



MISSION MASSACHUSETTS

May 10, 2017

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

Re: Siting Profile Submission 2 of 3

Mr. Sheehan:

This communication is intended to convey a material change to our Siting Profile Submission 2 of 3. Since our submission of additional information on February 28, 2017, we have secured an alternate location for our dispensary operations in Burlington, MA.

Our original submission and the associated follow up referenced the property at 1 Rounder Way in Burlington, MA as the site of our proposed dispensing activities. As you will find in the attached revised Siting Profile submission, we now propose to carry out all dispensing activities associated with Application 2 of 3 at 64 Blanchard Road, Burlington, MA. Our cultivation/processing facility remains in Worcester, MA.

We have attached with this submission all required documentation to support our request for a provisional certificate of registration at this location. Please note this transaction is not a related party transaction, as defined in the *Guidance for Registered Marijuana Dispensaries Regarding Non-Profit Compliance*.

Should you have any further questions or require additional information to process this request in a timely manner, please contact me at (617) 413-0068 or [Andrew@missionpartners.co](mailto:Andrew@missionpartners.co).

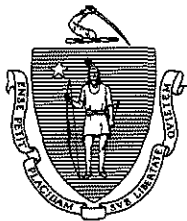
Sincerely,

Andrew Thut  
CEO

RECEIVED

MAY 10 2017

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



# The Commonwealth of Massachusetts

Executive Office of Health and Human Services

Department of Public Health

Bureau of Health Care Safety and Quality

## **Medical Use of Marijuana Program**

99 Chauncy Street, 11<sup>th</sup> Floor, Boston, MA 02111

### **SITING PROFILE:**

**Request of for a Certificate of Registration to  
Operate a Registered Marijuana Dispensary**

### **INSTRUCTIONS**

This application form is to be completed by a non-profit corporation that wishes to apply for a Certificate of Registration to operate a Registered Marijuana Dispensary ("RMD") in Massachusetts, and has been invited by the Department of Public Health (the "Department") to submit a *Siting Profile*.

If invited by the Department to submit more than one *Siting Profile*, you must submit a separate *Siting Profile* and attachments for each proposed RMD. Please identify each application of multiple applications by designating it as Application 1, 2 or 3 in the header of each application page. Please note that no executive, member, or any entity owned or controlled by such an executive or member, may directly or indirectly control more than three RMDs.

Unless indicated otherwise, all responses must be typed into the application forms. Handwritten responses will not be accepted. Please note that character limits include spaces.

Attachments should be labelled or marked so as to identify the question to which it relates.

Each submitted application must be a complete, collated response, printed single-sided, and secured with a binder clip (no ring binders, spiral binding, staples, or folders).

Mail or hand-deliver the *Siting Profile*, with all required attachments, to:

Department of Public Health  
Medical Use of Marijuana Program  
RMD Applications  
99 Chauncy Street, 11<sup>th</sup> Floor  
Boston, MA 02111

## **REVIEW**

Applications are reviewed in the order they are received. After a completed application packet is received by the Department, the Department will review the information and will contact the applicant if clarifications/updates to the submitted application materials are needed. The Department will notify the applicant whether they have met the standards necessary to receive a Provisional Certificate of Registration.

## **PROVISIONAL CERTIFICATE OF REGISTRATION**

Applicants have one year from the date of the submission of the *Management and Operations Profile* to receive a Provisional Certificate of Registration. If an applicant does not receive a Provisional of Certificate of Registration after one year, the applicant must submit a new *Application of Intent* and fee.

## **REGULATIONS**

For complete information regarding registration of an RMD, please refer to 105 CMR 725.100.

It is the applicant's responsibility to ensure that all responses are consistent with the requirements of 105 CMR 725.000, et seq., and any requirements specified by the Department, as applicable.

## **PUBLIC RECORDS**

Please note that all application responses, including all attachments, will be subject to release pursuant to a public records request, as redacted pursuant to the requirements at M.G.L. c. 4, § 7(26).

Information on this page has been reviewed by the applicant, and where provided by the applicant, is accurate and complete, as indicated by the initials of the authorized signatory here: AFT

## QUESTIONS

If additional information is needed regarding the RMD application process, please contact the Medical Use of Marijuana Program at 617-660-5370 or [RMDapplication@state.ma.us](mailto:RMDapplication@state.ma.us).

## CHECKLIST

The forms and documents listed below must accompany each application, and be submitted as outlined above:

- ☒ A fully and properly completed *Siting Profile*, signed by an authorized signatory of the applicant non-profit corporation (the “Corporation”)
- ☒ Evidence of interest in property, by location (as outlined in Section B)
- ☒ Letter(s) of local support or non-opposition (as outlined in Section C)

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## SECTION A: APPLICANT INFORMATION

1. Mission Massachusetts, Inc.  
Legal name of Corporation
2. Andrew Fisher Thut  
Name of Corporation's Chief Executive Officer
3. 369 Elm Street  
Concord, MA 01742  
Address of Corporation (Street, City/Town, Zip Code)
4. Andrew Fisher Thut  
Applicant point of contact (name of person Department of Public Health should contact regarding this application)
5. 617-413-0069  
Applicant point of contact's telephone number
6. andrew@missionpartners.co  
Applicant point of contact's e-mail address
7. Number of applications: How many *Siting Profiles* do you intend to submit? 3

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## SECTION B: PROPOSED LOCATION(S)

*Provide the physical address of the proposed dispensary site and the physical address of the additional location, if any, where marijuana for medical use will be cultivated or processed.*

**Attach supporting documents** as evidence of interest in the property, by location. Interest may be demonstrated by (a) a clear legal title to the proposed site; (b) an option to purchase the proposed site; (c) a lease; (d) a legally enforceable agreement to give such title under (a) or (b), or such lease under (c), in the event that Department determines that the applicant qualifies for registration as a RMD; or (e) evidence of binding permission to use the premises.

	Location	Full Address	County
1	Dispensing	64 Blanchard Road Burlington, MA	Middlesex
2	Cultivation	640 Lincoln Street Worcester, MA	Worcester
3	Processing	640 Lincoln Street Worcester, MA	Worcester

☐ Check here if the applicant would consider a location other than the county or physical address provided within this application.

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## SECTION C: LETTER OF SUPPORT OR NON-OPPOSITION

***Attach a letter of support or non-opposition, using one of the templates below (Option A or B), signed by the local municipality in which the applicant intends to locate a dispensary. The applicant may choose to use either template, in consultation with the host community. If the applicant is proposing a dispensary location and a separate cultivation/processing location, the applicant must submit a letter of support or non-opposition from both municipalities. This letter may be signed by (a) the Chief Executive Officer/Chief Administrative Officer, as appropriate, for the desired municipality; or (b) the City Council, Board of Alderman, or Board of Selectmen for the desired municipality. The letter of support or non-opposition must contain the language as provided below. The letter must be printed on the municipality's official letterhead.***

### **Template Option A: Use this language if signatory is a Chief Executive Officer/Chief Administrative Officer**

I, [Name of person], do hereby provide [support/non-opposition] to [name of non-profit organization] to operate a Registered Marijuana Dispensary ("RMD") in [name of city or town].

*I have verified with the appropriate local officials that the proposed RMD facility is located in a zoning district that allows such use by right or pursuant to local permitting.*

\_\_\_\_\_  
Name and Title of Individual

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

### **Template Option B: Use this language if signatory is acting on behalf of a City Council, Board of Alderman, or Board of Selectman**

The [name of council/board], does hereby provide [support/non-opposition] to [name of non-profit organization] to operate a Registered Marijuana Dispensary in [name of city or town]. I have been authorized to provide this letter on behalf of the [name of council/board] by a vote taken at a duly noticed meeting held on [date].

*The [name of council/board] has verified with the appropriate local officials that the proposed RMD facility is located in a zoning district that allows such use by right or pursuant to local permitting.*

\_\_\_\_\_  
Name and Title of Individual (or person authorized to act on behalf of council or board) (add more lines for names if needed)

\_\_\_\_\_  
Signature (add more lines for signatures if needed)

\_\_\_\_\_  
Date

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## SECTION D: LOCAL COMPLIANCE

Describe how the Corporation has ensured, and will continue to ensure, that the proposed RMD is in compliance with local codes, ordinances, and bylaws for the physical address(es) of the RMD.

The Town of Burlington has established its own requirements regarding siting for the purposes of 105 CMR 725.110(A)(14). The Town of Burlington Planning Board has confirmed that the subject parcel for our proposed facility complies with local zoning requirements articulated in Section 10.6.0 of Article X of the Town of Burlington Zoning Bylaws and will require a Special Use Permit.

The City of Worcester has established its own requirements regarding siting for the purposes of 105 CMR 725.110(A)(14). The Worcester Building and Zoning Department has confirmed that the subject parcel for our proposed facility complies with local zoning requirements articulated in Item 30 of Table 4.1 (Permitted Uses by Zoning Districts) and Note 13 thereof within the City of Worcester Zoning Ordinance and is a use by right and will not require a Special Use Permit.

Our CEO is responsible for ensuring ongoing compliance with all municipal codes, ordinances and bylaws and obtaining all licenses, permits and approvals required for the operation of our facilities. We will remain in contact with local officials to keep an open line of communication.



## SECTION E: THREE-YEAR BUSINESS PLAN BUDGET PROJECTIONS

*Provide the three-year business plan for the RMD, including revenues and expenses.*

Projected Start Date for the First Full Fiscal Year: 03/01/2018

	<b>FIRST FULL FISCAL YEAR PROJECTIONS 20 18</b>	<b>SECOND FULL FISCAL YEAR PROJECTIONS 20 19</b>	<b>THIRD FULL FISCAL YEAR PROJECTIONS 20 20</b>
Projected Revenue	\$ 5,327,252.00	\$ 8,338,316.00	\$ 10,858,062.00
Projected Expenses	\$ 5,565,823.00	\$ 8,217,651.00	\$ 10,492,963.00
VARIANCE:	\$ -238,571.00	\$ 120,664.00	\$ 365,099.00
Number of unique patients for the year	2,348	3,688	4,831
Number of patient visits for the year	52,228	81,748	106,452
Projected % of patient growth rate annually	---	57%	30%
Estimated purchased ounces per visit	.286	.287	.290
Estimated cost per ounce	\$350	\$348	\$345
Total FTEs in staffing	8	13	15
Total marijuana for medical use inventory for the year (in lbs.)	623	979	1,283
Total marijuana for medical use sold for the year (in lbs)	623	979	1,283
Total marijuana for medical use left for roll over (in lbs.)	0	0	0

Projected date the RMD plans to open: 03/01/2018

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**SECTION F: CERTIFICATION OF ASSURANCE OF COMPLIANCE:  
ADA AND NON-DISCRIMINATION BASED ON DISABILITY**

Applicants must certify that they will comply with all state and federal requirements regarding equal employment opportunity, nondiscrimination, and civil rights for persons with disabilities. The Applicant must complete a Certification of Assurance of Compliance: ADA and Non-Discrimination based on Disability. By signing, the Applicant formally notifies the Department that the Applicant is in compliance and shall maintain compliance with all applicable requirements.

- I certify, that the Applicant is in compliance and shall maintain compliance with all applicable federal and state laws protecting the rights of persons with disabilities, including but not limited to the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12131-12134; Article CXIV of the Massachusetts Constitution; and; Chapter 93, § 103; Chapter 151B; and Chapter 272, §§ 98 and 98A of the Massachusetts General Laws.
- I understand that federal and state laws prohibit discrimination in public accommodations and employment based solely on disability. I recognize that to make goods, services, facilities, privileges, advantages, or accommodations readily accessible to and usable by persons with disabilities, the Applicant, under the ADA, must:
  - remove architectural and communication barriers in existing facilities, when readily achievable and, if not readily achievable, must use alternative methods;
  - purchase accessible equipment or modify equipment;
  - modify policies and practices; and
  - furnish appropriate auxiliary aids and services where necessary to ensure effective communication.
- I understand that reasonable accommodation is required in both program services and employment, except where to do so would cause an undue hardship or burden. I also understand that the Massachusetts Constitution Article CXIV provides that no otherwise qualified individual shall, solely by reason of disability, be excluded from the participation in, denied the benefits of, or be subject to discrimination under any program or activity within the Commonwealth.
- I agree that the Applicant shall cooperate in any compliance review and shall provide reasonable access to the premises of all places of business and employment and to records, files, information, and employees therein for reviewing compliance with the ADA, the Massachusetts Constitution, other applicable state and federal laws, including 105 CMR 725.000, et seq.
- I agree that any violation of the specific provisions and terms of this Assurance or of the ADA, and/or of any Plan of Correction shall be deemed a breach of a material condition of any Certificate of Registration issued to the Applicant for operation of a Registered Marijuana Dispensary. Such a breach shall be grounds for suspension or revocation, in whole or in part, of a Certificate of Registration issued by the Department.
- I agree that, if selected, I will submit a detailed floor plan of the premises of the proposed dispensary in compliance with 105 CMR 725.100(m) in compliance with the Architectural Review required pursuant to 105 CMR 725.100(B)(5)(f).

**Signed under the pains and penalties of perjury, I, the authorized signatory for the applicant non-profit corporation, understand the obligations of the Applicant under the Certification of Assurance of Compliance: ADA and Non-Discrimination based on Disability, and agree and attest that the Applicant will comply with those obligations as stated in the Certification.**

  
\_\_\_\_\_  
Signature of Authorized Signatory

5/9/17  
\_\_\_\_\_  
Date Signed

Andrew Fisher Thut

\_\_\_\_\_  
Print Name of Authorized Signatory

Chief Executive Officer

\_\_\_\_\_  
Title of Authorized Signatory

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## ATTESTATIONS

Signed under the pains and penalties of perjury, I, the authorized signatory for the applicant non-profit corporation, agree and attest that all information included in this application is complete and accurate and that I have an ongoing obligation to submit updated information to the Department if the information presented within this application has changed.



\_\_\_\_\_  
Signature of Authorized Signatory

5/9/17  
Date Signed

\_\_\_\_\_  
Andrew Fisher Thut

\_\_\_\_\_  
Print Name of Authorized Signatory

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Title of Authorized Signatory

I, the authorized signatory for the applicant non-profit corporation, hereby attest that the corporation has notified the chief administrative officer and the chief of police of the proposed city or town in which the RMD would be sited, as well as the sheriff of the applicable county, of the intent to submit a *Management and Operations Profile* and a *Siting Profile*.



\_\_\_\_\_  
Signature of Authorized Signatory

5/9/17  
Date Signed

\_\_\_\_\_  
Andrew Fisher Thut

\_\_\_\_\_  
Print Name of Authorized Signatory

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Title of Authorized Signatory

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I, the authorized signatory for the applicant non-profit corporation, hereby attest that if the corporation is approved for a provisional certificate of registration, the corporation is prepared to pay a non-refundable registration fee of \$50,000, as specified in 105 CMR 725.000, after being notified that the RMD has been approved for a provisional certificate of registration.

AFT

Signature of Authorized Signatory

5/9/17

Date Signed

Andrew Fisher Thut

Print Name of Authorized Signatory

Chief Executive Officer

Title of Authorized Signatory

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## TOWN OF BURLINGTON

### *Board of Selectmen/Town Administrator's Office*

*John Petrin, Town Administrator*

*Betty McDonough, Office Manager*

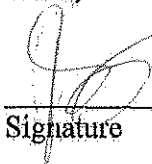
To Whom It May Concern:

The Burlington Board of Selectmen does hereby provide support to Mission Massachusetts, Inc. to operate a Registered Marijuana Dispensary ("RMD") in Burlington, MA. I have been authorized to provide this letter on behalf of the Burlington Board of Selectmen by a vote taken at a duly noticed meeting held on September 21, 2015.

The Burlington Board of Selectmen has verified with the appropriate local officials that the proposed RMD facility is located in a zoning district that allows such use by right or pursuant to local permitting.

John D. Petrin, Town Administrator

Name and Title of Individual (of person authorized to act on behalf of council or board)



Signature

December 6, 2016

Date

May 4, 2017

**BY HAND DELIVERY**

Mr. John Clancy  
Inspector of Buildings  
Town of Burlington  
Town Hall Annex  
25 Center Street  
Burlington, Massachusetts 01803

Re: 64 Blanchard Road - Registered Marijuana Dispensary

Dear Mr. Clancy:

We have prepared this letter to seek your interpretation of the suitability of a certain site, 64 Blanchard Road (the "Proposed Site") for the establishment of a registered medical marijuana dispensary pursuant to article 10.6.0 of the Burlington Zoning Bylaw (herein after the "Zoning Bylaw").

In particular, we are asking for your interpretation of the provision of the 10.6.4.1 of the Zoning Bylaw which deals with buffer requirements. Subsection 3 of section 10.6.4.1 provides that the location of a facility must be at least "...one thousand (1,000) feet [from] the nearest boundary of a place where children commonly congregate." Subsection 3.1 provides that "...a place where children commonly congregate shall include: Dance schools; gymnastic schools; technical schools, vocational schools; public and private K-12 schools; facilities that offer tutoring on or after school instruction; licensed daycare facilities (including private home daycare); parks that have play structures and athletic fields intended for use by children;..." Subsection 3.1 further provides: "This bylaw regulates incidental congregation of children..." and, thus, by definition is intended to apply to organized, identifiable locations where protected activities are being conducted.

We have attached for your information a map which we feel demonstrates the nearest area to the Proposed Site where children congregate. This area is the license area from the City of Boston to the Town of Burlington pursuant to that certain License Agreement by and between City of Boston, Massachusetts and Town of Burlington, Massachusetts dated March 28, 2011 (a copy attached hereto as Exhibit "A") and as delineated on the attached map (Exhibit "B"). This license area is more than one thousand feet (1,000ft) from the property line of the Proposed Site. (The attached plan indicate that the water tower site which is closer than the License area is 1805.6 ft. from the proposed facility property line.

Mr. John Clancy  
May 4, 2017  
Page 2

We note that the operative word in the Section 10.6.4.1 of the Zoning Bylaw is "*parcel*". A parcel does not necessarily constitute a legal lot but can also denote a defined portion of land. Under the License Agreement the area that constitutes a place where children congregate on the City of Boston land is clearly defined and as noted above is more than one thousand feet (1,000ft) from the property line of the Proposed Site. Moreover, pursuant to the express terms of the License Agreement "*Burlington shall have no right to occupy or improve any other portion of the Cummings Land.*" (Section 2) Therefore, is our contention that the intent of the Section 10.6.4.1 of the Zoning Bylaw with respect to a distance to a parcel is satisfied in this instance.

We request your concurrence with this interpretation.

Please do not hesitate to contact the undersigned should you have any questions.

Very truly yours,



Robert C. Buckley

RCB:mw  
Enclosure

The undersigned, as the Zoning Enforcement Officer of the Town of Burlington, hereby concurs with the foregoing analysis.



John J. Clancy

Inspector of Buildings and  
Zoning Enforcement Officer

Dated 6/6/2017, 2017

2131412.1

EXHIBIT A

LICENSE AGREEMENT

BY AND BETWEEN

CITY OF BOSTON, MASSACHUSETTS,

AND

TOWN OF BURLINGTON, MASSACHUSETTS

This Agreement ("Agreement") is effective as of the last date of execution by the final signor shown below ("Effective Date"), is entered by and between THE CITY OF BOSTON, acting by and through its Collector-Treasurer, as the Trustee of the Mary P.C. Cummings Trust, and its Office of Administration and Finance, hereinafter called "the City," or "Licensor," and the TOWN OF BURLINGTON, hereinafter called "Burlington," or "Licensee." Hereinafter, the City or Licensor and Burlington or Licensee shall be referred to collectively as the "Parties" or each individually as a "Party."

WHEREAS, the Collector-Treasurer of the City is the trustee of and holds the legal title to the Mary P.C. Cummings Estate Land ("Cummings Land"), located in Burlington, Massachusetts; and specifically that portion of the Cummings Land as more particularly shown on Exhibit A, attached hereto and incorporated herein (the "License Area"); and

WHEREAS, in 1925 Mary P.C. Cummings devised the Cummings Land in trust ("Mary P.C. Cummings Trust") to the City for the purpose of "establishing public pleasure grounds for the benefit of the poor of Boston," and whereas the City has since maintained the Cummings Land as land open for recreational use by visitors; and

WHEREAS, Burlington has requested permission from the City to make improvements to the License Area, including but not limited to the installation of playing fields, an exercise trail, paths, a playground, two picnic areas, a non-structured play field, a rain garden drainage area, parking areas, and signs ("the Improvements") on the License Area; and

WHEREAS, Burlington's use of the this portion of the Cummings Land will be in keeping with the charitable purpose of Mary P.C. Cummings' devise, and will benefit the citizens of Burlington, the City of Boston and other communities who may make use of the License Area; and

WHEREAS, the Parties now wish to enter into this Agreement for the purpose of providing Burlington with access to the License Area for constructing, installing, maintaining, and operating the Improvements on the License Area and for use of the License Area for recreational purposes;



NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. License. The City authorizes and grants a license (the "License") to Burlington, its agents, employees, and contractors for: (a) access to the License Area for personnel and vehicles reasonably necessary for performance of the Work, as defined below; (b) the occupancy of the Improvements on the License Area; (c) access to the License Area for purposes of maintaining, repairing, replacing, and operating the Improvements; and (d) access to the License Area for the purpose of allowing recreational use of the License Area by the residents of Burlington and other municipalities. Burlington acknowledges that this Agreement constitutes a revocable license, that this Agreement does not create a lease or any right to possession of the License Area, nor does it create any estate or interest in the License Area. Burlington shall have no right to occupy or improve any other portion of the Cummings Land.
2. Scope of Work. "Work" as used in this Agreement shall include, without limitation, the following:
  - a. Construction and installation of the Improvements on the License Area, including all pre-construction land preparation, grading, and installation of plantings, walls, buffers, rails, and paths, as set forth in the Design Plan, more fully described in Section 4 below;
  - b. Design and preparation of a portion of the License Area designated "33 Garden Plots" on Figure 5 of the Design Plan, as more fully described in Section 4 below ("Future Garden Area"), so that it slopes down towards the Rain Garden Drainage Area, as depicted on Figure 5. Burlington shall not further alter, construct or install any improvement on the Future Garden Area without the prior written approval of the City.
  - c. Maintenance and operation of the License Area, including the Improvements, for the Term of the Agreement.
3. Plan of License Area. After the Effective Date of this Agreement but at least forty-five (45) days prior to commencing the Work, Burlington shall present to the City for its approval a Plan of the License Area ("License Area Plan"), to be attached hereto as Exhibit A and incorporated herein, such approval not to be unreasonably withheld. The License Area Plan shall be sufficiently dimensioned and detailed to clearly delineate the boundaries of the License Area. The City shall not issue a Notice to Proceed to Burlington until it receives and approves the License Area Plan.
4. Design Plan. Design of the License Area shall be performed according to the Conceptual Site Plan in the Design/Conservation Plan for Blanchard Road

Community Park dated October 8, 2010 and submitted by The Berkshire Design Group, Inc. to Burlington ("Design Plan"), attached hereto as Exhibit B and incorporated herein. Burlington shall undertake all of its obligations under this Agreement, including but not limited to addressing all environmental impacts of construction and installation of the Improvements, in accordance with the Design Plan. Burlington may not make any change or alteration to the Design Plan without the prior written approval of the City, which approval shall not be unreasonably withheld.

5. Signs/Notices. Burlington shall not post or install any signs and/or notices on the Cummings Land, including the License Area, without the prior written approval of the City, not to be unreasonably withheld.
6. Term. The term of this Agreement commences upon the Effective Date and continues until ten (10) years after Burlington receives a written Notice to Proceed from the City ("Term"). Work under this Agreement shall commence only upon issuance of the written Notice to Proceed by the City. The Term shall be renewable for an additional five (5) year period at the City's approval, which approval shall not be unreasonably withheld if at the end of the Term Burlington is in substantial compliance with the Agreement.

In the event that the City does not renew this Agreement and elects to take over and maintain the Improvements, the City agrees to continue to make the Improvements available to residents of Burlington and non-profit sports organizations in Burlington on the same basis that residents and non-profit sports organizations had access to the Improvements during the Term. In the event that the City does not renew this Agreement and does not elect to take over and maintain the Improvements, it may request that Burlington return the License Area to its original, pre-installation condition as further described in Section 23.

Burlington and the City agree to meet no later than one (1) year prior to the expiration of the Term and any extension thereof, to discuss whether the Agreement will be renewed and the terms and conditions of any such renewal.

7. Termination Without Cause. Either party may terminate this Agreement by giving written notice to the other at least one hundred and twenty (120) business days prior to the termination date stated in such notice.
8. Termination for Cause. The City shall have the right to terminate this Agreement if Burlington fails to perform satisfactorily or for its failure to comply with any of the provisions of this Agreement. No termination shall be effective unless the City provides Burlington with written notice at least thirty (30) business days prior to termination. The notice shall identify the alleged failure or violation. Burlington shall have a period of thirty (30) business days to cure the failure or violation; provided however, that if such failure or violation is reasonably likely to cause

imminent harm to persons or property, Burlington shall be required to remedy the failure or violation immediately using all commercially feasible means, and if the nature of the failure or violation is that it cannot be cured within thirty (30) business days, then Burlington shall not be deemed in default hereunder provided that Burlington commences such cure within such thirty (30) business day period and thereafter diligently prosecutes such cure to completion within a reasonable period of time.

9. License Fee. The "License Fee" shall be one dollar (\$1.00) per year, payable in advance, commencing on the Effective Date.
10. Insurance. Burlington shall carry liability insurance policies in amounts sufficient to cover loss or damage to property and/or injury or death to persons resulting from performance of the Work during the Term, as well as workers compensation insurance for all its employees and those of its contractors engaged in work on the License Area, in amounts complying with applicable laws. Burlington shall carry policies in the following amounts:
  - a. Commercial General Liability Insurance, with limits not less than One Million Dollars (\$1,000,000) for each occurrence and Two Million Dollars (\$2,000,000) in the aggregate for each annual policy period of Combined Single Limit Bodily Injury and Property Damage. Such policy shall include Contractual Liability, Personal Injury, Broad Form Property Damage, Products and Completed Operations coverages.
  - b. Excess Liability Coverage, following the insurance referred to above in Section 10(a), in the amount of One Million Dollars (\$1,000,000) per occurrence, Combined Single Limit, and One Million Dollars (\$1,000,000) in the aggregate for each annual policy period.
  - c. Workers Compensation Insurance, with employers' liability limits not less than the Statutory Limit.

Policies shall be in a form reasonably acceptable to the City offered by a company authorized to do business in Massachusetts and reasonably acceptable to the City. All policies shall name the City and the Mary P.C. Cummings Trust as additional insureds. Any insurance required to be provided by Burlington hereunder may be provided by blanket insurance covering both the License Area and other properties of Burlington if (i) such blanket insurance complies with all of the other requirements of this Agreement, and (ii) the amounts payable to the City and those claiming by, under and through City under such blanket insurance shall at all times be no less than the face of such blanket insurance.

11. Performance and Payment Bonds.

- a. Performance Bond. After the Effective Date but prior to commencing the Work, Burlington or its contractor shall provide to the City a performance bond issued by a surety company qualified to do business in Massachusetts. It must be in a form reasonably satisfactory to the City to guarantee faithful performance of the Work under this Agreement. The penal sum of such bond shall be in the amount of 100% of the cost of the Work.
  - b. Payment Bond. After the Effective Date but prior to commencing the Work, Burlington or its contractor shall provide to the City a payment bond to guarantee faithful payment of all sums due to third-party laborers, material men and suppliers who furnish labor and materials to Burlington in connection with the Work. The payment bond shall be issued by a surety company which is reasonably satisfactory to the City. The penal sum of such bond shall be in the amount of 100% of the cost of all labor, supplies and materials utilized or expended in connection with the Work.
  - c. All bonds required hereunder shall be in a form reasonably satisfactory to the City, and shall name Burlington as the Principal, the City and the Mary P.C. Cummings Trust as the Obligees (or, for bonds provided by a contractor, shall name Burlington, the City, and the Mary P.C. Cummings Trust as the Co-obligees), and shall have a term that is coextensive with the performance of the Work.
12. Indemnification. Burlington shall to the extent permitted by law indemnify and save harmless the City, its agents, servants, employees, contractors or subcontractors and the Mary P.C. Cummings Trust from all suits, actions, claims, demands, damages or losses, expenses, and costs of every kind and description to which the City, its agents, servants, employees, contractors or subcontractors and/or the Mary P.C. Cummings Trust may be subject to or put by reason of injury (including death) to persons or property resulting from, in connection with, or growing out of Burlington's, its agents', servants', employees', contractors' or subcontractors' use, construction, installation, operation and/or maintenance of the License Area and/or their execution and performance of this Agreement, and/or the public's use of the License Area; provided, however, that Burlington shall not indemnify and save harmless the City and/or the Mary P.C. Cummings Trust by reason of any such injury (including death) to persons or property to the extent resulting from, in connection with, or growing out of the negligence of the City or the Mary P.C. Cummings Trust, their agents, servants, employees, contractors or subcontractors.
13. Construction Plan. After the Effective Date of this Agreement but at least forty-five (45) days prior to commencing the Work, Burlington shall present to the City for its approval a proposed construction plan and related timeline (including start date, projected milestones and projected end date) for the Work ("Construction Plan"), to be attached at Exhibit C and incorporated herein, such approval not to be unreasonably withheld. If the City fails to disapprove the plans within said forty-

five (45) day period, said plan and related timeline shall be deemed to be approved. Burlington shall conduct the Work according to the approved Construction Plan and shall not make any change or alteration to the Construction Plan without the prior written approval of the City, which approval shall not be unreasonably withheld. The City shall not issue a Notice to Proceed to Burlington until it receives and approves the Construction Plan.

14. Maintenance Plan. After the Effective Date of this Agreement but at least thirty (30) days prior to commencing the Work, Burlington shall present to the City for its approval a maintenance plan for the License Area ("Maintenance Plan"), to be attached at Exhibit D and incorporated herein, that shall include, but shall not be limited to the following: (1) a schedule for routine maintenance of the License Area; (2) a plan to address unforeseen maintenance; and (3) a plan to address the environmental concerns raised in the Design Plan, such approval not to be unreasonably withheld. If the City fails to disapprove the Maintenance Plan within said thirty (30) day period, said Plan shall be deemed to be approved. Burlington shall maintain the License Area according to the approved Maintenance Plan and shall not make any change or alteration to the Maintenance Plan without the prior written approval of the City, which approval shall not be unreasonably withheld. The City shall not issue a Notice to Proceed to Burlington until it receives and approves the Maintenance Plan.

15. Physical Inspection of License Area. After the Effective Date of this Agreement but at least thirty (30) days prior to commencing the Work, Burlington and representatives from the City of Boston shall make a joint physical inspection of the License Area. Burlington shall be responsible for contacting the City to set up a mutually convenient time to make such inspection.

16. The City shall promptly issue the Notice to Proceed once the License Area Plan, Construction Plan and Maintenance Plan are approved or deemed approved, and after the Physical Inspection referenced in Section 15.

17. Installation and Maintenance of the Improvements. During the Term, Burlington shall:

- a. Maintain and keep the Improvements in safe repair and in a clean, orderly manner and in good and attractive condition. No accumulation of litter, trash, debris or other disposable material will be permitted on the License Area.
- b. Perform the Work and maintain the Improvements so as not to constitute a hazard or danger to any person and/or property making use of the License Area.
- c. Subject to the provisions of this Agreement, the City may choose to take over and maintain the Improvements in the event that Burlington fails to do so,

which failure continues for more than thirty (30) business days after written notice to Burlington thereof.

18. Compliance with Laws. Burlington agrees that it shall perform its obligations under this Agreement in accordance with all applicable laws, statutes, rules, codes, regulations, and ordinances in effect as of the Effective Date, as amended from time to time, including but not limited to the terms of the Mary P.C. Cummings Trust. It shall be Burlington's responsibility, at its sole cost and expense, to obtain any and all permits and/or federal, state or local approvals required for it to perform the Work and all of its obligations under this Agreement. Burlington covenants that it will not occupy or use the License Area, nor allow it to be occupied or used for any purposes other than those expressly permitted under this Agreement.
19. No Expense to City. Burlington, including its agents, employees and/or contractors agrees to assume all expenses relating to the License Area, including but not limited to the costs of construction, installation, maintenance, operation and security. Burlington shall be obligated to reimburse the City, its employees, agents, and/or contractors for any reasonable funds the City is required to expend for Burlington's violation of Sections 13 and 14 or under the provisions of Section 17.
20. Assessments, Utilities, and Other Charges. During the term of this Agreement, Burlington shall pay directly to the proper persons or authorities when due all charges with respect to the License Area, whether called charges, taxes, assessments, fees or otherwise, for utility services, water and sewer use, taxes, betterment assessments, and other charges.
21. Permitted Uses/Activities.
  - a. Playing Fields.
    1. Upon availability and reasonable advance request by the City and other municipal and non-profit entities, Burlington will make the playing fields reasonably available for the use and enjoyment of residents, visitors, and/or users of other municipal, governmental, and non-profit entities.
    2. Burlington may, in accordance with its usual practice, charge a reasonable fee to issue permits for the use of the playing fields. However, to the extent such fees exceed Burlington's administrative costs of its permitting process and the cost to Burlington of maintaining the playing fields and repairing any damage caused to the fields by users thereof, Burlington will donate such excess to the Mary P.C. Cummings Trust.
22. "As Is." Burlington shall make entry upon the License Area in "as-is" condition. Burlington shall not commit or suffer waste or impairment of the License Area, ordinary wear and tear excluded. The City makes no representation or warranty,

express or implied, with respect to the condition of the License Area, and the City shall have no obligation hereunder to perform any work at or on the License Area for the duration of this Agreement.

23. Fixtures and Improvements/Yield Up. No fixture, improvements or alterations other than those expressly permitted by this Agreement shall be made to the License Area without the City's prior written permission. Upon the termination of this Agreement by expiration of the Term or otherwise, if requested by the City Burlington shall, at its sole cost and expense, remove from the License Area any and all improvements, equipment, supplies, furnishing, rubbish, debris and other non-indigenous material, shall repair any damage caused thereby and shall return the License Area to its original, pre-installation condition. Property not so removed shall, at the City's option, become the property of the City.
24. Assignment and Transfer. This Agreement and the License to occupy and use the License Area granted herein may not be assigned, transferred, mortgaged or encumbered in any way without the specific written permission of the City.
25. City's Designee. City of Boston Temporary Collector-Treasurer Vivian Leo or her designee shall act as the City's primary contact person for purposes of this Agreement ("City's Designee"). Where specifically stated in this Agreement, Burlington shall obtain from the City's Designee prior approval of specified Work. However, it shall be the responsibility of Burlington to manage the details of the execution and performance of the Work under this Agreement.
26. Progress of Work. After commencing the Work, Burlington shall keep the City's Designee, on no less often than a weekly basis, fully informed of Burlington's progress in conducting the Work. During the Term, the City's Designee shall visit the License Area as he or she deems necessary to monitor Burlington's compliance with the Design Plan, Construction Plan, Maintenance Plan, or any other term of this Agreement.
27. Audit Rights. The City shall have the right to inspect, copy and audit all books, records, accounts, documents, contracts, sub-contracts, reports, financial statements, service complaint records, performance evaluations, maintenance records, construction records and any other materials and/or documentation of Burlington and any of its employees, agents, contractors, subcontractors or representatives, wherever located, which relate in any way to the License Area, including any fees or revenue collected by Burlington for its use.
28. Review and Copying. Burlington shall provide the City, within ten (10) business days of its request, copies of any requested records kept or maintained by Burlington or any of the parties mentioned in Section 27 above, whether in their possession, custody or control, or in the possession, custody or control of third parties on behalf of Burlington or any party mentioned in Section 27 above, which

relate in any way to the License Area, including any fees or revenue collected by Burlington for its use.

29. Affirmative Reporting Obligations. Within sixty (60) days following the end of each fiscal year occurring during the Term, Burlington shall provide to the City an accounting of the fees/revenue collected by Burlington from use of the License Area and Burlington's expenditures related to the License Area.

30. Notices. Whenever under this Agreement, notices, requests, extensions or other communications (collectively, "Notices") are required or permitted, the same shall be effective and valid only when given in writing signed by a duly authorized officer or person of the respective Parties. Any Notices shall be provided by depositing same in the United States mail, postage prepaid, certified or registered mail, to the principal office of the Party to which it is directed, which is as follows unless otherwise designated by written notice to the other Party:

The City of Boston:

City of Boston  
Office of Administration and Finance  
City Hall, Room 603  
Boston, MA 02201  
ATTN: Director of Administration and Finance

City of Boston  
Office of the Collector-Treasurer  
City Hall, Room M-33  
Boston, MA 02201  
ATTN: Vivian Leo, Temporary Collector-Treasurer

With a Copy To:

City of Boston  
Law Department  
City Hall, Room 615  
Boston, MA 02201  
ATTN: Corporation Counsel

Town of Burlington:

Robert A. Mercier  
Town Administrator  
Town of Burlington  
29 Center Street  
Burlington, MA 01803

With a Copy To:

John Giorgio, Esq.  
Kopelman and Paige, P.C.  
101 Arch Street  
Boston, MA 02110



31. Survival. Any liabilities or obligations to the City incurred by Burlington and arising during the Term of this Agreement, as may be extended, shall survive the termination hereof and may be enforced by the City against Burlington in accordance with applicable law.
32. Severability. If any section, sentence, paragraph, term or provision of this Agreement is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory agency having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the Term of this Agreement.
33. Entire Agreement. This instrument constitutes the entire agreement between the Parties, supersedes all prior agreements or proposals except as specifically incorporated herein, and cannot be changed orally but only by an instrument in writing executed by the Parties.
34. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. The Parties agree that any legal action pursuant to this Agreement shall be filed in and subject to the exclusive jurisdiction of any Commonwealth of Massachusetts court of competent jurisdiction. The Parties waive their rights to a jury trial on any claim arising under this Agreement.
35. Amendments. This Agreement may be modified or amended, in whole or in part, only by written instrument signed by the City and Burlington setting forth the changes.

In WITNESS WHEREOF, the Parties hereto have placed their hands and seals below.

ATTEST:

CITY OF BOSTON,

Date: 4/17/11

By: [Signature]  
Vivian Leo, Temporary Collector-Treasurer  
City of Boston

Date: 4/6/11

By: [Signature]  
Meredith Weenick  
Director of Administration & Finance  
City of Boston

TOWN OF BURLINGTON,

Date: 3/28/11

By: [Signature]  
Robert Mercier  
Town Administrator  
Town of Burlington

Approved as to form:

[Signature]  
William F. Sinnott  
Corporation Counsel *cal*

By: [Signature]  
Ralph C. Patuto

[Signature]  
Walter T. Zenkin

[Signature]  
Gary J. Gianino

Approved as to form:

[Signature]  
John W. Giorgio  
Town Counsel

[Signature]  
Daniel R. DiTucci  
[Signature]  
Robert C. Hogan

Board of Selectmen  
Town of Burlington

Date: 3-28-2011

Exhibit A

LICENSE AREA PLAN

Exhibit B

DESIGN PLAN







The conceptual site plan, which has been reviewed and approved by the Town of Burlington Park and Rec. Dept, consists of multipurpose fields, exercise trail, picnic areas, playground, associated parking and a potential area for a future community garden plot.

The conceptual site plan indicates an area for future community garden plots integrated to the proposed park, but it does not limit the establishment of a vegetable garden only to this area. The Mary Cummings Park encompasses an approximate 150 acres and has ample space for additional community gardens throughout the property.

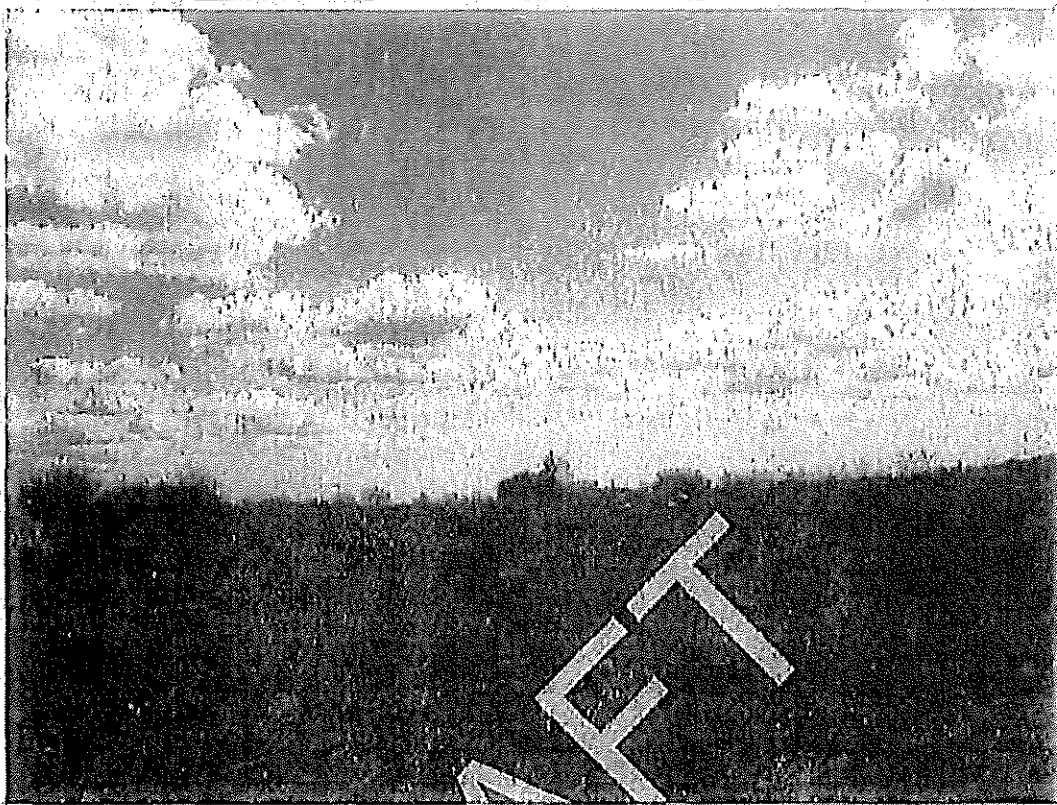
The Design/Conservation plan has been organized into 5 parts:

1. Existing Condition/Resources- Describes the existing features and resources within the proposed area of work.
2. Conceptual Site Plan- Describes the proposed park improvements planned for the Babylon Hill area (approx. 6 acres).
3. Environmental Impact- Describes the environmental impact expected from the construction of the project.
4. Addressing Environmental Impact- Describes the strategies that will be implemented to ameliorate any detrimental environmental effects caused by the park project. To address these impacts the Design/Conservation Plan includes different strategies that take effect at different stages of the project (design, construction and after construction).
5. Environmental Permitting- This section enumerates the different environmental permits (local and state) required for the park project.

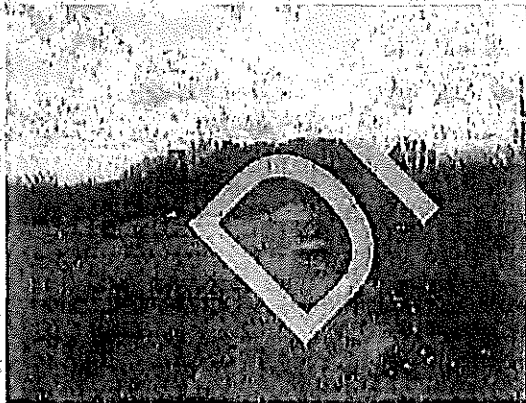
## EXISTING CONDITIONS/RESOURCES

The proposed site for the Community Park consists of approx. 6.5 acres of land in the area known as Babylon Hill Field on the northern corner of Mary Cummings Park. The site has frontage on Blanchard Road to the northwest, and is abutted to the northeast by a row of single family homes that front on South Bedford St. (see Figure 2 & 3). In addition to Blanchard Road the site can be accessed from several walking trails that connect the different areas of the Mary Cummings Estate. As the name Babylon Hill implies, the site slopes gently up from the northwest, west and south and more abruptly from the north, north east and southeast. The topography defines the space for the park and helps to visually separate it from the neighboring backyards. The center of the knoll is clear of trees and shrubs and consists of mowed grass. There is a 50 foot wide stand of trees towards Blanchard Rd. and a wider one toward the row of houses on the northeast, both serve as buffers inside and outside of the park site. Thicker vegetation is located towards the south and south west, in particular in the area designated as wetlands on the southwest. There are several man made elements on the site; the first being a driveway with a curb cut at Blanchard Rd. The driveway leads to a concrete





Picture 1



Picture 2



Picture 4



Picture 3

slab left over from the demolition of a field house that formerly occupied the space. Another man made feature is a historic field stone wall along Blanchard Rd. In addition to the wall, there are several piles of field stone throughout the site. Additionally there are four 5' to 8' foot high mounds of top soil that have been stockpiled from previous site work (see Pictures 1-4). The only resource area on the site is approx. 3 acres of forested wetland







be spread towards the edges. As a cause of the grading, ground cover & top soil will be temporarily removed impacting soil biology, and any fauna living on the ground cover.

Grading will also generate a significant amount of noise and dust that will temporarily affect wildlife and people in the area. In addition of it's impacts to biology, the removal of ground cover increases the potential of erosion and it's subsequent impact on wetlands. Other expected environmental impacts:

1. The installation of a 20,000 sq ft parking area and subsequent runoff
2. Work within 100 ft. wetland buffer area on the south west corner of the park.
3. A more intense use of the land, and subsequent turf field management.

In addition to these environmental impacts other issues that have to be addressed as part of the project are:

1. Any additional traffic generated by the use of the park.
2. Lack of restroom facilities.
3. Impact to neighbors from park activities.
4. Preservation of important cultural elements.

## ADDRESSING ENVIRONMENTAL IMPACT

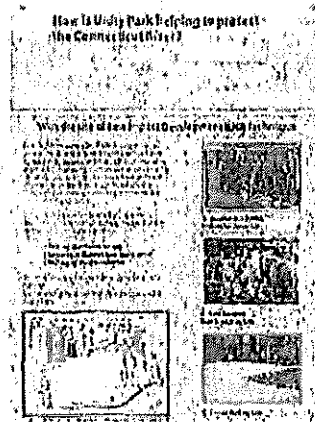
The design of the park has taken into consideration the environmental impacts created by such a project. To address this impacts we have used different strategies depending on the nature of the impact (when, where and length of the impact). The majority of this techniques are aimed at preventing and mitigating the impacts caused by earthwork, in particular those affecting the 3 acres of wetlands to the south west. The following measures have been divided into 4 groups: those implemented during the design of the park, during the construction phase, once the park opens, and other issues of concern.

### During the design of the park:

- The parking area will be gravel to minimize run off and encourage storm water infiltration. Even though storm water regulations do not require additional treatment of drainage from gravel parking facilities, any runoff will be redirected to a bio-swale and rain garden (see Figure 5 northwest corner). These will help remove any sediment and pollutant from the runoff before draining into the town's storm water system on Blanchard Road and adjoining wetlands. The rain garden will also allow for some infiltration, minimizing the impact on the local storm drain system and will consist of native planting to allow for wildlife habitat and enhance the abutting wetland.
- The future community garden will be design to drain towards the rain garden,

preventing nutrient rich run off (from organic fertilizers) to reach the adjoining wetlands.

- All intensive uses of the park will take place on the center or towards Blanchard Road, in areas that had been previously cleared. The proposed design allows for the existing trees on the site to be preserved, in particular those along the north east line of abutters, and to keep the intense use of the park as far away from the existing wetlands on the Southeast. The plan also proposes the planting of approximately 40 native trees, to replace the smaller trees that will be removed. By doing so, the design allows for the preservation of not just existing flora, but helps minimize the impact on the fauna within and surrounding the work area.
- All areas to be graded will be loam and seeded with appropriate turf grass or with a conservation native plant mix.
- Educational signage will be installed that identifies and explains the advantages of using low impact development (LID) techniques that are present in the park. The LID signage will be installed adjacent to the raingardens and wetland resource areas.



During the construction phase a comprehensive erosion control plan will be developed to prevent sediments from entering any wetland resource area. The plan will include, but will not be limited to:

- Installation of sedimentation and erosion control barriers along the perimeter of the proposed work, in particular in areas closest to wetland resources.
- In non turf areas, native ground cover will be established to help stabilize and prevent erosion.
- Installation of track pads at both curb cuts to prevent vehicles working on the site to track sediments away from the work area (see Figure 5)
- Any storm drain structures that could be affected will be protected from additional sediments resulting from construction runoff.
- All existing trees and their roots within the work area will be protected following the International Society of Arboriculture (ISA) specifications for the protection of trees for construction projects.



Once the park is finished

- A comprehensive turf management plan will be implemented that addresses the needs of the users of the fields and also deals with environmental impacts of turf maintenance. An integral part of such plan will be the implementation of an organic Integrated Pest Management (IPM) in which a combination of cultural practices, limited period of application of organic herbicide & fertilizers, and the use of preventive measures are used to minimize the environmental impact. For this purposes the Town of Burlington has contacted Osborne Organics of Marblehead MA as consultants for the development of a turf management plan. Osborne Organics Systems Approach to Natural Turf Management™ integrates three concepts: the use of natural, organic products as dictated by soil testing; an understanding of the soil and its biomass; and sound cultural practices. This is fundamentally different from the conventional product approach to turf management and provides landscape professionals with a holistic, natural alternative.
- The use of portable sanitary facilities during seasonal play to address the lack of bathrooms in the parks.

Other issues of concern

- Traffic generated by the park -- It is not expected that the park will have a negative impact on traffic along Blanchard Road. The three main reason being that in general, peak traffic on the adjoining roads will not overlap with the use of the park, second the fact that it is only one field which limits the number of people using the park at one time and third the availability of adequate parking that will accomodate the users of cars, preventing the use of off street parking.
- Impact to neighbors -- The impact on abutting properties along the east portion of the park will be minimal. No sports lighting is being proposed, thus limiting play to day time hours. The playing field is located towards the center of the knoll, leaving enough space between backyards and active play. No trees will be cut from the north east area to preserve as a natural buffer. Finally, the field will be located 15 ft higher than the neighboring houses, visually separating and minimizing any noise from the use of the park.
- Preserving the cultural character- The plan proposes the restoration of the existing field stone wall along Blanchard Road, as an effort to maintain the visual and cultural character of the site as seen from the road and the re-use of existing distinctive elements in the park.

## ENVIRONMENTAL PERMITTING

Following is a list of environmental permits that will be required for the implementation of the Community Park Plan:

- Town of Burlington Site Plan Review - Planning Board
- Town of Burlington Stormwater Management Permit - DPW
- Wetlands Protection Act - Request for Determination of Applicability-  
Conservation Commission
- Wetlands Protection Act - Notice of Intent  
Conservation Commission

◦ Possible B.O.H. Review



Exhibit C  
CONSTRUCTION PLAN

Exhibit D  
MAINTENANCE PLAN

## Maintenance Plan for the City of Boston Land

### Mowing

Lawn mower starting mid May cutting once a week or as needed, until early November.

### Trash

Trash receptacles, and recycling containers will be located through out the park, they will be emptied twice a week in the spring and fall months, and during the summer months ever day. On days the receptacles are emptied the entire park will be walked picking up any trash that is found.

### Pruning

Will only be done as needed, noting that safety will be determining factor to if and when it is done.

### Field Lining of Soccer field.

Field lining will be done once a week depending on the sport being played. Lining will done using latex field paint like Franklin Winning Streak Paint.

Turf Care- soil samples will be taken to determine what if any nutrients need to be added to the soil.

Aerating- 3" core removal to be done three times a year. Spring, summer, and fall.

Fertilizations- all products used on the grass turf will be organic. Apply three times a year.

Top dressing- using organic compost, to fill in low spots or depressions. Compost from Eric's Greenhouse in Reading, MA

Overseeding- will be done in the fall using quality athletic mix of blue and rye grasses. Starter Fertilizer from Nature Safe 5-6-6

Respond to emergency and general maintenance as needed.



# Nature Safe®

A Premium Formula of  
Natural & Organic Ingredients

## 5-6-6

Starter Fertilizer

Fine Grade

Net Wt. 50 Lbs.

### GUARANTEED ANALYSIS

Total Nitrogen (N)	5.0%
0.20% Ammoniacal Nitrogen	
4.60% Water Insoluble Nitrogen*	
0.30% Other Water Soluble Nitrogen	
Available Phosphate (P <sub>2</sub> O <sub>5</sub> )	6.0%
Soluble Potash (K <sub>2</sub> O)	6.0%
Calcium (Ca)	7.0%
Magnesium (Mg)	1.5%
1.50% Water Soluble Magnesium (Mg)	
Sulfur (S)	4.0%
4.00% Combined Sulfur (S)	

### Source of Nutrients:

Meat meal, bone meal, blood meal, fish meal, hydrolyzed feather meal and langbeinite.

\*This product contains 4.5% slow release nitrogen from meat meal and fish meal.

### General Information:

Nature Safe 5-6-6 Starter Fertilizer is designed for the development of deep healthy roots. This homogeneous, slow-release, non-burning fertilizer also contains humus which conditions the soil and increases water retention. Humus is soil organic matter which has the ability to buffer plants against high concentrations of salts. It improves the Cation Exchange Capacity (CEC) of the soil to minimize leaching and enhance uptake of phosphates and other essential micronutrients to improve vigor. This product will help in the mineralization of insoluble nutrients. Added carbohydrates provide excellent food energy for soil microorganisms. The nitrogen sources are meat meal, blood meal, hydrolyzed feather meal and fish meal. The natural source of phosphorus and calcium is steamed bone meal. Langbeinite is rich in potassium, sulfur and magnesium, all of which are vital for root development. This product should be applied in spring and fall during aeration to promote deep healthy roots. It is also recommended to use this product when seeding, sprigging or overseeding.

### Directions for Use:

**Established Turfgrass:** Use as a topdressing for tees, roughs and fairways or any established turf. Apply 10 to 20 lbs. per 1,000 sq. ft. (0.5 to 1 lb. of actual N). Three to four applications per year are recommended. Covers 5,000 to 10,000 sq. ft.

**Fine grade:** Suggested for use on turf mowed at heights of 1/2" or lower.

**New Turfgrass Seeding:** Incorporate 20 lbs. per 1,000 sq. ft. into the top 2-4 inches of the seedbed before seeding or sodding. Covers up to 5,000 sq. ft.

Griffin Industries • 4221 Alexandria Pike • Cold Spring, KY 41076  
• (800) 252-4727 • Fax (859) 572-2574 • [www.naturesafe.com](http://www.naturesafe.com) •

Nature Safe® is a Division of Griffin Industries, Inc.

SPEC-1



# Nature Safe®

A Premium Lawn & Garden Formula of  
Natural & Organic Ingredients

## 8-5-5 Landscape Fertilizer

### Pelleted Grade

Net Wt. 50 Lbs. or Bulk Bags

#### GUARANTEED ANALYSIS

Total Nitrogen (N)	8.0%
0.3% Ammoniacal Nitrogen	
6.8% Water Insoluble Nitrogen*	
0.9% Other Water Soluble Nitrogen	
Available Phosphate ( $P_2O_5$ )	5.0%
Soluble Potash ( $K_2O$ )	5.0%
Calcium (Ca)	4.5%
Sulfur (S)	1.0%
1.0% Combined Sulfur (S)	

#### Source of Nutrients:

Meat meal, hydrolyzed feather meal, bone meal, blood meal and sulfate of potash.

\*This product contains 6.8% slow release nitrogen from meat meal.

#### General Information:

Nature Safe 8-5-5 Landscape Fertilizer is formulated to deliver a balanced fertility package with primary and secondary nutrients ideal for lawns, landscapes and organic crops. Nature Safe 8-5-5 consists of various proteins such as meat, bone and blood meals, that provide slow release nitrogen over an 8-12 week period. Nature Safe 8-5-5 contains 4.5% calcium, an essential nutrient for plant and soil health. Carbohydrates in the form of simple sugars and starches are added to stimulate microbial activity. Humus is included to buffer the soil against extreme salt concentrations and improve soil structure for tolerance during heat and drought conditions. Virtually all of the product is utilized through plant uptake, with minimal leaching and volatilization. Nature Safe 8-5-5 Landscape Fertilizer is OMRI listed and allowed under NOP guidelines validating its use in the production of organic certified crops.

#### Directions for Use:

**Established Turfgrass:** Use as a topdressing for lawns, landscapes or any established turf. Apply 6.25 to 12.5 lbs. per 1,000 sq. ft. or 3.0 kg to 6.0 kg per 100 m<sup>2</sup> (0.5 lb. to 1 lb. of actual N). Results are enhanced during aeration. Covers from 4,000 to 8,000 sq. ft.

**Grow-Ins:** Apply 12.5 lbs. of product per 1,000 sq. ft. for 1 lb. of actual nitrogen to be raked into the top 4 inches of topsoil during seedbed preparation.

**Flower Beds:** In early spring apply 1 lb. (2 cups) per 25 sq. ft. Work into soil bed, plant flowers and water. Repeat application when buds begin to bloom.

#### Organic Farming:

Formulation	50 lbs. N	100 lbs. N	150 lbs. N	200 lbs. N
8-5-5	625 lbs.	1,250 lbs.	1,875 lbs.	2,500 lbs.

Griffin Industries • 4221 Alexandria Pike • Cold Spring, KY 41076  
• (800) 262-4727 • Fax (859) 572-2574 • [www.naturesafe.com](http://www.naturesafe.com) •

Nature Safe® is a Division of Griffin Industries, Inc.

SPEC-3

# Cockadoodle DOO®

Organic Lawn  
& Garden Products

DOO. The right thing®

**OMRI™**  
**Listed**  
Organic Materials Review Institute

## Super-Premium Professional Grade Organic Fertilizer

3-2-3 with 2½% Calcium    Pasteurized Poultry Manure

### Guaranteed Analysis

Total Nitrogen (N) 3.00%

2.25% Water Insoluble Nitrogen

0.75% Water Soluble Nitrogen

Available Phosphate as (P<sub>2</sub>O<sub>5</sub>) 2.00%

Soluble Potash as (K<sub>2</sub>O) 3.00%

Calcium (Ca) 2.50%

Nutrients derived from chicken litter. This product has a natural pH of 6.5.

### Spreader Settings

#### SPREADER

Lely @ 4 mph

Vicon @ 4 mph

Lesco

Scotts R8

#### SETTINGS FOR 50# N/1000

8

46

Level I or Level #16

Level L

#### SETTINGS\*

50# N/1000 (500 LBs/Acre)

50# N/1000 (500LBs/Acre)

\*Verify to actual ground speed

For Best Results:

Water in material, let dry and water again.

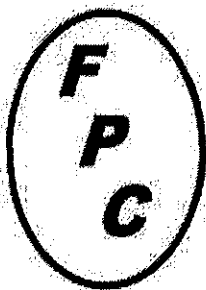
For all other spreaders, set to wide open.

## NOT INTENDED FOR RETAIL SALE

Store in a cool dry place.

NET WT. 50lbs (23kg)





**Product Data:**  
**WINNING STREAK™ ATHLETIC FIELD MARKING PAINT**

*"As Durable as the Hills of Old New England"*

**DESCRIPTION:** Winning Streak™ is specifically formulated for use on grass athletic playing fields for sports such as football, soccer, field hockey, lacrosse, etc. This paint is supplied in a liquid paste ready for dilution with water.

**MIXING:** Mix to the ideal ratio of 2 parts water to 1 part paint. (Never exceed 3 parts water to 1 part paint). Regardless of mix ratio, product must be stirred to a smooth uniform consistency.

**APPLICATION:** Air and Surface temperature should be above freezing. Dry surface is ideal, but it may be applied to a slightly damp surface (longer dry time). Spraying is the preferred method of application to achieve clean sharp lines. Most conventional line marking machines will do the job. As with any paint to be sprayed straining is highly recommended. (Latex skins do not re-dissolve when mixed)

**CLEAN UP:** Water is usually sufficient on a daily basis. For a more thorough cleaning, soap and warm water is recommended.

**SHELF LIFE:** 12 months minimum based on unopened container stored @ 77° F

**STORAGE:** Store in a cool dry area. **KEEP FROM FREEZING**

	<b>WHITE REGULAR (2200)</b>	<b>WHITE PREMIUM (2210)</b>	<b>COLORS (ALL)</b>
State	Liquid Paste	Liquid Paste	Liquid Paste
Viscosity KU	110-120	110-120	110-120
Weight/Gallon	11.0 lbs.	11.3 lbs.	11.3 lbs.
Brightness	High	Very High	N/A
Whiteness	High	Very High	N/A
Hiding	High	Very High	N/A
% Solids by Wt.	48	50	49
% Solids by Vol.	30	32	32
% Vehicle by Wt.	64.4	62	58
% Pigments by Wt.	35.6	38	42
% Titanium Dioxide (rutile)*	10.5	20	N/A
% Calcined Clay	50	48	20
% Calcium Carbonate	39.5	32	80
Coverage/gal (5mils wet 4" line)	960'	960'	960'

\*Primary pigment for brightness, whiteness & hiding

**Franklin Paint Company, Inc.**  
**259 Cottage Street**  
**Franklin, MA 02038**

**Tel: 800-486-0304**  
**508-528-0303**  
**Fax: 508-528-8152**

[www.franklinpaint.com](http://www.franklinpaint.com)





## PURCHASE AND SALE AGREEMENT

Agreement made this 5 day of MAY, 2017 (the "Effective Date").

1. **PARTIES.** **64 BLANCHARD REALTY TRUST**, a Massachusetts realty trust established under declaration of trust dated March 1, 2006 and recorded at the Middlesex South Registry of Deeds on March 2, 2006 Book 47049 Page 404 with an address of c/o Cynthia Tocci, 5715 Troost Avenue, North Hollywood, CA 91601 hereinafter called the **SELLER**, agrees to sell, and **MISSION MASSACHUSETTS, INC.**, a Massachusetts non-profit corporation, or its nominee, with a mailing address of 369 Elm Street, Concord, MA 01742, or its nominee, hereinafter called the **BUYER**, agrees to buy, upon the terms hereinafter set forth, the following described premises:

2. **DESCRIPTION.** The land known as 64 Blanchard Road, Burlington, MA, as more particularly set forth on Exhibit A attached hereto. This is land-only, approximately 20,175 square feet.

3. **BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES.** The Property to be conveyed hereunder is unimproved land.

4. **TITLE DEED.** Said Property is to be conveyed by a good and sufficient Quitclaim Deed executed by **SELLER** running to the **BUYER** or the **BUYER**'s nominee (the "Deed"), and said Deed shall convey marketable title thereto, free from encumbrances, except:

- (a) Usual public utilities servicing the Property, if any;
- (b) Easements, covenants, restrictions, reservations and all other matters of record; and
- (c) Provisions of existing building and zoning laws.

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5. PURCHASE PRICE. The agreed purchase price for said Property is Four Hundred Thousand and 00/100 (\$US 400,000.00) DOLLARS (the "Purchase Price") payable at the time of delivery of the Deed as follows:

\$ 25,000.00	Deposit (cash, certified bank or cashier's check or federally wired funds received within three (3) days of execution of this Agreement)
\$375,000.00	in federally wired funds at the closing
<hr/>	
<u>\$400,000.00</u>	TOTAL PURCHASE PRICE.

Within two (2) business days of the Effective Date of this Agreement, BUYER shall deposit the amount of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) (the "Deposit") with Burns & Levinson LLP, as escrow agent hereunder (hereinafter the "Escrow Agent"), with an address of 125 Summer Street, Boston, MA 02110. All interest shall follow the Deposit. Escrow Agent shall release the Deposit to the party entitled thereto in accordance with the provisions hereof (it being agreed that, subject only to Section 21(a) hereof, in no event shall the Deposit be released to SELLER, or anyone claiming by, through or under SELLER, prior to Closing except as stipulated in Section 5, Section 6, Section 27 and Section 28); at Closing, the Deposit shall be applied against the Purchase Price. Subject to the express provisions of this Agreement permitting Buyer to have the Deposit returned prior to the Closing Date upon termination of this Agreement by Buyer, in the event that BUYER does not terminate the Agreement on or prior to the Due Diligence Date, Ten Thousand and 00/100 Dollars (\$10,000.00) of the Deposit shall be non-refundable for any reasons other than SELLER's default as defined Section 21(b) after 5:00pm on the Due Diligence Date, but such amount shall be applicable to the Purchase Price at Closing.

The entire Deposit shall be placed by Escrow Agent in an interest bearing escrow account (the "Escrow Account") pending Closing. BUYER warrants and represents that BUYER has completely filled out the form W9 attached hereto as Exhibit "B" and made a part hereof and BUYER understands that no interest will be paid on the Deposit unless and until such form W9 is completed and delivered to Escrow Agent.

6. TIME FOR PERFORMANCE; DELIVERY OF DEED; PAYMENT OF PURCHASE PRICE. Such Deed is to be delivered, simultaneously with the delivery of the Purchase Price to SELLER (the "Closing" or the "Closing Date") at 12:00 o'clock p.m. on or before one hundred and twenty (120) days following the notification from the BUYER that the BUYER is prepared to proceed to Closing, unless otherwise agreed upon by the parties. Upon notification by Buyer that they are prepared to proceed to



Closing, the balance of the Deposit shall be released to the Seller and shall not be refundable to the Buyer other than Seller's default as defined in Section 12(b). Time is of the essence with respect to all dates and time periods in this Agreement.

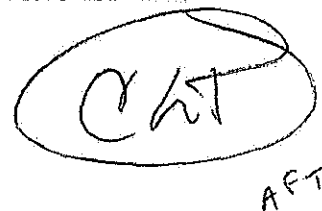
7. POSSESSION AND CONDITION OF PROPERTY. Full possession of said Property free of all tenants and occupants shall be delivered at the Closing, the Property to be in the same condition it is now in, reasonable wear and tear excepted.

8. EXTENSION TO PERFECT TITLE OR MAKE PROPERTY CONFORM. If the SELLER shall be unable to give title or to make conveyance, or to deliver possession of the Property, all as herein stipulated, or if at the time of the delivery of the Deed, the Property does not conform with the provisions hereof, the SELLER shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the Property conform to the provisions of this Agreement, as the case may be; provided however, in no event shall Seller be obligated to expend more than \$100,000.00 to remedy any such defect or deliver title as provided herein, other than for monetary encumbrances including without limitation, mortgage liens and taxes, for which SELLER is obligated to remove. The SELLER shall be obligated to give written notice thereof to the BUYER at or before the time for performance hereunder, and thereupon the time for performance hereof shall be extended for a period of up to thirty (30) days.

9. FAILURE TO PERFECT TITLE OR MAKE PROPERTY CONFORM, ETC. If at the expiration of the extended time the SELLER shall have failed to so remove any defects in title, deliver possession, or make the Property conform, as the case may be, all as herein agreed, then the BUYER'S sole and exclusive remedy shall be either: (a) to have any payments made under this Agreement forthwith refunded, whereupon all other obligations of the parties hereto shall cease and this Agreement shall be void without recourse to the parties hereto; or (b) to accept such title as the SELLER can deliver to the said Property in its then condition and to pay therefore the purchase price without deduction, in which case the SELLER shall convey such title.

10. ACCEPTANCE OF DEED. The acceptance of the Deed by the BUYER or its nominee, as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, and a full and complete release of all claims which BUYER has against SELLER, if any, arising out of the negotiation and purchase of the premises.

11. USE OF PURCHASE MONEY TO CLEAR TITLE. To enable the SELLER to make conveyance as herein provided, the SELLER may, at the time of delivery of the Deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simul-



taneously with the Deed, provided, however, institutional liens may be discharged within a reasonable time after the delivery of the Deed. The BUYER shall be responsible for any service fee charged by BUYER's/Mortgagee's Attorney incident to obtaining any mortgage discharge information and/or for the delivery of any required discharges.

12. INSURANCE. Until the delivery of the Deed, the SELLER shall maintain insurance on said Property as currently insured.

13. ADJUSTMENTS. Real estate taxes for the then current year, and all other customary adjustments, shall be apportioned as of the date of performance of this Agreement and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable at the time of delivery of the Deed.

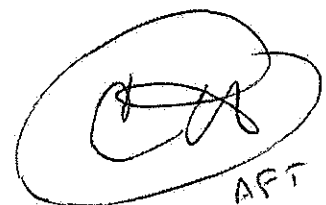
14. ADJUSTMENT OF UNASSESSED AND ABATED TAXES. If the amount of said taxes that shall be assessed for the current fiscal year is not known at the time of the delivery of the Deed, they shall be apportioned on the basis of the taxes assessed for the preceding year, with a reapportionment as soon as the new tax rate and valuation can be ascertained. The SELLER shall be responsible for those taxes assessed and due for the period up through the date of Closing, and the BUYER shall be responsible for those taxes due thereafter.

15. BROKERS. The parties each represent that neither has used a broker in connection with this transfer other than Atlantic Retail Properties for which BUYER shall be responsible for payment of a brokerage commission at Closing, pursuant to a separate agreement. The party through whom any other broker claims a connection with this transaction shall indemnify the other party for any damage incurred as a result of such claim for commission or other amounts.

16. LIABILITY OF TRUSTEE, SHAREHOLDER, BENEFICIARY, ETC. The parties have executed this Agreement in a representative or fiduciary capacity, the principal or the estate represented being so bound, and neither the signatory so executing, nor any shareholder or beneficiary of either party, shall be personally liable for any obligation, express or implied, hereunder.

17. RECORDING OR ASSIGNMENT BY BUYER. If BUYER records or assigns this Agreement without the written consent of SELLER, said Agreement shall at the option of SELLER become ipso facto null and void and any payments made hereunder shall be retained by SELLER as liquidated damages.

18. ABSENCE OF ADDITIONAL REPRESENTATIONS. Subject to the other provisions of this Agreement, BUYER agrees that BUYER'S acceptance of the Deed

A handwritten signature, possibly "AFT", is enclosed in a large, hand-drawn oval. Below the signature, the letters "AFT" are written in a bold, sans-serif font.

shall constitute BUYER'S acknowledgment that the BUYER has inspected and has performed any and all due diligence concerning the Property to BUYER'S satisfaction, and that SELLER has satisfactorily fulfilled all agreements under this agreement.

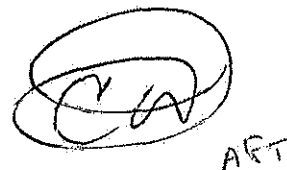
19. CONSTRUCTION OF AGREEMENT. This instrument is to be construed as a Massachusetts contract, it is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and enures to the benefit of the parties hereto, and in the case of the SELLER, its successors and assigns, and may be canceled, modified or amended only by a written instrument executed by both the SELLER and the BUYER. If two or more persons are named herein as BUYER, their obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be used in determining the intent of the parties to it.

20. [RESERVED].

21. DEFAULT.

(a) If BUYER is in default in the observance or performance of its material obligations hereunder, then SELLER shall have the right on or before Closing to terminate this Agreement and to be paid the Deposit and all interest earned thereon as liquidated damages for such breach. Upon such termination, SELLER and BUYER shall be released from all further liability and obligations hereunder, it being understood that SELLER's right to terminate this Agreement and to be paid the Deposit shall be the sole remedy available to SELLER in the event of BUYER's default, unless otherwise specified herein.

(b) If SELLER is in default in the observance or performance of its material obligations hereunder, then BUYER shall have the right to (i) terminate this Agreement and to be paid the Deposit and all interest earned thereon, as liquidated damages for such breach or (ii) accept such SELLER's Closing Deliverables as the SELLER can deliver and deliver the BUYER's Closing Deliverables, or (iii) bring a suit for specific performance. Upon any such termination that BUYER may elect pursuant to subpart (i) above, SELLER and BUYER shall be released from all further liability and obligations hereunder, it being understood that BUYER's right to terminate this Agreement and to be paid the Deposit shall be the sole remedy available to BUYER in the event of SELLER's default and BUYER's election of option "(i)" above, unless otherwise specified herein. Notwithstanding anything to the contrary contained elsewhere in this Agreement, all Deposits already released to the SELER shall be promptly returned to the BUYER should the SELLER otherwise be unable or unwilling to Close per the terms of this Agreement and be in default as defined in this Section.

A handwritten signature, possibly "CWA", is enclosed in a large, loopy oval. To the right of the oval, the letters "AFT" are handwritten.

22. [RESERVED].

23. DEPOSIT. The deposit shall be held in escrow by the Escrow Agent subject to the terms of this Agreement and shall be duly accounted for at the closing. In the event of any disagreement between the parties, the Escrow Agent shall retain the Deposit pending instructions mutually given in writing by SELLER and BUYER or a court of competent jurisdiction.

24. CLOSING DELIVERABLES. At the Closing, the SELLER shall execute and deliver to the BUYER the following documents which the BUYER shall have prepared for execution:

- (i) An affidavit to the BUYER and the BUYER's title insurance company certifying that there are no parties in possession of the Property and that no work has been done on the Property by or on behalf of the SELLER which would entitle anyone to a mechanic's or materialman's lien with respect to the Property;
- (ii) Internal Revenue Code, Section 1099S Forms and W-9 Forms;
- (iii) Trustee Certificate of Seller in recordable form authorizing the sale of the Property contemplated by this Agreement;
- (iv) Deed; and
- (v) Such other documents as are customarily executed by a seller in connection with the sale of real estate in The Commonwealth of Massachusetts, including any such forms as may be required by a title company insuring the Property.

25. ADDITIONAL TITLE PROVISIONS. It shall be a condition of the BUYER's obligation to purchase the Property that (i) the Property is either on a public way or there is appurtenant to the Property the perpetual right and easement of record to use a private way to gain ingress to and egress from and over the nearest public way for all purposes for which streets and ways are now or may hereafter be used in the Town of Burlington, including without limitation, access on foot or with motor vehicles and the installation and use of utility service lines for water, electricity, sewer and telephone, and (ii) the Property can be made to comply with the requirements of Section 28 of this Agreement. If the Property does not conform to the above conditions, then the BUYER may elect to terminate this Agreement in which case all Deposits not already released to the SELLER as per the terms of this Agreement shall be returned to the BUYER and the obligations of the parties shall cease and this Agreement shall be void.

26. TITLE INSURANCE. It shall be a condition of the BUYER's obligation to purchase the Property that the BUYER can obtain an owner's and, if applicable, a

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lender's title insurance policy insuring title to the Property at normal premium rates free and clear of encumbrances except (i) the encumbrances described in Section 4 of this Agreement, and (ii) the standard exceptions routinely taken in ALTA owner's and, if applicable, lender's policies, issued by a title insurance company qualified to do business in Massachusetts. If the BUYER is unable to obtain said title insurance, then the BUYER may elect to terminate this Agreement in which case all Deposits not already released to the SELLER as per the terms of this Agreement shall be returned to the BUYER and the obligations of the parties shall cease and this Agreement shall be void.

## 27. DUE DILIGENCE PERIOD.

(a) Due Diligence Materials to be Delivered. Seller has previously delivered to Buyer's Agent copies of all the following items related to the Property within Seller's possession or under its control (as applicable): property condition reports, site plans, property surveys, environmental reports or site assessments related to the Property, (collectively, the "Property Information"). Seller possesses no additional info and will cooperate with Buyer if any additional information is required.

(b) Investigations. BUYER may perform a due diligence investigation of the Property and in this regard BUYER shall have the full opportunity to (i) inspect, take measurements, conduct surveys and perform tests, (ii) show the Property to contractors, architects, surveyors, engineers, insurers, banks and other lenders and investors, and (iii) make legal, financial, zoning, engineering, accounting and other reviews or investigations of the Property; provided however, BUYER shall not be permitted to undertake any invasive testing without SELLER'S prior written consent which consent shall not be unreasonably withheld, conditioned or delayed. If BUYER's investigations of the Property are not satisfactory to BUYER, in BUYER's sole and absolute discretion, then BUYER may terminate this Agreement by written notice delivered to SELLER not later than 5:00 p.m. on the date that is ~~ninety (90) days~~ from date of this Agreement (the "Due Diligence Date"). If BUYER shall not have terminated this Agreement by written notice delivered to SELLER on or before 5:00 p.m. on the Due Diligence Date, then BUYER shall have no right to terminate this Agreement pursuant to this Section and Ten Thousand and 00/100 Dollars (\$10,000.00) of the Deposit shall be released to the SELLER and shall be non-refundable as per Section 6. If BUYER terminates this Agreement as set forth in this Section, then the Deposit and any interest thereon, shall be promptly refunded to BUYER. All of BUYER's investigations which are permitted under this Agreement shall be done at reasonable times and after twenty-four (24) hours' prior written notice. BUYER assumes all risks associated with conducting BUYER's investigations of the Property and agrees to protect, defend, indemnify and hold harmless SELLER and its officers, directors, shareholders, partners, members, managers, employees, successors and assigns from and against any and all costs,

Due Diligence  
Date:  
7/19/17  
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losses, claims, demands, damages, liabilities and expenses and other obligations (including, without limitation, attorneys' fees and court costs) arising from, out of, or in connection with or otherwise relating to, the entry by and the activities, studies and tests performed by BUYER or any of BUYER's representatives in or upon the Property. BUYER shall ensure that all parties performing on site work are adequately insured and shall return to the property to pre-disturbed condition as soon as any testing is completed. Notwithstanding any contrary provision herein, the aforementioned indemnity shall survive the closing or earlier termination of this Agreement.

28. PERMITTING PERIOD. BUYER's obligation to purchase the Property hereunder is also expressly conditioned on BUYER's obtaining all non-appealable state and local licenses and permits to build, open and operate a retail facility of a minimum of 4,000 useable square feet at the site (the "Use Permits") within sixty (60) days from the expiration of the Due Diligence Date (the "Permitting Period").

29. EXTENSIONS TO THE PERMITTING PERIOD. BUYER shall have the right to extend the Permitting Period for up to six (6) thirty (30) day periods by (i) providing written notice to SELLER not less than three (3) Business Days prior to the end of the then applicable Permitting Period (which notice may be via electronic mail), and (ii) delivering to SELLER, a cash payment of Two Thousand Five Hundred and 00/100 Dollars (\$2,500.00) on or prior to the end of the then applicable Permitting Period (each a "Permit Extension Payment"). Each Permit Extension Payment shall be non-refundable, and not applicable to the Purchase Price at Closing. In the event that, despite using all diligent efforts to obtain such Use Permits, said permits do not issue within the Permitting Period, as may be extended by Buyer as aforementioned, the BUYER may either (i) terminate this Agreement and forfeit the Deposit; or (ii) proceed to Closing. In the event of any such termination, the Deposit shall be considered liquidated damages to the SELLER and SELLER shall have no other rights and remedies hereunder. SELLER shall reasonably cooperate in good faith with BUYER in Buyer obtaining any and all Use Permits, shall promptly execute any and all applications for any permits, and hereby authorizes BUYER to execute and file any such permits and permit applications on its behalf, however, at BUYER'S sole cost and expense. Pursuant to Section 6, Buyer shall also have the option to waive the Permitting Period and proceed to Closing by providing not less than thirty (30) days' prior written notice to SELLER. Notwithstanding the aforesaid to the contrary, the SELLER may require up to one hundred and twenty (120) days from said notification, as per Section 6, in order to allow SELLER the time necessary to provide the property free of tenants.

30. REPRESENTATIONS AND WARRANTIES. SELLER, to its actual knowledge without independent inquiry, hereby represents and warrants to BUYER as follows:



- (a) SELLER is a realty trust, duly organized, validly existing and in good standing under the laws of The Commonwealth of Massachusetts and has all requisite power and authority to enter into this Agreement and perform its obligations hereunder, and the execution and delivery and performance of this Agreement have been duly authorized.
- (b) There is no pending, nor to SELLER's actual knowledge, there is no threatened in writing, litigation against the SELLER.
- (c) There are no pending or, contemplated condemnation, eminent domain or similar proceedings with respect to all or any portion of the Property.
- (d) There is no action, suit or proceeding pending or, threatened against or affecting the Property, or arising out of the ownership, management or operation of the Property, this Agreement or the transactions contemplated hereby.
- (e) SELLER has not received any written notice of, and is not aware of any pending or contemplated zoning change or similar proceeding with respect to all or any portion of the Property.
- (f) All information regarding the Property furnished by SELLER to BUYER is, to the best of SELLER's knowledge, true and correct in all material respects, (ii) SELLER has not failed to furnish to BUYER any information which would be material to the ownership, operation or development by BUYER of the Property as it exists presently or at the closing, and (iii) SELLER has disclosed to BUYER in writing all material adverse information of which SELLER is aware, if any, concerning the physical condition of the Property.
- (g) All bills and claims for labor performed and materials furnished to or for the benefit of and at the direction of SELLER with respect to the Property shall be paid in full by SELLER at or before the Closing Date.
- (h) Seller has not entered into any written options or rights of first refusal with regard to the Property. This Agreement supersedes any and all prior agreements, verbal or written and other arrangements and promises.
- (i) Seller has not (i) commenced a voluntary case, or had entered against it a petition, for relief under any federal bankruptcy act or any similar petition, order or decree under any federal or state law or statute relative to bankruptcy, insolvency or other relief for debtors, or (ii) caused, suffered or consented to the appointment of a receiver, trustee, administrator, conservator, liquidator or similar official in any federal, state or for-



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eign judicial or nonjudicial proceeding, to hold, administer and/or liquidate all or substantially all of its assets.

(j) Seller has not received written notice of any existing violations of any federal, state, county or municipal laws, ordinances, orders, codes, regulations or requirements affecting the Real Property which have not been cured.

(k) There shall be, at closing, no leases in effect, tenancies or other occupancy agreements covering any portion of the Property, nor are there any parties in possession, other than Seller, and there are no further written or oral promises, agreements, amendments, addenda, modifications, supplements, understandings, or commitments with respect to use and occupancy of the Property.

(l) Environmental Notices. Seller has not received any written notice that the Property is in violation of any environmental laws, which violation has not been corrected, and to Seller's knowledge, the Property is in compliance with all environmental laws.

(m) Hazardous Substances. Except as otherwise expressly disclosed herein or in such Environmental Documentation that is or will be provided to Buyer:

(1) To Seller's knowledge, (a) neither Seller nor any previous owner, tenant, occupant, or user of the Property, nor any other Person, has engaged in or permitted any operations or activities upon, or any use or occupancy of the Property, or any portion thereof, for the purpose of or in any way involving the handling, manufacture, treatment, storage, use, generation, release, discharge, refining, dumping, or disposal of any Hazardous Substances (whether legal or illegal, accidental or intentional) on, under, in, or about the Property, or transported any Hazardous Substances to, from, or across the Property; (b) no Hazardous Substances are presently deposited, stored, or otherwise located on, under, in, or about the Property, except for Hazardous Substances stored in the course of legitimate business operations on the Property; (c) sludge and solid waste generated from the sewage treatment plant has been disposed of at regulated landfill sites in accordance with Applicable Law and regulation; and (d) there has been regular testing for, and no report of, leakage in any underground storage tank. Seller has delivered or made available to Buyer true, correct and complete copies of all material reports and studies in Seller's Possession relating to Hazardous Substances or environmental laws with respect to the Property.

(2) Seller has no knowledge of any hazardous materials which have been generated, stored, treated or disposed of, or otherwise deposited in, on or about the Premises (including, without limitation, the surface and



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subsurface waters of the Premises) and Seller has no knowledge of any substances or conditions in or on the Premises which would support a claim or cause of action under any federal, state or local environmental statutes, regulations, ordinances or other environmental regulatory requirements ("Hazardous Substances"). Seller hereby agrees to indemnify and hold Buyer or its nominee, its trustees, partners, officers, directors, employees, agents and affiliates harmless from any and all expense, loss, costs, reasonable attorneys' fees, incurred or suffered by Buyer resulting from any claims or causes of action arising out of or in connection with the presence of Hazardous Substances on the Property at the time of the Closing.

(n) Neither SELLER, its trustees, officers, beneficiaries, nor any of their respective affiliates is (a) listed on the Specially Designated Nationals and Blocked Persons List or any other similar list maintained by the Office of Foreign Assets Control, Department of the Treasury or the Department of Foreign Affairs and International Trade (Canada), pursuant to any authorizing statute, executive order or regulation; or (b) a "specially designated global terrorist" or other Person listed on Appendix A to Chapter V of 31 C.F.R., as the same has been from time to time updated and amended; or (c) a Person either (i) included within the term "designated national" as defined in the Cuban Assets Control Regulations, 31 C.F.R. Part 515; or (ii) designated under Sections 1(a), 1(b), 1(c) or 1(d) of Executive Order No. 13224, 66 Fed. Reg. 49079 (published September 25, 2001) or a Person similarly designated under any related enabling legislation or any other similar Executive Orders. None of SELLER's property or interests is subject to being "blocked" under any Anti-Terrorism Laws, and neither SELLER nor any person holding any direct or indirect interest in SELLER is in violation of any Anti-Terrorism Laws.

(o) SELLER is not a "foreign person" as defined in Section 1445(f)(3) of the Internal Revenue Code. The provisions of this paragraph shall survive the closing

31. [RESERVED].

32. BUSINESS DAY. If the period by which any right, option or election must be exercised, or by which any act must be performed, or by which the closing date must be held, expires on a Saturday, Sunday, Federal or Commonwealth of Massachusetts holiday, such time shall automatically extend through the close of business on the next day on which the Middlesex South Registry of Deeds is open for recording.

32. BUYER DELIVERABLES. In the event BUYER fails to close on the purchase of the Property as contemplated herein for any reason, other than due to a material default by SELLER, BUYER shall promptly deliver to SELLER, at no cost to SELLER, copies of all due diligence materials, reports, studies, results, surveys, plans, zoning appli-



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cations, and all other materials relating to the Property within BUYER'S possession or control.

33.NOTICES. All notices to be given to Escrow Agent, Seller and/or to Buyer shall be mailed by registered or certified mail, return receipt requested or an overnight service with receipt as follows, or by facsimile (provided that such facsimile notice is followed as soon as possible by notice via one of the other approved notice methods) provided however that actual receipt of notice as acknowledged by the intended recipient(s) shall also be considered adequate notice:

Seller: 64 Blanchard Realty /Trust  
c/o Cynthia Tocci  
5715 Troost Avenue  
North Hollywood, CA 91601  
Fax: 818-322-1319  
E-mail: [cynthia@tocci.us](mailto:cynthia@tocci.us)

With a copy to: Daniel C. Tocci  
8091 Duneville Street  
Las Vegas, NV 89139  
E-mail: [dan@tocci.us](mailto:dan@tocci.us)

Buyer: Mission Massachusetts, INC.  
369 Elm Street  
Concord, MA 01742  
Attn: Andrew Thut  
Fax: ( ) -  
E-mail: [andrew@missionpartners.co](mailto:andrew@missionpartners.co)

With a copy to: Burns & Levinson LLP  
125 Summer Street  
Boston, MA 02110  
Attn: Leslie Muldowney, Esq.  
Fax: (617) 345-3299  
E-mail: [lmuldowney@burnslev.com](mailto:lmuldowney@burnslev.com)

Escrow Agent: Burns & Levinson LLP  
125 Summer Street  
Boston, MA 02110  
Attn: Leslie Muldowney, Esq.



Fax: (617) 345-3299

E-mail: [lmuldowney@burnslev.com](mailto:lmuldowney@burnslev.com)

Broker: Atlantic Retail Properties

\_\_\_\_\_

Attn: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

Email: \_\_\_\_\_

#### 34. STATUS OF ESCROW AGENT.

(a) Escrow Agent. It is expressly understood, covenanted and agreed that:

(i) Escrow Agent is acting as an agent only, and will in no event whatsoever be held liable to either party for the performance of any term or covenant of this Agreement, or for damages for nonperformance thereof;

(ii) The duties of Escrow Agent are only as herein specifically provided, and, except for the provisions of Section 34(b) hereof, are purely ministerial in nature, and Escrow Agent shall incur no liability whatever except for willful misconduct or gross negligence, as long as Escrow Agent has acted in good faith;

(iii) In the performance of its duties hereunder, Escrow Agent shall be entitled to rely upon any document, instrument or signatures believed by it to be genuine and signed by either of the other parties or their successors;

(iv) Escrow Agent may assume that any person purporting to give any notice of instructions in accordance with the provisions hereof has been duly authorized to do so;

(v) Escrow Agent shall not be bound by any modification, cancellation or rescission of this Agreement unless in writing and signed by Seller, Buyer and Escrow Agent;

(vi) Seller and Buyer each hereby release and indemnify Escrow Agent from and against any act done or omitted to be done by Escrow Agent in good faith in the performance of its duties hereunder.



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(b) Disposition of Deposit. Escrow Agent is acting as a stakeholder only with respect to the Deposit. If there is any dispute as to whether Escrow Agent is obligated to deliver the Deposit or as to whom the Deposit is to be delivered, Escrow Agent shall not be required to make any delivery, but in such event Escrow Agent may hold the same until receipt by Escrow Agent of an authorization in writing, signed by all of the parties having any interest in such dispute, directing the disposition of the Deposit and any interest accrued thereon or until the final determination of the rights of the parties in an appropriate proceeding. If such written authorization is not given, or proceedings for such determination are not begun within thirty (30) days after Settlement was to have occurred, Escrow Agent may, but is not required to, bring an appropriate action or proceeding for leave to deposit the Deposit in court pending such determination. Escrow Agent shall be reimbursed for all costs and expenses of such action or proceeding by Seller and Buyer including, without limitation, reasonable attorneys' fees and disbursements. Upon making delivery of the Deposit in the manner provided in this Agreement, Escrow Agent shall have no further liability hereunder or to Buyer or Seller.

The parties also agree to execute any standard form of escrow agreement that might be required by Escrow Agent.

(c) Resignation of Escrow Agent. Escrow Agent may, at its sole discretion, resign by giving 30 days' notice thereof to Seller and Buyer. The parties shall furnish to Escrow Agent written instructions for the release of the Deposit and any escrowed documents. If the Escrow Agent shall not have received such written instructions within the 30 day period, the Escrow Agent shall petition any court of competent jurisdiction for the appointment of a successor Escrow Agent and upon such appointment deliver the Deposit and any escrowed documents to such successor. Costs and fees incurred by the Escrow Agent may, at the option of the Escrow Agent, be deducted from any funds held pursuant hereto.

(d) Survival. The provisions of this Section 34 shall survive the termination of this Agreement.

35. [RESERVED]

36. ENTIRE AGREEMENT. This Agreement sets forth all the agreements, promises, warranties, representations, understandings and promises between the parties hereto, and the parties are not bound by any agreements, undertakings or conditions except as expressly set forth herein. All additions, variations or modifications to this Agreement shall be void and ineffective unless in writing and signed by the parties.



37. SUCCESSORS AND ASSIGNS: ASSIGNMENT This Agreement shall extend to, be binding upon, and inure to the benefit of the heirs, executors, administrators and successors of the parties hereto. Buyer shall not assign this Agreement or any of its rights, duties or obligations hereunder to any other party without Seller's prior consent; provided, however, that Seller shall not unreasonably withhold its consent to an assignment of Buyer's rights under this Agreement to an entity controlling, controlled by or under common control with Buyer ("Affiliate") or to an entity in connection with a financing mechanism such as a synthetic lease, a sale lease-back or installment sale agreement so long as Buyer or an Affiliate is the tenant or equitable owner of the Property after Settlement.

38. GOVERNING LAW. This Agreement shall be construed and interpreted in accordance with the laws of The Commonwealth of Massachusetts.

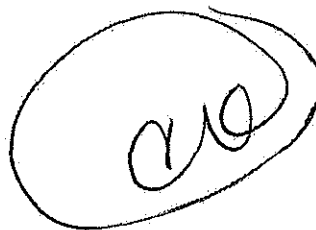
39. FIRPTA. Under Section 1445 of the Internal Revenue Code of 1986 as amended, and the regulations issued thereunder, Buyer is required to withhold up to ten percent (10%) of the Purchase Price of the Property unless the Seller provides Buyer with a "nonforeign certificate" indicating that Seller is not a foreign person for purposes of the Internal Revenue Code. Escrow Agent may be subject to liability if Seller issues a false "nonforeign certificate". Seller hereby agrees to indemnify and hold harmless Escrow Agent from liability for any tax, penalty, interest or other charge imposed upon Agent under Seller resulting from the actions of Seller or Seller's agents.

#### 40. MISCELLANEOUS.

1. Captions and Headings. This Section and/or section headings and the arrangement of this Agreement are for the convenience of the parties hereto and do not in any way affect, limit, amplify or modify the terms and provisions hereof.

40.2 Reserved Right. Notwithstanding anything to the contrary set forth herein, each of Seller and Buyer reserves the right to waive any condition or contingency provided for its benefit in this Agreement.

40.3 Singular, Plural, etc. Wherever herein the singular number is used the same shall include the plural and the masculine gender shall include the feminine and neuter genders and vice versa as the context shall require.



40.4 Counterparts; Facsimile or ".pdf" Signatures. This Agreement may be executed in several counterparts, which shall constitute one and the same instrument. Facsimile or ".pdf" signatures shall be binding.

40.5 Partial Invalidity. If any provision of this Agreement shall be declared invalid or illegal for any reason whatsoever, then notwithstanding such invalidity or illegality, the remaining terms and provisions of this Agreement shall remain in full force and effect in the same manner as if the invalid or illegal provisions had not been contained herein.

40.6 Time. When the last day for the performance of any act permitted or required hereunder falls on any day which is not a business day in the Commonwealth of Massachusetts, such act may be performed on the next business day in said city. Time is of the essence of each and every provision of this Agreement.

40.7 Waiver. Except as expressly provided herein, no delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by Seller or Buyer of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

40.8 Further Assurances. In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by either party at Closing, each party agrees to perform, execute and deliver, but without any obligation to incur any additional liability or expense, on or after the Closing, any further deliveries and assurances as may be reasonably necessary to consummate the transactions contemplated hereby or to further perfect the conveyance, transfer and assignment of the Property to Buyer.

*[Signatures Appear on Following Page]*

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IN WITNESS WHEREOF, this Purchase and Sale Agreement is executed as of the 9<sup>th</sup> day of MAY, 2017.

SELLER:

BUYER:

64 BLANCHARD REALTY TRUST

MISSION MASSACHUSETTS, INC.

By: 

Name:

Title:

By: 

Name: ANDREW P. TUCK

Title: CEO

AFT


**EXHIBIT A**

Legal Description of the Property

The land with the buildings thereon shown as "N/F Theresa Grover" on Plan entitled "Plan of Land Burlington, Mass. Scale 1"=40' December 28, 1984 Harry R. Feldman, Inc., Land Surveyors 112 Shawmut Avenue, Boston, MA" recorded with Middlesex South District Deeds as Plan No. 994 of 1985 in Book 16319, Page 445 More particularly bounded and described as follows:

SOUTH	by Blanchard Road, two courses together measuring One hundred and 56/100 (100.56) feet;
WEST	by land formerly of Theresa Grover two hundred twenty-five (225) feet as shown on said plan;
NORTHERLY	by said land formerly of Theresa Grover sixty (60) feet as shown on said Plan; and
EASTERLY	by land now or formerly of Datacon, Inc. in two courses together measuring two hundred twenty-seven and 98/100 (227.98) feet according to said plan.

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# AFFIDAVIT OF NON-FOREIGN STATUS

Section 1445 of the Internal Revenue Code provides that a buyer of a United States real property interest must withhold tax if the seller is a foreign person. To inform MISSION MASSACHUSETTS, INC.. (the "Buyer") that withholding of tax is not required upon the disposition of a United States real property interest owned by the 64 BLANCHARD REALTY TRUST (the "Seller"), the undersigned hereby certifies the following on behalf of the Seller:

1. The Seller is not a non-resident alien, foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

2. The United States employer identification number of the Seller is 20-6846451.

3. The home office address of the Seller is 5715 Troost Avenue, North Hollywood, CA 91601.

It is understood that this certification may be disclosed to the Internal Revenue Service by the Buyer and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Seller.

64 BLANCHARD REALTY TRUST

By: 

Name: Cynthia Tocci

Title: Trustee

Date: 5/9/2017

Edward M. Augustus, Jr.  
City Manager



CITY OF WORCESTER

July 1, 2016

Executive Office of Health and Human Services  
Department of Public Health  
Bureau of Health Care Safety and Quality  
Medical Use of Marijuana Program  
99 Chauncy Street, 11th Floor, Boston, MA 02111

To Whom It May Concern:

I, Edward M. Augustus, Jr., do hereby provide non-opposition to Mission Massachusetts, Inc. to operate a Registered Marijuana Dispensary dispensing facility and cultivation facility at 640 Lincoln Street, Worcester, Massachusetts 01605.

I have verified with the appropriate local officials that the proposed RMD facility is located in a zoning district that allows such use by right or pursuant to local permitting.

Edward M. Augustus, Jr.  
City Manager, Worcester

\_\_\_\_\_  
Name and Title of Individual

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Date



OFFICE OF THE CITY MANAGER, CITY HALL, WORCESTER, MA 01608  
TELEPHONE (508) 799-1175 | FAX (508) 799-1208  
EMAIL: [citymanager@worcesterma.gov](mailto:citymanager@worcesterma.gov)



## SUBLEASE AGREEMENT

**THIS SUBLEASE** is made between Tenant and Subtenant as of the Effective Date, identified in Section 1 below:

### 1. REFERENCE DATA and DEFINITIONS:

When used in this Sublease, the following terms will have the meanings specified in this Section 1:

**1.1. Effective Date.** The date of full execution of this Sublease, which is September 21, 2016.

**1.2 Landlord.** 640 Lincoln Street, LLC a Massachusetts limited liability company.

**1.3. Tenant.** MMA Capital, LLC a Massachusetts limited liability company. Tenant has previously entered into a lease agreement with Landlord dated July 5, 2016 (the "Prime Lease"), a copy of which is attached as an exhibit to this Sublease. Section 14 of the Prime Lease authorizes sublet of the Premises by the Tenant to Mission Massachusetts, Inc.

**1.4. Subtenant.** Mission Massachusetts, Inc. a Massachusetts not-for-profit company.

**1.5. Property.** 640 Lincoln Street, Worcester, Massachusetts.

**1.6. Premises.** Approximately 24,424 rentable square feet in a building (the "Building") located at the Property as described in **Exhibit A** attached hereto and made a part hereof

**1.7. Term.** Three (3) Sublease Years, beginning on the Commencement Date.

**1.8. Commencement Date.** The date which is the earlier of (i) the day following the Subtenant's receipt of a certificate to operate a Registered Marijuana Dispensary ("RMD"), and under strict conditions in accordance with Chapter 369 of the Acts of 2012, and 105 CMR 725.000, which includes the receipt of any and all necessary special permits or otherwise from the City of Worcester to operate an RMD at the Premises and (ii) two hundred forty (240) days following the Effective Date.

**1.9. Termination Date.** The last day of the Term, as duly extended or earlier terminated. Notwithstanding the foregoing or anything to the contrary set forth herein, in the event that Tenant does not receive its approvals to operate an RMD at the Premises within three hundred sixty (360) days from the Effective Date of the Lease Agreement (July 5th, 2016), then Tenant shall so notify Landlord of the same in writing, plus provide Landlord with documented proof of such denial after diligent efforts, in which event this Sublease will be deemed terminated and the parties will be released and discharged from all further duties and obligations hereunder, excepting those that expressly survive such termination pursuant to the provisions hereof.

In the event Tenant is denied licenses/approvals necessary to operate an RMD from Department of Public Health (DPH) Tenant will have the ability to terminate this Sublease with a written re-

quest to Landlord, including the proper documentation of denial from DPH. Tenant has three hundred sixty (360) days from Lease Agreement Execution date (July 5th, 2016) to submit Landlord above referenced

**1.10. Lease Year.** Each period of twelve full (12) calendar months, beginning on the Commencement Date, if such Date is the first day of a calendar month and if not, on the first day of the first full calendar month thereafter, and on the anniversary of such date in each year thereafter. Any partial month at the commencement of the Term will be included in the first Lease Year.

**1.11. Tenant's Permitted Use.** The Premises shall be used for an RMD or any lawful purpose.

**1.12. Base Rent.**

Months	Base Rent Per Year	Rent Per Month	Per Sq. Ft
1-12	\$111,642.00	\$9,303.50	\$5.75
13-24	\$114,942.72	\$9,578.56	\$5.92
25-36	\$118,437.60	\$9,869.80	\$6.10

**1.13. Additional Rent.** Payments required for Operating Expenses and Triple Net costs and all other payments, including but not limited to Utilities, is required from Tenant hereunder, with the exception of Base Rent, will constitute Additional Rent. Base Rent and Additional Rent are sometimes referred to collectively as "Rent". Tenant shall be responsible for Tenant's Pro Rata Share of Operating Expenses and Triple Net costs from the Commencement Date through the Lease Term. Additional Rent shall be billed to Subtenant from Tenant accordingly.

**1.14. Rent Commencement Date.** No Base Rent shall be made payable from Subtenant to Tenant until ninety (90) days after the Commencement Date.

**1.15. Security Deposit** Thirty-Five Thousand One Hundred and Nine and 50/100 Dollars (\$35,109.50) deposited by Subtenant into Tenants Escrow account simultaneously with the Commencement Date of this Lease, subject to collection.

**1.16. Tenant's Notice Address.**

MMA Capital, LLC  
1 State Street, Suite 1250  
Boston, MA 02109

**1.17. Subtenant's Notice Address.**

Mission Massachusetts, Inc.  
369 Elm Street  
Concord, MA 01742

With a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**1.18. Required Insurance Amount.** A minimum combined single limit of liability of at least One Million Dollars (\$1,000,000.00) per occurrence and a general aggregate limit (combined primary and excess) of at least Two Million Dollars (\$2,000,000.00), or such other amounts as Landlord's lender may require, and other insurance requirements as set forth herein, provided that, not more often than once every Lease Year, Landlord may increase such amounts as is commercially reasonable. The deductible for such a liability policy shall be no higher than \$5,000 per occurrence. Subtenant shall name Landlord's lender as mortgagee and loss payee on Subtenant's insurance policy and provide evidence of the same immediately upon request of Landlord.

**1.19. Rules and Regulations.** Reasonable Rules and Regulations attached hereto or hereafter promulgated or modified by Tenant with notice to Subtenant.

**1.20. Business Hours.** Business Hours shall be in accordance with the operational permits of Tenant. The Tenant and Subtenant agree that once the Subtenant has opened for business, the Subtenant shall not be obligated to continually operate in the Premises.

**1.21. Intentionally Deleted.**

**1.22 Extension Term.** Two (2) additional consecutive periods of ten (10) and five (5) years, respectively. The rent for each lease year in each Extension Term shall be 3% greater than the previous year. Subtenant shall exercise its option to extend the Term by written notice to Tenant no later than 5:00 p.m. on the date nine (9) months prior to the Termination Date or the expiration date of the first Renewal Term, as the case may be. If Subtenant fails to provide timely notice of the exercise of its option in accordance with this Section 1.22, the Term shall expire as the Termination Date or the expiration date of the first Renewal Term, as the case may be. All terms and provisions of this sublease shall apply during the Renewal Term.

**1.23. Broker.** None.

**2. LEASE OF PREMISES; QUIET ENJOYMENT:**

Tenant leases the Premises to Subtenant, and Subtenant leases the Premises from Tenant, for the Term, at the Rent and upon the other terms, covenants and conditions of this Lease. Upon paying the Rent and observing the other obligations of Subtenant hereunder, Subtenant may peaceably occupy the Premises during the Term, without disturbance by Tenant or persons claiming through or under Tenant.

**3. TRIPLE NET LEASE; COMMON AREA MAINTENANCE; ADDITIONAL RENT:**

This Sublease is a "triple net" lease whereby the Tenant is responsible for, and hereby covenants and agrees to pay, any and all costs and expenses related to the possession and operation of the Premises as well as its Pro Rata Share of certain other Building and Property related costs. All of the Additional Rent costs for which Subtenant is liable to Tenant under this Lease shall be paid from Subtenant to Tenant upon adequate notice and invoicing (as stated above in clause 1.13). For purposes of this Sublease, all Triple Net costs including but not limited to CAM, Real Estate Taxes, Property Insurance, shall be defined as Additional Rent.

**3.1. Payment of Base Rent.** Subtenant will pay the Base Rent to Tenant in equal monthly installments in advance, on the first day of each calendar month during the Term, without notice or demand, at Tenant's Notice Address or such other address as Tenant designates by notice to Subtenant. Base Rent for any partial month at the beginning of the Term will be determined on a per diem basis at the rate applicable to the first Lease Year, and will be due on the Commencement Date.

**3.2. Real Estate Taxes.** For each tax year, and with adequate notice and invoicing from Tenant to Subtenant, Subtenant will pay to Tenant's Pro Rata Share of any Real Estate Taxes. "Real Estate Taxes" means the aggregate of all real estate taxes and any other governmental impositions which Tenant is required to pay based upon the value of or gross rents from the Property, general or special assessments, charges for sewer use or other governmental services, special district fees or taxes, and any other governmental fees and assessments imposed upon the Property, exclusive only of income and franchise taxes, whether or not such Real Estate Taxes exist or apply on the Commencement Date.

**3.3. Operating Expenses.** In each calendar year, and with adequate notice and invoicing from Tenant to Subtenant, Subtenant will pay to Tenant its Pro Rata Share of any Operating Expenses. "Operating Expenses" means all costs and expenses incurred by Tenant in the operation of the Building and Property, including but not limited to, insurance(s) for the Building and Property, , but excluding mortgage payments and other financing costs, leasing expenses, and expenses for which Tenant is directly reimbursed by third parties. The cost of any Operating Expenses that are capital in nature shall be amortized over the useful life of the improvement (as reasonably determined by Tenant), and only the amortized portions shall be included in Operating Expenses. For purposes of this Sublease, Operating Expenses will be defined as Additional Rent, as stated in Additional Rent clause 1.13.

During the sixty (60) day period following the delivery of Tenant's Statement pursuant to Section 3.5, Subtenant shall have the right, upon twenty (20) days prior written request to Tenant, at Subtenant's expense, to audit Tenant's books and records relating to said Operating Expenses and to have Subtenant's charges adjusted accordingly if such audit discloses any expenses not permitted or provided for



under this Article, or that Subtenant was charged more than its proportionate share of said Operating Expenses. Additionally, if said audit reveals that in any Lease Year the Operating Expenses billed to Subtenant were greater than 110% of the actual charge due, then Tenant shall reimburse the Subtenant for the reasonable cost of Subtenant's audit (not to exceed \$2,000), plus reimbursement for any overcharge.

**3.4. Estimated Payments.** Upon written notice from Tenant, Subtenant will make monthly or quarterly payments of Subtenant's Pro Rata Share of Real Estate Tax and/or Operating Expense increases, based upon Tenant's reasonable estimate of the required amounts.

**3.5. Year End Adjustments.** As soon as is reasonably practical after the end of each calendar year and tax year, Tenant will provide to Subtenant a statement including the actual Operating Expenses or Real Estate Taxes for such year, Subtenant's Pro Rata Share of any increases and any amounts due from Subtenant or overpayment by Subtenant, after taking into consideration any estimated payments made by Subtenant. Subtenant will pay any amount due to Tenant within thirty (30) days of receipt of Tenant's statement and Tenant will credit any overpayment against estimated payments of Real Estate Taxes and Operating Expenses next coming due. The obligations of Subtenant and Tenant hereunder will survive the expiration or other termination of this Lease.

#### **4. CONDITION OF PREMISES:**

Subtenant accepts the Premises and the Property "AS IS" and agrees that Tenant is under no obligation to make any repairs, renovations, or alterations to the Premises or the Property, except for Tenant's completion of the so-called "Tenant Improvements" as per Exhibit "B" attached hereto. Notwithstanding the foregoing, Tenant has made no representations or warranties regarding the fitness of the Premises or the Property for Subtenant's intended use or otherwise.

#### **5. USE OF PREMISES AND COMMON AREAS; ACCESS:**

Subtenant may use the Premises only for Subtenant's Permitted Use, in full compliance with applicable legal requirements and any Rules and Regulations, and Subtenant will obtain, at its sole cost and expense, any required permits, licenses and approvals from any and all governing and regulatory bodies, including but not limited to all local, state, and federal authorities required in connection with such Permitted Use. Additionally, Subtenant, at Subtenant's sole cost and expense, agrees to provide any and all additional security, as well as health and safety precautions (including managing any excess crop pursuant to cultivation activities), to the Premises necessary to carry out its Permitted Use. Subtenant may have access to the Premises during Normal Business Hours, and at other times subject to such security requirements and procedures as Tenant may reasonably deem necessary or appropriate. Subtenant will not cause or permit any waste or damage to the Premises or cause, or permit any invitee of Subtenant to cause, any waste or damage to the Property, or make any use of the Premises or the Property which, by noise, odor, vibration, nuisance, or otherwise might interfere with the use of the Property by others entitled thereto, or create any violation of local and/or state laws and/or regulations, and will maintain the Premises and the Property free and clear of liens and encumbrances attributable to the acts or omissions of Subtenant. Tenant shall have the right to enter the Premises at reasonable times on reasonable notice for the purpose of inspection, for performing Tenant's obligations and to show the Premises to prospective tenants, purchasers and mortgagees. In the event that Subtenant's use of the Premises is in violation of this provision, Subtenant shall abate such violation immediately upon notice by Tenant and Subtenant shall be responsible for all costs associated therewith. This provision

shall also be subject to Section 18 hereof. So long as the Premises is being used as an RMD or such other similar use, Subtenant hereby covenants and agrees to provide Tenant with prompt notice of the following: (i) any and all changes to the regulatory scheme surrounding such uses; (ii) any and all changes to enforcement policies, regulations and/or practices surrounding such uses and (iii) receipt by Subtenant of a threat or notice of threat of suit, action or proceeding disputing the legality of such use of the Premises by any governing body, regulator and/or agency with proper jurisdiction over the same.

#### **6. ALTERATIONS TO THE PREMISES:**

Subtenant will make no alterations to the Premises, except that Subtenant may make interior non-structural alterations with Tenant's prior written consent, which consent Tenant will not unreasonably withhold. Notwithstanding the foregoing, Tenant consents to Subtenant's completion of the so-called "Subtenant Improvements" as per Exhibit "C" attached hereto. Any such alterations will be made in a good and workmanlike manner and in accordance with all applicable legal requirements and any terms and conditions imposed by Tenant.

#### **7. MAINTENANCE OF THE PREMISES BY TENANT:**

Subtenant will maintain the Premises, including those portions of the systems of the Property which are located within and serve exclusively the Premises, in the same condition as exists on the Commencement Date or such better condition as the Premises or such systems may be placed in during the Term, in full compliance with all applicable legal requirements, and will replace any damaged glass in the windows and doors of the Premises, provided that Subtenant will not be responsible for damage caused by fire or other casualty, for reasonable wear and tear, for structural or other capital repairs or replacements or for repairs or replacements to any portion of the systems of the Property which do not serve the Premises exclusively, except for alterations and upgrades within the Premises necessary to comply with the requirements of the Americans With Disabilities Act ("ADA") arising from Subtenant's use. All such repairs will be made in a good and workmanlike manner, satisfactory to Tenant, and in compliance with all applicable legal requirements.

#### **8. MAINTENANCE OF PROPERTY BY LANDLORD:**

Subject to Section 20 and Section 21 below, Landlord will maintain the roof, structural elements, and exterior walls in at least the same condition as on the Commencement Date, reasonable wear and tear excepted, and will maintain in a reasonably clean and orderly condition and the exterior walkways and parking areas, if any, serving the Premises, reasonably free of ice and snow.

#### **9. SURRENDER OF PREMISES BY TENANT:**

On the Termination Date, Subtenant will vacate and surrender the Premises to Tenant in the same condition (except as hereinafter specifically provided) as Subtenant is required to maintain the Premises during the Term, free and clear of Subtenant's personal property and broom clean. If any of Subtenant's property remains within the Property after the Termination Date, it may be retained by Tenant without compensation, or may be removed and either stored or disposed of by Tenant and Subtenant will reimburse Tenant upon demand for all expenses incurred in connection therewith. Notwithstanding the foregoing, in no event shall the Tenant take possession, custody or control of any regulated property or assets of Subtenant that would require Tenant to be authorized to do so under Chapter 369 of the Acts of 2012 and its implementing regulations, 105 CMR 725.000 et seq., unless Tenant is actu-

ally authorized to do so or, in the alternative, so appoints a third party designee or assignee (actually authorized and so confirmed by the Massachusetts Department of Public Health) to enforce such rights hereunder.

#### **10. UTILITIES:**

Subtenant agrees to pay all charges in connection with any and all utilities, including water, gas and electricity, used by Subtenant during the Term, as Additional Rent. Tenant reserves the right to separately meter or submeter all such utilities at Subtenant's sole cost, and Subtenant shall pay such utilities with no mark-up based on the submeter or separate meter. To the extent a utility is separately metered, Subtenant shall pay all bills for such utility usage promptly upon the billing to Subtenant, and upon request of Tenant, shall provide Tenant with copies of such billings and proof of payment of such billings. To the extent a utility is submetered, Subtenant shall pay for such utility usage promptly upon billing by Tenant. Tenant reserves the right to create an escrow for estimated monthly usage, which shall be reconciled with actual usage on a quarterly basis. Tenant also reserves the right to base such utilities on a pro rata basis. If Subtenant, however, shall use water for any purpose other than for ordinary lavatory and drinking purposes, Tenant may assess a reasonable charge for the additional water so used, or install a water meter and thereby measure Subtenant's water consumption for all purposes. In the latter event, Subtenant shall pay the cost of the meter and the cost of installation thereof and shall keep such meter and installation equipment in good working order and repair. Subtenant agrees to pay for water consumed, as shown on such meter, together with the sewer charge based on such meter charges, as and when bills are rendered, and in default in making such payment Tenant may pay such charges and collect the same from Subtenant. Tenant shall incur no liability to Subtenant as a result of any loss or damage to the Premises or to Subtenant's business resulting from loss of electricity, telephone, heat or water to the Premises, or from damage caused by electrical fire, or because of leakage or damage arising from the malfunction of any pipes, those, fixtures, wires and switches, unless due to the gross negligence of Tenant. The Tenant shall be responsible for, at its own cost, for separately metering all utilities as provided herein.

#### **11. HAZARDOUS MATERIALS:**

Subtenant will not cause, or permit any other person claiming or admitted to the Property through Subtenant to cause, any Hazardous Materials to be used, generated, stored or disposed of on or about, or transported to or from the Property. "Hazardous Materials" means any material or substance which: (a) is or becomes defined as a "hazardous substance," "hazardous waste," "infectious waste," "chemical mixture or substance," or "air pollutant" under Environmental Laws; (b) contains or derives from petroleum, polychlorinated biphenyls (PCB's) or asbestos; (c) is radioactive or infectious; or (d) has toxic, reactive, ignitable or corrosive characteristics. "Environmental Laws" means all legal requirements relating to or imposing liability or standards of conduct concerning Hazardous Materials, public health and safety or the environment. Notwithstanding the foregoing, normal and reasonable quantities of Hazardous Materials generally and customarily used in connection with Subtenant's Permitted Use may be introduced to the Premises provided such Hazardous Materials are stored, used and disposed of in compliance with Environmental Laws and all other applicable legal requirements.

Subtenant will be responsible for and will hold Tenant harmless and indemnified against any claim, damage, cost, liability or penalty related to any Hazardous Materials introduced to or released on or about the Property by Subtenant or by any person claiming or admitted to the Property through Subtenant, whether or not permitted by the preceding sentence or otherwise approved by Tenant.

## **12. RISK OF LOSS; INDEMNIFICATION:**

To the maximum extent permitted by law, (a) Subtenant agrees that it will occupy the Property at its own risk, and that Tenant will not be liable to Subtenant, or to any person claiming or admitted to the Property through Subtenant, for injury or death to persons, or loss or damage to property of any nature whatsoever, and (b) Subtenant waives and will indemnify Tenant against any claim for personal injury or death or damage to property, including legal fees, reasonable attorney's fees, and expenses, by Subtenant or by any person claiming or admitted to the Property through Subtenant, while at the Property. Additionally, Subtenant shall fully and completely indemnify Tenant and any representative or employee of Tenant in connection with the Subtenant's Permitted Use.

## **13. INSURANCE:**

Throughout its occupancy, Subtenant will maintain in effect, at its sole expense, the following insurance:

**13.1. Liability Insurance.** Commercial general liability insurance in at least the Required Insurance Amount, for bodily and personal injury and property damage, including as additional insured Tenant, any general partner or other person directly liable for the obligations of Tenant, and any representative or employee of Tenant or any mortgagee of the Property designated by Tenant, such coverage to be primary and not excess or contributing or secondary to any other insurance available to Tenant or the additional insured(s).

**13.2. Contents Insurance.** Hazard insurance, covering Subtenant's personal/business/trade property and fixtures within the Premises or the Property.

**13.3. Workers' Compensation Insurance.** Workers' Compensation Insurance in accordance with the applicable legal requirements.

**13.4. Business Interruption Insurance.** Business Interruption Insurance with limits of not less than two (2) years of Rent hereunder. Notwithstanding the foregoing, Subtenant may elect to not carry Business Interruption Insurance, provided, however, in such event Subtenant shall replace Tenant from any and all liability arising during the Lease Term that would have been covered by such insurance had Subtenant elected to carry it.

**13.5. Other Insurance.** Such other types of insurance as Tenant may from time to time reasonably deem necessary.

**13.6. General Requirements.** All Subtenant insurance will be issued by insurance companies authorized to do insurance business in Massachusetts rated not less than A-VIII in Best's Insurance Guide, and will not be subject to cancellation or modification without thirty (30) days prior written notice to Tenant and to any mortgagee required to be covered.

**13.7. Waiver of Subrogation.** Each party waives any right of recovery against the other for injury or loss to property due to hazards covered by insurance to the extent of the injury or loss covered. Any policy of insurance obtained by either party and applicable to the Premises or the Property will contain a clause denying the insurer any right of subrogation against the other party.

**13.8. Certificates of Insurance.** Prior to making any entry on the Property and at least thirty (30) days prior to the expiration of any policy, Subtenant will provide certificates of insurance, in form and substance satisfactory to Tenant and Tenant's lender, establishing insurance coverage(s) as required by this Section.

Notwithstanding the foregoing, Tenant reserves the right to increase said insurance amounts and coverage(s) upon request by Tenant's lender. Upon such request by Tenant's lender, Tenant shall notify Subtenant and Subtenant shall comply with said insurance requirements and conditions. Subtenant shall supply Tenant and Tenant's lender with proof of insurance upon request and Subtenant shall also name Tenant as additional insured and Tenant's lender as mortgagee and loss payee on any said insurance policy relative to the Premises.

#### **14. TRANSFERS:**

No portion of the Premises may be sublet by the Subtenant and Subtenant's interest in this Lease shall not be assigned or otherwise transferred by Subtenant to any other person or entity, whether by sale, assignment, mortgage, operation of law, or other act of Subtenant, except with Landlord's prior written, such consent not to be unreasonably withheld. Any transfer not so permitted shall be void and shall constitute a breach of this Lease. By way of example and not limitation, Landlord shall be deemed to have reasonably withheld consent to a proposed assignment if in Landlord's opinion (i) the Leased Premises is or in any way may be adversely affected; (ii) the business reputation of the proposed assignee is unacceptable or (iii) the financial worth of the proposed assignee is insufficient to satisfy the obligations hereunder.

**14.1.** No assignment or transfer of Subtenant's interest shall release Subtenant or change Subtenant's primary liability to pay the rent and to perform all other obligations of Subtenant under this Lease. Landlord's acceptance of rent from any other person shall not be a waiver of any provisions of this Section 14. If any assignee or transferee of Subtenant's interest shall default under this Lease, Landlord may proceed directly against Subtenant without pursuing remedies against such assignee or transferee.

#### **15. RELATION OF LEASE TO MORTGAGES:**

As a condition to the Lease, the Landlord shall obtain a commercially reasonable Subordination, Non-Disturbance Agreement ("SNDA") from its present lender, Spencer Bank. Subtenant will subordinate its Lease to a future lender provided that future lender and Landlord enter into a commercially reasonable SNDA.

#### **16. REPLACEMENT MORTGAGE FINANCING:**

The Subtenant acknowledges that the Premises are currently encumbered by a mortgage which secures a loan to Landlord and may be encumbered by a replacement mortgage in the future. In the event (i) the holder of such mortgage declares a default under such loan on account of the leasing of the Premises to the Subtenant who is operating a state licensed RMD or the violation of federal law, or (ii) such loan matures and is due or Landlord desires to refinance the loan, then Landlord shall use commercially reasonable efforts to locate a commercial bank or private lender willing to make a loan to a Tenant leasing to a tenant operating Subtenant's Permitted Use. If despite using reasonable efforts the Landlord is unable to find a lender willing to refinance the Premises on market rate terms, then Landlord shall notify Tenant, and Tenant shall notify Subtenant, and Subtenant shall have a period of one hun-

dred twenty (120) days within which it may provide a replacement loan to Landlord on market rate terms.

**17. INTENTIONALLY DELETED.**

**18. TENANT DEFAULTS:**

**18.1. Events of Defaults.** Each of the following will constitute a material default by Subtenant (a "Subtenant Default"): (a) Failure by Subtenant to make any payment required under this Lease within ten (10) days of written notice that such payment is due, (b) Failure by Subtenant to maintain insurance and to provide certificates as required by this Lease, (c) Insolvency or admission of insolvency by Subtenant, the filing by or against Subtenant of any bankruptcy, or receivership proceeding under state law, or entering into or acquiescence by Subtenant to any arrangement affecting the rights of Subtenant's creditors generally, or attachment, execution or other seizure of substantially all of Subtenant's assets located at the Premises or Subtenant's interest in this Lease or the Premises, or (d) Failure by Subtenant to fulfill any other obligation under this Lease or otherwise due at law or otherwise based on Subtenant's Permitted Use, if such failure is not cured within thirty (30) days of notice from Tenant to Subtenant, or such longer period as may reasonably be necessary, not to exceed a total of one hundred (100) days, if Subtenant promptly commences and diligently pursues such cure, or such shorter period if required by law.

**18.2. Termination by Notice.** If a Subtenant Default occurs, in addition to any other rights or remedies, Tenant will have the right to terminate this Lease and recover possession of the Premises by written notice to Subtenant, effective on the date specified in such notice or, if no date is specified, on the date of receipt or first properly attempted delivery of such notice.

**18.3. Tenant's Remedies.** In addition to any other rights or remedies, if Tenant terminates this Lease for a Subtenant Default, Tenant will have the right to immediately recover and/or accelerate as damages from Subtenant: (a) any amounts owing from Subtenant to Tenant at the time of termination, (b) all of Tenant's expenses, including reasonable legal fees, including attorney's fees, incurred in recovering possession of the Premises and in proving and collecting the sums due from Subtenant hereunder, (c) the amount by which the payments required under this Lease for the balance of the Term, including Base Rent, and reasonably anticipated Real Estate Taxes and Operating Expenses, exceed the fair market rent for the Premises, including tax and operating expense increases, for the balance of the Term, determined as of the date of such termination, adjusted to its present value at a reasonable discount rate, and (d) the actual or reasonably anticipated expense to Tenant of preparing and re-letting the Premises. Tenant shall also have the right to enter the Premises and to perform any obligation as to which a Subtenant Default has arisen, without being deemed to have cured such Subtenant Default and without liability to Subtenant, and Subtenant shall reimburse Tenant for any cost and expense thus incurred promptly upon demand as Additional Rent and/or damages hereunder. In lieu of the damages recoverable under clause (c) above, Tenant may immediately recover, as liquidated damages and sole remedy for clause (c) damages, an amount equal to the total of Base Rent, and Real Estate Taxes and Operating Expenses payable by Subtenant with respect to the twelve (12) full calendar months preceding termination. Tenant is required to mitigate damages; however, Tenant will not be required to give priority to the Premises in renting, or to rent on terms or to any person not otherwise acceptable to Tenant.

**18.4. Security Deposit.** Tenant may apply the Security Deposit to remedy any Subtenant Default and/or to compensate Tenant for any damages which Tenant suffers as a result of such Subtenant Default, without being deemed to have cured such Subtenant Default or waived further damages in connection therewith. Immediately upon demand, Subtenant will deposit cash with Tenant in an amount equal to any portion of the Security Deposit applied by Tenant as aforesaid. Tenant will not be required to keep the Security Deposit separate from its general accounts and Subtenant will not be entitled to interest on the Security Deposit. Within thirty (30) days after the Termination Date and vacation of the Premises by Subtenant in accordance with the terms of this Lease, the Security Deposit, or such part as remains after application of this Section, will be returned to Subtenant. Both parties acknowledge that the Massachusetts security deposit law shall not apply to any amounts deposited with Tenant under this Lease.

## **19. LANDLORD DEFAULTS:**

**19.1. Events of Default.** Failure by Tenant to observe any of its obligations under this Lease, or a material breach of any warranty or representation by Tenant, will constitute a default (a "Tenant Default") only if such failure continues for a period of thirty (30) days (and such additional time as may be reasonably necessary for Tenant to remedy such failure) after Tenant receives notice of such failure from Subtenant, setting forth in reasonable detail the nature and extent of Tenant's failure and identifying the provisions of this Lease alleged to have been violated.

**19.2. Subtenant's Remedies.** If a Tenant Default occurs and such Tenant Default directly affects and materially impairs Subtenant's use and enjoyment of the Premises for the Permitted Uses, Subtenant may make such repairs within the Premises and in common areas adjacent to the Premises necessary to restore Subtenant's use, and Tenant will reimburse Subtenant for the reasonable and necessary third party costs thus incurred by Subtenant upon receipt from Subtenant of a statement of such costs in reasonable detail and such backup materials as Tenant may reasonably request. Except as aforesaid, Subtenant shall have no right to self-help. In no event will Tenant be liable for punitive damages, lost profits, business interruption, speculative, consequential or other such damages.

**19.3. Independent Covenants.** Except as specifically provided herein, the obligations of Subtenant under this Lease, including the obligation to pay Base Rent and Additional Rent, and the obligations of Tenant, are independent and not mutually dependent covenants and the failure of Tenant to perform any obligation hereunder will not justify or empower Subtenant to withhold Rent, except as provided in the preceding Section 18, or to terminate this Lease unless the Tenant Default constitutes a constructive eviction.

## **20. EMINENT DOMAIN:**

(a) If the whole of the Property or the Premises shall be taken for any public or any quasi-public use under any statute or by right of eminent domain, or by private purchase in lieu thereof, then this Lease shall automatically terminate as of the date that title shall be taken. If any part of the Property or the Premises shall be so taken as to render the remainder thereof unusable for the purposes for which the Property or the Premises was leased, then the Subtenant shall have the right to terminate this LEASE on thirty (30) days' notice to the Tenant within ninety (90) days after the date of such taking. In the event that this Lease shall terminate or be terminated, the rental shall, if and as necessary, be equitably adjusted.

(b) If any part of the Property or the Premises shall be so taken and this Lease shall not terminate or be terminated under the provisions of subparagraph (a) hereof, then the minimum rental shall be equitably apportioned according to the space so taken, and the Tenant shall, at its own cost and expense, restore the remaining portion of the Property or the Premises to the extent necessary to render it reasonably suitable for the purposes for which it was leased, and shall make all repairs to the building in which the Property or the Premises is located to the extent necessary to constitute the building a complete architectural unit, provided that such work shall not exceed the scope of the work required to be done by the Tenant in originally constructing such building and the cost thereof shall not exceed the proceeds of its condemnation award.

(c) All compensation awarded or paid upon such a total or partial taking of the Property or the Premises shall belong to and be the property of the Tenant without any participation by the Subtenant; provided, however, that nothing contained herein shall be construed to preclude the Subtenant from prosecuting any claim directly against the condemning authority in such condemnation proceedings for loss of business, or depreciation to damage to, or cost of removal of, or for the value of stock, trade fixtures, furniture, and other personal property belonging to the Subtenant or loss of business.

## **21. CASUALTY:**

If the Property or Premises is destroyed or damaged by fire or other casualty, Tenant will restore the Property and the Premises (not including fixtures, modifications and additions installed or required to be installed by Subtenant), as soon thereafter as is reasonably practical in light of the circumstances then prevailing, including the time required to collect insurance proceeds and to obtain any governmental approvals required for restoration, and subject to any other matters beyond the reasonable control of Tenant, and the Rent will be abated, in part or in whole, based on the proportion of the Premises rendered unusable, until the earlier of the time at which Tenant has substantially completed its restoration or the date on which Subtenant resumes use of the damaged portion of the Premises, provided that, in no event will Tenant be required to expend more for restoration of the Property or the Premises than the net amount of insurance or taking proceeds actually available to Tenant for such purposes. If restoration of the Premises is not substantially completed within the aforesaid one hundred eighty (180) day period, Subtenant may elect to terminate this Lease on thirty (30) days' written notice to Tenant, effective on the thirtieth (30<sup>th</sup>) day after such notice if substantial completion of restoration does not occur within such thirty day period.

## **22. NOTICES:**

All notices under this Lease will be in writing and will be given: (a) by hand, with written acknowledgement of receipt, (b) by Federal Express, Express Mail or other nationally recognized overnight delivery service which provides verification of delivery, charges prepaid, or (c) by United States certified mail, postage prepaid, return receipt requested, in each case addressed to Tenant or Subtenant at the Notice Address set forth in Section 1. Either party may change their Notice Address by notice given in accordance herewith.

## **23. BROKERS:**

Subtenant represents that Subtenant has dealt with no broker in connection with this Lease except the Broker, if any, named in Section 1, and agrees to hold Tenant harmless and indemnified from



all claims for brokerage due to any person with whom such Subtenant has dealt in breach of such representation. Tenant will be solely responsible for the payment of the brokerage commission due to any Broker named in Section 1.

**24. LIMITATION ON LIABILITY:**

The recourse of Subtenant against Tenant for any claim related to this Lease will extend only to Tenant's interest in the Property and the uncollected rents and profits therefrom. No personal liability for any such claim will be enforceable against Tenant or persons related to Tenant or against any other property. Additionally, in no event shall Tenant be liable for Subtenant for any loss of business or any indirect or consequential damages suffered by Subtenant from whatever cause. In the event of a transfer of Tenant's interest in the Property, the transferring Tenant will be automatically released from all liability related to this Lease accruing after such transfer.

**25. MISCELLANEOUS PROVISIONS:**

**25.1. Amendments and Waivers.** This Lease may not be amended except by a writing, duly executed by both parties and approved in writing by any First Mortgagee having approval rights, and no waiver or consent will be effective unless in writing and signed by Tenant. A waiver or consent by Tenant hereunder will apply only to the specific instance in which granted and not to any other instance, however similar.

**25.2. Interpretation.** Both parties acknowledge that they have fully read and understood this Lease and have had the opportunity to consult counsel to the extent they deemed necessary, and no provision of this Lease will be construed in favor or against either party by virtue of such party being the drafter of such provision. Enumeration of some but not all items of a class should not be construed as excluding others, notwithstanding the absence of the phrase "without limitation" or words of like meaning.

**25.3. Invalid Provisions.** If any provision of this Lease is finally determined by a court of competent jurisdiction to be in violation of law or otherwise invalid, this Lease will be deemed amended to the limited extent necessary to cure such violation or invalidity and will be interpreted, as thus amended, so as to implement the intentions of the parties to the greatest extent possible.

**25.4. Time of the Essence; Force Majeure.** Time is of the essence as to all rights and obligations of the parties hereunder unless specifically provided to the contrary. Notwithstanding the foregoing, if either party fails to perform an obligation hereunder, other than the obligation of Subtenant to pay Rent and Additional Rent when due, which failure results from causes beyond the reasonable control of such party, including, without limitation, labor problems, contractor disputes, legal requirements, unavailability of equipment, fixtures or materials, casualty, or disruption or unavailability of utilities or services (a "Force Majeure Event"), the amount of time for performance of such obligation shall be extended by the amount of time such performance is delayed by reason of such Force Majeure Event.

**25.5. Jurisdiction; Governing Laws; No Counterclaim.** Any action by Subtenant against Tenant will be instituted in the state courts of Massachusetts under Massachusetts law, and Tenant will have personal jurisdiction over Subtenant for any action brought by Tenant in Massachusetts by service to Subtenant's Notice Address. If Tenant commences any summary proceeding for possession,

Subtenant will not interpose any counterclaim which is not mandatory or attempt to consolidate such proceeding with another proceeding which includes a claim or counterclaim against Tenant.

**25.6. Successors and Assigns.** The benefits and burdens of this Lease will extend to the original Tenant and Subtenant and to their respective successors and assigns, who will be included within the terms "Tenant" and "Subtenant" as used herein, provided that no transferee from Subtenant in violation of the provisions of this Lease will be entitled to any of the rights or benefits of a Subtenant hereunder.

**25.7. Estoppel Certificates.** Each of the parties, within fifteen (15) days of written request from the other, shall provide a certificate identifying this Lease and any amendments hereto, setting forth the amount of the then current monthly installment of Base Rent and of any Security Deposit held hereunder, stating whether this Lease remains in effect, whether there are any defaults by Tenant or Subtenant, whether any Rent has been paid more than thirty (30) days in advance, whether Subtenant is in possession and paying Rent, whether Subtenant claims any off-sets or credits or has any other defenses to the payment of Rent hereunder, and containing such other reasonable and customary information as may be requested.

**25.8. Entire Agreement.** This Lease contains the entire agreement of the parties respecting the Premises and the Property and there are no other agreements or understandings between the parties regarding the subject matter of this Lease, any prior agreements being merged herein and superseded.

*(The remainder of this page is intentionally left blank. Signatures to follow on next page.)*

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date first above written.

**TENANT,**

**MMA CAPITAL, LLC**

Joshua N Rosen  
Joshua N Rosen (Sep 21, 2016)

By: Joshua Rosen, Manager

**SUBTENANT,**

**MISSION MASSACHUSETTS, INC.**

A. F. Thut  
Andrew F Thut (Sep 21, 2016)

By: Andrew Thut, CEO

### **EXHIBIT A**

24,424 rentable square feet of space, as shown on floor plans attached hereto, located within the Building on the Property situated 640 Lincoln Street, Worcester MA more particularly described in the deed recorded with the Worcester Registry of Deeds in Book: 52409, Page: 350.







## **EXHIBIT B**

### **[Tenant Improvements]**

In concert with the Landlord, develop and fully build out an RMD at the Premises pursuant to certain plans, specifications, drawings and building methods [to be] approved by Landlord. Landlord and Subtenant shall execute a work letter agreement memorializing the administration and completion of the Subtenant Improvements prior to the commencement thereof by Subtenant.



**EXHIBIT C**

[Subtenant Improvements]

None