

## Dawn Theater Management Agreement

This Management Agreement ("Agreement") is made and effective MARCH 2, 2022 by and between City of Hillsdale, Tax Increment Finance Authority (TIFA) ("Owner") and The Keefer House Hotel, LLC ("Manager").

TIFA is the owner of land and improvements commonly known and numbered as The Dawn Theater at 110 N. Broad Street, Hillsdale, MI 49242 and as more fully described on the attached Exhibit A ("Theater").

Owner representation will be the Dawn Theater Governance Board ("Board").

Owner is interested in contracting the services of a Management Company for management of the day-to-day operations at the Theater along with programming and management of the schedule of events.

THEREFORE, in consideration of the mutual promises herein contained, and other good and valuable consideration, it is agreed:

### 1. Term.

- A. As a condition of that certain separate Lease Agreement dated 3/2/2022, Owner contracts with Manager and Manager agrees to manage the Dawn Theater, for an "Initial Term" beginning either simultaneously with the reopening of the Dawn Theater and the rehabilitation of the Theater or in accordance with 1.C. herein and ending Ten (10) Years from the first date of the Initial Term.
- B. If the Performance Standards as set forth in Section 3 of this Agreement are met as of the date(s) for renewal, Manager at its sole option may renew the Agreement for up to two (2) extended terms of Ten (10) Years, which request for renewal shall not unreasonably be withheld by owner. Owner shall not dismiss Manager without cause. Manager shall exercise such renewal option, if at all, by giving written notice to the other not less than ninety (90) days prior to the expiration of the Initial Term.
- C. The Initial Term of this Agreement shall commence simultaneously with the execution of that separate Lease Agreement for the Theater between the Owner and Manager. Termination of the separate Lease Agreement will result in termination of this Agreement. Upon termination, Manager shall have the right to remove all movable Furniture, Fixtures and Equipment (FFE) and all other related assets purchased and provided by Lessee for the overall operation of the Dawn Theater unless the parties to said Lease Agreement agree to a separate sale of those items.

### 2. Uses.

- A. **Manager Use:** The Manager shall book and manage the calendar of events/uses of the Theater. With the exception of Community Events as defined below in this Agreement, the Theater shall be used on an exclusive basis as an Events Use venue associated with The Keefer House Hotel. The General Manager of The Keefer House Hotel will represent the Manager when necessary.
- B. **Community Event Use:** Coordination between the Manager and the Board will take place to allow for programming of Community Events from time to time. The Theater will be used for Community Events, including but not limited to, fundraisers, festivals, movie screenings, musical, theatrical, comedic, or other artistic shows. Owner and Manager shall cooperate for the scheduling of Community Events on non-peak times, on a first-come, first-serve basis, generally understood to be Sunday morning and Monday through Thursday of each week except holiday and college graduation weeks. This does not exclude the possibility of booking Community Events during peak times if mutually agreed upon by Owner and Manager.
- C. **Community Event Rate:** Manager and Owner shall agree to a set fee structure for The Community Event Rate ("Rate"). The Community Event Rate generally will be set at an

approximate amount to cover the incremental cost of use of the space, including utilities usage, cleaning, Manager staffing as required and reasonable, and other costs associate with conducting the Community Event. After such agreed upon expenses are paid following a Community Event, net proceeds from the Community Event, if any, will be retained by the Owner or Board or delegate thereof. The Rate shall be subject to alteration annually, as agreed upon by both parties in advance of each year of the Management Term. An eligible event for the Community Event Rate must agree with the definition of a Community Event in Section 2.D. of this Agreement and must receive approval for application of the Community Event Rate by the Board or by mutual agreement between the Owner ("TIFA Chairman") and Board Chair.

**D. Community Event Definition:**

1. Community events are defined as an event that will not seek profit from the event except to cover the Community Event Rate and are events open to the public that support the community of Hillsdale, Michigan.
  2. All fundraisers that exclusively benefit of the Theater, which may receive funds over and beyond the cost to cover the Rate, shall be defined as a Community Event and shall qualify for the Rate.
  3. For an event to qualify for the Community Event Rate, the event must be organized, sponsored, staffed, and run by the Owner and/or the Board. The Owner and/or the Board may delegate to the Friends of The Dawn Theater for the organization, sponsorship, staffing and conduct of a Community Event as defined in this section 2.D.
  4. Manager shall not be responsible for organizing, programing, or promoting Community Events, but may at its discretion assist with organizing, programing, and promoting such Community Events.
- E. Notwithstanding the forgoing, Manager shall not use the Theater for any purpose that involves storing, manufacturing, or selling any explosives, flammables or other inherently dangerous substance, chemical, thing or device.
- F. Events held in the Theater do not necessarily represent the views or endorsement of the City of Hillsdale, TIFA, or representatives thereof.

**3. Performance Standards.**

- A. Manager will program events in the Theater on a regular basis, making reasonable efforts to meet the demand of the community to use the Theater.
- B. Programs will include entertainment and cultural events such as performances, music, theater, and other artistic endeavors.
- C. Manager will not schedule events with program content that is or could be considered X-rated content or activities.
- D. Manager will make reasonable efforts to cooperate with Board to schedule Community Events at the Community Rate which shall be based on actual and documented costs of opening and managing the Theater on an annual basis. TIFA and Manager agree that Community Events will occur as frequently as one event per week and Manager will be mindful of this anticipated frequency of events when scheduling other events at the theater.

**4. Insurance.**

- A. Manager and Owner shall, each at its own expense, maintain a policy or policies of comprehensive general liability insurance and hired and non-owned auto insurance with respect to the respective activities of each in the Theater with the premiums thereon fully paid on or

before due date, issued by and binding upon some insurance company approved by Owner, such insurance to afford minimum protection of not less than \$1,000,000 combined single limit coverage of bodily injury, property damage or combination thereof. Owner shall be listed as an additional insured on Manager's policy or policies of comprehensive general liability insurance, and Manager shall provide Owner with current Certificates of Insurance evidencing Manager's compliance with this Paragraph. Manager shall obtain the agreement of Manager's insurers to notify Owner that a policy is due to expire at least (10) days prior to such expiration. Owner shall not be required to maintain insurance against thefts within the Theater or the Building.

**5. Entry.**

- A. Owner shall have the right to enter upon the Theater at reasonable hours to inspect the same, provided Owner shall not thereby unreasonably interfere with Manager's business in the Theater.

**6. Parking.**

- A. During the term of this Management Agreement, Manager shall have use of the non-reserved common automobile parking areas, driveways, and footways, subject to rules and regulations for the use thereof as prescribed from time to time by Owner.

**7. Building Rules.**

- A. Manager will comply with the rules of the building adopted by Owner and will cause all of its agents, employees, invitees and visitors to so comply.

**8. Memorandum of Management Agreement.**

- A. The parties hereto contemplate that this Agreement should not and shall not be filed for record, but in lieu thereof, at the request of either party, Owner and Manager shall execute a Memorandum of Agreement to be recorded for the purpose of giving record notice of the appropriate provisions of this Management Agreement.

**9. Headings.**

- A. The headings used in this Agreement are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this Management Agreement.

**10. Successors.**

- A. The provisions of this Agreement shall extend to and be binding upon Owner and Manager and their respective legal representatives, successors, and assigns.

**11. Consent.**

- A. Owner shall not unreasonably withhold or delay its consent with respect to any matter for which Owner's consent is required or desirable under this Management Agreement.

**12. Compliance with Law.**

- A. Manager shall comply with all laws, orders, ordinances, and other public requirements now or hereafter pertaining to Manager's use of the Theater. Owner shall comply with all laws, orders, ordinances and other public requirements now or hereafter affecting the Theater.

**13. Final Agreement.**

A. This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

**14. Governing Law.**

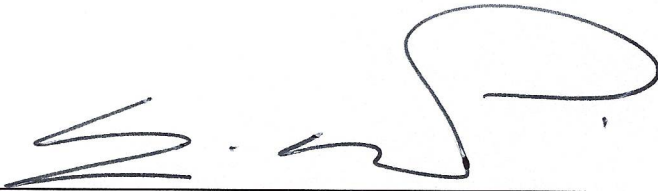
A. This Agreement shall be governed, construed, and interpreted by, through and under the Laws of the State of Michigan.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.



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**[Owner] Signature Block**  
Andrew Gelzer, Chair  
City of Hillsdale, Tax Increment Finance Authority

Date: 3-4-22



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**[Manager] Signature Block**  
Peter Limberger, President  
Keefer House Hotel, LLC

Date: 3-4-22