

SAMPLE HOST COMMUNITY AGREEMENT – CO-LOCATED ADULT USE MARIJUANA ESTABLISHMENT AND MEDICAL MARIUANA TREATMENT CENTER

HOST COMMUNITY AGREEMENT

This Host Community Agreement (“Agreement”) is entered into this day of , 2019 by and between the [NAME OF ENTITY] (“the Company”), and the Town of [REDACTED] a Massachusetts municipal corporation with a principal address of [REDACTED] (the Town”), acting by and through its Town Manager, in reliance upon all of the representations made herein.

WHEREAS, the Company wishes to locate a licensed Adult Use Marijuana Retailer, Marijuana Cultivator, and Marijuana Product Manufacturer for the cultivation, processing, manufacturing of marijuana products and retail sales of adult use marijuana, co-located with a Medical Marijuana Treatment Center (the “Facility”) at [ADDRESS] [REDACTED] in accordance with and pursuant to applicable state laws and regulations, including, but not limited to G.L. c.94I, G.L. c.94G and 935 CMR 500.00, as well as 935 CMR 501.00 and 935 CMR 502.00 and such approvals as may be issued by the Town in accordance with its Zoning Bylaw and other applicable local regulations, as may be amended; and

WHEREAS, the Company intends to provide certain benefits to the Town in the event that it receives the requisite licenses from the Cannabis Control Commission or such other state licensing or monitoring authority, as the case may be, to operate the Facility and receives all required local permits and approvals from the Town;

WHEREAS, the parties intend by this Agreement to satisfy the provisions of G.L. c.94G, Section 3(d), applicable to the operation of the Facility, such activities to be only done in accordance with the applicable state and local laws and regulations in the Town;

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Town agree as follows:

1. Recitals

The Parties agree that the above Recitals are true and accurate and that they are incorporated herein and made a part hereof.

2. Annual Payments

In the event that the Company obtains the requisite licenses and/or approvals as may be required for the operation of the Facility, and receives any and all necessary and required permits and licenses of the Town, and at the expiration of any final appeal period related thereto, said matter not being appealed further, which permits and/or licenses allow the Company to locate, occupy and operate the Facility in the Town, then the Company agrees to provide the following Annual Payments:

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A. Community Impact Fee

The Company anticipates that the Town will incur additional expenses and impacts on the Town’s road and other infrastructure systems, law enforcement, fire protection services, inspectional services, and permitting and consulting services, as well as unforeseen impacts on the Town. Accordingly, in order to mitigate the financial impact on the Town and use of Town resources, the Company agrees to pay an Annual Community Impact Fee to the Town, in the amount and under the terms provided herein.

1. Company shall annually pay an Annual Community Impact Fee in an amount equal to three percent (3%) of gross sales from marijuana and marijuana product sales at the Facility, which shall include sales of marijuana or marijuana products for medicinal use. The term “gross sales” shall mean the total of all sales transactions of the Facility without limitation, whether wholesale or retail, and shall include but not be limited to all adult use marijuana and medical marijuana sales occurring at the Facility, including the sale of marijuana, marijuana infused products, paraphernalia, and any other products sold by the Facility.
2. The Annual Community Impact Fee shall be made annually, within 30 days following the end of each 12 months of operation, commencing on the first day of the first full calendar month after the commencement of operations for any part of the Facility used for either adult use marijuana or medical marijuana retail sales, and continuing for a period of five (5) years. At the conclusion of each of the respective five-year terms, the parties shall negotiate in good faith the terms of a new Annual Community Impact Fee as an Amendment to this Agreement. Provided, however, that if the parties are unable to reach an agreement on a successor Community Impact Fee, the Annual Community Impact Fee specified in Paragraph 2.A.1 of this Agreement shall remain in effect and shall not be reduced below the amount set forth above until such time as the Parties negotiate a successor Community Impact Fee.
3. The Town shall use the above referenced payments in its sole discretion, but shall make a good faith effort to allocate said payments to offset costs related to road and other infrastructure systems, law enforcement, fire protection services, inspectional services, public health and addiction services and permitting and consulting services, as well as unforeseen impacts upon the Town.

B. Annual Community Benefit Payments

In addition to the Annual Community Impact Fee, the Company shall additionally pay an Annual Community Benefit Payment in accordance with the following:

1. Annual Community Benefit Payments: For as long as the Facility is in operation, the Company shall pay to the Town the sum of \$25,000 annually for purposes of funding substance abuse and mental health services in the

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Town, including, but not limited to school substance abuse and counselling services.

- a. The Annual Community Benefit Payment shall be paid annually within 30 days following the end of each 12 months of operation, commencing on the first day of the first full calendar month after the commencement of operations for any part of the Facility used for either adult use or medical marijuana retail operations.
- b. The parties hereby recognize and agree that the Annual Community Benefit Payment to be paid by the Company shall not be deemed an impact fee subject to the requirements or limitations set forth in G.L. c.94G, §3(d).

C. Additional Costs, Payments and Reimbursements

1. Permit and Connection Fees: The Company hereby acknowledges and accepts, and waives all rights to challenge, contest or appeal, the Town's building permit fee and other permit application fees, sewer and water connection fees, and all other local charges and fees generally applicable to other commercial developments in the Town.
2. Facility Consulting Fees and Costs: In addition to the Community Impact Fee, the Company shall reimburse the Town for any and all reasonable consulting costs and fees related to any land use applications concerning the Facility, negotiation of this and any other related agreements, and any review concerning the Facility, including planning, engineering, legal and/or environmental professional consultants and any related reasonable disbursements at standard rates charged by the above-referenced consultants in relation to the Facility. Provided, however, that any upfront payment for such fees and costs shall be offset against the annual payment of 3% of gross sales.
3. Other Costs: The Company shall reimburse the Town for the actual costs incurred by the Town in connection with holding public meetings and forums substantially devoted to discussing the Facility and/or reviewing the Facility and for any and all reasonable consulting costs and fees related to the monitoring and enforcement of the terms of this Agreement, including, but not limited to independent financial auditors and legal fees. Provided, however, that any upfront payment for such fees and costs shall be offset against the annual payment of 3% of gross sales.
4. Police Officer Training: The Company shall reimburse the Town for the actual cost incurred for a local police officer to complete Advanced Roadside Impairment Driving Enforcement training program. Provided, however, that any upfront payment for such fees and costs shall be offset against the annual payment of 3% of gross sales.

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5. Late Payment Penalty: The Company acknowledges that time is of the essence with respect to their timely payment of all funds required under Section 2 of this Agreement. In the event that any such payments are not fully made within ten (10) days of the date they are due, the Town shall provide the Company with written notice of such failure to make a timely payment. The Company shall have a ten (10) day period to cure such failure to make timely payment from the date of receipt of such notice. If the Company fails to make full payment within such cure period, the Company shall be required to pay the Town a late payment penalty equal to five percent (5%) of such required payments.

D. Annual Charitable/Non-Profit Contributions

The Company, in addition to any funds specified herein, shall annually contribute to the Town's Scholarship Committee an amount no less than \$10,000. The annual Scholarship Committee contribution shall be made annually beginning on the first anniversary following the commencement of the operations, and shall continue for the term of this Agreement.

E. Annual Reporting for Host Community Impact Fees and Benefit Payments

The Company shall submit annual financial statements to the Town within 30 days after the payment of its Annual Community Impact Fee with a certification of its annual sales. The Company shall maintain 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 CCC. All records shall be kept for a period of at least seven (7) years. Upon request by the Town, the Company shall provide the Town 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 CCC and Department of Revenue for purposes of obtaining and maintaining a license for the Facility

During the term of this Agreement and for three years following the termination of this Agreement the Company agrees that in the event the Town is unable to verify the Company's gross sales and the payment of the required amount of the annual Community Impact Fee, the Town may require the Company to have its financial records examined, copied and audited by an Independent Financial Auditor, the expense of which shall be borne by the Company, provided that such expense shall be offset against the annual payment of 3% of gross sales. The Independent Financial Auditor shall review the Company's financial records for purposes of determining that the Annual Payments are in compliance with the terms of this Agreement. Such examination shall be made not less than thirty (30) days following written notice from the Town and shall occur only during normal business hours and at such place where said books, financial records and accounts are maintained. The Independent Financial Audit shall include those parts of the Company's books and financial records which relate to the payment, and shall include a certification of itemized gross sales for the previous calendar year, and all other information required to ascertain compliance with the terms of this Agreement. The independent audit of such records shall be conducted in such a manner as not to interfere with the Company's normal business activities.

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3. Local Vendors and Employment

To the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, the Company will make every effort in a legal and non-discriminatory manner to give priority to local businesses, suppliers, contractors, builders and vendors in the provision of goods and services called for in the construction, maintenance and continued operation of the Facility when such contractors and suppliers are properly qualified and price competitive and shall use good faith efforts to hire Town residents.

4. Local Taxes

At all times during the Term of this Agreement, property, both real and personal, owned or operated by the Company shall be treated as taxable, and all applicable real estate and personal property taxes for that property shall be paid either directly by the Company or by its landlord and neither the Company nor its landlord shall object or otherwise challenge the taxability of such property and shall not seek a non-profit or agricultural exemption or reduction with respect to such taxes.

Notwithstanding the foregoing, (i) if real or personal property owned, leased or operated by the Company 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 the Company 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 the Company 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 the Company under Section 2 of this Agreement.

5. Security

To the extent requested by the Town's Police Department, and subject to the security and architectural review requirements of the CCC, or such other state licensing or monitoring authority, as the case may be, the Company shall work with the Town's Police Department in determining the placement of exterior security cameras.

The Company agrees to cooperate with the Police Department, including but not limited to periodic meetings to review operational concerns, security, delivery schedule and procedures, cooperation in investigations, and communications with the Police Department of any suspicious activities at or in the immediate vicinity of the Facility, and with regard to any anti-diversion procedures.

To the extent requested by the Town's Police Department, the Company shall work with the Police Department to implement a comprehensive diversion prevention plan to prevent diversion, such plan to be in place prior to the commencement of operations at the Establishment.

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The Company shall promptly report the discovery of the following to Town Police within 24 hours of the Company 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 that occur during transport; any suspicious act involving the sale, cultivation, distribution, processing, or production of marijuana by any person; unauthorized destruction of marijuana; any loss or unauthorized alteration of records related to marijuana, registered qualifying patients, personal caregivers, 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.

6. Community Impact Hearing Concerns

The Company agrees to employ its best efforts to work collaboratively and cooperatively with its neighboring businesses and residents to establish written policies and procedures to address mitigation of any reasonable concerns or issues that may arise through its operation of the Facility, including, but not limited to any and all reasonable concerns or issues raised at the Company's required Community Outreach Meeting relative to the operation of the Facility; said written policies and procedures, as may be amended from time to time, shall be reviewed and approved by the Town and shall be incorporated herein by reference and made a part of this Agreement, the same as if each were fully set forth herein.

7. Additional Obligations

The obligations of the Company and the Town recited herein are specifically contingent upon the Company obtaining a license for operation of the Facility in the Town, and the Company's receipt of any and all necessary local approvals to locate, occupy, and operate the Facility in the Town.

This agreement does not affect, limit, or control the authority of Town 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 Town, or applicable regulations of those boards, commissions, and departments or to enforce said statutes, bylaws and regulations. The Town, by entering into this Agreement, is not thereby required or obligated to issue such permits and approvals as may be necessary for the Facility to operate in the Town, or to refrain from enforcement action against the Company and/or the Facility for violation of the terms of said permits and approvals or said statutes, bylaws, and regulations.

8. Electrical Usage and Renewable Energy Requirements

Prior to [DATE], the Company shall (a) satisfy all minimum energy efficiency and equipment standards established by the Cannabis Control Commission and meet all applicable environmental laws, regulations, permits, and other applicable approvals; (b) adopt and use best management practices as determined by the Cannabis Control Commission to reduce energy usage and

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consumption and engage in energy conservation; and (c) ensure that lighting power densities for cultivation spaces does not exceed an average of 36 watts per gross square foot of active and growing canopy. Additionally, the Company is committed to utilizing LED lighting, at a minimum, for the vegetative and flowering phases of its cultivation operations. The Company agrees to enroll in the [REDACTED] municipal electric aggregation program, which supplies a 100% renewable power product and contributes to the local solar rebate program.

The Company shall report to the Energy Office annually on its energy use through an Energy Use Disclosure and shall include in its annual report to the Select Board a summary of its ongoing strategies to further reduce electrical demand.

9. Water Consumption

The Company shall use best efforts to minimize water consumption at the Facility. Water consumption techniques shall include: (a) a commitment to utilizing hand watering techniques to ensure plants only receive the minimum amount of water needed for each plant; (b) a commitment to not engaging in water intensive cultivation methods such as ebb and flood hydroponic cultivation; and (c) installation of dehumidifiers in each room where cultivation occurs to collect and reuse moisture evaporating from plants resulting in reclamation of significant quantities of water.

10. Waste and Waste Water Controls

The Company shall ensure that all recyclables and waste, including organic waste composed of or containing finished marijuana and marijuana products, shall be stored, secured, and managed in accordance with applicable state and local statutes, ordinances, and regulations. Liquid waste containing marijuana or by-products of marijuana processing shall be disposed of in compliance with all applicable state and federal requirements, including but not limited to, for discharge of pollutants into surface water or groundwater (Massachusetts Clean Waters Act, M.G.L. c. 21 §§ 26-53; 314 CMR 3.00: Surface Water Discharge Permit Program; 314 CMR 5.00: Groundwater Discharge Program; 314 CMR 12.00: Operation Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Dischargers; the Federal Clean Water Act, 33 U.S.C. 1251 et seq., the National Pollutant Discharge Elimination System Permit Regulations at 40 CFR Part 122, 314 CMR 7.00: Sewer System Extension and Connection Permit Program), or stored pending disposal in an industrial wastewater holding tank in accordance with 314 CMR 18.00: Industrial Wastewater Holding Tanks and Containers.

Additionally, the Company shall pay to have a Deduct Meter installed at the Facility in order to monitor the municipal wastewater discharge at the Facility. The Company shall exclusively use organic or natural cultivation processes to limit the risk of cultivation-related pollutants and contaminants from being discharged into surface water and groundwater. Company shall utilize cultivation processes such as hand watering of plants and use of dehumidification systems to ensure that there is no wastewater discharged as part of the cultivation at the Facility. Company agrees to consult with the [REDACTED] Sewer Department regarding its cultivation methods and wastewater plan prior to commencing cultivation at the Facility or in the event of a change of the Company's cultivation practices that may result in wastewater discharge at the Facility. Company

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shall comply with all reasonable requests of the ██████████ Sewer Department, including, but not limited to, testing requirements and tank holding requirements if necessary.

Organic material, recyclable material and solid waste generated at the Facility shall be redirected or disposed of as follows:

- i. Organic material and recyclable material shall be redirected from disposal in accordance with the waste disposal bans described at 310 CMR 19.017;
- ii. To the greatest extent feasible, any recyclable material as defined in 310 CMR 16.02 shall be recycled in a manner approved by the Cannabis Control Commission and any remaining marijuana waste shall be ground and mixed with other organic material as defined in 310 CMR 16.02 such that the resulting mixture renders the marijuana unusable for its original purpose. Once such marijuana waste has been rendered unusable, the mixture may be composted or digested at an aerobic or anaerobic digester at an operation that is in compliance with the requirements of 310 CMR 16.00.

The Company shall ensure that solid waste containing cannabis waste generated at the Facility is ground up and mixed with solid wastes such that the resulting mixture renders the cannabis unusable for its original purposes. Once such cannabis waste has been rendered unusable, it will be brought to a solid waste transfer facility or a solid waste disposal facility (e.g., landfill or incinerator) that holds a valid permit issued by the Department of Environmental Protection.

The Company will ensure that no fewer than two agents witness and document how the marijuana waste is disposed or otherwise handled (recycled, composted, etc.) in accordance with 935 CMR 500.105(12). When marijuana products or waste is disposed or handled, the Company will create and maintain a written or electronic record of the date, the type and quantity disposed or handled, the manner of disposal or other handling, the location of disposal or other handling, and the names of the two Company agents present during the disposal or other handling, with their signatures. The Company shall keep these records for at least three years.

11. Odor Control Technology

The Company shall ensure that odor from the Facility does not constitute a nuisance to surrounding properties. Subject to review and approval by the Planning Board as part of the Special Permit process, the Company shall, at a minimum, utilize a closed air system at the Facility to not relive or introduce any outdoor air into the Facility, nor allow any indoor air to escape. The Company shall utilize high capacity activated carbon filter fans to constantly recirculate the air and remove odors and harmful volatile organic compounds (VOCs) from the Facility. The Company shall ensure proper maintenance of all odor mitigation equipment and will replace carbon filters in a timely manner according to manufacturer recommendations to ensure maximum efficiency. The Planning Board may impose additional odor control requirements as part of the Special Permit.

12. Traffic Management

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The Company agrees at its own expense to employ a police detail, if deemed necessary by the Town, to manage traffic at the site. In the event that there is traffic queuing at the Facility which cannot be accommodated through existing parking and police detail, the Company shall provide off-site parking and shuttle service to the Facility to alleviate traffic issues.

13. Limitations on Use

The Company agrees that, even if authorized under CCC regulations, it will not engage in delivery of adult use marijuana directly to consumers, or on-site social consumption absent approval from the Select Board.

The Company agrees that it will not produce or sell items for medical use that resemble or are in the form of candy, such as lollipops, “gummi bears,” jelly beans, or similar products.

The Company additionally agrees that all edible marijuana products for adult use consumption in the form of candy or other confections shall meet the requirements of 935 CMR 500.105(5) and shall additionally be submitted to the Board of Health for review and comment on the form of the product prior to being marketed or sold by the Facility.

The Company agrees that all marijuana and marijuana products sold in its marijuana retail establishment shall be cultivated, processed and manufactured on [REDACTED].

14. Re-Opener/Review

The Company or any “controlling person” in the Company, as defined in 935 CMR 500.02, shall be required to provide to the Town notice and a copy of any other Host Community Agreement entered into for any establishment in which the Company, or any controlling person in the Company, has any interest and which is licensed by the CCC as the same type of establishment as the entity governed by this agreement.

In the event the Company or any controlling person enters into a Host Community Agreement for a marijuana retail establishment, a marijuana cultivation establishment and/or a marijuana product manufacturing establishment with another municipality in the Commonwealth that contains financial terms resulting in payments of a Community Impact Fee or other payments totaling a higher percentage of gross sales for the same type of establishment than the Company agrees to provide the Town pursuant to this Agreement, then the parties shall reopen this Agreement and negotiate an amendment resulting in financial benefits to the Town equivalent or superior to those provided to the other municipality.

15. Support

The Town agrees to submit to the CCC, or such other state licensing, registering or monitoring authority, as the case may be, the required certifications relating to the Company’s application for a license or certificate of registration to operate the Facility where such compliance has been properly met, but makes no representation or promise that it will act on any other license or permit

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request, including, but not limited to any zoning application submitted for the Facility, in any particular way other than by the Town's normal and regular course of conduct and in accordance with its rules and regulations and any statutory guidelines governing them.

16. Term

Except as expressly provided herein, this Agreement shall take effect on the date set forth above, and shall be applicable for as long as the Company operates the Facility or any of its licensed components, including adult use marijuana cultivation, marijuana product manufacturing or marijuana retail operations and any components of a registered Medical Marijuana Treatment Center in the Town, with the exception of the Community Impact Fee as set forth in Section 2 herein, which shall be subject to the five (5) year statutory limitations of G.L. c.94G, §3(d).

In the event the Company has not secured a final license and certificate of registration from the CCC and all necessary local permits from the Town for both the adult use and medical marijuana operations and commenced both adult use and medical marijuana operations at the Facility within two years from the date this Agreement takes effect, this Agreement shall expire and the Company shall be required to negotiate a new Host Community Agreement in order to operate the Facility within the Town. The Select Board, in its discretion, may agree to an extension of the two year expiration, for good cause, which shall include the time required to pursue or await the determination of an appeal of the special permit or other legal proceeding.

17. Annual Reporting

The Company shall file an annual written report with the Select Board in connection with its annual financial submissions each year for purposes of reporting on compliance with each of the terms of this Agreement and shall, at the request of the Select Board, appear at a regularly scheduled meeting to discuss the Company's Annual Report.

18. Successors/Assigns

The Company 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 Town, and shall not assign any of the monies payable under this Agreement, except by and with the written consent of the Town and shall not assign or obligate any of the monies payable under this Agreement, except by and with the written consent of the Town. This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Neither the Town nor the Company shall assign, sublet, or otherwise transfer any interest in the Agreement without the written consent of the other. Any consent by the Town herein shall be at the sole discretion of the Town. In exercising its discretion, the Town may require that the assignee, transferee, or successor entity submit all of the relevant information that was required by the Town in the initial RFQ, and reserves the right to require such additional information as the Town deems necessary.

Events deemed an assignment include, without limitation: (i) Company's final and adjudicated bankruptcy whether voluntary or involuntary; (ii) the Company's takeover or merger by or with any other entity; (iii) the Company's outright sale of assets and equity, majority stock sale to

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another organization or entity for which the Company does not maintain a controlling equity interest; (iv) or any other change in ownership or status of the Company; (v) any assignment for the benefit of creditors; and/or (vi) any other assignment not approved in advance in writing by the Town.

19. Notices

Any and all notices, consents, demands, requests, 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 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.

To Town:



To Company:

20. Severability

If any term of condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by a 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 the Town would be substantially or materially prejudiced. Further, the Company agrees that 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 the Company in a court of competent jurisdiction, the Company shall pay for all reasonable fees and costs incurred by the Town in enforcing this Agreement.

21. Governing Law

This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, and the Company submits 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 Company and the Town with respect to the matters described herein. 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.

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23. 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.

24. Headings

The article, section, and/or paragraph headings in this Agreement are for convenience of reference only, and shall in no way affect, modify, define or be used in interpreting the text of this Agreement.

25. Counterparts

This Agreement may be signed in any number of counterparts all of which taken together, each of which is an original, and all of which shall constitute one and the same instrument, and any party hereto may execute this Agreement by signing one or more counterparts.

26. Signatures

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

27. No Joint Venture

The Parties hereto agree that nothing contained in this Agreement or any other documents executed in connection herewith is intended or shall be construed to establish the Town, or the Town and any other successor, affiliate or corporate entity as joint ventures or partners.

28. Nullity

This Agreement shall be null and void in the event that the Company does not locate the Facility in the Town or relocates the Facility out of the Town. Further, in the case of any relocation out of the Town, the Company agrees that an adjustment of Annual Payments due to the Town hereunder shall be calculated based upon the period of occupation of the Facility within the Town, but in no event shall the Town be responsible for the return of any funds provided to it by the Company.

29. Indemnification

The Company shall indemnify, defend, and hold the Town harmless from and against any and all claims, demands, liabilities, actions, causes of actions, defenses, proceedings and/or costs and expenses, including attorney's fees, brought against the Town, their agents, departments, officials, employees, insurers and/or successors, by any third party arising from or relating to the

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development of the Property and/or Facility. Such indemnification shall include, but shall not be limited to, all reasonable fees and reasonable costs of attorneys and other reasonable consultant fees and all fees and costs (including but not limited to attorneys and consultant fees and costs) shall be at charged at regular and customary municipal rates, of the Town's choosing, incurred in defending such claims, actions, proceedings or demands. The Company agrees, within thirty (30) days of written notice by the Town, to reimburse the Town for any and all costs and fees incurred in defending itself with respect to any such claim, action, proceeding or demand.

30. 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 Town or the Company.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written above.

[REDACTED]

THE COMPANY

[REDACTED]

President