

EASTHAMPTON HOST COMMUNITY AGREEMENT FOR MDO

Section A. Parties and Definitions

1. Parties

Easthampton	Means	The City of Easthampton, Massachusetts a municipal corporation existing within the Commonwealth of Massachusetts with a usual place of business at: 50 Payson, Avenue Easthampton, MA 01027
Company	Means	Clovercraft LLC, a Massachusetts limited liability company seeking licensure as a Marijuana Delivery Operator (MDO) with a place of business at: 17 East Street Easthampton, MA 01027

2. Definitions

- Agreement** Means this Community Host Agreement entered into by the Parties pursuant to M.G.L. c. 94G, § 3(d) as amended to date and all other **Legal Requirements**.
- CCC** Means the Massachusetts Cannabis Control Commission.
- Commencement Date** Means the date the **Parties'** rights and obligations under this **Agreement** become operative, which shall be the date all **Parties** have executed this **Agreement**.
- Extension Period(s)** Means any extension of the **Term** of this **Agreement** to be negotiated by and between the **Parties** at a future date. The inclusion of this definition does not mean or intend to imply that any **Extension Period(s)** are in existence or will be agreed to by the **Parties**.
- Gross Sales** Means the gross of all sales transactions including but not limited to sales from the production, sales, operations, or services by the **Company** from the **MDO** and shall include but shall not be limited to the sale of adult-use marijuana, marijuana infused products, and any other products containing marijuana sold by the **MDO**. As used in this **Agreement** **Gross Sales** shall be interpreted to include to the maximum extent all categories of sales or revenue permitted under M.G.L. c.94G, § 3(d) or other **Legal Requirements**.
- Gross Sales** shall not include documented intercompany transfers of marijuana or products containing marijuana between **Marijuana Establishments** with common ownership or control each of which is located in **Easthampton** (including the **Company's MDO**), but shall include documented intercompany transfers of marijuana grown or products containing marijuana manufactured by a **Marijuana Establishment** located in **Easthampton** and a **Marijuana Establishment** located outside **Easthampton** whether or not such **Marijuana Establishments** are in common ownership.
- CIF** Means the **Community Impact Fee** as detailed in Section C.2. of this **Agreement**.
- Legal Requirements** Means all federal, state and local laws, statutes, ordinances, regulations, covenants or other legal requirements of any nature or kind as amended to date whether imposed by law or otherwise applicable to the cultivation, manufacture, delivery or sale of marijuana or products containing marijuana including but not limited to Chapter 334 of the Acts of 2016, The Regulation and Taxation of Marijuana Act, as amended by Chapter 55 of the Acts of 2017, An Act to Ensure Safe Access to Marijuana (collectively referred to as the "Act"), and applicable regulations issued by the Commonwealth of Massachusetts or the **CCC** and such approvals as may be issued by **Easthampton** in accordance with its Zoning Ordinance, Ordinances and other applicable regulations.
- Local Tax** Means the marijuana local tax option as detailed in the Legal Requirements. All retail sales of marijuana by the **Company** operating in **Easthampton** are subject

to the marijuana local tax option. The marijuana local tax option is imposed in the same manner as the Commonwealth’s marijuana excise tax. For the purpose of determining the application of the marijuana local tax option, the **Company** must source all retail sales of marijuana occurring in **Easthampton to Easthampton**. Marijuana is not subject to the **Local Tax** when re-sold to another **Marijuana Establishment** or when sold as medical marijuana pursuant to the **Legal Requirements**.

Marijuana Establishment

Means the holder of any license issued by the **CCC** including an **MTC**.

MCL

Means the holder of a Marijuana Cultivator License issued by the **CCC** including where applicable a “Craft Marijuana Cooperative” licensee allowing for the cultivation, processing, packaging of marijuana and the transfer and delivery of marijuana products to other **CCC** licensed **Marijuana Establishments**, but not to consumers.

MPM

Means the holder of a Marijuana Product Manufacturer license issued by the **CCC** allowing the licensee to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to **Marijuana Establishments** and to transfer marijuana and marijuana products to other **Marijuana Establishments**, but not to consumers unless otherwise allowed by the **Legal Requirements**.

MRF

Means the holder of a Marijuana Research Facility license issued by the **CCC** allowing the licensee to cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research regarding marijuana and marijuana products. A Marijuana Research Facility may not sell marijuana it has cultivated.

MTC

A Registered Marijuana Dispensary (also known as a “medical marijuana treatment center”), is an entity holding a licensee from the **CCC** allowing it cultivate, process and retail its own marijuana and marijuana products for medical use.

MDO

Means the holder of a Marijuana Wholesale Delivery License or Marijuana Delivery Operator’s license issued by the **CCC** pursuant to the **Legal Requirements**. which among other things is authorized to purchase at Wholesale and Warehouse Finished Marijuana Products acquired from a Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative, and sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Branded Goods directly to Consumers, but shall not operate a storefront under this license. An **MDO** shall not be considered to be a Marijuana Retailer or **RO** under the Easthampton Zoning Ordinance, or under 935 CMR 500.002: Definitions or 935 CMR 500.050: Marijuana Establishments and shall be subject to 935 CMR 500.050 (1)(b): Control Limitations all pursuant to the **Legal Requirements**.

- Opening Date** Means the sooner of the (a) date the **Company** opens its **MDO** to consumers or (b) six (6) months from the day the **Company** (1) receives a “Final License” or such other license and/or approval as may be required for the operation of the **MDO** in **Easthampton** from the **CCC** and/or such other state licensing or monitoring authority, as the case may be, and (2) receives any and all necessary and required permits, licenses and/or approvals required by **Easthampton**, and (3) all appeal periods related the forgoing licenses and permits have expired with no appeal having been taken.
- Property** **17 East Street, Easthampton, MA** where the **Company** intends to operate an **MDO** consisting as generally shown and described on **Exhibit A** attached hereto and incorporated herein.
- Party/ies** Means any entity whose name appears in Section A(1) of this **Agreement**. **Parties** Means all the **Parties** collectively named in Section A(1) of this **Agreement**.
- RO** Means an entity holding a license from the **CCC** to purchase and deliver marijuana and marijuana products from **Marijuana Establishments** and to sell or otherwise transfer marijuana and marijuana products to **Marijuana Establishments** and to retail adult consumers excluding an **MDO**.
- Site Plan** Means the Site Plan attached hereto as part of **Exhibit A** attached hereto and incorporated herein.
- Site Control** Means proof acceptable to the Parties, which may be a letter from the Owner of the Property indicating that the **Company** has a legal interest in the **Property** where the **Marijuana Establishment** will be located and is shown on the **Site Plan**. **Site Control** may be shown by providing any of the following (which may have the business/monetary terms redacted): (a) a copy of the deed to the **Property** demonstrating the **Company’s** ownership; (b) a copy of a lease with a duration at least as long as this **Agreement**; (c) an option to purchase the **Property**; (d) a copy of a legally enforceable agreement to transfer title to the **Property** to the **Company**; or (which may have the business terms redacted) (e) other legally binding permission to use the **Property** for the term of this **Agreement** acceptable to **Easthampton** as demonstrated by **Exhibit B** attached hereto and incorporated herein.
- Social Equity Company** Means a company or individual eligible for treatment as a Certified Economic Empowerment Applicant or Social Equity Program Participants under the under the **CCC’s** Social Equity Program.
- Term** Means the length of this **Agreement**. This **Agreement** shall begin on the **Commencement Date** and shall expire five (5) years from the **Opening Date**.
- Use** Means use of the **Property** as an **MDO**.
- Warehouse** Means an indoor structure or a portion of the structure on the licensee’s Premises used by a **ME** for the onsite storage of Marijuana and Marijuana Products in compliance with the **Legal Requirements**. For **Wholesale Delivery Licensees**

the location of the Warehouse shall be the Licensee's principal place of business in the host community.

Warehousing

Means the onsite storage of Marijuana and Marijuana Products that have been purchased at **Wholesale** for eventual resale.

Wholesale

Means the wholesale transfer of Marijuana or Marijuana Product between **ME's**. Wholesale Agreement means a contract between **ME's** defining the terms of Transfer of Marijuana or Marijuana Products between the **ME's**.

Section B. Recitals

WHEREAS, the **Company** is lawfully formed under the General Laws of Massachusetts with intent to provide cannabis for customers of **Company** from the **MDO** at the **Property**; and

WHEREAS, the **Company** desires to operate an **MDO** at the **Property** in **Easthampton**; and

WHEREAS, the **Company** has represented to **Easthampton** that it is a **Social Equity Company**; and

WHEREAS, the **Company** has provided **Easthampton** with a **Site Plan** and proof of **Site Control**; and

WHEREAS, nothing contained herein shall be construed to forego any other **Legal Requirements** which the **Company** must meet to operate an **MDO** either from the Commonwealth of Massachusetts, **Easthampton** or any other licensing authority; and

WHEREAS, the **Parties** agree the **Company's** business might impact **Easthampton** resources, including, but not limited to, Easthampton's road system, law enforcement, fire protection services, inspectional services, permitting services, and public health services in ways unique to the business of the **Company** and draw upon **Easthampton's** resources in a manner not shared by the general population; and

WHEREAS, the Parties agree that the **Company's** impact on **Easthampton** may be positive as the **Company** expects its operations will increase employment, property evaluations and resulting real estate tax income to **Easthampton** and increase municipal revenues from impact fees.

WHEREAS, the **Company** wishes to minimize and mitigate its non-positive impact on **Easthampton**, while also maximizing and enhancing its positive impact on **Easthampton**; and

WHEREAS, in compliance with the **Legal Requirements** the **Parties** wish to enter into this **Agreement** in order to set forth the terms and conditions for the **Company** to operate an **MDO** in **Easthampton**; and

NOW, THEREFORE, for good and valuable consideration the receipt and sufficiency of which is acknowledged by the **Parties**, the **Parties** mutually agree as follows:

Section C. Terms and Conditions of this Agreement.

1. Term

- a. This **Agreement** shall commence on the **Commencement Date** and run for the **Term** and any **Extension Period(s)**. Prior to the conclusion of the **Term**, if allowed by law, the **Parties** may in good faith attempt to agree upon an **Extension Period** or the terms of a new Community Host Agreement. During such negotiations, the terms of this **Agreement** shall continue in full force and effect until the **Parties** reach accord on a subsequent agreement in writing or either **Party** notifies the other that it does not intend to continue negotiating and that the terms of this **Agreement** will therefore expire at the end of the **Term**.
- b. Upon conclusion of the **Term** the **Parties** shall have all rights and obligations pursuant to the **Legal Requirements** and other laws of the Commonwealth of Massachusetts. Provided however, the **Parties** agree that the **Company** may not operate an **MDO in Easthampton** after the **Term** unless a subsequent Community Host Agreement or other such agreement is entered into by and between the **Company** and **Easthampton** if then required by **Legal Requirements**.
- c. Any renegotiation of this **Agreement** or negotiation of a subsequent agreement shall include a review of positive and negative impacts upon **Easthampton**, its residents, and businesses resulting from operation of the **Company's** operations, including, without limitation, community health, associated business growth, traffic, crime, use of **Easthampton's** resources, proximate property value impacts, and other documented impacts.

2. **CIF**

In an ongoing effort and in order to mitigate, calculate and monitor the **Company's** unique impact on **Easthampton** and its resources including, without limitation, community health, associated business growth, traffic, crime, use of **Easthampton's** resources, property value, and other impacts, beginning at the **Commencement Date** the **Company** agrees, and shall pay the following **CIF** to **Easthampton** during the **Term** pursuant to the forgoing schedule:

a. **CIF Schedule:**

- i. **Interim Payments.** The **Company** agrees, and shall pay **Easthampton** Fifteen Thousand and NO/100 Dollars (\$15,000) representing additional fees, costs and expenses the **Parties** reasonably anticipate will be incurred by **Easthampton** in the **Company's** permitting process in two (2) equal payments of Seven Thousand Five Hundred Dollars (\$7,500) each, made within thirty (30) days of the following milestones: (1) The **Company's** receipt of provisional licenses from the **CCC** for an **MDO**; and (2) the **Company** receipt of any and all necessary and required permits, licenses and/or approvals required by **Easthampton** including a certificate of occupancy for the **Property** and appeal periods related the forgoing licenses and permits have expired with no appeal having been taken. These payments shall be treated as an advance on the **CIF** for the first year after the **Opening Date**. Irrespective of this interim payment, the **Company** shall be solely responsible for all fees, costs and expenses it incurs or may incur during any permitting process or in the operation of its business. Unless otherwise allowed by

law, this payment shall be treated as an advance on the **CIF** for the first year after the **Opening Date**. Should the **Company** relocate to a different jurisdiction after obtaining a provisional license from the **CCC** the second payment detailed herein shall become immediately due and owing

- ii. First Year after the **Opening Date**: Unless otherwise agreed to by the Parties in an addendum to this Agreement, the **Company** shall pay **Easthampton** a **CIF** equal to three percent (3%) of the **Company's MDO Gross Sales** less the amounts actually paid in advance pursuant to 2(C)(a)(i), (ii) or (iii) which shall be deducted from the first quarterly payment and each subsequent quarterly payment until recaptured in full by the **Company**. This **CIF** shall be made shall be made quarterly on the first of January, April, July and October and are due and payable within thirty (30) days of the end of each quarter. Concurrently with the quarterly payment, the **Company** shall provide sales records to **Easthampton** to enable **Easthampton** to determine the accuracy and sufficiency of the **CIF** payment should **Easthampton** choose to do so. Providing however that in no event shall the **CIF** payable in the First Year be less than the amounts paid in advance pursuant to 2(C)(a)(i), (ii) or (iii). Irrespective of this interim payment, the **Company** shall be and is solely responsible for all fees, costs and expenses it incurs or may incur during any permitting process or in the operation of its business.
- iii. Years Two (2) through Five (5) after the **Opening Date**: The **Company** shall pay **Easthampton** a **CIF** equal to three percent (3%) of the **Company's Gross Sales**. Payments in year Two (2) and thereafter shall be made quarterly on the first of January, April, July and October and are due and payable within thirty (30) days of the end of each quarter. Concurrently with the quarterly payment, the **Company** shall provide sales records to **Easthampton** enable **Easthampton** to determine the accuracy and sufficiency of the **Host Impact Fee** payment should **Easthampton** choose to do so.
- iv. **Reduction in CIF for Social Equity Company And Location in Easthampton:** Notwithstanding anything herein to the contrary, the **Parties** agree that during the time the **Company** is classified as a **Social Equity Company by the CCC** and is located in **Easthampton**, the **CIF** shall equal two percent (2%) of the **Company's Gross Sales**. If, during the course of this **Agreement** the **Company** is no longer classified as a **Social Equity Company** by the **CCC** then, beginning on the date the **Company** is no longer a **Social Equity Company** the **CIF** shall equal three percent (3%) of **Gross Sales** as otherwise detailed herein. If, after receipt of a provisional license from the **CCC** and during the term of this **Agreement**, the **Company** seeks to relocate or transfer the **CCC** license obtained utilizing this **Agreement** to another jurisdiction then the **CIF** shall equal three percent (3%) of the **Company's Gross Sales** made during the term of this **Agreement**, which three percent (3%) **CIF** shall apply retroactively to the **Effective Date** of this **Agreement**. Any amounts retroactively due shall be paid to **Easthampton** within ninety (90) days of the application to transfer or relocate such license.
- v. The **Parties** agree that that for the purpose of this **Agreement** the **CIF** described herein above is in exchange for a service which benefits the **Company** in a manner not shared by other members of the public; and that the **CIF's** purpose is not to collect revenue but to compensate **Easthampton** for providing the **Company**

services. To this end, at the end of years two (2) and (4) of this **Agreement** should either **Party** provide notice of its desire to do so, the **Parties**, shall meet to discuss in good faith the applicability and amount of the **CIF**, and upon agreement, may modify same.

- vi. Except as otherwise allowed by law the **CIF** shall not exceed three percent (3%) of the **Company's Gross Sales** pursuant to the **Legal Requirements** except as otherwise provided for herein.
 - vii. Late Payment Penalty. In the event that any payments detailed in this **Agreement** are not made within thirty (30) days after they come due, a late payment penalty equal to Two Percent (2%) per month to a maximum capped at Eighteen Percent (18%) *per annum* shall be assessed and accrue. This late payment penalty shall be in addition to and not in lieu of any other rights **Easthampton** may have under this **Agreement**. Any late penalty imposed under this provision is not considered a **CIF**, but is instead in place to compensate **Easthampton** for its loss of use of the **CIF** or other payments during the time such fee is delinquent.
- b. **Use of CIF**. The **Parties** acknowledge and agree that while the purpose of the forgoing payments is to address any public health, safety or other effects or impacts of the **Company's MDO** in **Easthampton**, **Easthampton** is under no obligation to use the **CIF** in any particular manner and that **Easthampton** may use the forgoing payments in its sole and absolute discretion.
 - c. **Local Tax** Pursuant to the **Legal Requirements** the **Company** agrees to pay, a three percent (3%) tax on the **Gross Sales** from its **MDO** operations, if any.
 - d. Provided the **Company** continues its **MDO** operations, if any, as detailed in this **Agreement**, **Easthampton** may at its sole and absolute discretion continue to levy the **Local Tax** after the **Term**, if permitted to do so by the **Legal Requirements** or Massachusetts law.

3. Annual Reporting/Recordkeeping:

- a. Within thirty sixty (60) days following the one (1) year anniversary of the **Opening Date** and on each anniversary thereafter, the **Company** shall provide **Easthampton** with **MDO Gross Sales** records for the year in which payment is being made. Such **Gross Sales** records of the **Company** shall include certification from a Certified Public Accountant licensed by the Massachusetts Board of Public Accountancy and doing business in the Commonwealth of Massachusetts that the **Gross Sales** records are true and accurate and that the **Company** recordkeeping and **Gross Sales** records comply with Massachusetts Law, including **CCC** regulations or **Legal Requirements** and conform to established industry standards.
- b. The **Company** shall provide **Easthampton** 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 pursuant to its license for the **MDO** from the **CCC** or such other state licensing or monitoring authority, as the case may be. To this end, upon request from **Easthampton** the **Company** shall provide **Easthampton** with

duplicate copies of any document or report or other filing made to any state or federal regulatory authority as they relate to the **Company's** operation of the **MDO** or its status as a **Social Equity Company**.

- c. The **Company** shall keep its books, financial records and other compilations of financial and other data in accordance with general accepted accounting standards and principals, **CCC** regulations or the **Legal Requirements**, and shall retain a complete copy of such records including those provided to **Easthampton** for the period of time required by law, but in no event less than seven (7) years from the date the documents was created.
- d. Any cost to **Easthampton** shall be documented by the **Easthampton** and considered a public record as defined by clause Twenty-sixth of section 7 of chapter 4 of the Massachusetts General Laws.

4. Re-Opener/Review of Agreement

In the event that the **Company** seeks local or state approval, or both, to allow on-site consumption of cannabis at the **MDO**, then the **Parties** shall negotiate an amendment to this **Agreement** to ensure the adequate protection of the health, safety, and general and pecuniary well-being of **Easthampton** and the **Company's** patrons.

5. Real/Personal Property Taxes and other Payments

During the **Term** of this **Agreement** the **Company**:

- a. Shall pay real estate taxes for all property(ies) the **Company** owns or for which it is legally or contractually liable to pay real estate taxes in **Easthampton** and shall pay personal property taxes for all personally owned property by the **Company** which is located in **Easthampton**; and
- b. Shall pay for all purchases of water, sewer and other municipal services from **Easthampton** for which it is legally or contractually liable; and
- c. Shall pay **Easthampton** for any "fees" annual or otherwise associated with the permitting or operation of its **MDO** or other business operations as required by **Easthampton's Legal Requirements**; and
- d. Shall not seek tax exempt or nonprofit status from any local, state or federal government.

6. Default and Termination

- a. **Voluntary Termination for Discontinuance of Operations:** Except as to obligations which survive the termination this **Agreement**, the **Parties'** obligations set forth in this **Agreement** shall cease and this **Agreement** shall terminate fifteen (15) days after notice is provided by the **Company** that it has (1) ceased retail sales from its **MDO** in **Easthampton** and (2) notifies the other **Party** of same. Providing, however, that the **Company** may only terminate this **Agreement** pursuant to this provision if the **Company** is otherwise in complete compliance with its obligations under this **Agreement**.

- b. Events of Default:** The **Company** shall be in default of this **Agreement** if any of the following occur:
- i. The **Company** fails to make any payment required under this **Agreement**, and such payment failure is not cured within thirty (30) business days of the date such payment was due; or
 - ii. The **Company** fails to conduct sales from its **MDO** by the **Opening Date**; or
 - iii. The **Company** breaches any other provision of this **Agreement**, and such failure is not cured within thirty (30) days of notification from **Easthampton** of said breach; or
 - iv. The **Company** shall be declared insolvent or adjudicated as bankrupt, or if the **Company** shall seek relief by the filing of a petition for an arrangement under Chapter XI, XII or any other Chapter of the Federal Bankruptcy Act, or if a receiver shall be appointed for its business or its assets, and the appointment of such receiver is not vacated within thirty (30) days after such appointment; or
 - v. The **Company** shall make an assignment for the benefit of creditors.
- c.** Upon the occurrence of any of the forgoing defaults, **Easthampton** shall have the right, at its sole option and without prejudice to its rights under this **Agreement**, at law or equity, to terminate this **Agreement**. Further, in addition to any other remedy under this **Agreement**, upon the happening of any default and subject to any applicable grace and cure period, **Easthampton** may, at its option, declare immediately due and payable, all monetary payments then due and owing or which may come due and owing under this **Agreement** and such amount shall constitute a debt provable in bankruptcy and receivership and shall become immediately due and payable upon notice to the **Company** subject to the Company's rights under federal bankruptcy and state receivership laws.
- d.** In the event of default by the **Company** the **Company** shall pay **Easthampton's** reasonable fees and costs, including reasonable attorneys' fees paid or incurred by **Easthampton** for enforcing the terms, provisions, covenants, conditions in this **Agreement**. If **Easthampton** files suit for an alleged default, and the **Company** substantially prevails in defending such litigation as determined by a court of competent jurisdiction, **Easthampton** shall pay the reasonable fees and costs including reasonable attorney fees incurred by the **Company** in defending such action.
- e.** Additional Default Provisions
- i. **Easthampton** may terminate this Agreement if **Easthampton** reasonably determines that:
 - 1. There is a substantial change in the **Use** or **Site Plan** of the **Property** without prior approval from **Easthampton**.
 - 2. The **Company** is failing or has failed to diligently pursue all necessary permits for the **MDO** following the **Commencement Date** and the **Company** has not cured same within sixty (60) days of notice from

Easthampton; or

3. The **Company** loses **Site Control** and the **Company** has not cured same within sixty (60) days of notice from **Easthampton**; or
 4. The **Company** ceases to conduct sales from its **MDO** in the **Easthampton** and has not notified **Easthampton** of its voluntary termination for discontinuance of operations as set forth above.
- ii. In the event of termination under any of the forgoing provisions, an adjustment of any remaining **CIF** shall be calculated as of the date notice of termination was sent by **Easthampton** and any time to cure had passed. Absent cure by the **Company**, payment of any outstanding **Host** or other fee, levy tax or the like of any nature or kind, including any liquidated damages then due and owing like shall be paid to **Easthampton** by certified funds or attorney's IOLTA account check within thirty (30) days of the last day to cure such default.
 - iii. In addition to any other remedy for default under this **Agreement**, in the event of default and subsequent termination of the **Agreement** under this provision, the **Company** acknowledges that **Easthampton** will incur legal fees, costs and expenses in enforcing its rights under this Agreement and therefore agrees that if the **Company's** default under this **Agreement** is proven, the **Company** shall reimburse **Easthampton** for its reasonable legal fees and costs associated with the enforcement of this **Agreement** up to Ten Thousand and 00/100 Dollars (\$10,000.00). If **Easthampton** files suit for an alleged default under this **Agreement**, and the **Company** substantially prevails in defending such litigation as determined by a court of competent jurisdiction, **Easthampton** shall reimburse the **Company's** reasonable legal fees and costs up to Ten Thousand and 00/100 Dollars (\$10,000.00).
 - iv. Liquidated Damages Provision. If, (1) during the term of this **Agreement** and (2) after receipt of a provisional license from the **CCC** and (3) prior to making **MDO** sales or deliveries from the **Property**, the **Company** seeks to relocate or transfer the **CCC** license obtained utilizing this **Agreement** to another jurisdiction then upon receipt of permission for the **CCC** to transfer the **Company's** license to another jurisdiction the **Company** shall pay **Easthampton** in addition to any other payments required under this **Agreement** amount of \$25,000.00 as liquidated damages. The forgoing shall constitute liquidated damages and not penalties and are in addition to all other rights contained in this Agreement. The **Parties** further acknowledge that (i) the amount of loss or damages likely to be incurred by **Easthampton** is incapable or is difficult to precisely estimate, (ii) the amounts specified in such subsections bear a reasonable relationship to, and are not plainly or grossly disproportionate to, the probable loss likely to be incurred by **Easthampton** in connection with the failure by the **Company** to remain in **Easthampton** during the term of this **Agreement**, (iii) one of the reasons the **Company** and **Easthampton** reached an agreement as to such amounts was the uncertainty and cost of litigation regarding the question of actual damages or loss.

7. Community Support

- a. The **Company** shall use its reasonable best efforts to hire citizens of **Easthampton** and in doing so shall, to the extent allowed by state and federal law, give preference in hiring to **Easthampton** residents and shall use its reasonable best efforts to utilize local vendors, suppliers, contractors and builders.
- b. Equity Hiring. The **Company** shall use its reasonable best efforts in light of other provisos of this **Agreement** and to the extent permissible by law, in a legal and non-discriminatory manner to hire staff that meet any of the following criteria: Individuals with a drug-related CORI, but that are otherwise legally employable in a cannabis-related enterprise; Individuals from Black, African American, Hispanic or Latino descent; Individuals that are residents of Areas Of Disproportionate Impact, as defined by the Cannabis Control Commission; Individuals that are Cannabis Control Commission-designated Social Equity Program participants; and/or Individuals that are United States military veterans.
- c. The **Company** to the extent allowed by state and federal law shall endeavor to use its reasonable best efforts to have at least Fifty Percent (50%) of its employees, vendors suppliers and contractors are either **Easthampton** residents or based in **Easthampton**.
- d. The **Company** shall provide **Easthampton** on or before the first day of February of each calendar year a report detailing the **Company's** attempt to comply with this section along with statistical data on residence or place of business of its employees, vendors and contractors.

8. **Support by Easthampton**

- a. Assuming the **Company** is in compliance with its obligations under this **Agreement**, **Easthampton** agrees to submit to the CCC, or such other state licensing or monitoring authority, as the case may be, certification of compliance with applicable local bylaws relating to the **Company's** application(s) filed with **Easthampton**, but makes no representation or promise that it will act on any other license or permit request, including, but not limited to, any Special Permit or other zoning application submitted by the **Company**, in any particular way other than by the **Easthampton's** normal and regular course of conduct, subject to the statutes, rules, regulations and guidelines governing them. **Easthampton** agrees to use reasonable efforts to work with the **Company**, if approved, to help assist the **Company** with its community support and employee outreach programs.
- b. This **Agreement** does not affect, limit, or control the authority of **Easthampton's** 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 subject to 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, bylaws, and regulations. **Easthampton** by entering into this **Agreement** is not thereby required or obligated to issue such permits and approvals as may be necessary for the **Company** to operate its **MDO** in **Easthampton**, or to refrain from enforcement action against the **Company** or its business and/or for violation of the terms of said permits and approvals or said statutes, bylaws, and regulations.

9. **Indemnification of Easthampton by the Company**

- a. Beginning on the **Commencement Date**, the **Company** shall defend, indemnify, and hold harmless ("**Indemnify**") **Easthampton**, its elected officials, officers, employees,

special employees, board members, volunteers, agents, and the like (collectively "**Indemnified Parties**") against all claims, actions, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities and suits involving the Indemnified Parties, of any kind or nature including reasonable attorneys' fees, reasonable experts' fees, and associated court costs ("**Liabilities**") that arise from or relate in any way to the enforcement by the Federal government of the United States Controlled Substances Act or any other federal law governing medical marijuana and/or recreational marijuana. Provided however, that if a state or federal investigation of **Easthampton** or the **Company** is based on the issue of whether this **Agreement** complies with M.G.L. c. 94G, § 3(d), this indemnification provision does not obligate or apply to the **Company** with regard such investigation or subsequent enforcement action.

- b. The foregoing express obligation of Indemnification running to **Easthampton** shall not be construed to negate or abridge any other obligation of indemnification, contribution or the like running from the **Company** to **Easthampton** if any action or proceeding is brought against **Easthampton** arising out of any occurrence described in this section.
- c. Upon notice from **Easthampton** that **Indemnification** under section 9(a) above is required under this **Agreement**, the **Company** shall deposit the sum of Fifty Thousand and 00/100 Dollars (\$50,000.00) with the Mayor for **Easthampton** who shall thereafter use such funds to defend, settle or **Indemnify** the **Indemnified Parties** using legal counsel selected by and controlled solely by **Easthampton**. Such legal fees, costs and expenses shall be charged at regular and customary municipal rates. Upon notice from **Easthampton** that additional funds are necessary under this provision, the **Company** shall replenish said Fifty Thousand and 00/100 Dollars (\$50,000.00). Upon resolution of the **Liabilities**, **Easthampton** shall return any unused amounts of the forgoing payment to the **Company** along with an accounting of any money spent under this provision. The provision of the accounting by **Easthampton** shall not create any right of action of any kind or nature against the **Easthampton** by the **Company** and is provided for information and accounting purposes only.
- d. Providing that the **Company** has satisfied its obligations under this **Agreement** no such action or proceeding shall be settled without the approval of both **Easthampton** and the **Company**.
- e. Notwithstanding anything to the contrary in this section, the **Company's** obligations to **Indemnify Easthampton** under this provision section shall have no set cap or limit.

10. **Diversion Mitigation**

In cooperation with and to the extent requested by **Easthampton's** Police Department, and consistent with the **Legal Requirements**, the **Company** shall work with **Easthampton's** Police Department to implement a compliant diversion prevention plan, a form of which plan to be in place prior to the **Sales Commencement Date**. Such plan will include, but, is not limited to:

- a. training employees to be aware of, observe, and report any unusual behavior in patients, caregivers, authorized visitors or other employees that may indicate the potential for diversion; and

- b. strictly adhering to sales amounts and time periods per the **Legal Requirements** or guidelines; and
- c. rigorous customer identification and verification procedures; and
- d. utilizing so called seed-to-sale tracking software to closely track all inventory in the **Company** operations.

11. **Security**

To the extent requested by the **Easthampton** Police Department, and consistent with the **Legal Requirements**, the **Company** shall cooperate and work with the **Easthampton** Police Department.

- a. The **Company** shall maintain security at the least in accordance with the security plan presented to **Easthampton** and approved by the local and state licensing and regulation authorities as the case may be.
- b. The **Company** shall at all times comply with all applicable laws and regulations regarding the operations of the **MDO** and the security thereof. Such compliance shall include, but will not be limited to: providing hours of operation; after-hours contact information and access to surveillance operations; and requiring dispensary agents to produce their Agent Registration Card to law enforcement upon request.
- c. To the extent requested by the **Easthampton** Police Department, and subject to the security and architectural review requirements of the applicable licensing or monitoring authority, as the case may be, the **Company** shall work with **Easthampton's** Police Department in determining the placement of exterior security cameras and to ensure the placement of interior and exterior security cameras to provide an unobstructed view in each direction of the public way(s) on which the **MDO** is located. Such camera(s) may be altered by the **CCC** during its security and architectural review process.
- d. The **Company** shall maintain a cooperative relationship with the **Easthampton** Police Department, including, but not limited to, periodic meetings to review operational concerns, security, delivery schedule and procedures, cooperation in investigations, and communication to the **Easthampton** Police Department of any suspicious activities on or in the immediate vicinity of the **MDO** and with regard to any anti-diversion procedures.
- e. The **Company** shall promptly report the discovery of the following occurrences within **Easthampton** to the **Easthampton's** Police Department within twenty-four (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, 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.

12. Miscellaneous Provisions

- a. Entire Agreement: This **Agreement** constitutes the entire agreement and understanding of the **Parties**, is an integrated document and supersedes any and all prior agreements and understandings of the **Parties**, whether oral written or otherwise.
- b. Should **Easthampton** require information or “cooperation” from the **Company** including but not limited to information regarding sales, the **Company** shall be required to provide no more documentation for its record keeping obligation for sales to **Easthampton** than it is required to provide the **CCC** and/or the Massachusetts Department of Revenue and no more cooperation than is required by the **Legal Requirements**.
- c. In no event shall **Easthampton** be responsible for the return of, nor shall the **Company** receive a credit of any nature or kind for any payment, fee, levy, tax, assessments or the like of any kind or nature paid or to be paid by the **Company** to **Easthampton** under this **Agreement** (collectively “Payments”) except as otherwise expressly provided for in this **Agreement**. Providing further that if **Easthampton's CIF** is deemed by a court of competent jurisdiction to violate M.G.L. c. 94G, §3(d) and **Easthampton** is ordered to return **CIF** payments, **Easthampton's** obligation to return such Payments shall not exceed the amount ordered by said court and such judgment or order shall not include interest of any nature or kind including without limitation statutory, contractual, pre or post judgment interest of any nature or kind and shall be repaid by **Easthampton** in equal payments over a period of sixty (60) months.
- d. **Statute of Repose**: If a legal proceeding of any nature or kind is brought by the **Company** which relates in any way to the Payments made or due under this **Agreement**, such legal action shall be brought within thirty (30) days of the date such Payment comes due and owing or such legal or other action shall be and is forever barred and waived. Providing further that under no circumstance shall the **Company** challenge or bring any legal or other proceeding of any nature or kind relative to the payments, if any, made pursuant to Section C2(a)(i)-(iv) of this **Agreement**.
- e. The recitals and definitions at the beginning of this **Agreement** are deemed incorporated herein, and the **Parties** hereto represent they are true, accurate and correct.
- f. The **Parties** expressly waive any defense to enforcement of this **Agreement** based upon noncompliance with federal law regarding the legal status of cannabis.
- g. No On-Site Consumption: The on-site consumption of marijuana products at the **MDO** or **Property** is prohibited.
- h. No Guarantee of Approvals: It is understood and agreed by the **Parties** that at the time of this **Agreement**, the Zoning Ordinance for **Easthampton** does not allow for an **MDO** and that the Zoning Ordinance for Easthampton will likely be amended to allow for an **MDO** use. The **Parties** further agree and understand that this Agreement is expressly contingent and conditioned upon the amendment of the **Easthampton Zoning Ordinance** to allow for an **MDO** use. The **Parties** further understand and agree that **Easthampton**, by entering into this **Agreement**, is not required or obligated to amend its Zoning Ordinance to allow for an **MDO** use, or to issue such permits and approvals as may be necessary for the

Company to operate in **Easthampton**, or to refrain from enforcement action against and/or its License for violation of the terms of said permits and approvals or said statutes, ordinances, and regulations.

- i. Due Diligence: Where any **Party** to this **Agreement** is required to act such **Party** shall act in good faith and with due diligence.
- j. Payments: Time is of the essence for the payments and/or actions required under this **Agreement**. The **Parties** acknowledge that the failure to make the payments and/or take the actions as outlined in this **Agreement** is a material breach of this **Agreement**.
- k. Assignment of Rights: This **Agreement** is binding upon the **Parties**, their successors, assigns and legal representatives. 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 of **Easthampton** which may not be unreasonably withheld by **Easthampton**. The **Company** shall not assign, obligate or pledge any of the monies payable under this **Agreement**, except by and with the written consent of **Easthampton**.
- l. Change of Ownership & Control Of Company: Prior to a change of ownership in the **Company**, where an individual or entity acquires an amount of equity in the **Company** that changes its control, or the transfer or sale of the Company's License(s) the **Company** shall notify **Easthampton** of same. Prior to a change in control of the **Company**, where an individual or entity shall be in a position to control the decision making of the **Company**, the **Company** shall notify **Easthampton** at least sixty (60) days in advance.

A used herein a position to control the decision-making of the **Company** means any of the following: actual control of more than 50% of the voting equity in the **Company**; and/or power to appoint directors; and/or contractual rights to control the **Company**; and/or the right to veto significant events. In the event of an assignment of ownership and/or control as described above, the **Company** shall ensure the controlling new or controlling entity executes such documents as are reasonably necessary to guarantee the **Company's** continued performance under this **Agreement**.

- m. Relocation Nothing contained in this **Agreement** shall be construed so as (a) to prevent the **Company** from opening an additional **Marijuana Establishments** elsewhere or in **Easthampton** providing, however, that each such establishment shall require its own **Community Host Agreement**, or (b) relocating its **MDO** within **Easthampton** provided the **Company** receives prior consent of **Easthampton** which shall not be unreasonably withheld and all required licenses and permits to do so. Upon relocation, if any the **Parties'** rights and obligations under this **Agreement** as to **MDO** contemplated in this **Agreement** will continue, if any such relocation of the **Company's MDO** may, at **Easthampton's** with reasonable cause, require the re-negotiation or amendment of this **Agreement**.
- n. Waiver or Modification: No modification, amendment or waiver of any of the provisions contained in this **Agreement**, or any representation, promise or condition in connection with the subject matter of this **Agreement** shall be binding upon any **Party** unless made in writing and signed by such **Party** to be bound or by a duly authorized officer or agent of such **Party**.

- o.** Further Assurances: The **Parties** agree to execute all reasonable documents and perform all reasonable acts necessary or appropriate to effectuate the performance of the terms of this **Agreement**.
- p.** Tax Consequences: This **Agreement** contains no representations as to potential tax liabilities associated with this **Agreement** and the **Parties** agree that unless expressly included in this **Agreement** or otherwise made in writing their attorneys have made no representation with regard to tax consequences or liabilities associated with this **Agreement**.
- q.** The **Parties** acknowledge that no promise or inducement which is not contained in this **Agreement** has been made to him/her or it, and in executing this **Agreement** he/she or it has not relied upon any statement or representation not contained in this **Agreement**.
- r.** Reliance on Representations: Each of the **Parties** agrees that they have relied on the representation and warranty of each and every other **Party** made in writing in this **Agreement** and that but for such representations or warranties such **Party** would not have executed this **Agreement**.
- s.** Unknown or Different Facts or Law: The **Parties** acknowledge that they or their attorneys may hereafter discover facts different from or in addition to those which they or their attorneys now know or believe to be true with respect to the subject matter of this **Agreement**. The **Parties** agree that the **Agreement** shall be and remain in effect notwithstanding any such different or additional facts. Nothing in this provision shall interfere with the Company's ability to enforce its rights to the impact fee limits under M.G.L. c. 94G, § 3(d) as presently drafted.
- t.** No Rights in Non-Parties: No individual or entity not a **Party** to this **Agreement** shall have any rights whatsoever with regard to this **Agreement**. Further stating that nothing contained in this **Agreement** shall create a contractual relationship with or a cause of action in favor of a third party against either **Easthampton** or the **Company**.
- u.** No Joint Venture, Partnership or Agency: Nothing contained in this **Agreement** shall be deemed or construed as creating a joint venture or partnership between any of the **Parties** hereto. No **Party** is by virtue of this **Agreement** authorized as an agent, employee or legal representative of any other **Party**. No **Party** shall have any power or authority to bind or commit any other. No **Party** shall hold itself out as having any authority or relationship in contravention of this section.
- v.** Plain Meaning: Unless specifically defined in this **Agreement**, all words used in this **Agreement** shall be given their plain and ordinary meaning.
- w.** Legal Construction: Each **Party** has read all portions of this **Agreement** and has had it explained by his/her or its attorney if the **Party** is represented by an attorney. The **Parties** agree that the terms of this **Agreement** shall not be interpreted in favor of or against any **Party** as the draftsman, but shall be interpreted solely for the purposes of fairly effectuating the express intent of the **Parties** as detailed in this **Agreement**.
- x.** Headings: In interpreting this **Agreement** headings shall have no meaning and shall be treated as being provided for informational purposes only.

- y. Severability: Except for the release provisions, if any term, provision, covenant or condition of this **Agreement** shall be held by a court of competent jurisdiction to be invalid, void or unenforceable, in whole or in part, such decision shall not affect the validity of any remaining portion of this **Agreement** and the remaining portion of this **Agreement** shall stand in full force and effect, and shall in no way be effected, impaired or invalidated.
- z. Forum Selection and Jurisdiction: This **Agreement** shall be governed solely by the laws of the Commonwealth of Massachusetts without giving effect to conflicts of laws principles. The **Parties** irrevocably and unconditionally consent to the exclusive jurisdiction of the Commonwealth of Massachusetts Superior Court and the venue of Hampshire County, Massachusetts to resolve all disputes, claims or controversies arising out of or relating to this **Agreement** or any agreement, document or instrument executed and delivered in connection to or with this **Agreement** or the negotiation, breach, validity, termination or performance of this **Agreement** and the transactions contemplated hereby. The **Parties** further irrevocably waive any objection to proceeding based upon lack of personal jurisdiction or to the laying of venue and further irrevocably and unconditionally waive and agree not to make a claim in any court that the action has been brought in an inconvenient forum.
- aa. Authority to Execute Agreement: Each **Party** executing this **Agreement** warrants and represents to the other **Parties** that he/she or it is an the duly authorized representative of the **Party** holding valid and legal authority to execute this **Agreement** and to bind themselves and the entities they represent to the terms of this **Agreement**.
- bb. Execution in Multiple Parts/Signatures: To facilitate execution, this **Agreement** may be executed in two (2) or more counterparts each of which shall be deemed an original but all of which shall constitute one and the same document. A scanned, duplicate or facsimile copy of a signature on this **Agreement** shall have the same force and effect as if such signature were an original signature.
- cc. Participation of Counsel: The **Parties** have participated through legal counsel in negotiations leading to this **Agreement**.
- dd. Survival Clause: If any term or 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 one or both **Parties** would be substantially or materially prejudiced.
- ee. Except as otherwise provided for in this Agreement, if this **Agreement** or its enforceability is challenged by the **Company**, in any such proceeding the **Company** shall pay for all reasonable fees and costs, including reasonable attorney's fees **incurred by Easthampton** in defending such action or enforcing this Agreement if Easthampton substantially prevails on in the litigation as determined by a court of competent jurisdiction. If this **Agreement** or its enforceability is challenged by **Easthampton** and the **Company** substantially prevails in such litigation as determined by a court of competent jurisdiction, **Easthampton** shall pay for all the reasonable fees and costs including reasonable attorney fees incurred by the **Company** in defending such action.

- ff. Intentionally Blank.
- gg. Upon request and notice from either **Party**, the **Parties** may meet on an annual basis to discuss this **Agreement**, to the **Companies** operations in Easthampton, the effects of such operations on **Easthampton** and any other topic the **Parties** so choose to discuss.
- hh. 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, to the **Parties** at the addresses set forth below. 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.

All notices required hereunder shall be provided in writing at the following addresses:

Covercraft LLC,
17 East Street
Easthampton, MA 01027

With a copy to:

Michael Schneider, Esq.
Doherty, Wallace, Pillsbury & Murphy, P.C.
One Monarch Place. 1414 Main St # 1900,
Springfield, MA 01144

Easthampton:

City of Easthampton, Massachusetts
Attn: Mayor
Easthampton Municipal Building 50 Payson Avenue
Easthampton, MA. 01027

with a copy to


Bacon Wilson P.C.
Attn: Mark A. Tanner, Esq.
57 Center Street
Northampton, MA 01060

The **Parties** shall promptly notify each other of any change of their respective addresses set forth above, after which notification such new address shall become the notice address hereunder.

SIGNATURE PAGES TO FOLLOW

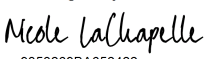
IN WITNESS WHEREOF, we have hereunto set our hands and seals on the dates indicated below our signatures.

THE COMPANY

By: 
Ezra Parzybok, Manager

Dated: 3/11/21

CITY OF EASTHAMPTON

DocuSigned by:
By: 
Nicole LaChapelle, Mayor

Dated: 3/11/2021

EXHIBIT A
SITE PLAN AND DESCRIPTION OF MARIJUANA ESTABLISHMENT

EXHIBIT B
PROOF OF SITE CONTROL