

TOWN OF DUDLEY
AND DMA HOLDINGS (MA), LLC

HOST COMMUNITY AGREEMENT

THIS HOST COMMUNITY AGREEMENT ("AGREEMENT") is entered into this ____ day of ____, 2019 (the "Effective Date") by and between DMA Holdings (MA), LLC, a Massachusetts corporation with a principal office address of Incline Village, Nevada (the "Company") and a local office of 35 Chase Avenue, Dudley, MA, and the Town of Dudley, a Massachusetts municipal corporation with a principal address of 71 West Main Street, Dudley MA (the "Town") (Company and Town, collectively the "Parties"), acting by and through its Board of Selectmen, in reliance upon all of the representations made herein.

RECITALS

WHEREAS, the Company wishes to locate a Marijuana Cultivation, Marijuana Manufacturing, and Marijuana Retail Establishment, which shall be limited in its operations to 35 and 37 Chase Avenue, Dudley Massachusetts, with approximately 180,000 square feet at a parcel of land with approximately ____ acres located at 35 and 37 Chase Avenue more accurately described by the deed recorded with the Worcester County Registry of Deeds Book 41666 page 313on, and on Map 118and numbered Lot 037 in the Assessor's database (the "Facility"), in accordance with and pursuant to applicable state laws and regulations, including, but not limited to G.L. c.94G and 935 CMR 500.00 and such approvals as may be issued by the Town in accordance with its Zoning Bylaw and other applicable local regulations; and

WHEREAS, the Town recognizes this development and Facility will benefit the Town and its citizens through increased economic development, additional employment opportunities for residents, and a strengthened local tax base; and

WHEREAS, the Company anticipates that the Town will incur additional expenses and impacts on the Town's road and other infrastructure systems, law enforcement, fire protection services, inspectional services, permitting and consulting services and public health, as well as unforeseen impacts, both quantifiable and unquantifiable on the Town; and

WHEREAS, the Company intends to provide certain benefits to the Town in the event that it receives the requisite License from the Cannabis Control Commission (the "CCC") or such other state licensing or monitoring authority, as the case may be, to operate the Facility and receives all required local permits and approvals from the Town; and

WHEREAS, the parties intend by this AGREEMENT to satisfy the provisions of G.L. c.94G, Section 3(d) applicable to the operation of Facility, such activities to be only done in accordance with the applicable state and local laws and regulations in the Town; and

WHEREAS, the Parties agree that the above Recitals are true and accurate and that they are incorporated herein and made a part hereof.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Town agree as follows:

1. Representations and Warranties

The Parties respectively represent and warrant that:

- a. Each is duly organized and existing and in good standing, has the full power, authority, and legal right to enter into and perform this AGREEMENT, and the execution, delivery and performance hereof and thereof (i) will not violate any judgment, order, state law, bylaw, or regulation, and (ii) do not conflict with, or constitute a default under, any agreement or instrument to which either is a party or by which either party may be bound or affected; and
- b. Once this AGREEMENT has been duly authorized, executed and delivered, this AGREEMENT constitutes legal, valid and binding obligations of each party, enforceable in accordance with its terms; and
- c. There is no action, suit, or proceeding pending, or, to the knowledge of either party, threatened against or affecting wither wherein an unfavorable decision, ruling or finding would materially adversely affect the performance of any obligations hereunder, except as otherwise specifically noted in this AGREEMENT.

2. Annual Payments

In the event that the Company obtains the requisite Final License from the CCC and all necessary and required state approvals required for the operation of a Marijuana Cultivation, Marijuana Manufacturing, and Marijuana Retail Establishment, and receives any and all necessary and required permits and licenses of the Town, and at the expiration of any final appeal period related thereto, which permits and/or licenses allow the Company to locate, occupy and operate the Facility in the Town, then the Company agrees to provide the following Annual Community Impact Fee:

A. Community Impact Fee

In order to mitigate the anticipated impacts of the Facility on the Town, including, but not limited to impacts on roads and other infrastructure systems, law enforcement, fire protection services, inspectional services, as well as unforeseen impacts, both quantifiable and unquantifiable on the Town's resources, the Company agrees to pay an Annual Community Impact Fee to the Town to account for both quantifiable and unquantifiable impacts to the Town, in the amount and under the terms provided herein.

1. Company shall annually pay an Annual Community Impact Fee in an amount equal to three percent (3%) of gross annual sales of marijuana and marijuana products at

the Facility. The term "gross sales" shall mean the total of all sales transactions of the Facility without limitation, including the sale of marijuana, marijuana infused products, paraphernalia, and any other products sold by the Facility.

2. The Annual Community Impact Fee shall continue for a period of five (5) years from the date the Facility commences operations. The Facility shall be deemed in operation upon receipt of both an occupancy permit from the Building Commissioner and the issuance of a final License and "Approval to Sell" at the Facility from the CCC.
3. The Company shall pay the Annual Community Impact Fee in quarterly installments as follows:
 - For sales between January 1 and March 31, payment shall be made on or before May 1;
 - For sales between April 1 and June 30, payment shall be made on or before August 1;
 - For sales between July 1 and September 30, payment shall be made on or before Nov. 1;
 - For sales between Oct. 1 and December 31, payment shall be made on or before Feb 1.

With regard to any quarter year of operation for the Facility which is not a full quarter year, the applicable quarterly installment of the Community Impact Fee shall be pro-rated accordingly. The Town reserves the right to amend the timing and frequency of the Annual Community Impact Fee payments.

4. At the conclusion of the five (5) year term, the Parties shall negotiate the terms of a new Annual Community Impact Fee as an Amendment to this Agreement; provided, however, that if the parties are unable to reach an agreement on a successor Community Impact Fee, the Annual Community Impact Fee specified in Paragraph 2.A.1 of this Agreement shall remain in effect and shall not be reduced below the amount set forth above until such time as the Parties negotiate a successor Community Impact Fee.
5. The Town may use the above referenced payments as it deems appropriate in its sole discretion, but shall make a good faith effort to allocate said payments for road and other infrastructure systems, law enforcement, fire protection services, inspectional services, public health and addiction services and permitting and consulting services, as well as unforeseen impacts upon the Town.
6. Pursuant to M.G.L. c. 94G, §3(d), a "community impact fee shall be reasonably related to the costs imposed upon the municipality by the operation of the marijuana establishment..." Notwithstanding the foregoing, the Parties hereby acknowledge the difficulty in computing actual Town costs and agree that impacts may result in municipal budgetary increases that cannot be separately identified or precisely quantified. Consequently, the Company agrees that the payments due under this

Agreement are reasonably related to Town costs and waives any claims to the contrary.

B. Payment Schedule

Upon the receipt of a Provisional License from the CCC to operate as a Marijuana Cultivator and Marijuana Retailer, and prior to being operational, the Company shall pay the Town of Dudley the sum of \$10,000.00 (the "Initial Payment"). The Initial Payment shall be credited toward the subsequent Impact Fees for first year which become due under this agreement. Should the Company fail to obtain Final License Approval from the CCC, the Town shall retain the Initial Payment and any subsequent payments made to the Town up to the date of disapproval of the Company's license application by the CCC.

- I. Year One: The Company shall continue to provide additional annual impact fees, after receiving a Provisional License from the CCC, on a quarterly basis as outlined in Section 2(A)(3), in the amount of \$10,000.00 each quarter to the Town of Dudley.
- II. All Payments made pursuant to paragraphs (I) and (II) shall be credited toward the subsequent Impact Fees determined as provided in Section 2.A. above, provided, however, that should such Impact Fees exceed the amounts paid pursuant to paragraphs (I) and (II), the Company shall pay to the Town the difference pursuant to the schedule referenced herein.
- III. Year Two, Three, Four and Five: Payments of the Impact Fees to the Town shall continue as outlined above in Section 2. Annual Payments: A. Community Impact Fee, Sub-Section 3 Once the Impact Fees payable have exceeded the amounts paid pursuant to paragraphs (I) and (II).

C. Additional Costs, Payments and Reimbursements

1. Permit and Connection Fees: The Company hereby acknowledges and agrees to pay the usual and customary building permit and other permit application fees, sewer and water connection fees, and all other local charges and fees generally applicable to other commercial developments in the Town.
2. Facility Consulting Fees and Costs: The Company shall reimburse the Town for any and all reasonable and customary consulting costs and fees, including without limitation, reasonable attorneys' fees related to any land use applications concerning the Facility, negotiation of this and any other related agreements, and any review concerning the Facility, including planning, engineering, and any related reasonable disbursements at standard rates charged by the above-referenced consultants in relation to the Facility.

3. Other Costs: The Company shall reimburse the Town for the actual costs incurred by the Town in connection with holding public meetings not held in public buildings and forums not within the Town's regularly scheduled public hearings and meetings, which are solely devoted to discussing the Facility.
4. Late Payment Penalty: The Company acknowledges that time is of the essence with respect to their timely payment of all funds required under Section 2 of this Agreement. In the event that any such payments are not fully made within ten (10) business days of the date written notice has been received, the Company shall be required to pay the Town a late payment penalty equal to five percent (5%) of such required payments.
5. The Company, in addition to any funds specified herein, shall annually contribute to public charities in the Town an amount no less than \$20,000.00, said charities to be determined by the Company in its reasonable discretion and after consultation with the Town.

D. Annual Reporting for Host Community Impact Fees and Compliance

The Company shall submit an annual written report to the Town's Board of Selectmen within thirty (30) days after the payment of its fourth quarterly installment of the Annual Community Impact Fee with a certification of: (1) its annual sales; and (2) its compliance all other requirement of this AGREEMENT. During the term of this AGREEMENT the Company shall agree, upon request of the Town, to appear before a meeting of Board of Selectmen to review compliance with the terms of this AGREEMENT. Such meeting shall occur no later than thirty (30) days following written notice from the Town.

The Company shall maintain books, financial records, and other compilations of data pertaining to the requirements of this AGREEMENT in accordance with standard accounting practices and any applicable regulations or guidelines of the CCC. All records shall be kept for a period of at least seven (7) years. Upon request by the Town, the Company shall provide the Town with the same access to its financial records (to be treated as confidential, to the extent allowed by law) as it is required by the CCC and Department of Revenue for purposes of obtaining and maintaining a License for the Facility.

During the term of this AGREEMENT, and for three (3) years following the termination of this AGREEMENT, the Company shall agree, upon request of the Town, to have its financial records examined, copied and audited by an Independent Financial Auditor, the expense of which shall be borne by the Company. The Independent Financial Auditor shall review the Company's financial records for purposes of determining that the payment of its Annual Community Impact Fee are in compliance with the terms of this AGREEMENT. Such examination shall be made not less than thirty (30) days following written notice from the Town and shall occur only during normal business hours and at such place where said books, financial records and accounts are maintained. The Independent Financial Audit shall include those parts of the Company's books and financial records which relate to the payment, and shall include a certification of itemized gross sales for

the previous calendar year, and all other information required to ascertain compliance with the terms of this AGREEMENT. The independent audit of such records shall be conducted in such a manner as not to interfere with the Company's normal business activities.

3. Local Vendors and Employment

To the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, the Company will make every effort in a legal and non-discriminatory manner to give priority to local businesses, suppliers, contractors, builders and vendors in the provision of goods and services called for in the construction, maintenance and continued operation of the Facility when such contractors and suppliers are properly qualified and price competitive, and shall use good faith efforts to hire Town residents.

4. Local Taxes

At all times during the term of this AGREEMENT, property, both real and personal, owned or operated by the Company shall be treated as taxable, and all applicable real estate and personal property taxes for that property shall be paid either directly by the Company or by its landlord, and neither the Company nor its landlord shall object or otherwise challenge the taxability of such property and shall not seek any non-profit or agricultural exemption or reduction with respect to such taxes.

Notwithstanding the foregoing, (i) if real or personal property owned, leased or operated by the Company is determined to be non-taxable or partially non-taxable, or (ii) if the value of such property is abated with the effect of reducing or eliminating the tax which would otherwise be paid if assessed at fair cash value as defined in G.L. c. 59, §38, or (iii) if the Company is determined to be entitled or subject to exemption with the effect of reducing or eliminating the tax which would otherwise be due if not so exempted, then the Company shall pay to the Town an amount which when added to the taxes, if any, paid on such property, shall be equal to the taxes which would have been payable on such property at fair cash value and at the otherwise applicable tax rate, if there had been no abatement or exemption; this payment shall be in addition to the payment made by the Company under Section 2 of this AGREEMENT.

5. Security and Safety

To the extent requested by the Town's Police Department, and subject to the security and architectural review requirements of the CCC, or such other state licensing or monitoring authority, as the case may be, the Company shall work with Town's Police Department in reviewing and approving all security plans prior to implementation and commencement of operations.

The Company agrees to cooperate with the Police Department, including but not limited to periodic meetings to review operational concerns, security, delivery schedule and procedures, cooperation in investigations, and communications with the Police Department of any suspicious activities at or in the immediate vicinity of the Facility, and with regard to any anti-diversion procedures to

ensure that the marijuana and marijuana products sold in the Facility are not being transferred to the illegal market or to minors.

The Company shall implement a comprehensive diversion prevention plan to prevent diversion of marijuana and marijuana products into the illicit market and to minors, such plan to be in place prior to the commencement of operations at the Facility. The Company shall present the diversion plan to the Police Department for its review and feedback and, to the extent required by the Police Department, work collaboratively to implement any suggested changes, amendments or modifications to address local concerns.

The Company agrees and acknowledges that annual inspections of the Facility by the Town's Police Department, Town's Fire Department, Building Department and Board of Health shall be a condition of continued operation in Town and agrees to cooperate with the Town's Police Department, Town's Fire Department and Board of Health in providing access for scheduled and unscheduled inspections of the Facility.

The Company further agrees that all signage and packaging for marijuana products shall comply applicable state laws and regulations, including, but not limited to G.L. c.94G and 935 CMR 500.000, and further agrees that to the extent 935 CMR 500.000 imposes more stringent requirements on packaging, labeling, marketing or the form of permitted edibles, the Company will comply with the more restrictive regulatory provisions.

6. Community Impact Meeting Concerns

The Company agrees to conduct a Community Outreach Meeting prior to commencement of operations to work collaboratively and cooperatively with its neighboring businesses and residents. The Company shall, as a result of community feedback and neighborhood concerns, establish written policies and procedures to address mitigation of any concerns or issues that may arise through its operation of the Facility; said written policies and procedures, as may be amended from time to time at the request of the Board of Selectmen, shall be reviewed annually by the Board of Selectmen as part of the Company's annual report to ensure compliance with the policies and procedures and to address any further impacts requiring mitigation. The policies and procedures addressing community impact mitigation shall be incorporated herein by reference and made a part of this AGREEMENT, the same as if each were fully set forth herein.

7. Additional Obligations

The obligations of the Company and the Town recited herein are specifically contingent upon the Company obtaining a Final License from the CCC for operation of a Marijuana Cultivation and Marijuana Retail facility in the Town, and the Company's receipt of any and all necessary local approvals to locate, occupy, and operate the Facility in the Town.

This AGREEMENT does not affect, limit, or control the authority of Town boards, commissions, and departments to carry out their respective powers and duties to decide upon and to issue, or deny applicable permits and other approvals under the statutes and regulations of the Commonwealth, the General and Zoning Bylaws of the Town, or applicable regulations of those

boards, commissions, and departments or to enforce said statutes, Bylaws, and regulations. The Town, by entering into this AGREEMENT, is not thereby required or obligated to issue such permits and approvals as may be necessary for the Facility to operate in the Town, or to refrain from enforcement action against the Company and/or its Facility for violation of the terms of said permits and approvals or said statutes, Bylaws, and regulations.

8. Support

The Town agrees to submit to the CCC, or such other state licensing or monitoring authority, as the case may be, the required Letter of Support or Non-Opposition relating to the Company's application for a License to operate the Facility, but makes no representation or promise that it will act on any other license or permit request, including, but not limited to any zoning application submitted for the Facility, in any particular way other than by the Town normal and regular course of conduct and in accordance with its rules and regulations and any statutory guidelines governing them.

9. Term

Except as expressly provided herein, this AGREEMENT shall take effect on the date set forth above (the "Effective Date"), and shall be applicable for as long as the Company operates the Facility in the Town, with the exception of the Community Impact Fee, which shall be governed by the provisions of Paragraph 2.A of this AGREEMENT.

In the event the Company has not secured a Final License from the CCC and all necessary local permits from the Town and commenced operations at the Facility within one (1) year from the Effective Date of this AGREEMENT, this AGREEMENT shall expire and the Company shall be required to negotiate a new AGREEMENT in order to operate the Facility within the Town, unless the Board of Selectmen, in its discretion, agrees to an additional extension of time, for good cause, which shall include the time required to pursue or await the determination of an appeal of the special permit or other legal proceeding.

10. Successors/Assigns

The Company shall not assign, sublet, or otherwise transfer its rights nor delegate its obligations under this AGREEMENT, in whole or in part, without the prior written consent from the Town, and shall not assign or obligate any of the monies payable under this AGREEMENT, except by and with the written consent of the Town. This AGREEMENT is binding upon the parties hereto, their successors, assigns and legal representatives. The Company shall not assign, sublet, or otherwise transfer any interest in the AGREEMENT without the written consent of the Town.

Events deemed an assignment include, without limitation: (i) Company's final and adjudicated bankruptcy whether voluntary or involuntary; (ii) the Company's takeover or merger by or with any other entity; (iii) the Company's outright sale of assets and equity, majority stock sale to another organization or entity for which the Company does not maintain a controlling equity interest; (iv) or any other change in ownership or status of the Company; (v) any assignment for

the benefit of creditors; and/or (vi) any other assignment not approved in advance in writing by the Town.

11. Notices

Any and all notices, consents, demands, requests, approvals or other communications required or permitted under this AGREEMENT, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, and shall be deemed given when so delivered by hand, if so mailed, when deposited with the U.S. Postal Service, or, if sent by private overnight or other delivery service, when deposited with such delivery service.

To Town:

Town Administrator

Jonathan Rude
Dudley Town Hall
71 West Main Street
Dudley, MA 01571
508-949-8001

Copy To:

Town Counsel
KP-Law, PC
101 Arch Street, 12th Floor
Boston, MA 02110

To Company:

Jason Villatico
703 Beacon Park
Webster, MA 01570
508-450-4203

Copy To
Nicholas Adamopoulos
Lake Shore Legal
PO Box 1210
Webster, MA 01570
508-943-7800

12. Severability

If any term or condition of this AGREEMENT or any application thereof shall to any extent be held invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this AGREEMENT shall not be deemed affected thereby unless the Town would be substantially or materially prejudiced. Further, the Company agrees that it will not challenge, in any jurisdiction, the enforceability of any

provision included in this AGREEMENT; and to the extent the validity of this AGREEMENT is challenged by the Company in a court of competent jurisdiction, the Company shall pay for all reasonable fees and costs incurred by the Town in enforcing this AGREEMENT.

13. Governing Law

This AGREEMENT shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, and the Company submits to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this AGREEMENT.

14. Entire Agreement

This AGREEMENT constitutes the entire integrated agreement between the Company and the Town with respect to the matters described herein. This AGREEMENT supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.

15. Amendments/Waiver

Amendments, or waivers of any term, condition, covenant, duty or obligation contained in this AGREEMENT may be made only by written amendment executed by authorized representatives of both parties to the original Agreement, prior to the effective date of the amendment.

16. Headings

The article, section, and/or paragraph headings in this AGREEMENT are for convenience of reference only, and shall in no way affect, modify, define or be used in interpreting the text of this AGREEMENT.

17. Counterparts

This AGREEMENT may be signed in any number of counterparts all of which taken together, each of which is an original, and all of which shall constitute one and the same instrument, and any party hereto may execute this AGREEMENT by signing one or more counterparts.

18. Signatures

Facsimile signatures affixed to this AGREEMENT shall have the same weight and authority as an original signature.

19. No Joint Venture

The Parties hereto agree that nothing contained in this AGREEMENT or any other documents executed in connection herewith is intended or shall be construed to establish the Town and the Company and any other successor, affiliate or corporate entity as joint ventures or partners.

20. Nullity

This AGREEMENT shall be null and void in the event that the Company does not locate a Marijuana Cultivation and Marijuana Retail Establishment in the Town or relocates the Facility out of the Town. Further, in the case of any relocation out of the Town, the Company agrees that an adjustment of Annual Community Impact Fee due to the Town hereunder shall be calculated based upon the period of occupation of the Facility within the Town, but in no event shall the Town be responsible for the return of any funds provided to it by the Company.

21. Indemnification

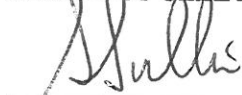
The Company shall indemnify, defend, and hold the Town harmless from and against any and all claims, demands, liabilities, actions, causes of actions, defenses, proceedings and/or costs and expenses, including attorney's fees, brought against the Town, their agents, departments, officials, employees, insurers and/or successors, by any third party arising from or relating to the development of the Facility to the extent caused by or contributed to by the Company, but specifically excluding such matters caused by the fraud or willful misconduct of the Town, its agents, departments, officials, employees, insurers and/or successors. Such indemnification shall include, but shall not be limited to, all reasonable fees and reasonable costs of attorneys and other reasonable consultant fees and all fees and costs (including but not limited to attorneys and consultant fees and costs) shall be at charged at regular and customary municipal rates, of the Town's choosing incurred in defending such claims, actions, proceedings or demands. The Company agrees, within thirty (30) days of written notice by the Town, to reimburse the Town for any and all costs and fees incurred in defending itself with respect to any such claim, action, proceeding or demand. As a condition of indemnification pursuant to this Section, the Town shall: (a) notify the Company within a reasonable period of time of any matter concerning which the Town may seek indemnification hereunder; (b) at the request of the Company give the Company control over the investigation, defense and/or settlement of such matter; and (iii) cooperate to the greatest possible extent in such investigation, defense and/or settlement.

22. Third-Parties

Nothing contained in this AGREEMENT shall create a contractual relationship with or a cause of action in favor of a third party against either the Town or the Company.

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

TOWN OF DUDLEY
BOARD OF SELECTMEN



, Chair

COMPANY



Joseph Villatico, Manager

Hullu
The Lyndal
S. J. Marsh

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