



Vicente Sederberg, LLC
VGR Law Firm, P.C.
109 State Street, Suite 404
Boston, MA 02109



April 29, 2016

RECEIVED

Via Hand Delivery

APR 29 2016

Medical Use of Marijuana Program
Department of Public Health
99 Chauncy Street, 11th Floor
Boston, MA 02111

MA Dept. of Public Health
99 Chauncy Street
Boston, MA 02111

**Re: CommCan, Inc. March 31, 2016 Department of Public Health Request for Information
(Application 2 of 3) Responses**

Dear Department:

Please be advised this correspondence is in response to the Department of Public Health's ("DPH") March 31, 2016, Request for Information from CommCan, Inc. ("CommCan"). The DPH requested the following information, and CommCan responds as follows:

1. **DPH Request:** *In section 12 of the Southborough Lease, the insurance policies recited do not appear to comply with 105 CMR 725.105(Q). If the insurance policies identified in the lease are intended to be additional and separate from the insurance required in 105 CMR 725.105(A), please submit the declarations page for the different policies. If the insurance policies identified in the lease are intended to be those required by 105 CMR 725.105(Q), please submit documentation demonstrating that the policies will comply fully with 105 CMR 725.105(Q).*

CommCan's Response: Section 12 of the Southborough Lease has been amended as follows:

"Tenant, at its own expense, shall provide and keep in force with companies acceptable to Landlord, (1) general liability insurance coverage for no less than \$1,000,000 per occurrence and \$2,000,000 in aggregate, annually, and product liability insurance coverage for no less than \$1,000,000 per occurrence and \$2,000,000 in aggregate, annually, pursuant to the requirements in 105 CMR 725.105(Q). Tenant will make reports documenting compliance with 105 CMR 725.105(Q) in a manner and form determined by the Massachusetts Department of Public Health pursuant to 105 CMR 725.105(M). Such general liability insurance shall benefit the Landlord and Tenant jointly against liability for bodily injury or death and property damage or destruction in or upon the Premises or Tenant's use of the Common Areas and any appurtenances on an occurrence basis or the Property; and (2) Fire and extended coverage, vandalism, malicious mischief and special extended coverage insurance in an amount adequate to cover the cost of replacement of all decorations and

VGR Law Firm, P.C.
Phone: (617) 307-4728
Fax: (617) 307-4729

Vicente Sederberg, LLC
Phone: (617) 934-2121
Fax: (617) 514-0008

improvements in the Premises as well as the cost of replacement of all fixtures and contents therein.

Tenant agrees to deliver to Landlord, at least fifteen (15) days prior to the time such insurance is first required to be carried by Tenant, and thereafter at least fifteen (15) days prior to the expiration of any such policy, either a duplicate original or a certificate and true copy of all policies procured by Tenant in compliance with its obligations hereunder, together with evidence of payment therefor and including an endorsement which states that such insurance may not be cancelled except upon ten (10) days' written notice to Landlord and any designee(s) of Landlord. Such policy shall name Landlord and Landlord's first mortgagee, and any other parties in interest designated by Landlord as their interests may appear as additional insureds and shall be primary and non-contributing with any insurance carried by Landlord. Tenant will obtain language that provides that tenant's insurance policy shall not be canceled or altered without at least thirty (30) days written notice to Landlord.

Landlord shall have no obligation to insure Tenant's personal property.

Landlord shall maintain and keep in effect throughout the Term a policy or policies of insurance at full replacement cost of the Building of which the leased Premises are a part, against fire, vandalism and such other perils as are normally included in a broad form extended coverage endorsement, ("Premises Insurance")."

Please see the amended Southborough Lease in its entirety attached as **Exhibit A**. CommCan has yet to obtain the requisite insurance as it is still in the RMD application process. At the time that CommCan obtains a provisional registration from the Department of Public Health and takes possession of the premises, CommCan will obtain the insurance required by the lease, and as per 105 CMR 725.105(Q).

2. **DPH Request:** *Section 17.02(B) of the Southborough Lease calls for the Lessors, under certain circumstances, to repossess the leased premises and any property therein, as well as move property to another location. Only those authorized to possess marijuana for medical use pursuant to Ch. 369 of the Acts of 2012 and its implementing regulations, 105 CMR 725.000, et seq., are permitted to possess and/or transport regulated assets, such as marijuana and marijuana-infused products, without being subject to law enforcement action. Please identify the provision(s) of the lease that safeguard regulated assets from seizure by the Lessor or other parties unauthorized to possess them.*

CommCan's Response: Section 17.02 of the Southborough Lease has an additional Section (E) which is as follows:

"(E) Notwithstanding any provision of this Lease, Landlord hereby agrees that Landlord's rights and remedies following a default, breach, or any

other failure to perform under this Agreement, shall not include the seizure of assets protected by the Humanitarian Medical Use of Marijuana Act, Ch. 369 of the Acts of 2012, i.e. any product containing any amount of marijuana. Landlord shall not be entitled to a repayment or remedy that provides Landlord inventory of Tenant that contains any amount of marijuana, in any form, whether flower or infused product. Landlord hereby forfeits any such remedy. In addition, Landlord hereby understands and agrees that a Certificate of Registration, whether provisional or final, is non-transferable, and may not be assigned or transferred without prior Department of Public Health approval. Landlord agrees that Tenant's Certificate of Registration is not an asset that may be seized by Landlord or available as a remedy for Tenant's default, breach or other failure to perform under this Lease.”

Please see the amended Southborough Lease in its entirety attached as Exhibit A.

3. **DPH Request:** *The Southborough Lease appears to lease only a portion of the building on the subject property to the applicant. Please submit information identifying the other uses on the proposed property and how the applicant plans to ensure compliance with the security requirements in 105 CMR 725.000. et seq.*

CommCan's Response: The existing building is comprised of two floors. The proposed RMD will occupy 2,450± square feet of the first floor at the front of the building (facing the street). The owner of the building operates two construction businesses out of the remainder of the building: Picardi Construction and Bulldog Decks. The owner's spaces include three garage bays at the rear of the building and a second floor level, consisting of office and storage space. Said space will accommodate the owner and one employee. The owner will have a separate dedicated entrance to his portion of the building. As such, nobody from Picardi Construction or Bulldog Decks will have access to, or share, any entrance or exit with the proposed RMD. Similarly, none of CommCan's patients, visitors, dispensary agents, or qualified visitors, vendors, or contractors will have access to, or share, any entrance or exit to Picardi Construction or Bulldog Decks. In addition to the discreet entrances and exits, CommCan does not share any portion of the building with the owner or his business. These safeguards will be in addition to compliance with all security regulations promulgated in 105 CMR 725.110, including but not limited to: limited access areas, video surveillance, and identification checks before entering the RMD, within the sally port and at the time of sale.

4. **DPH Request:** *Section 17(c) and 19 of the Medway Lease calls for the Lessors, under certain circumstances, to repossess the leased premises and any property therein, as well as move property to another location. Only those authorized to possess marijuana for medical use pursuant to Ch. 369 of the Acts of 2012 and its implementing regulations, 105 CMR 725.000, et seq., are permitted to possess and/or transport regulated assets, such as marijuana and marijuana-infused products, without being*

subject to law enforcement action. Please identify the provision(s) of the lease that safeguard regulated assets from seizure by the Lessor or other parties unauthorized to possess them.

CommCan's Response: The Medway Lease has been amended to include an additional Section 20, "Limitation of Remedies" which reads as follows:

"Notwithstanding any provision of this Lease, LESSOR hereby agrees that LESSOR's rights and remedies following a default, breach, surrender, or any other failure to perform under this Agreement, shall not include the seizure of assets protected by the Humanitarian Medical Use of Marijuana Act, Ch. 369 of the Acts of 2012, i.e. any product containing any amount of marijuana. LESSOR shall not be entitled to a repayment or remedy that provides LESSOR inventory of LESSEE that contains any amount of marijuana, in any form, whether flower or infused product. LESSOR hereby forfeits any such remedy. In addition, LESSOR hereby understands and agrees that a Certificate of Registration, whether provisional or final, is non-transferable, and may not be assigned or transferred without prior Department of Public Health approval. LESSOR agrees that LESSEE's Certificate of Registration is not an asset that may be seized by LESSOR or available as a remedy for LESSEE's default, breach or other failure to perform under this Lease."

In addition, Section 19, "Surrender" of the Medway Lease has been amended with the following language:

"Notwithstanding any provision of this Lease, LESSOR hereby agrees that LESSOR's rights and remedies following termination of this Lease, shall not include the sale of assets protected by the Humanitarian Medical Use of Marijuana Act, Ch. 369 of the Acts of 2012, i.e. any product containing any amount of marijuana."

Please see the amended Medway Lease in its entirety attached as **Exhibit B**.

5. **DPH Request:** *It is unclear whether the Town of Southborough has established its own local requirements regarding siting for the purposes of 105 CMR 725.110(A)(14) and, if not, what the applicant has done to ascertain its compliance with 105 CMR 725.110(A)(14). Please submit additional information regarding this issue.*

CommCan's Response: Southborough Town Meeting adopted a Medical Marijuana zoning by-law at the spring annual town meeting in 2014 (Article 17). Section 174-8.5(C)14 of the Zoning By-law allows for a Registered Marijuana Dispensary (RMD) in the Highway Business zoning district by special permit. The various requirements for the granting of said special permit are found in Section 174-9(J) of the Zoning By-law. In general, CommCan's proposed RMD site at 255 Turnpike Road:

- Abuts Route 9 as required by the By-law;
- Lies within the Highway Business zone as required by the By-law; and
- Does not lie within 500 feet of a recreational facility, daycare, or school as required by the By-law.

CommCan applied for and has been granted the required Special Permit from the Town of Southborough and the statutory appeal period has lapsed with no appeal taken. During that hearing the Zoning Enforcement Officer testified to the Board of Appeals and explained that the proposed facility at 255 Turnpike Road complies with Southborough's Zoning By-law. Please see the pertinent section of the Southborough Zoning By-law regarding Medical Marijuana attached as **Exhibit C**.

6. **DPH Request:** *As stated in the January 25, 2016 letter from the Department, please note that the lease with Ellen Rosenfeld and independent opinion by a qualified appraiser of the lease are still under review by the Department for compliance with the non-profit requirements of 105 CMR 725.100(A)(1) and the Guidance for Registered Marijuana Dispensaries Regarding Non-Profit Compliance. In particular, the conclusion on page 19 of the independent opinion regarding the subject market rent indicates that \$24 per square foot would be appropriate, but over the course of the lease, the rent rises to approximately \$37 per square foot. Please provide an explanation of how the rise in rent over the term of the lease reflects the fair market value of the property and reasonable compensation to the Landlord in compliance with the non-profit requirements of 105 CMR 725.100(A)(1) and the Guidance for Registered Marijuana Dispensaries Regarding Non-Profit Compliance. Please be advised that the applicant must submit this information prior to receiving a Provisional Certificate of Registration. Please also note that enforcement of Section 20 of the Lease, "Surrender" must be performed in compliance with 105 CMR 725.105(O) and all other applicable Massachusetts laws.*

CommCan's Response: The Market Rent Analysis provided by the Appraisers Group for the Medway Lease has been amended as follows:

"Rents in three RMDs reported annual increases of 3% per annum in Middlesex and Worcester County. Comparable #3 above has an annual increase of 3% per year written into the agreement." (Page 13)

"The stated rents above are the initial per square foot prices and subject to increases on an annual basis. This is common for most commercial leases ranging from 5 years to 20 years. Increases typically range from 2% to 5% per year. I would expect the subject space would be subject to annual increases within this range." (Page 13)

"The above rentals are mostly 4 – 5 year agreements that allow for annual increases of 3% to 5% per year. This is considered typical for this type of commercial lease due to the length of the agreements. Increases tend to range from \$0.50 to \$1.00 per square foot per year." (Page 15)

“Owners typically write in annual increases based on a percentage of the yearly base rent. Increases between 2% and 5% annually are common in these long term agreements.”
(Page 17)

“Based on a review of the similar commercial leases annual increases between 3% and 5% per year would be in line with the comparable rental data. This should be addressed in the subject leases.” (Page 19)

Please see the amended Market Rent Analysis regarding the Medway Lease in its entirety attached as **Exhibit D**.

Additionally, Section 19 of the Medway Lease, “Surrender” has been amended as follows:

“Notwithstanding any provision of this Lease, LESSOR hereby agrees that LESSOR’s rights and remedies following termination of this Lease, shall not include the sale of assets protected by the Humanitarian Medical Use of Marijuana Act, Ch. 369 of the Acts of 2012, i.e. any product containing any amount of marijuana.”

Please see the amended Medway Lease in its entirety attached as **Exhibit B**.

7. **DPH Request:** *The Department has initiated the verification process for the letter of support/non-opposition from the Medway Board of Selectmen. Please note that a representative of the Town has informed us that the Board was not aware that the Medway site would be cultivating and processing for two retail sites - one in Millis and one in Southborough. We are awaiting further discussion before the Board before we conclude the verification process.*

CommCan’s Response: Please see the attached correspondence from the Town of Medway, attached as **Exhibit E** to this letter [REDACTED]

[REDACTED] DPH on April 27, 2016 to clarify that CommCan’s third dispensary location may not be in Framingham as mentioned in previous correspondence but that the Town of Medway is aware that the Medway site shall be cultivating and processing for three retail sites.

8. **DPH Request:** *The Department has initiated the verification process for the letter of support/non-opposition from the Southborough Board of Selectmen. We are awaiting verification of the letter from the signatory of the letter before concluding the verification process.*

CommCan’s Response: No response is required to this RFI.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Valerio Romano", written in a cursive style.

Valerio Romano
Attorney for CommCan, Inc.

VGR/tc
Enclosures

EXHIBIT A:
AMENDED
SOUTHBOROUGH LEASE

LEASE

1. PARTIES:

LEASE AGREEMENT ("Lease") made this 12th day of February 2016 by and between **William Picardi, Trustee of Unicorn Realty Trust**, under declaration of trust dated July 14, 1989 and recorded in the Worcester Registry of Deeds at Book 12215 Page 386 with an address of 255 Turnpike Road, Southborough, MA 01772 (hereinafter "Landlord") and CommCan, Inc. a corporation organized in Massachusetts as a non-profit corporation under M.G.L. Chapter 180, with a principal place of business at 730 Main Street, Millis, MA 02054 (hereinafter, referred to as the "Tenant").

2. DESCRIPTION:

Landlord hereby leases to Tenant and Tenant leases from Landlord, under the terms and conditions specified herein, the following space containing approximately 2,450+/- square feet of space on the first floor (hereinafter called "the Premises") of the building located at 255 Turnpike Road, Southborough, MA (the 'Building'). The Building, the lands on which it is located, and all other improvements now or hereafter constructed on said land are hereinafter referred to as the "Property".

Landlord reserves the right from time to time without unreasonable interference with Tenant's use of the Premises and at Landlord's sole cost and expense, to install, use, maintain, repair, replace, and relocate for service to the Premises or other parts of the Property, pipes, ducts, conduits, wires and appurtenant fixtures wherever located in the Premises or Building and to alter or relocate any other common facility, provided such alteration or relocation does not interfere with Tenant's use of the Premises. Tenant shall have the right in common with others to use the driveway, parking lot, walkways, stairways, and entrances for access to the Premises.

Landlord shall allow Tenant and Tenant's invitees to make use of the parking area located on the Property, provided Landlord reserves the right from time to time to alter said parking area, as long as said alteration does not violate Tenant's Special Permit and/or Site Plan Approval. Tenant shall have no pre-assigned or reserved parking spaces.

3. TERM:

(A) **Initial Term.** The initial term of this lease shall be for one-hundred twenty (120) months beginning on the Commencement Date (as hereinafter defined) and ending unless sooner terminated or extended as herein provided, from said date. The target for the Commencement Date is on or before February 1, 2017. However, if the Tenant has received all of its Approvals specified and defined in Paragraph 30 prior to February 1, 2017 then the Commencement Date shall be the date upon which Tenant begins making payments of the Base Rent and the initial lease term shall expire on the last day of the month one hundred twenty months thereafter.

(B) Option Term. Provided that the Tenant is in compliance with all terms and conditions of this Lease, Tenant shall have the option of extending the term of this Lease for two (2) additional terms, each one of sixty (60) months, upon the same terms and conditions except Rent which shall be as set forth in Exhibit B. The option to extend shall be deemed to be properly exercised if Tenant provides Landlord with written notice at least six (6) months prior to the expiration of the initial term or extended term of its intention to renew, TIME BEING OF THE ESSENCE IN GIVING SAID NOTICE, and Tenant is not in breach of any provision of this Lease both at the time of giving notice and at the commencement of said extension.

4. **RENT:**

For purposes of this Agreement, the term "Rent" shall be deemed to include all monetary obligations of Tenant to Landlord pursuant to this Lease, including but not limited to, Approval Period Payments, as hereinafter defined, Base Rent and Additional Rent. Rent shall be payable in equal monthly installments, due in advance, on the first day of each calendar month, upon the execution this Lease and through the initial Term of this Lease and any extension thereto without deduction, offset, prior notice or demand, in lawful money of the United States. Until further notice from Landlord all Rent due hereunder shall be payable by check to "Unicorn Realty Trust" and mailed or hand delivered to said payee at 255 Turnpike Road, Southborough, MA 01772. At the time of the execution of this Lease, Tenant shall pay to Landlord the sum of Three Thousand One Hundred Twenty-Five (\$3,125.00) Dollars, per month (the "Approval Period Payments") for the period of time from February 15, 2016 to the Commencement Date, during which time Tenant shall faithfully and diligently pursue, at its sole cost and expense, all necessary municipal, state, and other applicable licenses, permits, authorizations and approvals to permit Tenant to use the Premises for the Permitted Use as defined in Section 8 hereof.

Not less than thirty (30) days prior to the Commencement Date, Tenant shall pay Landlord the amount of \$12,500.00, allocated as follows:

- First month Base Rent: \$6,250.00
- Security Deposit: \$6,250.00

On the occurrence of an Event of Default, (as defined herein), the Landlord shall be entitled, at its sole discretion, to (a) apply any or all of such Security Deposit in payment of any Rent then due and unpaid, any expense incurred by the Landlord in curing any such default, and/or any damages incurred by the Landlord by reason of such default (including but not limited to its reasonable attorneys' fees), in which event the Tenant shall restore to the Landlord the amount of the Security Deposit so applied, and/or (b) to retain any or all of such sum in liquidation of any or all damages suffered by the Landlord by reason of such default. However, the foregoing shall not serve in any event to limit the rights, remedies and damages accruing to Landlord under Section 17 or any other provision of this Lease on account of default by Tenant. On the termination of this Lease, any such Security Deposit which is not so applied or retained shall be returned to the Tenant. No monies including the Security Deposit paid hereunder shall bear interest while being held by the Landlord,

and Landlord shall not be required to segregate any such monies in any escrow or other separate account.

(A) **BASE RENT** In consideration of the Landlord's covenants, the Tenant agrees to pay Base Rent in accordance with Exhibit "A" attached hereto.

(B) **ADDITIONAL RENT:**

1. **REAL ESTATE TAX SHARE:**

(a) Tenant shall pay to Landlord upon demand as Additional Rent the Tenant's Tax share (hereinafter defined) upon the Premises for each tax year during the term hereof. Tenant's Real Estate Tax Share shall be 100% of the increase in Taxes over the Taxes imposed in the Base Year, which shall be fiscal 2017 (July 1, 2016 to June 30, 2017.) "Taxes" means (a) all taxes, assessments, betterments, water or sewer entrance fees and charges including general, special, ordinary and extraordinary or any other charges (including charges for the use of municipal services if billed separately from other taxes), levied, assessed or imposed at any time by any governmental authority upon or against the Premises, the Building and the Property.

(b) In the event taxes on the land and buildings, based upon which Tenant shall have paid Additional Rent, are subsequently reduced or abated, Tenant shall be entitled to receive a rebate equal to the amount determined by multiplying the Tenant's percentage Real Estate Tax Share by the amount abated, provided that the amount of the rebate allocable to Tenant shall in no event exceeds the amount of Additional Rent attributable to Real Estate Taxes paid by Tenant for such fiscal year under this Section 4(B), and further provided the rebate allocable to Tenant shall be reduced by an amount equal to the Tenant's Tax Share multiplied by the reasonable cost of obtaining such reduction or abatement.

2. **PERSONAL PROPERTY TAXES:** Tenant shall pay to the Town of Southborough, when the same are due, all personal property taxes for personal property of the Tenant on the Premises or used solely in connection therewith, including without limitation, signs.

3. **TIMING OF PAYMENT OF ADDITIONAL RENT.** Tenant shall pay to Landlord the Additional Rent, on a monthly basis with the payment of the Base Rent, such amounts as Landlord may reasonably determine will be sufficient to provide in the aggregate funds adequate to pay the Real Estate Tax Share to be paid by Tenant pursuant to this Section 4(B). No later than

the end of the twelfth (12th) month after the Commencement Date of the Lease and thirty (30) days after the end of each subsequent year of the Lease Term thereafter, Landlord shall provide Tenant with a Landlord certified statement setting forth the costs and expenses for said year and Tenant's portion thereof. Tenant shall pay to Landlord such additional sums as are due hereunder or Landlord shall refund to Tenant any overpayment made during the prior year within ten (10) days after receipt of such statement.

(C) **LATE CHARGES AND INTEREST:**

1. Tenant hereby acknowledges that late payment by Tenant to Landlord for Rent and other sums due hereunder shall cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges and late charges which may be imposed on Landlord by the terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of Rent or any other sum due from Tenant shall not be received by Landlord or Landlord's designee within ten (10) business days after the date said Rent or other sums become due, then Tenant shall pay to Landlord a late charge equal to ten percent (10%) of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the cost Landlord will incur by reason of late payment by Tenant. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.
2. Tenant shall be obligated to pay to Landlord interest at the rate of twelve percent (12%) per annum or the maximum legal rate which Tenant may contract for in Massachusetts, whichever is less, on all sums above specified and on all sums and charges Tenant is obligated to pay under the terms of this Lease from the date said sums and charges become due, after the expiration of any applicable grace period, and remain unpaid until the date said sums and charges are paid in full.

5. **LANDLORD'S COVENANTS:**

Landlord shall, at Landlord's sole cost and expense, maintain throughout the term of the Lease the roof, the foundation, exterior walls, and other major structural components thereof, of the Building of which the demised Premises are a part, except for defects or damages caused by Tenant's default hereunder or misuse or negligence. Landlord shall be responsible for maintenance of the exterior area beyond the area containing the visual screening for the re-located trailers.

6. TENANT'S COVENANTS:

Tenant shall keep the Premises in the same order and repair as they are in on the Commencement Date, or may be put in during the term, reasonable use and wear and damage by fire or casualty only excepted; shall make all repairs and replacements required other than those specifically required by Landlord's covenants and shall do all other work necessary for the foregoing purpose. Tenant's obligation to maintain and repair the Premises shall apply to all of the Premises, including, without limitation, all doors, glass, fixtures, interior walls, floors, ceilings, and, subject to Landlord's obligations set forth in Section 7.01 hereof, to the HVAC and heating systems any other systems exclusively serving the Premises. Tenant shall maintain the parking area, including striping of all approved parking spaces including handicapped spaces, and shall be responsible for the removal and or treatment of ice and snow from the parking area and access and entrance ways to the Building. Tenant shall be responsible for payment of all charges for its use of electricity, gas and other utilities, and Tenant shall be solely responsible for the cost of separately metering the gas and electricity services.

Tenant shall not permit any employee, guest or invitee to smoke cigarettes, pipes, cigars or anything else in the Building, outside of the Building or anywhere on or about the Property.

7. IMPROVEMENTS TO PREMISES:

7.01 INITIAL IMPROVEMENTS BY LANDLORD:

Landlord, for the purpose of initially preparing the Premises for occupancy by Tenant, shall make the following improvements to the Premises, all to be paid for by Landlord:

- Replace heat and A/C within 90 days prior to Commencement Date; Tenant shall furnish any specifications necessary to conform to its build-out.
- Clean up outdoor area around building within 90 days of Commencement Date, to include removal of vehicle in the woods, hot tub, gazebo, and movement of two trailers to location away from building and not interfering with operations, such location to be visually screened from Building with fencing or evergreen vegetation

7.02 TENANT'S ALTERATIONS:

The Tenant may make other improvements to the Premises, whether structural or nonstructural, but only with the Landlord's prior written consent, which consent shall not be unreasonably withheld or delayed. Tenant shall provide such drawings, plans and specifications as are reasonably requested by Landlord in reviewing any such proposed improvements. If the Landlord consents to any such proposed alteration, addition, or improvement, it shall be made at the Tenant's sole expense (and the Tenant shall hold the Landlord harmless from any cost incurred on account thereof), and at such time and in such manner as to not unreasonably interfere with the use and enjoyment of the remainder of the Property by any other tenant or other person. Any alteration or addition shall be consistent in appearance with the rest of the Building and Landlord's Property and shall be made only after duly obtaining (and providing to Landlord

copies of) all required permits and licenses from all governmental authorities. Tenant shall obtain lien waivers from the contractor and deliver them to Landlord prior to commencement of any alteration work. All such alterations and improvements shall comply in all respects with any and all applicable federal, state and local laws, ordinances, and regulations, including but not limited to the Americans With Disabilities Act and regulations promulgated thereunder. Promptly after completion of such work, Tenant shall procure such final inspections for such work from the applicable governmental authorities, including, without limitation, an occupancy permit.

Furthermore, Tenant shall indemnify Landlord from all damages, losses, or liability arising from such alterations or improvements or the construction thereof by Tenant or by any other party other than Landlord. Both during and after the performance of any such work, Landlord shall have free access to any and all mechanical installations in the Premises, including, but not limited to, air conditioning, fans, ventilating systems, machine rooms and electrical closets; and Tenant agrees not to construct or permit the installation of partitions and/or other obstructions in the Premises which might interfere with Landlord's free access to the Premises or Building, or impede the free flow of air to and from air vents and other portions of the heating, ventilating and air conditioning systems in the Building. Unless Landlord elects otherwise or has agreed otherwise in writing prior to installation, all installations, alterations, additions or improvements in or to the Premises shall be the property of Landlord and shall remain upon, and be surrendered with, the Premises at the end of the Lease Term or sooner termination of this Lease.

7.03 MECHANICS' LIENS:

The Tenant shall (a) immediately bond or have released any mechanics', materialman's, or other lien filed or claimed against any or all of the Premises, the Building, or any other property owned or leased by the Landlord by reason of labor or materials provided for the Tenant or any of its contractors or subcontractors or otherwise arising out of the Tenant's use or occupancy of the Premises, and (b) defend, indemnify, and hold harmless the Landlord against and from any and all liability or expense (including but not limited to reasonable attorneys' fees) incurred by the Landlord on account of any such lien or claim.

7.04 FIXTURES:

Any trade fixtures installed in, or attached to, the Premises by, and at the expense of, Tenant, shall remain the property of Tenant, if the same may be removed without damage to, or destruction of, the Premises. Tenant shall have the right, at any time and from time to time during the Lease Term, to remove any and all of its trade fixtures, which it may have installed in, or attached to, the Premises, during the Lease Term. In addition, at the end of the Lease Term or sooner termination of this Lease, Tenant shall remove all of Tenant's trade fixtures unless Landlord gives Tenant a written waiver for same. At any time that Tenant removes any of its trade fixtures, Tenant shall promptly repair Landlord's Property as a result of any damage to, or destruction of, Landlord's Property caused by the removal of any of its trade fixtures.

8. USE OF PREMISES:

Tenant agrees that the Premises shall be used and occupied solely for use as a Registered Marijuana Dispensary (RMD) under the auspices of the Massachusetts Department of Public Health Regulations 105CMR 725.000. Retail sales only shall be permitted and the Premises shall not be used for cultivation or processing.

Tenant will not use or permit the use of the Premises for any purpose other than as above specified without the written consent of the Landlord, which consent Landlord may grant or deny in its sole discretion. Tenant will comply with all applicable laws, orders and governmental regulations known or brought to Tenant's attention, and with the directions of any public officer authorized by law with respect to the Premises and the use and occupancy thereof.

9. RIGHT TO LET AND POSSESSION:

Landlord warrants that it has the right to let the Premises. Landlord further warrants that Tenant, upon paying the Rent and performing the terms, covenants and conditions specified herein, shall have, hold and enjoy the Premises peacefully and quietly for the term hereof.

10. COVENANTS TO PAY RENT AND TO SURRENDER PREMISES:

Tenant shall pay Rent at the times and in the manner specified in Paragraph 4 and, if applicable, Paragraph 20, and, at expiration of the term, shall surrender the Premises in as good order and repair as when delivered to Tenant, damage by fire and extended coverage perils, ordinary wear and tear and damage for which Landlord is responsible, excepted.

11. DANGEROUS SUBSTANCES:

Tenant covenants that nothing shall be done or suffered by it or any substances kept by it in the Premises that will operate to increase the fire hazard or to cause the fire insurance rate thereon to be increased above their risk level at the beginning of this Lease unless Tenant acknowledges and pays for any such increase.

Tenant shall not permit the emission, release, threat of release or other escape of any Hazardous Materials (as defined by M.G.L. Chapters 21C and 21E). Tenant shall not, except in strict conformity with law, use, generate, store or dispose of, or Release Hazardous Materials in or about the Premises or dump, flush or in any way introduce Hazardous Materials into sewage or other waste disposal systems serving the Premises or the Property (nor shall Tenant permit its employees, agents or contractors to take any of the foregoing actions). Tenant shall, on or before the commencement of this Lease, provide Landlord with a list of Hazardous Materials that it customarily uses or which it reasonably expects to use and shall warrant and represent to Landlord that all materials will be properly handled and stored.

Tenant shall indemnify and hold harmless Landlord from and against any and all

claims, losses, liabilities, damages, costs and expenses, including without limitation, reasonable attorneys' fees and costs of any required or necessary assessment, repair, clean-up or detoxification, arising out of or in any way connected with the existence, use, manufacture, storage, or disposal of Hazardous Materials by Tenant or its employees, agents, invitees, licensees, or contractors on, under or about the Premises. The indemnity obligations of Tenant under this clause shall survive termination of this Lease. Upon Landlord's request, Tenant shall provide Landlord with written evidence that Tenant has properly disposed of all hazardous materials and hazardous waste in accordance with applicable Federal, State and local laws and regulations.

12. INSURANCE:

Tenant, at its own expense, shall provide and keep in force with companies acceptable to Landlord, (1) general liability insurance coverage for no less than \$1,000,000 per occurrence and \$2,000,000 in aggregate, annually, and product liability insurance coverage for no less than \$1,000,000 per occurrence and \$2,000,000 in aggregate, annually, pursuant to the requirements in 105 CMR 725.105(Q). Tenant will make reports documenting compliance with 105 CMR 725.105(Q) in a manner and form determined by the Massachusetts Department of Public Health pursuant to 105 CMR 725.105(M). Such general liability insurance shall benefit the Landlord and Tenant jointly against liability for bodily injury or death and property damage or destruction in or upon the Premises or Tenant's use of the Common Areas and any appurtenances on an occurrence basis or the Property; and (2) Fire and extended coverage, vandalism, malicious mischief and special extended coverage insurance in an amount adequate to cover the cost of replacement of all decorations and improvements in the Premises as well as the cost of replacement of all fixtures and contents therein.

Tenant agrees to deliver to Landlord, at least fifteen (15) days prior to the time such insurance is first required to be carried by Tenant, and thereafter at least fifteen (15) days prior to the expiration of any such policy, either a duplicate original or a certificate and true copy of all policies procured by Tenant in compliance with its obligations hereunder, together with evidence of payment therefor and including an endorsement which states that such insurance may not be cancelled except upon ten (10) days' written notice to Landlord and any designee(s) of Landlord. Such policy shall name Landlord and Landlord's first mortgagee, and any other parties in interest designated by Landlord as their interests may appear as additional insureds and shall be primary and non-contributing with any insurance carried by Landlord. Tenant will obtain language that provides that tenant's insurance policy shall not be canceled or altered without at least thirty (30) days written notice to Landlord.

Landlord shall have no obligation to insure Tenant's personal property.

Landlord shall maintain and keep in effect throughout the Term a policy or policies of insurance at full replacement cost of the Building of which the leased Premises are a part, against fire, vandalism and such other perils as are normally included in a broad form extended coverage endorsement, ("Premises Insurance").

13. **ASSIGNMENT AND SUBLETTING:**

- (A) This Lease may not be sold assigned or transferred without the written consent of the Landlord, which such consent shall not be unreasonably withheld or delayed. In the event that Tenant proposes any such transfer, Tenant shall notify Landlord in writing at least sixty (60) days before the date on which the transfer is to be effective and, as included in such notice, furnish Landlord with (a) the name of the entity receiving such transfer (the "Transferee"), (b) a detailed description of the business of the Transferee, (c) financial statements of the Transferee, (d) all written agreements governing the Transfer, and (e) any other information reasonably requested by the Landlord with respect to the transfer or the Transferee. Landlord shall respond to Tenant's request for approval or disapproval of the transfer within twenty (20) days after Landlord receives the request together with all documents and information required above.
- (B) If Tenant's interest in this Lease is assigned, whether or not in violation of the provisions of this Paragraph, Landlord may collect Rent from the assignee; if the Premises or any part thereof are sublet to, or occupied by a subtenant or Tenant, whether or not in violation of this Paragraph, Landlord, after default by Tenant under this Lease, may collect Rent from the subtenant, user or occupant. In either case, Landlord shall apply the net amount collected to the Rents reserved in this Lease, but neither any such assignment, subletting, occupancy or use, whether with or without Landlord's prior consent, nor any such collection or application, shall be deemed a waiver of any term, covenant, or condition of this Lease or the acceptance by Landlord of such assignee, sub-lessee, occupant or user as tenant. The consent by Landlord to any assignment or subletting shall not relieve Tenant from its obligation to obtain the express prior consent of Landlord to any further assignment or subletting. The listing of any name other than that of Tenant on any door of the Premises or on any directory or other part of the building, or otherwise, shall not operate to vest in the person so named any right or interest in this Lease or in the Premises or be deemed to constitute, or serve as a substitute for, any prior consent of Landlord required under this paragraph and it is understood that any such listing shall constitute a privilege extended by Landlord which shall be revocable at Landlord's will by notice to Tenant. Neither any assignment of Tenant's interest in this Lease nor any subletting, occupancy or use of the Premises or any part thereof by any person other than Tenant, nor any collection of Rent by Landlord from any person other than Tenant as provided in this paragraph, nor any application of any such Rent as provided in this paragraph shall, in any circumstances, relieve Tenant of its obligation fully to observe and perform the terms, covenants and conditions of this Lease on Tenant's part to be observed and performed, except to the extent of payment or performance of Tenant's obligations under this Lease from any person other than Tenant.

- (C) If, as permitted under this Article 13, Tenant shall sublet the Premises or assign this Lease for a net rental in excess of the gross annual Rent plus such additional rental obligations as may be due hereunder, Tenant shall promptly pay to Landlord one hundred percent (100%) of the amount of the net excess actually collected by Tenant from such sub-lessee or assignee over and above the rental amounts otherwise due under this Lease.

14. INDEMNIFICATION:

Tenant will defend, indemnify and save harmless Landlord from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including without limitation, reasonable attorney's fees and expenses) imposed upon or incurred by or asserted against Landlord arising from Tenant's use and occupancy of the Premises or arising from the negligence of the Tenant, as the case may be, or from the negligence of Tenant's agents, contractors, employees or invitees. Excluded from such indemnification are those liabilities, obligations, claims, damages, penalties, causes of action, costs or expenses (including without limitation, reasonable attorneys fees and expenses) arising from the negligence of Landlord or Landlord's contractors, employees or others over whom Landlord exercises control, provided however that in no event will Landlord be liable for lost profits or damages in the nature of consequential damages.

15. DAMAGE TO TENANT'S PROPERTY:

Landlord shall not be liable or responsible for any injury or damage to property belonging to Tenant or to any property of a third party located on the Premises with the consent of Tenant, except as provided in Section 14 hereof.

16. RIGHT OF ENTRY BY LANDLORD:

Landlord, during the term of this Lease, at reasonable times and during usual business hours, and upon reasonable notice not less than 24 hours in advance, and in conformity with applicable DPH guidelines, may enter the Premises to view them and perform any necessary repairs. With not less than 24 hours prior notice to Tenant, Landlord may show the Premises during the normal business hours to others for the purpose of rental, within six (6) months prior to the expiration of the specified term. Landlord may enter the Premises to make inspections, repairs, alterations or additions in or to the Premises or the Building of which the Premises are a part at any time in the event of an emergency, and to perform any acts required for the safety, protection, or preservation of the Premises and/or the Building.

17. DEFAULTS AND REMEDIES:

17.01 DEFAULT:

As used in the provisions of this Lease, each of the following events shall constitute, and

is hereinafter referred to as, an "Event of Default":

- (A) If the Tenant fails to pay any Rent or any other sum which it is obligated to pay by any provision of this Lease, when and as due and payable hereunder,
- (B) If Tenant shall violate or be in default in its observances or performance of any of its covenants herein contained, except default in the payment of base Rent or Additional Rent, and shall have failed to take and prosecute appropriate steps to remedy such breach or default within ten (10) days after written notice of such breach or default has been given by Landlord to Tenant
- (C) If the Tenant or any guarantor of this Lease (i) applies for or consents to the appointment of a receiver, trustee, or liquidator of the Tenant or of all or a substantial part of its assets, (ii) is subject to a petition in bankruptcy or admits in writing its inability to pay its debts as they come due, (iii) makes an assignment for the benefit of creditors, (iv) files a petition or an answer seeking a reorganization or an arrangement with creditors, or seeks to take advantage of any insolvency law, (v) performs any other act of bankruptcy, or (vi) files an answer admitting the material allegations of a petition filed against the Tenant in any bankruptcy, reorganization, or insolvency proceeding.

17.02 REMEDIES:

Upon the occurrence of any Event of Default, the Landlord may take any or all of the following actions:

- (A) Perform on behalf of and at the expense of Tenant any obligation of tenant under this Lease which Tenant has failed to perform, without prior notice to Tenant, the total cost of which by Landlord, together with interest thereon at the rate of twelve percent (12%) per annum from the date of such expenditure, shall be deemed Additional Rent and shall be payable by Tenant to Landlord upon demand;
- (B) Terminate this Lease and the tenancy created hereby, re-enter the Premises with or without court action or summary proceedings, remove Tenant and all other persons and property from the Premises, and store any such property in a public warehouse or elsewhere at the costs of and for the account of Tenant, all without resort to legal process and without Landlord being deemed guilty of trespass or becoming liable for any loss or damage occasioned thereby;
- (C) Make such improvements, alterations and repairs as may be necessary in order to relet the Premises, and relet the Premises or any part thereof upon such term or terms (which may be for a term extending beyond the term of this Lease) at such rental or rentals and upon such other terms and conditions (which may include concessions, free Rent, and/or improvements) as Landlord in its sole discretion

may deem advisable; and upon each such reletting, all rentals received by Landlord shall be applied, first, to the payment of any indebtedness other than Rent due hereunder from Tenant to Landlord, second, to the payment of all costs and expenses of such re-letting (including but not limited to brokerage fees, reasonable attorneys' fees and costs of repairs), third, to the payment of all Rent due and unpaid hereunder, and the balance, if any, shall be held by Landlord and applied in payment of future Rent as the same may become due and payable hereunder, and any excess, if applicable, remitted to Tenant; and/or

- (D) Exercise any other legal or equitable right or remedy which it may have by law or otherwise.
- (E) Notwithstanding any provision of this Lease, Landlord hereby agrees that Landlord's rights and remedies following a default, breach, or any other failure to perform under this Agreement, shall not include the seizure of assets protected by the Humanitarian Medical Use of Marijuana Act, Ch. 369 of the Acts of 2012, i.e. any product containing any amount of marijuana. Landlord shall not be entitled to a repayment or remedy that provides Landlord inventory of Tenant that contains any amount of marijuana, in any form, whether flower or infused product. Landlord hereby forfeits any such remedy. In addition, Landlord hereby understands and agrees that a Certificate of Registration, whether provisional or final, is non-transferable, and may not be assigned or transferred without prior Department of Public Health approval. Landlord agrees that Tenant's Certificate of Registration is not an asset that may be seized by Landlord or available as a remedy for Tenant's default, breach or other failure to perform under this Lease.

No re-entry or taking possession of the Premises by Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention be given to Tenant or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding that Landlord may have re-leased the Premises without termination; Landlord may at any time thereafter elect to terminate this Lease for any previous default. If the Premises or any part thereof is re-leased, Landlord shall not be liable for, nor shall Tenant's obligations hereunder be diminished by reason of, any failure by Landlord to relet the Premises or any failure by Landlord to collect any Rent due upon such reletting. No action taken by the Landlord under the provisions of this section shall operate as a waiver of any right which the Landlord would otherwise have against the Tenant for the Rent hereby reserved or otherwise, and the Tenant shall at all times remain responsible to the Landlord for any loss and/or damage suffered by the Landlord by reason of any Event of Default.

17.03 DAMAGES:

Upon any Event of Default, Tenant shall remain liable to the Landlord for the following amounts (a) any Rent of any kind whatsoever which may have become due with respect to the

period in the term which has already expired, (b) any rental abatements or other free-Rent concessions extended to Tenant under the Lease, (c) all Rent which becomes due during the remainder of the term; (d) the reasonable costs, fees, and expenses incurred by Landlord in reletting the Premises and (e) the reasonable costs, fees, and expenses incurred by Landlord in pursuit of its remedies hereunder, including but not limited to reasonable attorneys' fees and court costs, including but not limited to such costs, fees and expenses and reasonable attorneys fees incurred by Landlord for having to remove marijuana, or marijuana products from the Premises. Furthermore, at Landlord's option, Tenant shall be obligated to pay, in lieu of item (c) above in this §17.03, an amount (the "Substitute Amount") which is equal to the present value of all Rent which would become due during the remainder of the term, including all Additional Rent which shall be deemed to continue and increase over such remainder of the term at the average rate of increase occurring over the then expired portion of the term, with such present value to be determined by discounting at an annual rate of interest which is equal to the bond-equivalent yield for the most recent auction of U.S. Treasury bills with a 1-year maturity. All such amounts shall be due and payable immediately upon written demand by Landlord and shall bear interest at twelve percent (12%) until paid. Provided that the Substitute Amount is actually paid in full to Landlord and the Premises are surrendered by Tenant within thirty (30) days of demand, Landlord shall affirmatively list the Premises with a suitable broker and Tenant shall receive a reimbursement of all such amounts which is equal to the amount of any Rent actually received from others to whom the Premises may be rented less all the expenses incurred in reletting as described in Paragraph 17.03 (d), such reimbursement to be made upon the expiration of the Lease term for which Tenant is responsible. Tenant and Landlord acknowledge and agree that payment to Landlord of the foregoing Substitute Amount, together with the corresponding reduction by reimbursement to Tenant of any Rent paid by substitute tenants, are a reasonable forecast of the actual damages which will be suffered by Landlord in case of an Event of Default by Tenant, which actual damages are otherwise difficult or impossible to ascertain, and therefore such payment and reimbursement together constitute liquidated damages and not a penalty. Any suit or action brought by Landlord to collect any such liquidated damages shall not in any manner prejudice any other rights or remedies of Landlord hereunder.

18. DESTRUCTION TO BUILDING AND PREMISES:

In the event the Premises or a substantial portion of the Building containing same are damaged or destroyed by fire or other casualty Landlord shall not be obligated to rebuild and/or restore, the Premises but may, at its option, cancel and terminate this Lease by giving written notice to that effect to Tenant within thirty (30) days of the occurrence of such damage, such cancellation and termination to be effective forthwith upon the Tenant's receipt of such notice.

Notwithstanding the foregoing, in case of any damage to the Premises by fire or other casualty occurring during the term of this Lease or previous thereto, which damages the Premises so that the same cannot be repaired within sixty (60) days from the happening of such damage, then this Lease shall, at the option of either party, terminate from the date of such damage. In the event that neither party elects to terminate, and Landlord agrees to restore the Premises within sixty (60) days, Tenant shall be entitled to reasonable assurances from the Landlord, from time to

time during such sixty (60) day period, that the Premises will be restored to their condition prior to the casualty within the sixty (60) day period. In the event that either party elects to terminate the lease for the reason hereinabove referred to, such party shall give notice of such fact to the other party within thirty (30) days of the happening of the fire or casualty, and in such event the Tenant shall surrender the Premises within ten (10) days after such notice and shall pay Rent only to the time of such damage.

If the Premises shall be damaged, but the damage is repairable within sixty (60) days from its occurrence and the Landlord agrees to undertake such repair, the same shall be carried out with reasonable promptness. In such event the Rent during such period shall be apportioned according to that portion which remains tenable. In the event the Premises shall not be substantially repaired by the Landlord within sixty (60) days, then and in that event, the Tenant shall have the option to terminate the Lease upon written notice to Landlord, upon the expiration of the sixty (60) day period, and in such event the Landlord and Tenant shall be relieved of liability one to the other based upon such termination.

Neither party hereto nor anyone claiming by, through, under, or in behalf of such party, shall have any right of action, or right of subrogation against the other party for or based upon any loss or damage caused by fire, explosion or other casualty (not limited to the foregoing) relating to the Premises or the property therein, whether such fire, explosion or other casualty shall arise from the negligence of such other party, its agents or employees or otherwise.

19. **EMINENT DOMAIN:**

- (A) If the entire Premises shall be taken for public or quasi-public purposes, then this Lease shall terminate as of the date when possession must be legally surrendered to the authority making the taking.
- (B) If such portion of the Premises shall be taken as to render the Premises unsuitable for continuance of Tenant's business in substantially the same manner as the same was being conducted immediately prior to such taking, then either Landlord or Tenant shall have the right to terminate this Lease by giving written notice to the other party within thirty (30) days after receipt of written notice of such taking.
- (C) If this Lease shall not be so terminated, Landlord shall restore what remains of the Premises with all reasonable dispatch to a condition as close as possible to the condition in which the Premises were immediately prior to said taking.
- (D) If the Premises, or any part thereof, shall be rendered untenable and the Lease is not terminated, the Rent herein reserved or a just and proportionate part thereof, shall be suspended or abated according to the nature and extent of the taking from the date Tenant must legally surrender possession to the authority making the taking until the Premises shall be restored, and if after such restoration the Premises are smaller than they were prior to the taking or the utility thereof

otherwise diminished, the said Rent shall be equitably reduced.

- (E) Landlord reserves to himself and Tenant assigns to Landlord, all rights to damages accruing on account of any taking for public or quasi-public purposes. Tenant agrees to execute such instruments of assignment as may be required by the Landlord to join with Landlord in any petition for the recovery of such damages, if requested by Landlord, and to turn over to Landlord any such damages that may be recovered in such proceeding. Notwithstanding the foregoing, it is agreed that Landlord does not reserve to itself and Tenant does not assign to Landlord that portion of any condemnation award which is attributable to fixtures and equipment installed in or on the Premises by Tenant or expenses of moving and relocation of Tenant's business and losses incurred by Tenant on account of the interruption of its business; and Tenant may make claim for compensation in any condemnation proceeding on account of any of the foregoing items. Additionally, Landlord does not reserve to itself and Tenant does not assign to Landlord assets protected by the Humanitarian Medical Use of Marijuana Act, Ch. 369 of the Acts of 2012, i.e. any product containing any amount of marijuana.

20. HOLDING OVER:

Tenant covenants that it will vacate the Premises immediately upon the expiration or sooner termination of this Lease. If Tenant retains possession of the Premises or any part thereof after the termination of the term without Landlord's express consent, Tenant shall pay Landlord Rent at 1.5 times the monthly rate specified in Section 4 and Exhibit B consisting of Basic Rent for the time Tenant thus remains in possession and, in addition thereto, shall pay Landlord for all damages, consequential as well as direct, sustained by reason of Tenant's retention of possession. The provisions of this Section do not exclude Landlord's right of re-entry or any other right hereunder, including without limitation, the right to remove Tenant through summary proceedings for holding over.

21. SIGNS:

Tenant shall have the right, with the prior consent of Landlord, which consent shall not be unreasonably withheld or delayed, to affix above its door such sign or signs as it may from time to time desire, provided, however, that all such signage shall comply with all applicable municipal, state and/or federal requirements and regulations. Upon the final termination of this Lease, Tenant shall cause all such signs to be removed and shall repair any damage resulting from such removal. Tenant may install a sign to be erected on the pylon sign on Route 9 in front of the Property, for use by Tenant provided that any cost or expense for sign letters other than those to be provided by shall be borne by Tenant, the design of such sign shall be approved in advance in Landlord, such approval to not be unreasonably withheld or delayed and such sign shall be approved by the Town of Southborough.

22. PAYMENT OF LANDLORD'S COST OF ENFORCEMENT:

Tenant shall pay on demand, Landlord's expenses including reasonable attorney's fees, incurred in enforcing any obligation of Tenant under this Lease, including but not limited to expenses and fees incurred because of a default under Section 17.

23. RIGHTS OF SUCCESSORS AND ASSIGNS:

The covenants and agreements contained in this Lease are binding upon the parties hereto and their respective heirs, successors and assigns. No owner of the Premises shall be liable under this Lease except for breaches of Landlord's obligations occurring while owner of the Premises. The obligations of landlord shall be binding only upon the assets of Landlord, which comprise the Premises but not upon other assets of Landlord. No individual partner, trustee, stockholder, officer, director, employee or beneficiary of Landlord shall be personally liable under this Lease and Tenant shall look solely to Landlord's interest in the Premises in pursuit of its remedies upon an event of default hereunder, and the general assets of Landlord and its partners, trustees, stockholders, officers, employees or beneficiaries of Landlord shall not be subject to levy, execution or other enforcement procedure for the satisfaction of the remedies of Tenant; provided that the foregoing provisions of this sentence shall not constitute a waiver of any obligation evidenced by this Lease and provided further that the foregoing provisions of this sentence shall not limit the right of Tenant to name landlord or any partner or trustee thereof as party defendant in any action or suit in connection with this Lease so long as no personal money judgment shall be asked for or taken against any partner, trustee, stockholder, officer, employee or beneficiary of Landlord.

24. SUBORDINATION AND ESTOPPEL CERTIFICATES:

A) Tenant agrees that, upon request of Landlord, Tenant will subordinate this Lease and the lien hereof to the lien of any present or future mortgage or mortgages upon the Property, irrespective of the time of execution or time of recording of any such mortgage or mortgages, provided that Landlord shall, in every such instance, make a reasonable attempt to secure appropriate non-disturbance clauses in each such mortgage or mortgages and provided further that each such mortgage hereafter so placed shall provide by its terms or by a separate agreement that, in the event of foreclosure of such mortgage, the Tenant shall remain undisturbed under this Lease so long as the Tenant complies with all of the terms and conditions hereunder. Tenant agrees that it will, upon request of Landlord, execute, acknowledge and deliver any and all instruments deemed necessary or desirable by Landlord to give effect to, or notice of, such subordination. Tenant and Landlord agree to execute, acknowledge and deliver any appropriate instruments necessary to carry out the agreements contained in this paragraph. Tenant agrees that if it shall fail at any time to execute, acknowledge and deliver any such instrument within fifteen (15) days after request by Landlord, such failure shall constitute an express default on its part with regard to this Lease and Landlord may, in addition to any other remedy available to Landlord, execute, acknowledge and deliver such instrument as Landlord's attorney in fact and in Tenant's name; and Tenant hereby makes, constitutes, and irrevocably appoints Landlord as its attorney, in fact, for that purpose.

(B) Upon not less than ten (10) business days prior notice by Landlord, Tenant shall execute, acknowledge and deliver to Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect and that except as stated therein Tenant has no knowledge of any defenses, offsets or counterclaims against its obligations to pay the Base Rent and Additional Rent and to perform its other covenants under this Lease (or, if there have been any modifications that the same is in full force and effect as modified and stating the modifications and, if there are any defenses, offsets or counterclaims, setting them forth in reasonable detail), the dates to which the Base Rent and Additional Rent and other charges have been paid and a statement that Landlord is not in default hereunder (or if in default, the nature of such default, in reasonable detail). Any such statement delivered pursuant to this paragraph 24(B) may be relied upon by any prospective purchaser or mortgagee of the Premises, or any prospective assignee of any such mortgage.

25. WAIVER OF JURY TRIAL:

All parties hereto, both the Landlord and Tenant as principals and any guarantors, hereby release and waive any and all rights provided by law to a trial by jury in any court or other legal proceeding initiated to enforce the terms of this Lease, involving any such parties, or connected in any other manner with this Lease.

26. ENTIRE AGREEMENT:

This Lease, including attachments, if any, contains the entire agreement of the parties and may only be modified by an agreement in writing signed by all the parties hereto or their respective successors in interest. The marginal notes as to contents of particular sections herein are inserted only for convenience and shall not be construed as a part of this Lease, or as a limitation on the scope of the particular paragraphs to which they refer.

27. RECORDING:

Tenant agrees that it will not record this Lease. Tenant may record a Notice of Memorandum of Lease, provided that it executes contemporaneously with the execution of the Notice of Memorandum of Lease, a Termination Statement, in recordable form, to be held by Landlord's attorney in escrow for filing upon the termination of the lease.

28. NOTICES:

All notices required or permitted hereunder shall be in writing and addressed, if to Tenant, at its address set forth in Paragraph 1, and if to the Landlord at its address set forth in Paragraph 1, or in the case of Tenant or Landlord at such other address as such party shall from time to time designate by notice to the other in accordance with this Paragraph. Any notice shall be deemed duly given when personally delivered or when mailed by certified mail, postage prepaid.

29. LIABILITY LIMITATION:

Neither Landlord nor any trustee, director, officer, employee, representative, asset manager, investment advisor, or agent of Landlord, nor any of their respective successors and assigns, shall be personally liable in any connection with this Lease, and Tenant shall resort solely to Landlord's interest in the Building for the payment to Tenant of any claim or for any performance by Landlord hereunder.

30. APPROVALS CONTINGENCY; CANCELLATION; TENANT'S ACCESS; PRIOR TO COMMENCEMENT DATE:

This Lease is subject to Tenant's receipt of all necessary municipal, state, and other applicable licenses, permits, authorizations and approvals to permit Tenant to use the Premises for the Permitted Use as defined in Section 8 hereof on or before February 1, 2017 (the "Necessary Approvals Period"). Tenant may terminate this Lease upon ninety (90) days prior written notice during the Approvals Period at any time after February 15, 2016, provided that any Approval Period Payments made during the Approvals Period shall be non-refundable. During the Approvals period, Tenant may have limited reasonable access to the Property and the Premises, upon prior notice to the Landlord for measurements and for planning for necessary build-out and occupancy.

31. RIGHT OF FIRST OFFER FOR LANDLORD'S SPACE:

Tenant shall have a one-time offer to expand such Lease to cover the portion of the Building presently being occupied by the Landlord, if and when Landlord vacates such space. Landlord shall provide written notice to Tenant of its intentions to vacate such space and a proposed date when such space shall be available. Other than vacating such space and leaving it in broom clean condition, Landlord shall have no other obligations with respect to Tenant's potential occupancy of Landlord's space (the "Expansion Space"). Tenant shall have thirty (30) days in which to accept such offer. If accepted, the parties shall execute a lease amendment covering the Expansion Space. The Base Rent shall be increased to account for the Expansion Space at the same rate per square foot, then in effect for the Lease. In the event Tenant fails to accept such Offer, Landlord shall have no further obligation to Tenant with respect to the Expansion Space.

(signatures on next page)

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

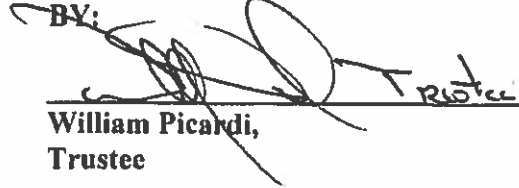
WITNESS:

Elaine Beaulieu

LANDLORD:

UNICORN REALTY TRUST

BY:



William Picardi,
Trustee

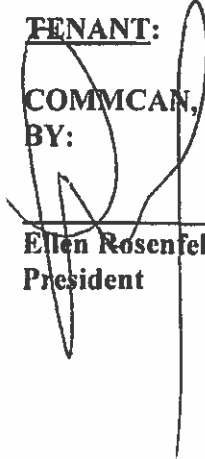
WITNESS:

Elaine Beaulieu

TENANT:

COMMCAN, INC.

BY:



Ellen Rosenfeld
President

EXHIBIT "A"

RENTAL SCHEDULE

BASE RENT

<u>Date</u>	<u>Annual Rent</u>	<u>Amount due per month</u>
Year 1	\$75,000.00	\$6,250.00
Year 2	\$76,500.00	\$6,375.00
Year 3	\$78,030.00	\$6,502.50
Year 4	\$79,590.60	\$6,632.55
Year 5	\$81,182.40	\$6,765.20
Year 6	\$82,806.05	\$6,900.50
Year 7	\$84,462.18	\$7,038.52
Year 8	\$86,151.42	\$7,179.29
Year 9	\$87,874.45	\$7,322.87
Year 10	\$89,631.94	\$7,469.33

Option Period Base Rent

In the event Tenant elects to exercise its option to extend this Lease, the Base Rent for months one through twelve (1-12) of the initial extended term shall 3% higher than Year 10 of the Lease. Base Rent shall continue to be increased automatically by 3% for each additional year of extended term or terms of the Lease.

Option Period Additional Rent

Additional Rent during any Option Period shall be determined in the same manner as set forth in Section 4B of the Lease with fiscal year 2017 remaining the Base Year

EXHIBIT B:
AMENDED MEDWAY
LEASE

COMMERCIAL LEASE

1. PARTIES Ellen Rosenfeld, Trustee of the Ellen Realty Trust, u/d/t dated June 16, 1989 recorded with the Norfolk County Registry of Deeds in Book 8346, Page 623, LESSOR, which expression shall include its heirs, successors, and assigns, does hereby lease to CommCan, Inc. LESSEE, which expression shall include successors, executors, administrators, and assigns where the context so admits, and the LESSEE hereby leases the following described premises:
2. PREMISES The land consisting of 7.288 acres and the building thereon, consisting of a 60,000 sqft cultivation facility (the "Cultivation Facility") situated at 2 Marc Road, Medway, MA 02053("Leased Premises").
3. TERM The term of this lease shall be for ten (10) years commencing on March 1, 2016 and ending February 28, 2026.
- LESSEE shall have the option to renew for two (2) additional five (5) year periods at mutually agreeable terms.
4. RENT For the period beginning March 1, 2016 and ending on February 28, 2017 LESSEE shall pay to the LESSOR rent at the rate of \$1,440,000.00 per year, payable in advance in equal monthly installments of \$120,000.00.
- For the period beginning March 1, 2017 and ending on February 28, 2018, LESSEE shall pay to the LESSOR rent at the rate of \$1,512,000.00 per year, payable in advance in equal monthly installments of \$126,000.00.
- For the period beginning March 1, 2018 and ending on February 28, 2019, LESSEE shall pay to the LESSOR rent at the rate of \$1,587,600.00 per year, payable in advance in equal monthly installments of \$132,300.00.
- For the period beginning March 1, 2019 and ending on February 28, 2020, LESSEE shall pay to the LESSOR rent at the rate of \$1,666,980.00 per year, payable in advance in equal monthly installments of \$138,915.00.
- For the period beginning March 1, 2020 and ending on February 28, 2021, LESSEE shall pay to the LESSOR rent at the rate of \$1,750,329.00 per year, payable in advance in equal monthly installments of \$145,860.75.
- For the period beginning March 1, 2021 and ending on February 28, 2022 LESSEE shall pay to the LESSOR rent at the rate of \$1,837,845.45 per year, payable in advance in equal monthly installments of \$153,153,79.

For the period beginning March 1, 2022 and ending on February 28, 2023, LESSEE shall pay to the LESSOR rent at the rate of \$1,929,737.72 per year, payable in advance in equal monthly installments of \$160,811.48.

For the period beginning March 1, 2023 and ending on February 28, 2024, LESSEE shall pay to the LESSOR rent at the rate of \$2,026,224.60 per year, payable in advance in equal monthly installments of \$168,852.05.

For the period beginning March 1, 2024 and ending on February 28, 2025, LESSEE shall pay to the LESSOR rent at the rate of \$2,127,535.83 per year, payable in advance in equal monthly installments of \$177,294.65.

For the period beginning March 1, 2025 and ending on February 28, 2026, LESSEE shall pay to the LESSOR rent at the rate of \$2,233,912.63 per year, payable in advance in equal monthly installments of \$186,159.39.

5. TAXES In addition to the minimum rent hereinbefore set forth, LESSEE shall pay to LESSOR in each tax period included within the lease term, the real estate taxes due on the Leased Premises.
6. SECURITY DEPOSIT No security deposit shall be due.
7. MAINTENANCE OF COMMON AREAS The common areas shall be the parking areas, landscape areas, driveways, walks, entrances and exits which exist in and around the Cultivation Facility. All costs and expenses of every kind and nature paid or incurred by LESSOR in operating, managing, equipping, insuring, repairing, landscaping, replacing and maintaining all common areas of the Cultivation Facility and the Leased Premises shall be due and payable as additional rent, as a common area maintenance ("CAM") fee, and an amount equal to fifteen percent (15%) of the CAM fee to cover LESSOR's administrative costs; payable in monthly installments, based on Landlord's estimate of the cost of performing the same, on the first day of each and every calendar month in advance. Said costs and expenses shall include but not be limited to: water and sewer use charges, snow and ice removal, sanding and salting, lighting, trash removal, drainage maintenance, cleaning and security, and painting. LESSOR shall, within sixty (60) days after the end of each calendar year during the term hereof, furnish to LESSEE a statement in reasonable detail setting forth the computation of such total costs and expenses. There shall be an adjustment between LESSOR and LESSEE, with full payment of any deficiency by LESSEE within thirty (30) days of demand, and any overpayment shall be credited to the next succeeding monthly rental payment.

The CAM fee for each successive year following the first lease year shall be based upon the preceding year's actual expenses.

8. UTILITIES

The LESSEE shall pay, as they become due, all bills for electricity that are furnished to the Cultivation Facility and presently separately metered. The LESSOR agrees to furnish reasonably hot and cold water to the Cultivation Facility during normal business hours on regular business days of each year,

LESSOR shall have no obligation to provide utilities or equipment other than the utilities and equipment within the Leased Premises as of the commencement date of this lease. In the event LESSEE requires additional utilities or equipment, the installation and maintenance thereof shall be the LESSEE's sole obligation, provided that such installation shall be subject to the written consent of the LESSOR.

9. USE OF LEASED PREMISES

The LESSEE shall use the Leased Premises for the purpose of a Registered Marijuana Dispensary.

10. MAINTENANCE

The LESSEE agrees to maintain the Leased Premises in good condition, damage by fire and other casualty only excepted.

A. LESSEE'S OBLIGATIONS

The LESSEE shall not permit the Leased Premises to be over-loaded, damaged, stripped, or defaced, nor suffer any waste.

B. LESSOR'S OBLIGATION

The LESSOR agrees to maintain the structure of the building in the same condition as it is at the commencement of the term or as it may be put in during the term of this lease, reasonable wear and tear, damage by fire and other casualty only excepted, unless such maintenance is required because of the LESSEE or those for whose conduct the LESSEE is liable.

LESSOR agrees to provide automobile parking for the use of LESSEE, its customers and employees and those entitled to use the same. LESSOR agrees it will cause said parking facilities to be maintained in reasonably good repair and reasonably clear of snow and ice.

LESSOR agrees to provide a dumpster to the Leased Premises for the ordinary disposal of trash. The cost of said trash removal shall be the responsibility of the LESSEE and will be part of the CAM.

11. ALTERATIONS ADDITIONS

The LESSEE shall not make structural alterations or additions to the Leased Premises, but may make non-structural alterations provided the LESSOR consents thereto in writing, which consent shall not be

unreasonably withheld or delayed. All such allowed alterations shall be at LESSEE's expense and shall be in quality at least equal to the present construction. LESSEE shall not permit any mechanics' liens, or similar liens, to remain upon the Leased Premises for labor and material furnished to LESSEE or claimed to have been furnished to LESSEE in connection with work of any character performed or claimed to have been performed at the direction of LESSEE and shall cause any such lien to be released of record forthwith without cost to LESSOR. Any alterations or improvements made by the LESSEE shall become the property of the LESSOR at the termination of occupancy.

12. ASSIGNMENT
SUBLEASING

The LESSEE shall not assign or sublet the whole or any part of the Leased Premises without LESSOR's prior written consent, which consent shall not be unreasonably withheld or delayed. Notwithstanding such consent, LESSEE shall remain liable to LESSOR for the payment of all rent and for the full performance of the covenants and conditions of this lease.

13. SUBORDINATION

This lease shall be subject and subordinate to any and all mortgages, deeds of trust and other instruments in the nature of a mortgage, now or at any time hereafter, a lien or liens on the property of which the leased premises are a part and execute and deliver such written instruments as shall be necessary to show the subordination of this lease to said mortgages, deeds of trust or other such instruments in the nature of a mortgage.

14. INDEMNIFI-
CATION AND
LIABILITY

The LESSEE shall save the LESSOR harmless from all loss and damage occasioned by the use or escape of water or by the bursting of pipes, or by any nuisance made or suffered on the Leased Premises, unless such loss is caused by the neglect of the LESSOR.

15. LESSEE'S
LIABILITY
INSURANCE

LESSEE, at its own expense, shall provide and keep in force with companies acceptable to LESSOR, general liability insurance coverage for no less than \$1,000,000 per occurrence and \$2,000,000 in aggregate, annually, pursuant to the requirements in 105 CMR 725.105(Q). LESSEE will make reports documenting compliance with 105 CMR 725.105(Q) in a manner and form determined by the Massachusetts Department of Public Health pursuant to 105 CMR 725.105(M).

16. FIRE,
CASUALTY-
EMINENT
DOMAIN

Should a substantial portion of the Leased Premises, be substantially damaged by fire or other casualty, or be taken by eminent domain, the LESSOR may elect to terminate this lease. When such fire, casualty, or taking renders the Leased Premises substantially unsuitable for their intended use, a just and

proportionate abatement of rent shall be made, and the LESSEE may elect to terminate this lease if:

- (a) The LESSOR fails to give written notice within thirty (30) days of intention to restore leased premises, or
- (b) The LESSOR fails to restore the Leased Premises to a condition substantially suitable for their intended use within ninety (90) days of said fire, casualty or taking.

The LESSOR reserves, and the LESSEE grants to the LESSOR, all rights which the LESSEE may have for damages or injury to the Leased Premises for any taking by eminent domain, except for damage to the LESSEE's fixtures, property, or equipment.

17. DEFAULT
AND
BANKRUPTCY

In the event that:

- (a) The LESSEE shall default in the payment of any installment of rent or other sum herein specified and such default shall continue for ten (10) days after written notice thereof; or
- (b) The LESSEE shall default in the observance or performance of any other of the LESSEE's covenants, agreements, or obligations hereunder and such default shall not be corrected within thirty (30) days after written notice thereof; or
- (c) The LESSEE shall be declared bankrupt or insolvent according to law, or, if any assignment shall be made of LESSEE's property for the benefit of creditors, then the LESSOR shall have the right thereafter, while such default continues, to re-enter and take complete possession of the leased premises, to declare the term of this lease ended, and remove the LESSEE's effects, without prejudice to any remedies which might be otherwise used for arrears of rent or other default. The LESSEE shall indemnify the LESSOR against all loss of rent and other payments which the LESSOR may incur by reason of such termination during the residue of the term. If the LESSEE shall default, after reasonable notice thereof, in the observance or performance of any conditions or covenants on LESSEE's part to be observed or performed under or by virtue of any of the provisions in any article of this lease, the LESSOR, without being under any obligation to do so and without thereby waiving such default, may remedy such default for the account and at the expense of the LESSEE. If the LESSOR makes any

expenditures or incurs any obligations for the payment of money in connection therewith, including but not limited to, reasonable attorney's fees in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations insured, with interest at the rate of ten per cent (10%) per annum and costs, shall be paid to the LESSOR by the LESSEE as additional rent.

18. NOTICES

Any notice from the LESSOR to the LESSEE relating to the Leased Premises shall be deemed duly served, if mailed to the Leased Premises, registered or certified mail, return receipt requested, postage prepaid, addressed to the LESSEE. Any notice from the LESSEE to the LESSOR relating to the Leased Premises or to the occupancy thereof, shall be deemed duly served, if mailed to the LESSOR by registered or certified mail, return receipt requested, postage prepaid, addressed to the LESSOR at 730 Main Street, Millis, MA 02054.

19. SURRENDER

The LESSEE shall at the expiration or other termination of this lease remove all LESSEE's goods and effects from the Leased Premises, (including, without hereby limiting the generality of the foregoing, all signs and lettering affixed or painted by the LESSEE, either inside or outside the leased premises). LESSEE shall deliver to the LESSOR the leased premises and all keys, locks thereto, and other fixtures connected therewith and all alterations and additions made to or upon the leased premises, in good condition, damage by fire or other casualty only excepted. In the event of the LESSEE's failure to remove any of LESSEE's property from the premises, LESSOR is hereby authorized, without liability to LESSEE for loss or damage thereto, and at the sole risk of LESSEE, to remove and store any of the property at LESSEE's expense, or to retain same under LESSOR's control or to sell at public or private sale, without notice any or all of the property not so removed and to apply the net proceeds of such sale to the payment of any sum due hereunder, or to destroy such property. Notwithstanding any provision of this Lease, LESSOR hereby agrees that LESSOR's rights and remedies following termination of this Lease, shall not include the sale of assets protected by the Humanitarian Medical Use of Marijuana Act, Ch. 369 of the Acts of 2012, i.e. any product containing any amount of marijuana.

20. LIMITATION
OF REMEDIES

Notwithstanding any provision of this Lease, LESSOR hereby agrees that LESSOR's rights and Remedies following a default, breach, surrender or any other failure to perform under this Agreement, shall not include the seizure of assets protected by the Humanitarian Medical Use of Marijuana Act, Ch. 369 of the Acts of 2012, i.e. any product containing any amount of marijuana. LESSOR shall not be entitled to a repayment or remedy that provides LESSOR inventory of LESSEE that contains any amount of marijuana, in any form, whether flower or infused product. LESSOR hereby forfeits any such remedy. In addition, LESSOR hereby understands and agrees that a Certificate of Registration, whether provisional or final, is non-transferable, and may not be assigned or transferred without prior Department of Public Health approval. LESSOR agrees that LESSEE's Certificate of Registration is not an asset that may be seized by LESSOR or available as a remedy for LESSEE's default, breach or other failure to perform under this Lease.

IN WITNESS WHEREOF, the said parties hereunto set their hands and seals
this 18th day of December, 2015.



LESSOR: Ellen Rosenfeld, Trustee
Ellen Realty Trust



LESSEE: Ellen Rosenfeld, Pres.
CommCar, Inc.

EXHIBIT C:
SOUTHBOROUGH RMD
ZONING

Chapter 174. Zoning

Article III. Use Regulations

§ 174-8.5. BH Highway Business District.

[Added 4-12-1993 ATM, Art. 43]

A. Permitted uses are as follows:

- (1) All uses permitted in the Residential Districts.
- (2) Dwelling on the premises for a night watchman or janitor.
- (3) Cafeteria on the premises for use by employees and not for the general public.

B. Permitted uses up to 50,000 square feet are as follows:

- (1) Office-type trailer or mobile home used as business quarters for 30 days or fewer in a year.
- (2) Retail sales and services which do not involve manufacturing on the premises.
- (3) Retail sales and services involving manufacturing of products, the majority of which will be sold on the premises to consumers, with not more than four persons engaged in manufacturing operations.
- (4) Newspaper, job printing and publishing.
- (5) Office, bank, office building.
- (6) Hotel or motel, restaurant (excluding drive-through food service establishments).
[Amended 1-27-1996 STM, Art. 5]
- (7) Clinic or medical testing laboratory.
- (8) Automotive service, gasoline station or repair garage, automotive sales.

C. Uses permitted by special permit are as follows:

- (1) All uses allowed in Subsection B that exceed 50,000 square feet.
- (2) Accessory apartment.
- (3) Boat livery, cemetery, children's camp, golf course, private nonprofit membership club, public utility, riding stable, ski tow.
- (4) Hospital, nursing home, home for the aged.
- (5) Private school, nursery or kindergarten.

- (6) Veterinarian, animal hospital, dog kennel.
 - (7) Conversion of a one-family house in existence for two years or longer to a two-family dwelling, on a lot with a minimum of 15,000 square feet.
 - (8) Mobile home or travel trailer used as a dwelling or business quarters for more than 30 days in a year.
 - (9) Multifamily housing for the elderly, owned by a public or a nonprofit community housing organization.
 - (10) Private garage or parking for more than three cars or more than one truck or other commercial vehicle.
 - (11) Indoor recreation, athletic or exercise facility; theater for cultural arts.
[Amended 4-8-1996 ATM, Art. 56]
 - (12) Sale or storage of fuel, lumber, building materials and equipment, contractor's yard.
 - (13) Hazardous waste storage and disposal facilities, other than small generators, as defined by the Environmental Protection Agency and the Commonwealth of Massachusetts, except that a special permit may be issued for such a facility upon approval by the appropriate federal and state agencies, review and comment by the Southborough Board of Health, Conservation Commission, Planning Board and Fire and Police Chiefs, following a duly advertised public hearing and in accordance with the Hazardous Waste Facilities Siting Law.
 - (14) Registered marijuana dispensary as defined in 105 CMR 725.004.
[Added 4-16-2014 ATM, Art. 17]
- D. Prohibited uses. All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning regulations are prohibited.
- E. Development standards are as follows:
- (1) Minimum lot area: 43,560 square feet [minimum 20,000 square feet exclusive of wetlands].
[Amended 4-8-1996 ATM, Art. 54]
 - (2) Minimum frontage: 200 feet.
 - (3) Minimum setbacks:
 - (a) Front: 50 feet; 75 feet if on Route 9.
 - (b) Rear: 50 feet.
 - (c) Side: 50 feet.
 - (d) Other street: 25 feet; 37 1/2 feet if on Route 9.
 - (4) Maximum height: 45 feet, three stories.
 - (5) Maximum floor area ratio: .60.
 - (6) Residential dwellings. Residential dwellings in the Highway Business District must comply with RB District standards.

§ 174-8.6. IP Industrial Park District.

[Added 4-12-1993 ATM, Art. 43]

- A. Permitted uses are as follows:
- (1) All uses permitted in the Conservation District.
 - (2) Dwelling on the premises for a night watchman or janitor.
 - (3) Cafeteria on the premises for use by employees and not for the general public.
- B. Uses permitted up to 50,000 square feet are as follows:
- (1) Newspaper, job printing and publishing.
 - (2) Office, bank, office building.
 - (3) Wholesale distribution and storage within a building other than a solid waste transfer station.
 - (4) Scientific research and development, including manufacturing, instruction and other activities clearly incidental thereto at the maximum density of three employees per acre of lot and with a direct access to an arterial street, as defined by the Town of Southborough Planning Board.
- C. Uses requiring a special permit are as follows:
- (1) All uses permitted in Subsection B that exceed 50,000 square feet.
 - (2) Accessory apartment.
 - (3) Conversion of a one-family house in existence for two years or longer to a two-family dwelling, on a lot with a minimum of 15,000 square feet.
 - (4) Mobile home or travel trailer used as a dwelling or business quarters for more than 30 days in a year.
 - (5) Multifamily housing for the elderly, owned by a public or nonprofit community housing organization.
 - (6) Boat livery, cemetery, children's camp, golf course, private nonprofit membership club, public utility, riding stable, ski tow.
 - (7) Hospital, nursing home, home for the aged.
 - (8) Private school nursery or kindergarten.
 - (9) Veterinarian, animal hospital, dog kennel.
 - (10) Private garage or parking for more than three cars or more than one truck or other commercial vehicle.
 - (11) Light manufacturing, fabrication, assembly and processing utilizing electric or other similar quiet motive power and processes and generating no adverse impacts on the neighborhood and properties therein.
 - (12) Hazardous waste storage and disposal facilities, other than small generators, as defined by the Environmental Protection Agency and the Commonwealth of Massachusetts, except that a special permit may be issued for such a facility upon approval by the appropriate federal and state agencies, review and comment by the Southborough Board of Health, Conservation Commission, Planning Board and Fire and Police Chiefs, following a duly advertised public hearing and in accordance with the Hazardous Waste Facilities Siting Law.

- (13) Adult bookstore, adult video store, adult paraphernalia store, adult motion-picture theater, adult live entertainment (see § 174-91).
[Added 4-8-1996 ATM, Art. 56]
 - (14) Heliport or landing place for helicopter, not including storage or maintenance facilities as an accessory use to a permitted principal use.
[Added 4-15-1997 ATM, Art. 53]
 - (15) Registered marijuana dispensary as defined in 105 CMR 725.004.
[Added 4-16-2014 ATM, Art. 17]
- D. Prohibited uses. All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning regulations are prohibited.
- E. Development standards are as follows:
- (1) Minimum lot area: 43,560 square feet (minimum 20,000 square feet exclusive of wetlands).
[Amended 4-8-1996 ATM, Art. 54]
 - (2) Minimum frontage: 200 feet.
 - (3) Minimum setbacks:
 - (a) Front: 50 feet; 75 feet if on Route 9.
 - (b) Rear: 50 feet.
 - (c) Side: 50 feet.
 - (d) Other street: 50 feet.
 - (4) Maximum height: 45 feet, three stories.
 - (5) Maximum floor area ratio: .60.

§ 174-8.7. ID Industrial District.

[Added 4-12-1993 ATM, Art. 43]

- A. Permitted uses are as follows:
- (1) All uses permitted in residential districts.
 - (2) Boat livery, cemetery, children's camp, golf course, private nonprofit membership club, public utility, riding stable, ski tow.
 - (3) Hospital, nursing home, home for the aged.
 - (4) Private school, nursery or kindergarten.
 - (5) Veterinarian, animal hospital, dog kennel.
 - (6) Dwelling on the premises for a night watchman or janitor.
 - (7) Cafeteria on the premises for use by employees and not for the general public.
- B. Uses permitted up to 50,000 square feet are as follows:
- (1) Private garage or parking for more than three cars or more than one truck or other commercial

vehicle.

- (2) Indoor recreation, athletic or exercise facility; theater for cultural arts.
[Amended 4-8-1996 ATM, Art. 56]
- (3) Sale or storage of fuel, lumber, building materials and equipment, contractor's yard.
- (4) Retail sales and services which do not involve manufacturing on the premises.
- (5) Retail sales and services involving manufacturing of products, the majority of which will be sold on the premises to consumers, with not more than four persons engaged in manufacturing operations.
- (6) Newspaper, job printing and publishing.
- (7) Office, bank, office building.
- (8) Hotel or motel, restaurant (excluding drive-through food service establishments).
[Amended 1-27-1996 STM, Art. 5]
- (9) Clinic or medical testing laboratory.
- (10) Automotive service, gasoline station or repair garage, automotive sales.

C. Uses requiring a special permit are as follows:

- (1) All uses permitted in Subsection B that exceed 50,000 square feet.
- (2) Accessory apartment.
- (3) Conversion of one-family house in existence for two years or longer to a two-family dwelling, on a lot with a minimum of 15,000 square feet.
- (4) Mobile home or travel trailer used as a dwelling or business quarters for more than 30 days in a year.
- (5) Multifamily housing for the elderly, owned by a public or nonprofit community housing organization.
- (6) Major residential development. (Note: Special permit from the Planning Board.)
- (7) Multifamily dwellings, if within a major residential development. (Note: Special permit from the Planning Board.)
- (8) (Reserved)^[1]
[1] Editor's Note: Former Subsection C(8), Bottling plant, was repealed 4-8-1996 ATM, Art. 56.
- (9) Wholesale distribution and storage within a building, other than a solid waste transfer business; warehousing (excluding trucking terminals with through shipping).
[Amended 4-8-1996 ATM, Art. 56]
- (10) Hazardous waste storage and disposal facilities, other than small generators, as defined by the Environmental Protection Agency and the Commonwealth of Massachusetts, except that a special permit may be issued for such a facility upon approval by the appropriate federal and state agencies, review and comment by the Southborough Board of Health, Conservation Commission, Planning Board and Fire and Police Chiefs, following a duly advertised public hearing and in accordance with the Hazardous Waste Facilities Siting Law.
- (11) (Reserved)

- (12) Scientific research and development, including manufacturing, instruction and other activities clearly incidental thereto, and with direct access to an arterial street, as defined by the Town of Southborough Planning Board.
 - (13) Light manufacturing, fabrication, assembly and processing utilizing electric or other similar quiet motive power and processes and generating no adverse impacts on the neighborhood and the properties therein.
 - (14) Registered marijuana dispensary as defined in 105 CMR 725.004.
[Added 4-16-2014 ATM, Art. 17]
- D. Prohibited uses. All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning regulations are prohibited.
- E. Development standards are as follows:
- (1) Minimum lot area: 43,560 square feet [minimum, 20,000 square feet exclusive of wetlands].
[Amended 4-8-1996 ATM, Art. 54]
 - (2) Minimum frontage: 200 feet.
 - (3) Minimum setbacks:
 - (a) Front: 50 feet; 75 feet if on Route 9.
 - (b) Rear: 50 feet.
 - (c) Side: 50 feet.
 - (d) Other street: 25 feet; 37.5 feet if on Route 9.
 - (4) Maximum height: 45 feet, three stories.
 - (5) Maximum floor area ratio: .60.
 - (6) Residential dwellings. Residential dwellings in the ID District must comply with the standards of the RB District.

§ 174-9. Special permit requirements.

[Amended 4-14-1986 ATM, Art. 46]

In acting on applications for special permits, the special permit granting authority, whether the Board of Appeals or as otherwise designated by this chapter, shall conform to the procedural, decision-making and filing requirements of Chapter 40A of the General Laws, shall make general and, as appropriate, specific findings as provided herein or called for by the subject matter and may impose conditions, limitations and safeguards. No special permit shall issue except upon a general finding that the use sought and its characteristics shall be in harmony with the intent and purpose of this chapter, shall not be in conflict with public health, safety, convenience and welfare and shall not be substantially detrimental or offensive to the neighborhood or destructive of property values therein. In addition, the following special requirements shall apply:

- A. Decision considerations. Special permits shall be granted only if the special permit granting authority determines that the proposal's benefits to the Town will outweigh any adverse effects for the Town or the vicinity, after consideration of the following preferred qualities, among other things:
 - (1) Location.

- (a) The proposal should be located near uses which are similar to the proposed use, or if not, the nearby uses should be ones likely to benefit from rather than be damaged by having the proposal nearby or be permanently buffered from it.
 - (b) Providing adequate water and drainage for this location should pose no special public problems.
 - (c) The site should be able to accommodate the proposal without substantial environmental damage due to wetland loss, habitat disturbance or damage to valuable trees or other natural assets.
- (2) Activity type and mix.
- (a) Nonresidential proposals should contribute to the diversity of services available locally.
 - (b) Residential proposals should serve housing needs of local residents.
- (3) Visual consequences.
- (a) Scenic views from public ways and developed properties should be considerately treated in the site arrangement and building design.
 - (b) Visibility of parking and service areas from public streets should be minimized through site arrangement, and such areas should be screened from abutting premises.
 - (c) Except on Route 9 and in special circumstances, domestic scale should be maintained in the building's design through massing devices, such as breaks in wall and roof planes and through the design of architectural features.
- (4) Access.
- (a) Access to the location should increase existing traffic by no more than 10% at any point, taking into consideration any special access provisions committed (ride-sharing, etc.).
 - (b) Pedestrian and vehicular movement to, from and within the site should be safe and convenient and arranged so as not to disturb abutting properties.
- (5) Development rate.
- (a) Townwide, development should not outpace the ability of the Town to provide necessary off-site services, including schools, water and local road capacity.
 - (b) Development making unusually large demands on service capacities should not be allowed to preempt smaller developments from gaining a fair share of that capacity.
- B. Accessory apartments. Special permits for accessory apartments may be issued upon referral of the application and receipt and consideration of a report, or after 35 days elapse without such report, from the Board of Health, certifying that adequate provisions have been made in accordance with the requirements of the Board of Health for drainage and for the disposal of sewage and waste generated by the occupancy of the apartment, and from the Planning Board, describing the lot on which the dwelling is located, the neighborhood where it is located and the effect of the proposed apartment thereon, the adequacy of ingress and egress provisions, the recommendations of the Planning Board as to the advisability of granting the special permit and any restrictions that should be imposed as a condition thereof and the provisions for off-street parking in a manner consistent with the character of the premises. If the decision of the Board of Appeals differs from the recommendations of the Planning Board, the reasons therefor shall be stated in the decision. The accessory apartment shall comply with the following conditions and requirements:

- (1) The habitable floor area of the accessory unit shall not exceed 25% of the habitable floor area of the entire dwelling plus that of any accessory building used for the accessory dwelling.
[Amended 4-30-1990 ATM, Art. 50^[1]]
- [1] *Editor's Note: This Article also provided for the redesignation of former Subsection B(4),(5) and (6) as Subsection B(2),(3) and (4), respectively.*
- (2) There is no other apartment on the lot on which the accessory apartment is proposed.
- (3) Not more than the required minimum exterior alterations have been or will be made to the one-family house and to any accessory buildings, and the site plan of the lot and floor plans of the dwelling thereon have been filed with the Building Inspector prior to the application to the Board of Appeals.
- (4) The total cumulative number of accessory apartments permitted by the Board of Appeals since January 1979 shall at no time exceed 5% of the total number of one-family houses in Southborough at the beginning of the year in which the application is filed, based on the Assessor's records. Residences containing apartments shall be counted as one-family houses for the purposes of this subsection.
- C. Hazardous waste facilities. Special permits for hazardous waste facilities may be issued only in BV, BH, ID, IP and SP Districts upon site assignment by the Board of Health, approval by appropriate federal and state agencies, including the Hazardous Waste Facility Site Safety Council, and the conclusion of siting processes by the Local Assessment Committee, as provided in Chapter 21D of the General Laws. In considering a special permit for such a facility, the Board of Appeals shall give due weight to the findings and comments of the Planning Board, Conservation Commission, Fire Chief, Police Chief, Metropolitan District Commission and the Local Assessment Committee, including the imposition of conditions, limitations and safeguards called for in the recommendations of these agencies.
[Amended 4-14-1986 ATM, Art. 49]
- D. Large signs. See § 174-11E, Special permits for signs.
[Amended 4-14-1986 ATM, Art. 49; 4-8-2002 ATM, Art. 70]
- E. Nonconforming uses, lots and structures. Special permits may be issued for the extension or alteration of legally nonconforming uses, structures and lots, including a change in the nonconforming use to another nonconforming use, provided that the Board of Appeals finds that such extension, alteration or change shall not be substantially more detrimental to the neighborhood, will not increase the extent of nonconformance in size or in impact and that the cost thereof shall not exceed 50% of the assessed value of the nonconforming structure at the time of application, and further provided that the estimate of the cost of any extension or alteration utilized by the Board of Appeals in evaluating the above specified 50% requirement of the assessed value shall not be less than a cost estimate of such extension or alteration based on a nationally recognized building cost estimate manual or system acceptable to the Zoning Board of Appeals. No special permits under this subsection shall be granted for nonconforming signs subject to Chapter 93 or 93D of the General Laws.
[Amended 4-15-2008 ATM, Art. 38]
- F. Wetland and Floodplain District uses. Special permits may be issued for alterations, additions and new structures and uses in WFP Districts only when the following conditions are met:
- (1) The Board of Appeals finds no potential detrimental impact on the neighborhood, as provided in the lead-in of this section above.
- (2) The application is referred to the Planning Board, the Conservation Commission and the Board of Health, and their reports are received and given due consideration, or 35 days elapse following the referral without the receipt of said reports.
- (3) No alteration, fill, additions or new construction will occur within the floodway, as defined by the

Federal Emergency Management Administration.

- (4) The land is not, in fact, subject to flooding and not unsuitable for the purposes of the special permit due to topography, soils or hydrological conditions; if located in a floodplain, a registered professional engineer certifies that the proposed development shall not result in any increase of flood levels during the occurrence of a one-hundred-year flood and that adequate protection shall be provided against the effects of current, uplift, battering and washout.
 - (5) If the special permit is for the construction or improvement of access to existing uses or to land not in a WFP District, it must be shown that there is no feasible alternate access and that the natural flow of watercourses will not be impeded or altered.
 - (6) If the special permit is for the construction of a barn, garage or other accessory building or structure, the applicant shall prove, to the satisfaction of the Board of Appeals, that the special permit will not result in an increase of ground coverage by principal and accessory structures of more than 25%, compared to the conditions in May 1975.
 - (7) The Board of Appeals may consider compensatory storage and other mitigating measures acceptable to the Conservation Commission to meet the requirements of this Subsection F.
 - (8) If the special permit is for a dam, watercourse alteration, excavation, drainage or wetland improvements or mosquito control activities, the Board of Appeals shall consider also the broader impacts thereof and weigh any potential detrimental impacts against the benefits of the proposed improvements.
- G. Two-family dwelling. The conversion of a one-family house which has been in existence for two years or longer to a two-family dwelling is allowed by special permit from the Board of Appeals. The application will be considered after receipt of a report, or after 35 days elapse without such a report, from the Board of Health certifying that adequate provisions have been made in accordance with the requirements of the Board of Health for drainage and the disposal of sewage and waste generated by the occupancy of the two-family dwelling. There shall also be a report from the Planning Board describing the lot on which the dwelling is located, the neighborhood where it is located and the effects of the proposed two-family dwelling thereon, the adequacy of ingress and egress provisions, any recommendations by the Planning Board as to the advisability of granting the special permit and any restrictions that should be imposed as conditions thereof and the provisions for off-street parking in a manner consistent with the character of the premises. If the decision of the Board of Appeals differs from the recommendations of the Planning Board, the reasons therefor shall be stated in the decision. The two-family dwelling shall comply with the following conditions and requirements: [Added 4-8-1991 ATM, Art. 49]
- (1) The lot on which a one-family residence is to be converted to a two-family dwelling must be a minimum of 15,000 square feet.
 - (2) There must be no other apartment on the lot on which the two-family residence is proposed.
 - (3) Not more than the required minimum exterior alterations have been or will be made to the one-family house and to any accessory buildings, and the site plan of the lot and floor plans of the dwelling thereon must be filed with the Building Inspector prior to the application to the Board of Appeals.
- H. Multifamily housing for the elderly is allowed by special permit per the Schedule of Use Regulations, § 174-8. [Added 4-8-1991 ATM, Art. 50; amended 4-15-1997 ATM, Art. 56]
- (1) The Zoning Board of Appeals shall grant a special permit for elderly housing only after considering the following criteria:

- (a) No development shall exceed an average per site of a maximum three units per contiguous acre exclusive of 80% of wetlands, and six bedrooms per contiguous acre exclusive of 80% of wetlands. No unit shall have more than three bedrooms; or no development shall exceed an average per site of a maximum three units per contiguous acre exclusive of wetlands, and six bedrooms per contiguous acre exclusive of wetlands. No unit shall have more than three bedrooms. Any application submitted to the Zoning Board of Appeals for a special permit for multifamily housing for the elderly prior to December 10, 1997, shall be exempt from the exclusion of wetlands when calculating the maximum number of units per site.
[Amended 12-10-1997 STM, Art. 3]
 - (b) Evidence shall be shown that, to the greatest extent possible, the development is offering to provide for the needs of Southborough residents of varying economic levels.
 - (c) The units shall have an exterior design that is consistent with the styles of the surrounding residential neighborhoods and the Town of Southborough in general.
 - (d) Wherever possible, pedestrian connection to local services should be incorporated into the site design to lessen the dependency on the automobile.
 - (e) The plan shall be designed to maximize the preservation of the natural features of the site through the use of cluster housing and/or creative site planning. Wherever possible, existing vegetation should be retained throughout the site as a natural buffer to adjacent properties.
 - (f) The proposed development shall satisfy the criteria of this section (§ 174-9) outlined in Subsection A, Decision considerations.
 - (g) The total cumulative number of units approved under this section by the Zoning Board of Appeals since January 1998 shall at no time exceed 7% of the total number of one-family houses in Southborough at the beginning of the year in which the application is filed, based on the Assessor's records. Residences containing apartments shall be counted as one-family houses for the purposes of this subsection.
[Added 4-13-1998 ATM, Art. 52]
- (2) The granting of a special permit by the Zoning Board of Appeals for multifamily housing for the elderly does not relieve the applicant from receiving all other applicable approvals, including Conservation Commission, Board of Health, and Site Plan approval from the Planning Board (re: § 174-10).
- I. Adult uses.
[Added 4-8-1996 ATM, Art. 57]
- (1) Purpose and intent. This bylaw is enacted pursuant to MGL C. 40A, § 9A, to serve the compelling interests of the Town of Southborough by preventing the clustering and concentration of adult entertainment enterprises as defined herein because of the deleterious effect on character and values of adjacent areas.
 - (2) Definitions. As used in this section, the following terms shall have the meanings indicated:

ADULT BOOKSTORE

An establishment having as a substantial or significant portion of its stock-in-trade books, magazines and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL C. 272, § 31.

ADULT VIDEO STORE

An establishment having as a substantial or significant portion of its stock-in-trade videos, movies or other film material which are distinguished or characterized by their emphasis

depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL C. 272, § 31.

ADULT PARAPHERNALIA STORE

An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL C. 272, § 31.

ADULT MOTION-PICTURE THEATER

An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL C. 272, § 31.

- (3) Special permit standards. No special permit may be granted by the Zoning Board of Appeals for an adult bookstore, adult video store, adult paraphernalia store or adult motion-picture theater unless the following conditions are satisfied:
 - (a) No adult bookstore, adult video store, adult paraphernalia store or adult motion-picture theater may be located less than 1,000 feet from a residential zoning district, school, library, church or other religious use, child care facility, park, playground, recreational areas or another adult bookstore, adult video store, adult paraphernalia store or adult motion-picture theater. The distance of 1,000 feet shall be measured from all property lines of the proposed adult use.
 - (b) No pictures, publications, videotapes, movies, covers or other implements, items or advertising that fall within the definition of adult bookstore, adult video store, adult paraphernalia store or adult motion-picture theater merchandise or are erotic, prurient or related to violence, sadism or sexual exploitation shall be displayed in the windows of or on the building of any adult bookstore, adult video store, adult paraphernalia store or adult motion-picture theater or be visible to the public from the pedestrian sidewalks or walkways or from other areas, public or semipublic, outside such establishments.
 - (c) No special permit shall be issued to any person convicted of violating the provisions of MGL C. 119, § 63, or MGL C. 272, § 28.
- (4) All existing adult bookstores, adult video stores, adult paraphernalia stores and adult motion-picture theaters shall apply for such special permit within 90 days following the adoption of this subsection.
- (5) Any special permit granted under this section shall lapse within one-year of the date of the grant, not including the time required to pursue or await the termination of an appeal referred to in MGL C. 40A, § 17, if substantial use thereof has not sooner commenced, except for good cause, or, in the case of permit for construction, if construction has not begun within one-year of the date of grant, except for good cause.

J. Medical marijuana. [Added 4-16-2014 ATM, Art. 17]

- (1) General provisions.
 - (a) Purpose and intent. This section is enacted in order to serve the compelling interests of the Town to address possible public health, safety and quality of life effects related to the location and operation in the Town of a registered marijuana dispensary or any other activities permitted or related to Chapter 369 of the Acts of 2012 (an Act for the Humanitarian Medical Use of Marijuana). This bylaw establishes specific zoning regulations for the limited establishment of any registered marijuana dispensary in appropriate places

and under strict conditions, for medical marijuana infused products, medical marijuana paraphernalia, and medical marijuana dispensing and cultivation (either related to a registered marijuana dispensary or the personal cultivation by qualified patients or by personal caregivers on the behalf of qualified patients). It is the intent of this section to minimize impacts on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with medical marijuana activities.

- (b) Applicability. No registered marijuana dispensary or related use shall be established except in full compliance with the provisions of the State Department of Public Health (DPH) regulations for medical marijuana as promulgated in the Code of Massachusetts Regulations (105 CMR 725) and this § 174-9J. The cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for medical use is prohibited unless permitted hereunder.
 - (c) Special terms used in this § 174-9J shall have the meanings defined in the promulgated DPH regulations for medical marijuana (105 CMR 725.004).
 - (d) Nothing in this § 174-9J shall be construed to supersede or preempt any federal or state laws governing the sale, distribution or consumption of narcotic drugs. If the application of any provision of this § 174-9J shall be determined to be invalid or unenforceable, the remainder hereof shall not be affected thereby, and the provisions of this section are severable.
- (2) Basic requirements.
- (a) The Board of Appeals as special permit granting authority may grant a special permit for a registered marijuana dispensary only in the Highway Business District [as identified in § 174-8.5C(14)], Industrial Park District [as identified in § 174-8.6C(15)], or Industrial District [as identified in § 174-8.7C(14)], and only upon compliance with the following requirements:
 - [1] No applicant shall have been convicted of violating the provisions of Massachusetts General Laws c. 119, § 63, or c. 94C, or similar laws in other jurisdictions.
 - [2] The applicant has consented in writing to a criminal background check that includes jurisdictions beyond Massachusetts.
 - [3] A registered marijuana dispensary and/or cultivation activities shall only be located (i) on property that borders Route 9, and (ii) not less than 500 linear feet from a property line of a school, recreational facility or day-care center [see definitions in § 174-9J(2)(c) below] located in the Town of Southborough. The distance of 500 linear feet shall be measured from all property lines of the proposed facility.
 - [4] Any permitted registered marijuana dispensary site shall comply with the requirements of the Town's Sign Bylaw at all times and, upon penalty of special permit revocation, shall not use any advertising material that is misleading, deceptive, false, or that is designed to appeal to minors. Off-site signage or advertising in any form (including billboards) is prohibited.
 - [5] No activities, products or treatment occurring within or on the premises of a registered marijuana dispensary shall be displayed in the windows or on the building thereof, or be visible to the public from the pedestrian sidewalks or walkways or from other areas, public or semi-public, outside such facility or premises.
 - (b) No person shall be deemed to have any entitlement or vested rights to permitting under this bylaw by virtue of having received any prior permit from the Town of any kind, including prior permitting under this bylaw.

- (c) For purposes of this § 174-9J, the following terms shall have the meanings ascribed:

DAY-CARE CENTER

Any establishment, whether public or private, that provides care for children and is licensed by the Massachusetts Department of Early Education and Care.

RECREATIONAL FACILITY

A park, playground, forest preserve, conservation area, running trail or track, hiking trail, beach, wading pool, soccer field, baseball field, football field, basketball court, hockey rink, dance or gymnastic studio, whether publicly or privately owned, to which the public has a right of access as an invitee.

SCHOOL

Any public or private educational facility that provides services to children in grades 12 or under.

- (3) Term of special permit. Any special permit issued pursuant to this § 174-9J shall be valid for a period of two years from the date of issuance. Any renewal of a special permit shall be governed by the then-existing standards and procedures set forth in this bylaw, and any regulations adopted pursuant thereto by the Board of Appeals.

EXHIBIT E:
CORRESPONDENCE
FROM TOWN OF
MEDWAY

Stephanie Mercandetti

From: Michael Boynton
Sent: Wednesday, April 27, 2016 8:51 AM
To: Stephanie Mercandetti
Subject: FW: Medway Update - CommCan Application

From: Michael Boynton
Sent: Tuesday, April 05, 2016 4:14 PM
To: 'RMDApplication@MassMail.State.MA.US'
Cc: 'Barbara J. Saint Andre'
Subject: Medway Update - CommCan Application

Please be informed that the Medway Board of Selectmen, at their meeting of April 4, 2016, discussed the potential dispensary locations for CommCan in Southborough and Millis. We also understand that the possibility of an additional dispensary facility in Framingham. The Board voted unanimously to inform the DPH that they are aware of these locations and have not changed their position of non-opposition to the proposed cultivation facility here in Medway. In addition, please be advised that the Town has commenced negotiations with CommCan on a possible Host Community Agreement related to the operation of that facility.

If I can provide any additional assistance, please do not hesitate to contact me.

Michael Boynton

**Michael E. Boynton
Town Administrator
Town of Medway
155 Village Street
Medway, MA 02053
(508)533-3264**

From: Registered Marijuana Dispensary Application (DPH)
Sent: Wednesday, March 16, 2016 12:59 PM
To: 'bos@townofmedway.org'
Subject: Verifying Letter of Support or Non-Opposition

Good afternoon Mr. Foresto,

I am reaching out to you on behalf of the Medical Use of Marijuana Program at the Department of Public Health. We have received a letter from you on behalf of the Medway Board of Selectman dated July 6, 2015 regarding a proposed registered marijuana dispensary facility operated by CommCan. The Department has verified the issuance of the letter via the Board's meeting minutes online. However, I want to verify some additional details about the proposed location:

- 1) CommCan has a remote cultivation and processing facility in Medway that will be cultivating and processing marijuana for two retail sites, one located in Millis and one located in Southborough. We would like to verify that this information was presented to the Board -Was it?

If you have any questions, please let me know.