

Opera Delaware Costume Rental Policy & Agreement

This Rental Agreement for Costume Garments (including each attachment, appendix, invoice and purchase order between the Parties (as defined below), the “Agreement”), dated as of _____ (the “Effective Date”), is by and between Opera Delaware, a Delaware nonprofit corporation (“Opera Delaware”) and _____ a _____ corporation (“Renter”). Opera Delaware and Renter referred herein collectively as the “Parties,” each a “Party”.

WHEREAS, the Parties to this Agreement intend to outline the terms and conditions relating to the rental of certain costume garments (the “Costumes”) by Opera Delaware to Renter.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Contract Purpose; General Scope of Services.** Opera Delaware hereby agrees to rent certain Costumes to Renter and Renter agrees to accept such Costumes pursuant to the terms of this Agreement. Opera Delaware shall provide such Costumes to Renter pursuant to the terms and conditions of this Agreement. Opera Delaware shall deliver the Costumes to Renter at the time of full payment by Renter.

2. **Term of Contract.** The Agreement shall terminate upon the earlier to occur of the following: (i) the fulfillment of all the terms and conditions set forth herein; (ii) a material breach by Renter incapable of cure within thirty (30) days after receipt of notice of such material breach by Opera Delaware; or (iii) _____, (the “Return Date”) [**insert date ten (10) days following the final performance in which the Costumes are used by Renter**].

3. **Termination.** Opera Delaware reserves the right to terminate this Agreement in the event of a material breach of the terms and conditions set forth herein by Renter. If a Material Breach (as defined hereafter) occurs by the Renter during the term of this Agreement, Opera Delaware shall have the right to terminate this Agreement immediately. A “Material Breach” of this Agreement shall include, but not be limited to: (i) the Renter fails to comply with any material term of the Agreement and failing to correct such non-compliance within thirty (30) days after receiving notice of such material breach from Opera Delaware; (ii) the Renter defaults on any payment obligation (i.e., bounced check) hereunder and fails to cure such payment default within seven (7) business days of written notice of such payment default to the Renter by Opera Delaware; or (iii) the Renter has either filed a voluntary petition in bankruptcy or voluntary petition or an answer seeking reorganization, arrangement, readjustment of its debts, or any other relief available under the U.S. Bankruptcy Code or under any other insolvency act or law, now or hereafter existing; or a receiver or trustee is appointed involuntarily.

4. **Costume Selection.** The selection of all Costumes from Opera Delaware shall be made by an authorized representative (designer or other contact) of the Renter under the supervision of Opera Delaware’s staff and subject to Opera Delaware’s approval.

5. **Pricing.** Opera Delaware shall offer Costumes to Renter at a price of (a) \$35 for regular stock; and (b) \$55-\$85 for special stock, or items pulled by Opera Delaware staff. All prices are per Costume, which is one gown or three (3) pieces (i.e., slacks, jacket, shirt or skirt, blouse, jacket) and include accessories (i.e. hats, cravats, stockings, gloves, coats, etc.). Pricing is determined by Opera Delaware’s Production Manager.

6. **Terms of Payment.** Payment in full by Renter for Costumes provided under this Agreement is required prior to the delivery to Renter by Opera Delaware. Payment may be made by check, credit card or purchase order payable to Opera Delaware. There are no refunds or credits of any kind.

7. **Scheduling Appointments.** Renter shall schedule all visits to Opera Delaware for pick-up or return of the Costumes at least one full business day in advance of requested time of visit. Renter shall contact Opera Delaware’s administrative offices to make these arrangements.

8. **Penalties for Late Returns.** All Costumes are due back to Opera Delaware by the Return Date. In the event that any of the Costumes are returned after the Return Date, Renter will be charged \$20.00 per week per Costume or any part thereof, for each week, or portion thereof, past the Return Date until the Costumes are returned to Opera Delaware. Renter shall pay Opera Delaware within seven (7) business days from receipt of an invoice for: (i) late returns; (ii) cleaning not done by Renter; (iii) shipping charges; and/or (iv) any damage done to the Costumes. Renter hereby acknowledges and agrees that Opera Delaware shall have the right to charge Renter's credit card for all fees relating to late returns, cleaning not done by Renter, shipping charges and/or any damage done to the Costumes.

9. **Alterations.** All alterations to Costumes shall be made at the sole expense of the Renter and in such a way that the Costumes may easily be restored to their original condition prior to being returned to Opera Delaware. In no case may a costume be cut or treated with glue, paint or dye.

10. **Care of Garments.** Renter will, with respect to the Costumes entrusted to it under this Agreement, exercise the highest degree of care for the safekeeping and preservation of the Costumes rented from Opera Delaware. The Renter agrees that all Costumes shall be professionally dry cleaned before being returned to Opera Delaware regardless of use, and that all Costumes will be maintained and returned to Opera Delaware in good condition.

11. **Shipping and Insurance.** Renter is solely responsible for the pick-up and return of all Costumes to and from Opera Delaware at Opera Delaware Studios, located at 4 South Poplar Street, Wilmington, DE 19801, and for all related expenses. All Costumes shall be returned to Opera Delaware by appointment only pursuant to section 6 hereof. If using a shipping service, the Costumes shall be shipped prepaid and insured for \$100.00 per costume to a minimum of \$1000.00 per carton.

12. **Credit.** The Renter shall state in its production program in which the Costumes are used in any manner (individually or collectively): "The Producers wish to thank Opera Delaware for its assistance in providing costumes for this production."

13. **Miscellaneous.**

(a) **Notices.** Whenever any notice, demand or request is required or permitted, such notice, demand or request shall be in writing and shall be delivered by hand, be sent by registered or certified mail, postage prepaid, return receipt requested, or be sent by nationally recognized commercial courier for next business day delivery, to the addresses set forth in the Agreement and/or to such other addresses as are specified by written notice given in accordance herewith, or shall be transmitted by facsimile or e-mail to the number or e-mail address for each Party set forth in the Agreement or by Opera Delaware or to such other numbers as are specified by written notice given in accordance herewith (with duplicate sent the same day by registered or certified mail, return receipt requested, or by nationally recognized commercial courier for next business day delivery). All notices, demands or requests delivered by hand shall be deemed given upon the date so delivered; those given by mailing as hereinabove provided shall be deemed given on the date of deposit in the United States Mail; those given by commercial courier as hereinabove provided shall be deemed given on the date of deposit with the commercial courier; and those given by facsimile or e-mail transmittal shall be deemed given on the date of facsimile transmittal. Any notice, demand or request not received because of changed address or facsimile number of which no notice was given as hereinabove provided or because of refusal to accept delivery shall be deemed received by the Party to whom addressed on the date of hand delivery, on the date of facsimile transmittal, on the first calendar day after deposit with commercial courier, or on the third calendar day following deposit in the United States Mail, as the case may be.

Opera Delaware's address for notices is as follows:

Opera Delaware
818 N. Market Street, Floor 2R, Wilmington, DE 19801
Attn: Gina Scarnati
(302) 658-8063 Ext. 3257
Fax: (302) 658-4991
Email: gscarnati@operade.org

Renter's address for notices is as follows:

Attention: _____

Phone: _____

Fax: _____

Email: _____

Renter's credit card number, expiration date, and CID, and billing information in case of loss or damage to clothing, or failure to receive payment.

(b) **Governing Law**. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to its rules of conflict of laws. Each of the parties hereby irrevocably and unconditionally consents to submit to the exclusive jurisdiction of the courts of the State of Delaware and of the United States of America located in the State of Delaware (the "Delaware Courts") for any litigation arising out of or relating to this Agreement and the transactions contemplated hereby (and agrees not to commence any litigation relating thereto except in such courts), waives any objection to the laying of venue of any such litigation in the Delaware Courts and agrees not to plead or claim in any Delaware Court that such litigation brought therein has been brought in an inconvenient forum.

(c) **Independent Contractor; Taxes**. Renter, in the performance of its duties hereunder, shall be an independent contractor only, and not an agent, employee, partner or joint venturer of or with Opera Delaware, and nothing herein shall be deemed to create or imply any relationship other than that of independent contractor.

(d) **Successors and Assigns; Assignment**. Opera Delaware and the Renter, respectively, bind themselves and their successors, assigns, and legal representatives to the other Party to the Agreement and to the successors and assigns of such other Party with respect to all covenants of the Agreement. Notwithstanding the foregoing, the Renter shall not subcontract or assign the Agreement without the written consent of Opera Delaware. If any Party makes an assignment, that Party shall nevertheless remain legally responsible for all obligations under the Agreement, unless agreed to by the other Parties.

(e) **Headings**. The use of headings, captions and numbers in the Agreement are solely for convenience of identifying and indexing various provisions and shall in no event be considered otherwise in construing or interpreting any provisions.

(f) **Severability**. If any term, covenant, condition or provision of the Agreement, or the application thereof to any person or circumstance, shall ever be held to be invalid or unenforceable, then in each such event the remainder of the Agreement or the application of such term, covenant, condition or provision to any other person or any other circumstance (other than those as to which it shall be invalid or unenforceable) shall not be thereby affected and each term, covenant, condition and provision thereof shall remain valid and enforceable to the fullest extent permitted by law.

(g) **Non-Waiver**. Failure by either Party to complain of any action, non-action or default of the other Party shall not constitute a waiver of any aggrieved Party's rights hereunder; and (ii) waiver by either Party of any right arising from any default of the other Party shall not constitute a waiver of any other right arising from a subsequent default of the same obligation or for any other default, past, present or future.

(h) **Rights Cumulative.** All rights, remedies, powers and privileges conferred under the Agreement on the Parties shall be cumulative of and in addition to, but not restrictive of or in lieu of, those conferred by law or equity.

(i) **Entire Contract; Amendment.** The Agreement constitutes the entire contract between the Parties with respect to the subject matter hereof, and there are no understandings, representations, conditions, other than as set forth herein. The Agreement may be amended only by an agreement in writing, signed by each of the Parties hereto.

(j) **Interpretation.** In the Agreement, unless the context otherwise requires, words describing the singular number shall include the plural and vice versa, and words denoting any gender shall include all genders and words denoting natural persons shall include corporations and partnerships and vice versa. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be understood to be followed by the words "without limitation." The words "hereof," "herein" and "hereunder" and words of similar import when used in the Agreement and refer to the Agreement as a whole and not to any particular provision of the Agreement unless otherwise specified. All terms used herein with initial capital letters have the meanings ascribed to them herein and all terms defined in the Agreement will have such defined meanings when used in any certificate or other document made or delivered pursuant hereto unless otherwise defined therein. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such term. Any agreement, instrument or statute defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes and references to all attachments thereto and instruments incorporated therein. Each of the parties has participated in the drafting and negotiation of the Agreement. If an ambiguity or question of intent or interpretation arises, the Agreement must be construed as if it is drafted by all the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of authorship of any of the provisions of the Agreement.

(k) This Agreement is executed as an instrument under seal as of the Effective Date.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed by its duly authorized representative.

OPERA DELAWARE

By: _____
Name: _____
Title: _____

[RENTER]

By: _____
Name: _____
Title: _____