

LEASE

THIS LEASE ("Lease"), dated July 18, 2012, with an effective date of August 1, 2012 (the "Effective Date"), by and between **CITY OF ROANOKE RAPIDS, NORTH CAROLINA**, a North Carolina municipal corporation (as "Landlord") and, **HSV ENTERTAINMENT LLC**, an Arkansas limited liability company, duly domesticated to do business in North Carolina, and doing business in North Carolina as **HSV ENTERTAINMENT LLC**, with its registered office in North Carolina being 644 Roanoke Avenue, Roanoke Rapids, NC 27870, (as "Tenant").

RECITALS

WHEREAS, Landlord is the owner of certain real property, known as the Roanoke Rapids Theater, 500 Carolina Crossroads Parkway, Roanoke Rapids, North Carolina, identified as PIN 1205489, and as more fully described in the Deed recorded in Book 2179, Page 218, Halifax Public Registry (hereinafter sometimes referred to as the "Real Property"); and

WHEREAS, Landlord desires to lease to Tenant and Tenant desires to lease from Landlord the Real Property and the contents, subject to the terms and conditions set forth herein.

LEASE AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants of the parties herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord hereby demises and lets to Tenant and Tenant hereby takes from Landlord the Property for the term and upon the covenants, terms and conditions herein contained, and in connection therewith the parties agree as follows:

1. PROPERTY:

1.1 Description of the Property. The Property shall be and consist of the Land, the Improvements and the Personal Property, and all rights, privileges, easements and other interests appurtenant thereto, as described on Exhibit A attached hereto (hereinafter sometimes referred to as the "Property").

1.2 Exceptions to Tenant's Interests. On the Effective Date and throughout the Term of this Lease, the interests of Tenant in the Property will be subject to the following:

- (a) All Permitted Exceptions

(b) The condition and state of repair of the Property as the same may be as of the Effective Date, with Tenant hereby representing that it has examined the Property and the streets, sidewalks, curbs and access ways adjoining or adjacent to the Property and accepts them in their present “As Is”, “Where Is” condition or state without Landlord’s representation, covenant or warranty, express or implied, and without recourse to Landlord as to title, appurtenances, usability, suitability, condition or compliance with local, state or federal law, regulation or rule.

Tenant hereby accepts the Property subject to the foregoing and subject to the terms, conditions and covenants hereinafter set forth.

2. **TERM:** Unless the context of this Lease shall require another interpretation, “Lease Term” or “Term” shall commence upon Rent Commencement Date (hereinafter defined) and shall expire on the 31st day of July, 2014, unless terminated earlier as provided in this Lease or unless extended pursuant to the Contract.

“Lease Year” shall mean a period of twelve (12) consecutive full calendar months beginning on the Rent Commencement Date and ending twelve (12) months thereafter; provided, however, that if the Rent Commencement Date does not fall on the first day of a calendar month, the first Lease Year shall begin on the Rent Commencement Date and shall end on the date which is twelve months after the first day of the month following the Rent Commencement; and provided further, that the last Lease Year shall end on the expiration or earlier termination of this Lease, notwithstanding the fact that such Lease Year may consist of less than twelve (12) consecutive full calendar months.

The term “Rent Commencement Date” shall mean the Effective Date.

3. **RENT:** Tenant shall pay to Landlord, without any prior demand therefore and without any deductions or setoffs, whatsoever, the following rent for the use of the Property during Term:

3.1 **Base Rent:** Tenant agrees to pay Landlord without abatement, deduction or setoff, as fixed Base Rent the sum of \$12,500.00 each month for the first twelve months and then the sum of \$14,500.00 each month for the balance of the Lease Term.

The first and last monthly payment of Base Rent is due on the Rent Commencement Date.

All monthly payments of Base Rent shall be paid on the first day of each calendar month

of each Lease Year, in advance and shall be paid by Tenant to Landlord, at the address hereinafter designated for notices, without abatement, deduction or setoff.

Any extension of time for the payment of Base Rent or the acceptance by Landlord or its agent of any money other than the kind or amount herein specified shall not be a waiver of the right of Landlord to insist on the subsequent payments of Base Rent being made in the manner and at the time herein specified.

Base Rent, together with Additional Rent (defined in Section 3.2) is herein sometimes referred to collectively as "Rent"). Rent payments are considered delinquent if received after the tenth (10th) day of any given month. Tenant shall pay Landlord interest at the rate of five percent (5%) per annum (or such lesser amount as may be the maximum amount permitted by law) on all overdue payments of Rent from the due date thereof until payment. Notwithstanding the foregoing, Tenant shall not be considered delinquent until after the expiration of five (5) business days following written notice from Landlord.

3.2 Additional Rent. Tenant shall also pay to Landlord as additional rent, without notice, except as may be required in this Lease, and without abatement, deduction, or setoff, all amounts other than Base Rent that this Lease requires Tenant to pay and the sum of \$2.00 per ticket sold at the Theater for the first 50,000 tickets and \$3.00 per ticket for each ticket sold in excess of 50,000 tickets ("Additional Rent"). In the event of any non-payment of Additional Rent by Tenant, Landlord shall have all the rights and remedies provided for herein for nonpayment of Base Rent, and Tenant shall have the right to the five (5) business day written notice and cure period prior to any delinquency.

Tenant shall list and promptly pay when the same shall become due all taxes, levies and assessments upon the trade fixtures, equipment and other personal property located upon the Property (collectively referred to herein as "Impositions"). If Tenant shall default in keeping or performing its obligations hereunder, Landlord shall have the right, but not the obligation to keep or perform the same and the cost shall be paid by Tenant as Additional Rent with the next Base Rent payment due, plus interest at the rate of five (5%) percent per annum from the date of payment by Landlord.

In the event ad valorem taxes are levied on the Land and Improvements during the Term and the City of Roanoke Rapids (the "City") owns the Property, such taxes shall be the responsibility of the City.

3.3 Abatement. Except as otherwise provided herein, no abatement, diminution or reduction of Rent or charges shall be claimed by or allowed to Tenant or any person claiming under Tenant, under any circumstances, whether for inconvenience, discomfort, interruption of business, or otherwise, or arising from casualty, or condemnation, or the making of alterations, changes, additions, improvements or repairs to any portion of the Property or surrounding property or by virtue of any present or future governmental laws, ordinances, requirements, orders, directions, rules or regulation, or for any other cause or reason.

4. TENANT IMPROVEMENTS:

4.1 Landlord's Consent To Improvements Required. Except as otherwise provided herein, throughout the Term, Tenant shall not make any improvements ("Tenant Improvements") to the Property without the consent of Landlord and Landlord's lender, which consent Landlord may not unreasonably withhold, condition or deny.

Landlord's refusal to consent to proposed Tenant Improvements or to approve Tenant's Plans (hereinafter defined) shall not be deemed unreasonable in the event such Tenant Improvements change the general character of the Property or reduces the fair market value of the Property below its fair market value prior to such Tenant Improvements. All Tenant Improvements to the structural elements of the Building or the systems of the Building, including, without limitation, the electrical, plumbing and HVAC systems, shall be made under the supervision of an architect or engineer reasonably satisfactory to Landlord and in connection with plans and specifications and cost estimates approved by Landlord. Landlord may designate a supervising architect to assure compliance with the provisions of this Section, and if it does, Tenant will pay the supervising architect's charges. Tenant will give Landlord a copy of "as built" drawings of any Tenant Improvement. All Tenant Improvements will immediately become Landlord's property and, at the end of the Lease will remain on the Property without compensation to Tenant.

Tenant shall submit the plans and specifications (the "Plans") for Tenant Improvements to Landlord for Landlord's review and approval. Landlord shall have a period of thirty (30) days (the "Review Period") to review the Plans. Landlord shall not unreasonably withhold, condition or delay its approval of the Plans. Landlord shall be deemed to have approved the Plans as presented unless, on or before the last day of the Review Period Landlord has delivered to Tenant a written description of the specific items in the Plans that are not acceptable and a

description of the specific changes that must be made to the Plans to secure Landlord's approval.

4.2 Assurance of Payment and Performance; Insurance Certificates. Tenant shall promptly pay all expenses, costs and charges of every kind and nature whatsoever arising out of Tenant Improvements, as the same are incurred by or for Tenant. Tenant shall indemnify, defend and hold harmless Landlord from and against all costs expenses, liability, claims, actions and causes of action, including reasonable attorney's fees arising out of the performance of Tenant Improvements. Prior to commencement of Tenant Improvements, Tenant shall provide evidence of insurance coverage in the form of certificates of new policies or endorsements to existing policies, showing Tenant to be insured during the period of construction, under policies providing the coverage required under Section 10 and naming Landlord and Landlord's lender as additional insureds. Tenant shall comply with all requirements and conditions of such policies to ensure continuation of the same throughout the construction of the Tenant Improvements.

4.3 Performance Bond. Tenant will provide a performance bond in the amount of \$200,000.00 for any damages to the Property beyond normal wear and tear. Tenant agrees that the bond may be called, in whole or in part at any time to repair any damages and to be used to cure the Tenant's nonperformance of any unpaid rent.

5. USE: The Property may be used by Tenant for the operation of a theater/entertainment venue as its primary use and with the accessory use of providing electronic gaming machines as permitted by the Land Use Ordinance of the City of Roanoke Rapids, and for no other purpose whatsoever without Landlord's prior written consent which Landlord may not unreasonably withhold, condition or deny ("Tenant's Use"). In occupying the Property, Tenant shall comply with all laws, ordinances, orders and regulations of any lawful authority and shall keep the Property in a neat and clean condition. Tenant agrees to provide a variety of entertainment in the theater including, but not limited to, a mixed variety of music, comedy shows, boxing events, plays and Christmas shows.

Tenant shall be responsible for the maintenance of the Property, including the grounds, parking lots and all interior areas of the property. The parties agree that Landlord has the right to conduct inspections of the Property and premises at reasonable times and reasonable frequencies.

During Tenant's occupancy of the Property, it shall not permit, allow or cause any act or deed to be performed on the Property which shall cause or be likely to cause injury or damage to any person or to the Property, sidewalks, walkways and parking lots which adjoin the Property.

During Tenant's occupancy of the Property, it shall comply in all material respects with all federal, state and local laws, rules, regulations, orders and requirements relating to health, safety and the environment, including without limitation those relating to ambient air, surface and ground water, surface and subsurface soils and other natural resources and those relating to the manufacture, processing, distribution, use, treatment, storage, handling, transportation, release, disposal or importing and exporting of hazardous substances, hazardous wastes, pollutants, contaminants, toxic substances, asbestos, oil, other petroleum or chemical, biological or radioactive substances, and shall not permit to exist on the Property any hazardous substance, hazardous waste, pollutant, contaminant, toxic substance, asbestos, oil, other petroleum or chemical, biological or radioactive substance which is subject to regulation under any such law, rule, regulation, order or requirement or storage tank used for the storage thereof, whether above-ground or underground, except such as may be consented to in writing by Landlord prior thereto.

Tenant acknowledges that its use of the Property requires that it provide adequate security to insure the health and safety of its guests, attendees and invitees at all times that the Property is open to the public.

6. **TENANT'S EQUIPMENT AND STOCK:** Tenant shall not erect, install, maintain, and operate on the Property such equipment and fixtures as Tenant may deem advisable without the consent of Landlord, which consent Landlord may not unreasonably withhold, condition or deny. It is mutually agreed that with respect to the usual trade fixtures and equipment, including, without limitation, interior and exterior signs which may be installed on or in the Improvements or on the Property by Tenant prior to, or during the Term, that no such trade fixtures and equipment shall be deemed to become part of the Property but shall remain chattels and the sole and exclusive property of Tenant.

7. **REMOVAL OF EQUIPMENT AND FIXTURES:** Tenant shall have the right at any time during the Term and, in the event the Contract is terminated and Tenant does not close on the purchase of the Property in accordance with the Contract, within ten (10) days after the end of the Term to enter upon and remove or cause to be removed from the Property any of its equipment or trade fixtures (but not the Tenant Improvements). All damage caused to the Property by such removal shall be repaired by Tenant within thirty (30) days after removal; provided, however, that no such property shall be removed if such removal would cause permanent injury to the structure of the Improvements, provided, further, that if said equipment

and trade fixtures are not removed within the time period provided in this Section, Landlord may assume possession and ownership of said equipment and trade fixtures.

8. **MAINTENANCE AND REPAIRS:** Tenant will, at its sole cost and expense, maintain the Property and make normal repairs conduct normal maintenance to the Property. All such repairs and maintenance will be in quality and class equal to the original work or installations. If Tenant fails to make any repairs or perform any maintenance after thirty (30) days written notice from Landlord, Landlord may make them at the expense of Tenant and the expense will be collectible as Additional Rent due and payable by Tenant within fifteen (15) days after delivery of a statement for the expense. Notwithstanding the foregoing, if such repairs and maintenance are of such a nature that it would be unreasonable to have same completed within such thirty (30) day cure period, the cure period shall be extended as reasonably necessary, provided that Tenant is making commercially reasonable efforts to effect the cure and proceeds diligently to cure the same to completion.

9. **UTILITY PAYMENTS:** Tenant shall pay for all sewer, water, gas, electric, cable television, internet and telephone connections and facilities which Tenant may need at the Property and for all utilities used or consumed in or at the Property.

10. **INSURANCE:**

10.1 **Property Insurance:** Tenant shall, at all times during the Term, for the benefit of Landlord and Tenant as their interests may appear, provide and maintain ISO Causes of Loss - Special Form Coverage (formerly known as "all risk") in an amount covering the furniture, fixtures and equipment in the amount of \$1,250,000.00, plus any additional insurance for any authorized Tenant Improvements. The proceeds of the Property Insurance shall be paid as set forth in Section 10.6.

10.2 **Liability Insurance:** Throughout the Term, Tenant shall maintain in force commercial general liability insurance (including liability due to on-premises operations arising from explosion, collapse and underground coverage, blanket contractual coverage and broad-form property damage coverage) under a policy or policies providing combined single limit coverage of not less than Five Million Dollars (\$5,000,000.00) for each occurrence on an annual aggregate basis, and Worker's Compensation and Employer's Liability insurance in such amounts as shall be required by law from time to time, but in no event less than One Million Dollars (\$1,000,000.00) per accident. In addition, Tenant shall carry an umbrella excess liability

policy providing coverage over and above the amounts of the foregoing policies in an amount not less than Ten Million Dollars (\$10,000,000.00). All such insurance shall contain an endorsement having Landlord, its agents, employees and lender as additional insureds, a separation of insureds provisions, a waiver of subrogation in favor of Landlord, its agents, employees and lender, a deletion of contractual liabilities exclusion of personal injury and advertising injury liability, and no modification that would make Tenant's policy excess or contributing with Landlord's liability insurance, if any.

If Tenant sells any alcoholic beverages for on-site or off-site consumption, insurance coverage protecting Tenant, Landlord, and Landlord's lender from and against the claims, suits, judgments and settlements asserted or claimed by any customer, its heirs, executors, administrators or by any member of the family of a customer or by any other party (such as, without limitation, a third party injured by an alcohol-impaired customer whether within or outside of the Property) which may arise or be related to the serving of alcoholic beverages to such customer and any damages, injury or death which may result therefrom. The amount of such coverage shall not be less than Five Million Dollars (\$5,000,000.00).

10.3 Certificates of Insurance: For purposes of this Lease, no insurance shall be deemed to have been procured by Tenant unless and until the Landlord shall receive in each instance evidence reasonably satisfactory to Landlord, which may include without limitation, a certificate, from an insurance company having a current Best's Insurance Guide rating of at least A-VII and licensed to do business in the State of North Carolina evidencing the insurance coverage required by this Section, which such evidence or certificates shall state that such insurance coverage may not be materially changed or cancelled without at least thirty (30) days prior written notice to Landlord in the manner set forth in this Lease for giving notices.

10.4 Mutual Waiver. Notwithstanding anything in this Lease to the contrary, Tenant and Landlord hereby waive and release any and all rights of recovery, whether arising in contract or tort, against the other, including their employees, agents and contractors, arising during the Term for any and all loss or damage to any property located within or constituting a part of the Property, which loss or damage arises from the perils that could be insured against under the Property Insurance, including any deductible thereunder (whether or not the party suffering the loss or damage actually carries such insurance, recovers under such insurance or self insures the loss or damage) or which right of recovery arises from any loss or damage that

could be insured under time element insurance, including without limitation, loss of earnings or rents resulting from loss or damage caused by such a peril. This mutual waiver is in addition to any other waiver or release contained in this Lease. If there is a conflict between this Section and any other provision of this Lease, this Section shall control. Landlord and Tenant shall cause each property insurance policy carried by either of them insuring the Property, and the contents thereof, to provide that the insurer waives all rights of recovery by way of subrogation or otherwise against the other party hereto in connection with any loss or damage which is covered by such policy or that such policy shall otherwise permit, and shall not be voided by the releases provided for above.

10.5 Insurance Requirements: Any insurance required to be procured by a party hereunder shall be carried in favor of Landlord, Landlord's lender and Tenant, as their respective interests may appear. All policies shall contain endorsements providing as follows: (a) all commercial general liability policies shall contain an endorsement that Landlord, although named as insured, nevertheless shall be entitled to recover under said policies for any loss or damage occasioned to it, its respective servants, agents and employees by reason of the negligence of Tenant; (b) all insurance required of Tenant shall be written as primary policies and non-contributing with the policies of Landlord being excess, secondary and non-contributing. The original policy or policies, or duly executed certificates for the same, together with satisfactory evidence of payment of the premium thereof shall be delivered to Landlord within fifteen (15) days after Landlord delivers possession of the Property to Tenant, and upon renewals of such policies not less than fifteen (15) days prior to the expiration of the term of any such coverage. The minimum limits of any insurance coverage required herein to be carried by Tenant shall not limit Tenant's liability under this Lease. Anything herein to the contrary notwithstanding and regardless of the inadequacy of any insurance coverage herein required, it is understood and agreed that Landlord, except as prohibited by law and except in cases of Landlord's negligence or misconduct, shall not be responsible for loss of, damage to, or destruction of any of Tenant's property or Tenant, it being understood that Tenant shall be responsible for providing adequate insurance to cover all such loss, damage or destruction. In any event and notwithstanding anything to the contrary set forth in this Section 10, Tenant shall obtain and maintain at a minimum insurance which satisfies the requirements of Landlord's lender.

If Tenant fails to procure and maintain any insurance required to be procured and maintained by Tenant under this Lease, then Landlord shall have the right to do so, with notice to Tenant if Landlord discovers that insurance coverage has lapsed, and the cost of the same shall be Additional Rent payable to Landlord hereunder upon demand therefore.

10.6 Application of Property Insurance Proceeds. Except as otherwise provided herein, the proceeds of the Property Insurance upon the Property maintained pursuant to this Section shall be used by Landlord or Landlord's lender as a trust fund toward the repair, reconstruction, replacement or rebuilding of the furniture, fixtures and equipment of Lessor on the Property. If any proceeds remain, then the proceeds may be used to repair, reconstruct, replace or rebuild any Tenant improvements. Accordingly, such policy of insurance shall provide that the first \$1,250,000.00 payable at any time and from time to time by any insurance company under such policies shall be paid to the Landlord or Landlord's lender for the benefit of Landlord and Tenant and any other person or entity having any interest under any such policy and applied by Landlord or Landlord's lender, as the case may be, as provided herein. Landlord, Tenant and any other person or entity having an interest under any such insurance policy shall cooperate with and aid the Landlord in collecting any and all insurance money and will execute and deliver as requested by Landlord any and all proofs, receipts, releases and other instruments whatsoever which may be necessary or proper for such purpose. In the event that any person or entity having an interest under any such insurance policy shall fail or neglect to cooperate or to execute, acknowledge and deliver any such instrument, the Landlord may, as the agent or attorney-in-fact of any such person, execute and deliver any proofs of loss or any other instrument as may seem desirable to the Tenant for the collection of such insurance monies, and all such persons or entities having obtained an interest in any such insurance policy shall be deemed to have irrevocably nominated, constituted and appointed the Landlord its proper and legal attorney-in-fact for such purpose. As to all policies other than those specified in this Section the proceeds shall be paid to the insured party or parties as their interests shall appear and in proportion to their respective insured losses.

11. CONDEMNATION.

11.1 Total Taking or Constructive Total Taking: If at any time during the Term, there shall be a total taking of the Property in condemnation proceedings or by any right of eminent domain (a "Total Taking"), either Landlord or Tenant, by written notice to the other,

may terminate this Lease within thirty (30) days of the date of such taking, whereupon Tenant shall remove its personal property from the Property and this Lease shall be terminated.

In the event that a part of the Property shall be taken or condemned and the taking reduces or damages the Property to an extent that the remaining portion of the Property would be insufficient to permit the economically feasible operation of the Property for Tenant's Use (a "Constructive Total Taking"), the Tenant may, not more than thirty (30) days prior to or within a period of thirty (30) days after the date when possession of the Property or part thereof shall be required by the condemning authority, elect to terminate this Lease.

In the event this Lease is terminated pursuant to this Section, the Condemnation Proceeds shall be disbursed (i) first to Landlord or Landlord's lender to be applied against the purchase price described in Paragraph 26., hereunder as if the Option had been executed and title to the Property conveyed to Tenant by Landlord; and (ii) the balance, if any, shall be paid to Tenant.

11.2 Partial Condemnation: "Condemnation Proceeds" shall mean the total aggregate award resulting from any condemnation proceedings with respect to the Property, exclusive of any award to Tenant as an award for loss of business or moving expenses. In the event of a taking less than a Constructive Total Taking, this Lease shall not terminate. The Condemnation Proceeds shall be paid, to the extent available, in the following order of priority:

(i) Landlord shall first be entitled to its expenses and charges, including reasonable attorneys' fees, incurred in connection with such taking;

(ii) The balance of the Condemnation Proceeds shall be paid to the Landlord to be disbursed by Landlord or Landlord's lender for application to the cost of restoring and rebuilding the Improvements, if Tenant is required to restore and rebuild pursuant to Section 11.3;

(iii) The balance of the Condemnation Proceeds, if any, remaining after restoration shall be paid to Landlord; and

(iv) The principal balance of the Purchase Price under the Contract shall be reduced by the amount of the balance of Condemnation Proceeds paid to Landlord pursuant to Section 11.2(iii).

11.3 Restoration. In the event a taking less than a Constructive Total Taking, Tenant, to the extent Condemnation Proceeds are sufficient for the purpose, shall proceed with due diligence to restore and rebuild the remaining portion of the Improvements to a complete

architectural unit. Notwithstanding the foregoing, Tenant shall have the right to terminate this Lease, if in Tenant's reasonable judgment, the Property cannot be restored or rebuilt substantially to its former condition within 180 days from the taking.

12. **TENANT'S EVENT OF DEFAULT:** The following shall be an Event of Default (as hereinafter defined) by Tenant for which Landlord will have the remedies provided for herein:

12.1 Event of Default.

(a) Nonpayment. Tenant's failure to pay any Rent, Additional Rent, or other sums that Tenant is obligated to pay by any provision of this Lease when and as they become due and payable hereunder, which failure is not cured within five (5) business days after the giving of written notice thereof by Landlord;

(b) Failure to Obtain or Maintain Insurance. Tenant fails to obtain any insurance required under this Lease or fails to furnish Landlord, at least thirty (30) days prior to the expiration of any insurance policy, with evidence reasonably satisfactory to Landlord that any such policy has been renewed or replaced.

(c) All Other Lease Violations. Tenant's failure to perform or observe any other covenant, condition, or agreement of this Lease, which failure is not cured within ten (10) business days after the giving of written notice thereof by Landlord unless such default is of such nature that it cannot be cured within such ten (10) day period, in which case no Event of Default shall occur so long as Tenant commences the curing of the default within such ten (10) business day period and shall thereafter complete the curing thereof with diligence and continuity.

(d) Falsification of Information. With respect to any material fact or material representation, Tenant or any agent of Tenant falsifies any report or misrepresents other information required to be furnished to Landlord pursuant to this Lease;

(e) Merger or Consolidation. If Tenant is merged or consolidated with any other entity, or there is a transfer of a controlling interest in Tenant, other than as expressly consented in writing by Landlord, which consent shall not be unreasonably withheld, conditioned or denied;

(f) Dissolution or Liquidation. The commencement of steps or proceedings toward the dissolution, winding up, or other termination of the existence of Tenant or of any guarantor of Tenant's obligations, or toward the liquidation of either of their respective assets;

(g) Bankruptcy. The commencement of a case under any chapter of the Federal Bankruptcy Code by or against Tenant, or the filing of a voluntary or involuntary petition proposing the adjudication of Tenant as bankrupt or insolvent, or the reorganization of Tenant or any arrangement by Tenant with its creditors, unless the petition is filed or case commenced by a party other than Tenant and is withdrawn or dismissed within thirty (30) days after the date of its filing;

(h) Assignment or Attachment. The making of an assignment by Tenant for the benefit of its creditors, or if in any other manner Tenant's interest in this Lease passes to another by operation of law, including, without limitation, by attachment, execution, or similar legal process, which is not discharged or vacated within thirty (30) days;

(i) Appointment of Receiver or Trustee. The appointment of a receiver or trustee for the business or property of Tenant, unless such appointment shall be vacated within thirty (30) days of its entry;

(j) Evidence of Inability to Pay. Evidence of the inability of Tenant to pay its debts as they come due. Such evidence shall include, but shall not be limited to either of the following:

(i) An admission in writing by Tenant of its inability to pay its debts when due; or

(ii) If one or more judgments are docketed against Tenant and not paid, bonded, or otherwise discharged within thirty (30) days;

and

(k) Other Defaults. The occurrence of any other event described as a default elsewhere in the Lease or any amendment thereto, regardless of whether such event is defined as an "Event of Default".

12.2 Remedies.

(a) Upon the occurrence of any Event of Default, Landlord, to the extent permitted by law, may do any one of the following:

(i) Perform, on behalf and at the expense of Tenant, any obligation of Tenant under this Lease which Tenant has failed to perform and of which Landlord shall have given Tenant written notice and cure period, the cost of which performance by Landlord shall be deemed Additional

Rent and shall be payable by Tenant to Landlord within ten (10) days after demand therefore;

(ii) Landlord may terminate this Lease and the Contract. In the event this Lease is terminated Landlord and Tenant shall have the respective rights and obligations set forth in the event of default under the Contract.

(b) Exercise any other legal or equitable right or remedy which it may have under this Lease or at law.

If termination is solely a result of Tenant's default, any cost and expenses incurred by Landlord (including, without limitation, reasonable attorneys' fees actually incurred) in validly enforcing any of its rights or remedies under this Lease, to the extent allowed by law, shall be deemed Additional Rent and shall be repaid to Landlord within thirty (30) days following written demand therefore.

12.3 Equal Bargaining Power. Notwithstanding any provision of this Lease to the contrary, Tenant expressly acknowledges that Landlord and Tenant have equal bargaining power, and that Tenant was not forced in any manner whatsoever to sign this Lease. Therefore, Landlord shall have absolutely no duty to relet the Property or any part thereof to mitigate damages in the event of a Tenant's Event of Default.

13. ASSIGNMENT IN BANKRUPTCY. In the event of any assignment by operation of law under the Federal Bankruptcy Code, or any State bankruptcy or insolvency law and Landlord elects not to terminate or is stayed from termination of Tenant's rights of possession under this Lease, the assignee shall provide Landlord with adequate assurance of future performance of all of the terms, conditions and covenants of the Lease and the Contract, which shall include, but which shall not be limited to, assumption of all the terms, covenants and conditions of the Lease and the Contract by the assignee and the making by the assignee of the following express covenants to Landlord:

(a) That assignee has sufficient capital and financial viability to pay the Rent and other charges due under the Lease for the entire Term; and

(b) That assumption of the Lease by assignee will not cause Landlord to be in violation or breach of any provision in any financing agreement.

14. ASSIGNMENT AND SUBLETTING: Tenant may not, without the prior

written consent of Landlord, sublet, assign or transfer this Lease or any portion of the Property to any person, natural or corporate, whomsoever. In the event Tenant assigns the Lease and/or sublets the Property, Tenant shall remain primarily liable for keeping and performing of all its covenants hereunder, including, but not limited to, the prompt and due payment of Rent. The consent of Landlord to such assignment or subletting shall not be unreasonably withheld, conditioned or denied; provided, however, if Tenant shall sublet the Premises or assign the Lease at a rental, or other economic benefit in excess of the then current Rent, the excess rental, or the value of other economic benefits, shall be for benefit of Landlord only shall, be paid to Landlord in cash promptly when received under any such subletting or assignment as Additional Rent hereunder and shall be deemed a prepayment of principal under the Contract.

Landlord may refuse to consent to an assignment or subletting for any of the following reasons (i) lack of credit worthiness of the proposed assignee or subtenant (regardless of Tenant's credit), (ii) a proposed use other than that permitted hereunder, (iii) previous unsatisfactory experience with the proposed assignee or subtenant, (iv) a proposed division of Property into a less marketable size, (v) defaults of Tenant hereunder, or (vi) any other reasonable basis.

Tenant agrees to pay to Landlord, on demand, all reasonable costs incurred by Landlord in connection with any request by Tenant for Landlord's consent to any assignment or subletting.

15. **WAIVER:** Any waiver at any time of any breach of any condition of this Lease shall extend only to the particular breach so waived and shall not impair or affect the existence of such condition or the right of either party thereafter to avail itself of any remedies for any breach thereof subsequent to any such waiver. Failure or neglect of either party to act upon a breach of one or more of the covenants, terms and conditions of this Lease shall not be construed as a waiver of such breach or any subsequent breach or of any right created thereby.

16. **RIGHTS OF PARTIES:** Each and every provision of this Lease shall bind and inure to the benefit of the parties hereto, their legal representatives, heirs, successors and assigns. All provisions of this Lease apply in the plural sense where there is more than one Landlord or Tenant and corporations, associations, partnerships, individual males or females, shall be deemed fully included, and the neuter pronouns shall be construed to mean masculine or feminine, singular or plural, where such construction is necessary to make any provisions of this Lease applicable to any person, persons, firms, corporation, association, thing or act at any time.

17. **NOTICES:** Any notices, requests, or other communications required or permitted to be given hereunder shall be in writing and shall be delivered by hand or overnight commercial courier or mailed by United States registered or certified mail, return receipt requested, postage prepaid and addressed to each party at its address as set forth below. Any such notices, requests or other communications shall be considered given or delivered, as the case may be (a) on the date of hand delivery, (b) on the second (2nd) day following the date of deposit in the United States mail, or (c) on the next business day after the date of deposit with an overnight commercial courier as provided above. If a notice is given by more than one method, it will be deemed received upon the earlier of the dates of receipt pursuant to this Section. Rejection or other refusal to accept or inability to deliver because of change of address of which no notice was given shall be deemed to be receipt of the notice, request, or other communication. By giving at least five (5) days prior written notice thereof to the other parties, a party hereto may from time to time and at any time change its mailing address hereunder:

If to Landlord:	City of Roanoke Rapids 1040 Roanoke Avenue P.O. Box 38 Roanoke Rapids, NC 27870 Attention: Emery G. Doughtie Telephone: 252-533-2876
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With a copy to: (which shall not constitute notice)	Gilbert W. Chichester City Attorney P. O. Box 1516 Roanoke Rapids, NC 27870
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If to Tenant:	HSV ENTERTAINMENT LLC 101 East Broad Street Texarkana, AR 71854 HSV ENTERTAINMENT LLC 500 Carolina Crossroads Parkway Roanoke Rapids, NC 27870
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With a copy to: (which shall not constitute notice)	William O. White, Jr. Wellman, White & Wilson, PLLC 644 Roanoke Avenue Roanoke Rapids, NC 27870 Telephone: (252)535-4545 Fax: (252)535-5959
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E-mail: wowwhite@rrlawnc.com

18. **RECORDATION OF MEMORANDUM OF LEASE:** Upon the request of either Landlord or Tenant, the other party will in good faith cooperate in the preparation and execution of a recordable instrument describing the parties, the Property, any Option in connection therewith, any restrictions, the basic terms of this Lease and such other portions hereof as either party may desire to be included in such instrument.

19. **INDEMNIFICATION:**

19.1 Tenant to Indemnify Landlord and Landlord's Lender: Tenant shall, to the fullest extent permitted by law, RELEASE, INDEMNIFY, DEFEND AND SAVE HARMLESS Landlord and Landlord's lender, and their agents and employees, from and against any and all liability, losses, damages, costs, claims, penalties, fines, cleanup costs and other pollution related items, damages, expenses, judgments and awards, including, without limitation, reasonable attorneys' fees and consultants' fees, arising out of any of the following:

(i) The use, operation, occupancy or improvement of the Property or the improvements thereon by Tenant or on Tenant's behalf including, without limitation, Tenant's employees, agents, contractors, licensees and invitees (collectively "Tenant's Permittees").

(ii) Any injury to person or persons, including death resulting at any time therefrom, occurring through Tenant's or Tenant's Permittees use of the Property or any common area or right-of-way used by Tenant for access to Property; provided, however, such indemnification shall not include those resulting or arising from the acts or omissions of Landlord, its other tenants, or their respective officers, directors, representatives, shareholders, agents, employees, visitors, licensees and business invitees, other than Tenant's Permittees.

(iii) Any breach or default on the part of Tenant to perform or comply with any covenant or agreement required to be performed or complied with by Tenant hereunder, or any representation or warranty made by Tenant under this Lease that is or becomes false or inaccurate in any material respect and Landlord suffers damage thereby.

(iv) Any requirement or liability under any law, regulation or ordinance, local, state or federal, relating to or otherwise connected with Tenant's or Tenant's Permittees' use or occupancy of the Property subsequent to the date of this Lease, or any hazardous

materials, hazardous substances, hazardous wastes, oils, petroleum products or other environmentally regulated substances (collectively, "Hazardous Materials") placed upon, or onto, or released from, or caused to be placed upon, or onto, or released from the Property by Tenant.

Tenant covenants and agrees that it will not cause the Property to be in violation of existing or hereafter enacted or issued statutes, laws, rules, ordinances, or orders, permits and regulations of all state, federal, local and other governmental and regulatory authorities, agencies, and bodies applicable to the Property, pertaining to environmental matters, or regulating, prohibiting or otherwise having to do with asbestos and all other toxic, radioactive, or hazardous wastes or material including, but not limited to, the Federal Clean Air Act, the Federal Water Pollution Control Act, or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as from time to time amended.

19.2 Survival: The provisions of this Section 20 shall survive termination or cancellation of this Lease.

20. **NO JOINT VENTURE**: The relationship of the parties is that of Landlord and Tenant only and nothing in this Lease shall be construed as creating a partnership, joint venture, principal, agent or any other relationship. Except as expressly otherwise provided herein, neither party shall have the right or power to create any expense or liability chargeable to the other party.

21. **UNEARNED REVENUES, DEPOSITS AND COOPERATION**: Upon the execution of this Lease Landlord will provide to Tenant a detailed listing of all deposits, unearned ticket sale revenues, contracts for all previously engaged future events, venues, private parties and the like. Landlord agrees to provide full access to the theatre web site and assist in the transition of the operations of the facility to the Tenant. All unearned revenues, deposits, unearned ticket sales revenue, or any good or service unearned to which monies have been received by Landlord will be remitted to Tenant upon the Tenant providing Landlord with an invoice showing the good or service has been performed by Tenant. Any invoices to Landlord by Tenant will be paid within five (5) business days of presentment. In the event that any invoices are not paid within five (5) business days, Tenant shall have the right of offset against future rent payments for any unpaid invoices.

Tenant agrees to honor any contracts of Landlord for future bookings or commitments entered into by Landlord as are designated on Exhibit B attached hereto. Landlord agrees to

furnish all contracts or other written evidence of future bookings or commitments for the Theater to Tenant immediately upon the execution of this Lease. Landlord further agrees to assist Tenant in resolving any issues with these future bookings or commitments to insure the security of the property of Landlord and Tenant.

22. **ORDINANCES AND STATUTES:** Tenant shall comply in all material respects with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Property, occasioned by or affecting the use thereof by Tenant.

23. **TIME:** Time is of the essence in this Lease and all provisions herein relating thereto shall be strictly construed.

24. **PARTIAL INVALIDITY:** If any provision of this Lease is held to be invalid or unenforceable, all other provisions shall nevertheless continue in full force and effect and be enforceable to the fullest extent permitted by law.

25. **HOLDOVER:** In the event that Tenant shall remain in possession of the Property with or without the consent of Landlord after the termination of this Lease and without purchasing the Property pursuant to the Contract, Tenant shall be deemed to be occupying the Property as a tenant from month to month, subject to all of the covenants, terms and conditions of this Lease insofar as the same shall be applicable to a month-to-month tenancy; provided, however, that if such holding over is without the consent of Landlord, Base Rent for such holdover shall be one hundred fifty percent (150%) of the Base Rent due for the last month of the Term preceding the termination. Such month-to-month tenancy shall be terminable by either party upon thirty (30) days' written notice to the other given as of and prior to the end of any calendar month.

26. **OPTION TO PURCHASE:** Provided Tenant shall have complied with all the covenants, terms, agreements and conditions of this Lease, Landlord hereby grants to Tenant an option to purchase the leased property (including all Real Property and personal property) at any time during the lease period at a price of \$7,250,000.00. The Purchase price shall be allocated as follows: Land and improvements, \$6,000,000.00; furniture, fixtures and equipment, \$1,250,000.00. The exercise of this Option to Purchase must occur on or before July 1, 2014, with closing of the purchase to be completed on or before July 31, 2014. As consideration for this Option to Purchase, Tenant has agreed to deposit \$50,000.00 with Landlord at the execution

of this Lease; said sum so deposited, and any unearned rent, will be credited toward the purchase price at closing. If Tenant does not exercise said Option to Purchase or if exercised, said closing does not occur prior to July 31, 2014, said deposits are forfeited and become the sole and exclusive property of Landlord. Upon payment of the agreed purchase price, Landlord will execute and deliver to Tenant a Special Warranty Deed, free of all encumbrances except any easements of record and any *ad valorem* taxes for the current year. When Tenant purchases the Property, this Lease terminates and neither Landlord nor Tenant shall have any further rights or obligations under the Lease.

27. **ESTOPPEL CERTIFICATE:** Tenant agrees at any time and from time to time, but not more than twice in any twelve (12) month period during the Term, upon not less than thirty (30) days prior written request by Landlord to execute, acknowledge and deliver to Landlord a statement in writing in form which Landlord reasonably requests certifying that (a) this Lease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified and stating the modifications), (b) the dates to which the Base Rent and other charges have been paid in advance, if any, and (c) all of the defaults of Landlord hereunder, if any, (and if there are no defaults of Landlord a statement to that effect) it being intended that any such statement delivered pursuant to this Section may be relied upon by any prospective assignee of Landlord.

28. **EXCULPATION:** Tenant shall look solely to Landlord to enforce Landlord's obligations hereunder and Landlord's liability shall not exceed and shall be limited to the value of Landlord's interest in the Property and Tenant shall not look to any other Property or asset of Landlord in seeking either to enforce Landlord's obligations under this Lease or to satisfy a judgment for Landlord's failure to perform as such obligation. Notwithstanding anything in the Lease to the contrary, Tenant's right to pursue damages under the Contract shall not be limited by the value of Landlord's interest in the Property.

29. **COVENANT AGAINST LIENS:** Tenant has no authority or power to cause or permit any lien or encumbrance of any kind whatsoever, whether created by act of Tenant, operation of law or otherwise, to attach to or be placed upon Landlord's title or interest in the Property. Any and all liens and encumbrances created by Tenant shall attach to Tenant's interest only. Tenant covenants and agrees not to suffer or permit any lien of mechanics or materialmen or others to be placed against the Property, with respect to work or services claimed to have been

performed for, or materials claimed to have been furnished to Tenant or the Property, and in case of any such lien attaching, Tenant covenants and agrees to cause it to be released and removed of record within a commercially reasonable time.

30. **APPLICABLE LAW.** This Lease shall be construed, performed and enforced in accordance with the laws of the State of North Carolina. Further, the parties agree that any action involving the terms of this Lease shall be filed in the General Court of Justice, Superior Court Division, for Halifax County, North Carolina, and that all parties consent to this stipulation of jurisdiction and venue.

31. **SEVERABILITY.** In the event any provision of this Lease shall be determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, the remainder of this Lease shall nonetheless remain in full force and effect so long as the substantial benefits of the parties to be derived from this Lease and the performance hereof are not adversely affected by the elimination of such provision(s).

32. **COUNTERPARTS.** This Lease may be executed in one or more counterparts, including facsimile counterparts, and all such executed counterparts shall contain one agreement, binding on all the parties hereto, notwithstanding that all the parties are not signatory to the original or the same counterpart.

33. **HEADINGS.** The Section headings used herein are for convenience of reference only and shall not be considered to limit or construe the context or substantive terms of this Lease.

34. **CONSTRUCTION.** Landlord and Tenant each acknowledges and agrees that it has read this Lease and has considered all relevant business and tax aspects related thereto. The parties hereto further acknowledge and agree that each party has had the opportunity to consult with and obtain legal advice and counseling from an attorney in relation to each and every provision of this Lease, and each party acknowledges and agrees for itself it has either availed itself of that opportunity or has knowingly and willfully declined such representation. Therefore, the language used in this Lease shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against either party.

35. **POWER AND AUTHORITY.** Each of the parties to this Lease represent and warrant that it has full power and authority to enter into, execute, deliver and perform this Lease,

and that all approvals, consents and/or resolutions required for the execution of this Lease have been obtained.

36. **ATTORNEY'S FEES.** If any party files an action to enforce the provisions of this Lease and said party prevails in connection with the action, said party shall be entitled to recover reasonable legal fees and disbursements incurred by it in connection with such action.

37. **CALCULATION OF TIME PERIODS.** Unless otherwise specified herein, in computing any period of time, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such day is a Saturday, Sunday or a nationally recognized legal holiday or a legal holiday under the laws of the state in which the Property is located, in which event the period shall run until the next day which is neither a Saturday, Sunday or legal holiday. The final day of any such period shall be deemed to end at 5:00 PM as such time is observed in the time zone where the Property is located.

38. **FORCE MAJEURE.** Either party shall be excused from performing any obligation or undertaking provided in this Lease (except for the payment of Rent), for a period of time equivalent to the delay caused by the items described below, in the event and so long as the performance of any such obligation is prevented or delayed, retarded or hindered by Act of God, fire, earthquake, floods, explosion, actions of the elements, war, invasion, riot, mob violence, terrorism, sabotage, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, condemnation, requisition, laws, orders of government or civil military or naval authorities, or any other cause, whether similar or dissimilar to the foregoing not within the reasonable control of such party ("Force Majeure"), excluding however, the inability to obtain monies to perform or fulfill a party's obligations and undertakings.

39. **ENTIRE AGREEMENT.** The covenants and agreements herein contained are binding on the parties hereto, their successors, assigns and legal representatives. This Lease embodies all of the understandings and agreements of the parties and the terms hereof shall not be changed or varied except by written instrument signed by both parties.

IN WITNESS WHEREOF, Landlord and Tenant have each executed or caused this Lease to be executed in duplicate originals on their behalf in the manner prescribed by law.