



**LEASE BETWEEN THE CITY OF PITTSBURGH AND PITTSBURGH BALLET THEATER
FOR THE LEASE OF PREMISES BETWEEN 29TH AND 30TH STREETS AND BETWEEN
LIBERTY AVENUE AND SPRING ALLEY IN THE 8TH WARD (INCLUDING DENNY PARK)
REPLACING AND SUPERSEDING THE DECEMBER 14, 2010 LEASE**

THIS LEASE made and entered into as of the ____ day of _____ by and between the CITY OF PITTSBURGH, a home rule charter municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania (“Landlord”), and the PITTSBURGH BALLET THEATER, a non-profit organization duly existing under the laws of the Commonwealth of Pennsylvania (“Tenant”).

NOW, THEREFORE, intending to be legally bound, for and in consideration of the mutual promises hereinafter set forth, the parties hereto agree as follows:

ARTICLE I: Defined Terms

Section 1.01. Demised Premises. As used herein, the term “Demised Premises” will mean the real property and improvements located thereon located between 29th and 30th Streets and between Liberty Avenue and Spring Alley in the 8th Ward of the City of Pittsburgh, including the basketball court and playground equipment, designated as Lot 244, Block 25-G, by the Deed Registry of Allegheny County, more fully described in Exhibit “A” attached hereto and incorporated herein.

Section 1.02. Denny Park. As used herein, the term “Denny Park” will mean the portion of the Demised Premises that has been designated as a park, including the basketball court.

Section 1.03. Parking Area. As used herein, the term "Parking Area" will mean the portion of the Demised Premises, including improvements, designated for a parking lot in accordance with the plans attached to this Lease as Exhibit "B."

Section 1.04. Event of Default. As used herein, the term "Event of Default" will mean any event set forth in paragraphs (i) through (v), inclusive, of Section 17.01 hereof.

Section 1.05. Imposition. As used herein, the term "Imposition" will mean any tax, assessment, excise, levy, license or permit fee or other governmental charge, general and specific, ordinary and extraordinary, unforeseen and foreseen, of any kind and nature whatsoever which at any time during the Term may be assessed, levied, confirmed, imposed upon, or grow or become due and payable out of or in respect of, or become a lien on (i) the Demised Premises or any part thereof, (ii) the rent, income or other payments received by Tenant or anyone claiming by, through or under Tenant, (iii) any use or occupation of the Demised Premises or any part thereof, (iv) those franchises as maybe appurtenant to the use of the Demised Premises or any part thereof and (v) this Lease, or any document to which Tenant is a party, creating or transferring an interest or estate in the Demised Premises or any part thereof.

Section 1.06. Landlord. As used herein, the term "Landlord" will mean the City of Pittsburgh, a home rule charter municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania, or any successor or assign thereof.

Section 1.07. Tenant. As used herein, the term "Tenant" will mean the Pittsburgh Ballet Theater, a non-profit organization duly existing pursuant to the laws of the Commonwealth of Pennsylvania.

Section 1.08. Term. As used herein, the term "Term" will mean the period of time described in Section 4.01 hereof.

Section 1.09. Licensed Area. An area 34 feet by 37 feet included in Denny Park upon which the City has constructed a play structure (the "Structure") or comparable replacement therefore. The location is further described in Exhibit "B-1" attached hereto and incorporated herein.

ARTICLE II: Lease of Demised Premises

Section 2.01. Lease of Demised Premises. Landlord hereby demises and leases to Tenant and Tenant hereby hires and takes from Landlord all of the interest of Landlord in and to the Demised Premises for the uses and purposes set forth in this Lease.

Section 2.02. License Back to Landlord. Tenant hereby licenses back to Landlord the Licensed Area for the uses and purposes set forth in this Lease.

ARTICLE III: Rent

Section 3.01. Consideration in Lieu of Rent. During the term of the lease, Tenant will perform the following services for the benefit of the City at Tenant's sole cost and expense:

(a) Tenant will maintain and clean on a daily basis, keep safe and in good repair, free of all trash and litter, at its sole cost, the Demised Premises, including but not limited to all recreational facilities and equipment; provided that while Tenant will remove trash and litter from around the Structure on the Licensed Area, the Structure and safety surface under and around it will in all other respects be the responsibility of the Landlord. Tenant will also ensure that grass is maintained at a height of 2 ½” or as may otherwise be required by the Director of the Department of Public Works.

(b) By permitting this Lease, the City is neither intending to delegate its duties nor abdicate its constitutional responsibilities for municipal improvements.

ARTICLE IV: Term

Section 4.01. Term; Replacement and Supersession of 2010 Lease. The term of this Lease will commence effective upon execution hereof and will terminate on the last day of the month in which the twenty-ninth (29th) anniversary of the effective date of this Lease occurs. AS OF THE DATE OF ITS EXECUTION, THIS LEASE REPLACES AND SUPERSEDES THE

LEASE BETWEEN THE SAME PARTIES FOR THE SAME PREMISES DATED DECEMBER 14, 2010.

Section 4.02. Term of License Back. The term of the Licensed Area will be concurrent with the Lease Term for so long as Landlord maintains the Structure and safety surface according to City playground specifications. Landlord may terminate this License and remove the Structure at any time without penalty upon thirty (30) days' prior written notice to Tenant.

Section 4.03. Right of First Refusal. If, at or before the termination of the Term of the Lease described in Section 4.01 above, the Landlord proposes or receives a proposal to lease the Demised Premises or any portion of them to one or more third parties, Tenant will have the right of first refusal to match any bona fide offer made by any that third party and acceptable to Landlord, in which case this Lease will be extended for the term and upon the terms contained in that bona fide third party offer(s), subject to any required City Council approval. Tenant will have thirty (30) days from the date Landlord informs Tenant of any that bona fide third party offer to give Tenant's formal, binding agreement to match that offer, failing which agreement Tenant's occupancy of the Demised Premises will expire at the conclusion of the tem set forth in Section 4.01 herein.

ARTICLE V: Uses

Section 5.01. Permitted Use. Tenant will use and occupy the Demised Premises for the sole purposes of 1) for maintaining a City-owned, public recreational facility, including but not limited to, allowing for potential, occasional, public performances and celebrations particularly highlighting the resources of the Pittsburgh Ballet Theater. Tenant understands that the public recreational facility remains open to the public and can be programmed for community events not sponsored by Pittsburgh Ballet Theater; and 2) operating a parking facility for park patrons and open for the use of ballet patrons and officers, directors and/or employees of the Pittsburgh Ballet

Theater. No other uses will be permitted except with the prior written approval of Landlord, and Landlord reserves the right of inspection to enforce this paragraph and any breach hereof will be considered material and will be grounds for the termination of the lease with thirty (30) days written notice at Landlord's election. Tenant may not designate particular parking spots for use by ballet patrons and officers, directors and/or employees of the Pittsburgh Ballet Theater nor may Tenant erect signs tending to suggest that the parking lot is exclusively for the use of those connected to Pittsburgh Ballet Theater. The foregoing notwithstanding, it is understood that Tenant meets its obligation under this paragraph with respect to unauthorized third parties parking on the Demised Premises by directing them to remove their vehicles and, failing compliance, reporting those parties to Landlord's Police Department.

Section 5.02. Use by Park Patrons. Tenant will allow at all times patrons of Denny Park to use the Parking Area constructed on the Demised Premises at no charge. Tenant will therefore keep the Parking Area open for public use during regular park hours for the City of Pittsburgh, or those other times as approved by the Director of the Department of Public Works. Tenant understands that the entire Parking Area will be open for public use during Tenant's off-hours and will erect a sign or signs indicating the hours that all parking spaces are available to the public.

Section 5.03. Tenant's Sole Cost. Tenant's maintenance and use of Demised Premises herein will be at its sole cost and expense, and Landlord will have no responsibility whatsoever therefore nor be expected or required to make any payment of any kind whatsoever or be under any obligation or liability hereunder except as is otherwise expressly set forth herein.

Section 5.04. Nondiscrimination. Tenant will not effect or execute any covenant, agreement, lease, conveyance, or other instrument whereby the use of the Demised Premises is restricted upon the basis of age, race, sex, color, religion or national origin in the occupancy thereof, nor discriminate in the use of the Demised Premises or any part thereof against any person

because of age, race, sex, color, religion, or national origin. Tenant will conform with all applicable discrimination provisions of the Pittsburgh Code, specifically those appearing in Title VI, "Conduct", Article V, "Discrimination", and any amendments thereto. Tenant will also comply with the applicable provisions of Title I and Title II of the Americans with Disabilities Act, any amendments thereto and any regulations issued thereunder. Tenant will incorporate in any subleases which may be permitted under the terms of this Lease a requirement that said subtenants will also comply with said provisions.

Section 5.05. No Waste. Tenant will not do or suffer any waste or damage, disfigurement or injury to the Demised Premises or any part thereof.

Section 5.06. Use of Licensed Area. Landlord may maintain the existing Structure or a comparable replacement for it as well as a safety surface as recommended by the manufacturer and in compliance with City playground specifications. The Structure, safety surface, and any replacements have/will be deemed additions or improvements to the Demised Premises permitted by Landlord pursuant to Section 6.01 of this Lease.

Section 5.07. First Amendment Rights. Because the use of publicly-held property may give rise to First Amendment entitlements, any policy of the Tenant regarding the rights of individuals or groups to hold public assemblies, demonstrations, or meetings in or around the Premises will be subject to prior review and approval of the City Solicitor.

Section 5.08. Right to Use Name; Naming Rights. The Tenant will have no right to change the name of the Demised Premises, which is currently known as "Denny Park." Additionally, the Tenant will have no right to designate or re-name any portion thereof without the prior written consent of the City Solicitor.

ARTICLE VI: Improvements

Section 6.01. Alterations, Additions and Improvements. Tenant will not make or construct any alterations, additions or improvements on the Demised Premises, including but not limited to a performance area of any size and at any cost, without in each instance obtaining the prior written approval of the applicable plans and specifications by Landlord, provided that that approval is not unreasonably withheld or delayed. Costs of any those alterations, renovations, additions or improvements will be borne entirely by the Tenant. Landlord will also have the option, but not the duty, to make alterations, additions or improvements to the Demised Premises. If any such project has, or is anticipated to have, a value equal to or in excess of fifty thousand dollars (\$50,000.00) and a minimum useful life of five (5) years, Tenant and Landlord will craft and will execute a Project License Agreement for the Demised Premises, providing with greater particularity the details of the anticipated work, and without which the anticipated or desired major renovation or work will not proceed. **Tenant understands that: (1) any alterations, additions, or improvements may not change the ratio of park green space to vehicle parking at the Demised Premises; (2) the number of parking spaces may not be increased beyond the current number of spaces; and (3) construction of major improvements upon the site will be pursued in a single phase with the full development of the recreational facility simulataneuosly with the parking facility.**

Section 6.02. Fixtures and Equipment. Tenant, at its own expense, will provide and install all fixtures and equipment (including but not limited to appropriate lighting) to the Demised Premises that are necessary for the permitted uses or for the safety of the users or that are desirable by Tenant for the uses permitted in Article V hereof. Prior to the termination of this Lease, Tenant will remove the same from the Demised Premises, other than those items of personalty which have been furnished by Landlord or which are so affixed that their removal cannot be

accomplished without damage to the Demised Premises. Should Tenant fail to remove said fixtures and equipment prior to the termination of the Lease, Tenant will lose all right, title and interest thereto, and Landlord may elect to keep same upon the Demised Premises or to sell or remove same at Tenant's expense.

Section 6.03. Ownership of Improvements. Ownership of all structures or improvements constructed by Tenant upon the Demised Premises and all alterations, additions or betterments constructed by Tenant thereto will be retained by Tenant until termination of this lease. Upon termination thereof, whether by expiration of the term, cancellation, forfeiture or otherwise, ownership thereto will vest in Landlord, without compensation being paid therefore, and those structures, improvements, alterations, additions and betterments will be surrendered with the Demised Premises, unless demand is made for the removal of structures and improvements not approved by Landlord. That demand will be given by Landlord at least fifteen (15) days prior to the date of termination. If That demand is made by Landlord of Tenant for removal, Tenant will at Tenant's sole cost and expense promptly remove the unapproved improvements, alterations, additions, and betterments, which were placed in the Demised Premises by Tenant and which are designated in said notice, and repair any damage occasioned by That removal and restore the Demised Premises to the condition in which they were prior to those improvements, alterations, additions and betterments. Should Tenant fail to remove same, they may be sold, removed or demolished and Tenant will reimburse Landlord for any cost or expense, which Landlord may incur in connection therewith as determined by Landlord in excess of any consideration received by Landlord as a result of said sale, removal or demolition.

ARTICLE VII: Impositions

Section 7.01. Payment of Impositions. Tenant will pay, before any fine, penalty, interest or cost may be added thereto, or become due or be imposed by operation of law for the non-payment thereof, all Impositions related to the Demised Premises during the Term; provided, however, that if, by law, any Imposition may at the option of the taxpayer be paid in installments (whether or not interest will accrue on the unpaid balance of that Imposition), Tenant may exercise the option to pay the same (and any accrued interest on the unpaid balance of that Imposition) in installments and, in that event, will pay those installments as may become due during the Term as the same respectively become due and before any fine, penalty, further interest or cost may be added thereto; provided, further, however, that the amount of all installments of any such Imposition which are to become due and payable after the expiration of the Term shall be paid on or before the date of expiration. It is further provided that any Imposition aforesaid relating to a fiscal period of the taxing authority, a part of which period is included in a period of time after the expiration of the Term, will (whether or not that Imposition will be assessed, levied, confirmed, imposed upon or in respect of or become a lien upon the Demised Premises or will become payable during the Term) be apportioned between Landlord and Tenant as of the expiration of the Term.

Section 7.02. Tenant's Right to Contest.

(a) Tenant will have the right to contest the amount or validity, in whole or in part, of any Imposition by appropriate proceedings diligently conducted in good faith but only after payment of that Imposition.

(b) Except as otherwise provided in this Lease, Tenant will be entitled to any refund of any Imposition and penalties or interest thereon received by Landlord which have been paid by Tenant, or which have been paid by Landlord but previously reimbursed in full by Tenant.

ARTICLE VIII: Insurance

Section 8.01. Contractual Liability Insurance. Tenant will, in addition to any other insurance required to be maintained by Tenant under the provisions of this Article VIII, maintain standard contractual liability insurance during the Term covering Tenant's indemnification of Landlord as provided in Section 14.01 hereof with limits of not less than those provided for in Section 8.02 hereof.

Section 8.02. Public Liability Insurance. Tenant will maintain during the Term comprehensive general public liability (including products and personal injury) and property damage insurance against claims for personal injury, bodily injury, death or property damage occurring on or in the Demised Premises (other than the Licensed Area) with a combined single limit of coverage of not less than One Million Dollars (\$1,000,000).

Section 8.03. Automobile Liability Insurance. Tenant will maintain automobile liability and property damage and bodily injury, including death and property damage combined, insurance with minimum limits of coverage in the amount of Five Hundred Thousand Dollars (\$500,000) per occurrence and One Million Dollars (\$1,000,000) in the aggregate.

Section 8.04. Compliance with Terms of Insurance Policies. Tenant will not knowingly violate or knowingly permit to be violated any of the conditions or provisions of any policy provided for in this Article VIII and Tenant will so perform and satisfy the requirements of the companies writing those policies that at all times companies of good standing reasonably satisfactory to Landlord will be willing to write and/or to continue that insurance.

Section 8.05. Insurance Policies. Upon the commencement of the term and thereafter not less than ten (10) days prior to the expiration dates of any expiring policies of insurance required pursuant to this Section 8.06, certificates of insurance duly executed by the officers or authorized representatives of the above insurers and evidencing the minimum coverages required in this

Article VIII and the City's designations as an additional insured will be delivered by Tenant to Landlord. All insurance provided for in this Article VIII will be effected under valid and enforceable policies issued by insurers with a rating reasonably acceptable to Landlord and who are licensed to do business in the Commonwealth of Pennsylvania. All insurance coverage will be on an occurrence, not claims-made basis, and all premiums will be at the expense of Tenant.

Section 8.06. Insureds. All policies of insurance provided for in Sections 8.01, 8.02, 8.03 and 8.04 hereof will name Tenant as an insured. All policies of insurance provided for in Sections 8.01 and 8.03 hereof will also name Landlord as an additional insured. The loss, if any, under any policies provided for in Section 8.02 hereof will be adjusted with the insurance companies by Tenant; the proceeds of any that insurance, as so adjusted, will be payable to Tenant for the purposes set forth in Article XV hereof. Each policy will contain an agreement by the insurer that the policy will not be canceled without at least ten (10) days prior written notice to Landlord.

Section 8.07. Workmen's Compensation Insurance. Tenant hereby certifies that it has accepted the provisions of the Pennsylvania Workers Compensation and Occupational Disease Acts, as amended and supplemented, insofar as any work covered by this Lease is concerned, and either that it has insured its liability thereunder in accordance with the terms of said Acts, or that it has duly filed a proper certificate of exemption from insurance with the Pennsylvania Department of Labor and Industry.

Section 8.08. Blanket Policies. Any insurance provided for in this Article VIII may be effected by a policy or policies of blanket insurance; provided, however, that the amount of the total insurance allocated to the Demised Premises will be such as to furnish the equivalent of separate policies in the amounts herein required; and provided further that in all other respects, any policy or policies will comply with all other provisions of this Article VIII.

Section 8.09. Waiver of Right of Subrogation. Tenant hereby waives to the fullest extent permitted by law any right of subrogation that its insurance carriers may have from time to time against Landlord and Landlord's employees and agents, and their respective heirs, personal representatives and assigns. For the purposes of this Section 8.10, Tenant will cause to be delivered to Landlord certificates issued by Tenant's insurance carriers acknowledging the foregoing waiver of that right of subrogation.

ARTICLE IX: Services to, and Repairs and Maintenance of, the Demised Premises

Section 9.01. No Services by Landlord. Landlord will not be required to furnish any services or facilities or to make any repairs or alterations, additions or improvements in or to the Demised Premises (other than for the Licensed Area as set forth herein).

Section 9.02. Services, Maintenance and Repair by Tenant. Tenant will furnish at its sole cost and expense all services, repairs (structural or otherwise) and facilities necessary or related to Tenant's use of the Parking Area (including but not limited to the satisfaction of all Building Code and other requirements related to maintaining occupancy of the Demised Premises) and to the preservation and maintenance of Denny Park (other than the Licensed Area) and, subject to the provisions of Article VI hereof, will at its sole cost and expense make any alterations, additions or improvements on or to the Demised Premises which are necessary for the uses permitted and obligations required hereunder or which are deemed desirable by Tenant. Tenant will at all times maintain the Demised Premises (other than the Licensed Area) in a safe condition. **Routine maintenance will include, but not be limited to, emptying refuse cans in the park on a regular basis and snow removal at the parking lot as needed.** Tenant will immediately remedy or otherwise protect the public from any dangerous conditions that arise on the Demised Premises (other than the Licensed Area.) Tenant will notify Landlord immediately of any dangerous

condition and inform Landlord of the steps being taken to protect the public. Tenant will likewise immediately notify Landlord of any dangerous condition it becomes aware of on the Licensed Area. Tenant will also inform the Landlord in the event that graffiti occurs in/on the Licensed Area.

Section 9.03. Security. In the event Tenant desires security for the Demised Premises, Tenant will furnish and be responsible for that security for the Demised Premises.

ARTICLE X: Applicable Laws

Section 10.01. Compliance with Laws, Ordinances, etc. and Agreements. Tenant will fully obey and comply with all federal, state and local laws, statutes, ordinances, resolutions and administrative regulations, which are or will become applicable to Tenant's use of the Demised Premises.

Section 10.02. Right to Contest. Tenant will have the right to contest by appropriate proceedings diligently conducted in good faith the validity or application of any law, ordinance, order, rule, regulation or requirement of the nature referred to in Section 10.01 hereof. If by the terms of any such law, ordinance, order, rule, regulation or requirement, compliance therewith pending the prosecution of any proceeding may legally be delayed without the incurrance of any lien, charge or liability of any kind against the Demised Premises or Tenant's leasehold interest therein and without subjecting Tenant or Landlord to any liability, civil or criminal, for failure so to comply therewith, Tenant may delay compliance therewith until the final determination of proceeding.

ARTICLE XI: Prohibition Against Liens

Section 11.01. Waiver of Mechanic's Liens. Tenant will not cause or permit any work to be done upon or any materials or services furnished to any portion of the Demised Premises in

connection with the improvement, alteration or repair thereof, except under a contract or contracts which effectively waive to the fullest extent permitted by law any right to file a mechanic's lien or claim against the Demised Premises or any part thereof. Tenant will cause a duly executed no-lien certification to be filed with respect to each contract in the Office of the Prothonotary, County of Allegheny, Commonwealth of Pennsylvania, prior to the commencement of any work or the delivery of any materials thereunder.

Section 11.02. Prohibition Against Encumbrances. Tenant will not create or permit to be created or to remain, and will discharge, any lien, encumbrance or charge (levied on account of any mechanic's, laborer's or materialman's lien or any conditional sale, title retention agreement or chattel mortgage, or otherwise) which might become a lien, encumbrance or charge upon the Demised Premises or any part thereof or the income therefrom, having any priority or preference over or ranking on a parity with the estate, rights and interest of Landlord in the Demised Premises or any part thereof or the income therefrom and Tenant will not suffer any other matter or thing whereby the estate, rights and interest of Landlord in the Demised Premises or any part thereof might be impaired; provided, however, that any mechanic's, laborer's or materialman's lien may be discharged in accordance with the provisions of Section 11.03 hereof.

Subject 11.03. Tenant's Right to Contest. If any mechanic's, laborer's or materialman's lien will at any time be filed against the Demised Premises or any part thereof, Tenant will with all due diligence cause the same to be discharged of record by payment, deposit, bond, order of court of competent jurisdiction or otherwise. If Tenant will fail to cause that lien to be discharged within forty-five (45) days then, in addition to any other right or remedy, Landlord may, but will not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of, that lien by deposit or by bonding proceedings, and in any such event Landlord will be entitled, if Landlord so elects, to compel the prosecution of an action for the foreclosure

of that lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest, costs, allowances and attorney's fees. Any amount so paid by Landlord and all costs and expenses incurred by Landlord in connection therewith will constitute additional Rent payable by Tenant under Section 3.02 hereof.

Section 11.04. No Implied Request by Landlord. Nothing in this Lease will be deemed or construed in any way as constituting the request of Landlord, express or implied, by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration to or repair of the Demised Premises or any part thereof.

ARTICLE XII: Landlord's Right to Perform Covenants

Section 12.01. Defaults Under Lease. Landlord will have the right to terminate this Lease upon the material breach by Tenant of any of the terms or conditions of the Lease, subject to the notice and cure provisions provided herein. In addition to the terms and conditions otherwise set forth herein, Landlord also retains the right to terminate this Lease in the event that Tenant becomes insolvent during the Lease Term or in the event that Tenant allows the Leased Premises to fall into a state of disrepair or there is a failure by Tenant to ensure that the use is limited as set forth herein. Upon such a material breach of the terms or conditions of the Lease by the Tenant, Landlord will notify Tenant in writing of the specific provisions of the Lease under which Tenant is in default. Tenant will have thirty (30) days from the date of receipt of the notice of default in which to cure the default and to notify Landlord in writing of that cure, except that if such default is such that it cannot be cured within thirty (30) days, Tenant will have that additional time as may be necessary to cure that default so long as Tenant proceeds with diligence with curing that default.

If Tenant fails to cure the default and notifies the Landlord within that period, or that additional period, or fails to promptly commence to cure a default that cannot be cured within thirty (30) days, Landlord will have the right, upon sixty (60) days' prior written notice to Tenant, to terminate this Lease, re-enter and repossess the Premises by whatever means are necessary or to take any other action that Landlord believes is in its best interests.

Section 12.02. Cost to Cure as Additional Rent. All sums paid by Landlord pursuant to this Article XII and all costs and expenses incurred by Landlord in connection with the performance of any such act will constitute rent payable by Tenant under Section 3.01 hereof.

ARTICLE XIII: Entry on Property by Landlord

Section 13.01. Right to Inspect. Landlord will have the right, upon reasonable notice, to enter upon and into the Demised Premises during reasonable hours for the purposes of inspecting the same or determining whether Tenant is complying with the terms and conditions hereof.

Section 13.02. Right to Take Emergency Action. In addition to the rights of Landlord under Article XII hereof, Landlord will have the right (but will not be required) to enter the Demised Premises without the consent of Tenant at any time to correct any situation which, in the sole discretion of Landlord, is deemed to be of an emergency nature. Tenant agrees to pay promptly upon demand any reasonable expense incurred by Landlord in taking that action.

13.03. Right of Entry. Landlord or its agents will have the right to enter the Demised Premises upon reasonable notice (or without notice in an emergency, as determined by the sole discretion of the Landlord) in order to maintain, repair or replace any utility lines that traverse on, under, through or over the demised premises.

ARTICLE XIV: Indemnification

Section 14.01. Indemnification by Tenant. Tenant will indemnify, protect and save harmless Landlord and each and every director, officer, employee and agent of Landlord, and their respective heirs, personal representatives and assigns, against and from all liabilities, obligations, damages, penalties, claims, costs and expenses of every nature, including reasonable architect's and attorney's fees, arising from Tenant's use, maintenance, and/or occupancy of the Demised Premises (other than the Licensed Area) and Tenant's obligations under this Lease.

ARTICLE XV: Damage or Destruction

Section 15.01. Repair by Tenant. In the event of casualty to the Demised Premises, regardless of the amount of any such damage or destruction, Tenant will have the right at its sole cost and expense to demolish, restore, repair, replace, rebuild or alter the Demised Premises as nearly as possible to their functional equivalent immediately prior to such damage or destruction. That demolition, restoration, repairs, replacement, rebuilding or alterations will be made in accordance with plans and specifications approved by Landlord and will be commenced promptly and prosecuted with reasonable diligence.

Section 15.02. No Reduction in Tenant's Obligations. Except as provided in Section 15.03 hereof, no damage to or destruction to the Demised Premises or any part thereof by fire or other casualty will terminate or permit Tenant to surrender this Lease, or will relieve Tenant from its liability to pay the full Rent and other charges payable under this Lease.

Section 15.03. Termination for Failure to Make Timely Repairs. In the event Tenant fails, for whatever reason (including the Landlord's disapproval of plans proposed by Tenant pursuant to section 15.01), within one month of the fire or other casualty to commence the restoration, repair, replacement, rebuilding or alteration of the Demised Premises (other than the Licensed Area) to their functional equivalent immediately prior to that damage or destruction, either party will have the right to terminate this Lease.

Section 15.04. Non-obligation of Landlord to Repair. In the event of casualty to the Demised Premises, regardless of the amount of damage or destruction, Landlord will be under no obligation to repair and/or replace the improvements thereon. In the event of damage to any Tenant property or equipment, Landlord will likewise be under no obligation to repair and/or replace that property or equipment.

Section 15.05. Non-obligation of Landlord to Repay any Private Funds or Grants. In the event that this Lease is terminated by Landlord due to casualty to Premises or for any other basis permitted herein, or in the event of bankruptcy of Tenant, Landlord will not be obligated to repay any private monies obtained by Tenant for maintenance or improvements to the Demised Premises.

ARTICLE XVI: Condemnation

Section 16.01. Condemnation. If the Demised Premises or any part thereof will be taken or condemned either permanently or temporarily for any public use or purpose by any competent authority in condemnation proceedings or by any right of eminent domain, the entire compensation award thereof, both leasehold and reversion, will belong to the Landlord without any deduction therefrom for any present or future estate of Tenant, and Tenant hereby assigns to Landlord all its right, title and interest in and to any such award. Tenant will, however, be entitled

to claim, prove and receive in that condemnation proceedings such award as may be allowed for fixtures and other equipment installed by Tenant, but only if that award will be in addition to the award for the Demised Premises.

If all or any portion of the Demised Premises will be taken as aforesaid or if any such taking will render the Demised Premises substantially unfit for the uses intended herein in the sale reasonable judgment of Landlord, then at the option of Landlord (i) this Lease will terminate and will become null and void from the time possession thereof is required for public use, and from that date the parties hereto will be released from all further obligations except for those previously accrued hereunder or (ii) Landlord at its own expense will repair and restore the portion not affected by taking and this Lease will continue in full force and effect except that the rental will be equitably and proportionately reduced.

ARTICLE XVII: Conditional Limitations - Default Provisions

Section 17.01. Default.

(a) Violation of any of the terms of this Lease will subject the same to forfeiture at the discretion and option of Landlord, and upon such violation, Tenant authorizes and empowers any attorney of any court of record in the Commonwealth of Pennsylvania to appear for Tenant and confess judgment against Tenant, and all persons or entities holding thereunder, and in favor of Landlord, in an amicable action of ejectment for the premises above described, with all the conditions, fees, releases, waivers of stay of execution and waiver of exemption to accompany said confession of judgment in ejectment, Tenant authorizes the entry of such action, confession of judgment therein, and the immediate issuing of a Writ of Possession, without leave of Court, and Landlord may without notice re-enter and expel Tenant from the premises, and also any

person or entity holding thereunder, and in each case this lease or a true copy thereof will be a sufficient warrant of any person.

(b) Tenant expressly waives to Landlord the Benefit of any acts of the General Assembly, including the Landlord-Tenant Act of 1951, as amended, requiring notice to vacate the premises at the end of the term and agrees to give up quiet and peaceful possession without further notice from Landlord.

Section 17.02. Right of Re-entry. Upon any expiration or termination of this Lease pursuant to the provisions of Section 17.01 hereof, Tenant will quietly and peacefully surrender the Demised Premises to Landlord, and Landlord, upon or at any time after any such expiration or termination, may without further notice, enter upon and re-enter the Demised Premises and possess and repossess itself thereof, by force, summary proceedings, ejectment or otherwise, and may dispossess Tenant and remove Tenant and may have, hold and enjoy the Demised Premises and the right to receive all rental income of and from the Demised Premises.

Section 17.03. Cumulative Remedies. Each right and remedy of Landlord provided for in this Lease will be cumulative and will be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Landlord of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

Section 17.04. Termination by Tenant for Inability or Failure to Perform Permitted Use. If Tenant determines that it is unable, for any reason including an inability to generate sufficient funds: to meet budgetary requirements for maintaining the Demised Premises or to use the

Premises for the permitted uses set forth herein and in compliance with the terms and conditions of this Lease, Tenant may terminate this Lease upon ninety (90) days' written notice to Landlord. Tenant will do all things necessary to protect and maintain the Demised Premises for the ninety (90) day period.

ARTICLE XVIII: Condition of and Title to Property; Quiet Enjoyment

Section 18.01. Existing State of Title. The title to the Demised Premises is subject to the existing state of title thereof as of the date hereof, any state of facts which an accurate survey or physical inspection thereof might show and all zoning regulations, restrictions, rules and ordinances, building restrictions and other laws and regulations now in effect and hereafter adopted by any governmental authority having jurisdiction. Tenant represents to Landlord that it has examined the title to the Demised Premises and all matters set forth in the foregoing sentence prior to the execution and delivery of the Lease and has found the same to be satisfactory for all purposes hereof.

Section 18.02. Action to Enforce Dedicated Uses. It is expressly understood and acknowledged by the parties hereto that the Demised Premises were dedicated for public use and accepted therefore by the City of Pittsburgh by Resolution dated June 30, 1873. Tenant has been advised by counsel and Landlord has previously been advised by the Law Department that the purposes for which the Demised Premises are to be used are likely within the dedication as near as possible considering the facts and circumstances present at the time of execution hereof. However, it is recognized that the issue has not been judicially resolved and in the event an action is commenced to enforce the dedication, Landlord will have the option of terminating this Lease immediately without penalty. Tenant will also have the option of terminating the within lease or defending said action, at its sole cost and in such an event, will completely indemnify and hold

harmless Landlord to the fullest extent provided by law. In the event it is judicially determined that the uses described herein are in violation of the dedication, this lease will terminate and title and possession will in all respects remain with Landlord.

Section 18.03. Disclaimer of Warranties. Tenant hereby acknowledges that Landlord has not made any warranty of any nature, expressed or implied, as to the Demised Premises or the suitability thereof for Tenant's intended purposes. Tenant hereby accepts the Demised Premises in "as is" condition. Tenant represents that it has made complete inspection of the Demised Premises and that it has conclusively determined therefrom that the Demised Premises is suitable for Tenant's intended use thereof. Tenant agrees to make no demand upon Landlord for any improvements to or alterations of the Demised Premises.

Section 18.04. Quiet Enjoyment. If and so long as Tenant pays the Rent and observes all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant will and may, peaceably and quietly have, hold and enjoy the Demised Premises for the entire Term, subject to all of the provisions of this Lease.

ARTICLE XIX: Surrender of Premises

Section 19.01. Surrender of Premises. Tenant will surrender the Demised Premises to Landlord at the expiration of the Term, without notice of any kind, or upon the earlier termination of the Term, with notice as provided herein or otherwise as set forth in Section 4.03, and Tenant waives all right to any such notice as may be provided under any laws now or hereafter in effect in Pennsylvania, including the Landlord and Tenant Act of 1951, as amended.

ARTICLE XX: Limitation of Landlord's Liability

Section 20.01. Limitation on Landlord's Liability. Notwithstanding any other provision herein to the contrary, Landlord will not have any personal liability for failure to perform any of its obligations hereunder. In the event of any breach or threatened breach by Landlord of any of the covenants, agreements, terms or conditions herein contained, Tenant will make no claim, nor enforce nor seek to enforce any such claim, by attachment or execution against any of Landlord's assets other than the-then future rents, issues and profits, insurance proceeds and condemnation awards relating to the Demised Premises. Landlord will also not be liable for any claims or damages arising out of the conduct or maintenance of the Demised Premises (other than the Licensed Area) by the Tenant or by its officers, agents, employees, invitees, or permittees. Landlord represents that any City employees performing maintenance work on or around the Licensed Area will be covered by the City's Workers' Compensation Program. In no event will any agent or employee of the Landlord be deemed to be an agent or employee of Tenant nor will any agent or employee of the Tenant be deemed to be an agent or employee of the Landlord. Entering into this Agreement and performing requirements thereunder will not create an agency relationship between the parties or establish a joint venture or legal partnership.

ARTICLE XXI: Notices

Section 21.01. Form of Notices; Addresses. All notices, demands and requests required under this Lease will be in writing. All such notices, demands and requests will be deemed to have been properly given if served personally, or if sent by United States registered or certified mail, postage prepaid, addresses as hereinafter provided. All such notices, demands and requests mailed to Landlord will be addressed to Landlord at:

Department of Public Works
City-County Building, Room 301
414 Grant Street
Pittsburgh, Pennsylvania 15219

Attention: Director

Or at such other address as Landlord may from time to time designate by written notice to Tenant.

All such notices, demands and requests mailed to Tenant will be addressed to Tenant at:

Pittsburgh Ballet Theater
2900 Liberty Avenue
Pittsburgh, PA 15201
Attention: Managing Director

Or at such other address as Tenant may from time to time designate by written notice to Landlord.

Section 21.02. Time of Receipt. Notices, demands and requests which will be served by registered or certified mail upon Landlord or Tenant in the manner aforesaid will be deemed given for all purposes hereunder upon receipt thereof.

ARTICLE XXII: Miscellaneous

Section 22.01. Landlord's Agent. The Director of Public Works, City of Pittsburgh, or the successor agency thereto, will serve as the exclusive agent for Landlord in dealing with all matters on behalf of Landlord hereunder.

Section 22.02. No Waiver; Modifications. No failure by either party to this Lease to insist upon the strict performance of any covenant, agreement, term or condition of this Lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance or payment of full or partial rent during the continuance of any such breach, will constitute a waiver of any such breach or of such covenant, agreement, term or condition. No covenant, agreement, term or condition of this Lease to be performed or complied with by either party to this Lease, and no breach thereof, will be waived, altered or modified except by a written instrument executed by the other party to this Lease. No waiver of any breach will affect or alter this Lease, but each and

every covenant, agreement, term and condition of this Lease will continue in full force and effect with respect to any other then existing or subsequent breach thereof.

Section 22.03. Right to Enjoin Threatened Breach. In the event of any breach or threatened breach by either Landlord or Tenant of any of the covenants, agreements, terms or conditions contained in this Lease to be kept or performed by either Landlord or Tenant, Landlord or Tenant, as the case may be, will be entitled to enjoin such breach or threatened breach and will have the right to invoke any right and remedy allowed at law or in equity or by statute or otherwise.

Section 22.04. Entire Agreement; Amendment. This Lease contains the entire agreement and understanding among the parties hereto and will be deemed to supersede and cancel all other agreements and understandings, written or oral, entered into prior to the date hereof, relating to the transactions herein contemplated. This Lease may not be changed, modified, discharged or extended except by prior written amendment, duly executed by the parties.

Section 22.05. Headings. The captions of this Lease and the table of contents preceding this Lease are for convenience and reference only and in no way define, limit or describe the scope of intent of this Lease.

Section 22.06. Enforceability. If any provision of this Lease or the application thereof to any person or circumstance will, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby; and each provision of this Lease will be valid and enforceable to the fullest extent permitted by law.

Section 22.07. Interpretation. The singular will include the plural; the plural will include the singular; the conjunctive will include the disjunctive; and the use of any gender will refer to any other gender, all where applicable.

Section 22.08. Brokerage. Landlord and Tenant represent and warrant to each other hereto that no real estate broker has or will represent it in this transaction and that no finder's fees have been earned by any third party engaged by it.

Section 22.09. Home Rule Charter: Landlord's Authorizing Resolution. This Lease is subject to the Home Rule Charter and is entered into by Landlord pursuant to the authority conferred by Resolution No. 721 of 2019 effective November 6, 2019, and the liability of the CITY thereunder is limited to the sum of \$0 (zero dollars).

Section 22.10. Binding Effect; Assignment. This Lease will be binding upon Landlord and Tenant and will inure to the benefit of their respective permitted successors and assigns. Tenant may not assign, mortgage, sublease, license or otherwise transfer its interest herein without obtaining the prior written consent of Landlord. Landlord may transfer its interest herein without the consent of Tenant.

Section 22.11. Debarment. Tenant warrants that it is not prohibited from entering into this Lease with Landlord by reason of disqualification under Subsection (b) of Section 161.22 of the Pittsburgh Code.

Section 22.12. Statement of Affiliations. Tenant herewith files a Statement of Affiliations with Landlord attached hereto as Exhibit D, in compliance with Section 197.08(c) of the Pittsburgh Code.

Section 22.13. Assignment; Subcontracting. Except as otherwise provided herein, Tenant may not assign, mortgage, sublease, subcontract, license or otherwise transfer its interests herein or its obligations hereunder without obtaining the prior written consent of Landlord.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease the day and year first above written.

LANDLORD:

WITNESS:

CITY OF PITTSBURGH

By: _____
William Peduto, Mayor

By: _____
Michael Gable,
Director, Department of Public
Works

By: _____
Ross Chapman,
Director, Department of Parks and
Recreation

EXAMINED BY:

Assistant City Solicitor

APPROVED AS TO FORM:

By: _____
City Solicitor

TENANT:

WITNESS:

PITTSBURGH BALLET THEATRE

By: _____

EXHIBIT A: DESCRIPTION OF DEMISED PREMISES

All that lot and piece of ground in the Twelfth Ward of the City of Pittsburgh bounded and described as follows viz: Beginning at the north east corner of Liberty Avenue and Twenty Ninth Street thence eastwardly along said Liberty Avenue four hundred and eighty (480) feet to Thirtieth Street thence northwardly along said Thirtieth Street one hundred (100) feet to Spring Alley thence westwardly along said Alley four hundred and eighty (480) feet to Twenty Ninth Street thence southwardly along Twenty Ninth Street one hundred (100) feet to Liberty Avenue at the place of beginning. Being Block No. 47 in Springfield Farm Plan laid out by Mrs. Elizabeth F. Denny party of the first part. The said lot or parcel of ground being part of a larger tract of land called Springfield and of the separate estate of Elizabeth F. Denny which inter alia James O'Hara in and by his last will and testament registered in Allegheny County in Will Book Vol. 2, Page 191 devised to trustees for the benefit of his daughter the said Elizabeth F. Denny who is now vested with a fee simple Estate thereon by virtue of sundry deeds and conveyances recorded in Allegheny County in Deed Book 2, 3d. Volume 65, Page 5, 6, 8, 9,13 and 14

