

Rooftop Use and Occupancy Agreement

This Agreement is entered into this 28th day of May, 2015, between Music Hall Center for the Performing Arts, a not-for-profit corporation organized under laws of the State of Michigan (the “Music Hall”) and the City of Detroit (the “City”).

Recitals

A. The Music Hall owns the building located at 350 Madison Avenue, Detroit, Michigan 48226 (the “Building”), and presents a wide variety of activities in the Building each year for the benefit of the community, including without limitation, performing arts presentations, education programs, civic events, community meetings and related activities.

B. The Building was constructed in 1928 and since that time has been used in the capacities described in Recital A.

C. In 2014, the Music Hall opened the Building’s rooftop as an additional performing arts and entertainment venue (the “Rooftop Venue”), after making a number of structural improvements to the Building, including those required by the City’s Building Safety Engineering and Environmental Department (“BSE & ED”).

D. The Music Hall’s Rooftop Venue operated during the summer of 2014 under a temporary Certificate of Occupancy used by BSE & ED.

E. On February 10, 2014, the Michigan Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Barrier Free Design Board, issued an order (the “State Order”) granting (1) an exception to the Rooftop Venue, for compliance with the requirements of 2009 MBC, Section 1104.4 for interior vertical barrier free access, for a period of three years (expiring January 23, 2018), and (2) an exception to the Rooftop Venue, for compliance with 2009 MBE, Section 1109.2 for accessible toilet facilities, for a period of one year (expiring January 23, 2016).

F. The Music Hall will make the modifications to the Rooftop Venue toilet facilities by January 23, 2016, necessary to comply with the applicable requirements of the State Order, by (1) reconfiguring each of the existing men’s and women’s toilets to provide an accessible stall with the required clearances and an accessible ramp to reach the facilities or (2) providing a new unisex toilet for the Rooftop Venue with required accessibility.

MAY 29, 2015

JULY BOF APPEALS - WIN ONE YEAR.

G. To comply with the State Order's Rooftop Venue access requirements, the Music Hall has developed a plan for constructing a new enclosed barrier free access to the Rooftop Venue, which would include a new elevator and stairway (the "Barrier Free Access Tower"). The Music Hall is committed to completing the Barrier Free Access Tower within the time frame contemplated by the State Order.

H. The Music Hall has shared its plans for the Barrier Free Access Tower with the BSE & ED and representatives of the City's Corporation Counsel's Office and Fire Department and each such agency supports the plan.

NOW, THEREFORE, the Parties agree as follows:

1. **Barrier Free Access Tower.** *PLAN AND CONSTRUCT BY JAN 2018.* Music Hall agrees to use its good faith efforts to plan and construct the Barrier Free Access Tower by not later than January 23, 2018, as contemplated by the State Order. The Tower will include at least one enclosed stairwell that is a minimum of 44" wide, with handrails and guards, meeting the requirements for new construction under the Michigan Building Code. It will also have emergency lighting as required by the National Electric Code (NEC) and the Michigan Building Code and will be fully sprinkled.

2. **Existing Fire Escape.** Pending the construction of the Barrier Free Access Tower, the Music Hall will make the modifications required for the Building's existing fire escape to comply with Michigan Rehabilitation Code of 2012, by extending the stairs of the existing fire escape to the Building's rooftop and making necessary improvements to the parapet of the existing fire escape. Music Hall will have all of these improvements completed within sixty days of the execution of this Agreement.

3. **Vacate Alley.** Construction of the Barrier Free Access Tower will require vacation of the alley on the east side of the Building and conveyance of such land to the Music Hall. The City and the Music Hall will work cooperatively to cause such vacation to occur in compliance with applicable legal requirements. The Parties acknowledge that completion of such alley vacation is a necessary prerequisite to the Music Hall's fundraising for the Barrier Free Access Tower. Therefore, the Parties will use their best efforts to accomplish the alley vacation by July 15, 2015. *ALLEY VACATED BY JULY 2015.*

4. **Certificates of Occupancy.** In consideration of the various agreements set forth in this Agreement, BSE & ED will issue a temporary Certificates of Occupancy for the Rooftop Venue for each season (April 1 through November 1) until the Barrier Free Access Tower is constructed or January 31, 2018 (whichever is earlier). The temporary Certificates of Occupancy shall provide for Rooftop Venue occupancy of up to 266 persons initially and up to 354 persons once the improvements to the existing Fire Escape provided for in Section 2 above are completed by Music Hall. Once the Barrier Free Access Tower is constructed, BSE & ED will issue a permanent Certificate of Occupancy and such Certificate of Occupancy shall provide for additional Rooftop Venue occupancy based upon the additional capacity provided by the Barrier Free Access Tower under applicable codes and regulations.

(PRODUCE DOCUMENTATION THAT IT WAS SUBMITTED)
Will provide documentation to vacate

IN WITNESS WHEREOF, the Parties hereto make and execute this Rooftop Use and Occupancy Agreement as of the date first above written.

MUSIC HALL CENTER FOR THE PERFORMING ARTS

CITY OF DETROIT

By: _____
Vince Paul, President

By: _____

By: _____

By: _____

By: _____