

LEASE AND MANAGEMENT AGREEMENT

THIS LEASE AND MANAGEMENT AGREEMENT ("Agreement") is made and entered into this 12 day of February, 2018, by and between **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT** ("Owner") and Kentucky Theatre Group, Inc. ("Manager").

1. **LEASE.** Owner does hereby let and lease to Manager and Manager does hereby rent and lease from Owner the following premises, described more fully in **Exhibit A**, according to the terms, conditions, and provisions contained herein:

212 East Main Street, Lexington, Kentucky ("Kentucky Theater")
and 218 East Main Street, Lexington, Kentucky ("State Theater")
(collectively "Premises").

Manager shall use and occupy the Premises solely for the purpose of: (i) the operation of two first class theaters and the presentation of motion pictures and other public presentations and entertainment, which presentations and entertainment may include but are not limited to style shows, telecasts, multimedia operations, meetings and other auditorium uses; (ii) the incidental retail sale of food, beverages, and refreshments for consumption on the Premises; (iii) the incidental sale of records, books, videotapes, video cassettes, CD's, DVD's, magazines, toys, and novelties sold in connection with presentation; (iv) the incidental operation of video games or similar electronic games; and for no other purpose without the prior written consent of Owner. Motion picture shows shall follow a repertoire format, consisting of a mixture of first run critically acclaimed films, second runs of box office hits, classic films, and art films. Manager agrees to comply, and to cause its employees, agents, customers, visitors, and invitees to comply, with all applicable laws, statutes, ordinances, rules, orders, and regulations of the federal, state, and local governments, and agencies thereof, having jurisdiction with respect to the Premises, and of all other similar legally constituted authorities. Manager shall not do or suffer anything to be done on the Premises which shall result in an increase in the property and casualty insurance premiums paid by Owner in respect of the Premises. Manager may also use the Premises for any other purpose that the Owner shall in its absolute discretion approve. Manager represents and warrants to Owner that it has made an adequate inspection of the Premises and agrees to accept the Premises "AS IS, WHERE IS" with no representations having been made by Owner whatsoever as to the condition of the Premises, except as expressly stated otherwise herein.

2. **INDEPENDENT CONTRACTOR.** Owner hereby engages Manager to manage and operate the Premises for the duration of the Management Term. Manager shall act solely as an independent contractor. Nothing herein shall constitute or be construed to create a partnership or joint venture between Owner and Manager. All debts and liabilities incurred by Manager shall be the sole responsibility of Manager, and Owner shall not be liable for any such obligations, except as set forth herein.
3. **EMPLOYEES.** All employees participating in the operation of the Premises shall be employees of Manager and not of Owner. Manager shall have the right to hire, discharge, and supervise the work of its employees on the Premises without restriction.

4. MANAGEMENT TERM. The term of this Lease and Management Agreement (the “term” or “Management Term”) shall run from March 1, 2018 through February 28, 2019. The term shall automatically and immediately renew for an additional one year term at the conclusion of each prior term for a total of four (4) additional terms. If either party wishes to prevent the term from renewing, it may do so by providing the other party with written notice to that effect at least one hundred twenty (120) days prior to the last day of the current term. Manager shall vacate and remove all Manager-owned equipment from the Premises within ten (10) days after the term expires.
5. OPERATION OF THEATER. Manager occupancy of the Premises and the regular conduct of its business therein are of utmost importance to Owner in the maintenance of Gross Receipts. Manager therefore covenants and agrees that throughout the term of this Agreement it shall occupy the entire Premises and operate two first class theaters, as set out herein, and comply strictly with the provisions hereof. Manager acknowledges that Owner is executing this Agreement in reliance thereupon and that the same is a material element inducing Owner to execute this Agreement. Manager shall operate the Premises under the name, “Kentucky Theater.” Manager shall conduct its business on the Premises on days and during hours generally observed in the theater business in Fayette County, Kentucky, and at such other times as are in the best interests of the business, except that on weekdays Manager shall not be obligated to open for business prior to 5:30 p.m.
6. PROCEEDS.
 - a. DEFINITIONS.
 - i. “Gross Receipts” shall mean all income derived from business conducted at, in, upon, or from the Premises, including without limitation, ticket sales, concession sales, theater rentals, and vending machine sales, whether conducted by the Manager or a third party. “Gross Receipts” shall not include proceeds from the sale of fixtures or other capital items purchased by Manager for use on the Premises, and sold thereafter. Any sale upon an installment or credit basis shall be included and treated as a in the month(s) in which payment for such sale is received.
 - ii. “Net Receipts” shall mean Gross Receipts less any sums collected and paid out for any sales tax, service tax, or any similar tax, imposition, or assessment that is levied, imposed, or assessed by any governmental authority, and which Manager is required to collect and remit to such authority.
 - b. DAILY DEPOSIT. Manager shall daily deposit all Gross Receipts in a bank designated by Owner. Such funds shall not be comingled with other funds. No representative, agent, or employee of Manager may withdraw funds from the account into which Gross Receipts are deposited unless Manager has bonded or insured such representative, agent, or employee to Owner’s satisfaction. By the tenth (10th) day of each calendar month, beginning with the second month of the Management Term and concluding after the first month after the Management Term, Manager shall tender payment of all Net Receipts for the prior calendar month to Owner.
 - c. TAXES. Manager shall be solely responsible for paying any sales tax, service tax, or any similar tax, imposition or assessment that is levied, imposed, or assessed by any governmental authority as a result of its operation of the theater.

7. COMPENSATION. In consideration of Manager's services, Owner hereby grants Manager a leasehold in the Premises for the term identified below and the exclusive right to ninety percent (90%) of Gross Receipts derived from Ordinary Operations and ninety-five percent (95%) of Gross Receipts derived from Special Events. Each month, Owner shall pay to Manager the compensation due hereunder for the prior calendar month within ten (10) days of Manager submitting a complete and accurate Monthly Report for the prior month as required by 13(a), below, and tendering all Net Receipts for the prior calendar month to Owner as required by Section 6(b), above, which obligations shall be conditions precedent to Owner's duty to tender payment to Manager hereunder.
 - a. ORDINARY OPERATIONS. "Ordinary Operations" shall mean all activities performed on or about the Premises that generate revenue, and which are normal and customary to the operation of a cinema, including without limitation: ticket and pass sales, concession sales, vending machine sales, and alcohol sales.
 - b. SPECIAL EVENTS. "Special Event" shall mean any event occurring on the Premises other than an event normal and customary to the operation of a cinema. The following uses shall be considered special events, but shall not comprise an exhaustive list of special events: film festivals, musical performances, live theater, lectures, and fund raising activities. Manager shall be solely responsible for all costs incurred as a result of Special Events. No party shall hold a Special Event on the Premises unless it has first entered a Facility Usage Agreement, which Agreement shall provide a Minimum Use Fee to be paid to Owner for use of the Premises.
8. THIRD PARTY USE. Manager shall not permit any third party to use the facility unless Manager and third party have entered a Facility Usage Agreement or Sub-Lease Agreement. Manager shall ensure that at least one of its employees or agents is on the Premises at all times a third party is using the Premises and that all third parties are properly trained, records of which training shall be maintained by Manager for at least two (2) years from the end of such third party use. All Facility Usage Agreements shall require the third party to carry insurance coverage that meets or exceeds the insurance requirements placed on Manager under the terms of this Agreement. Where the third party cannot meet these insurance requirements, Manager may submit a written request to Owner to waive such requirement, which Owner may grant or deny in its discretion within thirty (30) days. Manager shall not sublet the Premises, in whole or in part, without prior written consent of Owner. All proceeds from third party use of the premises shall be treated as part of Gross Receipts derived from Ordinary Operations, regardless of whether the third party uses the premises for an event or events that would qualify as "Special Events" were they produced by Manager.
9. OWNER'S USE OF THE PREMISES.
 - a. RIGHT TO USE. For up to twelve (12) days per calendar year (and at a pro rata basis for partial years), Owner shall have exclusive use of either the Kentucky Theater, the State Theater, or both Theaters for any purpose upon forty-five (45) days advance written notice. Owner may exercise such right on any day and at any time of day, without limitation or restriction. During such use, Manager shall make the Premises and two (2) of Manager's employees available to Owner as necessary at no cost to Owner. Manager's employees shall work under the direction of Owner and fully cooperate with Owner. Owner shall pay no fee for use of the Premises at any of time.

- b. PROCEEDS. All Gross Receipts, as defined in this Agreement, generated before, after, during, or as a result of Owner's use of the Premises under this Section shall be payable to Owner, and Manager shall be entitled to no part thereof. Manager shall, however, be entitled to reimbursement for any of its inventory or supplies used or sold by Owner to generate such Gross Receipts.
10. ADVERTISING. Manager agrees to use its best efforts to aggressively promote and advertise the Kentucky Theater in a manner consistent with industry standards, including without limitation by daily and/or advertisement in a newspaper of general circulation or via a website listing the Theater showings. Manager shall use its best efforts to notify the general public of films and presentations that may not be suitable for minors.
11. EQUIPMENT. Manager may use, at its own expense, any projection or concession equipment owned by Owner and kept on the Premises; provided, however, that all of Owner's equipment shall remain on the Premises at all times and shall be surrendered, in substantially the same condition it was received, at any time upon Owner's demand. Manager shall be responsible for repairing and maintaining the equipment under the terms of Section 15(g), and shall be solely responsible for any damage caused by it or its guests, patrons, invitees, licensees, agents, or employees, normal wear and tear excluded.
12. LICENSURE. Manager shall be solely responsible for securing all licenses and permits necessary or convenient for the lawful operation of the Premises. Where Manager requires documentation or information from Owner to assist in its application or renewal process, it shall request such documentation or information in writing, providing Owner with at least sixty (60) days to respond.
13. DUTY TO PROVIDE ACCOUNTING
- a. MONTHLY REPORT. On or before the tenth (10th) day of the second and each succeeding calendar month during the Management Term and of the month following the end of the Management Term, Manager shall deliver to Owner a Monthly Report, in the form provided as **Exhibit B**, which form may be reasonably altered or modified in Owner's sole discretion, verified to be accurate and complete in its entirety, comprised of the following:
- i. A sales report that fully and accurately describes the sums received for all box offices sales, concession sales, and taxes generated on the Premises during the month in question, as well as any other sales information Owner may request, provided such can be supplied without unreasonable efforts or cost;
 - ii. A copy of Manager's Kentucky Sales and Use Tax Return, filed with the Kentucky Department of Revenue, for the month in question;
 - iii. Copies of all bank deposit tickets, bank statements, and totals reports for the month in question;
 - iv. To the degree that such is applicable, sales reports that fully and accurately describe the sums generated by Manager's concessionaires, licensees, and subcontractors from activity conducted on or for the Premises during the month in question.
- b. ACCOUNTING RECORDS. Manager shall keep full, true, and accurate records from which Gross Receipts in any year of this Agreement can be readily and correctly determined during the term of this Agreement, and for at least three years after the Agreement's expiration. Owner, or anyone designated by Owner,

shall have access to such records during normal business hours, upon twenty-four (24) hours advance notice. Manager shall comply with all reasonable directions issued by Owner respecting accounting records and procedures for the proper and accurate recording and control of all transactions affecting the determination of Gross Receipts. Owner shall not disclose any confidential information so obtained except to the extent that disclosure is reasonable in the conduct of Owner's business, where necessary for the collection of amounts due to Owner, or to the extent required by law.

- c. AUDITS. Owner may, at any time, require Manager to submit to auditing performed by Owner or an independent certified public accountant designated by Owner, which audit(s) may consider without limitation the following: whether Manager has fully satisfied its accounting and reporting duties under this Agreement, the adequacy of Manager's accounting procedures, and the accuracy of Manager's accounting records. The results of all such audits shall be reported directly to Owner. Should an audit indicate that Manager's procedures, records, or reporting is or has been deficient, Manager shall take such steps as necessary or advisable to remedy the defect. Should an audit indicate that Manager has underpaid Owner under the terms of this Agreement, Manager shall pay the difference between the amount paid and the amount owed to Owner within twenty-one (21) days. Should an audit indicate that Manager has overpaid Owner under the terms of this Agreement, Owner shall repay Manager the amount of the overpayment within twenty-one (21) days. Provided, however, that nothing herein shall prevent Owner from exercising its right to terminate the Agreement based on Manager's breach under Section 22. The cost of such audit shall be borne by Owner unless the audit indicates that Manager's accounting records or procedures are inadequate, that Manager has not complied with its reporting duties under this Agreement, or that Manager's Net Receipts for any period are more than 3% greater than the amount Manager reported to Owner, in which case Manager shall be solely responsible for the full cost of the audit at the price previously agreed upon by Owner and auditor.
- d. ACCEPTENCE OF REPORTS AND PAYMENT. The acceptance by Owner of any reports delivered by Manager or any payment based thereon or on any accountant's determination or Owner's estimate shall not be deemed to relieve Manager from its obligations to comply with the provisions of this Agreement or from the consequences of any default hereunder, nor be a waiver by Owner of any of the obligations of Manager or any of the rights of Owner under this Agreement.
- e. BREACH. Should Manager fail to meet its reporting requirements under this Agreement, or to maintain or produce accurate accounting records, or to follow accounting procedures recommended by a certified public accountant appointed by Owner, then Manager shall be in breach of this Agreement, and Owner may seek all remedies available to it in law or equity, including without limitation termination of the Agreement and specific performance.

14. MAINTENANCE AND REPAIRS.

- a. MAINTENANCE SCHEDULE. Manager shall at all times and at its own expense maintain the Premises in a neat and clean condition and shall not suffer or permit to exist any nuisance upon the Premises. In addition to its general

maintenance and repair duties described herein, Manager shall abide by the Maintenance Schedule attached as **Exhibit C**.

- b. STRUCTURAL REPAIR AND MAINTENANCE. Owner shall be responsible for all repair and maintenance not listed in Exhibit C; provided, however, that Manager shall reimburse Owner for the first \$500.00 of maintenance and repair expenses, including materials, labor, equipment, and rentals to make such repairs, incurred in any given month and for all maintenance and repair expenses if the damage to be repaired was caused by Manager or Manager's guests, patrons, invitees, licensees, agents, or employees. Maintenance and repair expenses shall be considered to be incurred as of the last day on which the maintenance or repair work is performed. Where Manager is required to reimburse Owner for maintenance and repair expenses, it shall do so within thirty (30) days of the last date on which the maintenance or repair work is performed. Owner shall perform all maintenance and repairs for which it is responsible in a timely manner, with as little disruption to Manager's use of the Premises as reasonably practicable.
 - c. DAMAGE TO PREMISES. In the event that the Premises are damaged by Manager or its guests, patrons, invitees, licensees, agents, or employees, and the Premises are not repaired, Manager shall still be liable to Owner for the cost of such harm, reasonable wear and tear excluded.
 - d. NOTICE OF DEFECTS. Manager shall notify Owner in writing of maintenance or repair needs on the Premises immediately upon discovery of the need. Manager shall direct all other users of the Premises to submit their repair or maintenance requests to Manager, who may then convey the requests to Owner as appropriate under the terms of this Agreement. Under no circumstances will Owner accommodate repair or maintenance requests submitted to it by third parties.
 - e. EQUIPMENT MAINTENANCE. Manager shall perform, at its own expense, all maintenance and repairs necessary to maintain the equipment used on the Premises in good order, condition, and repair. Such duty shall run to all concession operating equipment, theater projection equipment, projection sound equipment, ticketing equipment, stage sound and lighting equipment (including bulbs and bulb replacement), and any other trade equipment necessary to operate two first class theaters. Manager agrees to provide preventative maintenance to all projection equipment used on the Premises per manufacturer's recommendation. Property owned by Manager shall remain the property of Manager and may be removed from the Premises by Manager upon expiration of the Management Term, with exception of all bulbs that have been installed for theater operation, which shall become the property of Owner.
15. UTILITIES. Manager shall be responsible for all utility charges incurred on the premises, including without limitation charges for all telephone or other telecommunication services, heat, water, gas, electricity, sewer, landfill, and water quality management fees. Prior to the end of July each year, Manager shall submit to Owner an annual report for the prior fiscal year, running from July 1-June 30, that identifies Manager's utility consumption for the year, categorized by amount used, invoice amount, and month used.
 16. LIENS. Manager shall not do or suffer anything to be done whereby Owner's interest in the Premises or any part thereof may be encumbered by any mechanic's, materialmen's, or other lien and no such attempted or filed lien shall be valid. Manager shall, whenever

and as often as any mechanic's or materialmen's lien is filed against Owner's interest or property which purports to attach thereto and to be for labor performed or material furnished to Manager, give Owner immediate written notice thereof and discharge the same of record within ten (10) days after the date of filing, or contest the same in good faith and indemnify and hold harmless Owner against any loss, cost, damage, or expense (including reasonable attorney fees) resulting therefrom and if Manager does not remove the lien within fifteen (15) days, Manager will substitute a Bond for the property upon which the lien is asserted. Notice is hereby given that Owner shall not be liable for any labor or materials furnished to Manager and that no mechanic's, materialmen's, or other lien for any such labor or materials shall attach to or affect the estate or interest of the Owner in and to the Premises. Notwithstanding the provisions above, the Owner shall have the right, but not the obligation, to pay and remove any such lien and Manager shall reimburse the Owner for the cost of all expenses incurred in connection therewith.

17. INSPECTION. Owner and its agents shall have the right to enter upon and inspect the Premises (i) at all times during business hours of Manager on the Premises, (ii) at any other time upon twenty-four (24) hours prior notice to Manager, and (iii) at any time in the event of an emergency, for the purpose of examining the Premises for compliance with the terms of this Agreement or to make repairs to the Premises or for any other valid purpose. Owner, accompanied by an agent of Manager, shall inspect the Premises on a regular basis, but no more often than once per quarter, and shall complete a Facility Inspection Report, attached as **Exhibit D**, describing the state of the Premises. Manager shall take immediate action to correct any conditions that might cause death or serious bodily injury. All other deficiencies shall be corrected by Manager within fifteen (15) days of the inspection, or sooner as may be determined by Owner. For each defect, Manager shall submit a Corrective Action Report, describing in reasonable detail the steps Manager took to remedy the defect, within five (5) business days of remedying the defect.
18. ALTERATIONS. Manager shall make no alterations to the Premises that are structural, substantial, or permanent in nature, nor post, attach, or affix to the exterior or interior of the Premises air conditioners or other objects, nor remove any Theater seats without Owner's written consent to each occasion thereof, which consent shall not be unreasonably withheld. Manager shall have the right to install its trade fixtures and equipment in, upon, and about the Premises in place of Owner's equipment; provided, however, that Manager shall pay any and all taxes on same and shall remove the same on or before the expiration of this Agreement, and if so requested by Owner, promptly after any termination of this Agreement; and provided, further, that Manager shall promptly thereafter repair all damage caused to the Premises by reason of such installation or removal and return Owner's equipment to its original position. In the event either party elects not to renew this Agreement for an additional term or terms, Owner may purchase Manager's trade fixtures and equipment at their then fair market value.
19. DEFAULT.
 - a. MANAGER'S DEFAULT. Manager shall be in default under the terms of this Agreement if it, at any time:
 - i. Fails to render any payment to Owner within five (5) days of receiving written notice that such payment is overdue;
 - ii. Fails to perform or comply with the requirements of any covenant, term, condition, clause, or provision of this Agreement, other than those requiring

- the payment of sums owed to Owner, within ten (10) days of receiving written notice of such failure to perform or comply;
- iii. Allows any of the insurance policies it is required to maintain under this Agreement to be suspended, voided, cancelled, or reduced so that they no longer satisfy the requirements establishing in Section 26.
 - iv. Commits waste upon the Premises;
 - v. Vacates or abandons the Premises;
 - vi. Is adjudged bankrupt by a court of competent jurisdiction, or makes an assignment of its interest in the Premises to a creditor, or is subject to legal proceedings in which a receiver is appointed for any of Manager's property;
 - vii. Fails to earn from its operation of the Premises at least \$90,000.00 in gross receipts over any three month period, unless such failure is the result of Owner closing the Premises to the public for a period of more than five (5) consecutive business days during the relevant three month period.
- b. OWNER'S REMEDIES. Should Manager default under the terms of this Agreement, then, in addition to all other remedies given to Owner by law or in equity, Owner may by written notice to Manager immediately terminate this Agreement, or without terminating this Agreement, may immediately re-enter and possess the Premises by summary proceedings or otherwise, and in any event may dispossess the Manager. In the event of such re-entry, Owner may enter into management agreements with others without being obligated so to do, and in such event may apply the proceeds therefrom first to the payment of Owner's expenses (including reasonable attorney fees) incurred by reason of Manager's default, including but not limited to the repairs, renovation, or alteration of the Premises, the expense of entering into another management agreement, and to the payment of all sums due from Manager hereunder, Manager remaining liable for any deficiency. Manager hereby grants Owner a lien upon and a security interest in all Gross Receipts and all property of Manager now or hereafter located upon the Premises for the payment of all sums due under this Agreement and the performance of all of Manager's other obligations under this Agreement, said lien and security interest to be in addition to any lien in the property of Manager vested in Owner by statute, and Manager agrees that upon any default by Manager hereunder (after any period for cure), Owner may preclude access to and from the Premises until the rights of Owner in any property of Manager located therein and thereon are adjudicated. Financing statements shall be executed and recorded with respect to said security interest. All remedies available to Owner under this Agreement, at law or in equity, are cumulative and concurrent. No termination of this Agreement nor any taking or recovering of possession of the Premises shall deprive Owner of any of its remedies or actions against Manager for past or future Gross Receipts or other sums due hereunder, nor shall the bringing of any action for Gross Receipts or other default be construed as a waiver of the right to obtain possession of the Premises.
- c. OWNER'S DEFAULT. Should Owner fail to perform or comply with the requirements of any covenant, term, condition, clause, or provision of this Agreement, Owner shall be entitled to written notice of such, and shall have ten (10) days from receipt of written notice to cure, after which time Owner shall be in

default; provided, however, that Owner shall not be in default for its failure to cure within ten (10) days of written notice where Owner has made best efforts to cure within ten (10) days of written notice, and thereafter continues to diligently pursue such cure.

20. OTHER INSTRUMENTS. Manager agrees to execute and deliver to Owner, within five (5) days after written request by Owner made therefore, (i) a subordination in recordable form of this Agreement to the mortgage of any governmental or institutional Lender to Owner or agent of the Owner, (ii) written notice confirming the terms of this Agreement and whether or not any default by Manager or Owner exists hereunder, and (iii) such other instruments in recordable form setting forth such terms of this Agreement as are necessary to provide any potential purchaser of all or any portion of the Premises or any Lender to Owner with notice of this Agreement and the status hereof.
21. SUBORDINATION, ATTORNTMENT, AND MORTGAGE PROTECTION. This Agreement shall be subject and subordinate to any and all Mortgages now or hereafter in existence against the Premises. If any Lender initiates foreclosure proceedings, Manager agrees, upon written request of any such Lender or any purchaser at foreclosure sale, as the case may be, to attend and pay Gross Receipts to such party and to execute and deliver any instruments necessary or appropriate to evidence or effectuate such attornment. Nothing contained in the foregoing shall affect any prior rights of any Lender with respect to the proceeds of any condemnation or eminent domain proceeding (or deed or other instrument in lieu thereof) or of any fire or casualty insurance policies affecting the Premises, or impose upon any Lender any liability for (i) the erection or completion or any alterations or improvements to the Premises, (ii) in the event of damage or destruction to the building or to the Premises by fire or other casualty, for any repairs or restorations, (iii) any default by Owner under the Agreement (occurring prior to any date upon which such Lender shall have become Manager's Owner), or any credits, offsets or claims against Owner or against the Gross Receipts as a result of any acts or omissions of Owner (committed or omitted prior to such date). "Mortgage" shall mean all mortgages, deeds of trust, and other such encumbrances now, heretofore or hereafter placed upon this Agreement, or any part thereof, and all renewals, modifications, consolidations, replacements or extensions thereof, and all indebtedness now or hereafter secured thereby and all interest thereon. "Lender" shall mean the holder of any Mortgage at the time in question, whether or not such holder was a Lender to Owner or otherwise acquired the Mortgage.
22. HAZARDOUS MATERIALS. Manager shall not discharge, release, dispose of, or deposit on the Premises any waste, including any pollutants or hazardous materials ("Hazardous Materials"), in violation of any federal, state or local law or regulation. Any Hazardous Materials generated by Manager will be removed at Manager's expense in the manner required by law from the Premises and disposed of in compliance with federal, state, and local laws and regulations. If at any time Manager fails to comply with the terms of this Section, Owner may remedy such default and Manager must fully reimburse Owner for any cost or expense it incurs in so acting within ten (10) days of receipt of written notice from Owner.
23. INDEMNITY AND INSURANCE.
 - a. INDEMNITY AND LIABILITY. Manager hereby assumes the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Manager or

its employees, agents, servants, owners, principals, licensees, assigns, or subcontractors of any tier (hereinafter "Manager") under or in connection with this agreement and/or the provision of goods or services and the performance or failure to perform any work required hereunder. Manager shall indemnify and save Owner and its elected and appointed officials, employees, agents, volunteers, and successors in interest (hereinafter "Owner") harmless against and from any and all claims by and on behalf of any person or persons, firm or firms, corporation or corporations, arising from any work or thing whatsoever done by or on behalf of Manager, in or about the Premises and Manager shall further indemnify and save Owner harmless against and from any and all claims arising from any breach or default not cured within the applicable period of notice in the performance of any covenant or agreement, or arising in or about the Premises from any act or omission of Manager, from and against all liability, damages, and losses, including but not limited to demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs, and reasonable attorney's fees. Owner shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling material, steam, gas, electricity, water, rain, snow, leaks from any part of the Premises, pipes, appliances or plumbing works, or any other cause of any nature. Provided, however, that Manager shall not be liable for any liability, damages, or losses caused solely by the negligence or willful misconduct of Owner. In the event Manager is required to indemnify, save, or defend Owner under the terms of this Section, Manager shall only hire for such purposes attorneys approved in writing by Owner, which approval shall not be unreasonably withheld. Any property of Manager kept for storage at the Premises shall be so kept or stored at the exclusive risk of Manager. These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this Agreement. Manager understands that Owner is a political subdivision of the Commonwealth of Kentucky, and as such is unable to provide indemnity or otherwise save, hold harmless, or defend Manager in any manner.

- b. GENERAL LIABILITY INSURANCE. Manager shall obtain and keep in full force and effect during the term of this Agreement a policy of comprehensive general public liability and property damage insurance with a broad form liability endorsement under which Owner and its agents, employees, and officers shall be named as an additional insured, and under which the insurer agrees to indemnify and hold Owner its agents, employees, and officers harmless from and against all cost, expense, and/or liability arising out of or based upon any and all claims, accidents, injuries, and damages occurring in, on, or about the Premises. The minimum limits of liability of said policy shall be a combined single limit of not less than one million dollars (\$1,000,000.00) per occurrence for injury or death and damage to property and not less than two million dollars (\$2,000,000.00) aggregate. The foregoing insurance may be maintained in one or more policies of primary and umbrella or excess liability policies so long as the nature, scope, and limits of coverage herein required are not violated.
- c. FIRE AND EXTENDED COVERAGE. Manager shall obtain and keep in full force and effect during the entire term of this Agreement a policy of fire and

extended coverage (providing coverage for damage, loss, or other casualty caused by vandalism, theft, sprinkler leakage, water damage, explosion, and other similar risks), in an amount adequate to cover the full insurable replacement value of all personal property, inventory, fixtures, furnishings, and equipment of Manager in the Premises, with a business interruption endorsement in an amount adequate to cover Manager's lost profits and continuing expenses during the period Manager is unable to do business in the Premises.

- d. OTHER INSURANCE. Manager shall obtain and keep in full force and effect during the entire term of this Agreement a policy of commercial automobile liability coverage with a combined single limit of not less than one million dollars (\$1,000,000.00) per occurrence for injury or death and damage to property. Manager shall obtain and keep in full force and effect during the entire term of this Agreement a policy of employer's liability coverage with a combined single limit of not less than one million dollars (\$1,000,000.00) per occurrence for injury or death and damage to property. Manager shall obtain and keep in full force and effect during the entire term of this Agreement a policy of commercial crime liability coverage with a combined single limit of not less than twenty thousand dollars (\$20,000.00) per occurrence for injury or death and damage to property. The foregoing insurances may be maintained in one or more policies of primary and umbrella or excess liability policies so long as the nature, scope, and limits of coverage herein required are not violated. Manager shall obtain and keep in full force and effect during the entire term of this Agreement such worker's compensation liability coverage as Manager is required to obtain and keep under all applicable statutes and regulations.
- e. ACCEPTABLE INSURERS. All required coverage shall be written by insurers and in a form acceptable to Owner. Insurance placed with insurers with a rating classification of no less than Excellent (A or A-) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating Guide shall be deemed automatically acceptable.
- f. MANAGER'S INSURANCE PRIMARY. Wherever Owner's insurance or self-insurance and Manager's insurance might both apply, Manager's insurance shall be primary, and Owner's insurance or self-insurance shall only make payment in excess of Manager's insurance.
- g. PROVISIONS TO BE INCLUDED. All policies maintained by Manager shall be endorsed to say that coverage shall not be suspended, voided, cancelled, or reduced except after thirty (30) days advance written notice by certified mail, return receipt requested, to "Lexington-Fayette Urban County Government, Attn: Department of General Services, 200 East Main Street, Lexington, Kentucky 40507." All policies maintained by Manager shall contain a waiver from the insurance carrier, if obtainable, releasing and waiving any subrogation right said insurance carrier may have against Owner. If a Waiver of Subrogation is not obtained from an insurance carrier, Manager shall immediately notify Owner in writing. All policies maintained by Manager shall contain a provision that no act or omission of Manager shall affect or limit the obligation of the insurer to pay the amount of any loss sustained.

- h. CERTIFICATES OF INSURANCE. All Certificates of Insurance forms used by the insurance carrier shall be properly filed and approved by the Department of Insurance for the Commonwealth of Kentucky.
- i. REPORTING. Prior to the start of the term of this Agreement, Manager shall furnish Owner with all applicable Certificates of Insurance signed by a person authorized by the insurer to bind coverage on its behalf prior to final award, and if requested, shall provide Owner copies of all insurance policies, including all endorsements. Owner may review, audit, and inspect any and all of Manager's records and operations to insure compliance with these Insurance Requirements.
24. SURRENDER. Manager shall, concurrently with the expiration of this Agreement or the termination thereof for any reason, peaceably surrender the Premises to Owner in good order, condition, and repair. Manager further agrees to assist in preparation for the surrender of Premises by providing successor ample opportunity for the transition. Where appropriate, Manager shall be afforded the opportunity for continued operation of the facility while working with Owner and successor to provide a seamless surrender of the Premises. This shall include providing ingress and egress to the premises during the transition period (not to exceed five (5) days prior to termination of the agreement) and shall permit certain equipment to be prepared for continued operation of the facility with little or no effect to the public. Manager shall remove all owned equipment within ten (10) days of agreement expiration or termination, unless written approval is secured from Owner for an extension timeframe.
25. COMMUNICATION. All notices from Owner to Manager shall be delivered in writing by hand, or by certified or registered United States mail, to the following, unless otherwise specified herein:
Lexington-Fayette Urban County Government
Department of General Services
Attn: Director of Fleets and Facilities
200 East Main Street
Lexington, KY 40507
- A notice mailed in accordance with the provisions of this paragraph shall be deemed to have been given when mailed. Either party may change its address for the purpose of this paragraph by giving notice in writing to the other party of such change.
26. EMINENT DOMAIN. Should the Premises be taken, in whole or part, by or pursuant to governmental authority or through exercise of eminent domain or sold under threat thereof, this Agreement shall terminate effective upon the date of the taking or sale and all obligations of Owner and Manager otherwise accruing after the date of such termination shall be discharged. All proceeds of any condemnation award or sale made under threat of condemnation shall be the property of Owner. Notwithstanding the foregoing, the Manager may assert any claims it has against the condemning authority for any taking of the Manager's personal property that is not a fixture and that is removable from the Premises without damage to the Premises.
27. DESTRUCTION OF PREMISES. In the event the Premises are damaged or destroyed in whole or in part and restoration or repairs cannot be completed within sixty (60) days from the date of destruction, or restoration will cost in excess of \$80,000.00, Owner shall have the option to terminate the agreement.
28. FORCE MAJEURE.

- a. DEFINITION. "Force majeure" shall mean any event or condition, not existing as of the date of execution of this Agreement, not reasonably foreseeable as of such date and not reasonably within the control of either party, which prevents in whole or in material part use of the Premises as a theater or which renders such use of the Premises so difficult or costly as to be commercially unreasonable. Without limiting the foregoing, the following shall constitute events or conditions of force majeure: acts of state or governmental action, orders, legislation, regulations, restrictions, priorities, or rationing, riots, disturbance, war (declared or undeclared), strikes, lockouts, slow-downs, prolonged shortage of energy supplies, interruption of transportation, embargo, inability to procure or shortage of motion picture products, epidemics, fire, flood, hurricane, typhoon, earthquake, lightning and explosion.
 - b. NOTICE. Upon giving three (3) days written notice to the other party, a party affected by an event of force majeure shall be released without any liability on its part from the performance of its obligations under this Agreement, except for the obligation to pay any amounts due and owing hereunder, but only to the extent and only for the period that its performance of such obligations is prevented by the event of force majeure. Such notice shall include a description of the nature of the event of force majeure, and its cause and possible consequences. The party claiming force majeure shall promptly notify the other party of the termination of such event.
 - c. CONFIRMATION. The party invoking force majeure shall provide to the other party confirmation of the existence of the circumstances constituting force majeure. Such evidence may consist of a statement or certificate of an appropriate governmental department or agency where available, or a statement describing in detail the facts claimed to constitute force majeure.
 - d. SUSPENSION OF PERFORMANCE. During the period that the performance by one of the parties of its obligations under this Agreement has been suspended by reason of an event of force majeure, the other party may likewise suspend the performance of all or part of its obligations hereunder to the extent that such suspension is commercially reasonable.
 - e. TERMINATION. Should the period of force majeure continue for more than three (3) consecutive months, either party may terminate this Agreement without liability to the other party, except for payments due to such date, upon giving written notice to the other party.
29. COMPLIANCE WITH ORDINANCES, STATUTES, STATE AND FEDERAL LAWS. Both parties shall comply and cause their employees and agents to comply with all ordinances, statutes, state and federal laws which may apply to the performance of this contract and the Premises. Both parties shall comply and cause their employees and agents to comply with all applicable deed restrictions placed on the Premises and properly recorded with the Fayette County Clerk.
30. AGREEMENT NOT ASSIGNABLE. Owner shall not assign its rights or duties under this Agreement to any other party without the prior, written consent of Manager. Any attempt to do so shall be considered as terminating the Agreement immediately.
31. SUCCESSORS. The covenants, conditions, and agreements made and entered into by the parties hereto are declared and agreed to be binding upon and to inure to the benefit of their respective heirs, executors, administrators, and successors.

32. SEVERABILITY. If any clause, sentence, paragraph, or part of the Agreement shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Agreement, but be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered, and in all other aspects this Agreement shall continue in full force and effect.
33. INTERPRETATION. The Agreement, having been negotiated in good faith between the parties with advice of their respective counsel, shall not be construed against one party or the other. The headings given to paragraphs, sections, and clauses of this Agreement are inserted for convenience only and shall not be considered in interpreting its provisions.
34. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties with respect to the management of the Premises, and there are no other promises or conditions in any other agreement, either oral or written. The Agreement may be amended only in writing and only if such writing is signed by both parties. The parties acknowledge that any amendment to the Agreement must be approved by the Lexington-Fayette Urban County Council.
35. NON-DISCRIMINATION. Neither party shall discriminate against any employee or applicant for employment because of race, color, religion, sex, age, national origin or handicap. Both parties shall state in all solicitations or advertisements for employees placed on behalf of Manager that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, sex, age, national origin or handicap.
36. APPLICABLE LAW AND VENUE. This Agreement shall be governed by the laws of the Commonwealth of Kentucky and any action will be brought in a court of competent jurisdiction situated in Fayette County, Kentucky.
37. NO THIRD PARTY BENEFICIARIES. Nothing contained herein shall create any relationship, contractual or otherwise or any rights in favor of any third party.
38. WAIVER. No waiver of any legal right shall be implied for any reason, and no waiver of condition or covenant shall be valid unless it be in writing signed by the waiving party. The waiver of any condition shall not excuse a future breach of the same condition or covenant or any other condition or covenant.
39. EXHIBITS. The exhibits to this Agreement are an integral part hereof and are incorporated in the Agreement as though fully set forth herein.
40. REGULATIONS. Owner and Manager agree that this Agreement, and any subsequent agreement entered into by the parties, is and shall be subject to the terms of Revenue Proceeding 2001-39 or any other superseding guidance concerning management contracts issued by the Internal Revenue Service.

IN WITNESS WHEREOF, witness the signatures of the parties hereto effective as of the _____ day of _____, 20__.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT ("OWNER")

BY: _____
JIM GRAY, MAYOR

ATTEST: _____
MARTHA ALLEN, COUNCIL CLERK

Kentucky Theatre Group, Inc. ("MANAGER")

SIGNATURE: Analy Scorsone

NAME: ANALY SCORSONE

TITLE: PRESIDENT

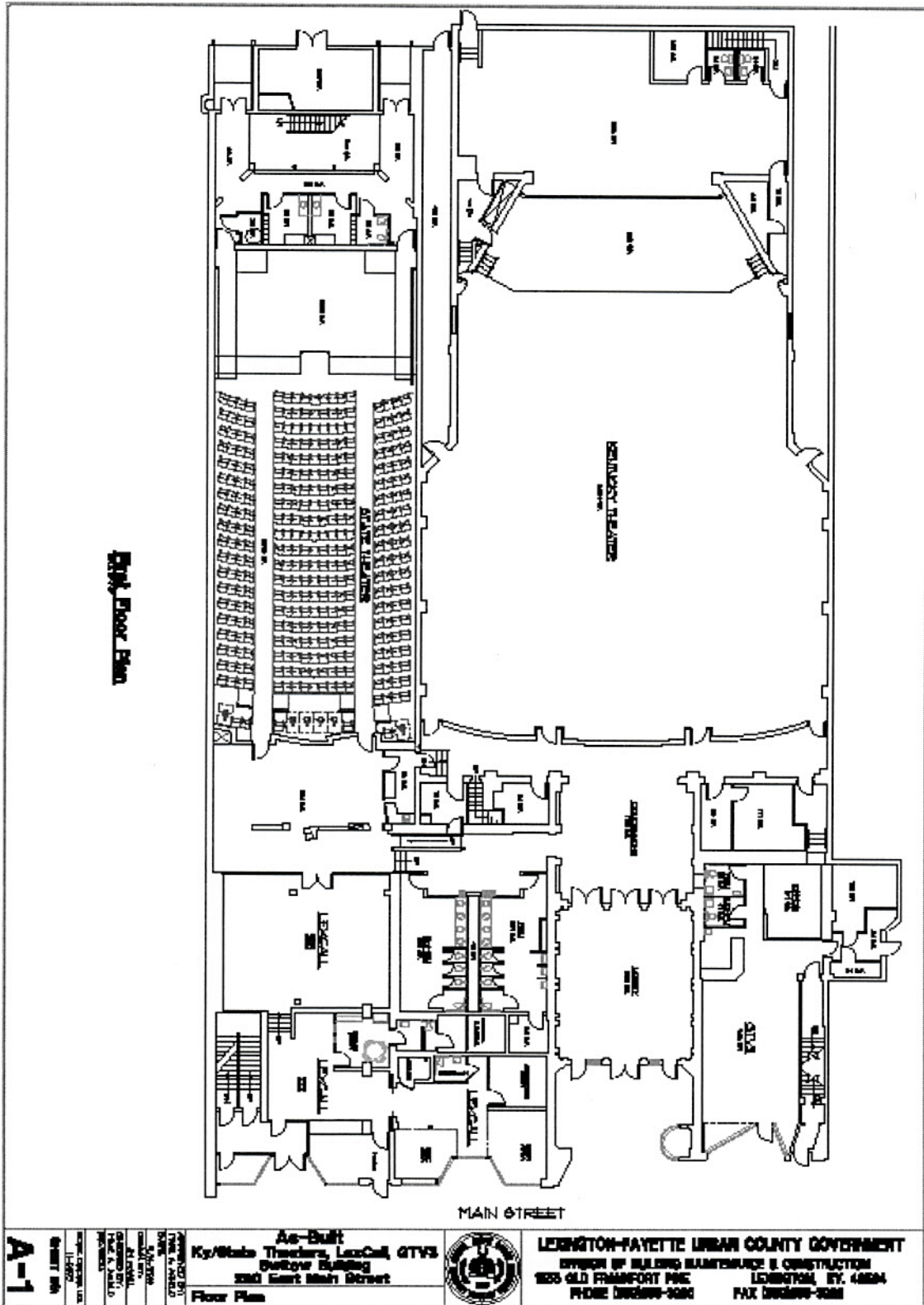
COMMONWEALTH OF KENTUCKY
COUNTY OF (_____)

The foregoing instrument was subscribed, sworn to and acknowledged before me by _____ as _____ for and on behalf of _____, on this the ____ day of _____, 20__.

My commission expires: _____

NOTARY PUBLIC, STATE AT LARGE, KY

EXHIBIT A - PREMISES



A-1

DATE: 11-20-02
 DRAWN BY: [Name]
 CHECKED BY: [Name]

As-Built
 Ky/State Trainers, Local GTWS
 Gateway Building
 3202 East Main Street
 Floor Plan



LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
 DIVISION OF BUILDING MAINTENANCE & CONSTRUCTION
 1805 OLD FRANKFORT PIKE LEXINGTON, KY 40504
 PHONE (606)999-3080 FAX (606)999-3088

EXHIBIT B -

Monthly revenue, labor, repair/maintenance expense for the facility

Kentucky & State Theater Monthly Operational Report

Please Note: The Theater Management must input data in all highlighted cells.

LFUCG Box Office Income Percentage:	10%	Month:	
LFUCG Box Special Events Income Percentage:	5%	Date:	8/28/2017

Ticketing

No. of Tickets Sold (Monthly):		Comment
Kentucky Theater Box Office	0	
State Theater Box Office	0	
Total:	0	
Ticket Sales Analysis:		
Kentucky Theater Avg. Daily Tickets	0	
State Theater Avg. Daily Tickets	0	
Avg. Daily Tickets:	0	
Concession Revenue (\$/Ticket)	#DIV/0!	
Revenue per Patron:	#DIV/0!	

Gross Revenue

Monthly Income:	Box Office	Special Events
Kentucky Theater		
State Theater		
Concessions		
Total:	\$0.00	\$0.00
	\$0.00	

Revenue Adjustments

Payment to LFUCG for Box Office Revenue @ 10% of the Gross Revenue:	\$0.00
Payment to LFUCG for Special Events Revenue @ 5% of the Gross Revenue:	\$0.00

LFUCG Total : \$0.00

Calculated Management Fee: \$0.00

Expenses

General	Cost	Comment
Total Film Cost (screen fee, distributor,...)	\$0.00	
Payroll Expanses (FT, PT, Temp...)	\$0.00	
Cost of Goods Sold	\$0.00	
Advertising (Print, Social Media, TV/Radio..)	\$0.00	
Other Gen. Operating Expenses	\$0.00	
Gen. Operating Supplies	\$0.00	
Utilities		
Electric	\$0.00	
Water	\$0.00	
Sewer	\$0.00	
Gas	\$0.00	
Solid Waste	\$0.00	
Maintenance, Repairs & Janitorial Services		
Maintenance and Repairs (not provided by Owner)	\$0.00	
Outsourced Flooring Maintenance Services	\$0.00	
Outsourced A/V? Projection System Care	\$0.00	
Outsourced Marquee PM (Ruggles)	\$0.00	
Total Expenses:	\$0.00	

EXHIBIT C - MAINTENANCE SCHEDULE

Service	Frequency of Service
Public Areas Flooring (Carpet)	
Spot Vacuum carpet	Daily
Spot Treat carpet (spills)	Daily
Vacuum carpet	Bi-Weekly
Clean door mats and landing	Bi-Weekly
** Shampoo carpet	Quarterly
** Extract "steam clean" carpet	Annually
Public Areas Flooring (Hard Floors)	
Dust and damp mop hard floors	Daily
Sweep, empty ashtray & trash containers	Daily
** Mop, wax, and buff hard floors	Monthly
** Strip, seal, refinish, machine polish hard surface	Quarterly
Restrooms	
Refill all soap dispensers	Daily
Empty and clean waste containers, insert liners	Daily
Clean and sanitize all fixtures	Daily
Damp mop floor and baseboards with germicidal solution	Daily
Replenish toilet tissue, paper towels, toilet seat liners, and feminine hygiene dispensers	Daily
Report defective soap dispensers or any items that need repair to management.	Daily
Clean and polish all metal and mirrors	Bi-Weekly
Spot clean walls, areas around fixtures, doors	Bi-Weekly
Dust all surfaces and ledges, including vents	Monthly
Wash and sanitize walls and partitions	Monthly
Miscellaneous	
Empty all master and public trash containers in hallways, insert new liners	Daily
Clean and sanitize drinking fountains	Daily
Spot clean interior and exterior glass doors	Daily
Pick up full recycle bags, deposit in appropriate bins	Daily
Inspect and replace <u>all</u> bulbs as needed.	Daily
Clean and sanitize sink and counters	Daily
Empty private trash	Bi-Weekly
Clean interior windows (inside exterior walls)	Bi-Weekly
Spot clean doors, door frames, counters, handles and railings	Bi-Weekly
Dust all surfaces and ledges, including vents	Monthly
Clean smudge marks	Monthly
* Provide preventive maintenance for all AV/projector units	Per Manufacturer's Recommendation
* Conducted & funded by Management Group - Factory Authorized technician used.	
** Conducted by outside contractor. Funded by Management Group with copies of paid invoices submitted to LFUCG.	

EXHIBIT D

FACILITY INSPECTION REPORT

FACILITY QUARTERLY INSPECTION REPORT

INSTRUCTIONS: Form is used to record results of facility inspections. The condition of area(s) inspected will be rated SATISFACTORY or UNSATISFACTORY. Deficiency shall be noted and Manager (or designee) shall be provided copies of the inspection. Data collected shall be used for process improvement and to help drive continuous improvement.

RATING SYSTEM: All inspections shall have deficiencies identified & addressed as directed by Owner. Manager shall create a Corrective Action Plan and track recurring deficiencies. Manager and Owner shall review plan and monitor continuous improvement efforts, whereas repeat deficiencies shall receive priority status. Dependent upon type deficiency noted, two or more constitute inspection failure. Any life-safety issue constitutes inspection failure.

Facility Name: Kentucky & State Theaters	Inspection Time:	Date:
Address: 212 - 214 East Main Street	Inspected By:	

Area	Sat.	Unsat.	Comment
Public Areas			
Exterior, Doors, Windows, Ticket Booth,..			
Floors (vacuumed, swept, mopped, buffed)			
Water Fountains, sinks, countertops			
Trash Cans (spills/dirt, ..)			
Theater seats Condition (Clean, damage,..)			
Theater Lighting (Aisle, general, specialty)			
Walls & Doors (clean and in good condition)			
Other (Specify)			
OFFICES/STORAGE ROOMS:			
Floors (vacuumed, swept, mopped, buffed,..)			
Walls & Doors (clean and in good condition)			
Trash Cans (spills/dirt, ..)			
Other (Specify)			
RESTROOMS:			
Toilets, urinals, including base			
Sinks, partitions, mirrors, wall fixtures			
Soap dispensers (clean/replenished)			
Floors (vacuumed, swept, mopped, buffed)			
Trash Cans (spills/dirt, ..)			
CONCESSION AREAS			
Trash Cans: Clean free of spills/dirt			
Concession equipment clean and operating correctly g Other (Specify)			
Floors (vacuumed, swept, mopped, buffed,..)			
Concession equipment clean and operating correctly			
Drink Fountains (clean, maintained)			
Refrigerated Units (Clean and Operational)			
Countertop (Clean, free of debries..)			
Other (Specify)			

LFUCG Standards must be maintained at all times. All custodial deficiencies are required to be corrected within 8 hrs from the time of inspection. All life-safety deficiencies are to be corrected immediately. All other deficiencies are to be corrected as directed by OWNER, not to exceed 10 days.

Work locations listed on this report are not representative of complete scope of work. Work performed should comply with bid specifications. Deficiencies in work locations not specifically listed on this report but included in bid specifications will be classified under "Other" category

Corrective Action Plan and track recurring deficiencies. Manager and Owner shall review plan and monitor continuous improvement efforts, whereas repeat deficiencies shall receive priority status. Dependant upon type deficiency noted, two or more constitute inspection failure. Any life-safety issue constitutes inspection failure.

Additional Comments:

EXHIBIT E

APPROXIMATE ANNUAL GROSS REVENUE

Yr.	Box Office			Special Events		Total
	Kentucky	State	Concession	Event	Concession	
2017	\$242,834	\$141,793	\$229,668	\$86,884	\$17,343	\$718,522
2016	\$238,158	\$133,735	\$225,522	\$22,582	\$11,103	\$631,100
2015	\$250,436	\$135,122	\$208,382	\$54,791	\$29,373	\$678,103
2014	\$201,898	\$176,179	\$190,909	\$67,753	\$32,600	\$669,339
2013	\$249,647	\$119,324	\$187,065	\$92,984	\$38,483	\$687,502
2012	\$254,204	\$121,300	\$187,065	\$202,144	\$61,705	\$826,418
2011	\$287,264	\$121,429	\$199,718	\$157,215	\$44,048	\$809,674
2010	\$208,611	\$129,850	\$165,992	\$184,038	\$43,924	\$732,414