

**CARPENTER PERFORMING ARTS CENTER**  
**California State University, Long Beach Foundation**  
FACILITY LICENSE AGREEMENT

**31743**

- 1) **Parties and Event Specifics:** This License Agreement is between California State University, Long Beach Foundation/Richard and Karen Carpenter Performing Arts Center (herein called "Foundation"), and

Organization: City of Long Beach

Address: 400 West Broadway

City & State: Long Beach, CA 90802

Phone: (562) 570-7092

Fax: (562) 570-8811

Tax I.D. /S.S. #: XXXXXXXXXX

Representative: Dina Zapalski

(herein called "User"). Foundation hereby grants the User a non-exclusive license with permission to use the **Stage, Auditorium, Backstage, Lobby, Terrace, Shop, Wardrobe Room, Orchestra Pit, and Dressing Rooms** in the Carpenter Performing Arts Center (herein called the "Facility") for the sole purpose of presenting "**Annual Police Awards Ceremony 2010**" (herein called the "Event") on the date(s) and at the time(s) listed below.

<b>Day(s):</b>	<b>Date(s):</b>	<b>Curtain or Starting Time:</b>
Wednesday	6/23/10	5pm

- 2) **Load-In/Out Dates:** Load-in (delivery of User's materials, sets and equipment and set-up for User) period shall **begin at 2pm on 6/23/10** and load-out (removal of User's materials, sets and equipment and restoration of Facility to pre-load-in condition) shall be **completed by 11:59pm on 6/23/10**.
- 3) **Use of Facility:** The application of this agreement acknowledges that the Foundation's use of the Facility is for non-campus activity.
- 4) **Contract Fee Terms and Schedule:** User agrees to pay Foundation the fees outlined below:
- a) The amount of **\$1500** as a facility license fee for the use of the Facility, to be paid with the return of this signed Agreement.
  - b) The amount for estimated labor, equipment use, expendables and other costs as outlined in Attachment B, to be paid 30 days after receipt of Attachment B, but no later than 30 days before the event. Attachment B will be sent separately following the production meeting.
  - c) The Capital Supplemental Fee (CSF) of \$200 will be charged for each day (whether or not there is a performance or activity) within a license period in which a User, their personnel, property, and/or equipment are present in the facility, unless CPAC is able to accommodate another event. These fees will create a fund for future improvements and repairs to the facility.
  - d) If, at contract signing, the event is fewer than thirty (30) days out, a payment schedule will be created based on the specific timeline of the User's event.

If fees are not received by Foundation as scheduled, the Agreement shall be considered null and void. Checks should be made payable to California State University Long Beach Foundation or (CSULB Foundation). If preferred, the Facility License Fee may be paid using a credit card (Visa, M/C, or AMEX). A 3% handling fee will be added to the License Fee for credit cards.

The license fee includes the following:

- e) Eight (8) hours use of Carpenter Center auditorium within a 24-hour period. Use hours exceeding eight (8) in a 24-hour period will be charged an hourly rate in addition to the base rental rate. After 24 hours, a new base rate applies.
- f) Eight (8) hours use of lobby and support spaces as needed.
- g) Basic sound and lighting package

Within two weeks after the event, a final accounting of the event is prepared. Revenues from ticket sales conducted through the Facility's box office shall be retained by Foundation to offset any monies owed by User to Foundation whether for fees or other charges, expenses, cleanup, repairs or as liquidated damages for cancellation or default. Foundation retains the right to charge the User an additional fee(s) as set forth in the Rate Sheet (SEE: Attachment A) if, in Foundation's sole discretion, the amount of cleanup or maintenance work required upon load-out is excessive, or if User has not completed load-out in a timely manner. User agrees to pay all outstanding fees and charges upon receipt of invoice from Foundation. Ticket revenues in excess of the amount of fees and charges or other monies due Foundation by User as shown in the invoice, under this or any other Agreement, will be remitted to User within a reasonable time, usually within two (2) weeks of the final accounting.

- 5) **Catered Events:** The 49er Shops, Inc. is the exclusive caterer to the Facility. Users are required to use The Grand for all parties, receptions, and other catered activities. Final attendance count for all catered events must be delivered to the Foundation General Manager or Events Coordinator no later than 9:00 a.m. three (3) business days prior to event date.
- a) Organizations requesting use of the Facility exclusively for catered events will be charged the hourly rate (see Attachment A).
- 6) **Programs and Novelties:** User agrees to pay Foundation 20% of gross receipts (exclusive of applicable taxes) from the sale of User's souvenir programs, booklets, librettos, phonograph records, tapes or compact discs, T-shirts, hats or other apparel, buttons or pins, or other similar materials which are sold at the Facility by User's agent(s), employee(s), or assignee(s) or if sold by the Facility's agent(s), employee(s), or assignee(s) on behalf of User. User shall settle all monies due Foundation under this paragraph with the House Manager on each day of the event. User shall submit to Foundation satisfactory evidence of such gross receipts upon request. Foundation reserves the right to examine all of User's merchandise, relevant accounts, books and invoices in order to determine the amount of money owed under this paragraph. At its sole discretion, Foundation reserves the right to prohibit sales of any item.
- 7) **Concessions:** Foundation reserves unto itself or its assigned agents the sole right to sell or dispense food and beverages at the Facility. No food, beverage or any product may be sold, given away, bartered or otherwise distributed without the prior approval of Foundation.

Concessions are available at no cost to or percentage of its profits to the User by The The 49er Shops, Inc.. The Facility's Events Coordinator will schedule their services upon request. However, if User cancels these services after they have been scheduled less than three (3) days prior to the event; User will be charged for labor in the amount of \$200.00.

- 8) Staffing Requirements:** Foundation will secure and User will pay for, at the rates in effect at the time of the event as set forth below, all necessary staffing, including security personnel in accordance with the provisions of the paragraph headed "Contract Fee Terms and Schedule" in this Agreement. Foundation retains the right to determine the appropriate number of staff necessary to serve and protect the public. Foundation retains right and sole discretion to modify staff if the Event requires it. User shall pay for all such modifications. All technical and house staff are hired for a minimum of four (4) hours each.

The rates listed below are standard for events scheduled on days other than holidays. For all positions, work over eight (8) hours in a single day is billed at one and one half (1.5) times the standard rate, and work over 12 hours in a single day is billed at two (2) times the standard rate. For all positions, work in excess of 40 straight-time hours per week is billed at one and one-half (1.5) times the standard rate. When technical and house staff are scheduled for events held on holidays, the User is billed the overtime rate (1.5 times the standard rate) per hour for up to eight (8) hours per day. After eight (8) hours, the User is billed at two (2) times the standard rate. Holidays observed include, New Year's Day, Martin Luther King, Jr., Day (third Monday in January), Cesar Chavez Holiday (determined by campus calendar), Presidents Day (third Monday in February), Memorial Day, Independence Day (July 4<sup>th</sup>), Labor Day, Thanksgiving Day, and Christmas Day.

**Security:** If security guards are requested by User or required by Foundation, arrangements will be made by the Facility for unarmed guards through authorized private off-campus agencies, or for armed guards through the CSULB Police Department. Only those agencies authorized by the CSULB Police Department may be used. The cost of security guards will be charged exclusively to User.

**Technical Lead:** Base rate \$36.00 per hour up to eight (8) hours per day, \$54.00 per hour eight (8) to twelve (12) hours per day, \$72.00 per hour over twelve (12) hours per day. Positions billed at this rate are Master Electrician, Sound Engineers, Flyman, Master Carpenter and Riggers.

**Technical:** Base rate \$30.00 per hour up to eight (8) hours per day, \$45.00 per hour eight (8) to twelve (12) hours per day, \$60.00 per hour over twelve (12) hours per day. Positions billed at this rate are Deckhands, Followspot Operators, 2nd Electricians, and 2nd Carpenters.

**House Managers:** Base rate \$25.00 per hour up to eight (8) hours per day, \$37.50 per hour eight (8) to twelve (12) hours per day, \$50.00 per hour over twelve (12) hours per day.

**Ushers:** Base rate \$16.00 per hour up to eight (8) hours per day, \$24.00 per hour eight (8) to twelve (12) hours per day, \$32.00 per hour over twelve (12) hours per day. Positions billed at this rate are Ushers, Assistant House Managers, and Stage Door Attendants.

**Stage Supervisor:** Base rate \$45.00 per hour up to eight (8) hours per day, \$67.50 per hour eight (8) to Twelve (12) hours per day, \$90.00 per hour over twelve (12) hours per day.

**Events Coordinator:** Base rate \$42.50 per hour up to eight (8) hours per day, \$63.75 per hour eight (8) to twelve (12) hours per day, \$85.00 per hour over twelve (12) hours per day.

- 9) User's Employees:** Individual performers, employees, agents, etc. shall be deemed the agents or employees of User for all purposes, and not the agents or employees of Foundation, the Carpenter Performing Arts Center, the College of the Arts, California State University, Long Beach or the Trustees of the California State University. User shall be solely responsible for its agents and employees and for its performers, and for complying with applicable state and federal law and Internal Revenue Service regulations pertaining to the withholding of taxes, and for complying with any applicable union or federation labor rules including, but not limited to, those pertaining to deduction of membership dues and contribution to health and welfare funds.

- 10) Services Provided:** Foundation will provide electricity, heating/air conditioning, and overhead lighting. Foundation reserves the right to include a Utilities Surcharge no greater than \$350.00 per performance. Ordinary use shall include only the house lights permanently installed in the Facility. A basic theatrical masking, lighting and sound package is offered. Use of the facility's inventory of chairs, music stands, and folding tables is included. There is a minimum auditorium cleaning fee of \$80.00 for each performance or event attended by an audience, whether public or private. All other services will be at the expense of the User. Any excessive cleanup required due to User's event shall be at the expense of User at the rate set forth in Attachment A. Foundation retains sole discretion to determine when cleanup required is excessive.
- 11) Office Space:** An office space is provided for User to conduct event-related business if requested. A telephone is provided also upon User's request for an additional cost. All event personnel must use above mentioned phone for outgoing calls. No office supplies or other services (copier, fax, etc.) are provided.
- 12) Damage and Theft:** Foundation shall not be obligated or required to replace or repair any part of the Facility nor be liable to User for any damage occurring therein, nor for any loss, theft, damage, injury or other casualty to the property or persons of User, its agents or employees or third parties who have provided equipment or other personal property to User. User shall be responsible to Foundation for any damage to the premises, or equipment on the premises, occurring as a result of User's use of the Facility, regardless of whether such damage is caused by User, its agents or employees, third parties, or attendees at User's event. User shall be responsible for any Foundation property removed from the Facility whether intentionally or inadvertently that occurs during the period of User's use regardless of whether such property is removed by User, its agents or employees, third parties, or attendees at User's event.
- 13) Hold Harmless:** User shall indemnify, save and hold harmless, and at Foundation's option, defend Foundation, the Carpenter Performing Arts Center, the College of the Arts, California State University, Long Beach, the Trustees of the California State University, its officers, directors, trustees, agents, employees and volunteers (collectively "Indemnified Parties"), from and against any and all losses, liabilities, damages, claims, demands, actions, judgments or causes and expenses, including without limitation, interest, penalties and attorneys' and accountants' fees asserted against, resulting to, imposed upon or incurred or suffered by Indemnified Parties, directly or indirectly, as a result of, based upon or arising from, the performances, User's use of the Facility, any inaccuracy in, breach or non-fulfillment of any of the representations, warranties or agreements made by User in or pursuant to this Agreement, except as is caused by the sole negligence or willful misconduct of Indemnified Parties.
- 14) Insurance:** Concurrent with the execution of this Agreement, User shall procure and maintain the following insurance at User's expense for the duration of this Agreement, including any extension, renewals, or holding over thereof, from an insurance company (ies) that is admitted to write insurance in the State of California, that has a rating of or equivalent to A: VII by A.M. Best Company. User must submit an underwriter's additional insured endorsement with a certificate of insurance stating that there is liability insurance presently in effect for User with a combined single limit of not less than \$1,000,000 per occurrence, and \$2,000,000 aggregate; and that vehicle insurance is in effect with a minimum coverage of \$1,000,000 per occurrence; Workers' Compensation and Employers Liability Insurance as required by law. The required Workers' Compensation insurance shall extend to cover employer's liability for accidental bodily injury or death and for occupational disease with a minimum liability limit of \$1,000,000.

**The certificate of insurance shall provide:**

- a) That the insurer will not cancel the insured's coverage without thirty (30) days prior notice to the Foundation.

- b) That the State of California, the Trustees of the California State University, the University, California State University Long Beach Foundation, the employees, officers, and agents of each of them, are included as additional insured, but only insofar as the operations under the contract are concerned;
- c) That the State, the Trustees, the University, California State University Long Beach Foundation, the employees, officers, and agents of each of them will not be responsible for any premiums or assessments on the policy.

By signing this Agreement, you also agree that the bodily injury liability insurance required shall be in effect at all times during the term of this agreement. In the event insurance coverage expires at any time during the term of the agreement, you agree to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage for not less than the remainder of the term of the contract, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the foundation, and you agree that no rental of facility (ies) shall be allowed prior to the giving of such approval. In the event that User fails to keep in effect at all times insurance coverage, the Foundation may in addition to any other remedies it may have, terminate this agreement upon the occurrence of such event.

**16) Compliance:** User and everyone connected with User's event shall abide by, conform to and comply with all laws of the United States, the State of California, and the rules and regulations of Foundation and the Facility, together with all rules and regulations of the Police and Fire Departments of the City of Long Beach. Foundation shall not be liable for any failure on the part of User to comply with such laws, ordinances and regulations. User agrees to indemnify, save, hold harmless and defend Foundation from any claims or costs, including legal fees, which may arise from any such violation, or alleged violation.

- a) For safety reasons, the stair lights in the auditorium must remain on at all times during all performances and rehearsals.
- b) The Foundation reserves the right of final approval with regard to the positioning of any temporary or event displays, tables and/or equipment (video, photographic, or other) as to not interfere with wheelchair access or any other ADA requirements, fire exits, and all other safety laws.
- c) No signs, banners, displays, etc. may be attached to (with tape, nails, screws, etc.) any wall, door, or window of the Facility. If, as a result of non-compliance, damage occurs to these areas, User will be subject to charges for refurbishing these areas based on the amount of damage done.
- d) No food or beverage (except water) is allowed in any of the Facility's dressing rooms without prior approval of the Foundation. Non-compliance will result in User being charged \$100.00 per day of occupancy for each room requiring cleanup.
- e) The smoking of any substance or item is strictly prohibited inside any and all areas of the Carpenter Center (Long Beach City Ordinance, No. C-6916). Non-compliance will result in User being charged \$100.00 per day of occupancy for each room where evidence of smoking is detected.
- f) The service of alcohol is illegal in the Facility except by The 49er Shops, Inc.. The consumption of alcohol is limited to those persons 21 years of age and older (California Business & Professions Code 25658). When alcohol is served in the Facility said beverages must be consumed within the Facility or on its terrace. No person shall transport alcohol in open containers to the Facility's parking lot or to any other location in or around the University campus (Long Beach Municipal Code Section 9.22.010). Non-compliance will result in violators being removed from the Facility and subject to prosecution.

- 17) Accommodation of Disabled Patrons:** User agrees to provide reasonable accommodations (consistent with the Americans With Disabilities Act and/or applicable state law) to ticket-holding patrons who provide appropriate advance notice of the need for such accommodation. All costs associated with such accommodation(s) shall be the responsibility of the User. Appropriate advance notice shall be construed as ten (10) calendar days in advance of a performance. Further, the User agrees to advertise the willingness to provide such accommodations in all public advertising of the event covered by this Agreement. Appropriate advertising language shall be construed as the following: "Ticket-holding patrons who require a reasonable accommodation (as defined by the Americans With Disabilities Act and/or applicable state law) to attend and/or enjoy this event must notify (Name and Phone Number of Responsible Party) at least ten (10) calendar days in advance of the performance date."
- 18) Copyrights:** User shall assume all costs arising from the use of patented, trademarked, franchised, copyrighted or otherwise proprietary material used in or incorporated in the Event. User agrees to indemnify, defend and hold harmless Foundation from any claims or costs, including legal fees, which might arise from use of any such material.
- 19) Performance Contract:** User certifies that it has a valid, properly executed, and compatible contract with all artists and/or performers whose services are related in any way to User's license of the Facility under this Agreement. User shall submit to Foundation upon demand proof of such compatibility satisfactory to Foundation.
- 20) Marketing and Publicity:** All uses of the Carpenter Performing Arts Center name or logo in any form must be pre-approved by the CPAC Marketing Director prior to being printed. User agrees that all announcement's, press releases, advertising and other marketing materials promoting the Event will be honest and truthful and will include accurate information on performance time(s) and ticket prices. User will identify the Facility as the "Richard and Karen Carpenter Performing Arts Center" or the "Carpenter Performing Arts Center." User must also identify that the Facility is located on the campus of "California State University, Long Beach," which may be abbreviated "CSULB." No advertising or publicity may state, or in any manner imply, that Foundation or the University sponsors, endorses or is responsible for User's event activities.
- 21) Logo:** The Carpenter Performing Arts Center logo may be used only with approval from the Carpenter Center Marketing Director. The logo may not be altered in any way and must be used in conjunction with the Facility name as detailed above. Electronic files with the logo and facility name in approved formats will be provided by the Facility when requested by the user and approved by the Carpenter Center Marketing Director. This request must be submitted in writing (email is acceptable) by the user at least one week in advance of expected logo delivery.
- 22) Publicity:** User agrees that every effort will be made to supply media with honest and truthful information, and will provide all local media with accurate performance date, time and ticket price information. All publicity materials should be given to the Foundation, so that Foundation staff may accurately answer questions posed regarding User Event(s).
- 23) Seating Capacity:** User shall not sell, distribute or permit to be sold or distributed tickets or passes in excess of the seating capacity of the Facility as determined by Foundation.
- 24) Expendables:** A \$50.00 per day expendables fee will be billed to User. Expendables include such items as lighting gels, batteries, tape (gaffer's, spike, glow, etc.), and other technical supplies.
- 25) Refund of Ticket Revenue:** Refunds are not issued after a ticket is purchased. **NO EXCEPTIONS WILL BE MADE.**

**26) Ticketing:** Tickets for all ticketed events must be printed on Carpenter Center ticket stock by the CSULB Arts Ticket Office. User may elect to take possession of all printed tickets for sale on consignment, or may elect to utilize Arts Ticket Office staff for ticket sales. If Arts Ticket Office staff sells tickets for event, Foundation shall at all times retain control of ticket sales revenue until the settlement of all monies owed under this Agreement.

- a) User must submit the Ticket Order Form to have their tickets printed with payment of the Facility License Fee.
- b) User will pay \$50.00 per performance as a set-up service charge as set forth in Attachment B, and paid in accordance with the provisions of the paragraph headed "Contract Fee Terms and Schedule" in this Agreement. Scaled houses will incur a \$50 per section set-up fee per performance.
- c) For events where User has elected to take full consignment of printed tickets, User will pay \$250.00 per performance for all printed tickets. For tickets sold by Arts Ticket Office, User will pay a fee of \$2.50 per ticket issued. If a User elects to take a partial consignment of printed tickets, User will pay \$2.50 per ticket for each ticket issued.
- d) For events where User has elected to take full or partial consignment of printed tickets, User agrees to provide or sell a ticket to every patron, regardless of age, in order to be admitted into the Facility. Any patron without a ticket or that exceeds Facility capacity will not be admitted into the Facility.
- e) User agrees to sell all tickets at the prices advertised unless a written waiver has been approved by Foundation.
- f) User agrees to provide ten (10) complimentary, preferred house seats per performance to be used at the discretion of Foundation, if requested by the Foundation. Any house seats not used fifteen (15) minutes prior to curtain will be released for sale to patrons.
- g) Foundation will hold twelve (12) seats for use by CPAC House Management and Arts Ticket Office staff at their discretion to resolve seating or ticketing problems and for wheelchair patrons.
- h) Foundation will exert reasonable caution against acceptance of bad checks from customers. Foundation shall not be responsible for acceptance of bad checks, recovery of funds owed due to such checks or prosecution of any person(s) passing such checks. User remains fully responsible for paying Foundation all monies owed under this Agreement despite the acceptance of any such checks or cancelled credit card transactions.
- i) In handling and controlling ticket revenues, Foundation is acting for the accommodation of User and shall not be liable for any loss thereof unless willfully caused by Foundation or permitted through gross negligence of Foundation. User remains fully responsible to pay the Foundation all monies owed under this Agreement despite any loss of ticket revenue, unless willfully caused by Foundation or permitted through gross negligence of Foundation. All unsold consigned tickets and revenue must be returned to the Carpenter Center Arts Ticket Office a minimum of seventy-two (72) hours prior to the Event. All tickets unaccounted for will be considered sold by User at full face value. Any consigned tickets sold by User at a discounted rate or distributed as complimentary must be documented in writing by an authorized agent of User.
- j) All tickets, as designated by User, to be left at Will Call must be received at the Carpenter Center Ticket Office by 5:00 p.m. on the day prior to Event. All tickets must be paid for in advance. Tickets cannot be held at the Will Call window pending payment. Any such requests will be denied. Only Arts Ticket Office staff is authorized to use the CPAC ticket office.

**27) User Artist/Staff Roster:** User shall provide a complete list of all artists, production staff, and other volunteers who are to have access to artist and support areas of the Facility no later than three (3) business days prior to Event. If necessary, a pass system will be initiated.

**28) User Entrance:** All artists, User production staff, and volunteers shall enter the Facility through the door marked "**Performer's Entrance**" located in the rear of the Facility on the west side at the end of the Nijinsky Wall.

**29) Assignment:** User shall not assign, transfer, sublicense or otherwise dispose of this Agreement or its rights to use the Facility without the previous written consent of Foundation.

**30) Broadcast Rights:**

a) Foundation reserves all rights and privileges for outgoing radio, television, simulcast broadcast or cable transmission originating from the Event. Should Foundation grant to User such rights or privilege, Foundation may require as a condition of such grant advance payment to Foundation of any estimated related costs to be incurred by Foundation and may also require payment for such privilege in addition to the Rental Rate. Such permission must be obtained in writing ten (10) days in advance of the broadcast date.

b) Foundation shall have no responsibility or liability for the radio, television, simulcast broadcasting or cable cast including, but not limited to, responsibility or liability for any violation of any rights of others or for ad lib remarks of announcers. To the extent it is responsible for the origination of such broadcasting, User agrees to exonerate, indemnify, hold harmless and, at Foundation's option, defend Foundation, Carpenter Performing Arts Center, College of the Arts, California State University, Long Beach, the Trustees of the California State University, the governing boards, directors, officers, agents, employees and volunteers of each of them from and against any and all claims, damages, liability, cost and expenses including reasonable attorney's fees.

**31) Default:** Should User default in the performance of any of the terms of this Agreement, Foundation may, at its sole discretion, terminate this Agreement. Upon default, User shall be liable for the full amount of the license fee as well as costs and other expenses actually incurred as provided for herein, less license fees received from others for use of the Facility at the time specified in this Agreement up to the full amount owed. Any deposit made by User shall be retained by Foundation and, to the extent that it exceeds any fees and charges owed, considered liquidated damages.

**32) Cancellation by User:** Should User cancel the Event covered under this Agreement, such cancellation request must be made in writing and forwarded to the Facility. The booking fee is forfeited, and the User is charged the appropriate cancellation fee below:

a) If User cancels 90 days prior to the event, all monies paid, except the booking fee, are refunded to the User;

b) If User cancels 89 to 30 days prior to the event, 50% of the rental fee ONLY is charged to the User, and no labor costs are charged;

c) If User cancels 29 to 7 days prior to the event, 100% of the rental fee ONLY is charged to the User, and no labor costs are charged;

d) If User cancels 6 to 1 days prior to the event, 100% of the rental fee PLUS labor costs is charged to the User.

**33) Cancellation by Foundation:** Foundation reserves the right to terminate this Agreement for any reason upon thirty (30) calendar days written notice. In the event Foundation exercises this right, it shall release User from liability for payment of the amount provided for in the paragraph headed "Contract Fee Terms and Schedule" in this Agreement, and Foundation will refund full booking fee



received pursuant to the paragraph headed "Contract Fee Terms and Schedule" in this Agreement. Should Foundation exercise said right to terminate this Agreement, in accordance with these provisions, User agrees to forego any and all claims against Foundation and further agrees to waive any and all rights under this Agreement. If Foundation cancels "for cause," no refunds will be made to the User.

**34) Power Outages:** The Foundation assumes no liability or responsibility for damages caused by power outages and/or blackouts.

**35) Force Majeure:** If any matter or condition beyond the reasonable control of either party, as determined in Foundation's sole discretion, financial inability excepted, such as, but not limited to war, public emergency, calamity, third-party strike or labor disturbance, fire, interruption of transportation services, casualty, earthquake, flood, act of God, or other disturbance or any governmental restriction (collectively "force majeure"), prevent performance by a party to this Agreement then the following provisions shall pertain:

- a) If such force majeure shall prevent performance by Foundation, User or by both Foundation and User:
  - i) User's payment obligation under this Agreement shall be suspended or excused to the extent commensurate with such force majeure, as determined by Foundation, but User shall continue to be obligated to perform all of its other obligations under this Agreement;
  - ii) Foundation's obligation under this Agreement shall be suspended or excused to the extent commensurate with such force majeure; and
  - iii) Neither Foundation nor User shall be obligated to the other party for any losses or costs sustained or incurred by the other party solely as a result of such force majeure; and
- b) In the event of such force majeure, the term of this Agreement may, at the sole discretion of Foundation, be extended or rescheduled. Foundation shall not be obligated to provide the facility to User for use during any other period in substitution for the period, if any, when performance is prevented by such force majeure. Any agreement to reschedule such performance(s) will only be valid upon the signing of a new agreement.

**36) Interruption or Termination of Performance:** Foundation shall retain the right to cause the interruption or termination of any performance when, in the sole judgment of Foundation, such action is necessary in the interest of public safety. User's fee shall be forfeited, prorated or adjusted at the sole discretion of Foundation. Foundation also retains the right to terminate any performance if the scope or nature of event changes drastically from pre-production to actual performance.

**37) Event Commencement:** The client shall determine the commencement of the show or event. Once that has been determined, and tickets have been ordered, the date and time may not be altered without written approval from the Foundation. Failure to begin the show or event within 15 minutes of the scheduled time will result in a \$200 penalty to the client.

**38) Evacuation of Facility:** Should it become necessary in the judgment of Foundation to evacuate Facility for reasons of public safety, Foundation may, at its sole discretion, grant to User the use of the Facility for sufficient additional time to complete the presentation of the Event providing such time does not interfere with another Facility user. If it is not possible to complete presentation of the Event, User fee shall be forfeited, prorated or adjusted at the sole discretion of Foundation.

**39) Control of Premises:** It is understood that through this Agreement, Foundation does not relinquish its right to control the management of the Facility and to enforce all necessary laws, rules and regulations. User is granted a non-exclusive license to a defined event area, as described in the paragraph headed "Parties and Event Specifics," and Foundation retains the right to use any and all parts of the Facility, so long as such use does not unduly interfere with User's license.

- 40) No Responsibility for Deliveries:** Foundation shall not be responsible for the disappearance or damage to items delivered to the Facility for the User. User shall indemnify, exonerate and hold harmless and, at Foundation's option, defend Foundation, Carpenter Performing Arts Center, College of the Arts, California State University, Long Beach, the Trustees of the California State University, the governing boards, directors, officers, agents, employees and volunteers of each of them from and against any claim asserted against them with respect to any items of delivery.
- 41) Public Safety:** User agrees that at all times it will conduct its activities with full regard to the safety of the University community and the public, and will observe and abide by all applicable regulations and requests for duly authorized governmental agencies responsible for public safety.
- 42) Defacement of Facility:** User shall not injure, mar nor in any manner deface the Facility or any equipment contained therein. User shall be responsible for any damage to the Facility caused by its use whether caused by User, its agents or employees, third parties related to its use, or by attendees of User's Event. All damage will be billed at cost plus 11%.
- 43) Ejection of Persons:** Foundation reserves the right to eject from the Facility any objectionable person or persons, and neither Foundation, Carpenter Performing Arts Center, College of the Arts, California State University, Long Beach, the Trustees of the California State University, nor the governing boards, directors, officers, agents, employees and volunteers of each of them shall be liable to User for any damages that may be sustained through the exercise of such right. User shall indemnify, hold harmless and, at Foundation's option, defend Foundation, Carpenter Performing Arts Center, College of the Arts, California State University, Long Beach and the Trustees of the California State University, and the governing boards, directors, officers, agents, employees and volunteers of each of them from and against any and all losses, liabilities, damages, claims, demands, actions, judgments, or causes and expenses, including without limitation interest, penalties and attorney's fees associated with any such ejection.
- 44) Special Effects:** Request for the use or presence of any animals, firearms, or unique special effects must be submitted to the Foundation at least four weeks in advance for CSULB Campus Police approval. Prop firearms may not be capable of firing live ammunition. The type and brand of weapon and the caliber of blanks being used must be provided for approval. Request for use of pyrotechnics and/or open flame of any kind must be submitted to the Foundation no less than sixty (60) days in advance for State Fire Marshall approval. Open flame of any kind (matches, cigarette lighter, candles, incense, sparklers, etc.) is prohibited anywhere in the Facility. No smoking is allowed inside or within 20 feet outside of the Facility. No gasoline, acetylene or other fuel or other combustible or hazardous substances will be permitted in the Facility without the written approval of Foundation. All decorations and other combustible materials must be fireproofed, and User shall deliver to Foundation a fire-proofing certificate in a form specified or required by and satisfactory to any local government or body having jurisdiction, if necessary, in Foundation's sole judgment. If this provision is violated, Foundation may withhold from ticket office receipts due User or bill User any reasonable amount necessary, in Foundation's sole judgment, to compensate Foundation for any injury to its property, including its good will.
- 45) Infectious or Hazardous Materials:** User shall collect and remove from the Facility all infectious or hazardous materials in conformity with federal, state, and local laws and regulations. Infectious or hazardous materials include but are not limited to all items that may be contaminated with blood or other, potentially infectious, bodily fluids. User is responsible for the decontamination of any Facility equipment or structure, which becomes contaminated with blood or other potentially infectious bodily fluids. Contaminated surfaces of Facility, equipment or structure shall be decontaminated with a hypochlorite (10% v/v) solution as soon as feasible. Should it become necessary for Foundation or University personnel to collect or remove any potentially infectious or hazardous materials or decontaminate any Facility equipment or structure the User shall be billed for such services. Invoices for such services shall be paid promptly. By collecting or removing such material, the Foundation does not assume, and the User is not relieved of, any liability resulting from the contamination of Facility, equipment or structure by infectious or hazardous materials.

- 46) Removal of Property:** User agrees that all materials pertinent to the Event which are not the possession of Foundation will be removed from the premises within the load-out period specified in the paragraph headed "Load-in/Out Dates" in this Agreement. Failure to do so will constitute abandonment by User and Foundation may dispose of any property in a manner that Foundation, in its sole discretion, deems appropriate. Any costs incurred by Foundation in such disposal shall be reimbursed by User in accordance with the provisions of the paragraph headed "Contract Fee Terms and Schedule" in this Agreement.
- 47) Lost Articles:** Foundation shall have the sole right to collect, retain custody of and to dispose of articles left in the Facility by persons attending any event in the Facility in any manner which it deems appropriate.
- 48) Foundation Authorization:** The person executing this Agreement on behalf of Foundation certifies that such person is duly authorized to and does execute this Agreement as a representative of Foundation and assumes no personal liability for the performance of this Agreement.
- 49) Non-Discrimination:** All parties named herein and their agents, employees, representatives, et al, shall not discriminate against, or permit the discrimination against, any person because of race, color, ethnicity, religion, creed, age, gender, sexual orientation, marital status, national origin, ancestry, physical or mental disability.
- 50) Entire Agreement:** This Agreement embodies the entire agreement between the parties as of the date hereof, and no modifications, amendments or variations there from shall be of any effect unless in writing signed by a duly authorized officer or agent of User and Director or Executive Director of the Carpenter Performing Arts Center. User warrants that User has not employed or retained, paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for User, to solicit or secure this Agreement.
- 51) Savings Clause:** The invalidity of one or more phrases, sentences, clauses, or sections contained in the Agreement shall not affect the remaining portions of this Agreement of any part thereof, and in the event that any one or more of the phrases, sentences, clauses, or sections contained in this Agreement shall be deemed invalid by the final order, decree or judgment of an arbitrator or a court of competent jurisdiction, this Agreement shall be construed as if such invalid phrases, sentences, clauses, or sections had not been inserted in this Agreement.
- 52) Effect of Waiver:** The failure of either party at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver in any one or more instance shall be deemed to be a further or continuing waiver of any such condition of breach in other instances of a waiver of any other condition or any breach of any other term, covenant, representation or warranty.
- 53) Controlling Law:** This Agreement shall be construed under the laws of the State of California.
- 54) Arbitration:** Any controversy or claim of any kind arising out of or relating to this Agreement or alleged breach of this Agreement, including, but not limited to, any claim relating to its validity, interpretation, enforceability or breach, which is not settled by agreement between the parties and which exceeds the jurisdictional limitations of small claims court, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association or any successor thereto then prevailing. A neutral arbitrator shall be jointly chosen by the parties from a list of arbitrators provided by the American Arbitration Association, Los Angeles, California office, and any hearings shall be held in Los Angeles, California. Such arbitration shall be final and binding upon the parties and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction. The fees and costs of the arbitrator and all other fees and costs, including the costs of any transcript or record of the arbitration and administrative fees, shall be borne equally by the parties. Each party shall bear its own attorneys' fees. A party requesting arbitration must make a demand for arbitration and request for a list of arbitrators within sixty (60) days of the time the claim arose or else such claim shall be deemed waived. In consideration of each party's agreement to

submit to arbitration all disputes with regard to this Agreement between the parties, each party agrees that these arbitration provisions shall provide the exclusive remedy, and each party expressly waives any right it may otherwise have to seek redress in any other forum. The parties further agree that the arbitrator acting hereunder shall not be empowered to add to, subtract from or in any other manner modify, alter or amend the terms of this Agreement between the parties.

**55) Attorney's Fees and Other Costs:** If the Foundation hires or pays money to someone else to help enforce this Agreement or to collect any indebtedness, the User will pay that amount. This amount includes the Foundation's attorney's fees and legal expenses whether or not there is a lawsuit, including attorney's fees and legal expenses for bankruptcy proceedings (and including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. User also will pay court costs, in addition to all other sums provided by law.

**56) Significance of Headings:** Paragraph headings contained herein are solely for the purpose of aiding in the speedy location of subject matter and are not in any sense to be given weight in the construction of this Agreement.

**57) Conditions Accepted:** The signature below by User's duly authorized representative confirms that User and/or User's representative has read, understands, and agrees to accept the conditions listed above. **User must return this Agreement with said signature not more than ten (10) calendar days after its receipt, or no later than thirty (30) days prior to event, whichever comes first.** Failure to do so may result in cancellation of User's event by Foundation.

**58) Additional Terms:**

Dated on the 1<sup>st</sup> day of March, 2010 at California State University, Long Beach.

Accepted for User by: EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER.

[Signature] Assistant City Manager

Signature

Patrick H. West, City Manager  
Name (please type or print)

City of Long Beach  
Organization (please type or print)

9.5.10  
Date Signed

Accepted for CSULB Foundation by:

[Signature: Michele Roberge]

Michele Roberge  
Executive Director  
Carpenter Performing Arts Center  
6200 Atherton Street  
Long Beach, CA 90815

5-19-10  
Date Signed

APPROVED AS TO FORM

March 1, 2010  
ROBERT E. SHANNON, City Attorney

By [Signature: Gary J. Anderson]  
GARY J. ANDERSON  
DEPUTY CITY ATTORNEY

**ATTACHMENT A - RATE SHEET  
CARPENTER PERFORMING ARTS CENTER**

**Facility Lease Fee**

The Facility Lease Fee is a base rate and is for the rental of the facility ONLY. It does not include labor, equipment, ticketing or any other charges the event may incur.

	1 <sup>ST</sup> Show of the day	2 <sup>nd</sup> Show within the same day	Hourly rate (after 8 hour base)	Capital Supplemental Fee (CSF)
CSULB	\$700.00	\$350.00	\$75.00/hr (after 8 hour base)	\$200.00 per day
Non-Profit Organizations (need 501 form)	\$1,200.00	\$600.00	\$120.00/hr (after 8 hour base)	\$200.00 per day
Profit Organizations	\$1,500.00	\$750.00	\$150.00/hr (after 8 hour base)	\$200.00 per day
Lobby ONLY (from setup to end of cleanup)	N/A		Hourly rates above	N/A

**Equipment Fees**

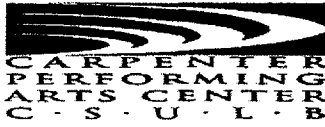
The Carpenter Center provides chairs, 4' lobby carts, music stands with lights, and a conductor's podium to events at no cost. Additional equipment is available for an extra charge, as listed below. Unless otherwise noted, charges are computed for the number of days the equipment is in use. A weekly charge is used for events that are longer than 3 days. Other additional charges for services are also listed.

Description	NOTES	Day Rate	Week Rate
Excess Cleaning	If required.	TBD	N/A
Dance Floor		\$100.00	\$300.00
Expendables (standard charge)	Various technical supplies: tape, gels, glow, etc.	\$50.00	N/A
Film Projection System		\$250.00	\$750.00
Film Screen		\$100.00	\$300.00
Fog Machines		\$75.00	\$225.00
Followspot		\$100.00	\$300.00
Microphones - handheld wireless		\$40.00	\$120.00
Microphones - lavalier		\$60.00	\$180.00
Monitors		\$25.00	\$75.00
Auditorium Cleaning	Per performance.	\$80.00	N/A
Production Office Telephone	If used.	\$10.00	\$30.00
Reception Fee	For all catered events. Garbage removal and extra clean-up personnel.	\$100.00	N/A

US and California Flags		\$10.00	\$30.00
6' round tables		\$5.00	\$15.00
24" Cocktail tables	12 available for use outdoors, remaining inventory not allowed for use outdoors	\$5.00	\$15.00
36" Cocktail tables	Not allowed for use outdoors	\$5.00	\$15.00
Cabaret set-up Maximum seating 250	Per performance. Only for use on stage in Fire Marshall approved set-up. Includes table, chairs, table lamps, bars, and audio/lighting control	\$400.00	N/A
Rail and Drape	For indoor use only. Priced by 6' section	\$12.00	\$36.00
Orchestra Shell		\$250.00	\$750.00
Piano - 9' Steinway D Concert Grand		\$200.00	\$600.00
Piano Tuning		\$85.00	N/A
Platforms - 4'x8' w/stair units	Includes skirting.	\$10.00	\$30.00
Lectern w/mic		\$65.00	\$195.00
Monitor Console		\$100.00	\$300.00
TV/VCR on rolling rack		\$25.00	\$75.00

Revised (08/01/06)

Attachment B



Ms. Aimee Bramble, Events Manager  
 6200 Atherton Street  
 Long Beach, CA 90815  
 Phone: (562) 985-7007  
 Fax: (562) 985-7026

PRESENTER: Long Beach Police Dept      EVENT NAME: 2010 Award Ceremony  
 ADDRESS: 400 West Broadway      EVENT DATE(S): 06/23/10  
             Long Beach, CA 90802      REPRESENTATIVE: Karen Owens  
 PHONE: (562) 570-7098  
 FAX:

DESCRIPTION		ESTIMATED FEES
<b>Rental of Facility:</b>		
<i>Date</i>	<i>Rental of Facility, start - stop</i>	
	<i>Event Type</i>	\$ 1,200.00
	<i>Hours over 8hr/day =</i>	\$ -
	<b>SUBTOTAL FACILITY FEE :</b>	<b>\$ 1,200.00</b>
<b>Labor:</b>		
	Technical Labor (see attachment)	\$ 1,098.00
	House Labor (see attachment)	\$ 1,547.50
	<b>SUBTOTAL:</b>	<b>\$ 2,645.50</b>
<b>Equipment:</b>		
	See Attached	\$ -
		\$ -
		\$ -
		\$ -
	<b>SUBTOTAL:</b>	<b>\$ 170.00</b>
<b>Ticketing:</b>		
	<i>Full Consignment</i>	
	Ticket Set-Up (per performance charge)	\$ 50.00
	Ticket Printing (per performance charge)	\$ 250.00
	<b>SUBTOTAL:</b>	<b>\$ 300.00</b>
<b>Other Fees (i.e., Expendables, Cleaning, etc.)</b>		
	CSF Fee (\$200/per day)	\$ 200.00
	Reception Fee (\$100/per site)	\$ 100.00
	Auditorium Cleaning (\$80/per performance)	\$ 80.00
	Expendables (\$50/per day)	\$ 50.00
	<b>SUBTOTAL LABOR, EQUIPMENT, TICKETING, OTHER:</b>	<b>\$ 3,545.50</b>
	<b>TOTAL COST ESTIMATE:</b>	<b>4,745.50</b>
<b>LESS: AMOUNT RECEIVED FROM CLIENT:</b>		
	Booking Fee <i>Date received</i>	
	Facility Fee <i>Date received</i>	
	<b>TOTAL:</b>	<b>\$ -</b>
	<b>TOTAL BALANCE DUE:</b>	<b>\$ 4,745.50</b>

Please make check payable to: CSULB Foundation  
 Please remit payment to the Carpenter Performing Arts Center, attn.: Ms. Sandra Oung.