



Operating Policies

Section 1 Definitions

- A. CFA: Cultural Facilities Administrator - the person assigned to manage and act on behalf of the TCA.
- B. CITY: The City of Tempe and/or its representatives.
- C. EVENT: A single, distinct activity. For example: a performance, banquet or meeting.
- D. EVENT DAY: Any day Monday through Sunday from 8:00 a.m. until 12:00 a.m. (midnight) during which the LICENSED FACILITY is used to present an event or activity attended by the public, audience, or members of a group. Any such event or activity during any portion of the time period shall deem the day an EVENT DAY.
- E. LICENSEE: Any person, firm, association, organization, partnership, company or corporation that enters into a written agreement to use the facilities of the Tempe Center for the Arts.
- F. LICENSE AGREEMENT: The written agreement entered into by the CITY and the LICENSEE which incorporates, by reference, the provisions of these POLICIES. The LICENSE AGREEMENT is not, nor should it be construed as, a lease or an agreement in the nature of a lease.
- G. LICENSED FACILITY: The specific performance space (and associated PRODUCTION SUPPORT AREA), banquet space, event space, or other activity space directly referenced by the LICENSE AGREEMENT.
- H. NON-EVENT DAY: Any day Monday through Sunday from 8:00 a.m. until 12:00 a.m. (midnight) during which the LICENSED FACILITY is occupied by a LICENSEE but not open to the public, audience, or members of a group and is used for any purpose not amounting to an EVENT DAY. NON-EVENT DAY use includes, but is not limited to, rehearsals, technical rehearsals, moving in and out of sets and equipment and dark days. No more than thirty-five (35) persons not directly related to the activity of LICENSEE shall be permitted in the audience chamber at any rehearsal or other NON-EVENT DAY activity unless authorized by the CFA. The presence of more than thirty-five (35) persons in the audience chamber shall convert a NON-EVENT DAY to an EVENT DAY and the LICENSEE shall pay the EVENT DAY rate.
- I. PREMISES: The entire TCA and surrounding grounds.
- J. PRODUCTION SUPPORT AREA(s): The dressing rooms and laundry/wardrobe room directly associated with the Theater or the Studio. The dressing rooms and laundry/wardrobe room directly to the south of each respective performance space (Theater and Studio) are designated as the associated PRODUCTION SUPPORT AREA. PRODUCTION SUPPORT AREA(s) are reserved for use by the LICENSEE of the respective performance space unless otherwise arranged through mutual agreement of all parties and the CFA. PRODUCTION SUPPORT AREA shall include, as non-exclusive shared space, the performers' lounge and courtyard, loading dock, loading passage, assembly area and common corridors.
- K. SEASON: Period beginning July 1 of any given year and ending June 30 of the following year.
- L. TCA: For purposes of these Operating Policies: The Tempe Center for the Arts, Tempe, Arizona and all facilities therein, including the Theater and associated production support area, Studio and associated production support area, Lakeside, Gallery, lobby, administrative areas, service areas, the immediately adjacent outdoor reflecting pool plaza, and all other interior public and non-public areas. Use of adjacent exterior grounds (Ash Avenue alignment to Hardy Drive alignment)

shall be under a separate agreement and rules and regulations of the Cultural Services Division of the Community Services Department and the Parks and Recreation Department of the City of Tempe. The TCA, as defined herein, is managed by the Cultural Services Division of the Tempe Community Services Department.

- M. TCA PARTNER: That organization which has satisfied and maintained TCA PARTNER eligibility requirements as defined by the TCA PARTNER application criteria found in **Attachment D**. TCA PARTNERS are Tempe-based organizations which anticipate multiple uses of the facility over several years.
- N. TIER 1 USER: A TCA PARTNER organization and/or the Friends of the Tempe Center for the Arts.
- O. TIER 2 USER: Noncommercial entities. Those organizations not connected with or engaged in commercial enterprise with profit as an end goal. TIER 2 USERS may include nonprofit arts organizations, nonprofit charter and professional schools, Tempe public and private schools, organizations holding official IRS nonprofit status, community organizations, etc.
- P. TIER 3 USER: Commercial entities. Those organizations, agencies, and/or entities which focus on profit as an end goal. TIER 3 USERS may include retail corporations, charter and professional schools operating for profit, utility companies, presenters and promoters of performances, seminars, lectures and workshops which operate for profit, trade shows, etc.

Section 2. Authority

The CFA is the CITY's managing agent with full responsibility for the daily operation of the TCA, acting for and on behalf of the CITY in the management, supervision and control of these facilities. Authority of the CFA is subject to the supervision of the Community Services Department - Cultural Services Division.

Section 3. License Agreements, Deposits, Payments

- A. All LICENSE AGREEMENTS shall be in writing on forms approved by the City Attorney, furnished by the CITY, and executed for and on behalf of the CITY by the Mayor, City Manager, or the CFA as appropriate within the CITY structure.
- B. A deposit, in the amount of twenty-five percent (25%) of the total License Fee, as specified in **Attachment B** - License Fee Schedule, is due with the LICENSE AGREEMENT to secure requested EVENT date(s). EVENT date(s) will be guaranteed upon receipt of the executed LICENSE AGREEMENT and required deposit. Cancellation within thirty (30) days or less of EVENT date(s) or first day of multiple EVENT(s) shall render the deposit non-refundable.
- C. All deposits, fees and related charges shall be due in U.S. funds via certified check or bank check made payable to the CITY OF TEMPE - TCA and delivered to the CFA. All monies collected shall be deposited with the City Financial Services Department. Payment of fees and deposits via credit card is not allowable.
- D. Payment(s) of deposits, Licensed Facility use fees and related charges are due and payable as specified in the LICENSE AGREEMENT. Non-payment of deposits, fees, and related charges by the specified due date shall cause the LICENSE AGREEMENT to be subject to cancellation.
- E. Licensed Facility use fees are due and payable thirty (30) days or more prior to the EVENT or as specified in the LICENSE AGREEMENT unless sufficient funds related to the EVENT have been received in the box office to cover said fees. Fees remaining unpaid after thirty (30) days shall be subject to a monthly finance charge of one and one-half percent (1½%) per month of total unpaid balance. Any fee(s) remaining unpaid sixty (60) days after due date, shall cause future agreements between LICENSEE and the CITY to be subject to cancellation.

Section 4. Licensed Facility Use Rules and Regulations

- A. The LICENSEE shall be entitled to exclusive use of the LICENSED FACILITY on the dates and times specifically outlined in the LICENSE AGREEMENT. Use shall include principal space (LICENSED FACILITY), and associated PRODUCTION SUPPORT AREA. In addition, the LICENSEE shall be entitled to non-exclusive use of the performers' lounge and courtyard, loading dock, loading passage, assembly area and common corridors. If the LICENSEE desires to permit the use of the LICENSED FACILITY by another person or entity during LICENSEE'S LICENSE AGREEMENT, then the LICENSEE, the CFA and such other person or entity shall mutually arrange for and agree upon such use.

- B. Licensed use of theatrical facilities includes four walls, general house lighting, routine custodial care, heating and/or air conditioning, stage door reception, associated PRODUCTION SUPPORT AREA, use of non-exclusive shared areas as defined in **Attachment C**, and standard systems and equipment including performance lighting and audio controls, theatrical lighting fixtures, theatrical audio equipment, lighting and audio cables and accessories, draperies, tables, chairs, music stands, dance floor covering, and other items that are in the available inventory of the TCA. A complete listing of available inventory is included in the TCA Technical Information Packet. Licensed Facility use of meeting and banquet facilities includes four walls, general lighting, routine custodial care, heating and/or air conditioning, one facility representative, use of non-exclusive shared areas as defined in **Attachment C**, audio equipment and accessories, draperies, tables, chairs and other items that are in the available inventory of the TCA and basic room setup. All other event-related expenses incurred by the CITY will be billed to the LICENSEE.
- C. Licensed Facility use does not include any special services or equipment not supplied by the CITY under the terms of the LICENSE AGREEMENT. Non-included specialty equipment, as defined in the Technical Information Packet, shall be available on an additional fee basis.
- D. The LICENSEE shall have no right to sublet, sub-lease or sub-license any facility, space and/or area in the TCA or within the adjacent and/or surrounding grounds.
- E. The CITY reserves the right to license other parts of the TCA at the same time as the LICENSED FACILITY is in use by LICENSEE. Uses of the lobby and other public and support areas made available to the LICENSEE are at the discretion of the CFA and may be concurrent with use by others and may be restricted as the CFA may determine, provided that such use or restrictions by others shall not unreasonably interfere with the use of the LICENSED FACILITY by LICENSEE. LICENSEE agrees not to disrupt, hinder or diminish any other LICENSEE'S use of other parts of the TCA and agrees to exercise its best efforts to coordinate LICENSEE'S agents' and patrons' use of the LICENSED FACILITY to maximize use of the TCA.
- F. Priority scheduling for use of the Theater and Studio will be given to use categories in the following order with preference to organizations based in the City of Tempe:
1. Arts and cultural events presented by the CITY and TIER 1 USER season performances.
 - a. Childsplay, Inc. season performances receive first priority of open dates established by the CITY.
 - b. Remaining TIER 1 USERS season performances and CITY events.
 2. TIER 1 USERS non-performance events.
 3. TIER 2 USERS events.
 4. TIER 3 USER events.
- G. Reservations recorded on a tentative or "hold" basis may be released at the discretion of the CFA with notice to the tentative LICENSEE. Tentative LICENSEE may "hold" requested dates until an additional inquiry for date(s) is received by CFA. At such time, upon notification by CFA, tentative LICENSEE will be allowed fourteen (14) days to release date(s) or confirm date(s) with an executed LICENSE AGREEMENT and deposit.
- H. LICENSEE may be required to furnish, in writing, thirty (30) days prior to EVENT(s), information requested by the CFA to determine facilities, arrangements, special services and equipment necessary for the staging and proper management of EVENT(s). Failure to provide such information may result in additional fees to LICENSEE as incurred by the CITY.
- I. The CITY reserves the right to contract food and beverage caterer(s) and concessionaire(s) on a preferred-list or exclusive basis.
- J. Overtime rates for LICENSED FACILITY use are quoted and charged in whole hour increments and will be applied for use of the LICENSED FACILITY prior to 8:00 a.m. and after 12:00 a.m. (midnight) on EVENT or NON-EVENT day(s).
- K. The LICENSE AGREEMENT may be subject to cancellation by the CITY immediately upon written notice delivered to the LICENSEE upon breach of any terms or provisions of the LICENSE AGREEMENT or these POLICIES, subject to the terms described in SECTION 36 of these POLICIES. In the event of such cancellation, LICENSEE shall be reimbursed or charged the difference between paid charge(s) set forth in the LICENSE AGREEMENT and any and all expenses and/or charges incurred by the CITY to the date of such cancellation plus a two hundred dollar (\$200.00) administrative fee.

- L. Should LICENSEE cancel the EVENT(s) specified in LICENSE AGREEMENT, the deposit and payment(s) will be refunded in full if cancellation is one hundred twenty (120) days or more prior to first day of the EVENT(s). Fifty percent (50%) of the deposit and payment(s) will be refunded if cancellation is sixty (60) to and including one hundred nineteen (119) days prior to the first day of the EVENT(s). Twenty-five percent (25%) of the deposit and payment(s) will be refunded if cancellation is thirty (30) to and including fifty-nine days (59) days prior to first day of the EVENT(s). No refund of deposit and payment(s) will be made if cancellation is less than thirty (30) days prior to first day of the EVENT(s). LICENSEE agrees to pay any and all costs incurred by the CITY directly related to the cancelled EVENT(s). In all cases, a two hundred dollar (\$200.00) administrative fee will be charged for cancellation of the LICENSE AGREEMENT.
- M. EVENT STAFFING: The CITY shall secure at the cost of the LICENSEE, all necessary event staff. The CITY retains the right to determine the appropriate number of security, medical, police, parking, stagehand, front of house staff and other personnel necessary to execute the event and properly serve and protect the public.
- N. EVENT STAFF MEAL BREAKS: LICENSEE agrees to schedule and provide a minimum one (1) hour meal break after every five (5) hours of work for event staff. If said meal break cannot be provided, LICENSEE agrees to, at LICENSEE'S expense, arrange to provide a meal approved by the TCA Production Coordinator or designee. If a break or meal is not provided after five (5) hours of work, event staff wages will be billed at one and one half (1.5) times the base rate until a meal or a one (1) hour break is given.

Section 5. Concessions

- A. The CITY reserves the rights to the following to ensure quality of service to LICENSEE: food and beverage concessions (including sale and distribution of alcoholic beverages), banquet services, parking operations, telephone services, security guard services, and ushering services. Should the CITY add a new service or change an existing service after LICENSE AGREEMENT is executed, the CITY will provide LICENSEE reasonable notice of such change of service.
- B. The CITY reserves the right to permit LICENSEE to contract for the sale and distribution of photographs, tapes, books and other materials related specifically to its own EVENT(s), performers and/or delegates. The sale of merchandise shall be allowed only from area(s) designated by the CFA. When the CITY supplies TCA personnel as sellers, twenty percent (20%) of total sales, after tax, shall be due the CITY at close of the EVENT(s) or in final settlement. The CITY, at its discretion, may choose to allow the LICENSEE to supply personnel as sellers. In such case, ten percent (10%) of sales, after tax, shall be due the CITY at close of EVENT(s) or in final settlement. The LICENSEE is responsible for payment of sales tax and all other applicable local, state and federal taxes. The LICENSEE is responsible for the acquisition of all applicable sales and tax licenses and permits.

Section 6. Ticketing

All ticketed events at the TCA must use the TCA designated computerized ticketing system. Ticketing policies are specified in **Attachment A**.

Section 7. Facility Capacity

Persons will not be permitted inside any facility in excess of the established occupant capacity as follows:

Theater	600
Studio	257
Lakeside	219
Donor Room	64
Terrace	65
Gallery	235
Lobby	656

Section 8. Free Admission Events

The CITY reserves the right to require attendees to EVENTS within the TCA, as defined in SECTION 1-C, including EVENTS without admission charge, to present a ticket for admission. Tickets will be audited through the computerized ticketing system and subject to a per printed ticket charge.

Section 9. Insurance

The LICENSEE shall, at its sole cost and expense, procure and maintain through the term of the LICENSE AGREEMENT, the following insurance coverage. Adjustment of limits of liability and insurance coverage shall be at the sole discretion of the CITY Risk Management and Legal staff upon assessment of exposures and risks of EVENT(S).

- A. Commercial General Liability insurance against claims for bodily injury (including death) and property damage occurring in or upon or resulting from the LICENSED FACILITY hereunder. Such insurance shall be in per occurrence form and shall afford immediate protection to limits of not less than \$1,000,000 per occurrence with a \$2,000,000 general aggregate; further, such insurance shall include Contractual Liability coverage sufficient to fulfill LICENSEE'S contractual liability assumed under the indemnification provisions listed below in Section 12. All policies of insurance shall name the City of Tempe, a municipal corporation, its officers, agents, volunteers and employees as additional insureds, and shall list the location of EVENT(s), including dates and times as specified in the LICENSE AGREEMENT and a description of LICENSEE'S use of the LICENSED FACILITY. Dates and times shall include set up and take down of EVENT(S).
- B. Commercial Auto Liability insurance providing \$1,000,000 combined single limit per accident for bodily injury and property damage, including coverage for owned, hired, and non-owned vehicles as applicable.
- C. LICENSEE shall be solely and entirely responsible for providing salary, wages, retirement, withholdings, workers' compensation and employer's liability insurance, unemployment insurance, other benefits and all taxes and premiums appurtenant thereto concerning agents, employees, and volunteers during the term of the LICENSE AGREEMENT, and shall save and hold the CITY harmless with respect thereto. Evidence of workers' compensation and employer's liability coverage that meets Arizona Statutory requirements will be provided on a Certificate of Insurance or a Letter of Certification from the Industrial Commission of Arizona or LICENSEE'S state that shows LICENSEE is an authorized self-insurer.
- D. LICENSEE shall provide an additional certificate of general liability specific to fireworks or other pyrotechnical displays for the EVENT(s) with minimum insurance limits of \$5,000,000.
- E. LICENSEE shall keep and maintain documentation evidencing LICENSEE compliance with the insurance and shall, at all times, deliver and maintain with the CITY a certificate with respect to such insurance in a form satisfactory to the CITY. Each policy of insurance shall provide for no less than thirty (30) days prior written notice to the CITY before the cancellation or termination of any such insurance.
- F. Insurance policies and insurance coverage shall remain in full force and effect during the term of LICENSEE'S occupancy and shall be obtained from reliable insurance companies authorized to transact business in the State of Arizona or named on the list of qualified authorized insurers maintained by the Arizona Department of Insurance. These insurers must have a "Best's" rating of no less than A-VII. Certificates of insurance or photocopies of the policies shall be filed with the CITY at least thirty (30) days prior to EVENT.
- G. LICENSEE shall include all subcontractors and sub-subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor and sub-subcontractor. All coverages for subcontractors and sub-subcontractors shall be subject to all of the requirements stated herein for the LICENSEE.
- H. Insurance specified under this section is the minimum amount required of LICENSEE. LICENSEE remains free to obtain such additional insurance as it may independently determine to be necessary.
- I. The amount and type of insurance coverage requirement set forth in this section shall in no way be construed as limiting the scope of indemnification as set forth in Section 12 of these POLICIES and as enforced as a part of the LICENSE AGREEMENT.

Section 10. Waiver of Subrogation

Each party hereto waives any and every claim arising in its favor and against the other party hereto during the term of this lease or any extension or renewal thereof for any and all loss of, or damage to, any of its property when such loss or damage is covered by valid and collectible first party property insurance policies, not including coverage under a Self-Insurance Retention

Program, to the extent that such loss or damage is recovered under said insurance policies. If the CITY has an applicable deductible or retention, LICENSEE would still be responsible to reimburse CITY for any deductible or retention amounts expended due to losses caused in whole or in part by LICENSEE. Said waivers shall be in addition to, and not in limitation or derogation of, any other waiver or release contained in this lease with respect to any loss or damage to property of the parties hereto. In as much as the above mutual waivers will preclude the assignment of any aforesaid claim by way of subrogation (or otherwise) to an insurance company (or any other person), each party hereby agrees immediately to give to each insurance company which has issued property insurance policies written notice of the terms of said mutual waivers, and to have said insurance policies properly endorsed, if necessary, to prevent invalidation of said insurance coverage by reason of such waivers.

Section 11. Damage to Buildings and Contents

- A. The LICENSEE shall compensate the CITY for the full amount of any and all damage, excluding normal wear and tear, to buildings, furnishings, fixtures or equipment, caused by the LICENSEE, LICENSEE'S employees, agents, guests, volunteers or contractors. The LICENSEE and the CITY shall conduct a joint inspection of the LICENSED FACILITY, furnishings, fixtures and equipment prior to move-in for the purpose of noting any existing damage. At the conclusion of EVENT(s), the LICENSEE shall, together with the CITY, jointly inspect the LICENSED FACILITY, furnishings, fixtures and equipment for event-related damage. Failure of the LICENSEE to participate in such inspection shall be considered a waiver of the LICENSEE'S right to participate and the CITY alone shall make the inspection. The CITY will notify the LICENSEE within a reasonable time as to the extent of damage, if any, and cost of repair.
- B. No decorative or other materials shall be attached to any part of the TCA so as to cause damage to the TCA. All decorative or other materials shall be of a noncombustible type or be suitably treated with a flame retardant approved by the CITY. No person shall bring, exhibit or ignite fireworks or explosives on the PREMISES without the prior written consent of the CFA, a permit from the City of Tempe Fire Department and appropriate insurance as specified in Section 9-D. Damages to the PREMISES shall be at the sole cost and expense of the LICENSEE. The LICENSEE may be required to make suitable arrangements with the CFA and/or supply extended insurance coverage for the protection of the CITY.

Section 12. Indemnity

- A. Except as noted in paragraph "B" below, the LICENSEE agrees to defend, indemnify and hold harmless the CITY, its officers, agents, contractors, volunteers and employees, from all suits, including attorney's fees and cost of litigation, actions, losses, damages, expenses, costs or claims, of any character or any nature arising or alleged to have arisen, in whole or in part, out of the LICENSEE'S use of the LICENSED FACILITY or any part thereof, during the terms of this agreement. It is the intent of the parties to this LICENSE AGREEMENT that the CITY shall, in all instances, except for loss or damage resulting from sole negligence of the CITY, be indemnified against all liability, of any nature whatsoever for or on account of any injuries or death of a person or damages to or destruction of property belonging to any person arising out of, or in any way connected with, the LICENSEE'S use of the LICENSED FACILITY or any part thereof regardless of whether or not the liability, loss or damage is caused, or alleged to be caused, in whole or in part by the willful or negligent act, omission, misconduct, or fault of the LICENSEE or any of its agents, employees, contractors, patrons, guests, invitees or of any other person entering upon the LICENSED FACILITY hereunder with the implied or expressed invitation or permission of LICENSEE or CITY. It is agreed that the LICENSEE will be responsible for primary loss investigation, defense and judgment costs under this contract of indemnity section.
- B. Loss or damage resulting from the sole negligence of the CITY or from the design and condition of the basic structure (not including LICENSEE'S configuration and/or control of the LICENSED FACILITY hereunder), shall be the responsibility of the CITY.
- C. LICENSEE agrees to abide by all manufacturer regulations, CITY safety policies and accepted practice in the use of CITY-owned equipment of all types. LICENSEE agrees to defend, indemnify and hold harmless the CITY, its officers, agents, contractors, volunteers and employees, from all suits, including attorney's fees and cost of litigation, actions, losses, damages, expenses, costs or claims, of any character or any nature arising or alleged to have arisen, in whole or in part, out of the LICENSEE'S use of CITY-owned equipment including, but not limited to ladders, personnel lifts, personal safety equipment, and other such equipment as might be found and/or used in the TCA. LICENSEE agrees that all equipment will be used by employees, volunteers, agents and contractors of LICENSEE, in accordance with applicable federal, state and local laws and ordinances including, but not limited to, OSHA and ANSI standards.

Section 13. Machinery, Flammable Liquids and Electricity

No person shall erect any engine, motor or other machinery on the PREMISES or use any gas, electricity, flammable liquid or charcoal therein, without the prior consent of the CFA and the obtaining of all required official permits issued by the CITY or any government agency. All electrical connections must be made by the TCA Utilities Contractor or designated representative. All house theatrical lighting equipment must be operated by TCA personnel or personnel approved by the CFA.

Section 14. Obstruction of Fire Alarms, Doors, Passageways, Sidewalks, Corridors or Lobbies

No portions of the fire alarms, fire alarm pull boxes, fire hose cabinets, fire suppression system hardware, sidewalks, entries, passageways, doors, aisles, elevators, vestibules, windows, ventilators, lighting fixtures or ways of access to the public utilities of the TCA shall be obstructed, or caused to be obstructed, or caused to be used for any purpose other than ingress or egress. Any damage resulting on account of any misuse of any portion of the TCA shall be the responsibility of LICENSEE. All EVENTS shall be in compliance with the City of Tempe Fire codes and Building Safety codes.

Section 15. Signs, Posters and Literature

LICENSEE shall not post or permit to be posted any sign/poster or anything that will tend to injure, mar or in any manner deface TCA, and will not permit nails, hooks, adhesive fasteners, tacks or screws to be installed on any part of TCA. Signs may only be posted in areas provided for such use, and all signs/posters must relate to EVENT(s) to be held at the TCA. The hanging of pictures, banners or any other items on walls or draperies requires prior written approval of the CFA or designee.

Section 16. Advertising and Promotion

- A. LICENSEE shall not distribute or circulate any advertising matter at the entrance to, inside or outside the TCA, without prior approval from the CFA. All media advertisements must include ticket sales location(s), ticket prices, time & date of EVENT(s) In any advertisement the TCA shall be identified as follows: TEMPE CENTER FOR THE ARTS.
- B. All advertising shall state LICENSEE is performing “at the Tempe Center for the Arts.” LICENSEE will only reference the EVENT as being at the Tempe Center for the Arts and shall in no way imply that the EVENT is a project or presentation of the CITY, or reference the CITY as a producer, presenter, co-presenter, sponsor, or co-sponsor.
- C. The CITY will not provide for LICENSEE promotional services such as advertising, press releases, direct mail, program printing or any other promotional resources related to EVENT(s) of LICENSEE. LICENSEE therefore accepts sole responsibility for promoting its EVENT.

Section 17. Recording and Broadcasting

- A. The CITY and LICENSEE agree both parties may record the EVENT(s) for internal purposes only. LICENSEE agrees that any recording, either visual or audio, made of the EVENT(s) covered by this LICENSE AGREEMENT for the purpose of commercial sale shall be assessed a \$750.00 recording fee payable to the CITY for said privilege. All recordings must give location credit “Recorded at the Tempe Center for the Arts in Tempe, Arizona.”
- B. No EVENT(s) may be broadcast without the consent of the CFA or designee. The locations of cameras and video equipment are subject to approval of the CFA or designee.

Section 18. Condition of Licensed Facility

The CITY shall provide the LICENSED FACILITY in a clean, habitable condition and in the basic configuration for which the LICENSEE has contracted. In the event any LICENSEE finds it necessary to remove or change the location of any stage, rigging or equipment, such changes shall be made at the LICENSEE’S expense; and the LICENSEE shall agree to change all such equipment, stage and rigging back to the condition in which same was found. No LICENSEE shall make any permanent changes or alterations without the prior written approval of the CFA. At the termination of the LICENSE AGREEMENT, the LICENSEE shall surrender possession of the LICENSED FACILITY with all of the LICENSEE’S equipment and materials removed.

Section 19. Objectionable Uses or Persons

Any use of the LICENSED FACILITY that is contrary to public policy, or is not in the best interests of the CITY, or is in violation of any laws of the United States, the State of Arizona, Maricopa County, or the CITY shall be a violation of the LICENSE AGREEMENT and shall be grounds for immediate revocation of the LICENSE AGREEMENT. Any person whose conduct is objectionable, disorderly or disruptive to facility use, or in violation of any law, shall be refused entry or, if already admitted, shall be immediately ejected from the PREMISES. The LICENSEE shall hold the CITY harmless from any claim resulting from such action.

Section 20. Control of Premises

- A. TCA shall at all times be under the control of the CITY and the CFA. The CITY reserves the right to have designated individuals enter the LICENSED FACILITY at any and all times. The designation of individuals authorized to enter the LICENSED FACILITY shall be made by the CITY or designee. The LICENSEE agrees to allow the CFA or designee to open the lobby area and front of house facilities at least sixty (60) minutes prior to the advertised start of the EVENT(s) and to permit patrons, upon coordination with the LICENSEE, to be seated at least thirty (30) minutes prior to the advertised start of the EVENT(s). All technical preparations including, but not limited to lighting and audio checks, lobby set up, and other activities shall be completed on the stage and in the lobby/front of house prior to admission of patrons.
- B. The LICENSEE agrees to provide a running schedule for each EVENT, including intermission times and any anticipated special needs, a minimum of seven (7) working days prior to the EVENT.
- C. The CITY shall retain the right to cause the interruption of any EVENT when in the sole judgment of the CFA or designee, such interruption is necessary in the interest of public safety.
- D. Consumption of food and beverages shall be limited to designated areas. Food and beverages are prohibited in the control booth(s), dimmer room(s), audio rack room(s) and all other areas where electronic control equipment is accessible.
- E. The CITY shall retain the right to restrict the use of seating areas and public restrooms prior to EVENT(s) with the intent to avoid situations where it becomes necessary to re-clean said area(s) after having been cleaned in preparation for an EVENT.

Section 21. Abandoned Equipment and Lost or Misplaced Articles

Any equipment or effects of the LICENSEE or its agents remaining past the expiration of the LICENSE AGREEMENT may be deemed abandoned and disposed of by the CITY, as deemed advisable, at the cost of the LICENSEE. The CITY shall have the sole right to collect and maintain custody of articles left on PREMISES by the LICENSEE or its agents. The CITY shall assume no responsibility for losses suffered by the LICENSEE or its agents that are occasioned by theft or disappearance of equipment, articles or other personal property.

Section 22. Liability for Property Delivered to Licensee

The CITY, its officials, agents, volunteers, employees or contractors shall not be liable for any loss, damage or injury to properties of any kind that are shipped or otherwise delivered to TCA or stored in the LICENSED FACILITY. Properties shall not be received until the LICENSEE has made proper arrangements for receiving, handling and storage of such materials.

Section 23. Unavailability of Premises

Should the LICENSED FACILITY, or any portion thereof, be unavailable for occupancy at the commencement of the LICENSE AGREEMENT, or during the term of the LICENSE AGREEMENT, due to fire, casualty, acts of God, strikes, national emergency or other cause beyond the control of the CITY, the LICENSE AGREEMENT and the obligations of the CITY and the LICENSEE hereunder shall terminate. The LICENSEE hereby waives any claim against the CITY for damages by reason of such termination; provided, however, that any unearned portion of the deposits, fees or payments due hereunder shall abate, or, if previously paid, shall be promptly refunded by the CITY to the LICENSEE.

Section 24. Entrance and Exit

All persons, articles, exhibits, fixtures, displays and other equipment shall be brought into and out of TCA only at designated entrances and exits. Vehicular traffic and/or parking in areas not designated for that purpose shall be allowed only upon prior written approval of the CFA.

Section 25. Parking

- A. Priority use of parking areas shall be for employees and/or patrons of LICENSEE(s) on EVENT DAY(s) covered in the LICENSE AGREEMENT(s). The LICENSEE acknowledges that multiple LICENSEES may occupy TCA simultaneously on any given day. The CITY will pursue every attempt to make parking available and will not schedule parking areas for alternative non-TCA use on EVENT DAY(s) covered in the LICENSE AGREEMENT. However, the issuance of a LICENSE AGREEMENT to use the TCA shall in no way obligate the CITY to provide parking for employees and/or patrons of the LICENSEE.
- B. Trucks carrying equipment to be used by the LICENSEE may be parked in the loading dock area for active loading and unloading only. Long-term parking of trucks or other vehicles in the loading dock is prohibited except by prior arrangement with the CFA.

Section 26. Equipment Failure

The CITY will make every attempt to expedite the repair, replacement or substitution of standard equipment. However, the CITY will not be responsible for the immediate replacement of any equipment which may be out of service, excluding audio and lighting control consoles and counterweight rigging system.

Section 27. Permits and Licenses

The LICENSEE is responsible for obtaining any additional permits and licenses required by Federal, State, County, or City law, and shall permit inspection by appropriate government departments upon request.

Section 28. Lasers

The LICENSEE shall contact, register with and obtain all necessary licenses, permits and clearances from the Arizona Radiation Regulatory Agency (4814 South 40th Street, Phoenix, Arizona 85040, 602-255-4845) prior to the use of Class IIIb lasers.

Section 29. Pyrotechnics

The use of pyrotechnics, flame, candles, matches and any other open flames or explosives in the TCA is prohibited unless written approval has been obtained from the City of Tempe Fire Marshal. Supervision of all such use shall be performed as prescribed by the City of Tempe Fire Department.

The use of fireworks on the TCA site and surrounding grounds requires written notification from the fireworks contractor to the Federal Aviation Administration (FAA) at Phoenix Sky Harbor International Airport and the appropriate approvals and/or permits from the FAA. A copy of such materials shall be required with the LICENSE AGREEMENT.

Section 30. Security and Safety Personnel

When additional safety and security measures are deemed necessary by the CITY and/or the LICENSEE, the LICENSEE shall employ, at its sole expense, such security and safety personnel as are required and approved by the CFA. The LICENSEE shall also comply with all applicable Fire Department regulations concerning occupancy, exhibits and procedures as outlined in the City of Tempe Fire Code.

Section 31. Observance of Law

The LICENSEE shall comply with all laws of the United States and the State of Arizona and with all ordinances of the CITY. Violations by the LICENSEE may result in cancellation of the LICENSE AGREEMENT and discontinuance of the LICENSEE'S use of the LICENSED FACILITY unless compliance is assured.

Section 32. Copyright Infringement

The LICENSEE shall accept full responsibility for the use of any composition, work or other material covered by copyright. In this regard, the LICENSEE shall indemnify, defend, save and hold harmless the CITY, its officers, agents, volunteers, contractors and employees from all suits, actions, losses, damages, expenses, costs or claims of any character or any nature arising or alleged to have arisen, in whole or in part, from the LICENSEE'S use of any composition, work or other material covered by copyright.

Section 33. Collections, Donations, Solicitations

No collections or donations, whether for charity or otherwise, shall be made, attempted or announced on the PREMISES without the prior written approval of the CFA.

Section 34. Default

In the event that the LICENSEE shall fail to perform, keep or observe any of the terms, covenants or conditions of the LICENSE AGREEMENT, the CITY shall give LICENSEE notice of such failure. The LICENSEE shall be provided a reasonable time within which to cure or remedy the failure. In the event said failure is not remedied to the satisfaction and approval of the CITY within the time specified, the LICENSEE may be declared in default and all of its rights hereunder shall terminate. At the direction of the CITY, the LICENSEE shall vacate the TCA and shall have no right to further operate therein and shall forfeit all rights under the LICENSE AGREEMENT to any monies due or paid the CITY in the form of rents, payments, deposits or insurance. The CITY may resort to any and all legal remedies or combinations of remedies that it may desire to assert and to which it may be entitled, including re-licensing of the FACILITY. If the City finds it necessary to bring suit to collect any amount owed it under the LICENSE AGREEMENT, the CITY shall be entitled to collect reasonable attorney's fees and all other court costs and costs of collection.

Section 35. Safety

It is the responsibility of the LICENSEE to familiarize LICENSEE'S employees with the safety procedures and regulations governing all parts of the TCA used by the LICENSEE. The LICENSEE, in cooperation with the CFA or designee, shall instruct employees on the building evacuation plan in the event of fire or other disaster and formulate a specific plan to evacuate any persons with disabilities among them.

Section 36. Alternative Dispute Resolution

The LICENSE AGREEMENT shall be subject to the following alternative dispute resolution procedures: In the event of a dispute between the parties to the LICENSE AGREEMENT regarding a provision of the LICENSE AGREEMENT, a party's performance of its obligations as stated in the LICENSE AGREEMENT or any other matter governed by the terms of the LICENSE AGREEMENT, the parties will meet in good faith to attempt to resolve the dispute. If the parties fail to resolve the dispute, then the parties agree that the dispute may be resolved through mediation. If mediation is agreed to by the disputing parties, the disputing parties shall mutually agree upon the services of one (1) mediator whose fees and expenses shall be borne equally by the disputing parties. If the dispute is not resolved within a reasonable time, the disputing parties shall be free to use other remedies available to them to resolve the dispute.

Section 37. Discrimination

The LICENSEE shall not directly or indirectly discriminate against any person in its use of the LICENSED FACILITY. The LICENSEE shall not display, circulate, publicize or mail any advertisement, notice or communication that states or implies that any facility or service shall be refused or restricted because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age or disability or that any person, because race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age or disability would be unwelcome, objectionable, unacceptable or undesirable.

Section 38. Americans with Disabilities (ADA)

The LICENSEE shall comply with ADA requirements in its use of the LICENSED FACILITY.

Section 39. Severability

If any provision of the LICENSE AGREEMENT or of these Policies, as incorporated herein, shall be declared invalid or unenforceable, the remainder of the provisions shall continue in full force and effect to the fullest extent permitted by law.

Section 40. No Smoking Policy

TCA is a no smoking facility. Smoking is allowed only in clearly identified exterior smoking areas.

Section 41. Consumption of Alcoholic Beverages

The CITY shall reserve the right to identify, and re-identify as necessary, those areas of the TCA where alcoholic beverages may and may not be consumed. Consumption of alcoholic beverages is not allowed in areas of the TCA that are not licensed and designated for such consumption.

Section 42. Other Events

At the request of the LICENSEE, the CITY will provide complete disclosure of licensed EVENTS in the facility over the same or overlapping dates of the LICENSEE'S event at the time of the LICENSE AGREEMENT execution and thereafter. Both the LICENSEE and the CITY shall endeavor to avoid the scheduling of EVENTS that may compete with other scheduled EVENTS. In the instance of multiple similar-genre EVENTS, CITY and LICENSEES will mutually agree upon all aspects of scheduling of such EVENTS.

Section 43. Conflict of Interest

The LICENSE AGREEMENT is subject to cancellation under the provisions of Arizona Revised Statutes § 38-511.

Section 44. Adoption by Mayor and Council; Authority to Execute Minor Amendments

These POLICIES are subject to adoption by the City of Tempe Mayor and City Council. Upon approval of these POLICIES, the Mayor and Council authorize the Community Services Department Manager to sign other documents or make amendments to these POLICIES as may be necessary to effectuate these POLICIES and further authorize said Manager to act upon any other matters not presently contemplated but which may arise and require the CITY'S action in order to effectuate the purpose of these POLICIES.

Attachments

Attachment A: Ticketing / Box Office Policies

Attachment B: License Fee Schedule

Attachment C: Area Use Designations

Attachment D: TCA Partner Program Criteria and Application

Attachment A

Ticketing/Box Office Policies

The following constitute the policies for ticketing and box office operations for the Tempe Center for the Arts. For purposes of this document, EVENT is defined as a single, distinct activity. For example, a performance is considered an EVENT.

- A. LICENSEE shall designate a representative to serve as liaison to the TCA Box Office. LICENSEE shall identify liaison and/or designee at the commencement of ticket sales for each production, at the beginning of the performance season, or prior to individual performances, as applicable. LICENSEE liaison and/or designee shall be available prior to and during all performances.
- B. All tickets, including tickets purchased at the TCA Box Office, on consignment and/or from LICENSEE, are subject to the policies herein where applicable.
- C. EVENTS will be processed for ticket sales and tickets will be issued at the instruction of the LICENSEE only after the receipt of an executed LICENSE AGREEMENT and applicable deposit.
- D. LICENSEE must submit ticketing information form no later than fourteen (14) days prior to the first day of sale for the EVENT.
- E. In general, tickets will be sold on a “no refund” basis. The OPERATOR recognizes and agrees that, on occasion, ticket refunds may be necessary to insure quality customer service. In such instances, refunds will be issued upon the approval of the LICENSEE liaison to the TCA Box Office. Tickets may be exchanged for the same EVENT run, based on availability and approval of the Box Office Manager or the LICENSEE liaison. All requests for exchanges must be received in the TCA Box Office no later than twenty-four (24) hours prior to individual EVENT start time. Ticket exchanges are subject to an exchange fee.
- F. All audience members, regardless of age, must have a ticket. Lap passes may be issued at the discretion of the LICENSEE.
- G. All ticketed EVENTS shall be processed exclusively via the TCA-designated computerized ticketing system. No other ticket sales methods or systems shall be allowable without approval of the CFA or designee. All sales will be subject to published TCA rates for credit card sales, per-ticket printing charges, set up fees and box office percentage of sales, if applicable.
- H. TCA Box Office shall reserve the right to retain a maximum of ten (10) seats per EVENT in the Theater and four (4) seats per EVENT in the Studio as house seats to be used at the discretion of the TCA Box Office in the event of double ticketing and/or other customer service issues. Such seats shall not be retained for the purpose of sale.
- I. The TCA Box Office and/or LICENSEE will not sell, distribute or permit to be sold or distributed, tickets in excess of established seating capacities.
- J. TCA Box Office will not accept payment of any kind at the will call window. All tickets provided by LICENSEE and held at the will call window must be pre-paid.
- K. In the EVENT of cancellation, ticket refunds shall be available at the original point of purchase the next business day following the cancelled EVENT. The TCA Box Office will issue refunds for tickets sold at the TCA Box Office only. The TCA Box Office will not issue refunds for tickets, consigned or other, sold by the LICENSEE. LICENSEE agrees to provide refunds for all tickets sold by LICENSEE and/or its agents.

Attachment A

Ticketing/Box Office Policies (cont.)

L. ACCESSIBILITY and ACCESSIBLE SEATING

1. In accordance with the Americans with Disabilities Act, TCA shall secure a sign language interpreter and/or provide audio description, upon request. When a sign language-interpreted and/or audio-described EVENT is not scheduled as part of a theatrical run, TCA will hold four (4) seats in the Theater and/or Studio for patrons who request these services. Said seats will be released forty-eight (48) hours prior to EVENT if no requests have been received or when the EVENT sells out. TCA, in cooperation with LICENSEE, shall designate the interpreter's location for the interpreted/audio-described performance. LICENSEE and TCA shall share the cost for the interpreter and or audio describer. LICENSEE shall provide TCA a script or text of the performance, for purposes of interpreted/described performance, within forty-eight (48) hours of request.
2. TCA shall provide Large Print and Braille programs upon request, with a minimum of twenty-one (21) days advance notice by the patron. LICENSEE and TCA shall share the cost for the alternative print program(s).
3. The TCA Box Office will retain, for sale, all accessible seating. Patrons requesting accessible seating should be referred to the TCA Box Office.

M. CONSIGNMENT TICKETS

1. LICENSEE may request a specified number of tickets up to thirty percent (30%) of house capacity for consignment sale purposes. LICENSEE will be charged a return ticket fee equivalent to the per-ticket printing charge for all tickets returned to the TCA Box Office for resale, provided tickets are returned two (2) business days or more prior to the EVENT. Consignment tickets returned less than two (2) business days prior to the EVENT will be considered sold for purposes of final EVENT settlement. Release of additional consignment tickets, in excess of thirty percent (30%) of house capacity, will be by mutual agreement between TCA Box Office and LICENSEE.
2. LICENSEE is required to supply to the TCA Box Office a record of patrons' names and seating locations for all sold consignment tickets to facilitate re-ticketing in the event of loss of tickets.

N. COMPLIMENTARY TICKETS

1. The issuance of press passes and other complimentary tickets shall be the responsibility of LICENSEE.
2. Requests for complimentary tickets to be picked up at the will call window must be submitted, in writing, no less than twenty-four (24) hours prior to the EVENT.

- O. The CITY, through the TCA Box Office, shall keep accurate records of information compiled during LICENSEE ticket purchase transactions originated through the TCA Box Office. Additionally, the TCA Box Office will make every attempt to monitor and correct information obtained through web sales and/or sales through means other than direct sales by TCA Box Office staff. Ticket purchaser information shall include complete name, address, telephone and email contact information and any other information as requested by LICENSEE, excluding Social Security numbers, credit/debit card information, and other sensitive personal identification information as determined by the CITY. LICENSEE agrees to supply the CITY with specific requests for information other than standard contact information, in writing, no later than twenty-four (24) hours prior to collection of such information. Upon request, the TCA Box Office shall provide to LICENSEE a listing of ticket purchaser information in a standardized format such as Excel®, Access®, Word® or other such format that is readily retrievable from the computerized ticketing system currently in use by the TCA Box Office. Ticket purchaser information shall be supplied to LICENSEE in coordination with weekly ticket sales settlement reports. LICENSEE agrees that such ticket purchaser information shall be used solely for LICENSEE's purposes and will not be sold to any third party.

Attachment B

License, Fee Schedule

THEATER (600 seat capacity)	Commercial	Noncommercial
Event Day - single performance	\$1,350	\$1,080
Additional event(s) on Event Day - Per additional event	\$675	\$540
Non-Event Day	\$1,012	\$810
Overtime (per hour) – Use prior to 8 a.m. / after midnight	\$175	\$140
Weekly maximum / 8 performances or less. *	\$6,750	\$ 5,400
STUDIO (200 seat capacity/257 flat floor)	Commercial	Noncommercial
Event Day - single performance	\$450	\$360
Additional event(s) on Event Day - Per additional event	\$225	\$180
Non-Event Day	\$340	\$270
Overtime (per hour) – Use prior to 8 a.m. / after midnight	\$175	\$140
Weekly maximum / 8 performances or less. *	\$2,250	\$1,800
LAKESIDE ROOM (219 total capacity)	Commercial	Noncommercial
Hourly (2 to 5 hours / per hour charge) minimum 2 hours	\$500	\$400
Half Day (Up to 6 hours)	\$3,000	\$2,400
Full Day (Over 6 hours)	\$4,500	\$ 3,600
DONOR ROOM (64 total capacity)	Commercial	Noncommercial
Hourly (2 to 5 hours / per hour charge) minimum 2 hours	\$150	\$120
Half Day (Up to 6 hours)	\$900	\$720
Full Day (Over 6 hours)	\$1,350	\$ 1,080
ROOF TOP TERRACE (64 total capacity)	Commercial	Noncommercial
Hourly (2 to 5 hours / per hour charge) minimum 2 hours	\$150	\$120
Half Day (Up to 6 hours)	\$900	\$720
Full Day (Over 6 hours)	\$1,350	\$ 1,080
GALLERY (235 total capacity) Food restrictions apply	Commercial	Noncommercial
Hourly (2 to 5 hours / per hour charge) minimum 2 hours	\$350	\$280
Half Day (Up to 6 hours)	\$2,100	\$1,680
Full Day (Over 6 hours)	\$3,150	\$2,520
Exhibition modification to clear entire floor space	\$2,000	\$2,000
SCULPTURE GARDEN (50 total capacity)	Commercial	Noncommercial
Hourly (2 to 5 hours / per hour charge) minimum 2 hours	\$250	\$200
Half Day (Up to 6 hours)	\$1,500	\$1,200
Full Day (Over 6 hours)	\$2,250	\$1,800
LOBBY (650 total capacity)	Commercial	Noncommercial
Hourly (2 to 5 hours / per hour charge) minimum 2 hours	\$500	\$400
Half Day (Up to 6 hours)	\$3,000	\$2,400
Full Day (Over 6 hours)	\$4,500	\$ 3,600
ENTIRE FACILITY	Commercial	Noncommercial
Up to 6 hours	\$6,000	\$4,800
Per hour after 6 hours	\$1,250	\$1,000
Additional charge if Gallery floor is cleared.	\$2,000	\$2,000

- A deposit in the amount of 25% of the total License Fee is due upon execution of License Agreement.
- Items and services included with individual facilities are specified in Section 4 of the Operating Policies.
- Fees listed are for Licensed Facility use only. Unless specified, the above fees do not include labor charges.
- Lakeside Room rates may be negotiated for TCA Partners rehearsals and performances during off-peak periods, based on availability.
- Rates do not include sales tax.

Attachment C

Area Use Designations

