

## **LICENSE**

### **I. PARTIES**

A. **CITY OF CONCORD**, a municipal corporation duly existing under the laws of the State of New Hampshire and having a usual place of business at 41 Green Street, Concord, New Hampshire 03301 (“Licensor”).

B. **CCA NORTH CORP.**, a nonprofit corporation in the State of New Hampshire, having a principle place of business at 44 South Main Street, Concord, New Hampshire 03101 (“Licensee”).

C. Licensor and Licensee are collectively referred to as the “Parties”.

### **II. PURPOSE**

The purpose of this License is for the Licensor to authorize Licensee the right to maintain a marquee sign which extends into and over the right-of-way at 16-18 South Main Street, Concord, New Hampshire (“Licensed Area”).

### **III. TERM**

The term of this License shall commence on or after \_\_\_\_\_, and shall remain in effect for ten (10) years subject to the termination conditions set forth under sub-section VII.

### **IV. USE OF LICENSED AREA**

In accordance with applicable local ordinances; and state and federal laws, rules, and regulations, Licensor hereby grants to Licensee a License to maintain a marquee sign within the Licensed Area.

The location of the marquee sign shall be as shown on the plans prepared by Dennis Mire, P.A., entitled “New Concord Theatre 16-18 South Main Street, Concord, New Hampshire” dated April 24, 2018 and on file in the \_\_\_\_\_, which by reference is made a part of this License (“Licensed Area”).

Licensee shall obtain all required City permits and approvals for said marquee sign. Said permits and approvals shall include, but not be limited to those that may be required from the Zoning Board of Adjustment, City Architectural Design Review Committee, Planning Board, and Code Administration Office.

Pursuant to RSA 72:23, I(b), Licensee has an obligation to pay real and personal property taxes for its use and occupancy of the Licensed Area. The failure of the Licensee to pay the duly assessed personal and real estate taxes when due shall be cause to terminate said License by the Licensor.

## **V. MAINTENANCE**

Licensee shall be solely responsible for any and all damages that may occur to the City's property, or abutting properties, as a result of the marquee sign. Licensee shall repair any and all damage to the City's property and/or abutting properties that may result from installation and/or maintenance of the marquee sign. All repairs shall be completed to the sole satisfaction of aggrieved property owners.

Any and all maintenance work on the marquee sign shall be at Licensee's sole cost and expense. Any such maintenance shall be coordinated with the City Engineer prior to commencement.

Licensee shall keep the right-of-way in good condition and repair and safe for public travel and use to the satisfaction of Licensors.

## **VI. RENEWAL**

The Licensors, may at its sole option, without returning to the City Council for approval, extend the Term of the License, on the same terms and conditions set forth herein, or upon additional terms and conditions as the Licensors may solely determine, for an additional ten (10) years (the "Extension Term"), subject to the following: (i) the Licensee shall give the Licensors ninety (90) days prior written notice to the Licensors of its intent to extend the License unless this License has been earlier terminated; and (ii) following said notice, the Licensors may, at the Licensee's expense, inspect the marquee sign to determine whether the marquee sign is in compliance with the terms of this License Agreement. If the Licensors does not extend the Term of the License, the Licensors shall provide written notice to the Licensee, which shall, within one hundred and eighty days (180) of the final Term of the License, remove the marquee sign from the Licensed Area.

## **VII. TERMINATION**

Either party may terminate this License at any times and for any reason with thirty (30) days written notice to the non-terminating party. In the event of termination, the Licensee shall immediately, but no more than ninety (90) days following notice, at its sole expense, remove the marquee sign from the Licensed Area.

## **VIII. ASSIGNABILITY**

This License shall run with the land for the Term hereof. Licensee may assign or otherwise transfer this License upon the Licensors's written consent, which shall not be unreasonably withheld or delayed.

## **IX. INSURANCE**

Licensee shall, during the term of this License, at its sole cost and expense, shall carry and maintain the following types of insurance which shall name the City as “Additionally Insured”. The Insurance shall be as follows:

Certificate of Liability Insurance:

- General Liability Insurance in the Aggregate of Two (2) Million Dollars.
- Each Occurrence of Injury One (1) Million Dollars.
- Medical Expense (any one person)

The failure to maintain such insurance by the Licensee shall be grounds for the City to terminate this License.

## **X. INDEMNIFICATION**

Licensee shall defend, indemnify and hold harmless Licensor and its officials, agents and employees (collectively, the “*Indemnified Parties*”), from and against all loss, damage, expense, liability, and other claims, including court costs and reasonable attorneys’ fees (collectively, “*Liabilities*”) resulting from any third party actions relating to the breach of any representation set forth in this License and from injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Licensee (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing herein shall require the Licensee to indemnify the Indemnified Parties for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Licensor. Additionally, to the fullest extent permitted by law, no official, employee, agent, or representative of the Licensor shall be individually or personally liable for any obligation or liability of Licensee under this License.

Further, Licensee agrees that the Licensor, its agencies and their employees, agents, and representatives shall not incur any legal liability whatsoever to Licensee for any damage with in the Licensed Area or to any other property or employee of Licensee or to any other person or entity hired by or affiliated with Licensee resulting from or arising out of any maintenance and use of the marquee sign.

## **XI. COMPLIANCE WITH LAW**

Licensee shall use, possess, maintain, repair, and replace said Licensed Area, and any improvements to the marquee sign, in compliance with all applicable federal, state, and local laws, codes, ordinances, statutes, rules, and regulations, and in accordance with any and all federal, state, and local permits and approvals.

## **XII. NOTICES**

Any notice or other communication required by this License Agreement will be deemed to have been duly given, if deposited in the U.S. Mail, postage prepaid, and addressed to the other party at the address set forth in the identification of the parties in this Agreement.

## **XIII. DISPUTES**

The Parties hereby submit to the jurisdiction of the courts of the State of New Hampshire and the courts from which an appeal from such trial venue may be taken or other relief may be sought for purposes of any action or proceeding arising out of this License or any related agreement, and further waive any and all objections they may have as to venue in such courts and waive all rights to bring any such action or proceeding before any other court or tribunal. All legal actions taken by the Parties shall be commenced in Merrimack County New Hampshire Superior Court.

## **XIV. NO ORAL WAIVER, MODIFICATION, OR TERMINATION**

This License may not be changed, modified, waived, discharged, or terminated orally, but only by an instrument in writing signed by each of the Parties hereto or by the party against which enforcement is sought. Any change, modification or amendment, which requires the consent or approval of a Governmental Authority, shall be effective only upon receipt of such approval.

## **XV. GOVERNING LAW**

This License shall in all respects be governed by, and construed and enforced in accordance with, the laws of the State of New Hampshire.

## **XVI. SEVERABILITY**

If any term or provision of this License or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this License, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this License shall be valid and be enforced to the fullest extent permitted by law.

## **XVII. NO THIRD PARTY BENEFICIARIES**

This License is solely for the benefit of the Parties hereto and no right or cause of action shall accrue by reason hereof for the benefit of any third party not a party hereto.

## **XVIII. CAPTIONS**

The captions and headings throughout this License are for convenience of reference only and the words contained therein shall in no way be held or deemed to define, limit, explain, modify, amplify, or add to the interpretation, construction or meaning of any provisions of, or the scope or intent of this License, nor in any way affect this License, and shall have no legal effect.

## **XIX. ENTIRE AGREEMENT**

This License embodies the entire agreement and understanding between the Parties hereto relating to the subject matter hereof and thereof, and supersedes all prior agreements and understandings between the Parties.

## **XVII. AUTHORITY OF LICENSOR**

Authority for the City Manager to enter in this License Agreement on behalf of the Licensor was granted by the City Council on \_\_\_\_\_, 2019, and is hereby incorporated into this Agreement by reference.

**CITY OF CONCORD**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Thomas J. Aspell, Jr.  
City Manager

**CCA NORTH CORP.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Title)