

**Host Community Agreement
Between
Town of Halifax,
Massachusetts and
Elevated Roots II LLC.**

This Host Community Agreement (“**HCA**”), dated November __, 2021, is made by and between the Town of Halifax, a Massachusetts municipal corporation with an address of 499 Plymouth Street, Halifax, MA 02338 (the “**Town**”), and Elevated Roots II LLC, a Massachusetts Corporation with a principal place of business of 319 Monponsett Street, Halifax, MA 02338 (“**Elevated Roots**”). The Town and Elevated Roots collectively are referred to as the “**Parties**.” All capitalized terms not otherwise defined herein shall have the meanings ascribed to them by M.G.L. Ch. 94G and 935 C.M.R. 500.000.

WHEREAS, Elevated Roots intends to occupy a unit totaling approximately 3,600 square feet within the building located at 319 Monponsett in the Town of Halifax, as shown on the plan attached hereto as **Exhibit A** (the 3,600 square foot unit that Elevated Roots is using for the Marijuana Establishment being the “**Premises**”) to operate a Marijuana Establishment for retail sales of Marijuana and Marijuana Products and Accessories (the “**Establishment**” or “**Marijuana Establishment**”), pursuant to M. G. L. c. 94G and the Cannabis Control Commission (the “**Commission**” or the “**CCC**”) regulations at 935 CMR 500.00 (the “**CCC Regulations**”);

WHEREAS, Elevated Roots intends to submit an application to the Commission for licensure to operate the Establishment at the Premises (the “**Application**”);

WHEREAS, the Parties intend by this HCA to satisfy the provisions of G.L. c.94G, Section 3(d), applicable to the location of the Premises and operation of the Establishment, such activities to be conducted only in accordance with this HCA and applicable state and local laws and regulations in the Town;

WHEREAS, as part of the Application, the Parties must certify by submitting a Host Community Agreement Certification Form, that they have executed a Host Community Agreement that sets forth the conditions to allowing the Marijuana Establishment to be located in the Town, including stipulations of responsibilities of the Parties. Additionally, the Town must submit a Municipal Response to a Municipal Notification of a Marijuana Establishment from the CCC confirming compliance with local zoning (this form, together with the Host Community Agreement Certification Form are the. “Commission Certifications”).

NOW THEREFORE, in consideration of the promises and covenants set forth herein, the Parties agree as follows:

1. Support

Provided that the Marijuana Establishment meets all Adult Use Regulations and Local Laws, the Town agrees to provide Commission Certifications to the Commission within 45 days of a request from either Elevated Roots or the Commission, and to provide such

other information as may be reasonably requested by the Commission or Elevated Roots in connection with its applications for Licenses at the Premises and to cooperate with Elevated Roots in good faith during the Commission licensing process.

2. **Community Impact Fee**

Elevated Roots agrees that:

- (a) For five (5) years (the “**Term**”) after the day Elevated Roots first commences sales from the Establishment (the “**Sales Commencement Date**”), with respect to all sales of Marijuana, Marijuana Products and Marijuana Accessories (hereinafter collectively referred to as “**Marijuana Product**”) on or from the Premises, Elevated Roots shall provide annual community impact funding (“**CIF**”) to the Town in the amount of three percent (3%) of the Gross Sales of Marijuana Product from the Premises. The term “**Gross Sales**” as used herein shall mean total sales as determined in accordance with generally accepted accounting principles or tax accounting methods, reduced by customer returns, if any, and not including the amount of state or local sales tax collected.
- (b) At all times, Elevated Roots shall retain documentation on all sales from the Establishment, deliveries and distributions on or from the Premises consistent with the requirements set forth in the CCC Regulations. Elevated Roots shall provide complete, true and accurate copies of such documentation within forty-five (45) days upon request by the Town.
- (c) In the event Elevated Roots obligation to provide CIF funding to the Town under this HCA is determined to be unenforceable or stricken either mutually by the Parties or by a court of competent jurisdiction after all periods of appeal have lapsed, then Elevated Roots and the Town will negotiate in good faith an amendment to the HCA or a new HCA containing provisions, including community funding provisions, that removes any unenforceable or stricken provision(s) and is otherwise substantially similar to the terms contained in this HCA within one hundred twenty (120) days following such agreement or determination, it being understood by the Parties that such new HCA shall comply with all applicable laws.
- (d) Elevated Roots acknowledges that but for its agreement to provide CIF hereunder, the Town would not have entered into this HCA; thus, (i) in the event Elevated Roots takes any action (“**Action**”) to seek a determination from any regulatory authority or a decision from a state or Federal court seeking to enjoin, strike, limit or otherwise render moot its obligation to provide any or all CIF under this HCA the Town shall be entitled to recover from Elevated Roots all reasonable costs incurred, including court costs, attorney’s fees, and all other related expenses incurred in such Action, provided that the Town is the prevailing party, and (ii) in the event of any action taken by the Town against Elevated Roots arising from or related to this HCA, the Town shall be entitled to recover from Elevated Roots all reasonable costs incurred, including court costs, attorney’s fees, and all other related expenses incurred in such Action, provided that the Town is the prevailing party, and (iii) in the event the Town commences an action to collect (“**Collection Action**”) CIF due, the Town shall be entitled to recover from Elevated Roots

all reasonable costs incurred, including court costs, attorney's fees, and all other related and reasonable expenses incurred in such Collection Action.

- (e) According to M.G.L. Chapter 94G, Section 3(d), a "community impact fee shall be reasonably related to the costs imposed upon the municipality by the operation of the marijuana establishment..." In consideration of the foregoing, the Parties hereby acknowledge the difficulty of ascertaining actual costs imposed upon the Town as a result of the licensing of the Marijuana Establishment and agree that impacts may result in municipal budgetary and service increases that cannot be separately identified or precisely quantified; thus, Elevated Roots and the Town acknowledge and agree that all CIF payments due and payable under this HCA are reasonably related to such Town costs and each waives and releases any claim against the other to the contrary. The Parties have taken these facts into account in setting the amount of CIF payments under this HCA. The Town agrees and Elevated Roots acknowledges that: (i) the CIF payments due and payable under this HCA represent the best estimate of the real costs to be imposed on the Town reasonably related to the Marijuana Establishment, and (ii) said CIF payments represent reimbursement of costs to the Town and are not considered to be any form of penalty or tax levied against Elevated Roots. The Parties have taken the opportunity to confer with legal counsel with regard to all of the provisions set forth in this HCA.
- (f) The parties acknowledge and agree that 935 CMR 500.103(4)(f) requires Elevated Roots to "submit as a component of the renewal application documentation that the establishment requested from its Host Community the records of any cost to [the] city or town reasonably related to the operation of the establishment, which would include the city's or town's anticipated and actual expenses resulting from the operation of the establishment in its community" and further that Elevated Roots "shall provide a copy of the electronic or written request, which should include the date of the request, and either the substantive response(s) received or an attestation that no response was received from the city or town." The request is to "state that, in accordance with M.G.L. c. 94G, § 3(d), any cost to a city or town imposed by the operation of [Elevated Roots] shall be documented and considered a public record as defined by M.G.L. c. 4, § 7, cl. 26." Elevated Roots therefore shall comport with the requirement of the regulation.

3. Financial Reporting

Elevated Roots shall maintain its books, financial records and other compilations of data pertinent to the requirements of this HCA in accordance with standard accounting practices and the CCC Regulations.

So that Town may ensure the accuracy of CIF due, Elevated Roots shall provide the Town with the same access to its financial records which relate to determination of Gross Sales (to be treated as confidential, to the extent allowed by law) as is required by the Commission and Massachusetts Department of Revenue for purposes of obtaining and maintaining a license for the Establishment, but in any case as follows:

- (a) Within one hundred and twenty (120) days after the end of each fiscal year, Elevated Roots shall submit to the Town certified copies of all financial records

which relate to determination of Gross Sales that it is required to submit to the Commission; and

- (b) To the extent not previously delivered pursuant to Section 3(a), during the Term, within ninety (90) days upon request by the Town (up to twice annually), Elevated Roots shall submit a summary of its financial records which relate to the determination of the Gross Sales for that year, as (i) prepared by its regular independent financial accountant, (the “**Financial Report**”), and (ii) certified by such accountant to be accurate and in accordance with generally accepted accounting principles or tax accounting methods. The Financial Report shall be limited to those parts Elevated Roots’ books and financial records which relate to Gross Sales.

4. **Payment Dates**

The initial CIF payment to the Town shall be due and tendered on or before the fifteenth (15th) day of the month following the closing of the calendar quarter during which the Sales Commencement Date occurs (the “**Initial Payment Date**”), and shall be in an amount based on Gross Sales at the Establishment for that calendar quarter; thereafter, CIF shall be paid on or before the fifteenth (15th) day of the month following the closing of each calendar quarter during which the Elevated Roots has Gross Sales. Such payment obligations for sales made prior the termination of this Agreement shall survive such termination.

5. **Notice of Sales Commencement**

Elevated Roots will provide written notice to the Town at least thirty (30) days in advance of the anticipated Sales Commencement Date, and thereafter shall provide written notice to the Town of the actual date of its first sale from the marijuana Establishment.

6. **Use of CIF**

The Town may use the community impact funding, including any interest generated therefrom, in its sole discretion, consistent with the purpose and intent of Applicable Law this Agreement.

7. **Taxation**

At all times during the terms of this HCA, all taxable property in the Premises, both real and personal, owned or operated, used or occupied by Elevated Roots shall be assessed by the Town as taxable property. All applicable personal and real property taxes attributable to the Premises shall be paid by Elevated Roots or by the owner of the Premises.

8. **Local Tax Option**

Elevated Roots understands that the Town accepted M.G.L. c.64N, §3, imposing a local sales tax upon sale or transfer of Marijuana Product by a Marijuana Retailer operating within the Town at a rate of three percent (3%) of the total sales price (the “**Local Sales Tax**”). Elevated Roots and the Town understand that compliance oversight, collection

and remitting of this Local Sales Tax is the responsibility of the Massachusetts Department of Revenue. Elevated Roots and the Town understand and acknowledge that the Local Sales Tax is separate and distinct from the CIF payment referred to in Section 2(a) of this HCA.

9. **Security**

Elevated Roots agrees that it shall observe high security practices and implement enhanced policies and standards for monitoring the Premises and safeguarding the Premises from break-in and other intrusion, and theft of its Marijuana Product, consistent with the security requirements set forth in the CCC Regulations. Elevated Roots shall work with the Halifax Police Department in determining the scope and level of security measures taken on and about the Premises and marijuana Establishment, including but not limited to a traffic management plan, parking plan, the location of exterior security cameras to provide unobstructed surveillance of the entire Premises, fencing, Establishment security, identification of agents and other employees, and after hours contact information. Elevated Roots will maintain a cooperative relationship with the Halifax Police Department to ensure the Premises is safeguarded as aforesaid, including but not limited to periodic meetings to review operational concerns, cooperation in investigations, and reporting to the Halifax Police Department of any suspicious activities on the Premises.

10. **Community Dispute Resolution**

Elevated Roots agrees to work collaboratively and cooperatively with the Town and adjacent property owners, including property owners within six hundred (600') feet of the Premises ("**Adjacent Property Owners**"), to address and mitigate any reasonable and justifiable concern or issue that may arise as a result of the marijuana Establishment, including, but not limited to traffic, parking, odor, noise and light and visual impacts ("**Negative Impact**"). In the event the Town receives three (3) or more reasonable and justifiable complaints from an Adjacent Property Owner within a two-week period with respect to substantially the same type of Negative Impact emanating from the Premises, then the Parties agree that the following protocol will be followed:

- i. The Town may, in its discretion, choose to investigate the complaints of Adjacent Property Owners, which may include evaluation of the complaint from the adjacent property of the complainants, and an on-site inspection of the entire Premises provided such on-site Town investigation and access to the Establishment is consistent with the CCC Regulations. Inspection of complaints may be conducted by the Town's Building Inspector, Health Agent, Police Chief, and/or Fire Chief, or their designees, to evaluate the nature and scope of the complaint, document the conditions giving rise to the complaints, and investigate the Negative Impact on adjacent properties. In the event the Town chooses to conduct an on-site investigation of the Premises in connection with complaints from Adjacent Property Owners, the Town shall provide Elevated Roots with forty-eight (48) hour advance notice of the time of inspection, and Elevated Roots shall cooperate in the investigation and provide an authorized agent to accompany Town personnel conducting the investigation, provided such investigation and

access is consistent with the CCC Regulations. Upon the completion of such investigation of the Establishment, the inspecting officials shall prepare a written Inspection Report, to be shared promptly with Elevated Roots.

- ii. Following the completion of a written Inspection Report, the Town Administrator may convene a meeting of Town Officials/Staff to review the Inspection Report, and meet with Elevated Roots regarding the operations that are the basis for the complaints to determine whether mitigation measures may be implemented to address the complaints. Such meeting shall be held no earlier than one week following delivery of the final Inspection Report to Elevated Roots. The Town may undertake further inspections and require that independent measurements of traffic, parking, noise or odors be taken. The Town and Elevated Roots shall discuss various mitigation measures to be taken by Elevated Roots, including the following, it being understood by the Parties that all such mitigation measures are not in conflict with the CCC Regulations:
 - a. Hiring a police detail;
 - b. Implementation of a parking plan;
 - c. Implementation of a traffic management plan;
 - d. Implementation of odor, light or noise control processes or technologies reasonably calculated to address the specific nature of the complaints; and,
 - e. Any other mitigation measures, as deemed reasonably appropriate to address the Negative Impact.
- iii. In the event Elevated Roots and the Town cannot reach an agreement as to the mitigation measures to be undertaken by Elevated Roots, Elevated Roots may request that the Town agree to engage an independent third-party mediator to assist in facilitating an agreed-upon resolution. The Town of Halifax Board of Selectmen and Elevated Roots may both agree on a third-party mediator prior to any meeting with the mediator, and any final mitigation agreement shall be subject to approval of the Board of Selectmen.
- iv. Nothing set forth herein, including the Town's participation in a mediation/conciliation meeting, shall limit the authority or jurisdiction of the Building Inspector, Board of Health, or any other local enforcement official from enforcing applicable laws and regulations, the Local Control Law, Adult Use Regulations and Local Laws, or the conditions of any special permit and/or site plan approval granted in connection with the Marijuana Establishment, nor shall any mediation/conciliation meeting or agreement pursuant to this section of the HCA limit the authority of either Party to seek enforcement of the terms of this HCA through any available means, including by judicial order.

11. Hiring Preference

Elevated Roots shall give hiring preferences to residents of the Town who otherwise meet the qualifications for employment at the marijuana Establishment. In addition, Elevated Roots will work in a good faith, legal and non-discriminatory manner to hire

local vendors, suppliers, contractors and builders from the Halifax area where possible. The Parties understand that this provision of the HCA does not prevent Elevated Roots from (i) engaging the most qualified employees, (ii) from complying with all laws and regulations, and (iii) from conforming to and being consistent with its policies and procedures under the CCC Regulations.

12. Term of Agreement

This HCA, and all of the obligations of the Parties hereunder shall continue in full force and effect for a term of five (5) years following the Sales Commencement Date, unless earlier terminated if either: (a) Elevated Roots ceases to operate the Marijuana Establishment in the Town, in which case Elevated Roots shall provide written notice to the Town of its cessation of operations, or (b) this HCA is terminated in accordance with its terms, whichever is earlier. In the event Elevated Roots desires to continue to operate the Marijuana Establishment in the Town beyond the initial five-year Term, Elevated Roots shall provide written notice to the Town of its intent to enter into a new Host Community Agreement no later than one hundred twenty (120) days prior to expiration of the Term, and the parties agree to negotiate a new Host Community Agreement in compliance with all applicable laws and otherwise in good faith.

13. Amendments

Amendments to the terms of this HCA may be made only by written agreement of the Parties.

14. Assignment

This HCA is binding upon the parties hereto, their successors, assigns and legal representatives. Neither the Town nor Elevated Roots shall assign or transfer any interest in the HCA without the written consent of the other, such consent not to be unreasonably withheld, conditioned or delayed.

15. Compliance with Law

Elevated Roots and Town agree to comply with all state and local laws, bylaws, rules, regulations, CCC Regulations and orders applicable to the licensing and operation of the Establishment on the Premises, such provisions being incorporated herein by reference. Elevated Roots shall be responsible for obtaining all necessary licenses, permits, and approvals required for the performance of renovation or construction of the Premises.

16. Notice

Any and all notices, or other communications required or permitted under this HCA, 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 or furnished from time to time in writing hereafter by one party to the other party, and in the case of Elevated Roots to:

Robert T. Palma
CEO

Elevated Roots II LLC
319 Monponsett Street
Halifax, MA 02338 Email:bobby@elevatedrootsma.com

Copy to:

John F. Bradley II
Prince Lobel Tye LLP
1 International Place, Suite 3700
Boston, MA 02110

and, in the case of the Town to:

Town Administrator Town
of Halifax
499 Plymouth Street
Halifax, MA 02338

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.

17. Enforceability of Terms

If any term or condition of this HCA 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 HCA shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.

18. Jurisdiction of Law

This HCA shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts.

19. Execution

This HCA may be signed in multiple counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement. The parties hereto and all third parties may rely upon machine copies of signatures to this HCA to the same extent as manually signed original signatures.

SIGNATURE PAGE TO FOLLOW

This Host Community Agreement between the Town of Halifax, Massachusetts and Elevated Roots II LLC is dated as of the date first set forth above.

TOWN OF HALIFAX

By a majority of its Board of Selectmen

Gordon C. Andrews, Chair

Troy E. Garron, Vice Chair

Ashley Anne DiSesa, Clerk

ELEVATED ROOTS II LLC

Robert T. Palma Jr, CEO

EXHIBIT A

The specific layout and equipment described in the Exhibit is for illustrative purposes only and also subject to the approval of the CCC, and in no way limits Tenant's ability to alter, replace, enhance, modify, supplement, refurbish, or upgrade any such layout and equipment within the Premises.