

Smith, Costello  
& Crawford

ATTORNEYS AT LAW

8-E

CITY OF PEABODY

2017 AUG 10 P 1:52

CITY CLERK

August 10, 2017

Timothy Spanos, City Clerk  
Office of the City Clerk  
Peabody City Hall  
24 Lowell Street  
Peabody, MA 01960


Dear Mr. Spanos,

This office represents Phytotherapy, Inc. ("Phytotherapy"), a Massachusetts non-profit corporation seeking to operate a registered marijuana dispensary ("RMD") in accordance with Chapter 369 of the Acts of 2012, An Act for the Humanitarian Medical Use of Marijuana and Section 6.13 of the Peabody Zoning Ordinance. Phytotherapy wishes to site a dispensing-only facility in the City of Peabody at 25 Newbury Street, and therefore Phytotherapy requests a letter of support or non-opposition from the Peabody City Council or the Honorable Mayor Edward A. Bettencourt, Jr. The Massachusetts Department of Public Health's template for such a letter is attached to this letter.

Also, enclosed herewith for the City Council's review are examples of existing Host Community Agreements executed between RMDs and municipalities in the Commonwealth in connection with local siting, as well as a draft Host Community Agreement between Phytotherapy and the City of Peabody. It is important to note that Chapter 55 of the Acts of 2017, recently signed by the Governor, puts in place requirements and restrictions for such agreements. Specifically, Host Community Agreements are now required between each RMD and its host municipality, payments under such agreements may not exceed 3% of gross revenue, and may not have a term of longer than five years.

Please arrange for a presentation by Phytotherapy in support of its request for a letter of support or non-opposition to be placed on the agenda at an upcoming City Council meeting. Please do not hesitate to contact me with any questions regarding this matter.

Respectfully,



James Smith, Esq.

Application \_\_\_ of \_\_\_

Applicant Non-Profit Corporation \_\_\_\_\_

**SECTION C: LETTER OF SUPPORT OR NON-OPPOSITION**

Attach a letter of support or non-opposition, using one of the templates below (Option A or B), signed by the local municipality in which the applicant intends to locate a dispensary. The applicant may choose to use either template, in consultation with the host community. If the applicant is proposing a dispensary location and a separate cultivation/processing location, the applicant must submit a letter of support or non-opposition from both municipalities. This letter may be signed by (a) the Chief Executive Officer/Chief Administrative Officer, as appropriate, for the desired municipality; or (b) the City Council, Board of Alderman, or Board of Selectmen for the desired municipality. The letter of support or non-opposition must contain the language as provided below. The letter must be printed on the municipality's official letterhead. The letter must be dated on or after the date that the applicant's Application of Intent was received by the Department.

**Template Option A: Use this language if signatory is a Chief Executive Officer/Chief Administrative Officer**

I, [Name of person], do hereby provide [support/non-opposition] to [name of non-profit organization] to operate a Registered Marijuana Dispensary ("RMD") in [name of city or town].

I have verified with the appropriate local officials that the proposed RMD facility is located in a zoning district that allows such use by right or pursuant to local permitting.

\_\_\_\_\_  
Name and Title of Individual

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Template Option B: Use this language if signatory is acting on behalf of a City Council, Board of Alderman, or Board of Selectman**

The [name of council/board], does hereby provide [support/non-opposition] to [name of non-profit organization] to operate a Registered Marijuana Dispensary in [name of city or town]. I have been authorized to provide this letter on behalf of the [name of council/board] by a vote taken at a duly noticed meeting held on [date].

The [name of council/board] has verified with the appropriate local officials that the proposed RMD facility is located in a zoning district that allows such use by right or pursuant to local permitting.

\_\_\_\_\_  
Name and Title of Individual (or person authorized to act on behalf of council or board) (add more lines for names if needed)

\_\_\_\_\_  
Signature (add more lines for signatures if needed)

\_\_\_\_\_  
Date

Information on this page has been reviewed by the applicant, and where provided by the applicant, is accurate and complete, as indicated by the initials of the authorized signatory here: \_\_\_\_\_

**PHYTOTHERAPY, INC.'S PROPOSED HOST COMMUNITY AGREEMENT FOR THE SITING OF A REGISTERED MARIJUANA DISPENSARY IN THE [MUNICIPALITY NAME]**

THIS HOST COMMUNITY AGREEMENT (“Agreement”) is entered into pursuant to M.G.L. c. 44, §53A and M.G.L. c. 94G, § 3 this 10 day of August, 2017 by and between Phytotherapy, Inc. a Massachusetts not-for-profit corporation with a principal office address of 25 Newbury Street, Peabody, MA (“OPERATOR”) and the City of Peabody, a Massachusetts municipal corporation with a principal address of 24 Lowell Street, Peabody, MA (“CITY”).

WHEREAS, OPERATOR wishes to locate a Registered Marijuana Dispensary (“RMD”), also known as a Medical Marijuana Treatment Center, in CITY, in accordance with regulations issued by the Commonwealth of Massachusetts Department of Public Health (“DPH”); and

WHEREAS, OPERATOR will serve its non-profit purpose of providing marijuana for medical use, educational materials, and related products, to medical use of marijuana patients in CITY and throughout the Commonwealth of Massachusetts; and

WHEREAS, OPERATOR intends to provide certain benefits to the CITY in the event that it obtains a final registration to operate an RMD in CITY and has received all required local approvals; and

WHEREAS, OPERATOR has obtained a Provisional Registration to Operate a RMD in [CITY NAME], MA, and is seeking a Certificate of Registration from the DPH to operate a RMD in CITY.

NOW, THEREFORE, in consideration of the above, the offers and the CITY accepts this Host Community Agreement in accordance with G.L. c. 44, §53A and G.L. c. 94G, § 3:

1. **Payments:** OPERATOR shall pay to the CITY 3% of the gross revenue received by OPERATOR from sales in CITY beginning on the first day of the thirteenth month (the “Grace Period”) from the date of commencement of sales in the CITY (“Sales Commencement Date”) and through the end of the fifth year following the Sales Commencement Date. OPERATOR shall notify the CITY when OPERATOR commences sales within the CITY. OPERATOR will provide the CITY with copies of its periodic financial filings to the DPH documenting gross revenues, and also a copy of its annual filing as a non-profit, if any, to the Massachusetts Office of Attorney General.
2. **Taxes:** At all times during the Term of this Agreement, property, both real and personal, owned or operated by OPERATOR shall be treated as taxable, and all applicable real estate and personal property taxes for that property shall be paid either directly by OPERATOR or by its landlord, and OPERATOR shall not object or otherwise challenge the taxability of such property and shall not seek a non-profit exemption from paying such taxes. Notwithstanding the foregoing, (i) if real or personal property owned or operated by OPERATOR is determined to be non-taxable or partially non-taxable, or (ii) if the value of such property is abated with the effect of reducing or eliminating the tax which would otherwise be paid if assessed at fair cash value as defined in G.L. c. 59, §38, or (iii)

if OPERATOR is determined to be entitled or subject to exemption with the effect of reducing or eliminating the tax which would otherwise be due if not so exempted, then OPERATOR shall pay to the CITY an amount which when added to the taxes, if any, paid on such property, shall be equal to the taxes which would have been payable on such property at fair cash value and at the otherwise applicable tax rate, if there had been no abatement or exemption; this payment shall be in addition to the payment made by OPERATOR under Section 1 of this Agreement.

3. Purpose: The purpose of this agreement is to assist the CITY in addressing any public health, safety and other effects or impacts the RMD may have on the CITY. The CITY shall use the above-referenced payments in its sole discretion.
4. Local Hiring: To the extent permissible by law, OPERATOR commits to hiring local, qualified employees; and preferential treatment will be given to residents of the CITY if otherwise comparable to a nonresident applicant. In addition to the direct hiring, OPERATOR will work in a good faith, legal and non-discriminatory manner to hire local vendors, suppliers, contractors and builders from the CITY area whenever otherwise comparable local vendors are available.
5. Improvements to Property: Operator shall make capital improvements to the property such that the property will match the look and feel of other nearby businesses.
6. Approval of Manager: If requested by the CITY, OPERATOR shall provide to the CITY, for review and approval, the name and relevant information, including but not limited to the information set forth in 105 CMR 725.030, of the person proposed to act as on-site manager of the RMD. The submittal shall include authorization to perform a criminal history (CORI) check. CITY shall consider such request for approval within thirty days following submittal to determine, in consultation with the Police Chief, if the person proposed is of suitable character to act as on-site manager. Such approval shall not be unreasonably denied, conditioned or delayed. In the event that CITY does not provide confirmation or rejection of the proposed on-site manager within thirty days, that manager shall be deemed approved by CITY. This approval process shall also apply to any change of on-site manager.
7. Prevention of Diversion: To the extent requested by the CITY'S Police Department, OPERATOR shall work with the CITY'S Police Department to implement a comprehensive diversion prevention plan to prevent diversion, such plan to be in place prior to the Sales Commencement Date. Such plan will include, but is not limited to, (i) training RMD employees to be aware of, observe, and report any unusual behavior in patients, caregivers, authorized visitors or other RMD employees that may indicate the potential

for diversion; (ii) strictly adhering to certification amounts and time periods (per DPH guidelines); (iii) rigorous patient identification and verification procedures through the DPH Online System; (iv) utilizing seed-to-sale tracking software to closely track all inventory at the RMD; and (v) refusing to complete a transaction if the patient or caregiver appears to be under the influence of drugs or alcohol.

8. **Security:** To the extent requested by the CITY'S Police Department, OPERATOR shall work with the CITY'S Police Department in determining the placement of exterior security cameras, so that at least two cameras are located to provide an unobstructed view in each direction of the public way(s) on which the RMD is located. OPERATOR will maintain a cooperative relationship with the Police Department, including but not limited to periodic meetings to review operational concerns, cooperation in investigations, and communication to Police Department of any suspicious activities on the site.
9. **Registration and Approvals Required:** The obligations of OPERATOR the and the CITY recited herein are specifically contingent upon the obtaining a Final Certificate of Registration for the operation of a RMD from the DPH to operate in CITY, and all necessary local permits and approvals.
10. **Cooperation:** CITY shall work cooperatively and in good faith with OPERATOR in securing the prompt and efficient siting, planning, permitting and preparation for opening of the RMD, provided that nothing herein shall require CITY to waive any review and approval rights set forth in applicable statutes or regulations and provided further that CITY shall retain the right to provide comments and recommendations regarding design and security.
11. **Assignment:** OPERATOR shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the CITY.
12. **Compliance:** OPERATOR shall comply with all laws, rules, regulations and orders applicable to the operation of an RMD, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the operation of an RMD.
13. **Retention of Regulatory Authority:** By entering into this Agreement, CITY does not waive any enforcement rights or regulatory authority it currently holds over any business in CITY.
14. **Notices:** Any and all notices, or other communications required or permitted under this Agreement, shall be in writing and delivered by hand or mailed postage prepaid, return

receipt requested, by registered or certified mail or by other reputable delivery service, to the parties at the addresses set forth on Page 1 of this Agreement or furnished from time to time in writing hereafter by one party to the other party. Any such notice or correspondence shall be deemed given when so delivered by hand, if so mailed, when deposited with the U.S. Postal Service or, if sent by private overnight or other delivery service, when deposited with such delivery service.

15. Severability: If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.
16. Governing Law: This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and the submits to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.
17. Entire Agreement: This Agreement, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.
18. Termination: This Agreement shall terminate at the time that either of the following occur:
  - a. The CITY notifies OPERATOR of the CITY's termination of this Agreement; or
  - b. OPERATOR ceases to operate a RMD in the CITY.
19. Waiver: The obligations and conditions set forth in this Agreement may be waived only by a writing signed by the party waiving such obligation or condition. Forbearance or indulgence by a party shall not be construed as a waiver, nor limit the remedies that would otherwise be available to that party under this Agreement or applicable law. No waiver of any breach or default shall constitute or be deemed evidence of a waiver of any subsequent breach or default.
20. Amendment: This Agreement may only be amended by a written document duly executed by both of the Parties. No modification or waiver of any provision of this Agreement shall be valid unless duly authorized as an amendment hereof and duly executed by the CITY and the OPERATOR.


21. Headings: The article, section, and paragraph headings in this Agreement are for convenience only, are no part of this Agreement and shall not affect the interpretation of this Agreement.
22. Counterparts: This Agreement may be signed in any number of counterparts all of which taken together, shall constitute one and the same instrument, and any party hereto may execute this Agreement by signing one or more counterparts.
23. Signatures. Facsimile signatures affixed to this Agreement shall have the same weight and authority as an original signature.

The following signature indicate that the parties hereby agree to the terms set forth in this Agreement as per the date set forth on page 1 of this Agreement.

For the City of Peabody, Massachusetts:

For Phytotherapy, Inc.:

\_\_\_\_\_  
Hon. Edward Bettencourt Jr., Mayor

  
\_\_\_\_\_  
Alexander Athanas, President

**HOST COMMUNITY AGREEMENT FOR THE SITING OF A REGISTERED  
MARIJUANA DISPENSARY IN THE TOWN OF SWANSEA**

THIS HOST COMMUNITY AGREEMENT ("Agreement") is entered into pursuant to M.G.L. 44, §53A this 31st day of January, 2017 (the "Effective Date") by and between [REDACTED] a Massachusetts non-profit corporation with a principal office address of [REDACTED] ("OPERATOR"), and the Town of Swansea, a Massachusetts municipal corporation with a principal address of 81 Main Street, Swansea, MA 02777 ("TOWN").

WHEREAS, OPERATOR wishes to locate a Registered Marijuana Dispensary dispensing facility ("RMD"), in TOWN, in accordance with regulations issued by the Commonwealth of Massachusetts Department of Public Health ("DPH"); and

WHEREAS, OPERATOR will serve its non-profit purpose of providing marijuana for medical use, educational materials, and related products, to medical use of marijuana patients in TOWN and throughout the Commonwealth of Massachusetts; and

WHEREAS, OPERATOR intends to provide certain benefits to the TOWN in the event that it obtains a final registration to operate an RMD in TOWN and has received all required local approvals; and

WHEREAS, OPERATOR has already obtained a Provisional Registration to Operate a RMD in [REDACTED], and is seeking a Certificate of Registration from the DPH to operate a RMD in TOWN.

NOW, THEREFORE, in consideration of the above, the OPERATOR offers and the TOWN accepts this Host Community Agreement in accordance with G.L. 44, §53A:

1. **Payments:** On the day that OPERATOR begins dispensing marijuana for medical use at the RMD operated by OPERATOR in Swansea (the "Sales Commencement Date"), OPERATOR shall make a one-time cash payment of FIFTY THOUSAND UNITED STATES DOLLARS (\$50,000.00 USD) to the TOWN. Beginning on the first day of the thirteenth month from the Sales Commencement Date (the preceding twelve [12] months being the "Grace Period") and continuing through the end of the fifth (5<sup>th</sup>) year following the Sales Commencement Date, OPERATOR shall make an annual payment the TOWN in the amount of ONE HUNDRED THOUSAND UNITED STATES DOLLARS (\$100,000.00 USD) or three percent (3.00%) of the gross revenue received by OPERATOR from sales at the dispensary RMD in Swansea, whichever amount is greater, but in no circumstance shall the annual payment amount exceed FIVE HUNDRED THOUSAND UNITED STATES DOLLARS (\$500,000.00 USD) (the "Annual Payment"). Such payments shall be made within thirty (30) days following every anniversary of the Sales Commencement Date, except for the first year's Grace Period. OPERATOR shall notify the TOWN when OPERATOR commences dispensing at the Swansea RMD. OPERATOR will make available

for inspection to the TOWN all of its sales records required to be kept for the DPH documenting gross revenues, and also all of its tax returns.

2. **Taxes:** At all times during the Term of this Agreement, real property, owned or operated by OPERATOR shall be treated as taxable, and all applicable real estate taxes for that property shall be paid either directly by OPERATOR or by its landlord, and OPERATOR shall not object or otherwise challenge the taxability of such property and shall not seek a non-profit exemption from paying such taxes. Notwithstanding the foregoing, (i) if real property owned or operated by OPERATOR is determined to be non-taxable or partially non-taxable, or (ii) if the value of such property is abated with the effect of reducing or eliminating the tax which would otherwise be paid if assessed at fair cash value as defined in G.L. c. 59, §38, or (iii) if OPERATOR is determined to be entitled or subject to exemption with the effect of reducing or eliminating the tax which would otherwise be due if not so exempted, then OPERATOR shall pay to the TOWN an amount which when added to the taxes, if any, paid on such property, shall be equal to the taxes which would have been payable on such property at fair cash value and at the otherwise applicable tax rate, if there had been no abatement or exemption; this payment shall be in addition to the payment made by OPERATOR under Section 1 of this Agreement.
3. **Purpose:** The purpose of this gift is to assist the TOWN in addressing any public health, safety and other effects or impacts the RMD may have on the TOWN. The TOWN shall use the above-referenced payments in its sole discretion consistent with the purpose of the gift, but shall make a good faith effort to allocate said payments for community wellness programs, and other efforts and initiatives for the support of the health.
4. **Local Hiring:** To the extent permissible by law, OPERATOR commits to hiring local, qualified employees; and preferential treatment will be given to residents of the TOWN if otherwise comparable to a nonresident applicant. In addition to the direct hiring, OPERATOR will work in a good faith, legal and non-discriminatory manner to hire local vendors, suppliers, contractors and builders from the TOWN area whenever otherwise comparable local vendors are available.
5. **Improvements to Property:** OPERATOR shall make capital improvements to the property such that the property will match the look and feel of the TOWN, and be of construction standards at least at the quality of other nearby businesses.
6. **Approval of Manager:** If requested by the TOWN, OPERATOR shall provide to the TOWN, for review and approval, the name and relevant information, including but not limited to the information set forth in 105 CMR 725.030, of the person proposed to act as on-

site manager of the RMD. The submittal shall include authorization to perform a criminal history (CORI) check. TOWN shall consider such request for approval within thirty (30) days following submittal to determine, in consultation with the Police Chief, if the person proposed is of suitable character to act as on-site manager. Such approval shall not be unreasonably denied, conditioned or delayed. In the event that TOWN does not provide confirmation or rejection of the proposed on-site manager within thirty (30) days, that manager shall be deemed approved by TOWN. This approval process shall also apply to any change of on-site manager.

7. Non-Medical Cannabis: In the event that the laws of the Commonwealth permit OPERATOR, or its successors, assigns or related parties to operate a dispensary that sells marijuana for non-medical use, prior to engaging in such conduct in TOWN, OPERATOR shall obtain authorization from the Swansea Board of Selectmen and shall operate such business in compliance with all laws and regulations of the Commonwealth.
  
8. Prevention of Diversion: To the extent requested by the TOWN'S Police Department, OPERATOR shall work with the TOWN'S Police Department to implement a comprehensive diversion prevention plan to prevent diversion, such plan to be in place prior to the Sales Commencement Date. Such plan will include, but is not limited to, (i) training RMD employees to be aware of, observe, and report any unusual behavior in patients, caregivers, authorized visitors or other RMD employees that may indicate the potential for diversion; (ii) strictly adhering to certification amounts and time periods (per DPH guidelines); (iii) rigorous patient identification and verification procedures through the DPH Online System; (iv) utilizing seed-to-sale tracking software to closely track all inventory at the RMD; and (v) refusing to complete a transaction if the patient or caregiver appears to be under the influence of drugs or alcohol.
  
9. Security: To the extent requested by the TOWN'S Police Department, OPERATOR shall work with the TOWN'S Police Department in determining the placement of exterior security cameras, so that at least two (2) cameras are located to provide an unobstructed view in each direction of the public way(s) on which the RMD is located. Such cameras may be altered by the DPH during their security and architectural review process. OPERATOR will maintain a cooperative relationship with the Police Department, including but not limited to periodic meetings to review operational concerns, cooperation in investigations, and communication to Police Department of any suspicious activities on the site.
  
10. Off-Set of Payments: If the TOWN receives other payments from OPERATOR (other than additional voluntary payments made by OPERATOR), or from the Department of

Revenue or any other source, the funds for which have been collected from OPERATOR, including but not limited to taxes imposed by an act of the legislature of the Commonwealth of Massachusetts, or a mandate from the TOWN for said payments, the amounts due from OPERATOR to the TOWN under the terms of this Agreement shall be reduced by the amount of such other payments.

11. Registration and Approvals Required: The obligations of the OPERATOR and the TOWN recited herein are specifically contingent upon the obtaining a Final Certificate of Registration for the operation of a RMD from the DPH to operate in TOWN, and all necessary local permits and approvals.
12. Zoning Amendment Approval Required: The obligations of the OPERATOR and the TOWN recited herein are specifically contingent upon the approval of an amendment to the TOWN's Zoning Bylaws that would allow OPERATOR to locate an RMD at OPERATOR's proposed location in Swansea.
13. Cooperation: TOWN shall work cooperatively and in good faith with OPERATOR in securing the prompt and efficient siting, planning, permitting and preparation for opening of the RMD, provided that nothing herein shall require TOWN to waive any review and approval rights set forth in applicable statutes or regulations and provided further that TOWN shall retain the right to provide comments and recommendations regarding design and security.
14. Support for Registration: TOWN shall support OPERATOR's application for registration of its RMD by the DPH, and work with OPERATOR to assist in securing such registration.
15. Reduction in Payments: Should TOWN enter into an agreement with any other RMD for siting in TOWN at material terms more favorable to that RMD than the terms of this Agreement are to OPERATOR, this Agreement shall be modified to reflect those terms.
16. Assignment: OPERATOR shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the TOWN.
17. Compliance: OPERATOR shall comply with all laws, rules, regulations and orders applicable to the operation of an RMD, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the operation of an RMD.



18. **Retention of Regulatory Authority:** By entering into this Agreement, TOWN does not waive any enforcement rights or regulatory authority it currently holds over any business in TOWN.
19. **Notices:** Any and all notices, or other communications required or permitted under this Agreement, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, to the parties at the addresses set forth on Page 1 of this Agreement or furnished from time to time in writing hereafter by one party to the other party. Any such notice or correspondence shall be deemed given when so delivered by hand, if so mailed, when deposited with the U.S. Postal Service or, if sent by private overnight or other delivery service, when deposited with such delivery service.
20. **Severability:** If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.
21. **Governing Law:** This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and the parties submit to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.
22. **Entire Agreement:** This Agreement, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.
23. **Termination:** This Agreement shall terminate at the time that either of the following occur:  
a. The TOWN notifies OPERATOR of the TOWN's termination of this Agreement; or  
b. OPERATOR ceases to operate a RMD in the TOWN.
24. **Term:** This agreement shall have a term that begins on the Effective Date and ends on the last day of the seventh year following the Sales Commencement Date, at which point the parties may renegotiate the terms of this agreement. OPERATOR shall not be required to cease operations at the termination of this Agreement.



25. **Appropriation:** This Agreement is entered in compliance with M.G.L Chapter 44, Section 53A. The purpose of this Agreement is to assist the TOWN in addressing any public safety and health the RMD may have on the TOWN, as deemed appropriate by the Board of Selectmen. The TOWN shall determine use of all Annual Payments consistent with the purpose of this Agreement.
26. **Confidentiality:** OPERATOR may provide to the TOWN, certain financial information, investment materials, products, plans, documents, details of company history, know-how, trade secrets, and other nonpublic information related to OPERATOR, its affiliates and operations (collectively, the "Confidential Information"). TOWN (inclusive of its employees, agents, representatives or any other of its affiliated persons) shall not, at any time during the term of this Agreement or at any time thereafter, disclose to any person or entity, any Confidential Information, except as may be required by court order or law.
27. **Waiver:** The obligations and conditions set forth in this Agreement may be waived only by a writing signed by the party waiving such obligation or condition. Forbearance or indulgence by a party shall not be construed as a waiver, nor limit the remedies that would otherwise be available to that party under this Agreement or applicable law. No waiver of any breach or default shall constitute or be deemed evidence of a waiver of any subsequent breach or default.
28. **Amendment:** This Agreement may only be amended by a written document duly executed by both of the parties. No modification or waiver of any provision of this Agreement shall be valid unless duly authorized as an amendment hereof and duly executed by the TOWN and the OPERATOR.
29. **Modifications:** Modifications to this Agreement may only be effective if made in writing and signed by both parties.
30. **Headings:** The article, section, and paragraph headings in this Agreement are for convenience only, are not part of this Agreement and shall not affect the interpretation of this Agreement.
31. **Counterparts:** This Agreement may be signed in any number of counterparts all of which taken together, shall constitute one and the same instrument, and any party hereto may execute this Agreement by signing one or more counterparts.



32. Signatures: Facsimile signatures affixed to this Agreement shall have the same weight and authority as an original signature.

**[SIGNATURE PAGE FOLLOWS]**



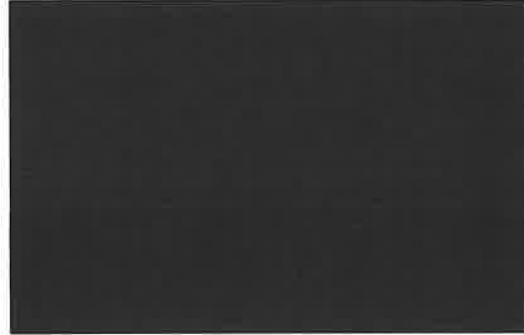
The following signatures indicate that the parties hereby agree to the terms set forth in this Agreement as per the date set forth on page 1 of this Agreement.

For the TOWN OF SWANSEA,  
MASSACHUSETTS:

\_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



**HOST COMMUNITY BENEFIT AGREEMENT FOR THE SITING OF A REGISTERED  
MARIJUANA DISPENSARY IN THE CITY OF QUINCY**

This Host Community Benefit Agreement for a Registered Marijuana Dispensary ("RMD") is entered into this 3 day of October, 2016 by and between [REDACTED] a Massachusetts not-for-profit corporation formed under MGL c.180 *et seq.* with a principal office address of [REDACTED] (" [REDACTED] ") and the City of Quincy with a principal address of 1305 Hancock Street, Quincy, MA 02169 ("CITY"). The obligations of [REDACTED] and the CITY recited herein are specifically contingent upon [REDACTED] obtaining a registration for operation of a RMD in the CITY from the Department of Public Health ("DPH") and upon [REDACTED] obtaining municipal approvals for construction and operation of the RMD in the CITY.

WHEREAS, [REDACTED] has been provisionally registered by the DPH to operate a RMD in the Commonwealth.

WHEREAS, [REDACTED] wishes to locate a RMD in the CITY in accordance with regulations issued by the DPH and the CITY.

WHEREAS, [REDACTED] intends to provide certain benefits to the CITY in the event that it obtains a final registration to operate a RMD in the CITY and has received all state and local approvals.

[REDACTED] proposes the following:

NOW, THEREFORE, in consideration of the above, [REDACTED] offers the CITY and the CITY accepts this Host Community Benefit Agreement in accordance with MGL 44, s 53A:

1. [REDACTED] shall pay to the CITY, a HOST COMMUNITY FEE in the amount of 3% of gross revenue. The payment period will begin 90 days following when [REDACTED] s EBITDA can sustain the payments under this Agreement and maintain positive EBITDA. [REDACTED] will perform an internal review every month to determine if [REDACTED] s EBITDA can sustain the payments under the Agreement and remain positive. [REDACTED] shall provide audited financial statements to the CITY upon reasonable request, which shall not be more than once per quarter. Payments will be made twice annually, every six months following the first payment. In any event the total payment made in any calendar year will not exceed \$500,000.
2. In the event of dispute as to whether [REDACTED] can sustain payments under this Agreement and maintain positive EBITDA as per paragraph 1, or any other provision in this agreement the parties agree to refer the matter to an arbitrator. The parties agree that any disputes are to be arbitrated through the American Arbitration Association and that the parties agree to abide by the rules of the Commercial Arbitration Rules of the American Arbitration Association in the Commonwealth of Massachusetts. Any decision or award as a result of any such arbitration shall be issued in writing and the arbitrator shall be mutually selected pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Any arbitration award may be confirmed in a court of competent jurisdiction.
3. In the event that [REDACTED] seeks employees from the general public to staff the RMD, [REDACTED] use best efforts to hire qualified applicants from the CITY.

4. The City shall use the above referenced payments, at the Mayor's direction, for the benefit of the following entities and purposes: The Mayor's Substance Abuse Take Force for educational, enforcement, prevention and treatment programs; for health and wellness initiatives in the Quincy Public Schools; and for Park and Receptions programs dedicated to the City's youth.
5. This Agreement shall terminate at the time that any of the following occurs: the CITY notifies ██████ of the CITY'S termination of this agreement for CAUSE (to be defined); ██████ ceases to operate a RMD in the CITY; ██████ ceases to operate a RMD in the Commonwealth. CAUSE shall be if ██████ purposefully or negligently violates any laws of the Commonwealth with respect to the operation of an RMD, and such violation remains uncured for 90 days; or of ██████ fails to make payments to the CITY as required under this Agreement, and such failure remains uncured for 90 days.
6. The payments to the CITY shall be reduced under the following circumstances: In negotiations ██████ and the CITY have agreed that the CITY shall be entitled to 6% total of ██████'s gross revenue, a maximum of 3% of that sum coming directly from ██████. These payments shall be divided as follows: the CITY shall receive a maximum of 3% of ██████'s gross revenue directly from ██████ ("█████'s Payments"). "Additional Payments" shall be any payment imposed by any state or local agency or department that ultimately is paid to the CITY, any additional portion of ██████'s revenue in the form of a CITY tax or tax imposed by the Commonwealth in any manner that is ultimately paid to the CITY, or any additional payment required of ██████ to the CITY. In the event that the Additional Payment exceed 3% of ██████'s gross revenue, ██████'s Payments to the CITY shall be reduced by that amount. By way of example: if ██████ is paying 3% of gross revenue to the CITY, and the CITY obtains Additional Payments of 3%, then ██████'s payments are not reduced. If the Commonwealth imposes a 4% tax that is paid to the CITY through the Department of Revenue (one possible form of Additional Payments), then ██████'s Payments shall be reduced to 2%. Under this calculation the CITY shall never receive less than 3% of ██████'s gross revenue directly from ██████ unless an additional payment is made through any channel that exceeds 3% of ██████'s gross revenue, in which case the CITY shall never receive less than 6% of ██████'s gross revenue from any source.
7. In the event that ██████ becomes eligible for status as a charitable organization and a related decrease or elimination of property taxes, and property tax revenue from ██████'s location in Quincy is reduced or eliminated, ██████ will make the assessed property tax payment directly to the CITY as an additional payment under this agreement.
8. Within 90 days following opening of the RMD in Quincy, ██████ will make a one-time payment of \$50,000.00 to the CITY irrespective of ██████'s earnings. ██████'s future payment(s) based on revenue as per this agreement shall be reduced by a total of \$50,000.00 to offset ██████'s initial payment under this Agreement.

9. In the event that another RMD sites in the CITY, and its required payments to the CITY are less than those payable by [REDACTED] to the CITY under this Agreement, [REDACTED]'s obligations shall be reduced so that they are equal to those of an RMD that may be authorized to site in the CITY in the future and not required to make payments at the level of [REDACTED]s under this Agreement.
10. This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives.
11. [REDACTED] shall comply with all laws, rules, regulations and orders applicable to the work provided pursuant to this Agreement, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the performance of such work.
12. Any and all notices, or other communications required or permitted under this Agreement shall be in writing and delivered postage prepaid mail, return receipt requested; by hand; by registered or certified mail; or by other reputable delivery services, to the parties at the addresses set forth on Page One or furnished from time to time in writing hereafter by one party to the other party. Any such notices or correspondence shall be deemed given when so delivered by hand, if so mailed, when deposited with the USPS or, if sent by private overnight or other delivery service, when deposited with such delivery service.
13. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by any court of competent jurisdiction, then the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.
14. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and [REDACTED] submits to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.
15. This Agreement, including all documents incorporated therein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiation and representations, either written or oral and it shall not be modified or amended except by a written document executed by the parties hereto.

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16. This agreement shall have a term of 10 years. The parties may begin renegotiations after year 5. [REDACTED] shall not be required to cease operations at the termination of this Agreement, unless for CAUSE as defined in Paragraph 4.

For:  
CITY OF QUINCY

For:  
[REDACTED]

By:   
Thomas P. Koch, Mayor

By: 

**HOST COMMUNITY AGREEMENT**  
**ARLINGTON, MA**

[REDACTED]

THIS HOST COMMUNITY AGREEMENT ("Agreement") is entered into pursuant to M.G.L. ch.44, §53A this \_\_\_\_\_ day of April 2016 by and between [REDACTED] [REDACTED] a Massachusetts not-for-profit corporation with a principal office address of [REDACTED] [REDACTED] ("OPERATOR") and the TOWN OF ARLINGTON, a Massachusetts municipal corporation with a principal address of 730 Mass Ave., Arlington, MA 02476 ("TOWN").

WHEREAS OPERATOR wishes to locate a Registered Marijuana Dispensary dispensing facility ("RMD") in the TOWN, in accordance with regulations issued by the Commonwealth of Massachusetts Department of Public Health ("DPH");

WHEREAS OPERATOR intends to provide certain benefits to the TOWN by way of gift or grant in the event that it receives a Final Certificate of Registration to operate a RMD in the TOWN by the DPH;

WHEREAS OPERATOR has applied for a certificate of registration from the DPH to operate the RMD in the TOWN at [REDACTED] (the "Facility"); and

WHEREAS OPERATOR is seeking a letter of support/non-opposition from the TOWN for the siting and operation of an RMD in the TOWN.

NOW, THEREFORE, in consideration of the above, OPERATOR offers and the TOWN accepts the following Agreement terms in accordance with M.G.L. ch.44 §53A:

1. OPERATOR shall pay to the TOWN 3% of the gross revenue received by OPERATOR from retail sales at the Facility accruing from the date of commencement of sales by OPERATOR in the TOWN ("Sales Commencement Date"). The initial payment to the TOWN shall be made on the first day of the seventh month after the Sales Commencement Date ("Initial Payment Date"), and shall reflect gross revenue for the first quarter of sales. Thereafter payments shall be made every six months, and shall reflect the subsequent six month's sales,

with the final three months payment remaining unpaid until three months after the termination of this Agreement. OPERATOR shall notify the TOWN when OPERATOR commences dispensing within the TOWN. OPERATOR's records maintained pursuant to 105 CMR 725.105(D)(5) will be available to the TOWN upon request to verify OPERATOR's payment amounts. The TOWN may notify OPERATOR to delay the initial payment, in which case the initial payment shall be made as specified by the TOWN; however, the timing of subsequent payments shall be made as if the initial payment had been on the Initial Payment Date.

2. OPERATOR shall make a one-time payment to TOWN of \$100,000.00 within one week of the Sales Commencement Date, and the TOWN shall credit OPERATOR \$100,000.00 against OPERATOR's biannual payments.
3. OPERATOR shall work with the Arlington Police Department in determining the placement of exterior security cameras, so that at least two cameras are located to provide an unobstructed view in each direction of the public way(s) on which the RMD is located. OPERATOR will maintain a cooperative relationship with the Arlington Police Department, including but not limited to periodic meetings to review operational concerns, cooperation in investigations, and communication to Arlington Police Department of any suspicious activities on the site.
4. Except for senior management positions, OPERATOR commits to hiring local, qualified employees to the extent consistent with law. In addition to the direct hiring, OPERATOR will work in a good faith, legal and non-discriminatory manner to hire local vendors, suppliers, contractors and builders from the Arlington area where possible.
5. The OPERATOR shall submit at least annual financial records to the Town on or before January 15 of each calendar year, with a certification of the Gross Sales for the respective year. The OPERATOR shall also submit to the Town copies of any additional financial records that the OPERATOR is required to submit to DPH.

6. The OPERATOR shall maintain its books, financial records, and other compilations of data pertaining to the requirements of this Agreement in accordance with standard accounting practices and any applicable regulations or guidelines of the DPH. All records shall be kept for a period of at least seven (7) years.
7. OPERATOR shall cooperate fully with the TOWN to prevent "Hardship Cultivation Registrations" as defined by 105 CMR 725.104 & 105 CMR 725.035, including but not limited to OPERATOR's commitment to delivering to residents of the TOWN unless such deliveries are prevented by circumstances outside of the OPERATOR's control.
8. The purpose of this Agreement is to assist the TOWN in addressing any public health, safety and other effects or impacts the RMD may have on the TOWN. The TOWN shall use the above-referenced payments in its sole discretion consistent with the purpose of the Agreement.
9. This Agreement shall terminate at the time that either of the following occur:
  - a. the TOWN notifies OPERATOR of the TOWN's termination of this Agreement;
  - b. OPERATOR ceases to operate a RMD in the TOWN
10. The obligations of OPERATOR and the TOWN recited herein are specifically contingent upon the issuance by DPH to OPERATOR of a Final Certificate of Registration for the operation of a RMD facility in the TOWN, and OPERATOR obtaining all required approvals from the TOWN for the OPERATOR to serve patients and caregivers from the Facility in Town.
11. OPERATOR shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the TOWN and shall not assign any of the moneys payable under this Agreement, except with the written consent of the TOWN, provided, however, that a pledge or assignment of assets, profits or receivables required in connection

with financing the business by OPERATOR shall not be considered an assignment for the purposes of this paragraph.

12. This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Neither the TOWN nor OPERATOR shall assign or transfer any interest in the Agreement without the written consent of the other.
13. OPERATOR shall comply with all laws, rules, regulations and orders applicable to the operation of an RMD, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the operation of an RMD.
14. Any and all notices, or other communications required or permitted under this Agreement, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, to the parties at the addresses set forth on Page 1 or furnished from time to time in writing hereafter by one party to the other party. Any such notice or correspondence shall be deemed given when so delivered by hand, if so mailed, when deposited with the U.S. Postal Service, or if sent by private overnight or other delivery service, when deposited with such delivery service.
15. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.
16. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and OPERATOR submits to the jurisdiction of the Trial Court for Middlesex County for the adjudication of disputes arising out of this Agreement.

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17. This Agreement, including all documents incorporated herein by reference, constitutes the entire integrated Agreement between the parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.

TOWN OF ARLINGTON:

By: 

Adam W. Chapdelaine

Title: \_\_\_\_\_

Town Manager

