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Proposed Co-Counsel to the Debtors

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

In re:	)	Case No. 07-33849
	)	Jointly Administered
MOVIE GALLERY, INC., et al., <sup>1</sup>	)	Chapter 11
	)	Hon. Douglas O. Tice, Jr.
Debtors.	)	
	)	

**ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION OF  
ALVAREZ & MARSAL AS RESTRUCTURING ADVISORS  
FOR THE DEBTORS AND DEBTORS IN POSSESSION**

Upon the Motion (the "Motion")<sup>2</sup> of the above-captioned debtors (collectively, the "Debtors") for the entry of an order (the "Order") authorizing the Debtors to employ and retain Alvarez & Marsal North America LLC and Alvarez & Marsal Businesses Consulting, LLC (collectively, "A&M") as their restructuring advisors, the Kosturos Declaration (as defined below) and the Johnson First Day Affidavit (as defined below); it appearing that the relief

<sup>1</sup> The Debtors in the cases include: Movie Gallery, Inc.; Hollywood Entertainment Corporation; M.G. Digital, LLC; M.G.A. Realty I, LLC; MG Automation LLC; and Movie Gallery US, LLC.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Motion.



requested in the Motion is in the best interests of the Debtors' estates, their creditors and other parties in interest; the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; the Court having reviewed the Motion, the declaration of William C. Kosturos in support thereof (the "Kosturos Declaration") and the first day affidavit of Thomas D. Johnson, Jr. in support thereof (the "Johnson First Day Affidavit"); the Court being satisfied based on the representations made in the Motion and the Kosturos Declaration that A&M does not hold or represent an interest adverse to the Debtors' estates; notice of the Motion having been adequate and appropriate under the circumstances; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED

1. The Motion is granted in its entirety.
2. The Debtors are authorized to employ and retain A&M on the terms and conditions set forth in that certain engagement letter dated August 1, 2007, a copy of which is attached hereto as Exhibit 1 (the "Restructuring Engagement Letter") and that certain letter agreement dated July 27, 2007, a copy of which is attached hereto as Exhibit 2 (the "Business Consulting Engagement Letter," and with the Restructuring Engagement Letter the "Engagement Letters").
3. All appointments of A&M professionals as officers of any of the Debtors are hereby authorized and approved.
4. A&M shall apply for compensation for professional services rendered and for expenses incurred in connection with the Debtors' chapter 11 cases in compliance with the

Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules for the Eastern District of Virginia, guidelines established by the United States Trustee for the Eastern District of Virginia and any other applicable procedures and orders of the Court.

5. Notwithstanding anything to the contrary in the Engagement Letters, (a) the Debtors shall indemnify A&M personnel who are appointed officers of the Debtors to the extent agreed in the Engagement Letters and (b) any indemnification by the Debtors of a non-officer employee of A&M must be approved by the board of directors of Movie Gallery, Inc.

6. The entry of this Order is conditional on the terms set forth herein. Any party in interest may object to the entry of this Order within ten (10) days after the date of entry of this Order (an "Objection"). If an Objection is timely filed and not withdrawn before such hearing, the Objection shall be heard at the next regularly-scheduled omnibus hearing date. At the hearing, the Court may vacate this Order, modify it or make it final. If no timely Objection is filed (or is filed and subsequently withdrawn), this Order shall become final at the conclusion of such objection period without further order of the Court. This Order shall remain in effect until further order of the Court. The modification or vacation of this Order shall not impair any action taken pursuant to this Order prior to its modification or vacation.

7. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

8. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

9. The Court retains jurisdiction with respect to all matters arising from or related to  
the implementation of this Order.

Oct 18 2007

Richmond, Virginia

Date: October \_\_\_\_, 2007

/s/ Douglas O. Tice Jr.

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United States Bankruptcy Judge

Entered on Docket: 10-18-2007

**EXHIBIT 1**

**[A&M Restructuring Engagement Letter]**



As of August 1, 2007

Joe T. Malugen  
Chief Executive Officer  
Movie Gallery, Inc.  
900 West Main Street  
Dothan, AL 36301

Dear Joe:

This letter confirms and sets forth the terms and conditions of the engagement between Alvarez & Marsal North America, LLC ("A&M") and Movie Gallery, Inc. (the "Company"), including the scope of the services to be performed and the basis of compensation for those services. This letter supersedes the prior engagement letter dated on June 28, 2006. Upon execution of this letter by each of the parties below and receipt of the retainer described below, this letter will constitute an agreement between the Company and A&M.

1. Description of Services

- a. Officers. In connection with this engagement, A&M shall make available to the Company:
  - (i) William Kosturos to serve as the Chief Restructuring Officer (the "CRO"); Jon Goulding to serve as Treasurer; Kay Hong to serve as SVP of Finance; and all other A&M employees working under this engagement to serve as Assistant Restructuring Officers (collectively referred to as the "Officers"). These titles will replace all current and past titles.
  - (ii) Upon the mutual agreement of A&M and the Company, such additional personnel as are necessary to assist in the performance of the duties set forth in clause 1.b and 1.c below (the "Additional Officers"). Such Additional Officers shall also be designated by the Company as officers and will serve as Assistant Restructuring Officers.

- b. A&M Duties. A&M shall provide services to the Company's Chief Executive Officer ("Company's CEO"), Chief Financial Officer ("Company's CFO") and Board of Directors (the "Board") in connection with their efforts in seeking to improve the Company's financial and operating performance, reporting directly to them, and assist the Company in its reorganization efforts. It is anticipated that A&M's activities shall include the following:
- (i) assistance in identification of cost reduction and operations improvement opportunities;
  - (ii) assistance in leading the real estate downsizing initiative currently being led by Excess Space, Inc;
  - (iii) assistance in accounting, finance and treasury functions and any other activities approved by the Company's CFO;
  - (iv) assistance in treasury management and other related services; and
  - (v) other activities as are approved by the Company's CEO or the Board of Directors and agreed to by A&M.
- c. CRO Role & Responsibilities. The role and responsibilities of the CRO shall be as follows:
- (i) reports directly to the Company's CEO (disagreement to be resolved by the special committee of the Board and then the Board as a whole);
  - (ii) all restructuring initiatives will be under the supervision of the CRO, including real estate, store closures, head count reductions and other expense reduction initiatives;
  - (iii) ability to recommend restructuring initiatives;
  - (iv) ability to implement restructuring initiatives as are approved by the Company's CEO, special committee of the Board or the Board as a whole;
  - (v) ability to recommend hiring/firing recommendations to the Company's CEO;
  - (vi) ability to recommend asset sales to the Company's CEO;

- (vii) will act as the lead executive with all creditors and their Representatives; and
  - (viii) lead the chapter 11 planning process
- d. Reporting. The Officers and any additional Officers shall report to the Company's CEO.
- e. Employment by A&M. The Officers and any Additional Officers will continue to be employed by A&M and while rendering services to the Company will continue to work with other personnel at A&M in connection with other unrelated matters, which will not unduly interfere with services pursuant to this engagement. With respect to the Company, however, the Officers and any Additional Officers shall operate under the direction of the Company's CEO and, except as otherwise provided in the attached Indemnification Agreement, A&M shall have no liability to the Company for any acts or omissions of such persons. Except as expressly provided herein (including, without limitation, the indemnification provisions provided in Section 8 and coverage under the Company's director and officer liability insurance policy), the Officers and Additional Officers shall not be entitled to any benefits the Company provides to its employees.
- f. Projections; Reliance; Limitation of Duties. You understand that the services to be rendered by the Officers and any Additional Officers may include the preparation of projections and other forward-looking statements, and that numerous factors can affect the actual results of the Company's operations, which may materially and adversely differ from those projections and other forward-looking statements. In addition, the Officers and any Additional Officers will be relying on information provided by other members of the Company's management in the preparation of those projections and other forward-looking statements. Neither the Officers, any Additional Officers nor A&M makes any representation or guarantee that an appropriate restructuring proposal or strategic alternative can be formulated for the Company, that any restructuring proposal or strategic alternative presented to the Board will be more successful than all other possible restructuring proposals or strategic alternatives, that restructuring is the best course of action for the Company or, if formulated, that any proposed restructuring plan or strategic alternative will be accepted by any of the Company's creditors, shareholders and other constituents. Further, neither the Officers, and any Additional Officer nor A&M assumes responsibility for the selection of any restructuring proposal or strategic alternative that any such officer

assists in formulating and presenting to the Board, and the Officers and any Additional officers shall be responsible for implementation only of the proposal or alternative approved by the Board and only to the extent and in the manner authorized and directed by the Board.

- g. Additional Responsibilities. Upon the mutual agreement of the Company and A&M, A&M may provide such additional personnel as the Company may request to assist in performing the services described above and such other services as may be agreed to, on such terms and conditions and for such compensation as the Company and A&M shall agree.

2. Compensation

- a. A&M will be paid by the Company for the services of the Officers and any Additional Officers at the following hourly billing rates. The hourly billing rate for Bill Kosturos is \$625. The current hourly billing rates for other A&M personnel, based on the position held by such A&M personnel in A&M, are:

i. Managing Director	\$550 - \$675
ii. Director	\$375 - \$550
iii. Associate	\$275 - \$375
iv. Analyst	\$175 - \$275

Such rates shall be subject to adjustment annually at such time as A&M adjusts its rates generally.

- b. All travel time will be billed at 50% of the rates described above.
- c. In addition, A&M will be reimbursed by the Company for the reasonable out-of-pocket expenses of the Officers and any Additional Officers, and if applicable, other A&M personnel, incurred in connection with this assignment, such as travel, lodging, duplications, computer research, messenger and telephone charges. In addition, A&M shall be reimbursed by the Company for the reasonable fees and expenses of its counsel incurred in connection with the preparation, negotiation and enforcement of this Agreement. All fees and expenses due to A&M will be billed on a bi-monthly basis, and A&M shall submit a copy of each bill to the Company's CEO and the Company's CFO.
- d. The Company shall promptly remit to A&M an additional retainer in the amount of \$350,000, which shall be credited against any amounts due at the termination of this engagement and returned upon the satisfaction of all obligations hereunder. This additional retainer will bring A&M's total

retainer for restructuring services to \$500,000 (as Company currently has a retainer of \$150,000 paid pursuant to that certain engagement letter dated June 28, 2006).

- e. The Company and A&M recognize that it is appropriate that A&M receive incentive compensation for its services hereunder, in addition to the compensation set forth above. To establish such incentive compensation, A&M and the Company will seek to reach agreement within 60 days from the date hereof on the amount of such incentive compensation and the terms on which it shall be payable.

### 3. Term

The engagement will commence as of the date hereof and may be terminated by either party without cause by giving 30 days' written notice to the other party. In the event of any such termination, any fees and expenses due to A&M shall be remitted promptly (including fees and expenses that accrued prior to but were invoiced subsequent to such termination). If the Company terminates this engagement without Cause or if A&M terminates this engagement for Good Reason, A&M shall also be entitled to receive the Incentive Fee upon the occurrence of the event specified in Section 2(e) if such event occurs within twelve months of the termination. The Company may immediately terminate A&M's services hereunder at any time for Cause by giving written notice to A&M. Upon any such termination, the Company shall be relieved of all of its payment obligations under this Agreement, except for the payment of fees and expenses through the effective date of termination (including fees and expenses that accrued prior to but were invoiced subsequent to such termination) and its obligations under paragraph 8. For purposes of this Agreement, "Cause" shall mean if (i) the Officers or any of the Additional Officers is convicted of, admits guilt in a written document filed with a court of competent jurisdiction to, or enters a plea of nolo contendere to, an allegation of fraud, embezzlement, misappropriation or any felony; (ii) the Officers or any of the Additional Officers willfully disobeys a lawful direction of the Company's CEO or Board of Directors; or (iii) a material breach of any of A&M's or the Officers or any of the Additional Officers material obligations under this Agreement which is not cured within thirty (30) days of the Company's written notice thereof to A&M describing in reasonable detail the nature of the alleged breach. For purposes of this Agreement, termination for "Good Reason" shall mean either its resignation caused by a breach by the Company of any of its material obligations under this Agreement that is not cured within 30 days of A&M having given written notice of such breach to the Company describing in reasonable detail the nature of the alleged breach or a filing of a petition under Chapter 11 of the United States Bankruptcy Code in respect of the Company unless within 45 days thereafter (or,

if sooner, prior to the date on which a plan of reorganization is confirmed or the case is converted to one under Chapter 7), the Company has obtained judicial authorization to continue the engagement on the terms herein pursuant to an order which has become a final, nonappealable order.

4. Relationship of Parties; No Audit, Duty to Update.

A&M and the Company intend that an independent contractor relationship be created by this engagement letter with respect to all matters and parties except the Officers and Additional Officers who are engaged by the Company in the designated capacities. It is understood that the Officers, any Additional Officers and A&M are not being requested to perform an audit, review or compilation, or any other type of financial statement reporting engagement that is subject to the rules of the AICPA, SEC or other state or national professional or regulatory body. They are entitled to rely on the accuracy and validity of the data disclosed to them or supplied to them by employees and representatives of the Company. The Officers, any Additional Officers and A&M are under no obligation to update data submitted to them or review any other areas unless specifically requested by the Company's CEO or Board to do so.

5. No Third Party Beneficiary.

The Company acknowledges that all advice (written or oral) given by A&M to the Company in connection with this engagement is intended solely for the benefit and use of the Company (limited to its Board and management) in considering the matters to which this engagement relates. The Company agrees that no such advice shall be used for any other purpose or reproduced, disseminated, quoted or referred to at any time in any manner or for any purpose other than accomplishing the tasks referred to herein without A&M's prior approval (which shall not be unreasonably withheld), except as required by law.

6. Conflicts.

A&M is not currently aware of any relationship that would create a conflict of interest with the Company or those parties-in-interest of which you have made us aware. Because A&M is a consulting firm that serves clients on an international basis in numerous cases, both in and out of court, it is possible that A&M may have rendered services to or have business associations with other entities or people which had or have or may have relationships with the Company, including creditors of the Company. In the event you accept the terms of this engagement, A&M will not represent, and A&M has not represented, the interests of any such entities or people in connection with this matter.

7. Confidentiality / Non-Solicitation.

The Officers, and Additional Officers and A&M shall keep as confidential all non-public information received from the Company in conjunction with this engagement, except (i) as requested by the Company or its legal counsel; (ii) as required by legal proceedings or (iii) as reasonably required in the performance of this engagement. If any person or entity requests or subpoenas any information or materials relating to this engagement from A&M, A&M will promptly inform the Company of such request or subpoena. In the event that the Company requires A&M to resist disclosure of such information or materials, the Company will either retain legal counsel to represent A&M or will indemnify A&M for all costs and expenses, including reasonable attorney's fees and disbursements, resulting from such action. In addition, the Company agrees to pay A&M's standard hourly rates in connection with A&M's effort to protect against disclosure of such information or materials. All obligations as to non-disclosure shall cease as to any part of such information to the extent that such information is or becomes public other than as a result of a breach of this provision. Except as specifically provided for in this letter, the Company on behalf of itself and its affiliates and any person which may acquire all or substantially all of its assets agrees that, until two (2) years subsequent to the termination of this engagement, it will not solicit, recruit, hire or otherwise engage any employee of A&M who worked on this engagement while employed by A&M ("Solicited Person"); provided that this restriction shall not apply with respect to any general solicitation for new employees which is not targeted at the Solicited Person. Should the Company or any of its affiliates or any person who acquires all or substantially all of its assets extend an offer of employment to or otherwise engage any Solicited Person and should such offer be accepted, A&M shall be entitled to a fee from the party extending such offer equal to the Solicited Person's hourly client billing rate at the time of the offer multiplied by 2,000 hours. The fee shall be payable at the time of the Solicited Person's acceptance of employment or engagement.

8. Indemnification.

The Company shall indemnify the Officers and all Additional Officers to the same extent as the most favorable indemnification it extends to its officers or directors, whether under the Company's bylaws, its certificate of incorporation, by contract or otherwise, and no reduction or termination in any of the benefits provided under any such indemnities shall affect the benefits provided to the Officers or Additional Officers. The Officers and additional Officer shall be covered as an officer under the Company's existing director and officer liability insurance policy. The Company shall also maintain any such insurance coverage for the Officer and Additional Officers for a period of not less than two (2) years following the date of the termination of such officer's services hereunder. The provisions of this section 8 are in the nature of contractual obligations and no



change in applicable law or the Company's charter, bylaws or other organizational documents or policies shall affect the Officers' or any Additional Officer's rights hereunder. The attached indemnity provisions are incorporated herein and the termination of this agreement or the engagement shall not affect those provisions, which shall survive termination.

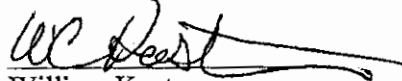
9. Miscellaneous.

This Agreement shall (together with the attached indemnity provisions) be: (a) governed and construed in accordance with the laws of the State of New York, regardless of the laws that might otherwise govern under applicable principles of conflict of laws thereof; (b) incorporates the entire understanding of the parties with respect to the subject matter thereof; and (c) may not be amended or modified except in writing executed by each of the signatories hereto. The Company and A&M agree to waive trial by jury in any action, proceeding or counterclaim brought by or on behalf of the parties hereto with respect to any matter relating to or arising out of the performance or non-performance of the Company or A&M hereunder. In the event of a Chapter 11 filing, the Company and A&M agree that the Bankruptcy Court having jurisdiction over the Company's Chapter 11 case (or any case into which it may be converted) shall have exclusive jurisdiction over any and all matters arising under or in connection with their obligations hereunder.

If the foregoing is acceptable to you, kindly sign the enclosed copy to acknowledge your agreement with its terms.

Very truly yours,

Alvarez & Marsal North America, LLC

By:   
William Kosturos  
Title: Managing Director

Accepted and agreed:

Movie Gallery, Inc.

By:   
Its: 

**EXHIBIT 2**

**[A&M Business Consulting Engagement Letter]**

As of July 27, 2007

Mr. S. Page Todd  
Executive Vice President and General Counsel  
Movie Gallery, Inc.  
900 West Main Street  
Dothan, Alabama 36301

Dear Mr. Todd:

This letter confirms and sets forth the terms and conditions of the engagement between Alvarez & Marsal Business Consulting, LLC ("A & M BC"), and Movie Gallery, Inc. (the "Client"), including the scope of the services to be performed and the basis of compensation for those services. Upon execution of this letter by each of the parties below and receipt of the retainer described below, this letter will constitute an agreement between the Client and A & M BC.

1. **Project Objectives and Scope** A & M BC shall provide certain services to the Client related to the Phase 3 Information Technology Management Initiative ("Phase 3") as set forth in this section:

- a. **Phase 3 Information Technology Management** Phase 3 will begin on July 30, 2007. This phase has seven primary objectives:

- (1) Continue providing interim management to the IT organization;
- (2) Continue pursuing IT budget opportunities;
- (3) Continue IT organization alignment relative to enterprise planning initiatives;
- (4) Developing sourcing models for key IT functions;
- (5) Management oversight for IT project portfolio, ecommerce initiative;
- (6) Develop IT organization; and
- (7) Other activities as directed by Client's executive management.

Beneath each of these objectives are more refined objectives and deliverables. These objectives are set forth below in clauses 1.a.i. through 1.a.vi.

i. **Interim Management of IT organization**

1. Daily oversight of IT organization;
2. Oversight of key operational issues such as SOX compliance, release management, and vendor management;
3. All necessary IT administration including recruiting, reviews and severance;
4. Hold weekly staff meetings;
5. Purchase approvals and budget tracking; and
6. Managing operational needs.

ii. **Manage IT Budget**

1. Continue assisting the Client in its attempts to reduce Telecom expenses by developing and managing a consolidated enterprise telecom RFP, selection and negotiation of business terms; and
2. Continue providing standard IT Budgeting – 2007 execution and 2008 planning.

Mr. S. Page Todd  
As of July 27, 2007  
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iii. **IT Enterprise Application Strategy and Planning**

1. Application Rationalization – Develop systems inventory and application management strategy. This is primarily in support of data center transition. A & M BC will oversee the development of this inventory and drive rationalization strategy development.

iv. **Develop Sourcing Models for Key IT Functions**

1. Consolidate Data Centers – Deliver data center sourcing vendor RFP, selection and negotiation of business terms and contract. Begin transition planning.

v. **Project Management**

1. Manage OVR Corporate IT Integration – project management;
2. Engage with business for better involvement in project delivery including IT Steering Committee; and
3. Manage compliance projects.

vi. **IT Organization**

1. Develop current and targeted allocations for application maintenance (break/fix);
2. Oversee management of minor enhancement ("Change Request") process to support small system enhancements;
3. Oversee newly formed IT Steering Committee;
4. Develop enterprise wide change management process;
5. Develop resource allocation processes leveraging time tracking and forecasting – plan and implement; and
6. Hire two to three key IT managers in Wilsonville.

vii. **Additional activities as directed by Client Executive Management**

1. Through the course of business, Client's executive management may ask A & M BC to undertake other activities.
- b. **Officers** Mr. John E. Rossman to serve as the interim Chief Information Officer (the "Interim CIO"); the Interim CIO shall be designated by the Client as an officer.
- c. **Additional Personnel** Such additional personnel as specified below and as are necessary to assist in the performance of the Project Objectives and Scope set forth in clause 1 (the "Additional Personnel"):
- i. Tracy Sennett
  - ii. Cody Winter
  - iii. Dan Kim
  - iv. Garren Du
  - v. Fred Matteson

The Interim CIO and the Additional Personnel are collectively referred to herein as the "Project Team".

Mr. S. Page Todd  
As of July 27, 2007  
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d. **Duties** The Project Team shall have the following roles and time commitment to the engagement:

i. **John Rossman**

1. Engagement Managing Director.
2. Engagement in planning all initiatives outlined.
3. Focus on business and executive team engagement.
4. Available for other business needs that arise.
5. Part-time (budgeted at 2 days per week).

ii. **Tracy Sennett**

1. Oversees overall engagement status and progress reporting.
2. Oversees SOX and PCI compliance initiatives.
3. Responsible for budget initiatives.
4. Responsible for Administration tasks.
5. Fulltime.

iii. **Fred Matteson**

1. Accountable for IT telecom budget savings implementation.
2. Accountable for IT Data Center RFP, selection and contracting.
3. Accountable for enterprise telecom RFP, selection and contracting.
4. Part-time (budgeted at 2 days per week).

iv. **Garren Du and Dan Kim**

1. Project manage corporate component for OVR Integration initiative.
2. Management of Enterprise Corporate Systems Architect.
3. Fulltime.

v. **Cody Winter**

1. Manages PMO function.
2. Provides oversight for change request and incident management processes.
3. Manages Compliance Projects.
4. Other various activities.
5. Fulltime.

2. **Reporting** The Interim CIO and the Additional Personnel shall report to Client's Chief Financial Officer.

3. **Employment by A & M BC** The Interim CIO and Additional Personnel will continue to be employed by A & M BC and while rendering services to the Client will continue to work with other personnel at A & M BC in connection with other unrelated matters, which will not unduly interfere with services pursuant to this engagement.

Mr. S. Page Todd  
As of July 27, 2007  
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4. **Project Assumptions** Key assumptions relative to the schedule, price and delivery of this engagement are as follows:
- a. **IT Operational Support** A & M BC's primary focus is in driving the initiatives described above in clause 1. Client will be solely dependant upon its existing IT organization for operational support of current systems.
  - b. **Impact of Changes in Key Personnel** If significant changes in existing key IT personnel occur, schedules and milestones will likely be impacted.
  - c. **Adoption of Objectives and Limitation of Duties** Progress against the objectives outlined in clause 1 above is highly dependant upon broad participation and adoption by Client's personnel. A & M BC BC's project timing, schedules and objectives assume reasonable participation. Without such participation and adoption, neither the Project Team nor A & M BC makes any representation or guarantee that the engagement objectives will be achieved.
5. **Fees & Expenses** A & M BC will be paid by the Client for the services of the Project Team as follows:
- a. **Phase 3** Fees will be billed weekly based on actual hours worked. Our standard billing rates will be used. The estimated fees for the Phase 3 project will be between \$60,000.00 and \$70,000.00 on average per week based on actual hours incurred. This may change based on actual effort to accomplish our objectives.
  - b. **Out of pocket / business expenses** In addition, A & M BC will be reimbursed by the Client for the reasonable out-of-pocket expenses of the Project Team, and if applicable, other A & M BC personnel, incurred in connection with this assignment, such as travel, lodging, duplications, computer research, messenger and telephone charges. All fees and expenses due to A & M BC will be billed on a weekly basis or, at A & M BC's discretion, any other interval deemed appropriate.
  - c. **Retainer** The Client shall promptly remit to A & M BC a retainer in the amount of Two Hundred Thousand and No/100 Dollars (\$200,000.00), which shall be credited against any amounts due at the termination of this engagement and returned upon the satisfaction of all obligations hereunder.
6. **Legal Protections**
- a. **Confidentiality**. With respect to this Agreement, any information supplied in connection with this Agreement by Client shall be confidential, and the recipient agrees to: (1) protect the confidential information in a commercially reasonable manner, but in no event shall a recipient use less than a reasonable standard of care to protect the confidential information; (2) use confidential information only to perform its obligations under this Agreement; and (3) reproduce confidential information only as required to perform its obligations under this Agreement. This section shall not apply to information which is (1) publicly known through no breach of this Agreement, (2) already known to the recipient at the time of disclosure; (3) subsequently obtained by recipient from a third party without breach of any obligation of confidentiality of such third party; or (4) independently developed by recipient without reliance upon any of the confidential information. In the event that A & M BC BC receives a subpoena, request for production of documents, interrogatories, requests for admission of facts, or order issued by a court of competent jurisdiction or a similar judicial process, or pursuant to applicable law, rule, regulation or a regulatory agency or stock exchange rule (collectively, "Law") regarding Client's confidential information, A & M BC BC shall immediately notify, if possible, Client of the same and in order to allow Client to either give written consent to disclosure of its

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confidential information or to seek a protective order. In the event that Client gives its written consent to disclose its confidential information or is unsuccessful in obtaining a protective order, the recipient shall exercise good faith efforts at Client's expense to obtain an order or other reliable assurance that confidential treatment will be accorded to the confidential information disclosed. Subject to the foregoing, A & M BC BC may disclose Client's confidential information to its subcontractors and affiliates who are also engaged in this Project and who are bound by obligations of confidentiality at least as restrictive as those contained herein; provided however, A & M BC BC shall remain liable to Client for any wrongful disclosure of Client's confidential information by such subcontractor or affiliate. Each party may retain, subject to its confidentiality obligations, one (1) copy of the other party's documents or other information for internal record keeping purposes, but only for that period of time necessary to evidence compliance with this Agreement or other applicable legal requirements. The parties agree that the Deliverables produced as a result of this work are to be considered "confidential" pursuant to this paragraph 6 and that all Deliverables are for internal use only.

- b. **Indemnity.** The Client shall indemnify the Interim CIO to the same extent as the most favorable indemnification it extends to its officers or directors, whether under the Client's bylaws, its certificate of incorporation, by contract or otherwise, and no reduction or termination in any of the benefits provided under any such indemnities shall affect the benefits provided to the Interim CIO. The Interim CIO shall be covered as an officer under the Client's existing director and officer liability insurance policy. The Client shall also maintain any such insurance coverage for the Interim CIO for a period of not less than two (2) years following the date of the termination of such officer's services hereunder. The provisions of this section are in the nature of contractual obligations and no change in applicable law or the Client's charter, bylaws or other organizational documents or policies shall affect the Interim CIO's rights hereunder. The attached indemnity provisions are incorporated herein and the termination of this agreement or the engagement shall not affect those provisions, which shall survive termination.
- c. **Term and Termination.** This Agreement shall begin on the date of execution by Client and will continue thereafter until the services to be provided hereunder are completed, which is anticipated to be January 4, 2008, unless terminated prior thereto by either party. Either party may terminate this Agreement at any time upon fifteen (15) days written notice to the other. Client shall pay A & M BC BC for all Services rendered and expenses incurred as of the date of termination.
- d. **Governing Law.** The laws of the State of New York (without regard to the principles of conflicts of laws) shall govern this Agreement.
- e. **Non-Solicitation.** Each party agrees not to solicit the employees of the other party for employment without the prior written consent of the other party for a period of six (6) months following the completion of services to be hereunder pursuant to this Agreement or earlier termination by a party, whichever shall first occur; provided however, the foregoing non-solicitation restriction shall not apply to any general solicitation for new employees which is not directed at a specific employee or employees of the other party. Should either party extend an offer of employment to or otherwise engage any employees of the other in violation of this Agreement and should such offer be accepted, the non-hiring shall be entitled to a fee from the party extending such offer equal to the solicited person's hourly billing rate at the time of the offer multiplied by 2,000 hours. The fee shall be payable at the time of the solicited person's acceptance of employment or engagement.
- f. **Notice.** All notices to be given pursuant to this Agreement shall be in writing, deposited in the United States mail, certified or registered return receipt requested, with postage prepaid or by a regular overnight delivery service (i.e., Federal Express) and addressed to the parties at their respective addresses first set

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forth above. Notices shall be deemed delivered when deposited in the United States mail, as above provided, or accepted by an overnight delivery service. The parties may agree to accept facsimile or email notices, but such notice shall only be deemed delivered upon actual receipt. A change of address by either party must be by written notice given to the other party in the above manner.

- g. **Attorney Fees.** If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs (at trial and appellate level), in addition to any other relief to which that party may be entitled.
- h. **Time Is of the Essence.** The parties under this Agreement will make all reasonable efforts to perform all obligations of this Agreement in a prompt and timely manner.
- i. **No Waiver.** The parties acknowledge and agree that any delay or failure to enforce its rights hereunder for a specific instance by either party hereunder shall not constitute a waiver of such rights or in any way prevent either party from enforcing such rights at a later time.
- j. **No Assignment.** This Agreement shall not be assigned without the prior written consent of the other party.
- k. **Counterparts.** For the convenience of the parties, this Agreement may be executed in one or more counterparts each of which shall be considered an original and together such counterparts shall be considered one and the same agreement.
- l. **Entire Agreement.** This Agreement constitutes the sole and only Agreement between the parties and supersedes any prior understandings or written or oral Agreements between the parties respecting the subject matter of this Agreement. No amendment, other Agreement, statement, or promise relating to the subject matter of this Agreement shall be valid or binding unless in writing and signed by a corporate officer or an authorized representative of the named parties. This Agreement shall be binding upon, and shall inure to the benefit of, the parties, their respective successors and assigns.
- m. **Change Order Process.** During the engagement either party may request additions, deletions, or modifications to the scope, nature or timing of the services described in clause 1. A & M BC shall have no obligation to commence work in connection with any requested change involving an increase or decrease in the scope of work until the fee and/or schedule impact of the change is agreed upon in a written change order signed by both A & M BC and the Client. Upon a request for a change, A & M BC shall submit a proposal to the Client describing the changes, including, as applicable, the impact of such changes on schedule, fees and expenses. The Client shall either indicate its acceptance of the proposed changes by signing the change order or advise A & M BC not to perform the changes, in which event A & M BC shall proceed with the original services specified in clause 1.

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

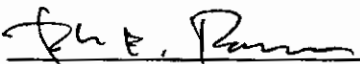


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We appreciate the opportunity to be of service to you and look forward to working with you on this important project. You can be assured that it will receive our close attention. If the foregoing is acceptable to you, kindly sign the enclosed copy to acknowledge your agreement with its terms.

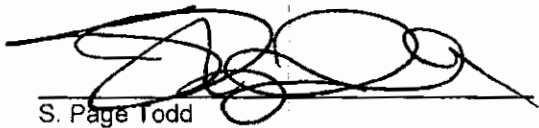
Very truly yours,

**Alvarez & Marsal Business Consulting, LLC**

By:   
John E. Rossman  
Its: Managing Director

Accepted and Agreed:

**Movie Gallery, Inc.**

By:   
S. Page Todd  
Its: Executive Vice President and General Counsel