

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

In re:)	
)	
DICKINSON THEATRES, INC., a Kansas)	Case No. 12-22602
corporation,)	Chapter 11
)	
Debtor.)	

**STIPULATION
TO EXTEND THE DATE BY WHICH THE DEBTOR MUST ASSUME
A CERTAIN UNEXPIRED NONRESIDENTIAL REAL ESTATE LEASE**

Dickinson Theatres, Inc., the debtor and debtor-in-possession in the above-captioned proceeding (the "Debtor"), by and through its undersigned counsel, and the following landlord under a certain nonresidential real estate lease ("Landlord" listed on the signature page attached hereto, by and through its undersigned counsel or authorized representative, hereby agree and stipulate as follows:

1. Debtor and Landlord currently are parties to an unexpired nonresidential real property lease within the meaning of 11 U.S.C. § 365 (the "Lease").
2. On November 5, 2012, the Debtor filed its First Amended Chapter 11 Plan (the "Amended Plan"). (Docket No. 194.) The Court set a confirmation hearing on the Amended Plan for November 28, 2012 (the "Confirmation Hearing").
3. Article 8.1 of the Amended Plan provides that "[e]ach executory contract and unexpired lease to which Debtor is a party shall be deemed automatically assumed and Reinstated as of the Effective Date, unless such executory contract or unexpired lease (a) shall have been previously rejected by Debtor, (b) is the subject of a filed motion to reject, or a notice of rejection served pursuant to order of the Bankruptcy Court, on or before the Confirmation Date, or (c) is listed on the schedule of rejected contracts and leases annexed hereto as Exhibit

A."¹ (*See* Docket No. 194, p. 21-22, Art. 8.1.). Landlord's Lease has been identified in Exhibit A to the Amended Plan, or may be the subject of a motion to reject on or before the Confirmation Hearing.

4. Section 365(d)(4)(A) of the Bankruptcy Code states, in relevant part, that "an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—(i) the date that is 120 days after the date of the order for relief; or (ii) the date of the entry of an order confirming a plan..." 11 U.S.C. § 365(d)(4)(A).

5. Debtor and Landlord are negotiating a possible modification of the Lease and may not be able to finish those negotiations prior to the Confirmation Hearing. Accordingly, notwithstanding Article 8.1 of the Amended Plan and Section 365(d)(4)(A) of the Bankruptcy Code, Debtor and Landlord hereby agree and stipulate that the Debtor shall have until the Effective Date of the Amended Plan to determine whether to assume the Lease, provided Debtor complies with the terms of the Lease.

6. Notwithstanding the Rejection Damages Bar Date set forth in Article 8.4 of the Amended Plan, Landlord shall have until thirty (30) days following notice that the Lease has been rejected to file a proof of claim.

7. Debtor shall incorporate the terms of this Stipulation into the Confirmation Order.

Dated: November 15, 2012.

STINSON MORRISON HECKER LLP

¹ Article 1.43 of the Amended Plan provides that "'Effective Date' means the later of December 31, 2012, or the Business Day on which all conditions to the consummation of the Plan hereof have been either satisfied or waived as provided hereof, and is the day upon which this Plan is substantially consummated." (*See* Docket No. 194, p. 6, Art. 1.43.)

By: s/ Paul M. Hoffmann
Paul M. Hoffmann, KS Fed.Bar No. 70170
Timothy M. Swanson, KS #24516
1201 Walnut, Ste. 2900
Kansas City, MO 64106
Tel: (816) 691-2456
Fax: (816) 412-9325

*Reorganization Counsel for the Debtor and
Debtor-in-Possession*

SIGNATURE PAGE to

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Landlord:

Name: DTD-Devco BE, LLC

s

By: Gary S. Elbogen

Its: Authorized Agent

Dated: November 21, 2012

