must be removed or hung upstage of 37'.

On the Advance

- The advance will take place over three days prior to the start of the show-to show load-in. These three days will take place on the Wed – Fri of the week prior to opening.
- We may have to remove some of the house system pipes and replace them with our own. This may involve pulling some line sets from your arbors.

After the Load Out is finished

- There will be a one (1) day post-out call on the day after the load-out to remove the show items installed during the advance
- Due to the load-out not finishing before the early AM on Monday this one day post-out will occur on Tuesday following a Sunday closing.
- The house restoration of any house pipe, soft goods, screens, tracks, or shells that were moved or taken down cannot begin before the end of the post-out. You should schedule one additional day for this house restore

Local Crew Requirements

- The following page contains an **ESTIMATE** of the number of local stagehands needed and **approximate call times**. Actual numbers of personnel will vary depending on circumstances. The estimates below are based on optimum loading and backstage conditions. These are only preliminary calls. The crew size and call may change. The Head Carpenter will make the final determination of personnel and call times.
- Department heads are included in these numbers.
- If the house contract recognizes sound as a separate department, the house head soundman is included in the department call and is expected to perform cues backstage.

**Lion King
Advance / Load In / Load Out**

	Day / Date	Time	Carp		Electric	Sound	Props	Pushers	Loaders	Ward	Hair
			Hands	Riggers						(Times TBD)	
Advance											
Day 1		8am-7pm	8	8	7	1	1	0	6	0	0
Day 2		8am-7pm	8	8	7	1	1	0	0	0	0
Day 3		8am-7pm	8	6	7	1	1	0	0	0	0
Load In											
Day 1		8am-12am	20	6	14	6	4	0	6	0	0
Day 2		8am-12am	20	6	14	6	6	0	6	0	0
Day 3		8am-12am	20	6	14	6	6	0	TBD	16	2
Day 4		8am-5pm	7	2	7	2	4	0	0	16	2
Show			5 Deck 2 Fly		2 Deck 4 Spots 1 House	1	2	-	-	16	2
Load Out											
		10pm-11am	20	6	13	8	6	12	12	16	2
Post Out											
		8am-7pm	8	6	7	0	0	0	6	0	0

Notes: Numbers above include Department Heads
All deck hands must wear black clothes for show calls.

Traveling Crew:
 Head Carpenter:
 Head Electrician:
 Head Sound
 Head Props:
 Wardrobe Supervisor:
 Hair/Make-up Supervisor:

General Requirements

1. Mail current local union contracts (or extracts with rates, renewal dates, and applicable conditions) to Todd Lacy at Buena Vista Theatrical Group, Ltd. ("BVTG") at least six (6) months prior to the engagement.
2. Mail a copy of the current hanging plot (line plot) to Todd Lacy at BVTG six (6) months prior to the engagement.
3. Mail a complete and detailed ground plan and section of the stage (in scale) to BVTG six (6) months prior to the engagement. Also, include a copy of the dressing room layouts, front of house seating charts, and any and all structural drawings of the stage house and front of house ceiling construction. If these plans are available on AutoCAD, please send a disk.
4. The production travels in twenty (20) 48-foot tractor-trailers. For the load-in and load-out, please arrange to have all available parking spaces in the immediate area of the loading dock clear and available for trailer parking and unloading. It is extremely important that cars parked on the streets and lots surrounding the theater not obstruct the movement of the trucks. Therefore, it is the responsibility of the Local Presenter to arrange for bagging street meters and to secure any parking permits necessary to accommodate staging trailers on the street near the loading dock. Also consider that on the first two days of the load-in the production typically may unload two trailers (Merchandise and Sound) from the street into the front of house lobby. In addition, parking for any storage trailers in a secured lot will be necessary during the load-in period.

Note: Please note that one of the trailers will need to be left at the loading dock or next to the stage door on the street for the duration of the run. This truck will be our Merchandise trailer. The Local Presenter will be responsible for arranging the appropriate permits with the city for such truck remaining at the loading dock or next to the stage door. *The costs of any permits listed here shall be part of the "Local Documented Expenses" for the engagement. Any costs associated with the parking of storage trailers, bagging of parking meters and parking of merchandise trailers shall be a "Local Documented Expense". The venue and local presenter assume no liability for the merchandise trailer or contents.*
5. The show will require a forklift for the unloading and loading of the trucks. The forklift should be rated for 8,000 lbs and have come with 8' fork extension. The forklift must be on-site at the start of the show-to-show load-in and the start of the load-out. It will not be needed for the Advance or the Post out. An extra fuel canister must be supplied with the forklift. *Should the venue own a forklift, any charges associated with the use of the forklift shall be deemed part of the fixed expenses. Any costs associated with a third party forklift rental (delivery, fuel, personnel, rental, etc.) shall be a "Local Documented Expense".*
6. We will need an area approximately 20' by 30' in the front of the house to stage and dress our actors in their animal costumes for the opening entrance as well as the hyena entrance in Act 1. This area must be accessible from backstage and the route from backstage to house must hide the actors from the patrons. The area may be split into 2 or more smaller areas depending on what is available. The Production Stage Manager and Head Carpenter must approve this area prior to our arrival.
7. Before the start of the advance load-in, all areas of the stage, fly system, backstage, loading docks, dressing rooms, orchestra pit, storage areas and production offices must be completely clear and broom clean.

8. Access to the grid for winches and chain motors is required. There needs to be an access hole in the grid with a minimum opening of 4' x 4. There needs to be a lifting point above this access hole. *If installation of an access hole in the grid is necessary, any costs associated with such installation shall be a "Local Documented Expense".*
9. All personnel called for the load-in, load-out and performances of the production must be qualified in their department and prompt for the starting times of the calls. All stagehands employed are expected to bring basic tools (i.e., a hammer, screwdrivers, crescent wrench, pliers or channel locks.)

Note: The Local Presenter or Union steward will be asked to immediately dismiss any local employee showing up for work or show calls under the influence of alcohol or controlled substances.
10. It is expected that when a stagehand begins working in one department (including sound within the electrical department) that stagehand will continue in that department for the duration of the load-in. Further, it is expected that when a stagehand accepts a job on the running crew that said stagehand will remain on that job for the duration of all performances. In the event that a stagehand must vacate a position then his replacement must have a minimum training period of two performances under the direction of the current employee before assuming the position alone. Any costs involved with the training of a local replacement worker, including the salary of that employee during the training period, will be the responsibility of the Local Presenter.
11. Stagehands that will be working the show will be required, at their own expense, to wear black clothing and dark footwear in order to avoid being seen while in the wings.
12. If a stage/crew employee is required to work in view of the public during performances at the theatre, the employee must be properly attired in black in accordance with the Lion King Customer Service and Appearance Guidelines, attached hereto as Exhibit D.

Carpentry Requirements

1. It is absolutely essential that before the start of the advance load-in, the fly system and stage area must be cleared of all scenery, lights masking, orchestra shells, house curtains etc. ~~_____~~
2. All electric raceways, border lights, movie screens and orchestra ceilings must be removed. This includes all electrical cables to these pipes. The production utilizes 36' upstage of the first available lineset. We must have 62' of clear fly space. You can store items above 62' and upstage of 37'.
3. House pipes may be removed and the long and short cables removed. This may be necessary if your house pipes are over 48' wide.
4. The stage loading door must have a minimum opening of 9'-6" in height and 8'-2" in width. Please confirm to BVTP the location, size and access to the loading door.
5. There must be 15,000 lb. of counter weight, (30,000 lb. for double purchase systems) over pipe weight, available on the loading gallery; before the arrival of the production. We require an arbor capacity of 1000lbs over pipe weight.
6. If the fly system is a hemp system, we need a minimum of 15,000 lbs. of sand with commensurate bags. Block and falls are required unless bull lines and a mule are functional on the rail.
7. All house linesets must be able to be kicked or diverted.
8. This production will hang a truss in front of the proscenium. We will need six (6) 6" holes and support steel above for our chain motors. Each point will need to support 2000 lbs. These holes should be no further than 24'-0" left and right of center. They need to be within 10'-0" of the plaster line.
9. This production requires a lighting position close to 45 degrees up from the stage with approximately a 60' throw. If the house does not have a cove position close to this area we will need to hang a FOH truss. The show carries its own truss and all the rigging required to hang the truss. We will need 2 hanging points in the house each capable of supporting 2,000 lbs. These hanging points should be no further than 19' left and right of center and parallel to the proscenium. Each point will have a one-ton motor.
10. Most on-stage electrics, prop and carpentry pieces will hang on chain motors. Up to 150 chain motors will be used for these items. All of such chain motors will be provided by the production.
11. Any stagehand on the call as a rigger must have experience with standard rigging practices. There will be work happening on stage while other work is happening in the grid.
12. The production will hang two service trusses. There will be an automation truss stage left and a sound / electric truss stage right. The stage left truss will weight approximately 14,000 lbs. The stage right truss will weight about 14,000 lbs. These trusses will be hung from 8 1-ton chain motors. These trusses will hang 26' off stage of centerline, and are 7'-0" wide.
13. If the house curtain must be removed it will be done prior to the advance.
14. The theater must allow the production to secure our deck and trusses to the stage floor with lag bolts.
15. Speaker clusters that are at the proscenium or hanging in front of it will be removed or flown out of sight if possible.

Electrics Requirements

1. The production requires the following electrical power:

NOTE: These are the minimum requirements for this production

- Four (4) 400 AMP 3 phase disconnects for lighting
- One (2) 200amp 3 phase disconnects for automation
- One (1) 100 amp 3 phase disconnect for HPU
- One (1) 100-amp isolated power for Sound

House power feed must maintain a minimum of 208 volts and be configured in a "Y" phase. The house power must be "clean", if the voltage drops below 208 volts, the computer controlled motor effects will not operate! The production requires a water pipe or earth ground. If a water pipe is provided, it must be a filled pipe. A standpipe is not acceptable. (Power for sound must be isolated. See sound requirements.)

2. Before the start of the load-in, all on-stage electric pipes, front-of-house balcony rails and box booms must be cleared of instruments and their raceways and feed cables. House spotlights may need to be removed from the booth. The Head Electrician will make the final determination on the use of the house equipment.
3. Please provide BVTP with the location of the power feed. If the power feed does not terminate within 75' of the center/center of the stage, at stage level or one level lower, BVTP must be made aware. This will insure that the necessary arrangements can be made prior to our Advance.
4. Please supply BVTP with any local electric restrictions or codes. If specific permits are required, it is the responsibility of the local presenter to inform BVTP of this early enough to secure these permits prior to our engagement.
5. The production utilizes three (3) follow-spots in the FOH. The Local presenter is responsible to supply three (3) long-throw Lycian spotlights or three (3) Xenon Super troupers. If the house follow spot booth is not large enough to accommodate 2 spots then lights will be placed in the house. The production carries two (2) short throw Lycian spotlights that will be used backstage. Power feeds are required in the booth for two (2) 208v 30 amp breaker protected feeds. The road electrician will run one of the three FOH lights with a local operators on the other FOH light and the 2 backstage. If local conditions require that a local electrician be employed to run house equipment then it will be the presenters responsibility to either rent a light to replace one of the house lights or except the cost of hiring the extra electrician.
~~_____~~
~~_____~~
6. The production needs a position in the house, with a view of the stage, for all lighting consoles. We need to know where this position may be and the cable route from downstage right. This could be in an existing house light booth or sound booth, or located next to the production Sound board. An area 6' wide by 5' deep is needed for the Vari*lite console.
7. A Balcony rail position is integral to the design of this show. If there is not an existing position in the house one will need to be installed for the show. The rail will need to support 30 source-4 instruments. The minimum width needs to be 40'. The company carries cable for circuiting these lights.

Sound Requirements

1. The sound console will be located in the rear of the main floor section of the auditorium, on the center aisle or similar access of the theater. The minimum space required for the console and operator is approximately 9'-0" deep by 13'-0" wide, which should equal no more than three (3) rows of ten (10) seats each. This console must be level; if seats are removed, a platform must be supplied prior to the load-in to compensate for the rake in the house and to cover any remaining seat hardware.
2. Sound Power requirements are one (1) 100 AMP disconnect - 3 phase / 120 volts for sound or equivalent. Power for sound must be from a separate isolated transformer with a cold water isolated ground.
3. The show utilizes a surround sound system. It will be necessary to hang speakers in the back of the orchestra level. The location of these speakers will be determined during the load-in.
4. During the load-in period, the theater lobby may be used as a work and staging area for the sound department. In an effort to protect the lobby floors, the Local Presenter must provide protective covering: either heavy canvas drop or 4' x 8' sheets of quarter inch Masonite with taped seams. Such floor covering should be in place prior to the advance load-in if the theatre requires it.
5. In some theaters, the production will use under balcony delay speakers. This system includes small speakers that will be mounted in the auditorium. Cable paths from the speakers to the sound console and to the backstage amp racks will be executed as unobtrusively as possible. The location of the speakers and pathways will be determined during one of the advance surveys. Mounting these speakers may involve some drilling into house walls and under balconies. The location of the speakers and pathways will be determined during one of the advance surveys.
6. House systems such as center clusters and side stage speaker stacks will not be used by the production and may need to be removed, or flown out prior to the advance load-in.
7. House systems that can be utilized by the production such as dressing room speakers and under balcony fills that can be controlled by our sound department may be used. The Head Sound man will make final determination.
8. The Production carries 2 sound towers that will be positioned SR and SL in front of the proscenium. It may be necessary to support these towers into the pit if the apron width will not accommodate the base.
9. The Production carries audio-video equipment for use in the theatre lobby. The cable for this equipment may require the coring of access holes.

Property / Orchestra Pit Requirements

1. For the start of the load-in, the orchestra pit should be completely cleared of all musical instruments, chairs and other equipment. (No House piano will be in the pit at any time.)
2. Please be certain that there are at least one hundred (100) chairs total for use in dressing rooms, backstage, and in the orchestra pit.
3. Make available for orchestra, the following:
 - 32 Music Stands
 - 32 Music stand clip lights, and electric cable to hook up lights
 - Lock up room for instruments.
 - Changing room for orchestra.
4. The venue must provide a dark colored carpet to cover the entire pit floor. ~~_____~~
5. All walls must be covered with sound absorbing material.
6. A tuned rehearsal piano might be required for this production. If so, it must be able to fit through any man door. We would request that the piano be tuned once a week during the run of the production.
7. Because the floor of the orchestra pit may support the apron of the show deck, the orchestra pit must be able to bear weight and lock-in to a position at a depth to be determined at the beginning of the load-in. If the pit is operated by a hydraulic lift, the lock-in mechanism must be independent of the lifting mechanism and must not rely on the hydraulic system for a lock-in position. Ideally, the lock should be a mechanical device rather than a hydraulic device.

Wardrobe Requirements

1. Local Presenter must provide and install and pay for three (3) full size washers and three (3) full size dryers in excellent working order. Please inform DTP if this will not be available at least one (1) month prior to the advance load-in. Please supply rubber matting by the washing machines. ~~_____~~
2. The wardrobe room must have sufficient power for ten (10) irons and eight (8) steamers: approximately ten (10) 20-amp 110-volt electrical outlets.
3. Local Presenter must provide chairs (see property requirements above), tables, mirrors and lights in an amount to be determined between the Local Presenter and the production's Wardrobe Supervisor in advance of load in.
4. The production will carry 6 portable racks but we also request 4' of rack space in the smaller (principal) dressing rooms and 20' of rack space in the large ensemble rooms. This can be either built-in hanging space or portable racks.
5. Access to the stage and backstage area for work calls must be provided commencing at 8:00 a.m. on matinee days and 9:00 a.m. on days with scheduled evening performances. Depending on the schedule, access may also be required for wardrobe day work on dark days and in the mornings on mid week matinee days. *All costs associated with day work shall be a "Local Documented Expense"*.
10. A fully functioning utility sink will be needed for the cleaning and rinsing of costumes. This sink must be near the wardrobe room but separate from any sink used by the wig department or the theater custodial and cleaning staff.

Puppet Requirements

1. There must be a room set aside 20'x 15' for the puppet hospital.
2. This room must have sufficient power for a small shop of drill press, router, jig saws, and glue guns. We require a minimum of 4 - 20amp circuits.
3. This room needs to have ventilation, or ducting with fan, to the outside. ~~_____~~
4. Access to the stage and backstage area for work calls must be provided commencing at 8:00 a.m. on matinee days and 9:00 a.m. on days with scheduled evening performances. Depending on the schedule, access may also be required for puppet day work on dark days and in the mornings on mid week matinee days. *All costs associated with day work shall be a "Local Documented Expense"*.

Makeup/Hair Requirements

1. Due to the heavy use of wigs in this production the Make-up / Hair room must be large enough to accommodate five (5) stations and an area to store approximately ten (10) wigs on stands.
2. Due to the numerous chemicals used by this department, the room must have proper ventilation or, at the very minimum, a window which would allow for the flow of fresh air.
3. The room must have sufficient power for at least ten (10) 20-amp 110-volt electrical outlets.
4. A fully functioning utility sink will be needed for the cleaning and rinsing of wigs. This sink must be near the room but separate from any sink used by wardrobe or the theater custodial and cleaning staff.

Orchestra/Instrumentation Requirements

THE LION KING will travel with the following twelve (12) musicians and instruments:

1. Conductor
2. Assistant Conductor (not a playing member of the orchestra)
3. Keyboard 1
4. Keyboard 2
5. Keyboard 3
6. Bass
7. Drums
8. Percussion 1
9. Percussion 2
10. Marimba
11. Reed 1
12. Concertmaster/Violin Player

The local venue will need to supply the remaining seven (7) musicians. (Please note the requirements of each chair and the stylistic information.)

1. Violin
2. Viola
3. Cello
4. French Horn
5. Tenor trombone
6. Bass trombone and Tuba
7. Guitar (electric; nylon string acoustic; ukulele; kalimba)
(PRODUCTION WILL SUPPLY THE KALIMBAS REQUIRED)

Music department contact:

Michael Keller

Description

Score is mainly rock, pop, and legit with African influences. Symphonic players needed on the non-rhythm parts. Guitar part requires a well-versed rock/pop player with strong acoustic ability.

Usual Rehearsal Schedule

- 6 hours (generally two 3-hour calls) with local musicians on a day to be determined
- 2 hour sound check
- Dress rehearsals as required

Local contractors should contact Michael Keller with any questions and for updates about scheduling.

Dressing Room Requirements

Principal Dressing Rooms

Double Rooms:

Mufasa & Simba
Scar & Zazu
Ed & Banzai
Young Simbas
Young Nalas

Triple Rooms:

Shenzi, Rafiki, Nala

Chorus Rooms

Group Dressing Rooms For:

Male Ensemble (11 + 5)
Female Ensemble (12 + 2)
(30" Space for each chorus member)

EACH CAST MEMBER MUST HAVE HER/HIS OWN MIRROR

Other Rooms required for production

Company management office
Stage management office
Production office
Vari*lite repair room
Wardrobe room
Puppet Workshop
Laundry room (with space for 3 washers and 3 dryers)
Makup / Hair room
Conductor's Room
Orchestra room (with lockers for instruments)
Merchandise Room (easy access to front of house)
Lobby staging area for the puppets
School Room
Resident Director Room
Resident Dance Supervisor Room
Physical Therapy
Guest Services (small office in FOH)

Merchandising Requirements

1. Merchandising will require a room to use as an office and / or storage space. Ideally, this room will be located in, or be easily accessible to the front of house lobby area.
2. The merchandise room must be lockable and on a separate key.
3. The merchandise room must have a minimum of two (2) electrical outlets and one (1) telephone jack.
4. The room will provide a minimum of 100 square feet of space, subject to local conditions.
5. The merchandise room must be rekeyed and on an exclusive key that is given to the merchandise manager and/or assistant manager only. All costs associated with re-keying will be a "Local Documented Expense".
6. Front of House phones/data lines for credit card machines.

Management Requirements

1. There must be office space made available for the use of the Company Management and Stage Management. Also there must be office space for the Production / Head Carpenter. This room must comfortably accommodate five (5) people.
2. The production requires the use of (10) telephone lines installed prior to the advance load-in. The company manger will contact the local presenter to make proper arrangements. They may be placed as follows:
 - 2 voice lines in Company Manager's office
 - 1 fax line in the Company Manager's office
 - 2 voice lines in Stage Manager's office
 - 1 line for Automation Stage Left
 - 1 line in the Puppet workshop
 - 1 line in the Wardrobe room
 - 1 line at the Electric / Sound desk back of house
 - 2 lines in the Merchandise office (1 data, 1 phone)
 - 1 line in Guest Services room (FOH)
 - 4 data lines in the lobby for Merchandise (credit cards)
3. Please provide WDTP with lists of local services:
 - Banking Information
 - Medical References (GP, Internist, Dentist, Ear/Nose & Throat, Gynecologist, Orthopedist)
 - Laundry Services
 - Hotel and Apartment Information
 - Local transportation,
 - Restaurants, local interests, etc.
 - Area maps
4. In the event of a change in the cast, it will be necessary for the ushers to place printed announcements in each house program at no additional expense to the Producer. The production stage mangers will supply these pre-printed announcements to the house.

Should the programs be stuffed incorrectly by the ushering staff, or inadvertently not stuffed at all, the financial penalty imposed by AEA will be passed on to the Presenter. Should communication on cast changes come to Presenter in an unclear or untimely manner, the expense will be passed on to the Producer.
5. The performance will begin promptly at the advertised curtain time and there will be seating holds for late comers. The house ushers will be required to hold latecomers outside the auditorium seating area until instructed by the Company Managers to begin late seating. The Company Manager will advise the House Manager of the specific seating hold requirements.

Approximate Running Times

- Act I: 1:13 (7 min. hold)
- Intermission 20 min.
- Act II: 1:06

Theater Security

1. Theater owner represents that theatre has an existing fire/life/safety plan on file. Theatre owner further agrees that Producer's representatives may review such plan.
2. Theater owner represents that theater has appropriate security coverage in place for both backstage and front of house.
3. Theater owner represents that all theater HVAC equipment is in working order and that a preventative maintenance plan is in place. Theater owner further agrees that Producer's representative may review such plan.
4. Theater owner represents that theatre is complaint with all OSHA and building code requirements and agrees to provide a copy of all building permits to Producer's representative upon request.

Summary

Please mail all materials at least six (6) months prior to the scheduled engagement to the addresses listed below.

Material to be mailed to DTP

- Union contracts with prevailing rates
- Hang or line plot of existing house pipes
- Ground Plan and Section, in scale, of stage dimensions
- If available, AutoCAD drawings of the building
- Structural drawings of all grid and roof steel work as well as FOH steel.
- Dressing Room layouts
- House seating charts, and scale drawings if available
- Loading door: location, size and access
- Local electrical, fire, and pyrotechnic codes and restrictions
- Name, address, and phone number of local fire authority
- Wardrobe and hair contacts and information
- Names and phone numbers (home numbers also, please) of Theater Manager, Carpenter/Technical Director, Electrician, Concessions/Merchandise Manager, and Local Promoter, where applicable

Items for Discussion

- Front of House dressing and staging area for Opening Entrance of Animals
- Access to FOH from backstage
- Access to various levels of the house from backstage
- Rehearsal spaces for Orchestra and the company
- Area in Orchestra level for percussion boxes
- Specific take-in times and personnel needed
- Tractor trailer parking
- Electrical requirements, location of power feed
- Information required by local presenter to secure local permits.
- Follow spot positions
- Sound console and under balcony speakers
- Location of telephone lines

Staff List

Technical Director	David Benken
Production Supervisor	Doc Zorthian

Running Show Staff

Company Manager	Alan Kosher
Assistant Company Manager	Eduardo Castro
Production Stage Manager	Kathy Purvis
Head Carpenter	Michael T. Carey
Head Electrician	JR Sample
Head Props	Mike Wymore
Sound Engineer	Greg Bryant
Production Wardrobe Supervisor	Kjeld Andersen
Hair & Make-up Supervisor	Jaesin Goldsberry
Conductor	Richard Oberacker

EXHIBIT "C"

The Lion King – Gazelle Tour

**Hippodrome Theatre- France-Merrick PAC
Baltimore, Maryland Engagement**

PRODUCTION LABOR EMPLOYMENT TAXES/CHARGES	STAGEHANDS (HOUSE)	MUSICIANS	WARDROBE HAIR/ WIGS/ MAKE-UP
EMPLOYER'S SOCIAL SECURITY/MEDICARE	-	-	-
FUTA	-	-	-
WORKERS' COMPENSATION	-	-	-
MEDICARE	-	-	-
MD DUI *	-	-	-
PAYROLL PROCESSING	-	-	-
BENEFITS	-	-	-
TOTALS	-	-	-

EXHIBIT "D"

THE LION KING

**Customer Service
and
Appearance Guidelines**

Disney Theatrical Production Ltd.

Rules and Expectations

- **Every Guest is a VIP and needs to be treated as one.**
- **All employees in the theatre (whether ushers, management, or vendor employees), are responsible for assuring that each guest has a pleasant experience.**
- **We expect all employees in the theatre to understand and abide by the following:**
 - ❖ **Courteous service.**
 - ❖ **Working as a team.**
 - ❖ **First names among employees.**
 - ❖ **We are known for our friendly employees. We listen to our Guests. We don't talk back to Guests.**
 - ❖ **We are known for our cleanliness. We do not want to distract from the production or from the theatre.**
 - ❖ **The safety of our Guests and employees is of paramount importance.**
 - ❖ **We strive for the Personal Touch in all we do.**
 - ❖ **Employee smoking is only permitted outside of the theatre.**
- **Since our Guests are our first priority, visits by any employee's family or friends during work hours is not permitted.**
- **No horseplay or any type of activity that would put a fellow employee or Guest's safety in jeopardy is allowed.**
- **Eating, chewing gum or drinking while on duty or in view of a Guest is not permitted.**

Appearance Guidelines

- **Employees the Theatre are an important part of the production.**
- **PERSONAL HYGIENE**
Due to close interaction with Guests and fellow Employees, deodorant or antiperspirant is required.
- **TATTOOS**
Visible tattoos and any visible form of body piercing (including a pierced tongue) are unacceptable.
- **SUNGLASSES**
Sunglasses may not be worn.
- **MAINTENANCE**
Employees are responsible for the cleaning and maintenance of their clothing/uniform. If clothing/uniform is not in proper condition, we would prefer the employee not be permitted to work that day.
- **FACIAL HAIR**
Sideburns and beards should be neatly trimmed.
- **FINGERNAILS**
Fingernails must be kept clean. If polish is used, it should be a clear or a cream enamel that is complementary to the skin tone.
- **HAIR (Female)**
Extreme styles, such as shaving the hair and eyebrows, sculpting a design in the hair, or wearing long hair over a shaved portion of hair or in the eyes, are not acceptable. Dyeing or highlighting the hair to enhance its natural color, provided it is not extreme, is acceptable.
- **HAIR (Male)**
Hair must be neatly groomed. Extreme styles, such as shaving the head and eyebrows, sculpting a design in the hair, or wearing long hair over a shaved portion of hair or in the eyes, are not acceptable. Dyeing or highlighting the hair to enhance its natural color, provided it is not extreme, is acceptable.
- **JEWELRY (Female)**
Wedding bands and small rings may be worn. Only one ring per hand may be worn (double wedding rings are permitted). Earrings must be worn on the bottom of the earlobe, one in each ear. Multiple earrings are unacceptable.

➤ **JEWELRY (Male)**

Wedding bands and small rings may be worn. Only one ring per hand may be worn. Earrings on male employees are unacceptable.

Dress Code

Uniformed Employees

➤ **UNIFORMS (IF APPLICABLE)**

- Uniforms should be clean and neat at all times and fit properly (the "baggy" look is not acceptable), which requires maintaining an appropriate size that does not exceed the size range for the uniform.
- Pants must be worn at the waist line.
- Skirt length should be no shorter than 4" above the knee. As a safety precaution, full-length skirts are not acceptable.
- Hats may not be worn.
- Nametags are the only decoration to be worn on a uniform and should be worn on the upper left quadrant of the jacket lapel or shirt (if no jacket is worn).
- Uniforms must be worn when employee is on duty or in view of the public.

Non-Uniformed Employees

Female

Women may wear a suit, skirt and blouse or sweater, a dress, or pants, with or without a jacket. Clothing should be clean and neat at all times and fit properly (the "baggy" look is not acceptable). Pants should be long enough to touch the ankle and must be worn at the waist line. The following are unacceptable: jumpsuits, stirrup-style pants, jeans and denim pants, casual T-shirts, halter tops, tube tops, and sleeveless tops or dresses without a jacket.

• **DRESS AND SKIRT LENGTH**

Dress and skirt lengths may range from no shorter than 4" above the knee to the bottom of the calf. As a safety precaution, full-length skirts are not acceptable. Slits, kick pleats, and buttoned or snapped closures should not exceed five inches above the middle of the knee.

- **FABRICS**

Fabrics should be those traditionally acceptable for business. Denim fabric is unacceptable.

- **JEWELRY**

All jewelry should be in good business taste and conform to the standards listed on page 4 of this document.

- **HOSIERY**

Hosiery must be worn at all times.

- **SHOES**

Dress heels, flats or athletic shoes (for certain jobs) are acceptable. Casual footwear such as cowboy boots and sandals are unacceptable.

Non-Uniformed Employees

Male

Men may wear a suit with or without a vest, a color-coordinated short/long-sleeved dress shirt, and a tie. Men may also wear a sport coat or blazer. Jackets are optional when a shirt and tie are worn, but are required when a tie is not worn. Clothing should be clean and neat at all times and fit properly (the "baggy" look is not acceptable). Pants should be long enough to touch the ankle and must be worn at the waist line.

- **FABRICS**

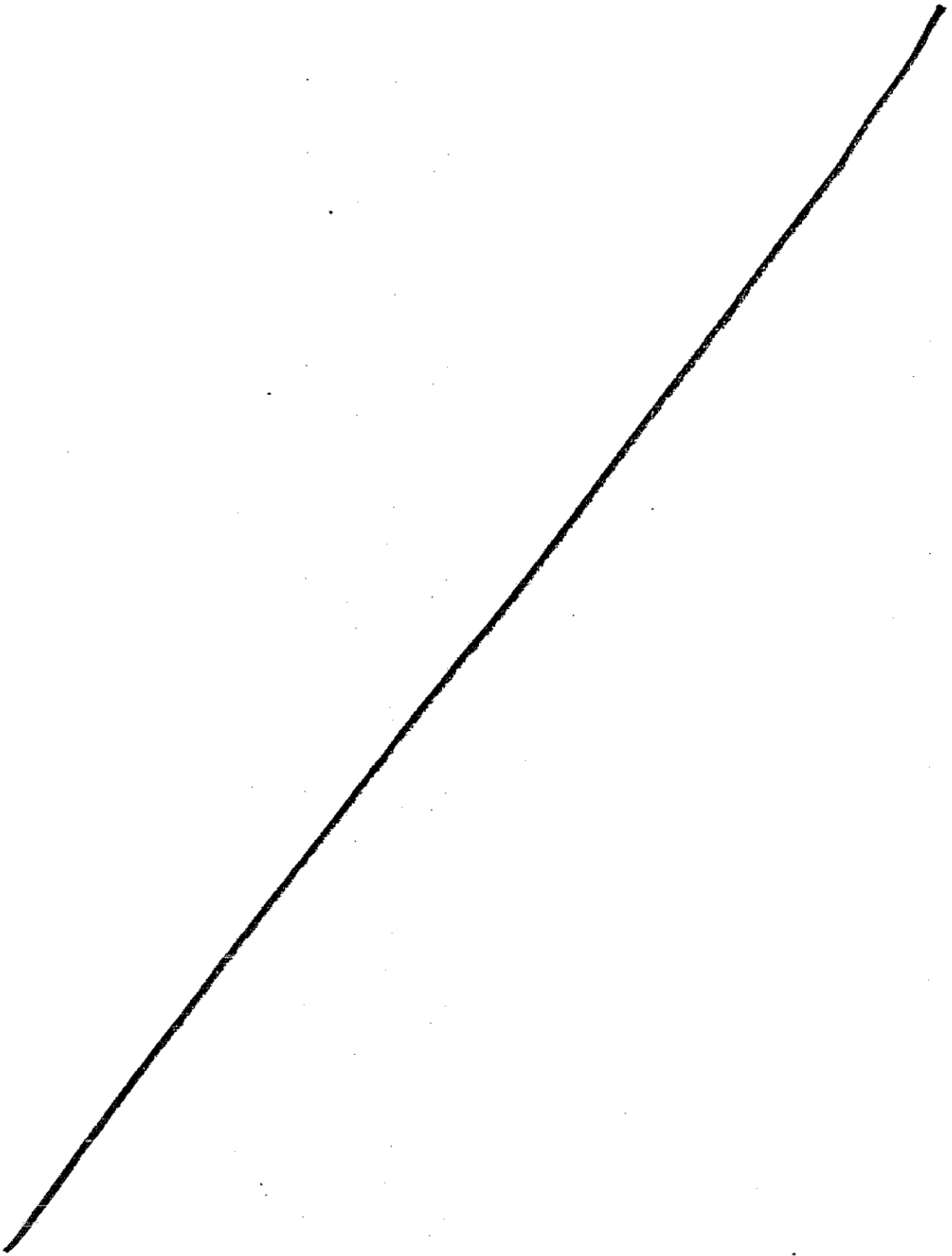
Fabrics should be those traditionally acceptable for business. Denim fabric is unacceptable.

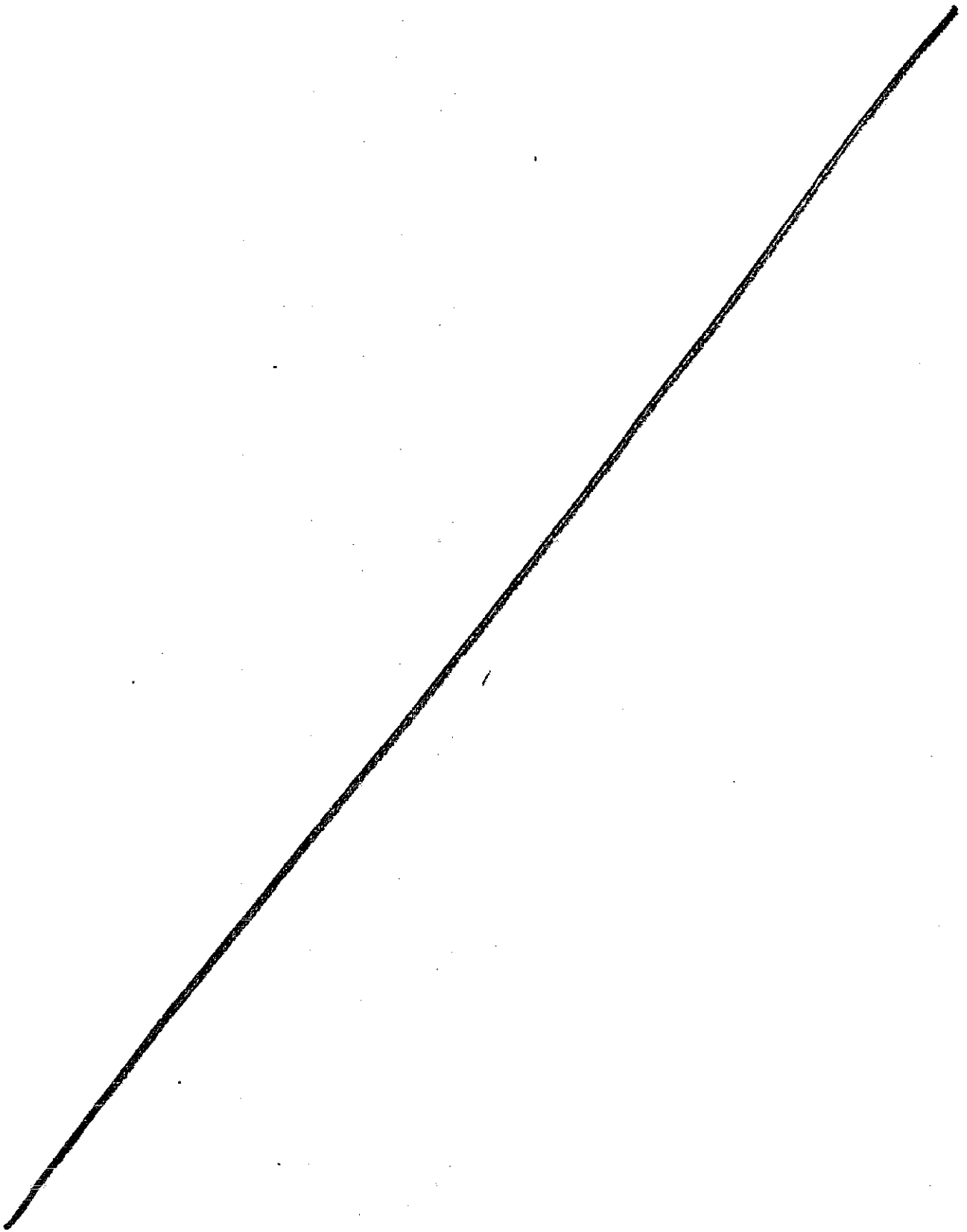
- **SHOES**

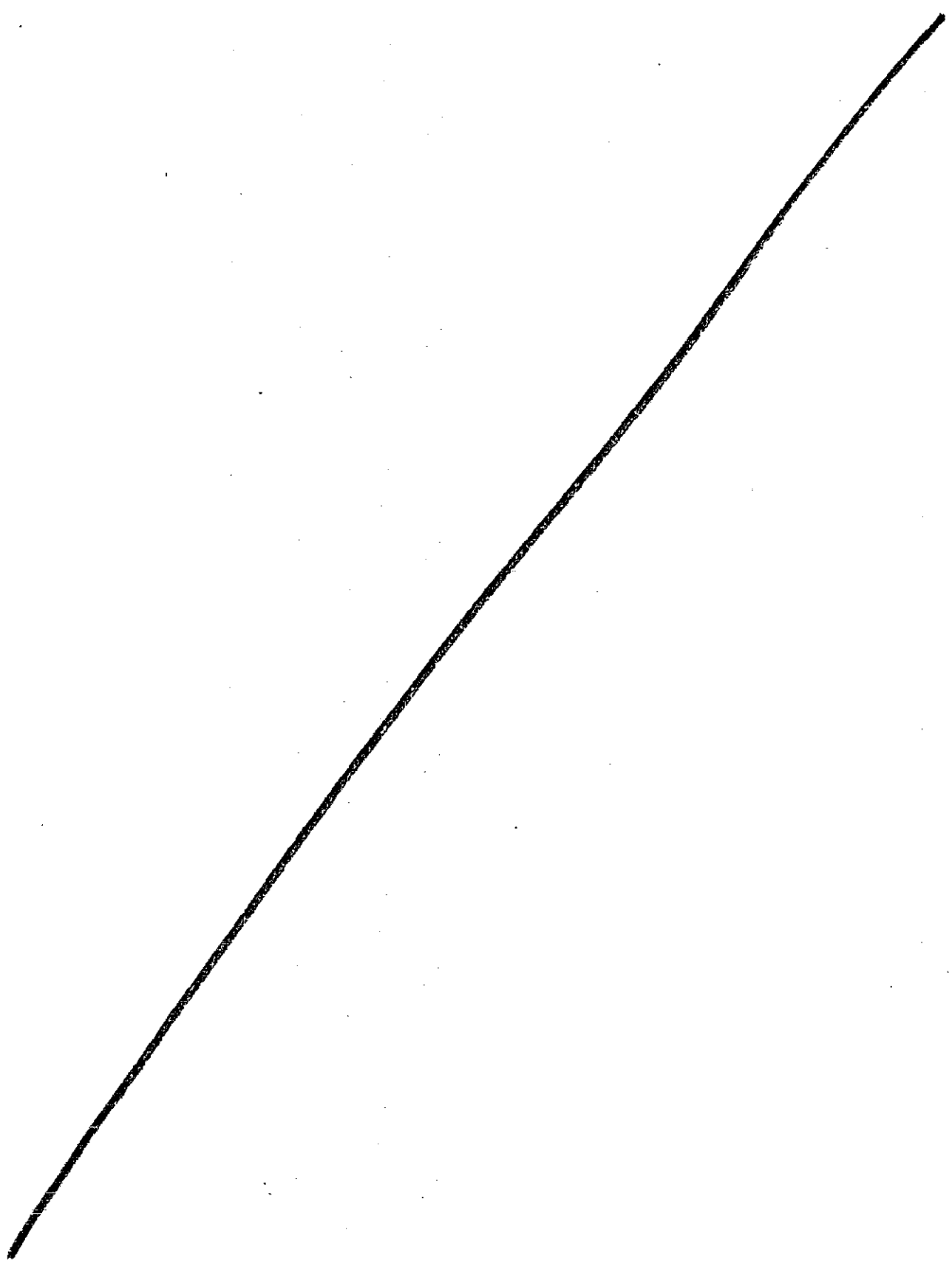
Dress shoes, athletic shoes (for certain jobs), and socks are acceptable. Casual footwear such as cowboy boots and sandals are unacceptable.

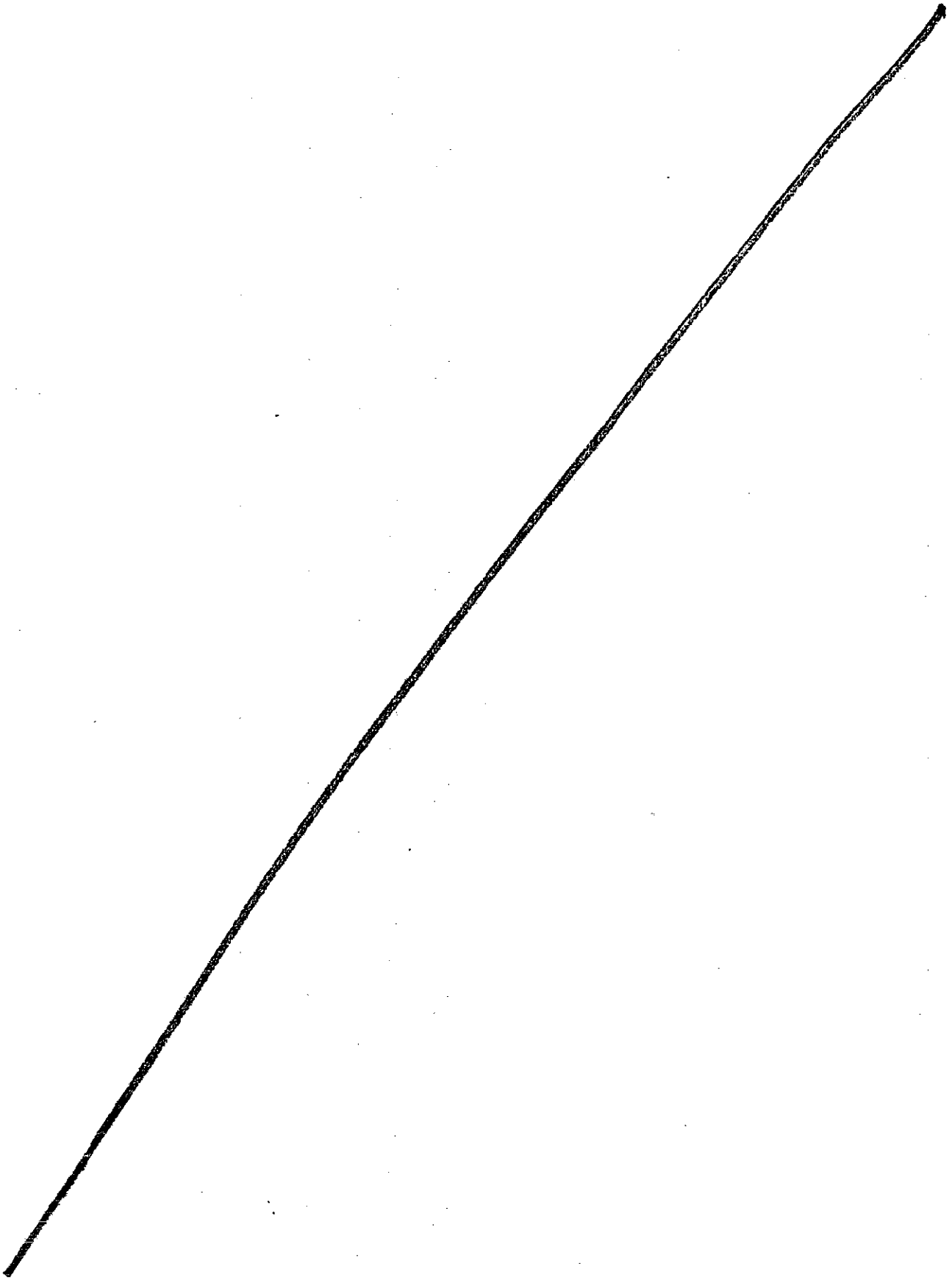
- **JEWELRY**

All jewelry should be in good business taste and conform to the standards listed on page 4 of this document.









TICKETING SURCHARGES

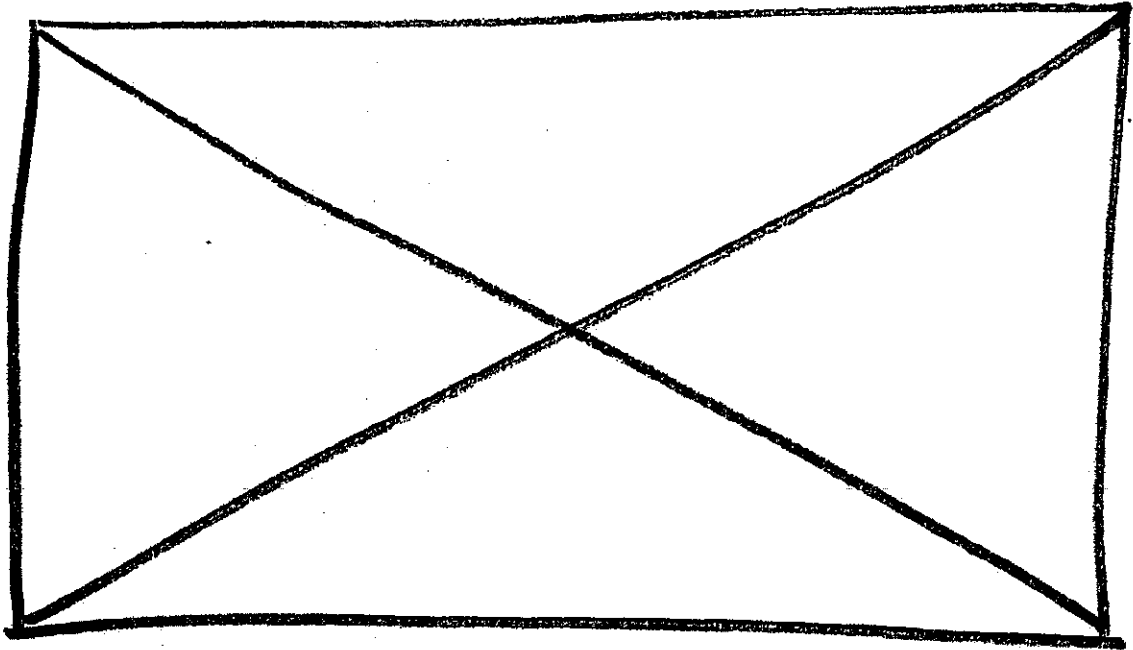
AS OF: 9/30/04

The Lion King

VENUE: HIPPODROME THEATRE @ FMPAC

CITY: BALTIMORE, MD

TICKET SYSTEMS: TICKETMASTER & Audience View



DISNEY'S THE LION KING - Groups Sales Policies in Baltimore

Hippodrome Theatre - 2180 seat capacity

Group Sales info: Barb Wirsing, Group Sales Manager and Laura Pellegrino, Corporate Sales Manager (443) 703-2401

Performance Dates: June 2 through September 4, 2005

Showtimes

Tuesday through Saturday 8:00pm

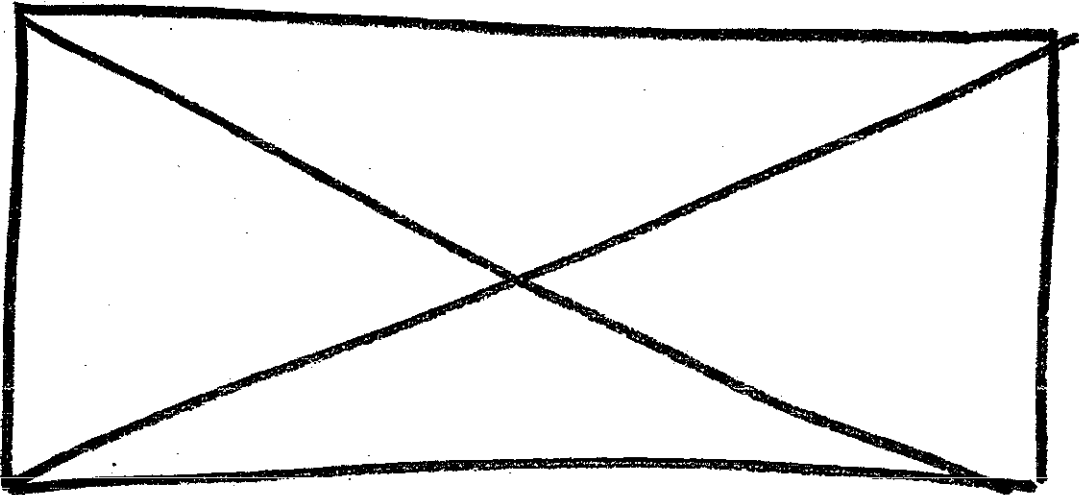
Saturday Matinees at 2:00pm

Sundays at 1:00pm and 6:30pm

Group Sales Pricing: There is a \$2.00 facility fee added to the ticket price and a \$2.00 State of MD Seat Tax added to the ticket price as well as a \$2.00 group service charge.

Tuesday, Wednesday, Sunday Evening	PREVIEWS	GROUPS (NO DISCOUNT)	REGULAR PERFORMANCES	GROUPS (NO DISCOUNT)
Orchestra-VIP	-	-	\$125.00	\$125.00
PRICE A	-	-	\$67.50	\$67.50
PRICE A LV	-	-	\$50.00	\$50.00
PRICE B	-	-	\$57.50	\$57.50
PRICE B LV	-	-	\$43.00	\$43.00
PRICE C	-	-	\$37.50	\$37.50
PRICE D	-	-	\$22.50	\$22.50
Thursday Evenings	PREVIEWS - Thurs 1st week only	GROUPS - Thurs 1st week only	REGULAR PERFORMANCES	GROUPS (NO DISCOUNT)
Orchestra - VIP	\$125.00	\$125.00	\$125.00	\$125.00
PRICE A	\$70.00	\$70.00	\$72.50	\$72.50
PRICE A LV	\$52.50	\$52.50	\$54.00	\$54.00
PRICE B	\$60.00	\$60.00	\$62.50	\$62.50
PRICE B LV	\$46.00	\$46.00	\$48.00	\$48.00
PRICE C	\$40.00	\$40.00	\$42.50	\$42.50
PRICE D	\$25.00	\$25.00	\$27.50	\$27.50
Friday and Saturday Evenings, Saturday and Sunday Matinees	PREVIEWS - Fri eve and Sat mat 1st week only	GROUPS - Fri eve and Sat mat 1st week only	REGULAR PERFORMANCES	GROUPS (NO DISCOUNT)
Orchestra - VIP	\$125.00	\$125.00	\$125.00	\$125.00
PRICE A	\$70.00	\$70.00	\$72.50	\$72.50
PRICE A LV	\$52.50	\$52.50	\$54.00	\$54.00
PRICE B	\$60.00	\$60.00	\$62.50	\$62.50
PRICE B LV	\$46.00	\$46.00	\$48.00	\$48.00
PRICE C	\$40.00	\$40.00	\$42.50	\$42.50
PRICE D	\$25.00	\$25.00	\$27.50	\$27.50

GROUP SALES POLICIES:



TICKETING SURCHARGES

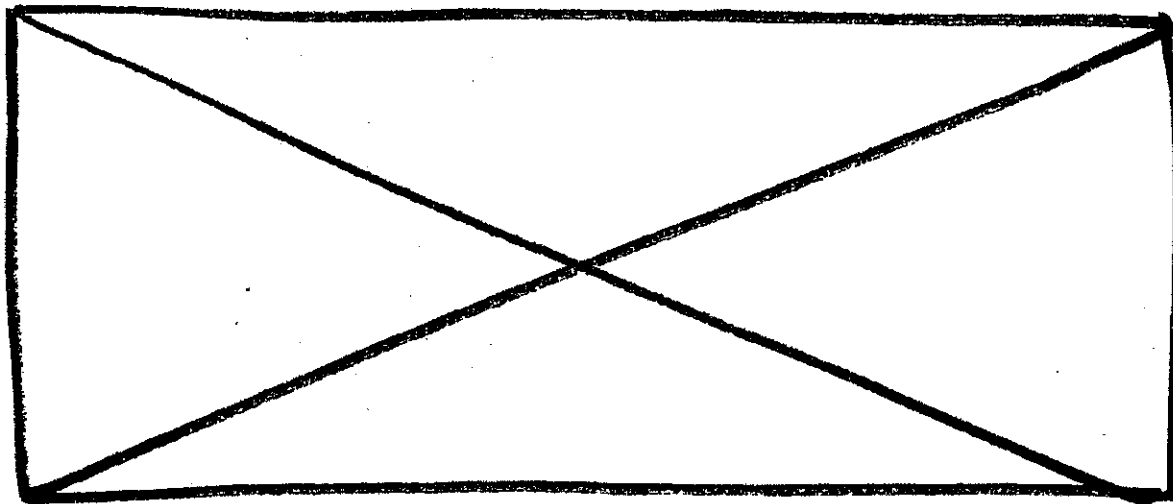
AS OF: 9/30/04

The Lion King

VENUE: HIPPODROME THEATRE @ FMPAC

CITY: BALTIMORE, MD

TICKET SYSTEMS: TICKETMASTER & Audience View



The above surcharges are subject to change without notice.

**EXHIBIT G
Lion King
Theater Modifications
Hippodrome Theatre
France – Merrick PAC
Baltimore**

The following is a list, including but not limited to, approved modifications to the Hippodrome Theater – France Merrick PAC. It is understood by all parties that in addition to the requirements of the Tech rider these modifications are necessary in order for Lion King to play in this venue.

FMPAC have engaged any necessary architects, engineers and contractors of their choosing to do drawing, architectural, engineering and construction work as required for the following modifications. The Production has agreed to be responsible for costs as outlined to Anne McKay Quart by Steven Ehrenberg. These Modifications are to be completed Prior to or during the house strip and advance load in.

FRONT OF HOUSE, LOBBY:

Core or open 1 - 4" hole for cable passage from the sound console into the Lobby corral areas, for the 2 A/V carts. These carts will be located by doors #3 & #4. Modification Completed

SEATING REMOVAL & RESTORATION:

Removal of seating as detailed in seat kill list to Allow passage to the circle of life stairs and room for the sound towers and to create a location for the Audio Mix position

WORK IN THE AUDITORIUM

Raise the height of the interior rear auditorium doors to 8' to allow Bertha to enter, both of the rear doors need to be modified. There will not be any restore necessary. Work completed 7/30/04

Install a curtain at the stairwell passage, behind the house right boxes

The Removal of the red curtain swags in the first box on either side of the stage prior to the advance.

The House must remove the center flown speaker Cluster prior to the advance Load in.

Installation of Percussion platforms in the first and second boxes will occur during the advance week.

BACKSTAGE:

Installation of rigging support beams under the stage right fly gallery and HVAC ducts.

Work Completed 07/30/04

All Equipment needs to be cleared from the Trap room prior to the advance Load in

The Lockers in basement room 63 should be removed

House Follow Spots may be removed from the booth, stored and replaced with Lion King's spotlights

EXHIBIT "H"

V.I.P. SEATING

BENEFITS AND TERMS OF VIP SEATING

Price:

The base price for VIP seats will be \$125.00 per seat for all non-subscription performances excluding opening night.

A ~~_____~~ per ticket handling fee, \$2.00 Maryland State tax fee and applicable Facility/Restoration Fees will be added to the base ticket price for VIP seats sold as single ticket through OPERATOR's internal sales operation and for those tickets sold as VIP groups, a ~~_____~~ per ticket handling fee will apply.

Scaling of VIP Seating:

The VIP seating area will typically be designated in the front, center section(s) of the main floor in each venue. The capacity of this area is 76 seats on Tuesday, Wednesday, Thursday and Sunday evening performances and 188 seats on Friday and Saturday evening, Saturday and Sunday matinee performances. A separate, detailed scaling of each VIP seating area and projected gross potential will be presented, and mutually agreed upon by both parties, for each market.

Benefits of VIP Seats:

The VIP seat price may include the following sample benefits:

- Premium Center Orchestra seat location
- Complimentary parking ticket/voucher – One voucher per two tickets
- Complimentary Commemorative Tour Program
- Complimentary show merchandise item in selected markets as agreed by both OPERATOR and BVTG.

The benefits of VIP seating for each engagement will be organized and approved by both OPERATOR and BVTG.

Eligible Performances

VIP Seating will not be offered on those performances designated for OPERATOR's subscription or opening night. VIP seating will be offered for all mutually agreed upon Preview and non-subscription performances, including those offered to other arts groups in the local markets.

House Seats and Company Holds

Standard Presenter and Company seats per the contract will not be held in the area designated for VIP Seating, unless specifically requested by BVTG, OPERATOR, or local presenting partners. Any seats requested in this area by BVTG, OPERATOR, or local presenting partners will be sold at the VIP ticket price, plus applicable facility fees, Maryland State Tax fee and ~~_____~~, and will receive the premium benefits outlined for the market. Contract holds will be secured in regular top priced seating locations. Should the Press Opening

performance fall outside of the week set aside for subscription, and is agreed by PRESENTER and BVTG to be included in the VIP schedule, complimentary seats for Press will be located outside of the area designated for VIP seating.

SALES PLAN

VIP Seating can be sold exclusively through OPERATOR or its third party sales agent, PACE Theatrical Group, Inc ("Sales Agent") and its internal sales channels of Group Sales, season contacts, clients, sponsors, and staff. VIP seats sold as single tickets will be sold and fulfilled centrally through Sales Agent's internal VIP service operation where possible. VIP inventory will be assessed on a per market basis. At a mutually agreed upon deadline for each market, BVTG and OPERATOR will release of VIP seats for public sale should seat inventory warrant wider access.

PRESENTER COMPENSATION AND RESPONSIBILITIES:

BVTG will compensate OPERATOR for the sales of all VIP Seats as follows:

- OPERATOR will receive a commission of ~~10%~~ (inclusive of all other commissions, e.g. credit cards) on all VIP Seats sold as single tickets for all applicable performances of *The Lion King*. Commission will be calculated on the VIP ticket price, net of the actual cost of premiums, applicable facility fees, handling charges, and/or taxes if applicable.
- All VIP Seats sold to groups of 20 or more will receive the normal group sales commission per the Agreement. VIP seats sold as groups will be considered in calculating OPERATOR's eligibility to receive an incentive commission if the group sales threshold is met for each engagement.
- Sales Agent will retain an outside handling fee of ~~_____~~ _____ VIP ticket for each VIP seat sold as a single ticket through its internal sales operation.
- The actual value of the premium items will be deducted from the Net Adjusted Gross Box office receipts prior to calculation of Royalties, Percentage Rent and/ or any calculated payment due based on Net Adjusted Gross Box Office Receipts. Premium item expenses will be calculated on their actual, documented cost to BVTG and OPERATOR versus retail. Documented cost is the price charged to BVTG and/or OPERATOR by a third party and/or affiliated entities. (e.g. if BVTG is charged \$10.00 per souvenir book by BVTG merchandise and if OPERATOR is charged \$4.50 per drink by a local theater or concession company, then this is the documented cost for the calculation above.)
- The following responsibilities and expenses are included in the commission outlined above:
 - Staffing costs
 - Processing of VIP seating and premiums
 - Design and printing of VIP collateral, including mailing envelopes, direct mail, email information, and marketing collateral.

- Postage expense and mailing of VIP tickets
- Design and printing of Commemorative tickets
- Charges associated with toll-free number
- All credit card fees associated with all VIP seats charged by credit card
- All other costs associated with the VIP Program that fall outside of the actual costs of premium benefits and BVTG staffing as outlined in this agreement.
- VIP seats sold in performances designated for Other Arts Groups will fall under the terms of this addendum.

DIRECT EXPENSES TO BVTG:

- Parking fees for each VIP Ticket sold at the actual negotiated rate in the local market (if applicable).
- Beverage Coupon fees for each VIP Ticket sold at the actual negotiated rate with the concessionaire in the local market (if applicable)
- Expenses related to supplying commemorative merchandise (if applicable)
- Expenses related to supplying commemorative programs (if applicable).

EXHIBIT "I"

Requirements for use of performance footage.

The Lion King – Gazelle Tour

Hippodrome Theatre
Baltimore, MD Engagement

Pursuant to the agreement between the presenting organization ("Presenter") and Buena Vista Theatrical Group Ltd. ("Producer") regarding the Presenter's engagement of Producer's stage play (the "Engagement"), Presenter is required to assist Producer in the Engagement's marketing, advertising, and publicity. In addition, Presenter has agreed to comply with all regulations and requirements of all applicable union contracts. This memo and its attachment set forth the requirements for use of performance/rehearsal footage to promote the Engagement. The Actors and the Stage Managers involved in such footage are covered under the Collective Bargaining Agreement ("CBA") between BVTG's affiliate, B.V. Theatrical Ventures, Inc., and Actors' Equity Association. Presenter shall be responsible for any penalties and other payments that may be imposed through its failure to follow the applicable requirements. Note that the requirements herein apply both to "B-Roll" footage supplied by Producer as well as to footage filmed or taped by news crews during rehearsals or performances of the Engagement.

Attached you will find 1) the complete CBA rule (Rule 69, TELEVISION, RECORDING and MOTION PICTURE FILMING) and 2) the most current list of news/entertainment shows approved by Actors' Equity (as explained below). If you have any questions or concerns about these materials or compliance with them, please contact the Producer's press representative.

The important points to remember are:

- I. **Producer's B-Roll Footage.** B-Roll footage is provided by the Producer to Presenter solely for the promotion of Presenter's engagement of the stage play in accordance with Actors' Equity requirements. It may not be used for any other purpose whatsoever (including in a commercial).
- II. **Additional Newscast Footage.** The filming and taping of any additional rehearsal and performance footage (i.e., other than Producer-supplied B-Roll) is strictly subject to the requirements of CBA rule 69 (D) (1)– (2).
- II. **Television Newscast Use.** Footage (whether Producer's B-roll or created by news crews) may be used in local television news programs presenting reviews of, or featured stories about, the Presentation, provided that no single news program may include more than three (3) minutes in the aggregate of such footage or an entire self-contained number or scene. If the program is other than a local news program, it must be listed among the news and entertainment programs approved by Actors' Equity, as indicated on the attached list. If the program is not listed, the Presenter is responsible for obtaining approval from Actors' Equity prior to providing the B-Roll Footage to the program or before allowing the program to film or tape rehearsal/performance footage. Note that half-hour news programs devoting all or substantially all of their time to the opening night of the Presentation would normally be subject to the requirements for Television Newscast use; by contrast,

one or two hour opening night specials are separately governed by CBA rule 69(M) ("Opening Night Specials").

III. **Talk Shows.** Footage may be used on Talk Shows as part of a bona fide interview in which the Presentation is being promoted, provided that the total amount of footage used in the program cannot exceed two (2) minutes and no more than two (2) clips may be used. Neither clip may contain all or substantially all of a musical number. The Talk Show must be listed in the Actors' Equity approved list discussed in Paragraph II above (or Presenter must obtain Equity's approval).

The above summary is meant to be helpful but not exhaustive. Please consult the attached CBA rule for complete information. Special situations and events should be directed to your Producer's press representative.

Thank you for your cooperation and assistance.

Actors' Equity Association
Agreement and Rules Governing Employment under the Production Contract
Rule 69

TELEVISION, RECORDING and MOTION PICTURE FILMING.

(A) There shall be no televising, broadcasting, visual and/or sound recording, motion picture filming, or video taping, in whole or in part, of any production (including any element of the production over which the Producer has the right to, or reasonably should have had the right to, withhold consent to the use of said element) in which Actors are employed under the terms of this Agreement without the express permission of Equity and under terms and conditions established by it, except as provided in this Agreement. Such permission will not be withheld unreasonably. This prohibition shall be in effect from the beginning of employment until 19 weeks after the production has closed. The foregoing paragraph shall apply to any production licensed, leased or authorized by the Producer, but shall not apply to motion picture filming for theatrical release.

(1) Application for permission for televising, broadcasting, visual and/or sound recording, motion picture filming, or video taping must be received by Equity at least 30 days in advance unless special circumstances do not permit such notice.

(2) If a dispute between Equity and the Producer arises under this paragraph, it shall be subject to the Expedious Grievance and Expedious Arbitration procedures set forth in Rule 4.

(B) Cast Albums. Cast albums may be made under the provisions of the Original Cast Album Rider. The Producer agrees that any Actor who sings or verbalizes in the production in any number, plus the Stage Manager, shall be employed on the appropriate AFTRA Contract for the recording of said album and shall receive not less than one week's contractual salary for each day or part thereof so employed except as provided in paragraphs (1) and (2), below. Such cast album shall accord credit to each Actor appearing in the production at the time the recording is made, whether or not the Actor performs on the recording.

(1) If an Actor works more than eight hours in a day, the Actor shall be paid an additional one eighth of contractual salary up to a cap of 250% of the Equity/BTVI Production Contract minimum for each hour or part thereof.

(2) In the event the Producer wishes to schedule half-day recording sessions after the first day of recording and pro-rata payments for said half-day sessions, the Actor shall receive not less than

one-half of the Actor's weekly salary, up to a cap of 250% of the Equity/BTVI Production Contract minimum salary, or the AFTRA rate, whichever is higher, for each day that the Actor is employed for four hours or less and each Actor shall receive a pro-rata share of 20% of all monies derived by the Producer from the exploitation of the album. (Note: In the event the Producer does not elect this pro-rata formula, the Actors will share in the standard 15% of monies derived by the Producer. Terms for Actor participation in the Producer's 15%/20% are identified in the Original Cast Album Rider.)

(3) Producer shall give Equity not less than 72 hours' notice (inclusive of at least two business days) prior to such recording.

(4) If, during the recording of a cast album, one or more singers who are not members of the Equity cast are engaged, then Swing singers and Understudies assigned to singing parts who are not engaged to record the cast album shall share equally in an amount equal to the average contractual salary of said Swings and Understudies multiplied by the number of employment days of such supplementary singers.

(5) For cast album recordings only, there shall be not less than a 10 hour rest period between an evening performance and a morning recording call. There shall be a break of one and one-half hours (one hour if a meal is provided) between the recording session and rehearsals or performances scheduled under the Equity Agreement. Recording sessions may not be scheduled on two performance days. Application of this rule may not reduce breaks or rest periods required by the AFTRA Contract.

(C) Commercials: TV, Radio Spot, In-Flight, or Theatrical Exhibition Commercials.

(1) Equity will permit the Actor to make a television or radio spot commercial or a commercial for In-Flight or theatrical use of three minutes or less duration promoting the theatre or production provided the Actor is signed to the applicable SAG or AFTRA Contract. If a television or other commercial is made from still photographs of persons in the cast, each Actor contained within the photograph, whether recognizable or not, shall be signed to the proper SAG or AFTRA Contract. When a Stage Manager, Dance Captain, or other Actor is required to do any work other than performance in connection with a television or radio commercial, or a commercial for In-Flight or

theatrical use, the Producer shall pay said Actor not less than the applicable SAG or AFTRA Off-Camera Principal minimum (including Off-Camera residuals) in addition to payments required if Actor also performs. All terms of the SAG/AFTRA Contract will be applicable to all commercial use identified herein in paragraph 69(C)(1) except as identified in paragraphs (C)(2), (3) and (4) below.

(2) New York and Engagements of 12 Weeks or More in Chicago and Los Angeles.

(a) Producer shall pay the applicable AFTRA/SAG session and/or use fee to each Actor used in the commercial. The Producer shall be permitted to make any number of commercials from the same footage shot during the same session using the same Actor. In such event, no additional session or use fee shall be due except as indicated below.

If Producer uses an Actor in one commercial in a lesser payment category and then uses the Actor in a subsequent commercial in a higher category, Producer will pay to the Actor the difference in the session fee as well as any adjustment in the use fee as may be required under the AFTRA/SAG Agreement.

(b) No holding fee payment shall be required.

(c) The applicable AFTRA/SAG wildspot fee shall be paid when due under the AFTRA/SAG Agreement (less the session fee where appropriate as per AFTRA/SAG Agreement).

(3) All Other Touring and Sit-Down Engagements, Including Engagements of Less than 12 Weeks in Chicago and Los Angeles. Producer shall have the option of applying the standard AFTRA/SAG Commercial Agreement or the following:

(a) For each one year period (commencing in accordance with the time period specified in the AFTRA/SAG Agreement), each Actor appearing in the commercial shall be paid the "Dealer" rate as

contained in the applicable AFTRA/SAG Agreement.

(b) There shall be no holding fees. Commercials may be telecast in any market (other than New York) at any time during the covered period and in a non-consecutive manner as permitted pursuant to these provisions.

(c) The Producer shall be permitted to make any number of commercials from the same footage shot during the same session using the same Actor. In such event, no additional session or use fee shall be due except as indicated below. If Producer uses an Actor in one commercial in a lesser payment category and then uses the Actor in a subsequent commercial in a higher category, Producer will pay to the Actor the difference in the session fee as well as any adjustment in the use fee as may be required under the AFTRA/SAG Agreement.

(4) Cable.

(a) The SAG/AFTRA Cable Experimental Agreement shall apply until March 31, 1997 or until such time as thereafter extended.

(b) If, during the term of this Agreement, AFTRA/SAG adopt terms and conditions involving cable that are different from current terms and conditions, then, in such event, said different terms and conditions shall apply to this Agreement.

(5) **Stars.** Producer may create new footage at a regularly scheduled performance for the exclusive purpose of incorporating new stars into a pre-existing commercial provided all Actors seen in the newly incorporated footage are paid pursuant to the terms and conditions contained herein. Payment shall be due Actors in the new star commercial only if they have not been paid for the pre-existing commercial or if they are now in a higher payment category.

(6) **Notice.** There must be at least 24 hours' notice to the Actors and Equity prior to any taping or filming for a commercial.

(7) **Session Fee.** Except as identified above in paragraphs (C)(2), (3) and (4), when a commercial is taped or filmed, every Actor called shall be paid not less than the applicable AFTRA/SAG session fee in addition to any use fees which may be applicable. If the commercial is taped or filmed during a performance, those Actors performing during that performance, including Stage Managers who are performing

their functions for that performance, will be paid the applicable AFTRA/SAG session fee in addition to any use fees which may be applicable, pursuant to the applicable AFTRA/SAG Contract.

(8) Newscest Footage. Under no circumstances may footage taken pursuant to paragraph (D) below be used to produce a commercial without Equity's prior written consent which will not be unreasonably withheld or delayed. In the event the Producer violates this provision, each Actor present at the call when the footage was taped/filmed shall be paid double the applicable AFTRA/SAG session fee in addition to any use fees which may be applicable, pursuant to the applicable AFTRA/SAG Contract.

(D) Television Newscast, Three-Minute Excerpt Except for the footage taken for an opening night news special (see (M) below), a film or video tape may be taken of the production only for the exclusive use on a television newscast review of the production or a featured story on the production contained within the television news program (except as provided below in (D)(4), Talk Shows) only under the following conditions:

(1) During a Rehearsal.

(a) Filming or taping and interview session shall not exceed one-half hour of the rehearsal.

(b) The Stage Manager shall file a report with Equity giving the time utilized for the filming or taping and interview session. Said report shall be initiated by a Deputy.

(c) Upon contemplation of filming or taping during a rehearsal, the Producer shall make every reasonable effort to:

(i) Give the cast 24 hours' notice.

(ii) Schedule only three filming or taping sessions during which all stations must do their filming or taping.

(iii) If the time of the filming or taping is changed, the Producer shall notify the cast of such change and of the re-scheduled time.

(2) At a Performance.

(a) Filming and taping may be for only one-half hour of footage.

(b) If possible, the cast must be given 24 hours' notice.

(c) When cameras are going to film or tape, cast must be given notice at the half-hour call.

(d) There shall be no filming or taping where there is any interference with the Actors such as the requirement for additional lighting or the movement of equipment.

(3) Not more than three minutes of any film or taped portion of the performance or rehearsal shall be shown on the television news broadcast. Such three minute film or tape must not contain an entire self-contained number or scene.

(4) Talk Shows. Promotional clips may also be used on entertainment programs subject to the following terms and conditions:

(a) The clips (not more than two on any one program) must be used as part of a bona fide interview in which the production is being promoted.

(b) The total amount of usage of Equity show clips on a program cannot exceed two minutes. Furthermore, a clip cannot contain all or substantially all of a musical number.

(c) All performers seen and/or heard on a clip must have given written consent to the above-described promotional use.

(d) Clip usage is restricted to currently running productions only.

(5) No payment shall be required hereunder provided no payments are made to any other personnel employed in the production.

(6) An Equity Stage Manager shall be present at every filming or taping under this paragraph (D).

(7) For any violation of this paragraph (D), other than violations of unauthorized subsequent uses of the film or tape, the Producer shall pay one week's contractual salary to each Actor whose rights have been breached hereunder. Such payments shall not preclude any right in law or equity, civil, or criminal, that arise under a breach of this paragraph (D) which the Actor has against the Producer or any third party.

(E) Advance News Rule Taping. The Producer may shoot advance news rule footage, provided that Producer adheres strictly to all the terms and conditions of (D) above, in order to be able to supply publicity footage to television stations which cannot, for whatever reason, supply their own crews to take such footage. The Producer will advise all media to whom the footage is supplied of the terms and conditions outlined in the Equity/BTVI Production Contract under which the airing of such footage is governed. The Producer will be limited to one such taping per year and remains liable for any claims resulting from any misuse of such footage.

(F) Notice to Broadcast Media and Press Agents. The Producer agrees to send to all broadcast media in the major cities and to all ATPAM press agents a letter outlining the provisions of the contract which govern the use and/or reuse of any tape or recording of productions under the Equity/BTVI Production Contract. This letter will be sent to the broadcast media in these cities and to the ATPAM press agents every year. The Producer further agrees to advise by letter any other broadcast media who request permission to do such taping or recording or to use existing tape or recordings of those contract provisions. Failure to comply with those provisions may subject the Producer to penalties as outlined in (C)(8) above. The Producer will copy Equity on all pro forma letters, indicating the parties contacted, pursuant to this Agreement.

(G) Other Promotional Uses. The Producer and Actors' Equity acknowledge that consistent and varied promotion and advertising of theatrical productions will promote long term employment for all performers employed in legitimate theater productions and that the recording of the material and uses contemplated by this provision are intended to achieve this objective.

(1) B-Roll Footage—No Payment Required (Exceptions Noted). The right to use B-Roll footage for use on television newscasts, soft news programs and talk shows shall continue without additional compensation provided such footage is created as set forth in paragraph (2) below, and used in accordance with the terms and conditions set forth in (D) above. The approved venues for other promotional uses of B-Roll footage in accordance with (D) above and without additional compensation are identified below.

(a) Press Reels: Producer can use clips of up to a total of three minutes of performance and/or rehearsal footage (of which no continuous sequence shall exceed 30 seconds) for each production included on the Press Reel.

(b) Web Sites: Up to a total of five minutes of rehearsal and/or performance footage (of which no continuous sequence shall exceed 30 seconds) may be used either in a directory or multiple Broadway show format (i.e., "I Love New York" format) or by an individual Producer on behalf of a particular show or group of shows. Neither merchandise promotion nor ticket sale information shall be presented on the same "page" as the foregoing, but may be presented on a separate "page". However, the page containing B-Roll may indicate how to get to the page which does have information about merchandise or tickets. It is also understood that there may be no promotion of any other product(s) on the "page" where the B-Roll footage will be seen without Equity's prior written consent. If voice-over or other live Actor work performance is required in addition to the permitted performance footage, the applicable AFTRA/SAG Agreements shall apply to such voice-over or other work.

(c) News and Current Affairs Programs: Producer can use clips for up to three minutes in total time on each such show. (See (D) above)

(d) Entertainment Talk Shows: Producer can use clips for up to two minutes as part of an interview provided performers have given written consent. (See (D)(4) above)

(e) Clip Use of Other Productions on TV News Shows: Producer can use clips of performers in other productions on news specials not to exceed three minutes in length. (See (D) above)

(2) Use of B-Roll Footage (Including Documentary and News Footage)—Payment Required. Except as otherwise provided in this Paragraph (2), the Producer may use footage from any B-roll, documentaries (produced after October 1, 1996 provided Actor has given consent to such use) or news footage for purposes of promoting the theatrical production for a single AFTRA/SAG fee to each Actor appearing in such footage in the following venues:

(a) Educational Videos: Up to a total of 15 minutes of rehearsal and/or performance footage from a show provided no number or scene is shown in its entirety.

(b) Tour Bus Videos: Up to a total of 15 minutes of rehearsal and/or performance footage from a show provided no number or scene is shown in its entirety.

(c) Sales Kiosk Videos, In-Store Videos or Lobby Loops: Up to a total of six minutes of rehearsal and/or performance footage from a show provided no number or scene is shown in its entirety. (For the creation and use of loops from commercial footage see (L) below.)

(d) Group Sales Video: Up to a total of eight minutes of rehearsal and/or performance footage from a show provided no number or scene is shown in its entirety.

(e) Corporate Videos: Up to a total of eight minutes of rehearsal and/or performance footage from a show provided no number or scene is shown in its entirety.

(f) Movie Trailers and Video Billboards: Up to a total of three minutes of rehearsal and/or performance footage from a show provided no number or scene is shown in its entirety.

(g) In-flight Video and In-house Hotel Video: Up to a total of eight minutes of rehearsal and/or performance footage from a show provided no number or scene is shown in its entirety. In-flight video or in-house hotel video may either be presented as a multiple show directory or on an individual show or multiple show basis so long as it is presented along with either soft news, cultural or tourist information.

(h) Music Video and Infomercial - applicable AFTRA/SAG rates. With respect to infomercials, up to a total of 15 minutes of rehearsal and/or performance footage from a show.

Footage from commercials may be used for any or all of the above upon payment

of the applicable AFTRA/SAG fee for such use.

Actors' Equity shall not apply any additional fees for the above uses provided the Producer fully complies with all of the terms and conditions set forth herein.

The above permitted uses shall not include the sale of videos or the endorsement of any commercial products.

The recording of B-roll footage may take place pursuant to Rule 69 and in accordance with this paragraph without additional compensation, during a scheduled rehearsal, dress rehearsal or performance. It is understood and agreed, however, that enhanced lighting and multiple takes may occur during such rehearsal, dress rehearsal or performance provided that in the event an excessive number of takes transform the rehearsal into a "session," then the applicable AFTRA/SAG session fee shall be due every Actor at the call. Further, in the event that particular Actors are requested to come in early or stay later for retakes or special shots, such Actors shall likewise be paid the applicable AFTRA/SAG session fee(s) that may be due.

(H) Documentary.

(1) The Producer shall have the right to make a television documentary, including unlimited exhibition throughout the world on all television and for the period defined in the AFTRA/SAG Agreement. This permission is conditioned on payment of not less than the applicable AFTRA/SAG rates and provided no more than 21 minutes of combined rehearsal/performance footage is used.

"Performance footage" and/or rehearsal shall mean footage acquired from B-roll, documentaries (produced after October 1, 1996 provided Actor has given consent to such use) or news footage with no individual clip exceeding three minutes in duration. For the purposes of clarity, "non-performance footage" involving Actors in non-performance activities (such as interviews, costume fittings and other elements where the performer is not performing whether in rehearsal or on stage) shall not be included in the calculation of running time. Furthermore, this provision is conditioned on the proviso that if work additional to Actor's normal duties in rehearsing or performing for the stage production is required of the Actor to accommodate the recording, the Actor will be paid the appropriate Equity hourly rehearsal overtime rates for such additional work plus any fees which may be required by AFTRA or SAG. It is agreed that Producer must obtain Equity's consent to shoot more than a total of three days of rehearsal and/or performance. Equity agrees

that it shall not unreasonably withhold its consent to such additional shooting.

(2) Clip Use in Other Documentaries. The Producer can use clips of performers from one or more productions in a different documentary with an aggregate limit of an average of three minutes "performance and/or rehearsal" clips per half-hour provided that the Actors seen are paid no less than the applicable AFTRA/SAG rate in accordance with the formulas identified above.

All Actors (including Stage Managers) shall receive billing at the end of any broadcast of the documentary created hereunder.

(I) Session Fees. Producer shall not be required to pay a session fee to any Actor who is not called to be present at the theater or rehearsal space when filming or taping is taking place. Stage Managers shall be paid the off-camera Principal rate unless they are seen, in which case they shall be paid not less than the on-camera Principal rate.

(J) Payment for Live Television Promotional Appearances. Whenever an Actor appears in costume on a news, talk or entertainment show, said Actor shall be paid not less than the applicable AFTRA/SAG rate. If the Stage Manager is requested to attend the live television appearance, the Stage Manager will be paid not less than the actors.

(K) Use of Footage After Expiration Date of Contract. Any footage produced under Rule 69 shall continue to be governed by the terms of this Agreement without regard to the expiration of this Agreement and without regard to the amendment of this Agreement except to the extent that such amendment shall so provide.

(L) Loops Using Commercial Footage. Footage from a television commercial created to promote the production on television may be edited to create a non-broadcast "loop" for unlimited promotional use subject to the following conditions:

(1) If the commercial is in a cycle for which the Actors are being paid the applicable AFTRA/SAG rate, no additional compensation to Actors is required;

(2) If the commercial is not in cycle, Actors will receive the applicable AFTRA/SAG non-broadcast B-roll payment;

(3) The Actors' Equity logo will appear in every frame of performance footage;

(4) In no event may any Equity loop footage be used to promote a non-Equity production.

(M) Opening Night Specials. Opening Night Specials shall be subject to the following terms:

(1) Opening night specials may be either a one or two hour documentary-style news program, which will combine taped portions with live coverage about the creation and opening night of the production;

(2) To include excerpts from the show, the TV production may record portions during regularly scheduled performances and rehearsals, the number to be mutually determined between the needs of the TV production and the Producer and director so as not to intrude upon the creative process. In no event shall the TV crew tape more than five rehearsals and/or two performances. Up to 45 minutes of each such rehearsal and 30 minutes of each such performance may be taped upon 24 hours notice to the cast before each call;

(3) The Producer may include the terms of such taping by rider to the Actor's contract, including an honorarium of not less than \$350 for a two hour program and \$200 for a one hour program to be paid to all Actors employed by the production. If any employee of the Producer or Theatre Owner is paid a higher honorarium for this event, the Actors shall be paid the higher amount;

(4) Up to a total of 45 minutes of rehearsal and performance footage may be included in the final edited two-hour program. Up to a total of 20 minutes of rehearsal and performance footage may be included in the final edited one-hour program. It is understood that an entire self-contained number or scene may not be broadcast. All taped footage shall be used exclusively for the opening night telecast and promotional spots for the telecast. In addition to the permitted minutes of footage, a portion of the curtain call may be broadcast;

(5) Producer will ensure that every Actor employed by the production will receive a screen credit on the Opening Night Special program.

The Lion King – Gazelle Company
FMPAC – Hippodrome Theatre
Defined spaces
Exhibit 1

The Spaces, which comprise the Hippodrome Theater

FRONT OF HOUSE:

The Hippodrome Theater and its' attendant lobby spaces - The upper level North & South lobbies may be rented for preshow events, the building will install curtains to isolate the regular preset area from any preshow events, furthermore the North lobby is shared with the M&T Bank pavilion.

In House catering areas, Food Concession areas, bars, and FOH administration offices do not comprise a part of the Lobby spaces as defined by this agreement. The M&T Bank Pavilion is considered a separate space from the Hippodrome Theater, during the course of the productions engagement; this space will be rented for special events, corporate meetings, and will be used for pre-show food service on a daily basis. The space is on hold for the production on May 31 and June 1 for orchestra rehearsal. It may be available (for an additional charge) as rehearsal space on a mutually agreed upon schedule.

BACKSTAGE

The Lion King shall have exclusive use of the Hippodrome Theater, Its' Stage and supporting areas, which shall include the Interior of the Theater, Stage, Orchestra pit and trap room, Wardrobe Room, Production Offices, Dressing Rooms, and all Loading areas (the loading dock must be shared with building deliveries). Backstage administration offices, concession storage, and building lighting and equipment storage areas are not available to the company. Parking space for the merchandise trailer will be made available in the loading dock.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RICHARD DELAHEY *

Plaintiff *

v. *

Case No.: 1:08-CV-00775 (RDB)

BUENA VISTA THEATRICAL *
GROUP LTD, et al. *

Defendants. *

* * * * *

CERTIFICATION

1. I, Olive Waxter, am over eighteen years of age and have personal knowledge of the matters and facts set forth herein and am otherwise competent to testify.

2. I give this certification in connection with the lawsuit entitled *Richard Delahey v. Buena Vista Theatrical Group, Ltd., et al.*, now pending in the United States District Court for the District of Maryland, case no. 1:08-CV-00775 (RDB).

3. I am employed as the Director of Hippodrome Foundation, Inc. and am responsible for approval of contractual agreements to secure performances of touring Broadway companies—specifically associated with the subscription series at the France-Merrick Performing Arts Center (also known as the Hippodrome Theatre), which is owned by Hippodrome Performing Arts Center, LLC.

4. Pursuant to an agreement with defendant Buena Vista Theatrical Group, Ltd. dated December 31, 2001 (the "BV Agreement"), Hippodrome



Foundation, Inc. agreed to contract for and/or arrange for "all stagehands, wardrobe personnel and musicians (collectively, Production Labor) as required by [Buena Vista Theatrical Group, Ltd.] or required by local conditions for load-in, load-out, and performance of" the play entitled *The Lion King* at the Hippodrome Theatre at France-Merrick Performing Arts Center." BV Agreement §2.3.3 A at pps. 3-4. (I understand that a copy of the BV Agreement is attached to the Certification of Seth Stuhl being submitted by BV.)

5. The BV Agreement also called for Buena Vista Theatrical Productions, Ltd. to reimburse Hippodrome Foundation, Inc. for the cost of "workers' compensation insurance premiums . . . and any other actual costs relating to such Production Labor as same are required by union agreements or governmental agencies." (*Id.*)

6. In accordance with the BV Agreement, Hippodrome Foundation, Inc. provided all the necessary stagehands for all performances and the load-in and load-out of *The Lion King* at the Hippodrome Theatre in September 2005 by arranging for the engagement of those stagehands through an operating agreement (the "Operating Agreement") dated June 19, 2002 between The Baltimore Center for the Performing Arts, Inc. ("BCPA"), a predecessor to Hippodrome Foundation, Inc., and TMG Hippodrome, LLC ("TMG"). A copy of the Operating Agreement is attached hereto as Exhibit A.

7. Under the Operating Agreement, BCPA authorized TMG to subcontract out the hiring of Production Labor for the Hippodrome Theatre.

Specifically, the Operating Agreement provides that TMG had the "absolute discretion to hire, promote, supervise, direct and train its employees at the Hippodrome, to fix their compensation and fringe benefits, and, generally, to establish and maintain all policies relating to employment." (Operating Agreement, Exhibit A, §12.1A.)

8. Buena Vista Theatrical Productions, Ltd. reimbursed Hippodrome Foundation, Inc. by payment through TMG for the cost of Production Labor, including the cost of workers' compensation insurance, associated with the production of *The Lion King* in 2005 in accordance with the BV Agreement.

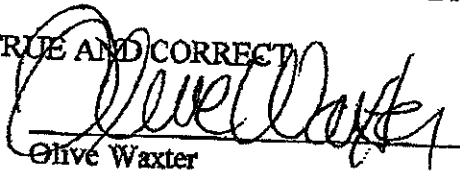
9. Neither Hippodrome Performing Arts Center, LLC nor Hippodrome Foundation, Inc. or their employees designed, manufactured, distributed or supplied to plaintiff the road case that is the subject of Mr. Delahey's claim.

10. Neither Hippodrome Performing Arts Center, LLC nor Hippodrome Foundation, Inc. or their employees supervised the load out of *The Lion King* set from the Hippodrome Theatre on September 5, 2005.

11. Neither Hippodrome Performing Arts Center, LLC nor Hippodrome Foundation, Inc. or their employees instructed the load out crew to roll the road case down the loading dock and into the street on September 5, 2005.

12. Neither Hippodrome Performing Arts Center, LLC nor Hippodrome Foundation, Inc. or their employees instructed the load out crew not to use the loading dock at the Hippodrome Theatre on September 5, 2005.

I HEREBY CERTIFY UPON PENALTY OF PERJURY THAT THE
FOREGOING STATEMENTS ARE TRUE AND CORRECT

A handwritten signature in black ink, appearing to read "Olive Waxter", written over a horizontal line.

Olive Waxter

**OPERATING AGREEMENT
FOR THE HIPPODROME PERFORMING ARTS CENTER**

By and Between

**THE BALTIMORE CENTER FOR THE PERFORMING ARTS, INC.,
a Maryland non-stock corporation**

And

**TMG HIPPODROME, LLC,
a Delaware limited liability company**

Dated June 19, 2002

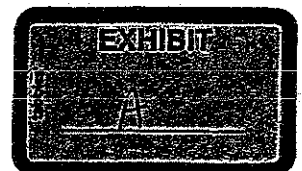


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HIPPODROME PERFORMING ARTS CENTER

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ARTICLE VI

INITIAL SERVICES

6.1 Description

It is recognized that certain activities must be undertaken so the Hippodrome can function properly on the Opening Date and during the first Fiscal Year. Accordingly, Operator shall, before the Opening Date (or sooner if Operator elects), take such action as is necessary for the Hippodrome to be staffed and capable of operating as required by this Agreement on the Opening Date and thereafter throughout the Term.

ARTICLE VII

REPAIRS, MAINTENANCE AND REPLACEMENTS

7.1 Operator's Responsibilities

A. From and after the Opening Date, Operator shall, at its sole cost and expense (except as otherwise provided in this Agreement), maintain the Hippodrome as a first class performing arts facility, in good repair and first class operating condition and in conformity with applicable laws and regulations, including:

(i) routine maintenance, repairs and alterations, and the routine replacement and renewal of fixtures, furniture, furnishings and equipment ("FF&E"), the cost of which are normally expensed under generally accepted accounting principles, as from time to time are necessary for such purposes; and

(ii) repairs to the Hippodrome building such as foundation repair, repairs to structural elements, exterior and interior repainting, resurfacing building walls, floors and roofs, replacing exterior doors, folding walls and the like, any repair, replacement or addition required by the enactment after the date hereof of any statute, ordinance or governmental rule or regulation, or any amendment after the date hereof to any existing statute, ordinance, governmental rule or regulation, upgrades, replacements, and repairs to the mechanical, electrical, heating, ventilating, air conditioning, plumbing, sound or vertical transportation systems, the cost of which are normally capitalized under generally accepted accounting principles, as from time to time necessary for such purpose (collectively, "Capital Expenditures").

B. From and after the Opening Date, Operator shall, at its sole cost and expense, at all times (i) operate, maintain, and repair the Hippodrome as a first class performing arts facility and (ii) comply with the Performance Standards attached hereto as Exhibit B; as the same may be amended from time to time with the written approval of LLC Owner, BCPA, and Operator.

C. Operator's obligations under this Agreement shall include (i) as of the Opening Date, the assumption of the obligations through the end of the Term of LLC Owner which has previously entered into agreements for chilled water and steam heat for the Hippodrome, which agreements are currently contemplated to be with Comfort Link and Trigen, respectively, or (ii) the direct entry by Operator into such agreements on terms reasonably acceptable to Operator. Operator shall have the right to reasonably review and approve such agreements prior to their execution by LLC Owner.

D. At the end of the Term, Operator shall deliver the Hippodrome to BCPA in a condition consistent with Operator's obligations under this Section 7.1, normal wear and tear excepted.

7.2 Repairs and Replacements Reserve

A. Operator shall establish an interest-bearing escrow reserve account (the "Reserve") at Bank of America or its successor institution, which account shall be held in the name of LLC Owner but in trust to be used pursuant to this Agreement. The Operator shall have sole authority to make disbursements from the Reserve, subject only to the terms and conditions of this Agreement. All interest earned shall be credited to the account and shall become part of the Reserve.

B. On or before the Opening Date, BCPA shall deposit or cause to be deposited into the Reserve the sum of One Hundred Thousand Dollars (\$100,000).

C. Within thirty (30) days after the annual accounting under the Production Services Agreement is complete or, if there is no Production Services Agreement, within thirty (30) days after the end of each Fiscal Year, BCPA shall deposit or cause to be deposited into the Reserve the greater of (i) \$25,000 or (ii) 25% of the amount BCPA or its Affiliate is entitled to receive pursuant to the Production Services Agreement for the foregoing year thereunder, provided that to the extent BCPA or its Affiliate does not actually receive such revenues because the Operator or its Affiliate has failed to pay them in violation of the Production Services Agreement, BCPA shall not be obligated to make a Reserve deposit based upon such revenues.

D. Within thirty (30) days after the end of each Fiscal Year during the Term, Operator shall deposit into the Reserve an amount equal to Twenty-Five Cents (\$0.25) times the number by which the number of tickets sold for ticketed Presentations which occurred at the Hippodrome during such Fiscal Year exceeded 300,000. The amount payable under this Section 7.2(D) shall be subject to verification by BCPA based upon the Ticket Accounting Statement to be delivered to BCPA pursuant to Section 17.1(B) below.

E. Subject to the further limitation contained in Section 7.2(F) below, expenditures from the Reserve may be made by Operator for Capital Expenditures (as defined in Section 7.1(A)(ii) above) only on items which are reasonably expected to have a useful life of more than seven (7) years ("Reserve-Eligible Capital Expenditures"). Withdrawals from the Reserve for other purposes shall be made only with the unanimous written consent of the Capital Review Committee. The "Capital Review Committee" shall consist of (i) one member

designated by Operator, (ii) one member designated by BCPA, and (iii) one member designated by LLC Owner (which shall be a designee of the Authority).

F. Notwithstanding anything to the contrary contained in this Agreement, no expenditures from the Reserve may be made prior to the fifth (5th) anniversary of the Opening Date (the "Blackout Period"), except those which would be Reserve-Eligible Capital Expenditures under Section 7.1(E) and which are affirmatively required by applicable law or regulation.

G. If Operator incurs costs for Reserve-Eligible Capital Expenditures during the Blackout Period, or the cost to Operator of any Reserve-Eligible Capital Expenditure after the Blackout Period exceeds the amount then in the Reserve, Operator shall nonetheless be required to complete such matter, and Operator shall, after the Blackout Period, be entitled to receive all amounts then in the Reserve and all future amounts deposited into the Reserve until such time as Operator has recouped the amount it has spent on Reserve-Eligible Capital Expenditures which had not been funded or reimbursed from the Reserve.

H. Prior to the Opening Date, Operator will provide to the Capital Review Committee a schedule, in reasonable detail, of Capital Expenditures (and their anticipated frequency) proposed to be performed by Operator with respect to the Hippodrome. Prior to January 31 of each calendar year after the year in which the Opening Date occurs, Operator will provide to the Capital Review Committee a listing, in reasonable detail, of the Capital Expenditures proposed to be made by Operator to the Hippodrome during such calendar year. Such schedules shall not be deemed agreements of Operator to perform repairs and replacements, it being agreed that performance of such items will be subject to Operator's reasonable determination that the same are then actually required to maintain the Hippodrome as a first-class performing arts facility.

L. Upon termination of this Agreement due to an Event of Default by Operator, all funds in the Reserve shall immediately become the property of BCPA and Operator shall relinquish all rights to such funds and cause them to be paid over to BCPA. Upon termination of this Agreement due to an Event of Default by BCPA, all funds in the Reserve shall remain in the Reserve account held in the name of LLC Owner. Upon termination of this Agreement for reasons other than an Event of Default by Operator or BCPA, including upon the natural expiration of the Term, BCPA and Operator shall promptly designate a mutually acceptable third party to perform an inspection of the Hippodrome and prepare an estimate of Reserve-Eligible Capital Expenditures which such inspector believes are reasonably necessary to restore the Hippodrome to the condition of a first-class performing arts facility. Funds in the Reserve up to the amount of the estimate shall be paid to LLC Owner. The balance of the Reserve, if any, shall be paid to Operator.

7.3 Liens

Operator and BCPA shall prevent any liens from being filed against the Hippodrome which arise from their respective maintenance, repairs, alterations, improvements, renewals or replacements in or to the Hippodrome, or will promptly take such action as is

necessary to release or bond over any such lien. Each of Operator and BCPA shall indemnify the other against any such claims arising from their respective actions.

ARTICLE VIII

OPERATOR'S REPORTING REQUIREMENTS; BORROWING

8.1 Operator's Reporting Requirements

Within thirty (30) days after the end of each Fiscal Year, Operator shall provide a written report to BCPA containing the following information: (i) a list of all Presentations at the Hippodrome during the previous Fiscal Year, including a summary of the number of calendar days on which the Hippodrome was in use for a Presentation; (ii) a summary of the number of tickets sold for all such Presentations during the previous Fiscal Year, and of the number of patrons who attended such Presentations, whether by paid ticket or otherwise; (iii) a list of presenters and/or promoters of all Presentations at the Hippodrome during the previous Fiscal Year; (iv) a summary of the number of employees of Operator who were employed at the Hippodrome during the previous Fiscal Year; and (v) a list of vendors and concessionaires licensed to sell products or services at the Hippodrome during the previous Fiscal Year.

8.2 Borrowing

In no event shall either party borrow money in the name of the other.

ARTICLE IX

OPERATION OF THE HIPPODROME

9.1 Use

A. Operator hereby covenants to manage and operate the Hippodrome solely as a first class performing arts facility in the manner described in this Agreement, including all activities in connection therewith which are necessary and appropriate to such operation. While Operator shall not be required to conduct a specified number of Presentations at the Hippodrome, or to hold such Presentations on a specified number of days throughout the year, Operator shall conduct Presentations at the Hippodrome with like frequency as do similar venues of like kind and quality, subject in all instances to *force majeure* events of the type described in Section 13.3, and the availability of Presentations of the type reasonably determined by Operator to be appropriate for presentation at the Hippodrome. Operator shall use good faith efforts to keep and maintain in full force and effect during the Term all licenses and approvals for the operation of the Hippodrome as required by this Agreement.

B. Operator shall have the option to terminate this Agreement at any time upon ninety (90) days' written notice to BCPA in the event of a withdrawal or revocation, by any lawful governing body having jurisdiction thereof, of any material license or permit required for Operator's performance hereunder (a "Permit") where such withdrawal or revocation is due to

circumstances beyond Operator's reasonable control, unless such Permit or a similar Permit is reinstated or reissued within such 90 days. Notwithstanding the foregoing, Operator shall use its commercially reasonable efforts to maintain all Permits at all times throughout the Term, and to have such Permits reinstated or reissued promptly upon their withdrawal or revocation. If BCPA believes that Operator has not used such efforts as are required herein, Operator's right to terminate this Agreement shall be suspended and the matter shall be submitted to arbitration in accordance with Section 16.3, wherein the arbitrator shall determine whether Operator has, in fact, used its such efforts as are required herein. If the arbitrator determines that Operator has used its commercially reasonable efforts but that the Permits nonetheless could not be maintained or obtained, it shall uphold Operator's right to terminate hereunder. If the arbitrator determines that Operator has not used such efforts to maintain or obtain the Permits, Operator shall not have the right to terminate this Agreement and the arbitrator shall be empowered to fashion an equitable solution in view of the totality of the circumstances at that time. Operator acknowledges and agrees that this extraordinary right of termination is intended to apply only if the withdrawn or revoked Permit materially changes the economics of operating the Hippodrome, and Operator covenants to negotiate with BCPA in good faith, where necessary, to ameliorate the effects of any such revocation with the intent of continuing to operate the Hippodrome under substantially the same economic terms and conditions. A license for the sale of alcoholic beverages shall not be considered a "Permit" for purposes of this Section 9.1(B); Operator's obligation to obtain and maintain such a license and BCPA's obligation to cooperate with Operator with respect to such a license shall be as set forth in Section 2.3 of this Agreement.

C. Subject to any limitations explicitly provided in this Agreement, throughout the Term, Operator shall have the right to operate, manage, occupy, and use the Hippodrome as a multipurpose performing arts facility, and for ancillary uses, including without limitation, the following rights and uses:

- (i) the right to present, or license or sublease the right to present, any and all musical, dramatic, theatrical, comedic, dance or other artistic Presentations;
- (ii) the right to license or sublease all or any part of the Hippodrome for receptions, dinners and other catered events, weddings, religious services or ceremonies, fundraising events, conventions, commercial events and other public, private or commercial gatherings or assemblies, so long as the foregoing are compatible with a first-class multipurpose performing arts facility;
- (iii) the right to sell, or subcontract the right to sell, concessions, food and beverages (including, without limitation, alcoholic beverages);
- (iv) the right to sell naming and sponsorship rights as provided in Section 9.2(C) of this Agreement;
- (v) the right to operate, subcontract, or sublease the right to operate, one or more restaurants, bars, clubs, coffee shops, catering services, parking services, or other business enterprises.

Notwithstanding anything in this Section 9.1 to the contrary: (i) the image and operation of all uses, tenants, subtenants, and licensees at the Hippodrome shall be consistent with a first-class multipurpose performing arts facility, and (ii) no office use shall be permitted unless functionally related to the operation of the Hippodrome or to the arts or entertainment industries in general.

D. Operator shall not commit, and will use all commercially reasonable efforts to prohibit, the commission of any acts at the Hippodrome which:

- (i) violate or conflict with any law, statute, ordinance, or governmental rule or regulation, whether now in force or hereinafter enacted, governing the Hippodrome; or
- (ii) constitute the commission of waste at the Hippodrome or the commission or maintenance of a nuisance, as determined in an applicable judicial proceeding; or
- (iii) violate or void any applicable insurance provisions.

In addition, Operator shall not be permitted to use the Hippodrome for (i) any sexually oriented business, which shall be a business whose primary business is the offering of a service, or the selling, renting or exhibition of devices or any other items, intended to provide sexual stimulation or sexual gratification to its customers, or (ii) any gambling or gambling-related activities (other than incidental activities such as casino-themed parties) to the extent prohibited by the deed conveying a portion of the Hippodrome from the University of Maryland to the Authority.

E. Operator shall use commercially reasonable efforts to market, promote and maximize attendance for Presentations held at the Hippodrome, in a manner consistent and comparable with other first-class performing arts facilities.

F. In discharging its duties hereunder, Operator acknowledges that the Hippodrome is a publicly funded facility and that programming at the Hippodrome is intended and expected to be in the best interests of the entire Baltimore and Maryland community. The committee described in the Memorandum of Understanding between BCPA and the Baltimore Symphony Orchestra attached hereto as Exhibit C shall have the rights set forth therein to be consulted with respect to programming at the Hippodrome. Neither such committee nor BCPA will have the power to veto Operator's proposed programming. Operator shall comply fully with the provisions applicable to Operator and set forth in such Memorandum of Understanding. BCPA will use commercially reasonable efforts to enforce the obligations of the Baltimore Symphony Orchestra under such Memorandum of Understanding.

G. Operator shall comply fully with the provisions applicable to Operator contained in the Agreement between BCPA and the University System of Maryland ("USM"), a copy of which is attached hereto as Exhibit D. Operator shall be entitled to charge USM for its reasonable costs of using the Hippodrome for the purposes contained in such Agreement and USM shall be subject to all reasonable, standard policies and procedures of the Operator with respect to the Hippodrome, including scheduling and staffing considerations and prior commitments of the Hippodrome facility.

H. Operator acknowledges that BCPA's access to the Hippodrome for certain purposes is essential to the continued success and operation of BCPA. Accordingly, BCPA shall have access to the Hippodrome, at such reasonable times as may be mutually agreed upon by Operator and BCPA, (i) to hold a fundraising or other public event once per calendar year, (ii) to conduct tours for the public for a fee, if Operator is not itself conducting such tours; and (iii) to hold meetings of BCPA's Board of Directors or of major contributors to BCPA or the Hippodrome, up to eight (8) times per calendar year. In addition, Operator shall make reasonable accommodations for dignitaries, government officials, and similar parties who wish to visit or utilize the Hippodrome. In each such instance, BCPA (or the requesting party) shall bear Operator's reasonable costs of using the Hippodrome for the specified purposes, but no additional fee shall be charged by Operator. Use of and access to the Hippodrome under this paragraph shall be with reasonable prior notice to Operator, shall not unreasonably interfere with the Operator's operation and management of the Hippodrome, and shall be subject to all reasonable, standard policies and procedures of the Operator with respect to the Hippodrome, including scheduling and staffing considerations and prior commitments of the Hippodrome facility.

I. If the property known as 416 West Baltimore Street is renovated into at least 4,000 usable square feet of office space, Operator shall make available to BCPA office space therein sufficient for three people on reasonable terms and conditions. Such space shall be made available without rent, and BCPA shall bear the cost of office furniture or equipment used exclusively by BCPA. BCPA shall have access to such office space at all times, and shall bear Operator's reasonable additional cost of such space, if any.

J. Operator may request that BCPA participate as a presenter or offeror of attractions at the Hippodrome not covered by the Production Services Agreement, and BCPA shall reasonably consider such requests.

9.2 Advertising, Promotion, Signage, Merchandising and Naming Rights

A. Operator shall not engage in any advertising or promotion of the Hippodrome which is inconsistent with the status of the Hippodrome as a first-class performing arts facility.

B. Operator shall consult with and obtain the approval of BCPA and LLC Owner in connection with the installation of any and all exterior signage at the Hippodrome, or any interior signage whose installation would constitute a "material alteration" as defined in Section 2.2(E) of this Agreement. BCPA's and LLC Owner's approval of such signage shall be limited to reasonably insuring that such signage is consistent with the Hippodrome's character as a first-class performing arts facility, and with any applicable historic district, structural or tax credit requirements.

C. Operator acknowledges that the France-Merrick Foundation has been granted certain rights with respect to the Hippodrome performing arts facility as a whole, as specifically described on Exhibit E hereto (the "France-Merrick Naming Rights"). Operator shall not grant any naming or sponsorship rights to any person which conflicts with the France-Merrick Naming Rights. Operator has the exclusive right to grant all other naming and

sponsorship rights relating to the Hippodrome including, without limitation, naming and sponsorship rights (including signage therefor) with respect to (1) theaters and other performance areas within the Hippodrome, (2) Presentations held at the Hippodrome and (3) series of Presentations held at the Hippodrome. Notwithstanding the foregoing, BCPA shall have the right to sell to individuals, foundations, charitable organizations, and corporate entities, wall plaques of a reasonable location, size and design (which shall be subject to the reasonable prior approval of Operator, and the installation of which shall be performed by Operator within a reasonable time at the sole cost and expense of BCPA), naming rights for specific seats within the Hippodrome, and naming rights with respect to similar discrete portions of any common areas, theater or performance area within the Hippodrome (but not to any such theater or performance area as a whole, the naming rights as to which shall be solely Operator's), all of which shall be consistent with other first-class performing arts facilities. It is the intent of the parties that Operator's naming rights shall be used by Operator for commercial purposes, namely generating revenue for its operations, while BCPA's naming rights shall be used by BCPA for purposes of honoring and recognizing contributors to the development and operation of the Hippodrome; where possible, the foregoing distinction should be recognized and employed to synthesize Operator's and BCPA's use of their respective naming rights.

D. Other than (i) the naming and sponsorship rights granted to Operator as described in this Section 9.2, (ii) the right of Operator and its Affiliates to use the name "Hippodrome" and the likeness thereof in marketing, promotional and bidding materials used to evidence Operator and its Affiliates' relationship with the Hippodrome, and (iii) the right of Operator to use the name "Hippodrome" and the likeness thereof in its advertising, promotion and signage relating to the operation of the Hippodrome in accordance with this Agreement, Operator shall have no rights in and to the name "Hippodrome" or the likeness thereof, or to the name of BCPA.

E. If Operator is operating a gift or concession area at the Hippodrome, upon BCPA's request (and subject to any limitations mandated by any performers or Presentation promoters) Operator shall carry a reasonable number and amount of items commissioned from BCPA which contain the "Hippodrome" name or likeness, or the name of BCPA, in such gift or concession area. BCPA shall be responsible for all taxes payable with respect to the sale of such items, and for all requests for refunds and exchanges. Revenues from the sale of such merchandise shall be excluded from Gross Revenues and shall belong solely to BCPA. Operator shall have the right to market and sell apparel items, including hats, shirts, and sweatshirts, bearing the "Hippodrome" name or likeness without the prior written consent of BCPA, and shall have the right to market and sell other items bearing the "Hippodrome" name or likeness with the prior written consent of BCPA. If BCPA obtains trademark protection for items bearing the "Hippodrome" name and likeness, it shall license such trademark to Operator, at nominal cost, in connection with the sale by Operator of items which require such a license to be obtained and which Operator is permitted to sell hereunder. No such license by BCPA to Operator shall preclude BCPA's use of the trademark for any and all purposes, nor shall BCPA be precluded from using the "Hippodrome" name or likeness for any and all purposes, whether trademarked or not.

F. BCPA currently intends to continue future fund-raising for its working capital needs, educational programming, community outreach, and further improvements to the

Hippodrome, including those areas within the Hippodrome that are not being renovated pursuant to the Plans. All of such renovations and additions, once completed, shall constitute part of the "Hippodrome", as such term is used in this Agreement. The foregoing shall not constitute a covenant by BCPA to continue such fund-raising which shall be conducted, if at all, in the sole discretion of BCPA.

9.3 BCPA's Right to Inspect

Upon at least one (1) business day's prior notice to Operator (except in the case of an emergency, when such person shall give as much prior notice as is reasonably possible), BCPA, LLC Owner, their respective members, officers, employees and insured third-party agents shall have access to the Hippodrome at any and all reasonable times for the purpose of (a) inspecting the Hippodrome and its operations to determine Operator's compliance with this Agreement, (b) protecting the Hippodrome against fire or other casualty, (c) prevention of imminent damage to the Hippodrome, or (d) showing the Hippodrome to prospective funders, donors, or similar parties, so long as such actions do not unreasonably interfere with Operator's normal business operations. Operator shall cause its employees to meet with BCPA in connection with such purposes at all such times as BCPA shall reasonably request.

ARTICLE X

INSURANCE

10.1 Property Insurance

A. BCPA shall, commencing on the date it enters into the BCPA Lease and continuing through Termination, cause to be obtained and maintained, at BCPA's sole cost and expense, from insurance companies licensed to do business in Maryland, "Special Cause of Loss" insurance with respect to the Hippodrome in an amount not less than the full insurable value on a replacement cost basis, with no co-insurance requirements. Said insurance shall insure the Hippodrome (including contents) against loss or damage by fire, lightning, flood (if located in a flood hazard zone), explosion of boilers, pressure vessels, pressure pipes and sprinklers, to the extent applicable, installed in the Hippodrome, earthquake (to the extent available and if the cost of such coverage does not increase substantially above the cost of said coverage on the date hereof, indexed for increases in the Consumer Price Index) and all other risks covered by the usual standard extended coverage endorsements, and with such deductible limits as are reasonable and customary in similar situations.

B. BCPA represents and warrants to Operator that the BCPA Lease contains provisions to the effect that proceeds of the insurance policies required to be carried under Section 10.1(A) shall be available for repair and restoration of the Hippodrome.

C. In Operator's discretion, and at Operator's additional cost, BCPA shall purchase business interruption insurance covering loss of profits and necessary continuing expenses for interruptions caused by any occurrence, of a type and in amounts and with such deductible limits as are generally established at other theaters managed by Operator.

D. The Authority, LLC Owner, and Operator shall be listed on BCPA's property insurance policy as a loss payee, as their interests may appear.

10.2 Operational Insurance

Operator shall, commencing with the Opening Date and during the Term, obtain and maintain, at its sole cost and expense, with insurance companies licensed to do business in Maryland, the following insurance coverages:

1. Workers' compensation as may be required under applicable laws covering all of Operator's employees employed at the Hippodrome.

2. Employer's liability insurance in an amount not less than generally provided at other theaters managed by Operator, and as required under applicable law.

3. Fidelity bonds or Employee Dishonesty Coverage, covering employees at the Hippodrome in job classifications normally bonded in other theaters or as otherwise required by law, and comprehensive crime insurance.

4. Commercial general public liability insurance against claims for bodily injury, death or property damage occurring on, in or about the Hippodrome, and automobile insurance on vehicles operated in conjunction with the Hippodrome, with a combined single limit for each occurrence for personal injury, death and property damage in an amount which is not less than \$5,000,000, which coverage may include umbrella coverage in which Operator is a named insured, so long as such coverage meets all other requirements contained in this Agreement. The Authority, LLC Owner, and BCPA shall be listed as additional insureds on Operator's commercial general liability policy as their interests may appear.

10.3 Policies and Endorsements

A. Each party shall deliver to the other party certificates of insurance with respect to all policies obtained including existing, additional and renewal policies and, in the case of insurance about to expire, shall deliver certificates of insurance with respect to the renewal policies not less than thirty (30) days prior to the respective date of expiration. Further, upon written request of LLC Owner, Operator, or BCPA, the policyholder shall deliver to the requesting party copies of any policy then in effect. Any losses shall be paid to or on behalf of the named or additional insureds and loss payees as their respective interests may appear.

B. All policies of insurance provided for under Article X shall, to the extent obtainable and necessary to effectuate coverage, (i) have attached thereto an endorsement that such policy shall not be canceled or materially changed without at least thirty (30) days' prior written notice to each named and additional insured, and (ii) provide that any negligent act or omission of LLC Owner, the Authority, BCPA, Operator or any insured shall not result in a loss of coverage to any other named or additional insured, subject to policy terms.

C. It is agreed that any insurance policy which does not name BCPA and Operator and other parties entitled to be named or additional insureds pursuant to the provisions of Article X shall provide that the insurance company issuing said policy shall have no rights of

subrogation against those parties specified above which are not so named on the policy and that any negligent act or omission of LLC Owner, the Authority, BCPA, Operator or any insured shall not result in a loss of coverage to any other named or additional insured, subject to policy terms.

D. In the event of any disagreement between BCPA and Operator with respect to any insurance policy to be provided under Article X or the amount of any insurance, either party may request a determination thereof by arbitration pursuant to Section 16.3.

10.4 Waiver of Subrogation

Notwithstanding anything in this Agreement to the contrary, each of Operator and BCPA hereby waives any and all rights of recovery, claim, action or causes of action against the other for any loss or damage that may occur to or with respect to the Hippodrome by reason of any cause which could be insured against under the terms of the insurance policies required to be maintained pursuant to this Article X, regardless of cause or origin, including negligence of Operator, BCPA or their respective agents, officers, directors, managers, members, shareholders, contractors, employees or invitees, and each of BCPA and Operator hereby covenants that no insurer shall hold any right of subrogation against the other.

ARTICLE XI

TAXES

11.1 Real Estate Taxes

All real estate taxes, levies, assessments, and payments in lieu of taxes levied or imposed by, or payable to, any governmental entity during the Term, on or relating to the Hippodrome or the land on which the Hippodrome is situated, shall be paid by BCPA at least fifteen (15) days before any fine, penalty or interest is added thereto or lien placed upon the Hippodrome or this Agreement, unless payment thereof is in good faith being contested and enforcement thereof is stayed. BCPA shall promptly provide Operator with copies of paid tax receipts relating to such taxes, assessments or other payments and, if applicable, evidence of its contest of any tax or assessment and any proceedings related thereto. BCPA has delivered to Operator information related to the Downtown Management District in which the Hippodrome is situated. Charges related thereto, and to any other business improvement or special benefits district in which the Hippodrome may be situated shall not be included in the foregoing, and shall be the responsibility of Operator as an Operating Cost.

11.2 Amusement Taxes; BCPA Presenter & Offeror Status

The parties shall use good faith and commercially reasonable efforts to maintain an amusement tax exemption for the greatest number of Presentations at the Hippodrome, including (if necessary) conferring upon BCPA presenter, offeror or other similar status with respect to such Presentations pursuant to the Production Services Agreement or another agreement between BCPA and Operator or an Affiliate of Operator. Further, for so long as

BCPA qualifies for an exemption from amusement taxes, (i) BCPA shall have the continuing right of first refusal during the Term to be a presenter or offeror of all theater Presentations at the Hippodrome on terms substantially similar to those in the Production Services Agreement, and (ii) Operator and BCPA shall endeavor (without any obligation to enter into an agreement) to confer upon BCPA presenter, offeror or similar status for other (i.e., non-theater) Presentations, by mutual agreement. If BCPA is not compensated for such presenter, offeror or other similar status, Operator shall indemnify and hold BCPA harmless against any claims arising therefrom. Notwithstanding anything to the contrary contained herein, BCPA shall have no liability for (i) amusement or similar taxes imposed on Hippodrome Presentations or Hippodrome ticket sales for which BCPA is not a presenter or offeror pursuant to the Production Services Agreement or another agreement between BCPA and Operator or an Affiliate of Operator, or (ii) such taxes arising from any Hippodrome Presentations or Hippodrome ticket sales should BCPA become ineligible for an exemption from such taxes.

11.3 Personal Property Taxes

Operator shall pay before they become delinquent all taxes, assessments, or other charges levied or imposed by any governmental entity on the furniture, trade fixtures, appliances, and other personal property placed by Operator in, on or about the Hippodrome.

ARTICLE XII

HIPPODROME EMPLOYEES

12.1 Employees

A. Operator shall have absolute discretion to hire, promote, supervise, direct and train its employees at the Hippodrome, to fix their compensation and fringe benefits, and, generally, to establish and maintain all policies relating to employment. All costs of every kind and nature pertaining to all employees at the Hippodrome arising out of the employer-employee relationship, including, without limitation, salaries, fringe benefits, bonuses, costs incurred in connection with governmental laws and regulations and insurance rules, and such other expenses as Operator, in its reasonable discretion, may deem appropriate shall be an Operating Cost.

B. Operator shall indemnify and hold harmless BCPA, the Authority (for so long as the Authority or an entity owned or controlled by the Authority is a member of LLC Owner) and LLC Owner against any claims asserted by any employee of Operator arising out of such employee's employment at the Hippodrome, so long as such claim does not arise out of the gross negligence or willful misconduct of an indemnified party.

ARTICLE XIII

DAMAGE, CONDEMNATION AND FORCE MAJEURE

13.1 Damage and Repair

A. In the event of damage or destruction to the Hippodrome from any cause, BCPA shall promptly commence and complete repairing, rebuilding or replacement of the same to substantially the same character (or better) as existed prior to the damage or destruction, consistent during the historic tax credit recapture period with the Part III historic approval of the National Park Service, provided that the available insurance proceeds (including deductible) permit such repair, rebuilding or replacement. BCPA agrees to use commercially reasonable efforts to obtain insurance proceeds in an amount which, with the deductible, will be sufficient to allow for such repair, rebuilding or replacement. If insurance proceeds available to BCPA (including deductible) are not sufficient to complete such repair, rebuilding or replacement, BCPA shall promptly give notice of such fact to Operator, together with such information relating to the casualty, the insurance proceeds and the cost and plans of repair, rebuilding and replacement as Operator may reasonably request and, subject to Operator's right to repair, rebuild or replace, as set forth in Section 13.1(B), either Operator or BCPA may thereafter terminate this Agreement upon thirty (30) days' advance written notice to the other.

B. If for any reason BCPA does not, after any damage to the Hippodrome, repair, rebuild or replace the portion of the Hippodrome damaged by such casualty, whether for lack of sufficient insurance proceeds or otherwise, Operator shall have the right (but not the obligation) to perform such repair, rebuilding or replacement and to be subrogated to BCPA's right to receive, and BCPA hereby agrees to pay or cause to be paid to Operator, all insurance proceeds payable to BCPA with respect to such casualty, together with the deductible on such policies maintained by BCPA.

C. If neither BCPA nor Operator is required to, and neither BCPA nor Operator does actually repair, rebuild or replace the damaged portion of the Hippodrome after a casualty, then BCPA shall use commercially reasonable efforts to cause to be paid to Operator such amounts as are required to be paid to Operator pursuant to the terms of the Trust Indenture for the Bonds.

D. In addition to the foregoing termination rights, after the tenth (10th) anniversary of the Opening Date, Operator shall have the unilateral right to terminate this Agreement upon the occurrence of damage to the Hippodrome which materially and adversely affects the operation of the Hippodrome by providing twelve (12) months written notice to BCPA. Operator shall have this right regardless of whether BCPA elects to repair, rebuild or replace the damaged portion of the Hippodrome, but Operator shall not be entitled to the payment described in Section 13.1(C) if it terminates this Agreement pursuant to this Section 13.1(D).

E. BCPA agrees that if it terminates this Agreement pursuant to Section 13.1(A), it shall not reopen the Hippodrome as a performing arts facility within two years after the date of such casualty, unless BCPA offers to Operator the first right of refusal to manage the Hippodrome on the same terms and provisions contained in this Agreement for a period equal to the remaining number of years in the Term at the time this Agreement is terminated.

F. In the event of any disagreement between BCPA and Operator with respect to either party's rights or obligations under this Section 13.1, either party may request a