

HOST COMMUNITY AGREEMENT

This **HOST COMMUNITY AGREEMENT** (this “Agreement”) is made as of the _____ day of _____, 20__ (the “Effective Date”) by and between the **CITY OF SOMERVILLE** (hereinafter referred to as the “City”), a municipal corporation existing within the Commonwealth of Massachusetts with an address of 93 Highland Avenue, Somerville, Massachusetts 02143, and _____ (hereinafter referred to as the “Company”) a corporation with a principal place of business located at _____, and operating a “Marijuana Establishment” within the City of Somerville at _____. The City and the Company shall be collectively known herein as the “Parties”.

RECITALS

WHEREAS, on November 8, 2016, the voters of the Commonwealth approved legislation regulating commerce in marijuana, marijuana accessories, and marijuana products and for the taxation of proceeds from sales of such products. It also authorized cities and towns to adopt reasonable restrictions on the time, place, and manner of operating marijuana businesses; and,

WHEREAS, in order for a marijuana establishment to be licensed by the Massachusetts Cannabis Control Commission (the “CCC”), the establishment must execute a Host Community Agreement (an “HCA”) with the municipality in which it intends to be located; and,

WHEREAS, the Mayor created a Marijuana Advisory Committee, that created an application and review process for marijuana establishments interested in opening in Somerville; and,

WHEREAS, after extensive review by the Mayor’s Marijuana Advisory Committee, the Company was awarded a Host Community Agreement by the City; and,

WHEREAS, the Company desires to mitigate any actual or potential adverse community impacts and to improve the security and health of the people of Somerville; and,

WHEREAS, it is the intention of the parties that each be bound by the provisions of this Agreement and that this Agreement be fully enforceable by a court of competent jurisdiction in accordance with its terms,

NOW, THEREFORE, the Company and the City agree as follows:

1. Community Impact Fee. The City anticipates that, as a result of the Company’s operation as a Marijuana Establishment or Medical Marijuana Treatment Center, it will incur additional expenses and impacts upon its road system, law enforcement, fire protection services, inspectional services, permitting services, administrative services, and public health services, in addition to potential additional unforeseen impacts upon the City, which shall be reasonably related to the costs imposed upon the City by the operation of the Company’s Marijuana Establishment or Medical Marijuana Treatment Center.

The City shall not attempt to collect Community Impact Fees relating to the Company's operations occurring prior to the date the Company is granted a Final License by the CCC.

The City agrees not to collect a Community Impact Fee from the Company during the first 12 months following the opening of the Marijuana Establishment. At the option of the City, if during any year of operation, the Marijuana Establishment results in unforeseen costs to the City, the City shall document these costs and notify the Company in writing no later than 1 month following the annual renewal of the final license. In no event shall the total Community Impact Fee exceed three per cent of the Company's gross sales at the Marijuana Establishment.

Any Community Impact Fee shall encompass all payments and obligations between the City and the Company, except that the City may collect Generally Occurring Fees from the Company. Generally Occurring Fees, as defined by 935 CMR 500.180(2)(e)(3), are fees customarily imposed by the City on non-cannabis businesses operating within its confines, and shall not be considered Community Impact Fees. The Community Impact Fee shall not include any additional payments or obligations, including but not limited to, monetary payments, in-kind contributions, and charitable contributions by the Company to the City or any other organization. Nothing in this section shall preclude the Company from voluntarily providing organizations with monetary payments, in-kind contributions, and charitable contributions after the execution of this Agreement; provided, however, that no terms of this Agreement shall be interpreted to include a promise to make a future monetary payment, in-kind contribution, or charitable contribution.

The City may choose to not assess or collect impact fees in a particular year. Any such election shall not operate as a waiver of the City's rights under this Agreement to collect a Community Impact Fee in subsequent years.

The City shall not assess a Community Impact Fee after the eighth year of the date of the Company's final CCC licensure.

2. Payment Schedule. Any undisputed Community Impact Fees due under paragraph 1 of this Agreement shall be due no later than the next occurrence of the 30th day of June or within 90 days of the CCC's Community Impact Fee certification, whichever is later.
3. Hiring of Employees. When hiring workers for available positions at the Marijuana Establishment, the Company shall use best efforts to hire workers for those positions as follows: first, qualified City of Somerville residents of Black, African American, or Latino descent, or who are veterans, or both; and then, at least 30% of staff to fall under any of the following categories:
 - a) Somerville residents who are Black or of African American descent
 - b) Somerville residents of Latino descent
 - c) Somerville residents who are veterans
 - d) Individuals formally incarcerated for marijuana offenses

If workers cannot be obtained in sufficient numbers, positions may be open to other qualified workers, with a preference for Somerville residents. In furtherance of this commitment the Company shall work in concert with local workforce organizations and

programs, including but not limited to the Economic Development Division of the City's Office of Strategic Planning and Community Development (OSPCD), in an effort to inform the community and to help identify Somerville residents who have or can acquire the appropriate training, skills, and work experience to work for the Company. Job advertisements must be published in, at a minimum, English, Spanish, Portuguese, and Haitian Creole. The City encourages the Company to pay all employees a living wage that is sufficient to provide the necessities and comforts essential to an acceptable standard of living.

4. Real Estate Taxes. At all times during the Term of this Agreement, the real estate taxes for the property at which the Marijuana Establishment is operated will be paid either directly by the Company or by its landlord, and the Company will not seek a non-profit exemption from paying such taxes.
5. Location of Operations. The Parties acknowledge and agree that the location of the operations is an essential element of the agreement set forth herein. Change of location shall not be permitted absent express written approval by the City in its sole discretion.
6. Type of Marijuana Establishment. The Parties acknowledge and agree that this Agreement is limited to the purpose of authorizing the Company to operate its Marijuana Establishment, the specific type of which is an essential element of the agreement set forth herein. Change of establishment type from [select one or more and strike the rest: Marijuana Retailer / Marijuana Cultivator (Indoor) / Marijuana Cultivator (Outdoor) / Craft Marijuana Cooperative / Marijuana Product Manufacturer / Marijuana Microbusiness / Independent Testing Laboratory and Standards Laboratory / Marijuana Retailer / Social Consumption Establishment / Marijuana Transporter / Marijuana Courier / Marijuana Delivery Operator], as defined by 935 CMR 500.000, to any other establishment type shall not be permitted absent express written approval by the City, and in its sole discretion.
7. Advertising. The Company makes a commitment to follow the CCC Regulations, 935 CMR 500.105(4), with respect to advertising requirements and will ensure that warning language is reasonably conspicuous to those that such advertisement is targeted toward.
8. Terms and Termination. The Term of this Agreement shall commence on the date that the Company is issued a license by the Somerville Licensing Commission to operate the Marijuana Establishment in Somerville and shall remain in effect until one of the following occurs:
 - a.) the CCC or Somerville Licensing Commission revokes the Company's license, thereby requiring the Company to cease operation of the Marijuana Establishment, except that the City shall not discontinue relations with the Company in bad faith and shall provide the Company with written notice of the City's intention to discontinue relations with reasonable advanced notice; or,
 - b.) the Company terminates this Agreement upon the cessation of all business and operations at the Marijuana Establishment and within the City of Somerville for a period of greater than 60 days without substantial action to reopen, or relocates such

- operations outside of the City, and the Company shall make best efforts to provide notice to the City no less than 90 days prior to cessation or relocation of operations; or,
- c.) the Company sells the business or introduces new investors into their corporate structure; or,
 - d.) the Company changes to a non-profit organization or otherwise changes its corporate structure; or,
 - e.) on December 31, 20[REDACTED], at which time the provisions of section 10 below shall be in effect.

However, terminations pursuant to section 8.c.) and 8.d.) shall not occur where a corporation (whether stocks are traded publicly or privately) introduces new investors or otherwise makes changes in their corporate structure that do not result in the provisions of 935 CMR 500.104(1)(b) being triggered.

- 9. Renegotiation. This Agreement may be renegotiated at any time by mutual agreement of the Parties. In the event the Parties reopen negotiations under this section and are unable to successfully negotiate an amendment, the status quo shall be maintained under the existing Agreement until such time that any successful amendment is executed, or the Agreement terminates pursuant to section 8.
- 10. Continuation Beyond Terms. At the conclusion of the term of this Agreement, the parties may 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 Company no longer does business in the City or fails to obtain, or otherwise maintain (including suspension, revocation, or forfeiture of) any license(s) as may be required by the City, CCC, or any regulatory body, to operate the Marijuana Establishment pursuant in section 6 of this Agreement, this Agreement shall become null and void. To the extent there is a change in federal, state, and/or local law, statute, ordinance, or regulation applicable to this Agreement, the Parties agree to evaluate its terms in accordance with said regulations and to amend this Agreement as may be required by the same.
- 11. Assignment. This Agreement may not be transferred by the Company to a new Licensee at the same location and may not be transferred to a Marijuana Establishment at a different location. A transfer of ownership of a Marijuana Establishment requires the signing of a new Host Community Agreement and a new license from the Somerville Licensing Commission.
- 12. Notice. Any notice hereunder shall be in writing and shall be deemed duly given if mailed by certified or registered mail, postage and registration charges prepaid, to the addresses set forth below:

The City:	Somerville City Hall 93 Highland Avenue Somerville, MA 02143 Attention: Office of Strategic Planning and Community Development (OSPCD)
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and to: Somerville City Hall
93 Highland Avenue
Somerville, MA 02143
Attention: City Solicitor

Company: Name: _____
Address: _____
City: _____, State: _____, Zip: _____
Attention: _____

13. Entire agreement. This agreement supersedes any and all other agreements, either oral or in writing, between the Parties hereto with respect to the subject matter of the Agreement. This Agreement may not be changed verbally and may only be amended by an agreement in writing signed by both Parties.
14. No Rights in Third Parties. This Agreement is not intended to, nor shall it be construed to, create any rights in third parties.
15. Severability. If any portion of this Agreement shall be held by a court of competent jurisdiction to be contrary to law, that provision will be enforced to the maximum extent permissible and the remaining provisions shall remain in full force and effect, unless one or both Parties would be substantially or materially prejudiced.
16. Dispute Resolution. If a dispute arises concerning the performance of either party hereunder, prior to resorting to court, the Parties first shall provide notice to the other and shall meet and work in good faith either directly or with the assistance of a mutually agreed third party to attempt to resolve their dispute in a prompt manner. If the dispute has not been resolved as aforesaid within ninety (90) days of its inception, either party shall be free to seek a judicial remedy.
17. Governing Law and Exclusive Venue. The Parties agree that this Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, and that a court of competent jurisdiction in Middlesex County shall be the exclusive venue for any legal proceedings that may arise from this Agreement.
18. Successors. This Agreement shall be binding upon and shall inure to the benefit of the Parties, their respective heirs, executors, and administrators and assigns.
19. 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.
20. Signatures. Facsimile or electronic signatures affixed to this Agreement shall have the same weight and authority as an original signature.
21. Modification or Amendments. This Agreement may only be modified or amended by a written document duly executed by the Parties hereto. 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 Company.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, Company and the City have executed this Agreement under seal as of the day and year first above written.

CITY:

CITY OF SOMERVILLE

By:

Katjana Ballantyne, Mayor

Approved as to form:

By:

Cynthia Amara, City Solicitor

Company: _____

By:

Name: _____

Title: _____

On this ____ day of _____, 20____, before me personally appeared the above-named Katjana Ballantyne, as Mayor of the City of Somerville, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding instrument, and acknowledged to me that such person signed said instrument voluntarily for its stated purpose as his/her free act and deed in such capacity.

Notary Public:
My commission expires:

STATE/Commonwealth of _____

COUNTY OF: _____

On this ____ day of _____, 20____, before me personally appeared the above-named _____, the _____ of _____, a _____, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding instrument, and acknowledged to me that such person signed said instrument as the _____ of _____ and voluntarily for its stated purpose as his/her free act and deed.

Notary Public:
My commission expires: