

EQUIPMENT LEASE

THIS **EQUIPMENT LEASE** ("Lease"), is effective this 17th day of December, 2020 by and between **201 MAIN STREET REAL ESTATE CORP.**, a New Hampshire nonprofit corporation with a mailing address of P.O. Box 2019, Nashua, NH 03061-2019 ("Lessor"), and **CITY OF NASHUA**, a New Hampshire municipal corporation with a mailing address of P.O. Box 2019, Nashua, NH 03061-2019 ("Lessee").

WITNESSETH

WHEREAS, the Lessee has entered into a Lease Agreement of near or even date (the "Master Lease") to lease certain real property located at 201 Main Street, Nashua, New Hampshire (the "Site") from NPAC Corp., a New Hampshire business corporation and desires to lease certain equipment from Lessor for the purpose of equipping the Site as a performing arts center and for other uses as provided in the Master Lease; and

WHEREAS, Lessor owns or shall acquire certain equipment more particularly described herein and desires to lease said equipment to the Lessee pursuant to the terms and conditions set forth in this Lease; and

WHEREAS, Lessee desires to lease such equipment from Lessor pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises herein contained and intending to be legally bound hereby, the parties agree as follows:

1. **Lease**. Lessor hereby leases to Lessee, and Lessee hereby leases and Rents from Lessor, certain equipment, all as described in **Exhibit A** attached hereto (the "Equipment"), on the terms and conditions of this Lease. In the event that Lessor is unable to timely acquire any particular item or items described on Exhibit A, then Lessor and Lessee shall agree to substitute a similar item of comparable value. Upon Lessee's request, Lessor may allow Lessee to take possession of any or all of the Equipment available to Lessee prior to the Occupancy Commencement Date (as defined in the Master Lease) for Lessee's use solely for the purpose of installation and testing. In the event that Lessor permits Lessee to take possession of any or all of the Equipment prior to the Occupancy Commencement Date, all provisions of this Equipment Lease (other than those providing for payment of Rent) shall apply notwithstanding that the obligation to pay Rent does not commence until the Occupancy Commencement Date.

2. **Term and Renewal**. The term of this Lease (the "Term") shall terminate on December 31, 2032.

(a) Lessor hereby grants to Lessee the right, exercisable at Lessee's option only if the Lessee is not in default beyond applicable grace or cure periods at the time of exercise, to renew the term of this Lease, for three successive three (3) year terms (the "Renewal Terms"). If an option to renew the then current term is exercised, then the Renewal Term shall commence immediately following the end of the then-current term. Lessee's right of renewal

granted hereby (i) may be exercised by Lessee solely as to the entirety of the Equipment, and not as to any portion thereof, and (ii) may be exercised by Lessee and any permitted assignee or transferee.

(b) The Base Rent for the Renewal Term shall be the fair market rent for the Equipment as of the beginning of such Renewal Term. Such fair market rent shall be as agreed by Lessor and Lessee on or before the thirtieth (30th) day prior to the commencement of the Renewal Term. In the event the parties are unable to agree upon Fair Market Rent within such period the parties shall:

a. Mutually designate an arbitrator to determine Fair Market Rent.

b. If Lessor and Lessee shall fail to agree upon the choice of such arbitrator, then either party may apply to the American Arbitration Association or any successor thereto having jurisdiction to designate an arbitrator. The arbitrator shall be a real estate broker who is MAI certified by the Appraisal Institute and who shall have had at least ten (10) years continuous experience in the business of managing commercial buildings or acting as an agent or broker for office buildings in the Nashua, New Hampshire area.

c. The arbitrator shall conduct such hearings and investigations as he may deem appropriate and shall, within twenty (20) days after his designation, determine the Fair Market Rent, and that determination by the arbitrator shall be binding upon Lessor and Lessee, provided that arbitrator shall not have the power to add to, modify, or change any of the provisions of this Lease. Each party shall pay its own counsel fees and expenses, if any, in connection with any arbitration under this provision, and the parties shall share equally all other expenses and fees of any such arbitration.

In the event that such fair market rent is not determined before the commencement of the Renewal Term, then Lessee shall continue to pay Base Rent as in effect at the end of the Lease Term until the fair market rent for the Renewal Term is determined. After such determination, then the next following payment of Base Rent due shall be adjusted to take into account the difference between the fair market rent for the Renewal Term and the Base Rent previously paid by Lessee during the Renewal Term.

(c) Notice Required / Deemed Renewal. Lessee shall be deemed to have given Lessor written notice of its intent to exercise its option to renew the term of the Lease unless Lessee shall give Lessor written notice of election not to renew no more than three hundred and sixty (360) and no less than sixty (60) days prior to the end of the then-current term.

3. **Rent.** In consideration for the amounts required to be paid by Lessor to Lessee under the Contract, the Lessee shall pay rent to Lessor, in an amount of \$41,250 per quarter (\$165,000 per year) (the "**Rent**"). The Rent shall be payable in equal quarterly installments, on or before March 1, June 1, September 1 and December 1 of each Lease Year following the Occupancy Commencement Date. If the Occupancy Commencement Date is not the first day of

a calendar quarter, then the Rent from the Occupancy Commencement Date until the first day of the following calendar quarter shall be prorated on a per diem basis at the rate of one-ninetieth (1/90th) of the quarterly installment of the Rent payable during the first Lease Year, and Lessee shall pay such prorated installment in advance on the Occupancy Commencement Date.

4. **Late Fee.** If any payment of Base Rent or any other payment due from Lessee under this Lease is not paid within ten (10) business days after its due date, Lessee shall pay to Lessor a late fee equal to two percent (12%) of the amount due and owing, together with any expenses incurred in collecting the late payment.

5. **Use of Leased Property.** Lessee shall use the Equipment only at the Site and in connection with the permitted uses of the Site under the Master Lease. Lessee shall use the Equipment and in all instances in accordance with and subject to the laws of the State of New Hampshire. Lessee shall not sell or sublease the Equipment without the written consent of the Lessor.

6. **Safety and Inspection.** Lessee accepts the Equipment in its current condition at the first time that Lessee takes possession and agrees that it shall exercise reasonable diligence during the term hereof to maintain the equipment in its present condition, reasonable wear and tear excepted.

7. **Insurance.** Beginning on the date that Lessor or Lessee first takes possession of any of any Equipment, Lessee shall provide or cause to be provided, maintain, and pay for (a) insurance on the Equipment against any Loss or such other risks as Lessor may reasonably request, for its full replacement value, naming Lessor and MCD Subsidiary CDE 14, LLC as a Loss Payee, and (b) public liability and property damage insurance naming Lessor as an additional insured. Additionally, Lessee shall maintain at its own cost and expense at all times during the Term general liability insurance protecting Lessor against any liability for or resulting from personal injury or death arising out of Lessee's use and operation of the Equipment, with insurance coverage limits in an amount not less than \$1,000,000. All such insurance shall be procured from an insurance company satisfactory to Lessor and duly licensed to do business in the State of New Hampshire and issued on a form of policy satisfactory to Lessor. All such insurance shall name Lessor as additional insured and shall not be cancelable except on 30 days' prior written notice to Lessor. If Lessee fails to do any of the foregoing, Lessor may purchase such insurance and bill Lessee for the cost thereof, which Lessee shall promptly pay to Lessor. Upon the execution of this Lease, and upon renewal or replacement of any such insurance, Lessee shall cause to be delivered to Lessor a certificate of insurance or other evidence of such insurance that evidences that such insurance is in full force and effect.

8. **Risk of Loss.**

8.1 Beginning on the date that Lessee first takes possession of any of the Equipment, Lessee shall bear the entire risk of loss, theft, destruction, or damage of or to any part of the Equipment (each a "Loss") from any cause whatsoever, whether or not covered by insurance, and no such Loss shall release Lessee of its obligations under this Lease, which shall continue in full force and effect. Lessee shall advise Lessor in writing promptly of any item of Equipment damaged or destroyed, and of the circumstances and extent of any such damage.

9. **Assignability.** Without Lessor's prior written consent, Lessee shall not (a) assign, sell, transfer, pledge, mortgage, encumber or otherwise dispose of this Lease, the Equipment, or any interest therein or (b) sublet or lend the Equipment or permit it to be used by anyone other than Lessee, Lessee's employees, or contractors retained by Lessee to operate the Equipment on the Site (including without limitation any operator of the performing arts center) provided, however, that any party engaged by Lessee to perform any repair or maintenance work on the Equipment shall be permitted to use the Equipment as may be reasonably necessary to perform such work. This Lease, or any Equipment, or any Rent or other sums due or to become due hereunder may be assigned or transferred by Lessor without prior notice to Lessee.

10. **Other Covenants of Lessee.** In addition to the covenants of Lessee provided elsewhere herein, the Lessee covenants as follows:

10.1 This Lease is intended as and is to be construed as a "triple net lease". Accordingly, Lessee shall be responsible for all repairs and maintenance of the Equipment, and shall, at Lessee's sole cost and expense, maintain the Equipment in good repair, condition, and functional order, shall not use or permit the Equipment to be used in any manner other than that for which it was designed and intended, and shall not alter the Equipment (other than in connection with standard and customary repairs and maintenance procedures) without Lessor's prior written consent. Lessee shall not allow the Equipment to be located so as to create a danger to personnel or damage to the Equipment. Lessor shall not be liable for loss of profit or other consequential damages resulting from the theft, destruction, or disrepair of the Equipment and there shall be no abatement of lease payments on account of any such theft, destruction, or disrepair.

10.2 Lessee shall pay or reimburse Lessor for, and shall hold Lessor harmless against actual or asserted violations or levies of, any and all taxes, assessments and other governmental charges of whatever kind or character, however designated (together with any penalties, fines or interest thereon) levied or based upon or with respect to the Equipment or Rental thereof, or upon the reconditioning, purchase, ownership, delivery, possession, use, storage, operation, maintenance, repair, return or other disposition of the Equipment, or for titling or registering the Equipment, or upon the income or other proceeds received with respect to the Equipment or this Lease. In case any such charges shall remain unpaid, Lessor shall have the right to pay the same and charge such payments to Lessee as additional Rent to be paid with the next monthly Rental payment.

10.3 Lessee shall pay all shipping and delivery charges and other expenses incurred in connection with the Equipment, and shall pay all lawful claims, whether for labor, materials, supplies, Rent or services, which might or could if unpaid become a lien on the Equipment.

10.4 Lessee shall comply with all governmental laws, regulations, requirements and rules, all manufacturer's instructions and warranty requirements, and with the conditions and requirements of all policies of insurance with respect to the Equipment and this Lease.

10.5 Lessee shall mark and identify the Equipment with all information and in

such manner as Lessor or its assigns may reasonably request from time to time and replace promptly any such markings or identification which are removed, defaced or destroyed.

10.6 Lessee shall at any and all times during normal business hours with 24 hours prior written notice from Lessor, grant Lessor free access to enter upon the premises wherein the Equipment shall be located or used and permit Lessor to inspect the Equipment.

10.7 Lessee shall reimburse Lessor for all charges, costs and expenses (including attorneys' fees, and regardless of whether suit is filed), incurred by Lessor in defending or protecting its interest in the Equipment, in the attempted enforcement or enforcement of the provisions of this Lease or in the attempted collection or collection of any Rental payment under this Lease.

10.8 Lessee shall not voluntarily or involuntarily create, incur, assume or suffer to exist any mortgage, lien, pledge or other encumbrance or attachment of any kind whatsoever upon, affecting or with respect to the Equipment or this Lease or any of Lessee's interests thereunder.

10.9 Lessee shall not permit the name of any person, association or corporation other than the Lessor to be placed on the Equipment as a designation that might be interpreted as a claim of ownership or security interest. Nothing in this section 10.9 shall prohibit Lessee from placing the names of donors on any seating or other Equipment.

10.10 Lessee shall not part with possession or control of or suffer or allow to pass out of its possession the Equipment other than as described in Section 9 above, and Lessee shall not change the location of the Equipment from the Site.

11. **Further Assurances.** Lessee will cooperate with Lessor for the purpose of protecting the interests of Lessor in the Equipment, this Lease and the sums due under this Lease, including, without limitation the execution of all Uniform Commercial Code financing statements requested by Lessor. Lessor and any assignee of Lessor is authorized if permitted by applicable law to file one or more Uniform Commercial Code financing statements disclosing any security interest in the Equipment, this Lease and the sums due under this Lease without the signature of Lessee or signed by Lessor or any assignee of Lessor as attorney-in-fact for Lessee. Lessee will pay all costs of filing any financing, continuation or termination statements with respect to this Lease including, without limitation, any documentary stamp taxes relating thereto. Lessee will do whatever may be necessary to have a statement of the interest of Lessor and any assignee of Lessor in the Equipment Leased on any certificate of title relating to the Equipment and will deposit said certificate with Lessor or such assignee. Lessee shall execute and deliver to Lessor upon request such other instruments and assurances as Lessor deems necessary or advisable for the implementation, effectuation, confirmation or perfection of this Lease and any rights of Lessor hereunder.

12. **Inspections.** Lessor and MCD Subsidiary CDE 14, LLC shall have the right, during normal business hours and upon 24 hours' notice to Lessee, to enter upon the premises where the Equipment is located in order to inspect, observe, and at the Lessor's option, to

service, repair, maintain, or otherwise protect the same (it being understood that Lessee shall be primarily responsible for servicing and maintaining the Equipment, and paying all costs therefor) and Lessee shall cooperate in affording Lessee the opportunity to do so.

13. **Personal Property; Title; Insignia; Warranties.**

13.1 The Equipment is and shall at all times be and remain personal property, although the Equipment or any part of it may now be or hereafter become in any manner affixed or attached to real property or any improvements.

13.2 Lessor shall at all times retain exclusive title to the Equipment. All additions, improvements, modifications, replacements, substitutions, alterations, or any other accessories or controls of or to the Equipment of any kind or nature made by Lessee shall become component parts of the Equipment. Lessee shall not do anything to impair or destroy Lessor's vested rights in and to the Equipment. At its own expense, Lessee shall protect and defend Lessor's title, at all times keeping the Equipment free from any legal process or encumbrance whatsoever, including but not limited to liens, attachments, levies, encumbrances, and executions, and Lessee shall give Lessor immediate written notice thereof and shall indemnify, hold harmless, and defend Lessor from any loss caused thereby.

13.3 Lessor promptly shall assign to Lessee all warranty and contractual rights with respects to the Equipment in order that Tenant may enforce the same to the extent permissible. To the extent that assignment thereof is not permissible, Lessor will cooperate with Lessee in any actions to enforce such warranty and contractual rights.

14. **Default and Remedies.**

14.1 An event of default (each an "Event of Default") shall have occurred under this Lease if:

a. Lessee shall fail to pay any Rent under this Lease, the payments on any other lease or indebtedness of Lessee to Lessor arising independently of this Lease, or other amount required in this Lease when the payment becomes due and payable, after the expiration of any applicable grace or cure period;

b. Lessee shall fail to perform or observe according to its terms any covenant contained in this Lease otherwise be in default in the performance of any of its obligations under this Lease or any other instrument or document executed in connection with this Lease, including any Affiliated Agreement;

c. Lessee shall become insolvent (however defined), cease business as a going concern, make an assignment for the benefit of creditors, or cause a petition for receiver or in bankruptcy to be filed by or against Lessee (including a petition for reorganization or an arrangement), which appointment or procedure is not vacated within 30 days thereof;

d. Lessee shall attempt to remove, sell, transfer, encumber, sublet, assign, or part with possession of the Equipment;

e. Lessee shall commit or fail to commit any act that results in jeopardizing the rights of Lessor or causes Lessor to reasonably deem itself insecure as to Lessor's rights under this Lease;

f. an event of default under the Master Lease or the termination of Lessee's possessory rights under the Master Lease.

14.2 If any of the Events of Default set forth under Sections 14.1.a – 14.1.e shall have occurred, Lessor or Lessor's agent, with or without notice to Lessee, shall have the right to exercise concurrently or separately, and without any election of remedies to be deemed made, any of the following remedies:

a. Elect that the Rental payments due under this Lease be accelerated and the entire unpaid portion of the Base Rent be due immediately;

b. Terminate this Lease;

c. Enter on Lessee's premises and without any court order or other process of law repossess and remove the Equipment, whether with or without notice to Lessee. Any such repossession shall not constitute a termination of this Lease unless Lessor so notifies Lessee in writing, and Lessor shall have the right, at Lessor's option, to lease the Equipment to any other person or persons on such terms and conditions as Lessor shall determine;

d. Sell the Equipment to the highest bidder at public or private sale and seek any deficiency from Lessee. Lessor may be the purchaser at any such sale, and Lessee affirmatively waives any claim that any such sale was not conducted in a commercially reasonable manner; or

e. Exercise any remedy available to Lessor at law or in equity.

Lessee shall further be responsible for all costs and expenses, including reasonable attorneys' fees, incurred by Lessor in exercising any remedy under this Lease, including without limitation repossessing, releasing, transporting, repairing, selling, or otherwise handling the Equipment, or collecting any Rent, additional Rent or any other charges due Lessor under this Lease, regardless of whether suit is filed.

If any of the Events of Default set forth under Section 14.1.f, shall have occurred, Lessee or Lessee's agent, with written notice to Lessee, shall have the right to terminate this agreement immediately.

14.3 All remedies of Lessor under this Lease are cumulative, and may, to the extent permitted by law, be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed to be an election of such remedy or to preclude the exercise of any other remedy. No failure on the part of the Lessor to exercise and no delay in exercising any

right or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by Lessor of any right or remedy hereunder preclude any other or further exercise of any other right or remedy.

15. **Notices and Demands.** Service of all notices under this Lease shall be hand delivered or sent by United States registered or certified mail addressed to the party as provided below or to such other address as the parties may hereafter substitute by written notice:

Lessee Address for Notices:

City of Nashua
229 Main Street
Nashua, NH 03060
ATTN: Timothy Cummings, Economic Development Director

If by U.S. mail to:

City of Nashua
c/o City of Nashua
P.O. Box 2019
Nashua, NH 03061-2019
ATTN: Timothy Cummings, Economic Development Director

With copies to:

Celia Leonard, Esq., Deputy Corporation Counsel
City of Nashua
229 Main Street
Nashua, NH 03060

If by U.S. mail to:

Celia Leonard, Esq., Deputy Corporation Counsel
c/o City of Nashua
P.O. Box 2019
Nashua, NH 03061-2019

And to:

John S. Kaminski, Esq.
Drummond Woodsum
84 Marginal Way, Suite 600
Portland, ME 04101

And to:

MCD Subsidiary CDE 14, LLC
80 S. Main Street
Hanover, New Hampshire 03755
Attention: Deborah Blanc, Director of Asset Management

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Lessor Address for Notices:

City of Nashua
229 Main Street
Nashua, NH 03060
ATTN: Timothy Cummings, Economic Development Director

If by U.S. mail to:

NPAC Corp.
c/o City of Nashua
P.O. Box 2019
Nashua, NH 03061-2019
ATTN: Timothy Cummings, Economic Development Director

With copies to:

Celia Leonard, Esq., Deputy Corporation Counsel
City of Nashua
229 Main Street
Nashua, NH 03060

If by U.S. mail to:

Celia Leonard, Esq., Deputy Corporation Counsel
c/o City of Nashua
P.O. Box 2019
Nashua, NH 03061-2019

And to:

John S. Kaminski, Esq.
Drummond Woodsum
84 Marginal Way, Suite 600
Portland, ME 04101

And to:

MCD Subsidiary CDE 14, LLC
80 S. Main Street
Hanover, New Hampshire 03755
Attention: Deborah Blanc, Director of Asset Management

16. **Indemnity.** Lessee shall indemnify Lessor against, and hold Lessor harmless from, any and all claims, actions, suits, proceedings, costs, expenses, damages, and liabilities, including reasonable attorney fees arising out of, connected with, or resulting from the Equipment or this Lease, including but not limited to the selection, delivery, use, operation, purchase, or return of Equipment, and regardless of whether suit is filed, unless such liability results from the willful misconduct or gross negligence of Lessor or any of Lessor's officers, employees or agents.

17. **Tax Consequences.** Lessor assumes no liability and makes no representation as to the treatment of this Lease by any federal, state, or local taxation authority. Lessor and Lessee shall treat this Equipment Lease as a lease for all purposes, including without limitation, income tax purposes.

18. **Disclaimer of Warranties; Lessee's Obligations.**

LESSEE ACKNOWLEDGES THAT: LESSOR IS NOT THE MANUFACTURER OF THE EQUIPMENT NOR THE MANUFACTURER'S AGENT NOR A DEALER THEREIN; THE EQUIPMENT IS OF A SIZE, DESIGN, CAPACITY, DESCRIPTION AND MANUFACTURE SELECTED BY THE LESSEE; LESSEE IS SATISFIED THAT THE EQUIPMENT IS SUITABLE AND FIT FOR ITS PURPOSES; AND LESSOR HAS NOT MADE AND DOES NOT MAKE ANY WARRANTY OR REPRESENTATION WHATSOEVER, EITHER EXPRESS OR IMPLIED, AS TO THE FITNESS, CONDITION, MERCHANTABILITY, DESIGN OR OPERATION OF THE EQUIPMENT, ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR CAPACITY OF THE MATERIALS IN THE EQUIPMENT OR WORKMANSHIP OF THE EQUIPMENT, LESSOR'S TITLE TO THE EQUIPMENT, NOR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER. LESSOR SHALL NOT BE LIABLE TO LESSEE FOR ANY LOSS, DAMAGE, OR EXPENSE OF ANY KIND OR NATURE CAUSED, DIRECTLY OR INDIRECTLY, BY ANY EQUIPMENT LEASED HEREUNDER OR THE USE OR MAINTENANCE THEREOF OR THE FAILURE OF OPERATION THEREOF, OR THE REPAIR, SERVICE OR ADJUSTMENT THEREOF, OR BY ANY DELAY OR FAILURE TO PROVIDE ANY SUCH MAINTENANCE, REPAIRS, SERVICE OR ADJUSTMENT, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE THEREOF OR FOR ANY LOSS OF BUSINESS HOWSOEVER CAUSED. LESSOR SHALL NOT BE LIABLE FOR DAMAGES OF ANY KIND

INCLUDING ANY CONSEQUENTIAL DAMAGES AS THAT TERM IS USED IN THE UNIFORM COMMERCIAL CODE OR OTHERWISE. NO DEFECT OR UNFITNESS OF THE EQUIPMENT, OR ANY FAILURE ON THE PART OF THE SHIPPER OF THE EQUIPMENT TO DELIVER THE EQUIPMENT OR ANY PART THEREOF TO LESSEE, SHALL RELIEVE LESSEE OF THE OBLIGATION TO PAY RENTAL PAYMENTS OR ANY OTHER OBLIGATION UNDER THIS LEASE. LESSOR SHALL HAVE NO OBLIGATION IN RESPECT OF THE EQUIPMENT AND SHALL HAVE NO OBLIGATION TO SELECT, RECONDITION, INSTALL, ERECT, TEST, ADJUST OR SERVICE THE EQUIPMENT. LESSOR AGREES, SO LONG AS THERE SHALL NOT HAVE OCCURRED OR BE CONTINUING ANY EVENT OF DEFAULT HEREUNDER OR EVENT WHICH WITH LAPSE OF TIME OR NOTICE, OR BOTH, MIGHT BECOME AN EVENT OF DEFAULT HEREUNDER, THAT LESSOR WILL PERMIT LESSEE TO ENFORCE IN LESSEE'S OWN NAME AND AT LESSEE'S SOLE EXPENSE ANY SUPPLIER'S OR MANUFACTURER'S WARRANTY OR AGREEMENT IN RESPECT OF THE EQUIPMENT TO THE EXTENT THAT SUCH WARRANTY OR AGREEMENT IS ASSIGNABLE.

19. **Waiver of Jury Trial.**

LESSEE AND LESSOR WAIVE ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER, OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF LESSEE WITH RESPECT TO, THIS LEASE OR ANY OTHER DOCUMENT OR INSTRUMENT REFERRED TO HEREIN OR DELIVERED IN CONNECTION HERewith, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE. LESSEE AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT LESSOR MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF LESSEE TO THE WAIVER OF LESSEE'S RIGHT TO TRIAL BY JURY. LESSEE ACKNOWLEDGES THAT IT HAS KNOWINGLY AND VOLUNTARILY WAIVED ANY RIGHT TO TRIAL BY JURY WITH THE ADVICE OF COUNSEL.

20. **Representations and Warranties.**

20.1 Lessor represents and warrants that it: (i) has the legal capacity, power and authority (including full corporate power and authority) to execute and deliver this Lease and to perform its obligations hereunder; (ii) has taken all corporate actions or proceedings to authorize and permit its execution and delivery hereof and performance of its obligations hereunder; (iii) has duly executed and delivered this Lease, which constitutes its legal, valid and binding obligations, enforceable in accordance with its terms and conditions; (iv) has not voluntarily or involuntarily created, incurred, assumed or suffered to exist any mortgage, lien, pledge or other encumbrance or attachment of any kind whatsoever upon, affecting or with respect to the

Equipment or this Lease or any of Lessor's interests hereunder with the exception of a security interest that Lessor has granted in the Equipment and this Lease to MCD Subsidiary 14, LLC, its successors and assigns; and (v) is not required to give any notice to any third party in connection herewith.

20.2 Lessee represents and warrants that it: (i) has the legal capacity, power and authority (including full corporate power and authority) to execute and deliver this Lease and to perform its obligations hereunder; (ii) has taken all corporate actions or proceedings to authorize and permit its execution and delivery hereof and performance of its obligations hereunder; (iii) has duly executed and delivered this Lease, which constitutes its legal, valid and binding obligations, enforceable in accordance with its terms and conditions; (iv) is not required to give any notice to any third party in connection herewith; and (v) is leasing the Equipment for commercial purposes and agrees that this Lease is not to be construed as a consumer contract.

21. **Miscellaneous.**

21.1 Entire Agreement; Modification. This instrument constitutes the entire agreement between Lessor and Lessee, supersedes all prior understandings, arrangements and agreements with respect to the subject matter hereof, is irrevocable for its Term and for the aggregate Rentals reserved above, and it shall not be amended, altered, or changed except by a written agreement signed by the parties and except as otherwise provided herein, any material amendment, alteration, change or modification to this Lease shall require the prior written consent of MCD Subsidiary CDE 14, LLC.

21.2 Severability. If any clause of this Lease is declared invalid or unenforceable by reason of any statute, rule of court or judicial decision now in force or hereafter enacted or decided, it shall not affect any other clauses or provisions of this Lease, all of which shall remain in full force and effect.

21.3 Headings. Headings or titles to the Sections of this Lease are solely for the convenience of the parties and are not an aid to the interpretation of this Lease.

21.4 Governing Law. This Lease shall be enforced, governed, and construed by and interpreted under the laws of the State of New Hampshire, without giving effect to its principles or rules regarding conflicts of laws. Each party hereby agrees on behalf of itself and its successors and assigns, that except as otherwise provided herein, any controversy or claim arising out of or relating to the Lease or the breach thereof (a) shall be subject to the jurisdiction of State of New Hampshire and (b) shall be exclusively venued in either Hillsborough County, New Hampshire or the federal District of New Hampshire and hereby irrevocably consents to the personal and subject matter jurisdiction of such courts with respect thereto.

21.5 Counterparts. This Lease may be executed in more than one counterpart and if so executed, each of such counterparts shall be deemed to be an original and, when executed by both parties, all such counterparts shall be deemed to be an original and, when executed by both parties, all such counterparts shall be deemed to be an original and all such counterparts shall be read together as one Lease.

21.6 Third Party Beneficiary. MCD Subsidiary CDE 14, LLC shall be a third-party beneficiary of this Lease for purposes of enforcing the provisions thereof.

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THE SIGNATURES APPEAR ON THE FOLLOWING PAGE.]**

COUNTERPART SIGNATURE PAGE

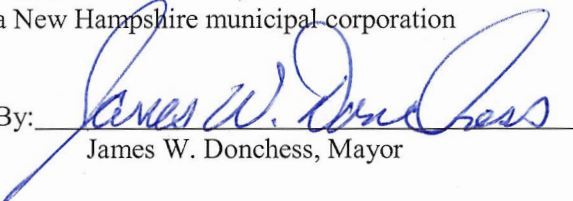
TO

EQUIPMENT LEASE

IN WITNESS WHEREOF, the parties hereto have caused the above-referenced document to be executed by their respective duly authorized signatories as of the day and year written above.

CITY OF NASHUA,
a New Hampshire municipal corporation

By: _____


James W. Donchess, Mayor

COUNTERPART SIGNATURE PAGE

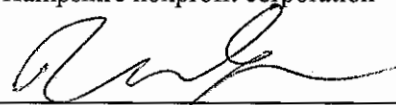
TO

EQUIPMENT LEASE

IN WITNESS WHEREOF, the parties hereto have caused the above-referenced document to be executed by their respective duly authorized signatories as of the day and year written above.

201 MAIN STREET REAL ESTATE CORP.
a New Hampshire nonprofit corporation

By: _____



Richard G. Lannan, President

EQUIPMENT

Stage Rigging/Draperies

Wenger Corporation

(1) Set of Stage Rigging/Drapers

Concessions Appliances and Equipment

Various

KEGERATOR

BEV AIR

SODAR BAR GUN

PEPSI

COFFEE MAKER

BUNN

BEVERAGE COOLER

PEPSI

PRETZEL WARMER

NEMCO

RACK WARMER

HATCO

HOT ROG ROLLER

STAR

ICE CHEST

INFINITY

DISH WASHER

HOBART

ICE MACHINE

MANITOWOC

REFRIGERATOR

TRAULSEN

FREEZER

TRAULSEN

HOT BOX

TRAULSEN

WALK-IN REFRIGERATOR

KOLPAK

MOBILE KEGERATOR

BEV AIR

Seating

Jezet Seating

41 Main Level Loose Chairs

324 Main Level Telescopic Chairs

54 Main Level Back Chairs

38 Main Level Box Loose Chairs

296 Balcony Chairs

Theatrical Lighting Control

Port Lighting

Power Control Device

Emergency Assessories

Distribution Device(s)

Special Outbox

Type A

Type B

Type C

Type D

Type E

Type F

Equipment Rack (Panels A-L)

Wireless Access Points

Portable Gateways

Architectural Control Device (A-F)

Socapex Cable

Audio/Visual Equipment

HIGH OUTPUT

wired microphones
audio mixing
audio recorder
audio processing
production communications
amplifiers and loudspeakers
assistive listening system
video projector, lens and accessories
projection screen
AV sources
cameras
video routing and processing
systems control and accessories
(2) loudspeakers signal processing/amp

Electronic Security

Johnson Control

Fire Alarm System

VIP Drapery System

Port Lighting

(1) Set of VIP Lounge Draperies

Stage Lighting**Interior Signage Electronic Panels (5)**

(5) UHD Dual Sided Samsung Monitors

Lobby Furnishings/Furniture