

**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 5076-18**

A BY-LAW TO AUTHORIZE THE LORD MAYOR AND TOWN CLERK TO EXECUTE A LEASE AMENDING AGREEMENT BETWEEN THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE AND SHAW FESTIVAL THEATRE, CANADA (Court House - 26 Queen Street 2019 to 2021)

BE IT ENACTED AS A BY-LAW OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE as follows:

1. THAT the Lease Amending Agreement dated the 16th day of July, 2018 between The Corporation of the Town of Niagara-on-the-Lake and Shaw Festival Theatre, Canada, Court House – 26 Queen Street, be and the same is hereby approved; and
2. THAT the Lord Mayor and Clerk be authorized to affix their hands and the Corporate Seal; and
3. THAT this by-law shall come into force and take effect immediately upon the passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 16TH DAY OF JULY, 2018

LORD MAYOR PAT DARTE

TOWN CLERK PETER TODD

LEASE AMENDING AGREEMENT dated this 16th day of July, 2018.

BETWEEN:

THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE

Hereinafter called the "LESSOR"

AND

SHAW FESTIVAL THEATRE, CANADA,
a corporation incorporated under the laws of the Province of Ontario,
having its head office in the Town of Niagara-on-the-Lake

Hereinafter called the "LESSEE"

OF THE SECOND PART

WHEREAS the Lessor has entered into lease agreements dated the 1st day of May 1972 and the 14th day of December 1982, authorized by By-law 1293-83; the 16th day of July 1987, authorized by By-law 1883-87; the 28th day of October 1991, authorized by By-law 2407-91; the 25th day of March 1996, authorized by By-law 2984-96; and the 28th day of May 2001, authorized by By-Law 3556-01 and the 23rd day of May 2006 authorized by By-law 4046-06, authorized by By-Law 4736-14 and the 23rd day of June 2014.

AND WHEREAS the Lessee is the successor corporation to Court House Theatre, Shaw Festival Theatre Foundation, Canada, and Court House Theatre Holding Foundation having been amalgamated by Letters Patent of Amalgamation dated the 30th day of June 1981 Number 483024;

AND WHEREAS the Parties hereto are desirous of amending the lease dated the 15th day of December 2008, authorized by By-law 4272-08 as hereinafter set forth;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and premises herein contained the parties hereto hereby agree as follows:

1. The Lessee is to have exclusive use of the areas outlined in green on Schedules "B" and "C" attached hereto during the occupancy periods hereinafter set forth together with the right, (in common with all other legitimate users of the building) to use the area outlined in green on Schedule "A" attached hereto for the purposes of providing reasonable access to the areas set forth in Schedules "B" and "C" for its patrons, staff, employees and guests.

2. Throughout this agreement the following terms shall have the meanings hereby ascribed to them: “occupancy period” is as follows:

2019 – Monday, March 4, 2019 to Friday, November 1, 2019

2020 – Monday, March 2, 2020 to Friday, October 30, 2020

2021 – Monday, March 1, 2021 to Friday, October 29, 2021

“off season” is as follows:

2018/2019 – Thursday, October 25, 2018 to Sunday, March 3, 2019

2019/2020 – Saturday, November 2, 2019 to Sunday, March 1, 2020

2020/2021 - Saturday, October 31, 2020 to Sunday, February 28, 2021

“extension dates” is as follows

Monday, February 28, 2022 to Friday October 28, 2022

3. It shall be understood that the Lessor maybe required to enter on the Monday/Tuesday of the occupancy period to finish cleaning and moving out supplies.

It shall be understood that the Lessor maybe required to enter on the Thursday/Friday of the occupancy period to move in supplies and setup.

The schedule to be determined between the Lessor and Lessee minimum of two weeks before the occupancy period and the off season dates.

4. The term of the lease shall be for a three (3) year period extending from the 30th day of September 2018 to the 28th day of October 2021. The occupancy period shall include set-up, removal, rehearsal and performance time.

5. Yielding and paying to the Lessor under the following schedule:

2019 - \$42,275.00 (forty two thousand, two hundred & seventy five dollars)

2020 - \$42, 909.00 (forty two thousand, nine hundred & nine dollars)

2021 - \$43,787.00 (forty three thousand, seven hundred & eighty seven dollars)

for each rental year payable on the 30th day of September in each rental year of the term.

6. The parties agree and understand that the negotiations for a new lease agreement will begin no later than September 30, 2021. In the event that an agreement cannot be reached prior to January 31, 2022, with written confirmation to the lessor, the lease will be extended to 2022 at an annual rate of \$44,663.00 (fourty four thousand, six hundred & sixty three dollars).

7. Lessee shall pay as additional costs on the 30th of September in each rental year or so soon thereafter as the costs can be determined, the following items:

entry by Shaw into occupation of the facilities provided for under this lease. The Lessor shall be included as an additional names insured with respect to the operation of the Lessee in any policy carried by the Lessee pursuant to this lease.

11. It is further understood and agreed that the Lessee accepts the building as is and the Lessor shall not be responsible for any alterations requested by the actors, employees, agents, service patrons or anyone connected in any manner with the lessee for the improvement of the accommodation or conveniences located in the demised premises.

The Lessor will insure that the following wording is included on their property insurance policy: “It is hereby agreed that the Insurer waives all rights of subrogation under this policy against the Shaw Festival including employees, officers and directors of the Shaw Festival”. In the event any such improvements must be made or in the event of any damage, penalties, fines or expenses being imposed upon the Lessee by reason of the provision of or failure to provide such alterations in the accommodation or conveniences, such improvements, damages, penalties, fines or expense shall be paid by the Lessee. The Lessee will not sublet without the permission of the Lessor.

12. The Lessee shall procure the necessary permits to meet the requirements of the Liquor Control Board of Ontario in the event any alcoholic beverages are served.

13. All displays, advertising posters, bill and promotional material used or located on the premises shall be approved by the Lessor for location and method of installation.

14. The Lessor and its agents shall have access to the premises at all reasonable times. The Lessees, personnel and the agents of the Lessor will conduct a prelease inspection prior to the commencement of the occupancy period in any rental year, and the lessee covenants and agrees to keep the premises in a good state of repair, and to restore the said premises to the state in which it was at the commencement of the occupancy period on or before the termination of the occupancy period in any rental year.

In the event the premises has been damaged or is not, in the opinion of the Lessor, in as good a state or condition as existed prior to the commencement of the occupancy period, the Lessor shall notify the Lessee of the details of default and in the event the Lessee fails to remedy the defects within thirty

(30) days or such extension as may be granted by the Lessor, the Lessor may proceed with such repair and charge the costs of such repairs as additional rent payable forthwith upon demand.

15. The agreement shall come into effect upon the passing of a by-law by the Town authorizing its execution and upon signatures by the Lessee.
16. This agreement amends an agreement dated the 1st day of May 1972, and an agreement dated December 14, 1982 and an agreement dated July 16, 1987 and an agreement dated October 28, 1991, an agreement dated March 25, 1996 and an agreement dated May 28, 2001 and an agreement dated May 23, 2006 and an agreement date June 23, 2014. In the event of a conflict between the terms hereof and the terms of the initial lease dated the 1st day of May 1972 this agreement shall govern.
17. The Lessee shall have the right to utilize the centre section of the Court House parking lot for a maximum of ten (10) weekdays at load-in and five (5) weekdays at load-out.
18. The Lessor and its agents shall at all times be in conformance with the Fire Code (Ontario regulation 730/81) in the areas outlined in yellow on Schedules “B” and “C” attached and the maximum occupancy load for the seating arrangement of the theatre shall never exceed 355 seats.

IN WITNESS WHEREOF the said Corporation of the Town of Niagara-on-the-Lake and Shaw Festival Theatre, Canada have hereunto affixed their corporate seals duly attested under the hands of their proper signing officers in that behalf.

THE CORPORATION OF THE
TOWN OF NIAGARA-ON-THE-LAKE

LORD MAYOR PATRICK DARTE

CLERK PETER TODD

SHAW FESTIVAL THEATRE, CANADA

TIM JENNINGS, EXECUTIVE DIRECTOR

MEMORANDUM OF UNDERSTANDING

B E T W E E N:

THE CORPORATION OF THE TOWN OF
NIAGARA-ON-THE-LAKE

- A N D -

SHAW FESTIVAL THEATRE, CANADA

The parties hereto hereby agree as follows:

That based on the rentals and limited occupancy contained in the lease dated July 16, 1987 the local assessment office has indicated that Shaw's occupancy shall not result in any taxes being levied on the occupied area. If the terms or conditions of the lease are amended in future and such amendments result in the levy of taxes the Town reserves the right to re-negotiate for payment of said taxes by Shaw.

Dated at Niagara-on-the-Lake this _____ day of _____,2018.

ON BEHALF OF THE CORPORATION
OF THE TOWN OF NIAGARA-ON-THE-LAKE

LORD MAYOR PATRICK DARTE

TOWN CLERK PETER TODD

ON BEHALF OF SHAW FESTIVAL THEATRE, CANADA

TIM JENNINGS, EXECUTIVE DIRECTOR