

**FIRST AMENDMENT TO
LOAN AGREEMENT**

THIS FIRST AMENDMENT TO LOAN AGREEMENT is made effective as of _____, 2026 between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority created and existing under Minnesota Statutes (1898) Chapter 469 (“DEDA” or “Lender”) and the DULUTH PLAYHOUSE, INCORPORATED, a Minnesota non-profit corporation (“Playhouse” or “Borrower”).

WHEREAS, DEDA and Playhouse are parties to that certain Development Agreement dated June 15, 2016, originally by and between DEDA, NorShor Theatre LLC, Sherman Associates, Inc., Sherman Associates Development, LLC and Playhouse (the “Development Agreement”), as amended and assigned, pertaining to the redevelopment and operation of the historic NorShor Theatre, located at 207-213 East Superior Street, a community theater and performing arts venue in Downtown Duluth (the “Project”).

WHEREAS, DEDA and Playhouse entered into that certain Loan Agreement dated June 15, 2016 (the “Loan Agreement”), as evidenced by that certain note dated June 15, 2016 (the “Playhouse Note”) pertaining to a long-term bridge loan (the “Loan”) to fund the Playhouse’s equity investment in the Project.

WHEREAS, DEDA made such Loan to Playhouse and Playhouse has been making such payments on the Loan, with a total outstanding balance on the Loan of \$2,925,000 as of the date hereof.

WHEREAS, the Loan Agreement provides that the entire unpaid principal and any accrued interest on the Loan shall be due and payable in its entirety on December 31, 2025, subject to DEDA and Playhouse negotiating an extension of the Loan Agreement or renegotiation of the Loan.

WHEREAS, Playhouse has requested an extension of the time to repay the Loan and modification of its terms in order to avoid a material increase in debt service costs that would occur if the Loan were refinanced with conventional financing.

WHEREAS, DEDA and Playhouse have negotiated an extension and modification of the Loan Agreement terms.

WHEREAS, notwithstanding the obligation to renegotiate a new loan to be evidenced by a new loan agreement, the parties desire to amend the Loan Agreement as set forth herein.

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth in this Amendment and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Incorporation of Recitals.** The forgoing recitals are true and correct and are incorporated herein by reference as express terms of this Amendment.

2. **Extension.** Section 1 of the Loan Agreement is hereby amended as follows:

DEDA hereby agrees to lend to Playhouse and Playhouse agrees to borrow from DEDA the sum of Three Million Five Hundred Thousand Dollars (\$3,500,000) (the "Loan"), payable from Fund 865 District No. 22, as a bridge loan to fund on behalf of Playhouse Playhouse's investment in the Project in accordance with the terms of the Development Agreement between the parties hereto and NorShor Theatre LLC Sherman Associates, Inc. and Sherman Associates Development LLC. The term of the Loan shall be deemed to commence on the date of the Closing of the financing of the Project and shall run through ~~December 31, 2025~~December 31, 2055 unless sooner paid or this Agreement is sooner terminated (the "Term"). On ~~December 31, 2025~~December 31, 2055, the entire unpaid principal and any accrued interest shall be due and payable in its entirety, ~~subject to the rights of the parties to negotiate an extension of this Agreement or the renegotiation of the Loan to be evidenced by a new loan agreement.~~ The Loan shall be non-interest bearing during the Term of the Loan. ~~If the Loan is not repaid at the end of the Term or otherwise refinanced or the terms thereof are not renegotiated, the unpaid portion of the Loan shall thereafter bear interest at the rate of Five (5.00%) Percent simple interest compounded annually.~~

3. **Economic Development Commitment.** That Section 6 shall be amended by adding the following paragraph K as follows:

K. Economic Development Commitment
Agree and commit for the benefit of DEDA and the City of Duluth that during the Term of the Agreement from and after the effective date of the First Amendment to Loan Agreement Playhouse shall invest no less than One Million Dollars (\$1,000,000) in the property located at 201 East First Street (the "Annex Property") for the purpose of the Playhouse using best efforts to convert the Annex Property into a school for performing arts (the "Economic Development Commitment"). Playhouse shall provide annual reporting to DEDA evidencing progress of its investment in the Annex Property. Playhouse's operation of the Annex Property during the Term shall be performed in substantially the same manner as the Playhouse's Operating Covenants for the Property provided in 6.B through 6.J.

4. **Interest Forgiveness.** That any accrued interest as of the date hereof accruing after December 31, 2025 is hereby forgiven; such amount to be forgiven is in the amount of \$2,600,000.

5. **Loan Forgiveness.** That there shall be a new Section 12 to add the following paragraph:

12. Forgiveness.

The Loan, the Playhouse Note, and the Playhouse's obligation to repay all outstanding unpaid principal, shall be forgiven and cancelled by DEDA on December 30, 2055 if:

- a. Playhouse is not in default under the Loan Agreement, Playhouse Note, or the Development Agreement;
- b. Playhouse has made all loan payments due and payable to date pursuant to the Loan Agreement; and
- c. Playhouse has fulfilled the Economic Development Commitment.

Interest due on delinquent payments shall not be forgiven, except as otherwise provided in this Loan Agreement.

6. **Mortgage.** That pursuant to Section 5.B of the Loan Agreement, Playhouse agrees to place, at its sole cost, a mortgage on the Property running in favor of DEDA in the amount of the outstanding balance of the Loan, substantially in the form of that attached hereto as Exhibit 1.
7. **Playhouse Note.** That all references to the Term, interest, and rights to renegotiate in the Playhouse Note shall be deemed to be as amended by this Amendment. Except as specifically modified and amended herein, all other terms, conditions, and covenants in the Playhouse Note shall remain in full force and effect.
8. **Effect of Amendment.** Notwithstanding anything herein to the contrary, this Amendment to the Loan Agreement and Playhouse Note will not forfeit the precedence or priority of any lien, mortgage, or security held by DEDA pursuant to the Loan Agreement, Playhouse Note or the Development Agreement.
9. **Miscellaneous.** In the event a provision of the Loan Agreement shall conflict with the terms of this Amendment, the terms of this Amendment shall control. Except as expressly modified by this Amendment, all original terms of the Loan Agreement shall remain in full force and effect. All capitalized terms used but not defined in this Amendment shall have the meanings assigned to them in the Loan Agreement. The provisions of this Amendment are intended to be severable, and if any provision of this Amendment is determined to be illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect the legality, validity or enforceability of the remaining provisions of this Amendment. This Amendment may be executed in multiple counterparts, each of which shall be deemed to be an original for all purposes, and all counterparts shall together constitute one and the same instrument. This Agreement shall be binding and effective upon the successor and assigns of the parties hereto.

[Remainder of page intentionally left blank. Signature pages to follow.]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

DULUTH ECONOMIC DEVELOPMENT
AUTHORITY

DULUTH PLAYHOUSE,
INCORPORATED

By: _____
_____, Its President

By: _____

By: _____
_____, Its Secretary

Name: _____

Its: _____

EXHIBIT 1 TO AMENDMENT
Form of Mortgage

MORTGAGE BY A BUSINESS ENTITY

MORTGAGE REGISTRY TAX DUE: \$[...]

DATE: [month/day/year]

THIS MORTGAGE ("Mortgage") is given by DULUTH PLAYHOUSE, INCORPORATED., a non-profit corporation under the laws of Minnesota, as mortgagor ("Borrower"), to the DULUTH ECONOMIC DEVELOPMENT AUTHORITY as mortgagee ("Lender"). In consideration of the receipt of [insert amount of Indebtedness] Dollars (\$[...]) (the "Indebtedness") from Lender, Borrower hereby mortgages, with power of sale, the real property in St. Louis County, Minnesota, legally described as follows:

Tract B REGISTERED LAND SURVEY NO 132

Check here if all or part of the described real property is Registered (Torrens)

together with all hereditaments and appurtenances belonging thereto (the "**Property**"), subject to the following exceptions:

- (a) Covenants, conditions, restrictions (without effective forfeiture provisions) and declarations of record, if any;
- (b) Reservations of minerals or mineral rights by the State of Minnesota, if any;
- (c) Utility and drainage easements which do not interfere with present improvements;
- (d) Applicable laws, ordinances, and regulations;
- (e) The lien of real estate taxes and installments of special assessments not yet due and payable; and
- (f) The following liens or encumbrances, if any:
[insert encumbrances]

Borrower covenants with Lender as follows:

1. **Repayment of Indebtedness.** If Borrower (a) pays the Indebtedness to Lender according to the terms of the promissory note or other instrument of dated June 15, 2016 and amended on even date herewith that evidences the Indebtedness and all renewals, extensions, and modifications thereto (the "**Note**"), final payment of which is due on **December 31, 2055**; (b) pays interest on the Indebtedness as provided in the Note; (c) repays to Lender, at the times and with

interest as specified, all sums advanced in protecting the lien of this Mortgage, if any; and (d) keeps and performs all the covenants and agreements contained herein, then Borrower's obligations under this Mortgage will be satisfied, and Lender will deliver an executed satisfaction of this Mortgage to Borrower. It is Borrower's responsibility to record any satisfaction of this Mortgage at Borrower's expense.

2. Statutory Covenants. Borrower makes and includes in this Mortgage the following covenants and provisions set forth in Minn. Stat. 507.15, and the relevant statutory covenant equivalents contained therein are hereby incorporated by reference:

- (a) To warrant the title to the Property;
- (b) To pay the Indebtedness as herein provided;
- (c) To pay all taxes;
- (d) That the Property shall be kept in repair and no waste shall be committed;
- (e) To pay principal and interest on prior mortgages (if any).

3. Additional Covenants and Agreements of Borrower. Borrower makes the following additional covenants and agreements with Lender:

(a) Borrower shall keep all buildings, improvements, and fixtures now or later located on all or any part of the Property (collectively, the "**Improvements**") insured against loss by fire, lightning, and such other perils as are included in a standard all-risk endorsement, and against loss or damage by all other risks and hazards covered by a standard extended coverage insurance policy, including, without limitation, vandalism, malicious mischief, burglary, theft, and if applicable, steam boiler explosion. Such insurance shall be in an amount no less than the full replacement cost of the Improvements, without deduction for physical depreciation. If any of the Improvements are located in a federally designated flood prone area, and if flood insurance is available for that area, Borrower shall procure and maintain flood insurance in amounts reasonably satisfactory to Lender. Borrower shall procure and maintain liability insurance against claims for bodily injury, death, and property damage occurring on or about the Property in amounts reasonably satisfactory to Lender and naming Lender as an additional insured, all for the protection of the Lender.

(b) Each insurance policy required pursuant to Paragraph 3(a) must contain provisions in favor of Lender affording all right and privileges customarily provided under the so-called standard mortgagee clause. Each policy must be issued by an insurance company or companies licensed to do business in Minnesota and acceptable to Lender. Each policy must provide for not less than ten (10) days written notice to Lender before cancellation, non-renewal, termination, or change in coverage. Borrower will deliver to Lender a duplicate original or certificate of such insurance policies and of all renewals and modifications of such policies.

(c) If the Property is damaged by fire or other casualty, Borrower must promptly give notice of such damage to Lender and the insurance company. In such event, the insurance proceeds paid on account of such damage will be applied to payment of the amounts owed by Borrower pursuant to the Note, even if such amounts are not otherwise then due, unless Borrower is permitted to make an election as described in the next paragraph. Such amounts first will be

applied to unpaid accrued interest and next to the principal to be paid as provided in the Note in the inverse order of their maturity. Such payment(s) will not postpone the due date of the installments to be paid pursuant to the Note or change the amount of such installments. The balance of insurance proceeds, if any, will be the property of Borrower.

(d) Notwithstanding the provisions of Paragraph 3(c), and unless otherwise agreed by Borrower and Lender in writing, if (i) Borrower is not in default under this Mortgage (or after Borrower has cured any such default); (ii) the mortgagees under any prior mortgages do not require otherwise; and (iii) such damage does not exceed ten percent (10%) of the then assessed market value of the Improvements, then Borrower may elect to have that portion of such insurance proceeds necessary to repair, replace, or restore the damaged Property (the “**Repairs**”) deposited in escrow with a bank or title insurance company qualified to do business in Minnesota, or such other party as may be mutually agreeable to Lender and Borrower. The election may only be made by written notice to Lender within sixty (60) days after the damage occurs; and the election will only be permitted if the plans, specifications, and contracts for the Repairs are approved by Lender, which approval shall not be unreasonably withheld, conditioned, or delayed. If such a permitted election is made by Borrower, Lender and Borrower shall jointly deposit the insurance proceeds into escrow when paid. If such insurance proceeds are insufficient for the Repairs, Borrower shall, before the commencement of the Repairs, deposit into such escrow sufficient additional money to insure the full payment for the Repairs. Even if the insurance proceeds are unavailable or are insufficient to pay the cost of the Repairs, Borrower shall at all times be responsible to pay the full cost of the Repairs. All escrowed funds shall be disbursed in accordance with sound, generally accepted, construction disbursement procedures. The costs incurred or to be incurred on account of such escrow shall be deposited by Borrower into such escrow before the commencement of the Repairs. Borrower shall complete the Repairs as soon as reasonably possible and in a good and workmanlike manner, and in any event the Repairs shall be completed by Borrower within one (1) year after the damage occurs. If, following the completion of and payment for the Repairs, there remains any undisbursed escrow funds, such funds shall be applied to payment of the amounts owed by Borrower under the Note in accordance with Paragraph 3(c).

(e) If all or any part of the Property is taken in condemnation proceedings instituted under power of eminent domain or is conveyed in lieu thereof under threat of condemnation, the money paid pursuant to such condemnation or conveyance in lieu thereof must be applied to payment of the amounts due by Borrower to Lender under the Note as set forth in Paragraph 3(c), even if such amounts are not then due to be paid.

(f) Borrower will diligently complete all Improvements, if any, that may now or hereafter be under construction on the Property.

(g) Borrower will pay all dues, fees, or assessments, if any, which are due and payable by Borrower to any homeowners or similar association as a result of the Property’s inclusion therein.

(h) Borrower will pay any other expenses and attorneys’ fees incurred by Lender pursuant to the Note or as reasonably required for the protection of the lien of this Mortgage.

4. **Payment by Lender.** If Borrower fails to pay any amounts to be paid hereunder to Lender or any third parties, or to insure the Improvements, and deliver the policies as required herein, Lender may make such payments or secure such insurance. The sums so paid shall be additional Indebtedness, bear interest from the date of such payment at the same rate set forth in the Note, be an additional lien upon the Property, and be immediately due and payable upon written demand. This Mortgage secures the repayment of such advances.

5. **Default.** In case of default (i) in the payment of sums to be paid under the Note or this Mortgage, when the same becomes due, (ii) in any of the covenants set forth in this Mortgage, (iii) under the terms of the Note, or (iv) under any addendum attached to this Mortgage, Lender may declare the unpaid balance of the Note and the interest accrued thereon, together with all sums advanced hereunder, immediately due and payable without notice, and Borrower hereby authorizes and empowers Lender to foreclose this Mortgage by judicial proceedings or to sell the Property at public auction and convey the same in fee simple in accordance with Minn. Stat. Ch. 580, and out of the monies arising from such sale, to retain all sums secured hereby, with interest and all legal costs and charges of such foreclosure and the maximum attorneys' fees permitted by law, which costs, charges, and fees Borrower agrees to pay.

6. **Governing Law; Severability.** This Mortgage shall be governed by the laws of Minnesota. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision.

7. **Transfer Restrictions.** Borrower may not assign, or otherwise transfer all or any part of Borrower's interest in the Property, and, if Borrower is an entity, a controlling interest in Borrower may not be transferred without the written consent of Lender, which consent may be granted or withheld in the sole discretion of the Lender.

7. **Additional Terms.** Terms of this Mortgage will run with the Property and bind the parties hereto and their successors in interest.

