HOST COMMUNITY AGREEMENT FOR MARIJUANA RETAIL ESTABLISHMENT BETWEEN CULTIVATE HOLDINGS, LLC, AND THE CITY OF FRAMINGHAM, MASSACHUSETTS

THIS HOST COMMUNITY AGREEMENT ("Agreement") is entered into this 10th day of July 2019 by and between **Cultivate Holdings, LLC ("Cultivate")**, a Massachusetts domestic limited liability company with usual place of business in Framingham at 250 Worcester Road, Framingham, Massachusetts 01701 ("OPERATOR") and the **CITY OF FRAMINGHAM**, a Massachusetts municipal corporation with a principal address of 150 Concord Street, Framingham, MA ("CITY").

RECITALS

1. OPERATOR is the Lessee of the property at **250 Worcester Road, Framingham, Massachusetts 01701 and 2 Pierce Street, Framingham, MA 01701** ("the Premises") owned by **Commercial Framingham Real Estate LLC**, recorded with the Middlesex South District Registry of Deeds at Book 71756, Page 361, which lease is evidenced by two Notices of Lease dated May 23, 2019 and recorded with said Deeds at Book 72664, Page 208 (with respect to 250 Worcester Road) and Book 72664, Page 213 (with respect to 2 Pierce Street);

2. OPERATOR seeks a license from the Cannabis Control Commission ("Commission") to operate **an adult use, i.e., non-medical, Marijuana Retail Establishment** within the meaning of 935 CMR 500.002 to be co-located with OPERATOR's Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary ("RMD"), to be located at 250 Worcester Road Framingham, MA and to sell marijuana and marijuana products at the Premises in compliance with 935 CMR 500. and M.G.L. c. 94C, § 34;

3. OPERATOR expressly understands and agrees that operation of an RMD shall require licensure by the Department of Public Health ("DPH") and/or Cannabis Control Commission, which in turn shall require a separate Host Community Agreement specific to OPERATORS's RMD;

4. OPERATOR has warranted and represented, and the CITY's Planning Administrator has verified, that the OPERATOR'S Marijuana Retail Establishment is not located within 500 feet, measured in a straight line from the nearest point of the Premises to the nearest point of any pre-existing public or private school providing education in kindergarten or grades 1 through 12;

5. M.G.L.c. 94G, § 3(d), as affected by Chapter 55 of the Acts of 2017 at SECTION 25 requires that:

[a] marijuana establishment or a medical marijuana treatment center seeking to operate or continue to operate in a municipality which permits such operation shall execute an agreement with the host community setting forth the conditions to have a marijuana establishment or medical marijuana treatment center located within the host community which shall include, but not be limited to, all stipulations of responsibilities between the host community and the marijuana establishment or a medical marijuana treatment center. An agreement between a marijuana establishment or a medical marijuana treatment center and a host community may include a community impact fee for the host community; provided, however, that the community impact fee shall be reasonably related to the costs imposed upon the municipality by the operation of the marijuana establishment or medical marijuana treatment center and shall not amount to more than 3 per cent of the gross sales of the marijuana establishment or medical marijuana treatment center or be effective for longer than 5 years. Any cost to a city or town imposed by the operation of a marijuana establishment or medical marijuana treatment center shall be documented and considered a public record as defined by clause Twenty-sixth of section 7 of chapter 4;

6. M.G.L.c. 94G, § 12 (h), as affected by Chapter 55 of the Acts of 2017 at SECTION 37 requires that "[e]ach licensee shall file an emergency response plan with the fire department and police department of the host community";

7. OPERATOR and the CITY enter into this Agreement with the intention of being bound by its terms such that this Agreement shall be fully enforceable by a court of competent jurisdiction;

NOW THEREFORE, in accordance with M.G.L.c. 94G, as affected by Chapter 55 of the Acts of 2017, and the regulations of the Cannabis Control Commission ("COMMISSION") promulgated thereunder as 935 CMR 500.00, and in consideration of the mutual promises herein contained, the OPERATOR and CITY agree as follows:

1. **Compliance.** OPERATOR shall comply with all laws, rules, bylaws or ordinances, regulations and orders applicable to the operation of **an adult use, i.e., non-medical, Marijuana Retail Establishment**, such provisions being incorporated herein by reference, including, but not limited to:

   a. M.G.L. c. 94G, as affected by Chapter 55 of the Acts of 2017 and the regulations of the COMMISSION as the same may be amended from time to time; and the

   b. Framingham General Bylaws, Sign Bylaws, Zoning Bylaws and Board of Health Regulations as the same may be amended from time to time, and

c. The Framingham Planning Board Decisions dated December 6, 2018 (as to 250 Worcester Road) [PB 30-18] and dated June 28, 2019 (as to 2 Pierce Street) [PB 18-19] as all of the same may be amended from time to time ("Decisions").

OPERATOR shall be responsible for obtaining from the Commission and the CITY all necessary licenses, permits, and approvals required for the operation of its Marijuana Retail Establishment at the Premises. OPERATOR shall consult with the Board of Health, which shall determine whether OPERATOR has made adequate provision for odor mitigation and waste disposal OPERATOR shall use an industrial grinder for disposal of waste containing cannabis or cannabis residue. Such provision shall not be considered unreasonably impracticable as defined by 935 CMR 500.002.

2. **Community Impact Deposit**. Prior to commencing business operations as a Marijuana Retail Establishment, OPERATOR shall make a one-time community impact deposit payment to the CITY in the sum of $50,000.00, which the CITY may, in its sole discretion, use to address public health, safety and other effects or impacts the OPERATOR'S Marijuana Retail Establishment may have on the CITY, including community wellness programs and other efforts and initiatives. The OPERATOR's community impact deposit payment shall not be refundable but shall be credited toward OPERATOR'S annual community impact fee described in Paragraph 3 following.

3. **Community Impact Fee.** OPERATOR shall pay to the CITY, an annual community impact fee in the sum of 3 per cent of the gross sales of its **adult use, i.e., non-medical, Marijuana Retail Establishment** at the Premises.

    a. OPERATOR understands and agrees that the purpose of the Community Impact Fee is to alleviate the impacts of the siting of the **adult use, i.e., non-medical, Marijuana Retail Establishment** in the City, which include, but are not limited to, expenditures of City funds to: i) promote and maintain a positive perception of the City to other residents, visitors and businesses; ii) address impacts on public health and safety, including creation of addiction prevention and education programs; iii) maintain roads and public services; iv) pay for increased administrative, regulatory, police, fire, and inspectional services; v) legal services other than those related to the negotiation, drafting and execution of this Agreement.

    b. OPERATOR expressly agrees that 3 per cent of the gross sales of its **adult use, i.e., non-medical, Marijuana Retail Establishment** is reasonably related to the costs imposed upon the CITY by OPERATOR's operation of its Marijuana Retail Establishment at the Premises. Payment shall be made as follows: within 30 days after the end of OPERATOR's first fiscal year of the operation of its **Marijuana**

Retail Establishment. OPERATOR'S fiscal year runs from **January 1 to December 31.**

c. The Parties further expressly agree that the community impact fee is treated by the CITY as general fund revenue pursuant to M.G.L. c. 44, §53 and is not a donation or grant under M.G.L. c. 44, §53A. While OPERATOR is not prevented from making a gift or grant to the City or to any organization in the City for the benefit of the residents of Framingham, OPERATOR is not compelled to make any such gift or grant, and no offset or reduction to the Community Impact Fee shall be made as a result of, or in consideration for, the same.

4. **Financial Reporting:** OPERATOR shall furnish the CITY with annual profit and loss statements, in the same form and manner as submitted to the Commission, as soon as they become available, reflecting gross sales figures for its Marijuana Retail Establishment in Framingham and shall provide the CITY with all copies of its periodic financial filings to agencies of the Commonwealth documenting gross sales and gross annual revenues and copies of its filings to the Commission, Secretary of the Commonwealth's Corporations Division, and the Massachusetts Department of Revenue.

5. **Confidentiality:** To the extent permitted by M.G.L. c. 66, § 10, (the "Public Records Law") OPERATOR may provide to the CITY with certain financial information, investment materials, products, plans, documents, details of company history, know-how, trade secrets, and other nonpublic information related to OPERATOR, its affiliates and operations (collectively, the "Confidential Information"). The CITY (inclusive of its employees, agents, representatives or any other of its affiliated persons) shall not, at any time during the term of this Agreement or thereafter, disclose any Confidential Information to any person or entity, except as may be required by court order or the Public Records Law.

6. **Monitoring and Accounting for Community Impacts**. Following the OPERATOR's payment of the first year's annual community impact fee payment the OPERATOR may make written request to the CITY for review of the community impact fee. So that the CITY may respond to such request, the OPERATOR agrees that it shall append Police, Fire and Inspectional Services Department incident reports the OPERATOR's Marijuana Retail Establishment within a two-mile radius of the Marijuana Retail Establishment and the satellite parking area(s) indicated in Paragraph 11 below.

7. **Security**.

[redacted]

b. OPERATOR expressly understands that review of its proposed security, traffic management and emergency response plans shall not prevent the CITY from enforcement of Federal, State or local laws or regulations promulgated by any agency or board having jurisdiction over the OPERATOR's marijuana establishment(s). Further OPERATOR expressly holds harmless the CITY and its employees and agents from claims of any nature with respect to review of the OPERATOR's security, traffic management and emergency response plans.

8. **Hours of Operation**. OPERATOR's days and hours of operation shall be:

Friday	10:00 a.m. to 8:00 p.m.
Saturday	10:00 a.m. to 8:00 p.m.
Sunday	10:00 a.m. to 8:00 p.m.
Monday	10:00 a.m. to 8:00 p.m.
Tuesday	10:00 a.m. to 8:00 p.m.
Wednesday	10:00 a.m. to 8:00 p.m.
Thursday	10:00 a.m. to 8:00 p.m.

9. **Public Transit-Discharge and Pickup of Passengers.** OPERATOR shall provide a convenient, safe, and clearly marked area in the parking lot for public transit buses and taxis to discharge and pick up passengers.

10. **No Discharge of Patrons on Public Way-No Loitering.** OPERATOR shall not allow discharge and pick up of passengers within any portion of the adjacent state highway,

including the breakdown lane, or other public ways, and that OPERATOR shall erect appropriate signage to notify patients and/or customers, transit, taxi, and other drivers who pick up or discharge passengers at the site of such prohibition. OPERATOR shall not allow patients or patrons to congregate or remain outside of its Marijuana Retail Establishment building or parking lot for more than 15 minutes.

11. **Parking and Traffic Control.** OPERATOR shall employ a parking lot attendant during hours of operation to ensure safe traffic flow to and from the Premises and shall employ professional traffic management during hours of operation, in accordance with the conditions of the Minor Site Plan Approval.

    a. Where the OPERATOR's marijuana retail establishment is co-located with its RMD, RMD customers shall have 4 designated on-site parking spaces in addition to 2 marked handicapped parking spaces.

    b. Adult use, or non-medical, marijuana customers, other than those using public transit buses and taxis, shall be required to park at OPERATOR'S parking area located at 250 Worcester Road and 2 Pierce Street and the satellite parking areas under the OPERATOR's control and to use OPERATOR's shuttle bus to and from the Premises. The location of OPERATOR's satellite parking area(s) is/are:

Location of Satellite Parking	Owner of Parking Area	Lease or License Agreement	Number of Parking Spaces	Name of Shuttle Service	Hours of Operation of Shuttle
1 Worcester Road	BRE DDR Shoppers World LLC ("BRE")	License Agreement between BRE and Operator dated January 25, 2019	No limit	LAZ Parking Limited, LLC	15 minutes before opening to 15 minutes after closing

12. **Incorporation of Minor Site Plan Review Conditions by Reference.** OPERATOR acknowledges that compliance with all conditions set forth in the Framingham Planning Board's Minor Site Plan review is a condition of this Host Community Agreement, and that any breach of any condition therein, if not cured within a reasonable time, may result in notice of such breach being sent to the Commission.

13. **Cooperation**. OPERATOR shall maintain a cooperative relationship with the City's Police and Fire Departments and shall meet no less than once every four (4) months to review operational concerns, cooperate in investigations, and communicate with the Framingham Police Department regarding any suspicious activities on the site.

14. **Hiring Framingham Residents**. OPERATOR shall make a diligent effort to hire local, qualified employees to the extent consistent with law and shall work in a good faith, legal and non-discriminatory manner to hire local vendors, suppliers, contractors and builders from the Framingham area where possible.

15. **Personal Property and Real Estate Taxes.** OPERATOR hereby makes representation that all personal property and real estate taxes, and all water and sewer use charges are paid in full through the current tax period, i.e. June 2019. Further, OPERATOR agrees that at all times during the term of this Agreement, all property, both real and personal, owned or operated by OPERATOR shall be treated as taxable, and that all applicable real estate and personal property taxes for that property shall be paid either directly by OPERATOR or by its landlord.

    OPERATOR further agrees that it shall not object or otherwise challenge the taxability of such property and shall not seek a non-profit exemption from paying such taxes and that, notwithstanding the foregoing, if:

    a. any real or personal property owned or operated by OPERATOR is determined to be non-taxable or partially non-taxable, or
    b. the value of such property is abated with the effect of reducing or eliminating the tax which would otherwise be paid if assessed at full value, or
    c. OPERATOR is determined to be entitled or subject to exemption with the effect of reducing or eliminating the tax which would otherwise be due if not so exempted,

    then OPERATOR shall pay to the CITY an amount which when added to the taxes, if any, paid on such property, shall be equal to the taxes which would have been payable on such property at full assessed value and at the otherwise applicable tax rate, if there had been no abatement or exemption; this payment shall be in addition to the payment made by OPERATOR under Section 1 of this Agreement.

16. **Water and Sewer Metering; Inflow and Infiltration Fee**. OPERATOR shall not commence operations at the Premises until such time as the City of Framingham has inspected water and sewer services and applicable meters for such service. OPERATOR shall conduct operations on the premises in compliance with the Department of Public Works' requirements and there shall be no illegal connections or inflow into the City's sewer system expressly prohibited by the Framingham Wastewater Regulations dated May 2015 ("Regulations"). The OPERATOR agrees to pay an Inflow and Infiltration Fee as required by the Department of Public Works which fee is based the water usage for the operations. Such fee shall be paid prior to the commencement of operations.

17. **Term, Continued Operation and Extension of Term.** The term of this Agreement is **three years**, terminating on **June 30, 2022** unless sooner terminated by:

    a. revocation of OPERATOR's license by the Commission; or
    b. OPERATOR's voluntary or involuntary cessation of operations; or
    c. the CITY's termination of this Agreement for breach of the conditions contained herein that remain uncured 60 days from the date of notice of such breach.

    OPERATOR expressly understands and agrees that its continued operation of its Marijuana Retail Establishment (either at the Premises or elsewhere in Framingham if the Marijuana Retail Establishment should relocate) after the end of term of this Agreement, i.e., **June 30, 2022,** shall require either a renewal of this Agreement upon the same terms (or a new Agreement with new terms) for an additional period of no less than one year nor more than five years.

18. **Amendment.** Other than the initial three-year duration of this Agreement and the sum of the first year of the community impact fee, neither of which shall be amended, this Agreement may be amended after the payment of the first year of the community impact fee by a fully executed mutual written agreement appended hereto, provided however, that the OPERATOR shall have paid all taxes and fees due and payable to the Commission and the CITY as of the date when the OPERATOR executes of such amendment, it being understood that the CITY shall be the final signatory to such amendment.

19. **Bond. Prior to commencing operations,** OPERATOR shall provide to the CITY a bond in the sum of Five Thousand and 00/10 Dollars $5,000.00, to support the orderly dismantling and winding down of the Marijuana Establishment if the OPERATOR should cease operations, i.e., should not transact business for a period greater than sixty (60) days with no substantial action taken to reopen. The CITY's requirement for such bond is analogous to that stated in the Commission's Regulations promulgated as 935 CMR 500.105 (16).

20. **Assignment**. OPERATOR shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the CITY and shall not assign any of the moneys payable under this Agreement, except by and with the written consent of the CITY. This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives.

21. **No Rights in Third Parties**. This Agreement is not intended to, nor shall it be construed to, create any rights in third parties.

22. **Notice**. Any and all notices or other communications required or permitted under this Agreement shall be in writing and delivered by hand or mailed postage prepaid, return

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

23. **Severability**. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.

24. **Governing Law**. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and OPERATOR submits to the jurisdiction of the Trial Court for Middlesex County for the adjudication of disputes arising out of this Agreement.

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

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SIGNATURES ON FOLLOWING PAGE

OPERATOR Executed this 10th day of July 2019

By: Robert W. Lallin Jr
Its duly authorized MANAGER

CITY OF FRAMINGHAM Executed this 8 day of July 2019

Yvonne Spicer, Mayor

APPROVED AS TO FORM Executed this 10th day of July 2019

By: Christopher J. Petrini, City Solicitor

2019.07.08 Host Community Agreement - Cultivate Holdings, LLC - Retail - FINAL (600-383)

Cannabis Control Commission
COMMONWEALTH OF MASSACHUSETTS

Host Community Agreement Certification Form

The applicant and contracting authority for the host community must complete each section of this form before uploading it to the application. Failure to complete a section will result in the application being deemed incomplete. Instructions to the applicant and/or municipality appear in italics. Please note that submission of information that is "misleading, incorrect, false, or fraudulent" is grounds for denial of an application for a license pursuant to 935 CMR 500.400(1).

Applicant

I, Robert W. Lally Jr., (*insert name*) certify as an authorized representative of Cultivate Holdings LLC (*insert name of applicant*) that the applicant has executed a host community agreement with Framingham (*insert name of host community*) pursuant to G.L.c. 94G § 3(d) on June 13, 2019 (*insert date*).

Robert W. Lally Jr.
Signature of Authorized Representative of Applicant

Host Community

I, YVONNE M. SPICER, (*insert name*) certify that I am the contracting authority or have been duly authorized by the contracting authority for CITY OF FRAMINGHAM (*insert name of host community*) to certify that the applicant and CITY OF FRAMINGHAM (*insert name of host community*) has executed a host community agreement pursuant to G.L.c. 94G § 3(d) on JULY 8, 2019 (*insert date*).

Yvonne M. Spicer
Signature of Contracting Authority or
Authorized Representative of Host Community