

ALL COMMON COUNCIL ACTIONS TAKEN AT THIS MEETING TO APPROVE EXPENDITURES AND CONTRACTS OR TO ACCEPT BIDS AND OTHER PROPOSALS REQUIRING THE EXPENDITURE OF CITY FUNDS ARE SUBJECT TO THE AVAILABILITY OF FUNDS

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*****SPECIAL MEETING*****

AGENDA

I. ROLL CALL

II. COMMON COUNCIL COMMITTEES

A. HEALTH AND PUBLIC SAFETY COMMITTEE

1. Authorize the Mayor, Harry W. Rilling, to execute a License Agreement between the City of Norwalk and BTC Norwalk Regent, LLC to use and occupy on a temporary basis the building located on 64 N. Main Street, Norwalk, CT 06854 for the purpose of administering COVID-19 vaccinations.

III. ADJOURNMENT



CITY OF NORWALK
Norwalk Health Department

To: Members of the Health and Public Safety Committee of the Common Council

From: Deanna D'Amore, Director of Health
Norwalk Health Department

Re: New COVID-19 Vaccination Clinic Location

Date: March 24, 2021

To date, the Norwalk Health Department has administered 6,900 doses of COVID-19 vaccine. We have been fortunate to offer vaccination clinics at several locations within Norwalk, including the Norwalk Senior Center, Brien McMahon High School, Norwalk High School, Norwalk Health Department, Grace Baptist Church, and Bethel AME Church. We strive to create easy access to the vaccine, especially in areas of the City that have been impacted the most from COVID-19. With that goal in mind, we would like to form a public-private partnership with Bow Tie Cinemas to administer vaccines at the SoNo Regent. We are thrilled and very grateful for their support. We look forward to working together to reduce COVID-19 related illnesses, hospitalizations, and deaths within our community.

The specific action that is requested is to:

Authorize the Mayor, Harry W. Rilling, to execute a License Agreement between the City of Norwalk and BTC Norwalk Regent, LLC to use and occupy on a temporary basis the building located on 64 N. Main Street, Norwalk, CT 06854 for the purpose of administering COVID-19 vaccinations.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "**Agreement**") made as of the ____ day of March 2021, by and between **BTC NORWALK REGENT, LLC** (hereinafter called "**Licensor**"), a Delaware limited liability company, having an office at 641 Danbury Road, Ridgefield, CT 06877 and **THE CITY OF NORWALK** (hereinafter called "**Licensee**"), having an office at 125 East Avenue, Norwalk, CT 06851.

W I T N E S S E T H:

WHEREAS, the parties hereto wish to enter into an agreement pursuant to which Licensee may use and occupy, on a temporary basis, certain premises (the "**Licensed Area**") within the building located at 64 N. Main Street, South Norwalk, Connecticut, (the "**Building**"), as more particularly described on Exhibit A attached hereto and made a part hereof.

NOW THEREFORE, in consideration of the premises set forth herein, the parties hereby agree as follows:

1. LICENSE AND LICENSE PERIOD

- (a) Subject to the terms and conditions as hereinafter set forth, Licensee shall have a non-transferable right and revocable license (the "**License**") to use and occupy the Licensed Area each Monday and Tuesday during the hours from 9:00 AM to 2:00 PM for the license period commencing on April 1, 2021 and terminating at 11:59 p.m. local time on June 30, 2021 (the "**License Period**"), unless sooner terminated by Licensor as permitted hereunder or unless extended by the mutual written agreement of the parties hereto.
- (b) Licensor may terminate this Agreement and revoke the License upon at least fourteen (14) days prior written notice, which notice may be given to Licensee at any time during the License Period. Upon the date set forth in such notice, this Agreement, the License and the License Period shall terminate, be revoked and come to an end as fully and completely as if such date was the date fixed for the expiration of this Agreement, the License and the License Period as set forth above. In such event, Licensee shall immediately vacate, quit and surrender possession of the Licensed Area in accordance with Section 8 of this Agreement.
- (c) **LICENSEE ACKNOWLEDGES AND AGREES THAT THE GRANT OF THE LICENSE IS A CONTRACTUAL RELATIONSHIP ONLY AND DOES NOT (I) CONSTITUTE A LEASEHOLD OR ANY OTHER REAL PROPERTY INTEREST IN OR TO THE LICENSED AREA, (II) CREATE ANY RELATIONSHIP OF LICENSOR AND LICENSEE, PRINCIPAL AND AGENT, PARTNERSHIP OR OF JOINT VENTURE BETWEEN LICENSOR AND LICENSEE, OR (III) VEST IN LICENSEE ANY ESTATE IN OR TO THE LICENSED AREA. LICENSEE ACKNOWLEDGES THAT ITS AGREEMENT TO TREAT THIS AGREEMENT AS A LICENSE FORMED A MATERIAL PART OF THE CONSIDERATION FOR LICENSOR'S AGREEMENT TO ENTER INTO THIS LICENSE AND THE AGREEMENT.**

2. LICENSEE FEES

- (a) Licensee shall pay to Licensor a fixed license fee of **ZERO DOLLARS (\$0.00)** ("**License Fee**"), throughout the License Period.

3. USE OF LICENSED AREA

- (a) It is understood and agreed that the Licensed Area shall be used for solely for the purpose of administering COVID-19 vaccinations in accordance with all applicable laws and regulations governing the administration of COVID-19 vaccinations (the "**Permitted Use**"), and for no other use or purpose whatsoever.
- (b) Licensee will, at its own expense, furnish and equip the Licensed Area in a good and workmanlike manner with furniture and movable fixtures in a manner acceptable to Licensor. At the conclusion of each instance of Licensee's use of the Licensed Area, Licensee shall store its furniture and moveable fixtures in a location in the Building designated by Licensor. Licensee shall not perform any alterations or install any signs of any kind or nature whatsoever at the Licensed Area or the Building, whether interior or exterior thereof, without the prior written consent of Licensor.

4. INSURANCE AND INDEMNIFICATION

- (a) During the entirety of the Term of this agreement including any extension thereof, Licensee shall maintain Comprehensive General Liability Insurance with limits acceptable to Licensor. Licensor and any other persons or parties designated by Licensor (including the ground lessor and its designees) shall be named as additional insureds in such Comprehensive General Liability Insurance policies and Licensee shall furnish Licensor with certificates of such insurance as evidence of all insurance required hereunder prior to the commencement of the License.
- (b) Licensee shall maintain Worker's Compensation Insurance coverage in such amounts as is required by law.
- (c) Licensee hereby indemnifies and agrees to save harmless Licensor, from and against any and all third-party Claims, which (y) arise from or are in connection with any negligent act or omission of Licensee, its agents, contractors or employees in the performance of or exercise of its rights under this Agreement, except and to the extent caused by the negligence acts or omissions of Licensor, its agents, contractors or employees, or (z) arise from injury to person or property or loss of life sustained in or about the Licenses Area or as a result of activities of Licensee, except and to the extent caused by the negligence acts or omissions of Licensor, its agents, contractors or employees. Licensee shall pay, satisfy and discharge any judgments, order and decrees which may be recovered against Licensor in connection with the foregoing. Licensee shall defend any actions, suits and proceedings, which may be brought against Licensor, with respect to the foregoing or in which they may be impleaded by counsel mutually and reasonably approved by Licensor and Licensee. "Claims" means any claims, suits, proceedings, actions, causes of action, responsibility, liability, demands,

judgments, and executions, whether threatened or pending, including but not limited to reasonable attorney's fees and expenses, as and when incurred.

5. CONDITION & MAINTENANCE OF THE LICENSED AREA

- (a) Except as expressly set forth herein, Licensee acknowledges and agrees that is has inspected the Licensed Area and shall accept and use the Licensed Area in "As Is Where Is" condition without any representations or warranties in respect of such condition. Licensor shall not be required to perform any work or furnish any services or materials to the Licensed Area or the Building or in connection with this Agreement.
- (b) Licensee shall keep the Licensed Area, including equipment, facilities and fixtures therein, and the areas immediately adjacent thereto, at Licensee's expense, neat, clean and in good order, repair and condition and shall promptly repair, at Licensee's sole cost and expense, any damage to the Licensed Area or the Building caused by or resulting from Licensee's use and occupancy of the Licensed Area.
- (c) Licensee, at Licensee's sole cost and expense, shall engage commercial cleaning contractor, *Misticlean*, to clean and disinfect the Licensed Area at the conclusion of each day in which Licensee occupies the Licensed Area. Licensor shall have the right to substitute a new cleaning service vendor in place of *Misticlean* as the cleaning service to be engaged by Licensee.

6. ASSIGNMENT AND SUB-LICENSING

- (a) This Agreement and the grant of the License is personal to the named Licensee and may not be transferred or assigned, by law or otherwise. Licensee shall not, by operation of law or otherwise, assign, sell, mortgage, pledge or in any manner transfer this Agreement, the License or any interest herein or sub-license the Licensed Area or any part or parts thereof, or grant any concession or sub-license or otherwise permit the use of all or any part thereof by anyone without the prior written consent of Licensor, which consent may be granted or withheld in Licensor's sole and absolute discretion.

7. DEFAULT

- (a) If Licensee shall make an assignment for the benefit of creditors or file a voluntary or have an involuntary petition in bankruptcy filed or be adjudicated a bankrupt or insolvent, or if any receiver be appointed for all or any portion of Licensee's property, or if Licensee attempts to assign this Agreement or permits any other person, firm or corporation to conduct its business hereunder, or if Licensee shall fail to perform any of the terms or conditions of this Agreement and such performance shall remain uncured for a period of five (5) days after written notice thereof by Licensor to Licensee, Licensor, in addition to all other remedies to which it may be entitled in law and equity, may terminate this Agreement by giving to Licensee three (3) days' notice of its intention so to do and upon the date so specified, this Agreement, the License and the License Period shall terminate, be revoked and come to an end and Licensee shall immediately quit, vacate and surrender to Licensor the Licensed Area in

accordance with the terms of this Agreement, including, without limitation, Section 9, and Licensee shall have no further rights under this Agreement.

8. SURRENDER

- (a) Upon the expiration or other termination of this Agreement, Licensee shall quit and surrender to Licensors the Licensed Area in good order and condition, ordinary wear and tear and damage by fire or other casualty excepted, and at Licensee's expense, shall remove any and all property of Licensee, and shall repair all damages to the Licensed Area and Building caused by such removal and restore same to the condition in which they were prior to the installation of the articles so removed.

9. IMPOSITIONS; LIENS

- (a) Licensee shall pay when due, all assessments, excises, levies, license and permit fees and other governmental charges, general and special, ordinary and extraordinary, unforeseen and foreseen, of any kind and nature whatsoever which at any time prior to or during the License Period may be assessed, levied, confirmed, imposed upon, or grow or become due and payable out of or in respect of or become a lien on, the Licensed Area or any part thereof or other portions of the Building, as the result of or in connection with the use of the Licensed Area by Licensee.

10. RISK OF LOSS

- (a) All property (whether real or personal) at any time located in or upon the Licensed Area shall be at the risk of Licensee only, and neither Licensors nor Licensors's agents or affiliates shall become liable for any defects, latent or otherwise, in any buildings or improvements in the Building or any of the equipment, machinery, utilities, appliances, or apparatus therein, or for any damage to said property or to Licensee, or to any other person or property, caused by water leakage, steam, sewerage, gas or odors or for any damage whatsoever done or occasioned by or from any boiler, plumbing, gas, water, steam or other pipes, or any fixtures or equipment or appurtenances whatsoever, or for any damage arising from any act or neglect or arising by reason of the use of, or any defect in, the Licensed Area or any of the fixtures, equipment or appurtenances therein contained, or for any theft of any of said property, or by the act or neglect of any other person or caused in any other manner whatsoever.

11. EXCULPATION OF LICENSOR

- (a) Notwithstanding anything to the contrary herein, neither Licensors, nor any director, officer, trustee or direct or indirect beneficial owner of Licensors or of any parent or other affiliate of Licensors shall have any personal liability with respect to any provision of this Agreement, or any obligation or liability arising hereunder or in connection herewith and none of their assets (other than their interest in the Licensed Area) shall be subject to levy, execution or other judicial process for the satisfaction of Licensee's claims. Licensee shall look solely to the equity of the then owner of the Licensed Area in the Licensed Area (or if the interest of the

Licensor is a leasehold interest, Licensor shall look solely to such leasehold interest) for the satisfaction of any remedies of Licensee in the event of a breach by the Licensor of any of its obligations. Such exculpation of liability shall be absolute and without any exception whatsoever. This Section shall survive any termination of this Agreement.

12. MISCELLANEOUS

- (a) If any terms or provisions of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application thereof to other persons or circumstances shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. This Agreement shall be construed and enforced in accordance with the substantive laws of the State in which the Licensed Area is located.
- (b) **LICENSOR AND LICENSEE HEREBY MUTUALLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THEM AGAINST THE OTHER IN ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE RELATIONSHIP OF LICENSOR AND LICENSEE, LICENSEE'S USE OR OCCUPANCY OF THE LICENSED AREA, AND/OR ANY CLAIM OF INJURY OR DAMAGE.**
- (c) This Agreement constitutes the entire agreement between the parties and all representations relating to the Licensed Area and to this Agreement are contained herein.
- (d) Except as herein otherwise provided, this Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective successors and permitted assigns.
- (e) This Agreement may be executed in several counterparts, but the counterparts shall constitute but one and the same instrument. Counterparts may be delivered electronically to each party and shall have the full force and effect as an original counterpart of this Agreement.
- (f) The License and this Agreement is subject and subordinate to any mortgage, deed of trust, ground lease or other lien now or subsequently arising upon the Building or the land on which it is located and to renewals, modifications, refinancings and extensions thereof (each holder of which is a "Mortgagee").
- (g) **IN NO EVENT SHALL LICENSOR EVER BE LIABLE TO LICENSEE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES OF ANY KIND, OR LOST PROFITS, REGARDLESS OF WHEN THE CLAIM IS MADE, REGARDLESS OF WHETHER THE CLAIM IS BASED UPON CONTRACT, TORT, STATUTE, STRICT LIABILITY, WARRANTY OR ANY OTHER BASIS, AND REGARDLESS OF WHETHER LICENSOR OR LICENSEE WAS ADVISED OR OTHERWISE KNEW OF THE POSSIBILITY OF SUCH DAMAGES. LICENSOR'S LIABILITY SHALL BE LIMITED TO ITS OWN NEGLIGENT ACTS, ERRORS, OR OMISSIONS, RECKLESSNESS, OR**

WILLFUL MISCONDUCT. BEFORE FILING SUIT FOR AN ALLEGED DEFAULT BY LICENSOR, LICENSEE SHALL GIVE LICENSOR AND ANY MORTGAGEE(S) WHOM LICENSEE HAS BEEN NOTIFIED HOLD MORTGAGES, NOTICE AND REASONABLE TIME TO CURE THE ALLEGED DEFAULT.

13. NOTICES

- (a) Any notice or demand which under the terms of this Agreement must or may be given or made by the parties hereto shall be in writing and shall be given or made by mailing the same by registered or certified mail, return receipt requested, or by overnight delivery by a nationally recognized carrier, addressed as follows:

If to Licensor: BTC Norwalk Regent, LLC
 C/O Bow Tie Cinemas
 641 Danbury Road
 Ridgefield, CT 06877
 Attention: Chief Executive Officer

If to Licensee: Health Department, City of Norwalk
 137 East Avenue
 Norwalk, CT 06851
 Attention: Deanna D'Amore

With copy to: The City of Norwalk
 125 East Avenue
 Norwalk, CT 06851
 Attention: Law Department

- (b) Any party may designate by notice in writing a new or other address to which such notice or demand shall thereafter be so given, made or mailed. Any notice sent herein by mail, as aforesaid, shall be deemed given when received or refused.

14. ACCESS

- (a) During any time before and after the commencement of the License Period, Licensor and/or any agent or designee of Licensor may enter upon the Licensed Area, any portion thereof and any appurtenances thereto for any purpose whatsoever in the Licensor's sole and absolute discretion.

15. BROKER

- (a) Licensee represents and warrants to Licensor that no broker or person is or will be entitled to any commission for bringing about this transaction. Licensee hereby agrees to indemnify and hold Licensor harmless of and from all loss, cost, liability and expense, including, without limitation, reasonable counsel fees, arising from or connected with any claim made by any broker or person for

commission, brokerage fees or other compensation in connection with this Agreement.

16. FORCE MAJEURE

- (a) In the event Licensor is prevented or delayed from providing access to the Licensed area or furnishing any services or performing any other covenant or duty to be performed on Licensor's part, by reason of Force Majeure or by reason of the negligence or willful misconduct of Licensee or its agents, employees, customers or contractors, then, except as expressly otherwise provided in this Agreement, Licensor shall not be liable to Licensee therefor, nor shall the same give rise to a claim in Licensee's favor that such failure constitutes actual or constructive, total or partial, eviction from the Licensed Premises. "Force Majeure" shall mean any prevention, delay or stoppage due to governmental regulation, epidemics, pandemics (including but not limited to the COVID-19 pandemic), strikes, lockouts, acts of God, acts of war, terrorist acts, civil commotions, unusual scarcity of or inability to obtain labor or materials, labor difficulties, casualty (including the time necessary to repair any damage caused thereby), delays caused by public utility companies or public entities providing electricity, gas, water and/or sewer services to the Building or the land on which the Building is located, or other causes reasonably beyond a party's control.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date and year first above written.

LICENSOR:

BTC NORWALK REGENT, LLC

By: 1530 Management LLC, Its Manager

By: _____
Charles B. Moss, III, Manager
Duly Authorized

LICENSEE:

CITY OF NORWALK

By: _____
Harry W. Rilling
Its Mayor
Duly Authorized

EXHIBIT A
"LICENSED AREA"



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III. ADJOURNMENT



CITY OF NORWALK
Norwalk Health Department

To: Members of the Health and Public Safety Committee of the Common Council

From: Deanna D'Amore, Director of Health
Norwalk Health Department

Re: New COVID-19 Vaccination Clinic Location

Date: March 24, 2021

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W I T N E S S E T H:

WHEREAS, the parties hereto wish to enter into an agreement pursuant to which Licensee may use and occupy, on a temporary basis, certain premises (the "**Licensed Area**") within the building located at 64 N. Main Street, South Norwalk, Connecticut, (the "**Building**"), as more particularly described on Exhibit A attached hereto and made a part hereof.

NOW THEREFORE, in consideration of the premises set forth herein, the parties hereby agree as follows:

1. LICENSE AND LICENSE PERIOD

- (a) Subject to the terms and conditions as hereinafter set forth, Licensee shall have a non-transferable right and revocable license (the "**License**") to use and occupy the Licensed Area each Monday and Tuesday during the hours from 9:00 AM to 2:00 PM for the license period commencing on April 1, 2021 and terminating at 11:59 p.m. local time on June 30, 2021 (the "**License Period**"), unless sooner terminated by Licensor as permitted hereunder or unless extended by the mutual written agreement of the parties hereto.
- (b) Licensor may terminate this Agreement and revoke the License upon at least fourteen (14) days prior written notice, which notice may be given to Licensee at any time during the License Period. Upon the date set forth in such notice, this Agreement, the License and the License Period shall terminate, be revoked and come to an end as fully and completely as if such date was the date fixed for the expiration of this Agreement, the License and the License Period as set forth above. In such event, Licensee shall immediately vacate, quit and surrender possession of the Licensed Area in accordance with Section 8 of this Agreement.
- (c) **LICENSEE ACKNOWLEDGES AND AGREES THAT THE GRANT OF THE LICENSE IS A CONTRACTUAL RELATIONSHIP ONLY AND DOES NOT (I) CONSTITUTE A LEASEHOLD OR ANY OTHER REAL PROPERTY INTEREST IN OR TO THE LICENSED AREA, (II) CREATE ANY RELATIONSHIP OF LICENSOR AND LICENSEE, PRINCIPAL AND AGENT, PARTNERSHIP OR OF JOINT VENTURE BETWEEN LICENSOR AND LICENSEE, OR (III) VEST IN LICENSEE ANY ESTATE IN OR TO THE LICENSED AREA. LICENSEE ACKNOWLEDGES THAT ITS AGREEMENT TO TREAT THIS AGREEMENT AS A LICENSE FORMED A MATERIAL PART OF THE CONSIDERATION FOR LICENSOR'S AGREEMENT TO ENTER INTO THIS LICENSE AND THE AGREEMENT.**

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3. USE OF LICENSED AREA

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- (b) Licensee shall maintain Worker's Compensation Insurance coverage in such amounts as is required by law.
- (c) Licensee hereby indemnifies and agrees to save harmless Licensor, from and against any and all third-party Claims, which (y) arise from or are in connection with any negligent act or omission of Licensee, its agents, contractors or employees in the performance of or exercise of its rights under this Agreement, except and to the extent caused by the negligence acts or omissions of Licensor, its agents, contractors or employees, or (z) arise from injury to person or property or loss of life sustained in or about the Licenses Area or as a result of activities of Licensee, except and to the extent caused by the negligence acts or omissions of Licensor, its agents, contractors or employees. Licensee shall pay, satisfy and discharge any judgments, order and decrees which may be recovered against Licensor in connection with the foregoing. Licensee shall defend any actions, suits and proceedings, which may be brought against Licensor, with respect to the foregoing or in which they may be impleaded by counsel mutually and reasonably approved by Licensor and Licensee. "Claims" means any claims, suits, proceedings, actions, causes of action, responsibility, liability, demands,

judgments, and executions, whether threatened or pending, including but not limited to reasonable attorney's fees and expenses, as and when incurred.

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- (a) Except as expressly set forth herein, Licensee acknowledges and agrees that is has inspected the Licensed Area and shall accept and use the Licensed Area in "As Is Where Is" condition without any representations or warranties in respect of such condition. Licensors shall not be required to perform any work or furnish any services or materials to the Licensed Area or the Building or in connection with this Agreement.
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6. ASSIGNMENT AND SUB-LICENSING

- (a) This Agreement and the grant of the License is personal to the named Licensee and may not be transferred or assigned, by law or otherwise. Licensee shall not, by operation of law or otherwise, assign, sell, mortgage, pledge or in any manner transfer this Agreement, the License or any interest herein or sub-license the Licensed Area or any part or parts thereof, or grant any concession or sub-license or otherwise permit the use of all or any part thereof by anyone without the prior written consent of Licensors, which consent may be granted or withheld in Licensors's sole and absolute discretion.

7. DEFAULT

- (a) If Licensee shall make an assignment for the benefit of creditors or file a voluntary or have an involuntary petition in bankruptcy filed or be adjudicated a bankrupt or insolvent, or if any receiver be appointed for all or any portion of Licensee's property, or if Licensee attempts to assign this Agreement or permits any other person, firm or corporation to conduct its business hereunder, or if Licensee shall fail to perform any of the terms or conditions of this Agreement and such performance shall remain uncured for a period of five (5) days after written notice thereof by Licensors to Licensee, Licensors, in addition to all other remedies to which it may be entitled in law and equity, may terminate this Agreement by giving to Licensee three (3) days' notice of its intention so to do and upon the date so specified, this Agreement, the License and the License Period shall terminate, be revoked and come to an end and Licensee shall immediately quit, vacate and surrender to Licensors the Licensed Area in

accordance with the terms of this Agreement, including, without limitation, Section 9, and Licensee shall have no further rights under this Agreement.

8. SURRENDER

- (a) Upon the expiration or other termination of this Agreement, Licensee shall quit and surrender to Licensors the Licensed Area in good order and condition, ordinary wear and tear and damage by fire or other casualty excepted, and at Licensee's expense, shall remove any and all property of Licensee, and shall repair all damages to the Licensed Area and Building caused by such removal and restore same to the condition in which they were prior to the installation of the articles so removed.

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- (a) Licensee shall pay when due, all assessments, excises, levies, license and permit fees and other governmental charges, general and special, ordinary and extraordinary, unforeseen and foreseen, of any kind and nature whatsoever which at any time prior to or during the License Period may be assessed, levied, confirmed, imposed upon, or grow or become due and payable out of or in respect of or become a lien on, the Licensed Area or any part thereof or other portions of the Building, as the result of or in connection with the use of the Licensed Area by Licensee.

10. RISK OF LOSS

- (a) All property (whether real or personal) at any time located in or upon the Licensed Area shall be at the risk of Licensee only, and neither Licensors nor Licensors's agents or affiliates shall become liable for any defects, latent or otherwise, in any buildings or improvements in the Building or any of the equipment, machinery, utilities, appliances, or apparatus therein, or for any damage to said property or to Licensee, or to any other person or property, caused by water leakage, steam, sewerage, gas or odors or for any damage whatsoever done or occasioned by or from any boiler, plumbing, gas, water, steam or other pipes, or any fixtures or equipment or appurtenances whatsoever, or for any damage arising from any act or neglect or arising by reason of the use of, or any defect in, the Licensed Area or any of the fixtures, equipment or appurtenances therein contained, or for any theft of any of said property, or by the act or neglect of any other person or caused in any other manner whatsoever.

11. EXCULPATION OF LICENSOR

- (a) Notwithstanding anything to the contrary herein, neither Licensors, nor any director, officer, trustee or direct or indirect beneficial owner of Licensors or of any parent or other affiliate of Licensors shall have any personal liability with respect to any provision of this Agreement, or any obligation or liability arising hereunder or in connection herewith and none of their assets (other than their interest in the Licensed Area) shall be subject to levy, execution or other judicial process for the satisfaction of Licensee's claims. Licensee shall look solely to the equity of the then owner of the Licensed Area in the Licensed Area (or if the interest of the

Licensor is a leasehold interest, Licensor shall look solely to such leasehold interest) for the satisfaction of any remedies of Licensee in the event of a breach by the Licensor of any of its obligations. Such exculpation of liability shall be absolute and without any exception whatsoever. This Section shall survive any termination of this Agreement.

12. MISCELLANEOUS

- (a) If any terms or provisions of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application thereof to other persons or circumstances shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. This Agreement shall be construed and enforced in accordance with the substantive laws of the State in which the Licensed Area is located.
- (b) **LICENSOR AND LICENSEE HEREBY MUTUALLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THEM AGAINST THE OTHER IN ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE RELATIONSHIP OF LICENSOR AND LICENSEE, LICENSEE'S USE OR OCCUPANCY OF THE LICENSED AREA, AND/OR ANY CLAIM OF INJURY OR DAMAGE.**
- (c) This Agreement constitutes the entire agreement between the parties and all representations relating to the Licensed Area and to this Agreement are contained herein.
- (d) Except as herein otherwise provided, this Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective successors and permitted assigns.
- (e) This Agreement may be executed in several counterparts, but the counterparts shall constitute but one and the same instrument. Counterparts may be delivered electronically to each party and shall have the full force and effect as an original counterpart of this Agreement.
- (f) The License and this Agreement is subject and subordinate to any mortgage, deed of trust, ground lease or other lien now or subsequently arising upon the Building or the land on which it is located and to renewals, modifications, refinancings and extensions thereof (each holder of which is a "Mortgagee").
- (g) **IN NO EVENT SHALL LICENSOR EVER BE LIABLE TO LICENSEE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES OF ANY KIND, OR LOST PROFITS, REGARDLESS OF WHEN THE CLAIM IS MADE, REGARDLESS OF WHETHER THE CLAIM IS BASED UPON CONTRACT, TORT, STATUTE, STRICT LIABILITY, WARRANTY OR ANY OTHER BASIS, AND REGARDLESS OF WHETHER LICENSOR OR LICENSEE WAS ADVISED OR OTHERWISE KNEW OF THE POSSIBILITY OF SUCH DAMAGES. LICENSOR'S LIABILITY SHALL BE LIMITED TO ITS OWN NEGLIGENT ACTS, ERRORS, OR OMISSIONS, RECKLESSNESS, OR**

WILLFUL MISCONDUCT. BEFORE FILING SUIT FOR AN ALLEGED DEFAULT BY LICENSOR, LICENSEE SHALL GIVE LICENSOR AND ANY MORTGAGEE(S) WHOM LICENSEE HAS BEEN NOTIFIED HOLD MORTGAGES, NOTICE AND REASONABLE TIME TO CURE THE ALLEGED DEFAULT.

13. NOTICES

- (a) Any notice or demand which under the terms of this Agreement must or may be given or made by the parties hereto shall be in writing and shall be given or made by mailing the same by registered or certified mail, return receipt requested, or by overnight delivery by a nationally recognized carrier, addressed as follows:

If to Licensor: BTC Norwalk Regent, LLC
 C/O Bow Tie Cinemas
 641 Danbury Road
 Ridgefield, CT 06877
 Attention: Chief Executive Officer

If to Licensee: Health Department, City of Norwalk
 137 East Avenue
 Norwalk, CT 06851
 Attention: Deanna D'Amore

With copy to: The City of Norwalk
 125 East Avenue
 Norwalk, CT 06851
 Attention: Law Department

- (b) Any party may designate by notice in writing a new or other address to which such notice or demand shall thereafter be so given, made or mailed. Any notice sent herein by mail, as aforesaid, shall be deemed given when received or refused.

14. ACCESS

- (a) During any time before and after the commencement of the License Period, Licensor and/or any agent or designee of Licensor may enter upon the Licensed Area, any portion thereof and any appurtenances thereto for any purpose whatsoever in the Licensor's sole and absolute discretion.

15. BROKER

- (a) Licensee represents and warrants to Licensor that no broker or person is or will be entitled to any commission for bringing about this transaction. Licensee hereby agrees to indemnify and hold Licensor harmless of and from all loss, cost, liability and expense, including, without limitation, reasonable counsel fees, arising from or connected with any claim made by any broker or person for

commission, brokerage fees or other compensation in connection with this Agreement.

16. FORCE MAJEURE

- (a) In the event Licensor is prevented or delayed from providing access to the Licensed area or furnishing any services or performing any other covenant or duty to be performed on Licensor's part, by reason of Force Majeure or by reason of the negligence or willful misconduct of Licensee or its agents, employees, customers or contractors, then, except as expressly otherwise provided in this Agreement, Licensor shall not be liable to Licensee therefor, nor shall the same give rise to a claim in Licensee's favor that such failure constitutes actual or constructive, total or partial, eviction from the Licensed Premises. "Force Majeure" shall mean any prevention, delay or stoppage due to governmental regulation, epidemics, pandemics (including but not limited to the COVID-19 pandemic), strikes, lockouts, acts of God, acts of war, terrorist acts, civil commotions, unusual scarcity of or inability to obtain labor or materials, labor difficulties, casualty (including the time necessary to repair any damage caused thereby), delays caused by public utility companies or public entities providing electricity, gas, water and/or sewer services to the Building or the land on which the Building is located, or other causes reasonably beyond a party's control.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date and year first above written.

LICENSOR:

BTC NORWALK REGENT, LLC

By: 1530 Management LLC, Its Manager

By: _____
Charles B. Moss, III, Manager
Duly Authorized

LICENSEE:

CITY OF NORWALK

By: _____
Harry W. Rilling
Its Mayor
Duly Authorized

EXHIBIT A
"LICENSED AREA"

