

## RECOGNITION AGREEMENT

THIS RECOGNITION AGREEMENT (this “**Agreement**”) is made as of July \_\_\_, 2015, by and among THE CITY OF MILWAUKEE (“**Ground Lessor**”); MARCUS CENTER FOR THE PERFORMING ARTS, INC. (“**Ground Lessee**”); and JOHNSON BANK (“**Lender**”).

### RECITALS

A. Ground Lessor is the owner of certain real property located in the County of Milwaukee, State of Wisconsin, as more particularly described in **Exhibit A** attached hereto (the “**Property**”), and the lessor under a ground lease agreement made and entered into as of February 5, 1969, by and between Ground Lessor and Milwaukee County War Memorial Center, Inc., Ground Lessee’s predecessor in interest, recorded as Document No. 4488622 in the Milwaukee County Register of Deeds Office on July 26, 1969, as subsequently amended by that certain Amendment to Agreement dated July 6, 1985, and that certain Second Amendment of Lease Agreement covering the Property (as the same may hereafter be amended, modified or supplemented, collectively, the “**Ground Lease**”), attached hereto as **Exhibit B**.

B. Ground Lessee desires to obtain a loan from Lender (as the same may be amended, restated or otherwise modified from time to time, the “**Loan**”) for the purpose of making certain repairs and maintenance to an existing parking structure situated on the Property (“**Parking Structure**”) and to encumber Ground Lessee’s leasehold interest in the Property as security for the Loan.

C. Lender is willing to make the Loan to Ground Lessee secured, in part, by Ground Lessee’s leasehold interest under the Ground Lease provided that Ground Lessor and Ground Lessee agree to the provisions of this Agreement.

### AGREEMENTS

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party hereto, Ground Lessor, Ground Lessee and Lender each hereby covenants and agrees as follows:

Section 1. Consent by Ground Lessor. Ground Lessor hereby consents to the encumbering of Ground Lessee’s leasehold interest in the Property pursuant to a mortgage as security for the Loan (such mortgage or other security instrument being hereinafter called the “**Mortgage**”).

Section 2. Intentionally Omitted.

Section 3. Consent of Lender.

3.1 Ground Lessor and Ground Lessee agree not to amend, modify, alter, cancel, revoke, assign or otherwise change the Ground Lease without the prior written consent of the Lender, which consent shall not be unreasonably withheld.

3.2 Each of the Ground Lessor and Ground Lessee agree not to grant a leasehold mortgage or fee mortgage, (in each case with respect to the Property) (except for the Mortgage for the benefit of Lender) without the prior written consent of Lender, provided however, the restriction upon the granting of a fee mortgage shall terminate upon the payment in full of the Loan.

3.3 Each of Ground Lessor and Ground Lessee agrees to send to the Lender a copy of any and all notices and other communications sent pursuant to the terms of, or in any way connected with, the Ground Lease, including without limitation, all notices of default.

Section 4. Leasehold Mortgagee Protection Provisions. Ground Lessor hereby covenants and agrees that upon default by Ground Lessee under the Ground Lease and so long as the Mortgage has not been released of record, the Lender shall have the right to: (i) cure any default under the Ground Lease and perform any obligation required of the Ground Lessee thereunder, entering upon and taking possession of the leasehold interest in the Property and the improvements now or hereafter constructed thereon, if any (collectively, the “**Improvements**”) if such entry is necessary in Lender’s commercially reasonable judgment to properly accomplish such cure or performance, and any such cure or performance by Lender shall be effective as if the same had been undertaken and performed by the Ground Lessee; and (ii) exercise any right, remedy or privilege granted to the Ground Lessee by the Ground Lease or otherwise by law. Each notice of a default given to Ground Lessee shall also be given to Lender at the address specified for Lender in Section 18 of this Agreement, stating the nature and extent of any default and describing the performance by the Ground Lessee required to cure said default. The Ground Lessor shall not terminate the Ground Lease if the Lender cures or commences and proceeds to cure the default or other failure to perform within sixty (60) days after service upon the Lender of such notice of default. Notwithstanding the foregoing, nothing contained herein shall obligate the Lender to cure any default or other failure to perform under the Ground Lease. The Lender’s decision concerning such matters shall be made at the Lender’s sole discretion.

Section 5. Ownership of Leasehold Improvements. Ground Lessor acknowledges and agrees that for so long as the Ground Lease shall be in effect, Ground Lessee (or the holder of Ground Lessee’s interest in the Ground Lease) shall be deemed to be the owner of the Parking Structure and any and all other improvements now or hereinafter constructed on the Property.

Section 6. Further Agreements. Ground Lessor and Ground Lessee acknowledge and agree as follows:

6.1 If Lender or its designee becomes the holder of the Ground Lessee’s leasehold interest in the Property as a result of a foreclosure of the Mortgage, or if the Ground Lessee’s leasehold interest in the Property shall be assigned to any third party by reason of a foreclosure of the Mortgage, or if the Ground Lessee’s leasehold interest in the Property shall be transferred by assignment and/or deed-in-lieu of foreclosure (any such foreclosure or assignment and/or deed-in-lieu of foreclosure being collectively called a “**Foreclosure**”), then the Ground Lease shall continue as a direct lease between Ground Lessor and Lender or its designee or the third party who acquires the Ground Lessee’s leasehold interest in the Property at a Foreclosure (Lender, such designee or any such third party being called the “**Successor Owner**”).

6.2 In the event the Successor Owner acquires the Ground Lessee's interest in the Ground Lease, the obligations of the Successor Owner under the Ground Lease shall be nonrecourse, and Ground Lessor shall look solely to the interest of the Successor Owner in the leasehold interest in the Property for the recovery of any judgment against the Successor Owner, and Ground Lessor hereby covenants and agrees not to bring any action or suit seeking to impose liability on the Successor Owner beyond its interest in the leasehold interest in the Property.

6.3 Notwithstanding anything to the contrary contained in the Ground Lease, if (i) Lender forecloses the lien of the Mortgage or accepts a deed-in-lieu thereof and (ii) Lender thereafter sells, assigns or otherwise transfers its interest in the leasehold interest in the Property (a "**Transfer Event**"), then, in such event, Lender will be fully released from and have no further obligations under the Ground Lease for events occurring from and after the date of the Transfer Event.

Section 7. Consents to Assignments. Provided that any such assignee, transferee, sublessee or mortgagee agrees to perform their respective obligations under the Ground Lease, each of Ground Lessor and Ground Lessee hereby (a) consents to any sale, assignment, sublease, or other transfer of any or all of Ground Lessee's leasehold interest in the Property (collectively, a "**Transfer**") (i) to Lender, or any affiliate of Lender, or any other Person made at any time hereafter in any foreclosure proceeding brought pursuant to the provisions of the Mortgage, or (ii) to Lender or any affiliate of Lender or any other Person in connection with any Transfer in lieu of any such foreclosure (each, a "**Permitted Transferee**"); and (b) agrees that, from and after the date of this Agreement, Lender and any other Permitted Transferee to whom a Transfer is made, and the legal representatives, heirs, successors and assigns of any such Person shall have the right to mortgage and pledge the leasehold estate and shall be entitled to further assign, transfer, sublease or encumber all or any of the leasehold estate, subject however, in all respects, to the terms and conditions of the Ground Lease.

Section 8. Conflicting Provisions. So long as the Mortgage remains in full force and effect, Lender shall be designated by Ground Lessor and Ground Lessee as the party entitled to hold all proceeds of hazard insurance and condemnation awards to be utilized for the restoration of the Parking Facility.

Section 9. Complete Understanding. This Agreement represents the complete understanding among the parties hereto as to the subject matter of this Agreement, and supersedes all negotiations, representations, guaranties, warranties, promises, statements or agreements, either written or oral, among the parties hereto as to the same.

Section 10. Recordation. Each of the parties hereto agrees that, following execution, acknowledgement, and delivery of this Agreement by all parties hereto, either of Ground Lessee or Lender may cause this Agreement to be recorded in the Milwaukee County Register of Deeds Office.

Section 11. Amendment. This Agreement may be amended only by an instrument executed and delivered by each party hereto.

Section 12. Waiver. No party hereto shall be deemed to have waived the exercise of any right which it holds hereunder unless such waiver is made expressly and in writing (and, without limiting the generality of the foregoing, no delay or omission by any party hereto in exercising any such right shall be deemed a waiver of its future exercise). No such waiver made as to any instance involving the exercise of any such right shall be deemed a waiver as to any other such instance, or any other such right.

Section 13. Applicable Law. This Agreement shall be given effect and construed by application of the law of the State of Wisconsin.

Section 14. Headings. The headings of the Sections, subsections, paragraphs and subparagraphs of this Agreement are provided in this Agreement for and only for convenience of reference, and shall not be considered in construing their contents.

Section 15. Construction. As used in this Agreement:

15.1 The term "Person" means a natural person, a trustee, a corporation, a partnership, a limited liability company, and any other form of legal entity.

15.2 All references made to "Ground Lessor", "Ground Lessee" or "Lender" shall be deemed to refer to Persons in this Agreement above so named and their respective legal representatives, heirs, successors and assigns. Without limiting the generality of the foregoing, all references made to "Lender" shall include any affiliate of Lender, or any other Person that acquires an interest in the Property as a result of any foreclosure proceeding brought pursuant to provisions of the Mortgage, or any Transfer in lieu of any such foreclosure, or any holder or beneficiary of a mortgage or Mortgage encumbering the leasehold estate. Without limiting the generality of the foregoing, all references to "Ground Lessor" shall include any Person or entity to whom the fee simple estate of Ground Lessor is transferred or conveyed.

15.3 Any capitalized term not specifically defined in this Agreement shall have the meaning set forth in the Ground Lease.

Section 16. Assignment. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, heirs, successors and assigns hereunder, including any subsequent holder or beneficiary of a mortgage or deed of trust encumbering the Property; provided, however, that Lender may assign this Agreement only in connection with a Transfer Event.

Section 17. Severability. No determination by any court, governmental body or otherwise that any provision of this Agreement or any amendment of this Agreement is invalid or unenforceable in any instance shall affect the validity or enforceability of (a) any other such provision, or (b) such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.

Section 18. Notices. All notices and communications hereunder shall be in writing and shall be delivered personally or sent by a reputable, national overnight delivery service, or sent by certified mail, return receipt requested, with all charges prepaid, addressed to such party at the

address specified below, or, if a party has notified the other parties in writing of a change of address, to such party's last address so notified. Notices by personal delivery and notices by overnight delivery service shall be effective when delivered or when receipt of delivery is refused. Notices sent by certified mail shall be effective as of the date which is three (3) business days after the mailing of the same. Copies of all notices to Ground Lessee shall also be sent to Ground Lessor, and copies of all notices to Ground Lessor shall be sent to Ground Lessee:

To Ground Lessor: The City of Milwaukee  
200 E. Wells Street  
Milwaukee, WI 53202  
Attn: Commissioner of City Development

To Ground Lessee: Marcus Center for the Performing Arts, Inc.  
929 N. Water Street  
Milwaukee, Wisconsin 53202  
Attn: \_\_\_\_\_

To Lender: Johnson Bank  
N22 W23991 Ridgeview Parkway West  
Waukesha, WI 53188  
Attention: Robert Bohmann

Section 19. Merger. Each of Ground Lessor, Ground Lessee and Lender agrees that, so long as the Mortgage has not been released of record, there shall not be any merger of the leasehold estate created by the Ground Lease by reason of the fact that the same Person may own or hold (a) a leasehold interest therein, and (b) any interest in the fee estate of the Property, and no such merger shall occur unless and until all Persons, including without limitation Lender, having a leasehold interest in the Property and the fee estate in the Property, shall join in a written instrument effecting such merger and shall duly record the same.

Section 20. Further Assurances. The parties hereto covenant and agree to execute such further assurances as may be necessary to confirm their understandings with respect to the terms and provisions set forth in this Agreement.

Section 21. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together constitute one and the same document. Faxed signatures shall have the same binding effect as original signatures.

WITNESS the signatures and seals of Ground Lessor, Ground Lessee and Lender as of the day and year first above written.

**GROUND LESSOR:**

THE CITY OF MILWAUKEE

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**GROUND LESSEE:**

MARCUS CENTER FOR THE PERFORMING  
ARTS, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LENDER:**

JOHNSON BANK

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

**Description of Property**

**EXHIBIT B**

**Copy of Ground Lease**