

**USAGE AGREEMENT
(revised January 2019)**

This Usage Agreement, made this ___th day of _____ 201__, between WESTHAMPTON BEACH PERFORMING ARTS CENTER (hereinafter referred to as "WHBPAC"), and

ORGANIZATION NAME:

(hereinafter referred to as "Company")

CONTACT NAME:

ORGANIZATION ADDRESS:

PHONE/FAX/CELL/EMAIL:

NAME OF EVENT:

Upon the terms and conditions set forth herein, the Lessee hereby contracts with the Company to use the WHBPAC (76 Main Street, Westhampton Beach NY 11978) for a (not for-profit/for-profit) (public/private) rental Event:

<u>SPACE/ACTIVITY</u>	<u>DATE(S)</u>	<u>INCLUSIVE TIMES</u>
Stage, Audience Chamber, Outer and Inner Lobbies, Backstage Dressing Rooms, Loading Dock		8am - midnight (show @)

USAGE POLICY:

The Usage Policy, attached hereto as a separate document, details general WHBPAC/Company responsibilities and is an integral part of this Agreement. Areas specifically addressed in this contract that substantially alter respective areas in the Usage Policy will supersede that general policy data; however, any area not specifically addressed in this contract will be governed by the Usage Policy. **Company will receive one contract with the Usage Policy attached, and will by its signature at the end of this document assert that it has read, understood, and agreed to abide by all aspects of the Usage Policy.**

BASE PREMISES RENTAL FEE AND ADDITIONAL SERVICE FEES:

The Company agrees to pay the WHBPAC a Base Premises Rental Fee, as detailed in the "Costs Summary" section of this document. In addition, the Company agrees to pay an additional sum for services provided to the Company in conjunction with the Event (the "Additional Service Fees"). A schedule of such fees is detailed in "Exhibit A" of this document.

ADVANCE DEPOSIT:

The Company agrees to deposit with WHBPAC with the return of this signed Agreement a non-refundable amount as stated at "Amount Due Upon Signing" at the conclusion of this document. The

Deposit will be applied against the total amount due at the time of final settlement. ***Failure to include the Deposit may render this Agreement null and void.***

INSURANCES:

WHBPAC shall not be responsible for loss or damage to equipment or property owned or used by the Company, its agents, employees or guests. Please refer to Section 23 ("Insurances") in the Usage Policy for a full description of the insurance requirements relative to performances at WHBPAC. Failure to provide evidence of, or failure to maintain, these insurances may result in immediate termination of this Agreement.

CANCELLATION:

WHBPAC features a comprehensive cancellation policy as part of its rental arrangement, and it is strongly recommended that the Company thoroughly review this policy, which can be found in Section 13 ("Cancellation Of Event") in the Usage Policy.

BOX OFFICE AND TICKET REVENUE:

The Company shall utilize a computerized ticketing system, which shall be the single and sole source for ticket purchases. WHBPAC shall retain all tickets for sale at its Box Office, unless otherwise arranged in writing with WHBPAC management.

As well, WHBPAC will make available at no cost the services of its Director of Sales through the entire course of the rental period, and all ticket sellers at no cost for all sale days **immediately prior to** the evening of the Event. All box office staffing done in conjunction with the Event outside of regular staffing hours will become the responsibility of the Company, at the rate as listed in "Exhibit A" per hour per ticket-seller, and as listed in "Exhibit A" per hour for the services of the Director of Sales, if required in the case of cancellation or emergency, as deemed by the WHBPAC.

In consideration of the above-described services, the Company shall pay WHBPAC an amount equal to six percent (6%) of the **gross** Box Office receipts from all ticket sales (the "Ticket Sales Receipts") for each event performance (hereinafter referred to as "Ticket Service Fee"). *This amount is inclusive of all bank and other charges relative to credit card fees.*

Complimentary (House) Tickets: Please refer to Section 16 ("Complimentary Tickets") in the Usage Policy for WHBPAC's requirements for house seating usage. There is a \$.15 per ticket printing fee assessed to all complimentary tickets requested by the Company.

Additional Fees: The Company understands that the WHBPAC will assess a Facility Maintenance Fee to the established price of tickets in all price sections, without participation by the Company. This fee will be applicable to all sold tickets, at the rate of \$3 per ticket for tickets \$50 and under, and \$6 per ticket for tickets over \$50. Buyers will also be assessed a processing fee of \$6 per order.

Daily/Weekly Ticket Counts: The Company understands that WHBPAC will gladly email ticket counts to its office or a designated recipient at no additional charge. Faxed or phoned counts will be done at the rate of \$1 per fax or phone.

All arrangements regarding ticket price scaling, including discounts, special offers, or any other matter regarding sales policy, must be established in writing with the Director of Sales prior to the start of ticket sales. WHBPAC will not be obligated to accept any discounting plan or other special sales mechanism submitted after the onsale of your event.

TECHNICAL/HOUSE ARRANGEMENTS:

WHBPAC will provide, as part of the rental fee, the services of its Operations Director for regular general assistance in the technical planning of the Event (up to and including the day *before* the Event), and an ushering staff appropriate to the Event. **Company must, upon confirmation of event or as soon as possible thereafter, provide Operations Director with a full and comprehensive technical rider for the event, including contact names and information for the event's Company Manager, Technical Director, or other appropriate traveling technical personnel.**

The Company will be charged as a direct expense the cost of all Technical Personnel, including the Operations Director, for labor relative to the Event, at the rates quoted on the Schedule of Rental Fees and Expenses (Exhibit A). Please refer to Section 22 ("Company Personnel And Equipment Requirements") in the Usage Policy for a full description of the technical requirements relative to performances at WHBPAC.

The Company will additionally be charged as a direct expense the cost of at least one (1) Security Personnel, at the rate(s) noted on "Exhibit A."

REPRESENTATIVE ON SITE:

The Company will have on site at WHBPAC, from not later than one-half hour after the commencement of load-in until the performance and all necessary onsite settlement are concluded, whichever is later, an authorized representative in order to deal with all technical, contractual, or artistic matters. THE WHBPAC WILL NOT BE RESPONSIBLE AND WILL BE HELD BLAMELESS FOR ALL DECISIONS MADE ON THE COMPANY'S BEHALF SHOULD A REPRESENTATIVE NOT BE ON SITE.

CONCESSIONS/OTHER HOUSE ARRANGEMENTS:

WHBPAC will receive directly from the artist merchandise representative for the incoming company an amount equal to 20% on all artist merchandise. The Company will provide full information to facilitate this direct interface between Grand and artist merchandise staff. WHBPAC further reserves and retains the right of sole operation of all food, beverage, and/or other WHBPAC concessions and the right to all income derived there. All special house arrangements, such as pre- or post-performance discussions or receptions, must be approved by WHBPAC management in advance of the Event. Please refer to Section 44 ("Food/Bar Concession") and Section 36 ("Artists Concessions") in the Usage Policy for a full description of the WHBPAC's concession guidelines.

ACCESSIBILITY:

The Company agrees to abide by all provisions of the Americans with Disabilities Act (ADA). WHBPAC does not knowingly contract with organizations or individuals who fail to comply with ADA requirements.

FINAL SETTLEMENT AND INVOICES:

After deducting all listed and any other relevant Fees, including damages, from Ticket Sales Receipts, WHBPAC agrees to pay the Company the balance owed within seven business days, with payment in the form of a standard business check.

Should Ticket Sales Receipts not cover the above-state fees and damages (if any), the Company shall pay the difference to WHBPAC **no later than 12:00 noon** of the fifth business day following the Event. For each day in arrears beyond this deadline, an annualized rate of 20% will be applied to the amount owed, plus a \$25 collection fee. Checks returned for insufficient funds will be charge a returned check fee of \$25.

The Company shall have no claim to any Ticket Sales Receipts until all WHBPAC fees, expenses, and damages have been paid, and in consideration of this the Company hereby irrevocably grants the WHBPAC a first priority lien against all Ticket Sales Receipts.

PUBLICITY:

The Company will be responsible for the preparation, placement, and cost of all publicity involving the Event. Please refer to Section 14 ("Advertising And Promotion") in the Usage Policy for a full description of the promotion guidelines relative to performances at WHBPAC. The Company is invited to consult with WHBPAC Communications Manager Josh Bracken, at joshb@whbpac.org in consideration of its marketing needs.

WHBPAC is happy to display Company's event on its Main Street marquee ahead of the event date, as time and circumstances make space available. At minimum, Company's event shall have exclusive representation on the WHBPAC marquee on day of show, from start of business until 60 minutes past beginning of performance. There shall be no charge for such marquee usage assessed to the Company for these purposes.

TIMELY RESPONSE:

If WHBPAC does not receive signed copies of this Agreement within thirty (30) days after date of issuance, the contracts may be considered null and void. Should there be less than thirty (30) days prior to the Event, WHBPAC must receive the signed Agreement within ten (10) business days after date of issuance or the Agreement will be considered null and void.

SEVERABILITY:

If any provision(s) of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected thereby.

GOVERNING LAW:

This Usage Agreement shall be construed in accordance with the laws of the State of New York. The parties agree to submit to the personal Jurisdiction of the State of New York in connection with any action or proceeding relating to this Usage Agreement or the Premises. The parties expressly acknowledge and agree that venue of any action shall be in Suffolk County, New York.

CASH ADVANCES:

BE ADVISED THAT AS THE RESPONSIBLE PARTY FOR THE EVENT, THE COMPANY IS WHOLLY RESPONSIBLE FOR ARRANGING ALL PAYMENTS TO ITS VENDORS. WHBPAC WILL NOT PREPARE CASH PAYMENTS AS A COURTESY FOR THE COMPANY.

COSTS SUMMARY:

The Company will assume the following costs:

BASE PREMISES RENTAL FEES:

ADDITIONAL SERVICES FEES: see attached "Exhibit A"

AMOUNT DUE UPON SIGNING:

IN WITNESS WHEREOF, and intending to be legally bound, the parties hereto have executed this Agreement as of the day and date first above written. As well, the representative for the Company asserts that he/she has read and agreed to all terms and conditions detailed in the WHBPAC Usage Policy document.

For WHBPAC

date

For the Company

date