

# Front Row Theatrical Rental, LLC Agreement

## Client and Production Information

Invoice Reference #: 3152553

Client: Weber County DBA Ogden Musical Theatre

Address: 2415 Washington Blvd.  
Ogden Utah , 84414

Show: Newsies (INTW)

Insurance Value: \$150,000 \_\_\_\_\_

Opening Date: July 29th, 2021

Closing Date: August 18th, 2021

Production Dates: July 23rd - August 18th, 2021

Projected Delivery: July 19th, 2021

Projected Pick-up: August 19th, 2021

**1. BASIC AGREEMENT.** This agreement constitutes a rental agreement between Front Row Theatrical Rental, LLC ("Rental Company") and the undersigned and/or its agents, assigns, contractors, employees and/or representatives who shall hereafter collectively be referred to as the "Renter". Upon the Renter signing below, the Rental Company shall reserve, hold and provide to the Renter, the items and or package(s) as defined and listed on the invoice with the invoice reference number ("Client and Production Information") and henceforth referred to as "the Rental Package." This agreement shall cover any and all portion(s) of the Rental Package and associated services provided to the Renter by the Rental Company regardless of where the item(s) is/are shipped from and irrespective of whether the Rental Company owns, manages, represents, licenses, contracts, rents or acquires the item(s) whether temporarily or permanently or where the services originate for the purpose of providing the item(s) to the Renter.

**2. OBLIGATION.** The Renter's obligation to pay invoices for the Rental Package ("rental fee"), shipping, labor, damages and/or other miscellaneous charges ("additional fees") set forth herein ("Front Row Theatrical Rental, LLC Rental Agreement") and other amounts due hereunder (and the continuing effectiveness and enforceability of this agreement) are independent obligations not subject to abatement, diminution, suspension, deferment for reduction of, or offset against, Renter's obligation hereunder including without limitation: (i) any claims of Renter against the Rental Company, its contractors, suppliers, assigns, employees or subsidiaries (ii) any defect in, damage to or loss or destruction of any or all of the Rental Package or (iii) any interference with Renter's use of any or all of the Rental Package by any third party (including governmental body). It is the express intention of the parties hereto that all rents and other amounts payable by Renter to the Rental Company hereunder shall continue to be promptly and unconditionally paid in all events in accordance with the terms and conditions herein ("Front Row Theatrical Rental, LLC Rental Agreement").

**3. COMMENCEMENT.** This agreement and all its terms and conditions shall commence upon signing and shall conclude when the Rental Package has been returned to the Rental Company or, at the Rental Company's sole discretion, has been transported from the Renter's possession to a place of the Rental Company's sole choosing and when the Renter has completely met and fulfilled the conditions contained herein ("Front Row Theatrical Rental, LLC Rental Agreement"). The period from agreement signing until when the Renter has met all of the conditions of this agreement shall be henceforth referred to as the rental term.

**4. CANCELLATION.** This rental agreement shall remain in non-wavering full force and be in full effect from signing of the agreement by the Renter. In the event of cancellation of any or all performance or any and all dates of production more than 48 hours prior to the shipping of the Rental Package, cancellation charges will be assessed equal to the total rental fee ("Payment") in consideration of the Rental Company preparing, holding in reserve or sub-renting the package, facilities or vehicles on behalf of the Renter. In the event of cancellation of any or all performance or any and all dates of production less than 48 hours prior to the shipping of the Rental Package, cancellation charges will be assessed equal to the total rental fee plus any additional fees incurred by the Rental Company on behalf of the Renter ("Payment", "Additional Fees") in consideration of the Rental Company preparing, holding in reserve or sub-renting the package, facilities or vehicles on behalf of the Renter.

Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, governmental restrictions, governmental regulations or controls, judicial orders, acts of terrorism, fire of other causality and causes beyond the reasonable control of the party obligated to perform, temporarily postpone the performance by such party for a period equal to any such prevention, delay, or stoppage. No postponement shall excuse or cancel any monies due or change any terms of this agreement however. In such instances, the affected party shall still be required to continue with the terms of this agreement once the instance that triggered the delay or stoppage has ended. The aforementioned cancellation provisions and restrictions shall remain in full force with the Rental Company offering the Rental Package to the Renter for the same price at a later date to be mutually agreed upon in writing and subject to availability.

**5. PAYMENT.** Upon the signing of this agreement, the Rental Company shall ensure the Rental Package is available to the Renter no later than their production dates ("Client and Production Information") by reserving the Rental Package for the Renter. From time to time, the Rental Company may make the Rental Package available for delivery to the Renter before the production dates ("Client and Production Information"). This consideration shall be at no additional charge and shall not alter what, for the purposes of this agreement, are the production dates. In the event of any delays in shipping or receiving the Rental Package prior to the production dates, the Renter shall not be entitled to any compensation nor shall the Renter deduct or receive any type of partial or complete refund. In exchange for this reservation, this rental agreement shall require a non-refundable and non-cancelable rental fee ("rental fee") totaling \$ 6,000.00 (six - Thousand Dollars and \_\_\_\_\_ cents). The "rental fee" shall be remitted to the Rental Company in 3 (three) separate payment(s):

1.) **DEPOSIT** - A payment equal to \$ 2,400 (two - Thousand four hundred Dollars and \_\_\_\_\_ Cents) shall be due and payable upon the signing of this agreement. This payment shall act as a non-refundable and non-cancelable deposit in consideration of the Rental Company reserving the Rental Package upon the execution of this agreement signing and shall reduce the outstanding balance due ("Payment", "additional fees", "invoices") equal to the sum paid.

2.) **INTERMEDIATE PAYMENT** - If three payments are required ("Payment") than an intermediary payment equal to \$ 1,800 (one - Thousand Eight Hundred Dollars and \_\_\_\_\_ Cents) shall be due and payable on or before May 15th, 2021 and must be received and cleared prior to the shipping of the Rental Package to the Renter. This payment shall reduce the outstanding balance due ("Payment", "additional fees", "invoices") equal to the sum paid. In the event no intermediate payment is required, after the deposit is paid, only the final payment shall be due.

\_\_\_\_\_ Initial

3.) **FINAL PAYMENT** - A final and subsequent payment equal to \$ 1,800 (one            -Thousand Eight Hundred            Dollars and            Cents) shall be due and payable within 24 hours (twenty-four) hours of the Renter's receipt of the Rental Package and must be received by the Rental Company before the start of any paid performances beginning on the date listed herein ("opening date", "Client Production Information"). This payment shall reduce the outstanding balance ("Payment", "additional fees", "invoices") equal to the sum paid.

**6. ADDITIONAL FEES.** Rental fee payments may only be applied to applicable rental. The rental fee pertains only to the cost to rent the Rental Package and does not include any additional services or costs including but not limited to transportation, shipping, handling, labor, technicians, airfare or hotels which shall henceforth collectively be referred to as "additional costs." With the exception of costs for damages and/or loss, any and all known additional costs, are to be listed on the principal invoice with the reference number contained herein ("Client and Production Information"). By signing this agreement, the undersigned understands, acknowledges and agrees that certain additional costs cannot be guaranteed or listed at the time of the creation of the principal invoice. This is due to the unpredictable and everchanging nature of costs such as shipping and airfare and/or costs that cannot be guaranteed before a certain date. These additional costs shall be permitted to be listed on the principal invoice as "tbd." Any cost listed as "tbd" shall be paid in accordance with the same terms and conditions herein ("Front Row Theatrical Rental, LLC Rental Agreement"). Additional fees will be invoiced separately, are not included in the rental fee and shall be payable directly to the Rental Company by the due date on the invoice(s) unless otherwise directed by the Rental Company.

**7. INVOICES.** Invoices are due by the due date listed therein, which is to be at least 10 business days from the date sent whether via electronic mail, or regular mail. Past due invoices may be assessed a late charge of \$50.00 (Fifty dollars) per week for each outstanding invoice. Checks returned as non-sufficient funds or for any other reason are not payable by the financial institution upon which it is drawn, will incur an additional fee of \$50.00 (fifty dollars) for each occurrence of non-payment. If the Rental Company places the Renter's account in the hands of an attorney or other agency for collection due to non-payment or any or all invoices or fees, the Renter agrees to pay reasonable collection costs, attorney fees and court costs in addition to the assessed late fees which will continue to accrue until the debt has been satisfied.

**8. INSURANCE CERTIFICATES.** The Renter shall provide a(n) insurance certificate(s), satisfactory to the Rental Company, showing the Renter shall at its own cost, and at all times ("Insurance certificates"), maintain in full force and effect the following two separate types of insurance policies: 1.) Commercial General Liability insurance of at least \$1,000,000 per occurrence and annual aggregate, covering all liability including but not limited to, personal injury, bodily injury, property damage, operations hazards, independent contractor coverage and contractual liability resulting from the use of the Rental Package. 2.) Commercial Property Insurance encompassing all property at risk and covering the entire Rental Package for any and all loss or damage regardless of source or cause from all sources, for full replacement cost defined as the insurance value ("Client and Production Information"), as well as for loss of use (rents) of the package resulting from a claim covering all loss or damage to the Rental Package regardless of source.

At no cost to the Rental Company, the Rental Company must be named as an additional insured and loss payee on both the liability insurance and commercial property insurance of the Renter. Coverage of any and all insurance as defined herein must begin and be in full force and valid from the projected delivery date continuing, uninterrupted until no less than 5 days after the actual date of pick-up of the Rental Package defined as the day upon which the Rental Company's contracted or hired truck picks up the Rental Package or the Renter, its agents or assigns deliver the Rental Package to the Rental Company or its assigns.

The following chart is included as a courtesy guide as to the insurance requirements and is not intended to represent the complete insurance requirements under this agreement.

**General Liability Insurance**

- ✓ Coverage of at least \$1,000,000.00 per occurrence and annual aggregate
- ✓ Rental Company named as additional insured and loss payee

**Commercial Property Insurance**

- ✓ Replacement value of One Hundred Fifty Thousand Dollars  
\$150,000
- ✓ Rental Company names as additional insured and loss payee

**9. SELF-INSURANCE.** In the event the Renter is either A.) a city, county, state or federal institution or B.) affiliated with a city, county, state or federal institution for the purposes of renting the Rental Package and is self-insured through a government entity henceforth referred to as a self-insured entity, commercial liability and property insurance shall not be required. In lieu thereof, the Rental Company shall require a signed notification and/or certificate proving the Renter is a self-insured entity under state or local laws. The Renter understands, acknowledges and agrees that all other requirements and conditions herein ("Insurance Certificates"), except proof of commercial liability insurance and commercial property insurance, are hereby in full effect and that the Rental Company does not waive any other right or requirement hereunder for self-insured entities.

**10. INSURANCE OBLIGATIONS.** Whether commercially or self-insured, the insurance policies of the Renter shall be deemed primary and non-contributory insurance in the event of any claim or suit against the Renter of the Rental Company and/or its agents and contractors. Notwithstanding this paragraph, the Renter and/or its agents shall remain primarily liable to the Rental Company for full performance under the terms and conditions of the rental agreement. The Rental Company may apply proceeds of insurance, in whole or in part, to repair or comparably replace any damaged or non-retuned portion of the package, or to satisfy any obligations of the Renter pursuant to this agreement. At its sole discretion, the Rental Company may choose to enforce its remedies directly against the Renter. Any delay or temporary waiver in the enforcement of remedies shall not be construed as a waiver of the Rental Company's rights. The rights of the Rental Company under the insurance coverage as described in the preceding paragraphs shall not be affected by any act or neglect or breach of condition by the Renter.

**11. Technician.** The Rental Company requires one of its own technician employees and/or contractors (the tech, tech) to accompany and oversee the installation and removal of the rental set. The Renter agrees to provide travel, ground transportation and housing accommodations at no cost to the Rental Company or tech, equal to that of a 3-star hotel (accommodations), for 1 (one) tech. The accommodations shall be provided for a time equal to that of the load-in plus one night before and one night after load-in. The same accommodations shall also be provided by the Renter, at no cost to the Rental Company or tech, for the load-out of the rental set.

The technician's duties shall include instructing the local installation and removal labor in the proper methods to install and remove the rented scenery as it exclusively relates to the Rental Company's property. By signing below, the Renter understands and agrees the presence of the Rental Company's technician does not make any claims or certify that any or all of the Renter's theatre systems (including but not limited to stage capacity, rigging styles or types or functionality of the rigging or any other installed or temporary system) are safe, inspected or capable of safely and/or properly housing the Rental Company's rental property. Any instruction provided by the technician must be verified by on-site agents of the Renter to ensure safe practices in accordance with the venue in which the Renter has hired the Rental Package to be installed within. The Renter also agrees that the presence of a Rental

Company tech shall not absolve or supersede any of the Renter's obligations or duties discussed herein including but not limited to the terms in ("Damages/Loss Policy", "Wear and Tear", "Return", "Inspection").

Even with an on-site technician, the Renter hereby acknowledges and agrees to hold harmless and to indemnify the Rental Company and/or its agents and employees ("Indemnification").

**12. TECHNICIAN WAIVER.** In certain circumstances and with some sets, the Rental Company may, at its exclusive option, offer an additional damage waiver agreement to the Renter in lieu of requiring a Rental Company technician. The terms of the waiver are integral to this agreement and shall not supersede any clause herein.

**13. DELIVERY/PICK-UP.** The Renter understands, acknowledges and agrees that the Renter must provide their own labor to un-load the transportation equipment on the delivery date and then again re-load the transportation equipment on the pick-up date ("Client and Production Information"). No on-site labor is provided by the Rental Company unless otherwise agreed in writing and billed as an additional fee. As part of the quoted additional fee for the shipping of the Rental Package, Renter is provided a complimentary two hour loading/unloading window beginning at either 1.) the scheduled arrival time of the truck, assuming the truck is on-site or 2.) when the Renter starts to load/unload the truck in instances where the truck is early and/or late. Any hours beyond two are to be billed to the Renter at \$150 per hour for solo driver and \$225 per hour for teams of drivers, until the load/unloading is completed and the truck released. The Renter must sign the Bill of Lading and indicate the time of completion. Failure to sign the BOI and indicate time of completion may result in additional charges. Unless otherwise agreed to in writing by both parties, delivery and pick-up is to only take place during "normal business hours" defined as Monday through Friday, excluding national or local holidays, during the hours of 9am-5pm in the time zone the delivery and/or pick-up is being made. In all instances, the Renter is responsible for properly loading and securing the cargo onto the truck. The truck driver and/or on-site technician may offer tips or advice on ways to best secure the cargo in the truck however the Renter understands and agrees that no claims, guarantees, warranties expressed or implied are construed through any advice given. Any and all advice shall be non-binding and shall not excuse, diminish or alter the Renter's responsibility for any damages that may occur in transit as the result of the loading of the transportation equipment, shifting loads or damage that occurs in transit.

**14. COST OF SHIPPING.** The cost of shipping and handling of the Rental Package shall be considered an additional fee payable in accordance with the terms and conditions herein, the costs of which ("Payment", "additional fees", "invoices") are to be borne solely by the Renter. The Renter understands and agrees, the cost of shipping and handling of the Rental Package and the subsequent cost of insuring of the Rental Package during shipping is not included in the price of the Rental Package unless explicitly stated on the invoice as being included as part of a packaged price for the Rental Package. From time to time, and as a courtesy, the Rental Company shall contract, arrange and pay an outside contracted transportation provider for the shipping and handling of the Rental Package on behalf of the Renter. The Renter understands and acknowledges that this outside transportation vendor is not affiliated with the Rental Company and that the transportation equipment contracted is not owned by the Rental Company. As such, the Rental Company has no control over the transportation equipment or services other than providing the courtesy of contracting said services on behalf of the Renter, nor shall the Rental Company be liable or responsible in anyway, for service failures of any nature and for any reason, by the contract transportation vendor. .

If the Renter chooses to have the Rental Company arrange transportation for the Rental Package, on behalf of the Renter, the Rental Company will provide the Renter an invoice, to be invoiced directly from the Rental Company - not the transportation provider, for shipping and handling services procured on behalf of the Renter. The Renter understands and hereby agrees to directly pay the Rental Company ("Payment", "additional fees", "invoices") for the invoiced fees or costs including but not limited to, shipping, transportation, handling, detention time and/or damages caused by the Renter and/or the Renter's contractors, the Renter's volunteers, the Renter's assigns or the Renter's employees, to the Rental Package or transportation equipment, during the loading and or unloading process or while the Rental Package is transit. The Renter understands and acknowledges that any initial estimate or estimated costs for shipping, whether provided verbally or in writing, which are provided to the Renter more than three (3) weeks before the actual loading or unloading of the Rental Package onto contracted transportation equipment, for inbound or outbound shipments, shall be non-binding and may be subject to price fluctuations for reasons including but not limited to, fuel price changes, capacity changes, truck availability, weather, acts of god, breakdowns or any other factor which may raise or lower the price of the shipping and transportation from the initial estimate. Furthermore, the Renter understands that the Rental Company may have confidential and proprietary communications with the Rental Company's transportation vendors in order to arrange and procure shipment services of the Rental Package on behalf of the Renter. Except for a shipping cost and an invoice from the Rental Company and to be billed directly by the Rental Company and sent to the Renter, no copies of invoices, checks, payments, communications or other disclosures of any nature or type will be provided to the Renter as they relate to the communications, contracts or pricing agreements between the Rental Company and the Rental Company's vendors. These communications shall remain private and shall be considered trade secrets. These trade secrets shall, in all instances, remain private and shall not be released to the Renter, in whole or in part, in any circumstances regardless of whether the Renter believes it has a claim against the Rental Company or not.

Payment for the trucking MUST be received and clear the Rental Company's bank prior to any load being moved on behalf of the renter. Payment options include wire transfer, bank check or business check if received more than 7 days prior to the actual date of the shipment. For any money not received more than seven days in advance of the shipment, a wire transfer is the only option. This too must be received prior to the truck being dispatched.

The Renter always will have the option of arranging the shipping and handling of the Rental Package on their own, in which case the Rental Company shall have no shipping related liability or responsibilities beyond ensuring that the Rental Package is made available to the Renter at the previously agreed upon time and day. In the instance the Renter arranges their own transportation, the Renter shall be billed an "additional fee" for the loading and/or the unloading of the transportation equipment at the facilities of the Rental Company. This fee shall cover the costs of hiring labor to load and/or unload the Rental Package from the Renter's provided transportation equipment. Prior to the arrival of the transportation equipment contracted directly by the Renter, the Renter must schedule an appointment with the Rental Company for a time and date which is to be approved by both parties in writing. No unscheduled shipments or deliveries will be allowed. Additionally, the transportation equipment provided and/or contracted by the Renter must arrive within 1 (one) hour of the scheduled and agreed upon time. In the event the Renter's contracted transportation equipment is late, detention time equal to \$50 (fifty) per hour, per scheduled crew member shall apply and shall be directly payable to the Rental Company in consideration of the Rental Company scheduling labor to load and/or unload the Renter's provided transportation equipment. If the Renter's provided transportation equipment is more than 4 (four) hours late or requires rescheduling an appointment for another time or day, a minimum detention fee equal to \$50 (fifty) dollars, per crew member, per hour - for a four hour minimum per person - shall apply. In any and all instances where the Renter's provided transportation equipment is more than 4 hours late, the Rental Company shall have the exclusive option to postpone the loading and/or unloading of the transportation equipment to accommodate the schedules of the crew. Under no circumstance shall the Rental Company be liable to the Renter for any damages, fees, charges or any other amounts as a result of the postponement or rescheduling of the loading and/or unloading of the Renter's provided transportation equipment, even if the Rental Company has been advised of the possibility of any such damages, fees, charges or other amounts.

Irrespective of who arranges and contracts transportation, from time to time the Rental Company shall have the exclusive option to ship the Rental Package to the Renter directly from another location that is not a facility of the Rental Company or to send the Rental Package to another location that is not the facility of the Rental Company. This type of shipping shall henceforth be referred to as forwarding. Regardless of which party contracts transportation for the Rental Package, the Rental Company shall assume no liability or risk for any aspect of the transportation of the Rental Package including but not limited to: damage during transit, price fluctuations, delays or stoppages preventing Rental Package from arriving as scheduled, transportation equipment failures or

breakdowns or unfulfilled or modified duties or services of the transportation company.

**15. LOCATION.** The Rental Package is to be shipped to and returned from the performance location of the Renter ("Client and Production Information"). During the return or forwarding of the Rental Package from the performance location of the Renter, the Renter hereby acknowledges, understands and agrees that the Renter is fully and completely responsible for any and all damages or loss to the Rental Package regardless of if the damages or loss occurs during the loading of the Rental Package or during the actual return or forwarding transportation of the Rental Package due to including but not limited to, load-shifts, loading damage, crush damage or any other cause named or unnamed, intentional or unintentional.

Notwithstanding the forgoing, the Renter shall not be liable to the Rental Company for loss or damage to the Rental Package in instances where the trailer of the truck is damaged which for the purposes of this contract are limited to a collision, truck fire, or theft of the truck and trailer. The Renter shall remain liable for instances where the loading of the Rental Package causes damage to the trailer and/ or the Rental Package.

**16. RETURN.** Irrespective of which party arranges the return transportation, the Renter shall make the Rental Package available for pick up or forwarding ("forwarded"), and shall load -using their labor- the Rental Package onto the transportation equipment on the projected pick-up date ("Client and Production Information") unless other arrangements have been agreed to by both parties in writing. Irrespective of any claim the Renter may believe they have against the Rental Company, should the Rental Package not be made available for pick-up or forwarding, and loaded onto the transportation equipment, at the time and date set forth by the Rental Company in this agreement and listed on the attached invoice ("Client and Production Information"), then the Renter agrees to pay a daily Penalty Rate until the Rental Package has been made available for pick-up or forwarding and has been loaded onto the transportation equipment by the Renter. The Penalty Rate shall be \$400 (four-hundred dollars) per day plus any monies, damages, charges or fees that the Rental Company refunds or provides to other clientele of the Rental Company or the are charged and/or withheld from the Rental Company's other clientele.

The acceptance of the return of the Rental Package to the Rental Company upon the completion of the rental term is not a waiver by the Rental Company of any claims that it may have against the Renter. The Rental Company reserves the right to take up to 30 (thirty) days upon the return of the Rental Package to make a full and complete determination of the condition of the Rental Package. If any piece of the Rental Package received by the Rental Company is determined to be in damaged, destroyed or non-working condition, a loss or damage invoice will be issued to the Renter. Payment of this invoice shall be due as dated on the invoice.

The Rental Package will be deemed to have been returned and the responsibilities of the Renter, as detailed within this rental agreement, fulfilled once both of the following conditions have been met in full: 1) the Rental Package has been returned to the Rental Company facility and received by the Rental Company during normal business hours, or forwarded at the direction of the Rental Company and 2) the Rental Package has been determined to be in good working order after inspection by the Rental Company and to the satisfaction of same ("Inspection").

**17. WEAR AND TEAR.** Except as provided by law, the package is rented to the Renter without any other warranty or guarantee of any kind, expressed or implied, and the Rental Company assumes no responsibility unless agreed to in writing. The Renter hereby acknowledges, understands and agrees that the Rental Package may not be in perfect visual condition. Flaws may exist including but not limited to: blemishes, marks, scrapes, chips, loose accents, dents or scrapes. These types of flaws shall be considered normal wear and tear. Under no circumstances shall the Renter have any claim against the Rental Company for standard wear and tear or any other types of damages regardless of cause and no deductions, discounts or diminution shall be owed, charged or withheld from the total amount(s) owed under this agreement. The Renter shall be solely responsible for the repair of standard wear and tear found or caused during their rental term. The Rental Company may not bill the Renter for these types of flaws upon the conclusion of the rental term. From time to time, damage or loss to the Rental Package can happen in transit while en route to the Renter. If any such damage is discovered that exceeds normal wear and tear, as defined solely by the Rental Company, then the Rental Company shall make arrangements to have that damage repaired at its cost. The Renter shall have 24 (twenty-four) hours from actual delivery of the Rental Package to notify the Rental Company of any damage or loss. This notification must be made in writing and pictures of the damage or loss must accompany the written notification within the 24 (twenty-four) hours. Failure to provide notification and pictures within 24 (twenty-four) hours may result in the damages or missing portions of the Rental Package being billed to the Renter since it will no longer be possible to trace the source of the damage or loss to a particular rental.

**18. INSPECTION.** From the actual date of pick-up of the Rental Package by the Rental Company or upon receipt of a forwarded Rental Package, the Rental Company or its agents/ assigns shall have 30 (thirty) business days to inspect the Rental Package for damage or loss. In the event any damage is found or any or all of the Rental Package is lost, at its sole discretion, the Rental Company shall have the option to either bill the Renter to repair or replace the damage or lost portions of the Rental Package. Damage, purposeful or not, is defined to include but not be limited to, negligence, dropping, crush damage, items ripped apart, damage from tipping, moisture damage, any type of abuse, or any other alteration, addition to or subtraction of any or all of the set pieces that are not in the original condition. Loss is defined as any or all portions of the Rental Package not returned to the Rental Company or forwarded.

**19. DAMAGES/LOSS POLICY.** In the event of any damage, loss or non-return for any reason of any or all of the Rental Package that is discovered by the Rental Company through the inspection of the Rental Package, the Renter understands, acknowledges and agrees they shall be held exclusively responsible for the full repair and/or replacement costs to repair or replace any and/or all items. These repair and/or replacement costs are plus applicable taxes, reasonable rush fees if applicable and are without deduction for depreciation, age or wear. The Renter understands that many of these items are custom creations and may not have an applicable and comparable market value. Renter agrees to pay the amount assessed by the Rental Company. In the event that any portions or of the Rental Package are left behind, forgotten or for any other reason are not forwarded, or return shipped back to the Rental Company ("forgotten item(s)") at the time of the initial return or forwarding ("Client and Production Information"), then at the sole discretion of the Rental Company, the Renter agrees to either 1.) return ship or forward the left behind pieces at the Renter's cost or 2.) pay the Rental Company an amount equal to the cost to rush replace the forgotten item(s) plus an administrative fee of 50%. The rush cost to replace the forgotten item(s) may include but shall not be limited to: cost of materials, cost of labor, shipping and delivery costs, loss of rents, and refunds owed to a future client.

**20. RIGHT OF ENTRY AND INSPECTION.** The Rental Company and/or its agents shall have the right to inspect the Rental Package at any time during the rental term. The Renter shall make any and all arrangements necessary to permit a qualified employee of the Rental Company and/or its agents access to the location of the package.

**21. AGREEMENT DEFAULT AND BREACH DEFINITIONS.** The Rental Company may declare this agreement in default if: (i) Renter breaches its obligation to pay rent or any other sum owing to the Rental Company (under this agreement or otherwise) when due and fails to cure the breach within five (5) business days of written notification of past due balance(s) (ii) Renter breaches any of its insurance obligations under section ("Insurance Certificates"); (iii) Renter assigns any of its interests in the agreement without the prior written consent of the Rental Company; (iv) Renter breaches any of its other obligations under this agreement and fails to cure that breach within five business (5) days after written notice from the Rental Company; (v) Any representation or warranty made by Renter in connection with this agreement shall be incorrect, false, or misleading in any material respect. (vi) Renter hereunder becomes insolvent or ceases to do business as a going concern. (vii) A petition is filed by or against the Renter under any bankruptcy or insolvency laws (in which event it shall be an immediate event of default) and in the event of an involuntary petition, the petition is not dismissed within fifteen (15) days of the filing date, (viii) any material change occurs in the ownership or financial condition of the Renter or (ix) the Renter fails to return the package by the stipulated date ("Client and production information").

**22. AGREEMENT DEFAULT AND BREACH REMEDIES.** Upon the occurrence of an event of default hereunder, the Rental Company shall have the exclusive option to: (i) declare the aggregate rental or additional fees payable immediately due and payable as referenced herein (ii) declare all other amount(s) due the Rental Company hereunder immediately due and payable. (iii) take possession of the Rental Package or any of its component parts and remove same from its existing location without notice or consent of the Renter, regardless of whether the Renter has performances ongoing or not. All costs of such removal, including but not limited to airfare, technicians time, hotels, market rate per-diem, vehicular rentals and return shipping to the facilities of the Rental Company will be at the sole cost of the Renter. (iv) take legal action against the Renter so as to recover any property owned or managed by the Rental Company and/or recover any damages caused directly by the action or inaction of the Renter. The Renter acknowledges, agrees and understands in all cases of legal action, the Renter shall bear all costs of the recovery of any and all monies owed to the Rental Company plus additional costs including but not limited to, legal costs, court fees and interest.

**23. DELAYS IN PROVIDING REQUIRED INFORMATION.** Failure to provide any payment or documentation in the manner as stipulated herein ("Front Row Theatrical Rental, LLC rental agreement") will result in the shipping of the Rental Package being delayed until such a time as the conditions herein ("Front Row Theatrical Rental, LLC rental agreement") have been met to the satisfaction of the Rental Company. In any instances where the shipping of the Rental Package is delayed due to failure to receive properly cleared funds or appropriate documentation ("Front Row Theatrical Rental, LLC rental agreement"), the Renter acknowledges, understands and agrees that the Rental Company will provide no reimbursements, deductions or any other type of financial (or otherwise) considerations by Rental Company. Furthermore, in cases of non-receipt of payment or documentation the Renter agrees to hold harmless and indemnify the Rental Company in accordance with this rental agreement ("Indemnification").

**24. COST OF ENFORCEMENT.** The prevailing party shall have their costs incurred in the enforcement of this rental agreement paid by the losing party except in instances of Renter's breach of any provision of this Agreement. In instances of Renter's Breach, the Renter shall solely be responsible for the costs of enforcing the terms of this rental agreement.

**25. RENTER'S ACTIONS.** In the event the Renter believes it has any claim against the Rental Company arising out of or relating to this rental agreement, the Renter shall notify the Rental Company of any such claim in writing, via certified or registered mail, within 10 (ten) days from the date the Renter knows, or has reason to know, of any such claim ("Notification Period"). All such claims against the Rental Company shall be submitted to arbitration by initiating the arbitration not later than one (1) year after occurrence of the act or omission giving rise to the claim. Any failure to notify the Rental Company of the claim within the Notification Period, or failure to initiate arbitration proceedings within one (1) year after occurrence of the act or omission giving rise to the claim, shall relieve the Rental Company of any liability or obligation with respect to the claim and shall constitute an absolute bar to the initiation of any proceedings (including without limitation legal, equitable, or arbitral proceedings pursuant to this section) based on such act or omission.

**26. ARBITRATION.** Any controversy or claim arising out of or relating to this rental agreement (including whether a particular dispute is arbitrable hereunder) shall be resolved by submission to binding arbitration. Controversies or claims shall be submitted to arbitration regardless of the theory under which they arise, including without limitation contract, tort, common law, statutory, or regulatory duties or liability. The aggrieved party may initiate arbitration by sending written notice of an intention to arbitrate to all parties, such notice to include a description of the dispute, the amount involved, and the remedy sought. Each party irrevocably agrees that service of process, notices or other communications relating to the arbitration procedure shall be deemed served and accepted by the other if given in accordance with the provisions of this rental agreement. Any arbitration hearing shall be held in the county in which the aggrieved party believes they have a claim, before a single neutral arbitrator. In the event of failure to agree upon a single arbitrator, one arbitrator shall be selected by each party, and the two arbitrators shall appoint a third arbitrator. The decision of the majority of the three (3) arbitrators on all such matters shall be final and conclusive. Any award rendered in the arbitration shall be final, non-appealable, and binding upon the Renter, and judgment may be entered thereon in any court of competent jurisdiction. Any award rendered shall be limited to actual damages sustained by the party in whose favor judgment is rendered, and no consequential, punitive, exemplary, special or multiplied damages, nor any award of attorney's fees or out of pocket legal costs or expenses, shall be awarded. The award of the arbitrator shall be in writing stating the reasons for the arbitrator's ruling, with one counterpart delivered to each party. An arbitrator may not award relief in excess of or inconsistent with the provisions of this rental agreement, order consolidation or arbitration on a class-wide basis, or award punitive, incidental, or consequential damages.

The Renter shall bear the fees of the arbitrator(s). WHETHER DISPUTES BETWEEN THE RENTAL COMPANY AND THE RENTER ARE RESOLVED BY ARBITRATION OR SOME OTHER PROCEEDING, THE RENTER HEREBY WAIVES (1) ANY RIGHT TO A TRIAL, (2) ANY CLAIMS TO RECOVER PUNITIVE, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES, AND (3) ANY RIGHT TO PURSUE, OR PARTICIPATE AS A PLAINTIFF OR AS A CLASS MEMBER IN, CLAIMS ON A CLASSWIDE, CONSOLIDATED, OR REPRESENTATIVE BASIS.

Notwithstanding the foregoing, and in the sole discretion of the Rental Company, the Rental Company shall have the exclusive right to institute legal or equitable proceedings to assert claims by the Rental Company for amounts owed by the Renter to the Rental Company in connection with the Renter's rental of the Rental Package, to enforce the Rental Company's security interest therein, or to reclaim property owned by the Rental Company through attachment, or similar proceeding. The Rental Company's institution and prosecution of legal or equitable proceedings under this paragraph are not and shall not be deemed to be a waiver of the parties' agreement to arbitrate any claim not specifically addressed by this paragraph. Any claim asserted in such an action not specifically addressed by this paragraph shall be stayed or dismissed pending arbitration pursuant to the provisions of this paragraph.

**27. INDEMNIFICATION.** The Renter and/or its agents agree to indemnify the Rental Company agents and to hold the Rental Company and its employees, private contractors, owners, agents and all others associated with the Rental Company harmless against any and all losses, damages, claims, costs, suits, demand or liability of any kind or nature whatsoever, including legal expenses arising from the use, or operation of the package, and by whosoever used or operated during the rental term. This indemnification shall continue in full force and effect during and after the term of the rental for causes arising during the term of the rental. Under no circumstance shall the Rental Company be liable for any consequential, indirect or incidental damages, including but not limited to lost revenues or profits or loss of goodwill, based on any claim by the Renter arising under this agreement, even if the Rental Company has been advised of the possibility of such damage.

**28. RENTAL COMPANY RIGHTS. THE RIGHTS OF THE RENTAL COMPANY ARE NOT AFFECTED BY NON-PERFORMANCE OF THE RENTER.**

**29. ENTIRE AGREEMENT.** This rental agreement shall constitute the complete and exclusive agreement between the parties respecting the subject matter hereof and shall supersede all prior agreements, proposals, understandings, representations and communications between the parties relating hereto. This Agreement may be amended only by subsequent writing that specifically refers to this Agreement and that is signed by both parties. Delay or failure by any party in exercising any right provided by this Agreement shall not be construed as a future waiver or intention to waive the same or any other right hereunder. If any provisions of this Agreement or associated addendums shall be unlawful or otherwise unenforceable, such provisions shall be severed and, the remainder of this Agreement shall continue in full force and effect. The undersigned agrees to all terms and conditions of this agreement set forth within and agrees to pay the assessed charges as determined by this rental agreement. Additionally, the undersigned agrees that all charges, representations and information are accurate.

**30. ADDENDUMS.** From time to time, addendums may be added to this contract when agreed to by both parties in writing. The terms and conditions of each addendum are integral to this contract but shall not supersede any provision herein. In the event of conflicting terms, this agreement shall prevail in all circumstances ("Front Row Theatrical Rental, LLC Rental Agreement").

**31. AUTHORIZED SIGNATORY.** The individual executing the rental agreement warrants that he/she has full authority to sign the rental agreement and obligate the legal entity (Renter) as defined herein.

\_\_\_\_\_ Initial

32. TITLES, NUMBERS & HEADINGS. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their duly authorized representative as set forth below:

Kassi Bybee

Renter's Signature

Kassi Bybee

Printed Name

General Manager

Title

Ordeu Eccles Conference Center  
Scenic Egyptian Theater

Organization

3/23/2021

Date

Brett Rothstein

Rental Company Representative

Brett Rothstein

Printed Name

March 24 2021

Date

BOARD OF COUNTY COMMISSIONERS  
OF WEBER COUNTY

By \_\_\_\_\_  
James H. "Jim" Harvey, Chair

Commissioner Harvey voted \_\_\_\_\_  
Commissioner Jenkins voted \_\_\_\_\_  
Commissioner Froerer voted \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Ricky Hatch, CPA, Weber County Clerk/Auditor