

COUNCIL OF THE TOWN OF INDIAN HEAD

Ordinance No. 11-01-24

Introduced By: Mayor & Council
Date Introduced: November 4, 2024
Town Council Hearing: None
Amendments Adopted: None
Date Adopted: *Tentatively, December 2, 2024*
Date Effective: *Tentatively, December 22, 2024*

AN ORDINANCE concerning

Approval of Lease of 4185 Indian Head Highway

FOR the purpose of approving a Lease with Indian Head Center for the Arts, Inc., for the property owned by the Town of Indian Head and located at 4185 Indian Head Highway.

EXPLANATORY STATEMENT: The Town of Indian Head ("Town") and Indian Head Center for the Arts, Inc. ("Tenant"), desire to enter into a Commercial Lease for the improved real property located at 4185 Indian Head Highway, known as The Indian Head Center for the Arts ("Premises"). The Town and Tenant desire to enter into a Lease for the Premises in the form attached to this Ordinance. Now, therefore,

SECTION 1. BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF INDIAN HEAD, that the Lease attached to this Ordinance is approved and the Mayor of the Town is authorized to execute the Lease on behalf of the Town.

SECTION 2. AND BE IT FURTHER ENACTED, that this Ordinance shall become effective at the expiration of twenty (20) calendar days following its approval by the Council.

INDIAN HEAD TOWN COUNCIL

Brandon Paulin, Mayor

Ron Sitoula, Vice Mayor

Cassandra Grumbine, Councilmember

ATTEST:

Andrea Brady, Town Clerk

Date

COMMERCIAL LEASE AGREEMENT

THIS AGREEMENT OF LEASE (this “**Lease**”), made this ____ day of _____, 2024, by and between **TOWN OF INDIAN HEAD** (hereinafter “**Landlord**”) and **INDIAN HEAD CENTER FOR THE ARTS, INC.** (hereinafter “**Tenant**”).

WITNESSETH, THAT FOR AND IN CONSIDERATION of the rents, and of the mutual covenants of the parties hereto, Landlord and Tenant hereby agree as follows:

ARTICLE I

Section 1.1. Premises. Landlord hereby leases to Tenant and Tenant leases from Landlord the real property known as 4185 Indian Head Highway, Indian Head, Maryland 20640 (the “**Property**”), improved by a building commonly known as the Black Box Theater (the “**Premises**” or “**Building**”), except that this Lease and the Premises does not include so much of the Building as is occupied by the Indian Head Community Affairs Office.

Section 1.2. Condition: PREMISES TO BE DELIVERED IN “AS IS, WHERE IS CONDITION, without any warranty, express or implied.

ARTICLE II

Section 2.1. Initial Term. The term of the Lease shall be for five (5) years commencing on the first day of the first full calendar month after the date hereof (“**Commencement Date**”), and terminating at 11:59 p.m. five years after the Commencement Date, unless extended pursuant to Section 2.2 or sooner terminated in accordance with the provisions hereof (the “**Initial Term**”).

Section 2.2. Renewal Terms. Tenant has may renew this Lease for up to two successive terms of five (5) years each (“**Renewal Term**”) if, at, at the time of exercising this option to renew, Tenant is in compliance with the terms of this Lease. Tenant shall exercise the option to renew by providing Landlord with written notice of such intent no sooner than one hundred twenty (120) days nor later than ninety (90) days before the expiration of the Initial Term or the first Renewal Term. Each Renewal Term shall be under the same terms and conditions as the Initial Term except as may be agreed to, in writing, by Landlord and Tenant. If Tenant does not timely exercise an option to renew, time being of the essence, this Lease shall terminate at the end of the then current term.

ARTICLE III

Section 3.1. Base Rent. Tenant shall pay annual rent (“**Base Rent**”) to Landlord in the amount of \$1.00 payable in full in advance on the first day of each year without demand, deduction or set-off. Upon execution hereof, Tenant shall pay the first full year’s Base Rent (plus a pro rata rental amount from the Commencement Date through the last day of the month if the Commencement Date is on a date other than the 1st of the month).

Section 3.2. Additional Rent. Any sum of money which is required to be paid by Tenant under this Lease, whether or not such sum is herein designated as "**Additional Rent**", shall be deemed "**Additional Rent**" and shall be collectible as such in any legal proceedings.

Section 3.3. Payment of Rent. Tenant shall pay all rent to Landlord by delivering or mailing it (postage prepaid) to Landlord at the Property, or such other place as Landlord may designate. Receipt and acceptance of a late charge shall not constitute a waiver of Landlord's right to declare a default if subsequent payments are not timely made. Payment of all Base Rent shall be made without prior demand, and all Base Rent and Additional Rent shall be paid without setoff, deduction or abatement except as expressly set forth in this Lease.

ARTICLE IV

Section 4.1. Security Deposit. INTENTIONALLY OMITTED.

ARTICLE V

Section 5.1. Holding Over: Should Tenant continue to occupy the Premises, or any portion thereof, after the termination of this Lease (and/or any renewal) and unless otherwise agreed in writing, Tenant shall pay Landlord on demand an amount equal to one hundred fifty percent (150%) of the rent due for the last full year of the term of this Lease for each month or portion thereof that Tenant continues to occupy all or any part of the Premises. Such payments shall not be deemed to be rent and acceptance of any such payments by Landlord shall not be deemed or construed to convert Tenant into a month to month tenant or otherwise grant Tenant any right to remain in possession of the Premises or so as to otherwise impair Landlord's right to the immediate possession of the Premises. Similarly, any such payments shall be in addition to and without prejudice to Landlord's right to recover any damages to which Landlord otherwise would be entitled as a result of Tenant's holding over.

ARTICLE VI

Section 6.1. Permitted Uses. The Premises shall be used for the following purposes and none other: a center for the performing arts and similar uses. Tenant shall not use, occupy, suffer or permit the Premises to be used in any manner which in Landlord's reasonable judgment adversely affects the Property. Tenant will, at Tenant's own expense and cost, obtain all permits and licenses required by law for the conduct of its business and for alterations and renovations to the Premises. Failure of Tenant to obtain such licenses and permits, or loss of such permits during the Lease term, shall not relieve Tenant of its obligations to pay all Base Rent and Additional Rent due hereunder.

Section 6.2. Hazardous Material; Indemnity. Tenant shall not cause or permit any Hazardous Material (as hereinafter defined) to be brought upon, kept, or used in or about the Premises by Tenant, its agents, employees, contractors or invitees. If Tenant breaches said obligations, or if the presence of Hazardous Materials on the Premises or the Property is caused or permitted by Tenant or results in contamination of the Premises or the Property, or if contamination of the Premises or the Property by Hazardous Material otherwise occurs, then Tenant shall indemnify, defend and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the Premises or the Property, damages for the loss or restriction

on use of rentable or usable space or of any amenity of the Premises or the Property, damages arising from any adverse impact on marketing of space, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) whenever they are incurred. This indemnification of Landlord by Tenant includes, without limitation, costs of investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state or local governmental agency because of Hazardous Material present in the soil or ground water on or under the Property. Without limiting the foregoing, if the presence of any Hazardous Material on the Premises or the Property caused or permitted by Tenant results in any contamination of the Premises or the Property, Tenant shall promptly take all actions at its sole expense as are necessary to return the Premises and/or the Property to the condition existing prior to the introduction of any such Hazardous Material to the Premises and/or the Property; provided that Landlord's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Premises or Property. As used herein, the term "**Hazardous Material**" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of Maryland or the United States Government. The indemnification set forth in this section shall survive the termination of the Lease.

ARTICLE VII

Section 7.1. Insurance. Tenant, at its own expense, shall carry public liability insurance with limits of no less than \$1,000,000 for injury to one person and \$2,000,000 for injury to more than one person, and \$1,000,000 property damage liability insurance. All insurance policies shall jointly name as the insured, the Landlord and the Tenant, and insuring Landlord and Tenant from and against all claims for personal injuries suffered or sustained by third persons upon the Premises. Tenant shall furnish Landlord with proof that the required coverage is in effect prior to Tenant's occupancy. In the event the Tenant shall fail to furnish the necessary insurance coverage or renewals thereof, the Landlord shall have the right, at its election, to obtain such insurance coverage and to add the total cost to the rent due under the Lease. Tenant shall furnish Landlord with a valid certificate of insurance showing that such insurance is paid for and in full force and effect prior to occupancy and each policy shall contain a clause that the insurer shall not cancel or change the policy without first giving Landlord at least fifteen (15) days' prior written notice. Tenant shall indemnify and hold Landlord harmless from any and all claims and demands in any way arising out of Tenant's failure to comply with this Section.

Section 7.2. Increase in Insurance Premiums. Tenant shall not do or permit anything to be done in or about the Premises which will contravene the policies of insurance which may be carried by the Landlord on the Property. The Tenant shall pay to Landlord as Additional Rent the increase in any insurance premiums incurred by Landlord as a result of Tenant's use of the Premises.

Section 7.3. Mutual Waiver of Subrogation. Landlord and Tenant waive any right that each may have against the other on account of any loss or damage occasioned to its property arising from any risk generally covered by fire and extended coverage insurance, together with insurance against sprinkler damage, vandalism and malicious mischief, whether or not such a policy shall be in force. The parties on behalf of their respective insurance companies waive any right of subrogation that such insurance company may have against Landlord or Tenant. If either Landlord or Tenant shall be unable, after using best efforts, to obtain and/or maintain the waiver of subrogation set forth in the immediately preceding sentence from its insurance carrier(s) and shall so notify the other party of such inability within thirty

(30) days thereafter, then the above mutual waiver of subrogation and liability shall no longer be effective.

ARTICLE VIII

Section 8.1. Utility Charges. Landlord shall be responsible for and shall promptly pay all charges for heat, water, gas, sewage, electricity, internet, trash and any other utility used or consumed in the Premises. Moreover, Landlord shall be responsible for all snow removal and grass cutting for the Property.

Section 8.2. Interruption of Services. Landlord shall not be liable to Tenant for any interruption or failure of utility services caused by any unavoidable delay, by the making of any necessary repairs and improvements or by any cause beyond Landlord's reasonable control.

Section 8.3. Maintenance. Except as otherwise provided for herein, Landlord shall, throughout the term of this Lease, at Landlord's sole cost and expense, keep the Premises, including exterior entrances, structural elements, and all partitions, doors, equipment, and appurtenances thereof, including all electrical, plumbing, air conditioning, heating and other mechanical installations in good order, and repair and will make all replacements thereto at its expense. Notwithstanding the foregoing or any provision of this Lease to the contrary, Tenant shall be solely responsible, at its sole cost and expense, for (i) the repair, maintenance, and replacement of Tenant's trade fixtures and/or equipment used in connection with the permitted use; (ii) any repairs, maintenance or replacement necessitated by the action or inaction of Tenant or its invitees, guests or contractors; (iii) all janitorial services for the Premises, and (iv) maintaining the walkway around the Building.

ARTICLE IX

Section 9.1. Fire and Other Casualty. If the Premises are damaged by fire or other casualty during the term of this Lease through no fault of the Tenant, the Landlord may terminate this Lease or, alternatively, restore the Premises with reasonable promptness (taking into account the time required by the Landlord to effect a settlement with, and to procure any insurance proceeds from, any insurer against such casualty) to substantially its condition before such casualty, and only to the extent that insurance proceeds are available therefore. Landlord may temporarily enter the Premises for such purpose (provided, that the Landlord shall not be obligated to repair or replace any fixture or improvement or other property owned or installed by Tenant).

Section 9.2. Substantial Destruction. If the Building is so damaged by fire or other casualty that (a) either the Premises or the improvements to the Property (whether or not the Premises are damaged) is rendered substantially unfit for occupancy, as reasonably determined by the Landlord, or (b) the Building is damaged to the extent that the Landlord reasonably elects to demolish the Building, then in either case the Landlord may elect to terminate this Lease as of the date of such casualty, by giving written notice thereof to the Tenant within thirty (30) days after such date. If Landlord terminates this Lease pursuant to this Section, Landlord may enter upon and repossess the Premises without further notice.

Section 9.3. Tenant's Negligence. If any damage to the Premises, the Building or both are caused by or result from the negligent or intentionally tortious act or omission of the Tenant, those claiming under the Tenant or any of their respective officers, employees, agents or invitees, the Rent shall not be suspended or apportioned, and except if Tenant is released from liability therefore pursuant to the provisions of Section 9.2, the Tenant shall pay to the Landlord upon demand, as Additional Rent, the cost of (a) any repairs and restoration made or to be made as a result of such damage, or (b) (if the Landlord elects not to restore the Building) any damage or loss which the Landlord incurs as a result of such damage.

ARTICLE X

Section 10.1. Condemnation. Tenant agrees that if the Premises, or any part thereof, shall be taken or condemned for public or quasi-public use by any competent authority, Tenant shall have no claim against Landlord and shall not have any claim or right to any portion of the amount that might be awarded as damages and/or to Landlord paid as a result of the condemnation. Upon such condemnation or taking, and if the Premises cannot be used for tenant's intended purposes, the term of this Lease shall expire and terminate from the date of the governmental taking or condemnation, and the Tenant shall have no claim whatsoever against the Landlord for the value of any unexpired term of the Lease, interruption of the Tenant's business, diminution in the Tenant's ability to use the Premises or any other injury or damage sustained by the Tenant.

ARTICLE XI

Section 11.1. Assignment and Subletting. Tenant shall not assign, transfer, mortgage, hypothecate or otherwise encumber this Lease, nor sublease all or any part of the Premises, nor permit other persons to occupy said Premises or any part thereof, without the prior written consent of Landlord, which consent may be withheld in the sole discretion of the Landlord. Any consent by Landlord to an assignment or subletting hereunder shall not constitute a waiver of the necessity of obtaining consent as to any subsequent assignment or subletting, nor shall it relieve Tenant of continuing liability under this Lease. With any request for Landlord's consent to assignment or subletting, Tenant shall pay to Landlord Landlord's costs in connection therewith, including with reasonable attorney's fees. As consideration for approving a sublease of all or any part of the Premises, Tenant shall pay Landlord, without demand and as Additional Rent, 50% of the rent as and when received by Tenant from Subtenant.

ARTICLE XII

Section 12.1. Alterations. Tenant will not make or cause to be made any alterations, additions, or improvements to the Premises involving in any way interior or exterior construction, plumbing, electrical, heating, air conditioning, or ventilation work, or any other kind of work which in any way involves the structure of the Premises, including by way of example and not limitation, the installation of any trade fixtures, exterior signs, floor coverings, interior or exterior lighting, plumbing fixtures, shades or awnings, or make any changes to the Premises without first obtaining in each and every instance the prior written approval and consent of Landlord. Landlord's approval for interior alterations that do not affect the structure of the Building shall not be unreasonably withheld; Landlord's approval for any alterations that affect the structure of the Building or the exterior of the Premises may be given or withheld in Landlord's sole and absolute discretion. All work performed by Tenant in or on the

Premises shall be performed (i) promptly, at Tenant's sole cost and expense, and in a workmanlike manner with first class materials, (ii) by duly qualified or licensed persons, (iii) in accordance with all building codes and applicable laws and statutes pertaining to such work; (iv) without interference with, or disruption to, the operations of Landlord or other tenants or occupants of the Building, and (v) in accordance with the plans and specifications approved in writing in advance by Landlord (as to both design and materials). Tenant will present to Landlord plans and specifications for such work at the time approval is sought. Tenant will promptly obtain materials and mechanics lien releases, and will indemnify and hold Landlord safe and harmless against all claims, actions, liabilities and damages whatsoever by reason of such changes, alterations or improvements, regardless of whether Landlord has approved such changes or not. Tenant's entry into possession of the Premises shall be at the sole risk of Tenant. Any contractor or subcontractor employed by Tenant must be a licensed, bonded and insured party, and must name Landlord as an additional insured on its insurance policies.

Section 12.2. Removal of Improvements. All alterations, decorations, additions, and improvements made by Tenant under this Lease will become the property of Landlord as soon as they are affixed (except Tenant's trade fixtures) and will not be removed from the Premises without the prior written consent of Landlord. Landlord may condition its consent to any alterations, decorations, additions and/or improvements upon the removal of any such alterations, decorations, additions and/or improvements at the expiration or earlier termination of the Lease term. Upon expiration of this Lease, Tenant will, at the election of Landlord, remove all such alterations, decorations, additions, and improvements, and restore the Premises as provided in Section 16.2 of this Lease. All approved removals shall be done by a licensed contractor approved by Landlord.

Section 12.3. Liens Upon Landlord's Property. No work performed by Tenant pursuant to this Lease shall be deemed to be for the use and benefit of Landlord, and no mechanics or other lien shall be allowed by reason of any consent given by Landlord to Tenant to improve, alter or repair the Premises. Tenant shall pay promptly all persons furnishing labor and/or materials with respect to any work performed by Tenant or its contractor on or about the Premises. In the event any mechanic's or other lien shall at any time be filed against the Premises Tenant shall forthwith cause the same to be discharged of record or bonded to the satisfaction of Landlord. If Tenant fails to cause such lien to be discharged or bonded within five (5) days after the filing thereof, then, in addition to any other right or remedy of Landlord, Landlord may bond or discharge the same and the amount so paid by Landlord including reasonable attorney's fees incurred by Landlord either in defending against such lien or in procuring the bonding or discharge of such lien, shall be due and payable by Tenant to Landlord as Additional Rent.

Section 12.4. Signs and Lights. Tenant shall not erect, display or maintain any sign, picture, advertisement, awning, canopy, merchandise, notice, or light on the outside of the exterior of the Premises (or visible from the exterior) without Landlord's prior written approval. All signage shall comply with all governmental regulations. Tenant shall be solely responsible for the costs of all signage and all sign maintenance. Any sign shall be removed as provided in Section 12.2.

ARTICLE XIII

Section 13.1. Subordination. Tenant's rights under this Lease are, and shall always be subordinate to any mortgage or deed of trust or any other instrument of financing now or hereafter placed upon the Property, or any part thereof, by Landlord, or any renewal, modification, consolidation,

replacement or extension of any such instrument (hereinafter collectively referred to as "Financing Instrument"). The foregoing sentence shall not be operative if the holder of the Financing Instrument elects to have Tenant's interest hereunder superior to the interest of the holder of such Financing Instrument. This provision shall be self-operative and no further instrument of subordination shall be necessary, but Tenant shall execute promptly any instrument of subordination that Landlord may request. Tenant hereby constitutes and appoints Landlord as Tenant's attorney-in-fact to execute any such instrument for and on behalf of Tenant.

Section 13.2. Attornment. The Tenant agrees that upon the sale or the placing of a mortgage on the Premises or upon foreclosure or sale under a financing instrument to which this Lease is now or shall thereafter become subject and subordinate, this Lease shall remain in full force and effect and the Tenant will attorn to the mortgagee or purchaser upon foreclosure, will pay to said mortgagee or purchaser all the rents and other monies required to be paid by the Tenant hereunder and perform all of the other terms, covenants, conditions and obligations in this Lease contained as if said mortgagee or purchaser was the original Landlord herein.

ARTICLE XIV

Section 14.1. Right of Entry. Landlord or its agents shall have the right to enter the Premises at all reasonable times, with prior notice, to examine, and to show to prospective purchasers, mortgagees, or lessees of the Premises, and to make such repairs, alterations, improvements or additions as Landlord may deem appropriate. If Tenant shall not be personally present to open and permit an entry into said Premises, when for any reason an entry therein shall be immediately necessary or permissible (i.e. emergency situations), Landlord or Landlord's agents may enter the same by a master key, or may forcibly enter the same, without rendering Landlord or such agents liable therefore, and without in any manner affecting the obligations and covenants of this Lease. Nothing herein contained, however, shall be deemed or construed to impose upon Landlord any obligation, responsibility or liability whatsoever, for the care, maintenance or repair of the Premises.

ARTICLE XV

Section 15.1. Non-Liability. Neither Landlord nor Landlord's agents, officers, directors, shareholders, partners or principals shall be liable to Tenant or Tenant's agents, employees, contractors, invitee or licensees or any other occupants of the Premises, and Tenant shall save Landlord and Landlord's agents, and their respective agents, employees, contractors, officers, directors, shareholders, partners and principals harmless from any loss, cost liability, claim, damage, expense (including reasonable attorneys' fees and disbursements), penalty or fine incurred in connection with or any damage to, or loss (by theft or otherwise) of, any of Tenant's property unless due to the gross negligence of Landlord or Landlord's agents without contributory negligence on the part of Tenant, its employees or agents. If Landlord is liable to Tenant for any such damages, Tenant expressly waives any claim for consequential damages. Landlord and Landlord's agents shall not be liable, to the extent of Tenant's insurance coverage, for any loss or damage to any person or property even if due to the negligence of Landlord or Landlord's agents. In no event shall the liability of Landlord under any circumstances whatsoever exceed Landlord's interest in the Property.

Section 15.2. Indemnification. Tenant hereby indemnifies Landlord and Landlord's agents against liability in connection with or arising from (i) any default by Tenant in the performance of any of the terms of this Lease or (ii) the use or occupancy of the Premises by Tenant or any person claiming through or under Tenant, or (iii) any acts, omissions or negligence of Tenant or contractors, agents, employees of Tenant or any such person, in or about the Premises. If any action or proceeding shall be brought against Landlord or Landlord's agents, based upon any such claim, Tenant additionally shall indemnify Landlord or Landlord's agents for attorneys' fees and disbursements in connection with such action or proceeding. Tenant shall pay to Landlord as Additional Rent, within fifteen (15) days following rendition by Landlord to Tenant of bills or statements therefore, sums equal to all losses, costs, liabilities, claims, damages, fines, penalties and expenses referred to herein.

Section 15.3. Broker. Tenant covenants, warrants and represents to Landlord that there was no broker involved in consummating this Lease and that no conversations or prior negotiations were had by Tenant with any other broker concerning the renting of the Premises. Tenant agrees to indemnify and hold Landlord harmless against, and from all liabilities, including attorneys' fees, arising from any claims for brokerage commissions or finder's fees resulting from any conversations or negotiations had by Tenant with any broker or any other person.

ARTICLE XVI

Section 16.1. Termination. This Lease shall terminate at the end of the original or any renewal term hereof, without the necessity of any notice or termination from either Landlord or Tenant, and Tenant hereby waives notice to remove and agrees that Landlord shall be entitled to the benefit of law respecting summary recovery of possession of Premises from a tenant holding over to the same extent as if statutory notice were given.

Section 16.2. Surrender Upon Termination of Term. At the expiration or earlier termination of the tenancy hereby created, Tenant will surrender the Premises in the same condition as the Premises were in upon delivery of possession thereto under this Lease, reasonable wear and tear excepted, and will surrender all keys for the Premises to Landlord. Tenant will remove Tenant's personal property and all of Tenant's trade fixtures at the end of the Lease Term and, if requested by Landlord, any alterations or improvements as provided in Section 12.2 of this Lease, before surrendering the Premises as aforesaid, and will repair any damage to the Premises caused thereby. Tenant's obligation to observe or perform this covenant will survive the expiration or other termination of the term of this Lease.

Section 16.3. Failure to Surrender. If the Premises are not surrendered upon the expiration or earlier termination of this Lease, Tenant hereby indemnifies Landlord against liability resulting from delay by Tenant in so surrendering the Premises, including any claims made by any succeeding Tenant or prospective Tenant founded upon such delay. In addition, in the event Tenant remains in possession of the Premises after the expiration or earlier termination of this Lease without the execution of a new lease, without the consent of Landlord, Tenant, at the option of Landlord, shall be deemed to be occupying the Premises as a tenant from month to month, subject to all of the other terms of this Lease insofar as the same are applicable to a month-to-month tenancy.

ARTICLE XVII

17.1. Default. In the case of any default by Tenant in any of the terms and/or conditions of this Lease (other than any default under Section 17.2 of this Lease), Landlord, at Landlord's option, may recover the Premises if such default continues uncured for a period of ten (10) days after Landlord notifies Tenant, in writing, of such default and of Landlord's intention to recover the Premises. Upon the giving of such written notice and the expiration of such ten (10) day period, unless Tenant shall have cured the default during that time, Landlord shall be entitled to the benefit, without further notice (all statutory notice requirements being hereby expressly waived), of all remedies available at equity and in law including but not limited to of all the provisions of law for speedy recovery of lands and tenements as now are in force or which may hereafter be enacted and/or to reenter, repossess and/or re-let the Premises as the agent of Tenant for any balance of the then term and collect rent therefore. And in any event, the Landlord may distrain, by any legal means, for any overdue installment of rent or rental payment and may enter the property for such purpose by force if necessary without liability, which liability is hereby expressly waived. In the event of re-letting by the Landlord as agent for the Tenant, the re-letting shall be on such terms, conditions and rentals as the Landlord deems proper, and the proceeds that may be collected from same, less the expense of re-letting, including any broker's commission and costs for the repair, restoration and/or preparation of the Premises for re-letting, shall be applied against the rental to be paid by Tenant, and Tenant shall be liable for any balance that may be due under this Lease or any renewal, and such re-letting shall not operate as a termination of this Lease or any renewal or as a waiver or postponement of any right of the Landlord against the Tenant. Any recovery of the Premises, institution of proceedings to recover the Premises, reentry, repossession and/or re-letting hereunder shall not operate as, nor shall it be interpreted or construed as a termination of this Lease or any renewal, and shall not relieve Tenant of its liability and obligations under this Lease and Tenant shall in all events remain liable for the full amount of Base Rent and Additional Rent provided for in this Lease and for any deficiency or loss of such rent; Landlord, at Landlord's option, may recover such rent and/or damages for the loss of rent in separate actions from time to time as Tenant's liability and/or obligation to pay rent accrue or would have accrued had Tenant not defaulted. Any such recovery, institution of legal proceedings, reentry, repossession, and or re-letting shall be in addition to and without prejudice to any rights and/or remedies which Landlord may otherwise have. Landlord agrees to mitigate damages by attempting to rent premises after default in good faith. Notwithstanding any provision of Section 17.1 to the contrary, Landlord shall be entitled immediately upon a default by Tenant to avail himself of all rights and remedies afforded Landlord by this Lease and/or law, without any notice to Tenant and without giving Tenant any grace period if such default arises under Section 17.2 of this Lease or if Tenant has defaulted in and/or breached the same and/or any other term and/or condition of this Lease during the twelve (12) months preceding such current default and for which notice was given (whether or not subsequently cured), or if such default is of such a nature as to give rise to an emergency situation which in Landlord's reasonable judgment requires Landlord to take immediate action to cure such default.

17.2. Bankruptcy. Landlord shall have the right, upon five (5) days prior written notice to Tenant, to terminate this Lease upon the occurrence of any of the following events: (1) the commencement by Tenant of a voluntary case under the federal bankruptcy laws, as now constituted

or hereafter amended, or any other applicable federal or state bankruptcy, insolvency or other similar law, or (2) the entry of a decree or order for relief by a court having jurisdiction in the premises in respect of Tenant in an involuntary case under the federal bankruptcy laws, as now constituted or hereafter amended, or any other applicable federal or state bankruptcy, insolvency or other similar law, and the continuance of any such decree or order unstayed and in effect for a period of 90 consecutive days, or (3) Tenant's making a general assignment of all or substantially all of its property for the benefit of its creditors, or (4) Tenant's seeking or consenting to or acquiescing in the appointment of, or the taking of possession by, a receiver, trustee or custodian for all or substantially all of its property, or the entry of a court order without Tenant's consent, which order shall not be vacated, set aside or stayed within 30 days from the date of entry, appointing a receiver, trustee or custodian for all or substantially all of its property. The provisions of this Section shall be construed with due recognition for the provisions of the federal bankruptcy laws, where applicable, but shall be interpreted in a manner which results in Landlord's right to terminate this Lease in each and every instance, and to the fullest extent and at the earliest moment, that such termination is permitted under the federal bankruptcy laws.

ARTICLE XVIII

Section 18.1. No Personal Liability of Landlord. It is specifically understood and agreed that there shall be absolutely no personal liability on the part of Landlord or its employees or agents with respect to any of the terms of this Lease, and that Tenant shall look solely to the equity of Landlord in the Premises in the event of any uncured breach by Landlord of any of the material terms of this Lease, such exculpation of personal liability to be absolute and without any exception whatsoever.

Section 18.2. Landlord's Default. Landlord shall in no event be in default in the performance of any of its obligations hereunder unless Landlord shall have failed to perform such obligations within ninety (90) days after written notice from Tenant specifying in detail the nature of the alleged breach, or such additional time as is reasonably required to correct any alleged default.

ARTICLE XIX

Section 19.1. Relationship of Parties. Nothing contained in this Lease shall be construed to create the relationship of principal and agent, partnership, joint venture or any other relationship between the parties hereto other than that of Landlord and Tenant.

Section 19.2. No Option/Counterpart/Electronic Signatures: The submission of this Lease for examination does not constitute a reservation or option for the Premises and this Lease becomes effective as a Lease only upon the execution and delivery thereof by Landlord and Tenant. This Lease may be executed and delivered in several counterparts and electronically, including by transmission of PDF (Portable Document Form) or a comparable image, each of which shall be deemed an original for all purposes, but all of which together shall constitute one and the same instrument. An electronically executed and/or delivered counterpart or copy of this Lease shall be effective and admissible as an original for all purposes.

Section 19.3. Notices: All notices from Tenant to Landlord shall be sent by overnight delivery, registered or certified mail, return receipt requested and addressed to Landlord at: 4195 Indian Head Highway, Indian Head, Maryland 20640 . All notices from Landlord to Tenant shall be sent by facsimile, regular, registered or certified mail and addressed to Tenant at 4185 Indian Head Highway, Indian Head, Maryland 20640. Either party may, from time to time, designate in writing by registered mail a substitute address and thereafter all notices shall be sent to such substitute address.

Section 19.4. Injury. Landlord shall not be liable to Tenant, its agents, employees, contractors, customers or other visitors for any injury or damage to person or property resulting from falling plaster, steam, gas, electricity, water, rain, snow or dampness which may leak or issue from or through any part of the Premises and Tenant shall defend and indemnify Landlord in connection with any such claim.

Section 19.5. Attorneys' Fees: In the event of employment of an attorney by the Landlord because of the violation of any term or provision of this Lease, the Tenant shall pay the reasonable attorneys' fees of said attorney, together with all associated costs and disbursements.

Section 19.6. Waiver of Trial by Jury/Venue: ***LANDLORD AND TENANT EXPRESSLY WAIVE THE RIGHT TO A TRIAL BY JURY IN ANY ACTION BROUGHT BY EITHER PARTY AND IN ANY WAY CONNECTED WITH THIS LEASE. THIS LEASE SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF MARYLAND AND TENANT EXPRESSLY CONSENTS TO THE JURISDICTION OF THE MARYLAND COURTS WITH EXCLUSIVE VENUE IN CHARLES COUNTY.***

Section 19.7. Tenant Defined: Use of Pronoun/Tenant Representation. The word "Tenant" will be deemed and taken to mean each and every person or party mentioned as a Tenant herein, and if there is more than one Tenant, any notice required or permitted by the terms of this Lease may be given by or to any one, and will have the same force and effect as if given by or to all. Each individual named herein as Tenant shall be jointly and severally liable with each other named Tenant. The use of the neuter or singular pronoun to refer to Landlord or Tenant will be deemed a proper reference, even though Landlord or Tenant may be an individual, a partnership, a corporation, or a group of two or more individuals or corporations. The necessary grammatical changes required to make the provisions of this Lease apply in the plural sense where there is more than one Landlord or Tenant and to either corporations, associations, partnerships, or individuals, males or females, will in all instances be assumed as though in each case fully expressed. All persons signing on behalf of Tenant represent that they are authorized to do so, that all actions necessary for Tenant to enter into this Lease have been taken, and if Tenant is an entity that Tenant is in good standing in the State of Maryland.

Section 19.8. Successors and Assigns. This Lease shall inure to the benefit of Landlord, its successors and assigns and shall be binding upon Tenant, its successors and assigns, and shall inure to the benefit of Tenant and only such assignees of Tenant to whom an assignment by Tenant has been consented to in writing by Landlord.

Section 19.9. Partial Invalidity. If any term, covenant, or condition of this Lease or the application thereof to any person or circumstances will, to any extent, be invalid or unenforceable,

the remainder of this Lease, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby, and each term, covenant, or condition of this Lease will be valid and enforced to the fullest extent permitted by law.

Section 19.10. Remedies Cumulative. The failure of Landlord to insist in any one or more instances upon the performance of any of the covenants or conditions of this Lease or to exercise any right or privilege herein conferred shall not be construed as thereafter waiving or relinquishing Landlord's right to the performance of any such covenants, conditions, rights or privileges, and the same shall continue and remain in full force and effect.

Section 19.11. Entire Agreement: This Lease contains the entire agreement between the parties and no agreement shall operate to change, modify, terminate or discharge this Lease in whole or in part unless such agreement is in writing and signed by each of the parties. Landlord has made no representations or promises with respect to the Premises except as are herein expressly set forth.

Section 19.12. Captions: The captions at the beginning of each Article and Section of this Lease are for convenience only and not a part of this Lease.

Section 19.13. Certificates by Tenant: Tenant agrees within ten (10) days after request by Landlord to execute and deliver to Landlord a statement, in writing, certifying (a) that this Lease is in full force and effect, (b) the date of commencement of the term of this Lease, (c) that rent is paid currently without any off-set or defense thereto, (d) the amount of rent, if any, paid in advance, (e) whether the Lease has been modified and, if so, identifying the modification, and (f) that there be no uncured defaults by Landlord or stating those claimed by Tenant, provided that, in fact, such facts are accurate and ascertainable. Tenant shall indemnify Landlord for any and all damages (including consequential damages) incurred by reason of Tenant's failure to comply with this Section.

Section 19.14. Taxes on Leasehold. Tenant will be responsible for and will pay before delinquency all municipal, county, or state taxes assessed during the term of this Lease against any leasehold interest or personal property of any kind, owned by or placed in, upon, or about the leased premises by Tenant.

Section 19.15. Force Majeure. In the event that either party hereto will be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease, then performance of such act will be excused for the period of delay, and the period for the performance of any such act be extended for a period equivalent to the period of such delay. The provisions of this Section will not operate to excuse Tenant from the prompt payment of Base Rent, Additional Rent, or any other payments required by the terms of this Lease.

Section 19.16. Quiet Enjoyment. Upon payment by Tenant of the rents herein provided and upon the observance and performance of all of the covenants, terms, and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the Premises for the term hereby demised without hindrance or interruption by Landlord or any other person or persons lawfully or equitably claiming by, through, or under Landlord, subject, nevertheless, to the terms and conditions of this Lease. Notwithstanding the foregoing, Landlord may use the Building, for Landlord's purposes, without charge, for up to twelve (12) times per year at times mutually convenient to Landlord and Tenant.

ARTICLE XX

Section 20.1 Continuous Use of Premises. The theater at the Premises shall be in continuous use during the term of this Lease. If the theater remains dark for a period of forty-five (45) consecutive days at any time after the Commencement Date Tenant shall be in breach of this Lease and Landlord may terminate this Lease upon thirty (30) days prior written notice to Tenant.,

[SIGNATURES TO APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have hereunto set their hands as of the date and year first above written.

TENANT:

By: _____

Authorized Person

LANDLORD:

TOWN OF INDIAN HEAD

By: _____