

HOST COMMUNITY AGREEMENT/RETAIL MARIJUANA ESTABLISHMENT

THIS AGREEMENT is entered into this 6 day of December, 2018 by and between CTDW, LLC d/b/a Seagrass, a Massachusetts limited liability corporation with a principal office address of 3 Dodge Street, Salem, MA ("Seagrass") and the City of Salem, a Massachusetts municipal corporation with a principal address of 93 Washington Street, Salem, MA 01970 ("the City"). The City and Seagrass are referred to herein as the Parties.

WHEREAS, Seagrass is applying for a license to operate a Marijuana Retail Establishment as a licensed Marijuana Retailer at 3 Dodge Street in Salem, pursuant to M.G.L. Chapter 94G and the regulations issued thereunder, 935 CMR 500.000 (Regulations);

WHEREAS, Seagrass has filed a petition for a special permit, pursuant to Section 6.10 of the City's Zoning Ordinance, to operate a Marijuana Retail Establishment at 3 Dodge and the Board of Appeals has granted said special permit pursuant to a decision issued on August 29, 2018;

WHEREAS, M.G.L. Chapter 94G, Section 3, and the regulations issued thereunder, require that the City and Seagrass execute an agreement setting forth the conditions to have a Retail Marijuana Facility (Retail Facility) within it that must include, but not be limited to, all stipulations of responsibilities between the host community and the marijuana establishment;

WHEREAS, Seagrass intends to provide certain benefits to the City in the event that it obtains a Final License, as defined in the Regulations, to operate the Retail Facility in the City and receives all required local approvals, such as programming of sustainability and substance abuse prevention initiatives in the City, funding of transportation enhancement programs, offering products in a safe, licensed and secure setting, employing City residents, compensating employees for participation in City-sponsored volunteer activities; activating the Dodge Street corridor in Downtown Salem with positive redevelopment, and others;

WHEREAS, notwithstanding the anticipated benefits to certain members of the community, the operation of the Retail Facility by Seagrass may impact City resources in ways unique to the business of both, drawing upon City resources in a manner not shared by the general population;

NOW THEREFORE, in consideration of the provisions of this Agreement, Seagrass and the City agree as follows:

1. **Community Impact.** The parties anticipate that the City may incur additional expenses and impacts on the City's roads, law enforcement, fire protection services, inspectional and permitting services, public health services and abuse prevention efforts, as well as additional unforeseen impacts upon the City. Accordingly, in order to mitigate the financial impact upon the City and the past and future use of City resources, Seagrass will pay to the City a community impact fee of 3%, as defined in M.G.L. c. 94G, §3 under the terms provided herein ("Annual Payment"). Any changes to the statute enacted subsequent to the date this Agreement is executed shall not result in any reduction in the amount of the community impact fee or any other payment agreed to herein during the term of the Agreement. The parties agree that the community impact fee is reasonably related to the costs, both direct and indirect, imposed upon the municipality by the operation of the retail marijuana establishment. The parties stipulate that the particular additional expenses and impacts on the City arising from the Retail Facility may include, but are not limited to: (i) additional responses to activity from the City's Police Department, including public safety personnel overtime costs; (ii) added traffic control and/or parking measures; (iii) use of City resources, in partnership with Seagrass, to promote substance abuse education and assistance resources; (iv) expenditure of additional resources for communications with Seagrass' security and alarm personnel; (v) expenditure of City resources required to vet the application for licensure of Seagrass and monitor compliance with all local ordinances, bylaws, and regulations through municipal inspection; and (vi) additional expenses and impacts, both direct and indirect. The parties stipulate that the Community Impact Payments set forth in this Agreement address direct or secondary impacts of the Seagrass' operations within the City pursuant to applicable Massachusetts law and regulations, including but not limited to 935 CMR 500 and G.L. c.94G, § 3(d), and are reasonably related to said direct and secondary impacts.
2. **Annual Payment.** In the event Seagrass obtains a final license for the operation of the Retail Facility in the City and receives all necessary and required permits and licenses required by the City, then Seagrass agrees to make an Annual Payment in an amount equal to three percent (3%) gross revenue from marijuana and marijuana infused product sales at the Retail Facility, as those terms are defined by G. L. c. 94G, § 1. The first payment shall be in the amount of \$25,000 upon the commencement of sales at the Retail Facility (Opening Date). The second payment shall be the balance of the 3% gross sales less the initial \$25,000 payment. The balance of the Annual Payment shall be due and payable no later than twelve (12) months after the first day it is open for retail sales.

In the subsequent years of the agreement, Seagrass will continue to pay three percent (3%) of the gross sales of marijuana and marijuana products sales at the Retail Facility with the payments due two (2) times per year, the first covering the first six (6) months of the operating year, measured annually from the Opening Date and paid within sixty (60) days of the end of the first six (6) months. The balance, covering the second six (6) months of the operating year, shall be paid within sixty (60) days after the end of the operating year.

3. **Annual Filing.** Seagrass shall notify the City when Seagrass commences retail sales at the Retail Facility and shall submit annual financial statements to the City on or before May 1, which shall

include certification of itemized gross sales for the previous calendar year, and all other information required to ascertain compliance with the terms of this Agreement. Upon request, Seagrass shall provide the City with the same access to its financial records (to be treated as confidential, to the extent allowed by law) as it is required by the Commonwealth to obtain and maintain its licenses. Seagrass shall maintain its books, financial records and any other data related to its finances and operations in accordance with standard accounting practices and any applicable regulations and guidelines promulgated by the Commonwealth of Massachusetts. All records shall be retained for a period of at least seven (7) years.

4. **Taxes and Other Payments for Municipal Services.** Seagrass will pay all local, state, and federal taxes as required by applicable law, as now existing or is hereafter may from time to time be enacted, repealed, or modified. Nothing herein shall be construed to exempt the Retail Facility from payment of local, state, and federal taxes. Taxes, or other payments made by Seagrass, for water, sewer, or other municipal services shall not reduce the amount of the Annual Payment. In the event of an increase in the current sales and/or excise tax or enactment of a new marijuana tax, this Agreement shall be subject to renegotiation.
5. **Transit Alternatives Support.** Seagrass, in addition to any payments specified herein, agrees to make a voluntary contribution to a Transit Enhancement Fund (TEF), once such fund has been established. The TEF shall be designed to support the creation of alternative transportation options within the City and the region, including a transit shuttle, that will stop within reasonable proximity to the site. Such contribution shall be proportional each year to the volume of retail sales conducted at the facility in the preceding six-month period, due semi-annually, on June 30 and December 31 of each calendar year of operation, in an amount equal to 1% of each retail transaction during the previous six-month period. Each consumer transaction is limited in quantity of marijuana or marijuana concentrate as set forth in M.G.L. Chapter 94G and the Regulations issued thereunder. Seagrass also agrees to purchase or otherwise obtain a bicycle rack, capable of holding at least six (6) bicycles at the site and that it will make best efforts to cooperate with the owner of the property to install the rack at the property. Once installed, this bicycle rack will be made available to the public as part of the City's official bike share program. The parties agree that the payments or other in-kind support of transit alternatives under this section are not related to any community impacts covered by the Annual Payment detailed in Sections 1 and 2, above. Said payments described in this Section 5 shall be paid for a period of five years and are offered by Seagrass and accepted by the City pursuant to G. L. c. 44, § 53A.
6. **Additional Donations Tied to Sales Volume.** In addition to the payments detailed above, Seagrass agrees that in any month during the term of this Agreement in which Seagrass' gross sales exceed \$750,000, Seagrass will donate to the City an additional 1.5% on the amount of sales in excess of \$750,000 and in any month during the term of this Agreement in which Seagrass' sales exceed \$1,000,000, Seagrass will donate to the City an additional 2% on the amount of sales in excess of \$1,000,000. Should the City execute Host Community Agreements with more than five (5) marijuana retailers in the City, this Section 6 shall be reopened, and the parties will renegotiate the terms of any Additional Donations Tied to Sales Volume in good faith. The parties

agree that the payments described in this Section 6 are not related to any community impacts covered by the Annual Payment detailed in Sections 1 and 2, above. Said payments described in this Section 6 shall be paid for a period of five years and are offered by Seagrass and accepted by the City pursuant to G. L. c. 44, § 53A.

7. **Charitable Contributions.** Seagrass, in addition to any payments specified herein, agrees to support the community by annually donating: (1) \$50,000 to Salem Sound Coastwatch in furtherance of Seagrass' commitment to sustainability; (2) \$25,000 to North Shore Community Health, Inc. in support of services to its nearest residential neighbors in the Point Neighborhood; (3) \$25,000 to North Shore Community Development Corporation as well as a commitment to support, publicize and promote its public art program and support for its YouthBuild program; and (4) \$10,000 to the City for Parks and Recreation programming or other use as determined by the City. The parties agree that the contributions described in this Section 7 are not related to any community impacts covered by the Annual Payment detailed in Sections 1 and 2, above. Said contributions described in this Section 7 shall be paid for a period of five years and are offered voluntarily by Seagrass.
8. **Educational Programs.** Seagrass will fully compensate employees to participate in up to six (6) community service projects per year with its charitable partners or others within the City. Seagrass shall provide one or more representatives to participate in a reasonable number, not to exceed two (2) per year, of City-sponsored educational programs on public health and drug abuse prevention, and to work cooperatively with other City public health and safety departments not mentioned in the agreement. The parties acknowledge that Seagrass's participation in any programming does not presume or require that Seagrass have substance abuse counselors on its staff or any other qualified experts to contribute to such programs.
9. **Employment.** To the extent permissible by law, Seagrass will make jobs available to local, qualified residents of the City; and such residency will be a positive factor in hiring decisions provided that this does not prevent Seagrass from hiring the most qualified candidates and complying with all employment laws and other legal requirements, including Section 2-2056 of the City's Ordinance. Seagrass will also work in a good faith, legal and non-discriminatory manner to similarly consider local status of vendors, suppliers, contractors and builders from the City, and the surrounding area, to be a positive factor in retaining such vendors.
10. **Improvements to the Retail Facility Site.** If Seagrass makes any capital improvements to the site at which the Retail Facility is located, such improvements shall be such that the property will match the look and feel of the City and be of construction standards at least at the quality of other nearby businesses. Seagrass agrees to comply with all laws, rules, regulations and orders applicable to the Retail Facility, 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. Seagrass shall request that any capital improvements made to the Retail Facility by Seagrass by the landlord shall reflect the standards established in the City's climate change adaptation plan and that power supply shall be through the Salem PowerChoice

electrical aggregation program's greenest available product or a supplier with a minimum of equivalent renewable power sources provided that such programs can offer power supply at a reasonably comparable price to market rate services, and provided further that Seagrass shall not be required to self-generate power on-site or within a limited distribution network.

11. **On-site Consumption and Delivery.** Seagrass agrees that, even if permitted by statute or regulation, it will prohibit on-site consumption of marijuana and marijuana-infused products at the Retail Facility and will not offer home delivery of marijuana, however in the event that home delivery of marijuana from the Retail Facility is permitted by later statute or regulation, the Parties shall re-open this Section 11 and negotiate in good faith.
12. **Security.** Seagrass shall maintain security at least in accordance with the security plans for the Retail Facility as presented to the City and approved by the Cannabis Control Commission or such other state licensing or monitoring authority, as the case may be. Seagrass 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. Seagrass shall promptly report the discovery of the following to the City's Police within twenty-four (24) hours of Seagrass becoming aware of such event: diversion of marijuana; unusual discrepancies identified during inventory; theft; loss and any criminal action; unusual discrepancy in weight or inventory during transportation; any vehicle accidents, diversions, losses, or other reportable incidents in the City that occur during transport; any suspicious act involving the sale, cultivation, distribution, processing, or production of marijuana by any person in the City; unauthorized destruction of marijuana; any loss or unauthorized alteration of records related to marijuana, or dispensary agents; an alarm activation or other event that requires response by public safety personnel; failure of any security alarm system due to a loss of electrical power or mechanical malfunction that is expected to last longer than eight hours; and any other breach of security.
 - a. **Cameras.** To the extent requested by the City's Police Department, and consistent with the Regulations, Seagrass shall cooperate the City's Police Department in determining the placement of interior and 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 Retail Facility is located. Such camera requirements or locations may be altered by the Cannabis Control Commission during their security and architectural review process.
 - b. **Diversion Prevention.** To the extent requested by the City's Police Department, and consistent with the Regulations, Seagrass shall cooperate 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 Retail Facility employees to be aware of, observe, and report any unusual behavior in customers or employees that may indicate the potential for diversion to persons under 21; (ii) utilizing seed-to-sale tracking software to closely track all inventory at the Retail Facility; (iii) require two-step verification of government issued

identification prior to any sale; and (iv) refusing to complete a transaction if the customer appears to be under the influence of drugs or alcohol.

13. **Support.** The City agrees to submit to the Cannabis Control Commission, or such other state licensing or monitoring authority, as the case may be, certification of compliance with applicable local bylaws relating to Seagrass's application for a Certificate to operate the Retail Facility, where such compliance has been properly met, and to submit such certification within seven (7) days of any such request by Seagrass and/or the Cannabis Control Commission. The City agrees to use reasonable efforts to cooperate with Seagrass, if approved, to help assist Seagrass on their community support and employee outreach programs.
14. **City's Regulatory Authority.** This agreement does not affect, limit, or control the authority of City boards, commissions, and departments to carry out their respective powers and duties to decide upon and to issue, or deny, applicable permits and other approvals under the statutes and regulations of the Commonwealth, the General and Zoning Bylaws of the City, or applicable regulations of those boards, commissions, and departments, or to enforce said statutes, ordinances, and regulations. The City, by entering into this Agreement, is not thereby required or obligated to issue such permits and approvals as may be necessary for Seagrass to operate the Retail Facility in the City, or to refrain from enforcement action against Seagrass for violation of the terms of said permits and approvals or said statutes, ordinances, and regulations with respect to the Retail Facility.
15. **Term and Termination.** This Agreement shall take effect on the Opening Date, subject to the contingencies noted herein. This agreement shall continue in effect for so long as Seagrass operates the Retail Facility or any similar Retail Marijuana Facility within the City, or five (5) years from the Opening Date, whichever is earlier. At the conclusion of the term of this Agreement, the parties shall renegotiate a new Host Community Agreement in accordance with the current prevailing regulations and laws as such regulations and laws may be amended or replaced. In the event Seagrass no longer does business in the City or in any way loses or has its license revoked by the Commonwealth, this Agreement shall become null and void; however, Seagrass will be responsible for the pro-rated portion of the Annual Payment due as under section 2, above.
16. **Failure to Locate and/or Relocation.** This Agreement shall be null and void with respect to the terms concerning in the event that Seagrass relocates the Retail Facility out of the City. In the case of relocation out of City, an adjustment of funds due to the City hereunder shall be calculated based upon the period of operation within the City, but in no event shall the City be responsible for the return of any funds already provided to it by Seagrass.
17. **Notices.** Except as otherwise provided herein, any notices, consents, demands, request, approvals 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, and will be effective upon receipt for hand or said delivery and three days after mailing, to the other Party at the following addresses:

a. To City: Mayor Kimberley Driscoll, City Hall, 93 Washington Street, Salem, MA, 09170, with copy to City Solicitor at the same address.

b. To Seagrass: Seagrass, c/o Paul M. "Chip" Tuttle, Jr., 11 Larchmont Road, Salem MA 01970 with a copy to Thomas Alexander, Esq., 1 School St, Beverly, MA 01915.

18. **Third-Parties.** Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or Seagrass.
19. **Governing Law.** This Agreement shall be governed in accordance with the laws of the Commonwealth of Massachusetts and venue for any dispute hereunder shall be in the courts of Essex County.
20. **Amendments/Waiver.** Amendments, or waivers of any term, condition, covenant, duty or obligation contained in this Agreement may be made only by written amendment executed by all signatories to the original Agreement, prior to the effective date of the amendment.
21. **Severability.** If any term or condition of the Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction or regulatory authority, 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. The parties agree that should any payments or voluntary contributions detailed herein later be deemed not enforceable or not required, Seagrass agrees to donate or gift the equivalent amount to the City on the same schedule as stated herein and for the duration of the Agreement's term. Further, Seagrass agrees it will not challenge, in any jurisdiction, the enforceability of any provision included in this Agreement; and to the extent the validity of this Agreement is challenged by Seagrass in a court of competent jurisdiction, Seagrass shall pay for all reasonable fees and costs incurred by the City in enforcing this Agreement.
22. **Successors/Assigns.** This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Seagrass shall not assign, sublet, or otherwise transfer its rights nor delegate its obligations under this Agreement, in whole or in part, without the prior written consent from the City, such consent not to be unreasonably withheld, and shall not assign any of the monies payable under this Agreement, except by and with the written consent of the City and shall not assign or obligate any of the monies payable under this Agreement, except by and with the written consent of the City.
23. **Entire Agreement.** This Agreement constitutes the entire integrated agreement between the parties with respect to the matters described. This Agreement supersedes all prior agreements,

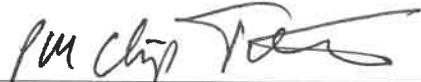
negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.

CITY OF SALEM

CTDW, LLC
D/B/A SEAGRASS

By: 

Kimberley Driscoll, Mayor

By: 

Paul M. "Chip" Tuttle, Jr.