

DRAFT

TOWN OF MONTAGUE, MASSACHUSETTS
AND FLOWER POWER GROWERS INC.

HOST COMMUNITY AGREEMENT
FOR THE SITING OF A CULTIVATION AND PRODUCT MANUFACTURING
ESTABLISHMENT

THIS CULTIVATION HOST COMMUNITY AGREEMENT (the “Agreement”) is entered into this ____ day of January 2021, by and between Flower Power Growers, Inc., a Massachusetts Corporation with a principal office address of 377 Main St. Greenfield, MA 01301 (the “Company”), and the Town of Montague, a Massachusetts municipal corporation with a principal address of 1 Avenue A, Turners Falls, MA 01376 (the “Town”), acting by and through its Selectboard in reliance upon all of the representations made herein (the Company and Town collectively, referred to as the “Parties”).

WHEREAS, the Company wishes to locate a up to a Tier 10 Marijuana Cultivation and Product Manufacturing Establishment developed in phases exclusively for indoor greenhouse cultivation and processing of marijuana for adult-use, with approximately 80,000+/- square foot of cultivation space, 26,000+/- square foot of indoor processing, manufacturing, office and storage space, on an 7.89 acre parcel of land located at 180 Industrial Blvd. Turners Falls, MA 01376, more accurately described by the deed recorded with the Franklin County Registry of Deeds Book 6942, page 312on, and on Map17 and numbered Lot 13A_in the Assessor’s database (the “Property”) in the Town (the “Establishment”), 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 Company intends to provide certain benefits to the Town in the event that it receives the requisite license(s) from the Cannabis Control Commission (the “CCC”) or such other state licensing or monitoring authority, as the case may be, to operate the Establishment 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, §3(d), applicable to the operation of the Establishment, such activities to be only done in accordance with the applicable state and local laws and regulations in the Town.

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. Recitals

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

2. Annual Payments

In the event that the Company obtains the requisite licenses and/or approvals as may be required for the operation of the 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, said matter not being appealed further, which permits and/or licenses allow the Company to locate, occupy and operate the Establishment in the Town, then the Company agrees to provide the following Annual Payments:

A. Community Impact Fee

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, public health education and substance abuse counseling services, and any necessary and related legal and enforcement costs, as well as unforeseen impacts on the Town. Accordingly, in order to mitigate the financial impact on the Town and use of Town resources, both quantifiable and unquantifiable, the Company agrees to pay an Annual Community Impact Fee to the Town, in the amount and under the terms provided herein.

1. The Company shall pay an Annual Community Impact Fee an amount equal to the below specified percentages of the wholesale value of marketable product produced by the cultivation operations at the Establishment and distributed to other off-site marijuana establishment. The term “wholesale value” shall mean the total of all marijuana transactions of the Establishment, including wholesale sales, and shall be determined by arms-length wholesale sales made by the Establishment during the year and shall include all marijuana and marijuana products, including marijuana-infused products cultivated, manufactured and/or sold by the Establishment. In the event the marijuana or marijuana products cultivated, manufactured and/or produced at the Establishment are sold by the Company at any marijuana establishment(s) located outside of the Town that is also owned and controlled by the Company, or its affiliates, such that the product is not subject to an arms-length sale, the value of such product for purposes of calculating the Community Impact Fee shall be based on the higher of: (i) 50% of the retail price at which such marijuana or marijuana products are sold by such marijuana retailer; or (ii) the highest wholesale price charged by the Company in any arms-length transaction during the preceding twelve (12) months.

Year 1	Year 2	Year 3	Year 4	Year 5
1%	1%	1.5%	1.5%	2%

The Company agrees that calculation of the Community Impact Fee in this manner will be within the statutory cap of three percent (3%) of gross sales under G.L. c.94G §3(d) for these combined operations and waives any claims to the contrary.

2. The Annual Community Impact Fee shall be made in quarterly installments per the Town’s fiscal year (July 1 - June 30) on September 30, December 31, March 31, and

June 30 with the first payment due thirty (30) days after the close of each quarter following the Commencement of Operations. The Annual Community Impact Fee for the first (1st) year of operation shall be prorated based on the number of months the Establishment is in operation; provided, however, that in no event shall the Town be responsible for the return of any Annual Community Impact Fee or portion thereof already provided to the Town by the Company. The Establishment 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 operate from the CCC (the “Commencement of Operations”).

3. The Annual Community Impact Fee shall continue for a period of five (5) years from the date the Commencement of Operations, and shall be subject to renegotiation for successive terms for as long as the Establishment remains in operation. At least sixty (60) days before the conclusion of each of the respective five (5) year terms, the Parties shall negotiate in good faith 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 shall be an amount equal to the one percent (1%) of the wholesale value of marketable product produced by the cultivation operations at the Establishment and distributed to other off-site marijuana establishment as those terms are defined in Paragraph 2. A.1 of this Agreement and shall not be reduced below such amount until such time as the Parties negotiate a successor Community Impact Fee. In the event that the Parties agree to a Community Impact Fee less than said amount, such initial payments shall be offset against the successor Annual Community Impact Fee; provided, however, that in no event shall the Town be responsible for the return of any Annual Community Impact Fee or portion thereof already provided to the Town by the Company.
4. The Town may use the above referenced payments in its sole discretion, but shall make a good faith effort to allocate said payments to offset costs related to road and other infrastructure systems, law enforcement, fire protection services, inspectional services, permitting and consulting services, public health education and substance abuse counseling services, and any necessary and related legal and enforcement costs, as well as unforeseen impacts upon the Town. The Company acknowledges and agrees that the Town is under no obligation to use the Community Impact Fees in any particular manner.
5. 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...” (“Town Costs”). Notwithstanding the foregoing, the Parties acknowledge the difficulty in computing actual Town Costs and have agreed to utilize a fixed percentage of sales as specified in Paragraph 2(A)(1) above in lieu of attempting to determine actual Town Costs incurred. The Company acknowledges that the impacts of its operation may be impracticable to ascertain and assess as impacts may result in budgetary increases though not separately identified, and consequently, the Company acknowledges that the payments due under this

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

6. Annual Community Impact Fees are expressly included as “other municipal charges” pursuant to M.G.L. c. 40, §57. A Town licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of the Company or agent thereof if the Company’s name appears on a list furnished to the licensing authority from the Town Collector of individuals delinquent on their taxes and/or water bills.

B. Annual Community Arts and Culture Benefits

Company shall make the Annual Community Impact Fee payments set forth in Paragraph 2.A above to the Town. While the purpose of the Annual Community Impact Fee is to assist the Town in addressing any public health, safety, and other effects or impacts the Establishment may have on the Town and on municipal programs, services, personnel, and facilities, the Town may expend the Annual Payments at its sole and absolute discretion. Notwithstanding the Annual Community Impact Fee payments, the Company shall make an additional donation from time to time to causes that will support the Town, including but not limited Annual Community Arts and Culture Benefit Payments, which the Company agrees to additionally pay in the amount and under the terms provided herein.

1. For the first five (5) years that the Establishment is in operation, the Company shall pay to the Town Annual Community Arts and Culture Benefit Payments in an amount equal to the below specified percentages of the wholesale value of marketable product produced by the cultivation operations at the Establishment:

Year 1	Year 2	Year 3	Year 4	Year 5
0%	0.5%	0.5%	1%	1%

The Town may use Annual Community Arts and Culture Benefit Payments as it deems appropriate, in its sole discretion, but shall make a good faith effort to allocate said payments to RiverCulture, to the extent authorized by law, in support of arts and cultural programs and to promote equitable opportunities among populations that are disproportionately impacted by racial inequity and challenges associated with substance abuse.

2. The Annual Community Arts and Culture Benefit Payments shall be made in quarterly installments per the Town’s fiscal year (July 1 - June 30) on September 30, December 31, March 31, and June 30 following the with the first payment due thirty (30) days after the close of each quarter following the Commencement of Operations. The Annual Community Arts and Culture Benefit Payments shall be prorated based on the number of months the Establishment is in operation; provided, however, that in no event shall the Town be responsible for the return of any Annual Community

Arts and Culture Benefit Payments or portion thereof already provided to the Town by the Company.

3. The Parties hereby recognize and agree that the Annual Community Arts and Culture Benefit Payments to be paid by the Company shall not be deemed an impact fee subject to the requirements or limitations set forth in G.L. c.94G, §3(d).

C. Annual Charitable/Non-Profit Contributions

The Company, in addition to any funds specified herein, shall annually contribute to local charities/non-profit organizations operating within the Town and offering benefit to Town residents in an amount no less than \$15,000, said charities/non-profit organizations to be determined by the Company. The Annual Charitable Non/Profit Contribution shall be made annually beginning on the first anniversary following the Commencement of Operations at the Establishment, and shall continue for the term of this Agreement.

D. Additional Costs, Payments and Reimbursements

1. Permit and Connection Fees: The Company hereby acknowledges and accepts, and waives all rights to challenge, contest or appeal, the Town's building permit fee 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 as long as those fees and charges are consistent with what is charged other businesses in the Town.
2. Establishment Consulting Fees and Costs: Any Town legal costs associated with development of this Agreement or otherwise related thereto shall be reimbursed by the Company upon execution of this Agreement; provided, however, that costs related to this paragraph shall be offset against the initial Annual Community Impact Fee and that in no event shall the Town be responsible for the return of any Annual Community Impact Fee or portion thereof already provided to the Town by the Company in the event that the Company does not locate the Establishment in the Town of Montague.
3. Other Costs: The Company shall reimburse the Town for the actual future costs incurred by the Town in connection with holding public meetings and forums substantially devoted to discussing the Establishment and/or reviewing the Establishment and for any and all consulting costs and fees related to the monitoring and enforcement of the terms of this Agreement, including, but not limited to independent financial auditors and legal fees.
4. Late Payment Penalty: The Company acknowledges that time is of the essence with respect to their timely payment of all funds required under Paragraph 2 of this Agreement. In the event that any such payments are not fully made with forty-five (45) days after written notice to the Company of nonpayment, the Company shall be required to pay the Town interest at the rates prescribed by M.G.L. 59, §57. The

Selectboard, in its discretion, may agree to waive all or a portion of the late payment penalty, for good cause, upon prior written request of the Company.

E. Annual Reporting

The Company shall submit an annual written report to the Town's Selectboard within thirty (30) days after the payment of its fourth (4th) quarterly installment of the Annual Community Impact Fees with a certification of: (1) its annual sales; and (2) its compliance with all other requirements of this Agreement. During the term of this Agreement the Company shall agree, upon request of the Town, to appear before a meeting of Selectboard 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 Establishment.

Upon request of the Town, the Company shall have to have its financial records examined, copied and audited by an Independent Financial Auditor, the expense of which shall be borne by the Company; provided, however, that all expenses related to this paragraph shall be offset against the Annual Community Impact Fee. The Independent Financial Auditor shall review the Company's financial records for purposes of determining that the 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. No Off-Set Payments

If the Town receives additional payments from the Company, or from the Department of Revenue or any other source, the funds for which have been collected by assessment against the Company, including, but not limited to taxes, imposed by an act of the legislature of the Commonwealth of Massachusetts, or a mandate from the Town for said payments, the amounts due from the Company to the Town under the terms of this Agreement shall not be reduced by the amount of such other payments.

4. Community Support

- A. Local Vendors – To the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, the Company shall use reasonable efforts in a legal and non-discriminatory manner to give a preference 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 Establishment when such contractors and suppliers are properly qualified and price competitive. The Company’s annual report to the Selectboard shall include information concerning the use of local vendors.
- B. Employment – Except for senior management, or current employees, and to the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, the Company shall use reasonable efforts in a legal and non-discriminatory manner to hire Town residents. The Company’s annual report to the Selectboard shall include information concerning the number of Montague residents employed at the Establishment.
- C. Reasonable efforts shall include actively soliciting bids from Town vendors through local advertisements and direct contact. The Company also agrees to make reasonable efforts to utilize women-owned, veteran-owned and minority-owned vendors within the Town.
- D. Approval of Manager – If requested by the Town, the Company shall provide to the Town, for review and approval, the name and relevant information, including but not limited to the information set forth in 935 CMR 500.030, or such other state regulations, as the case may be, of the person(s) proposed to act as on-site manager(s) of the Establishment. The submittal shall include authorization and all fees necessary to perform a criminal history (CORI) check or similar background check. The Town shall consider such request for approval within thirty days following submittal to determine, in consultation with the Police Chief, if the person proposed is of suitable character to act as on-site manager. Such approval shall not be unreasonably denied, conditioned or delayed. This approval process shall also apply to any change of on-site manager.
- E. Educational Programs – Company shall use reasonable efforts to provide staff to participate in a reasonable number of Town-sponsored educational programs on public health and drug abuse prevention, and to work cooperatively with other Town public safety departments not mentioned in the Agreement. The Company’s annual report to the Selectboard shall include information concerning the number of Town-sponsored educational programs provided.
- F. Community Support - Upon the Commencement of Operations, the Company agrees to provide no less than one hundred fifty (150) volunteer hours annually, to be provided by the Company’s management and employees, to support community development and/or community improvement projects within the Town of Montague, including but not limited to: participation on or support for Town committees, arts and educational

programs, educational programs, senior assistance, and/or community or veteran's assistance.

5. 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 a 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 Paragraph 2 of this Agreement. Nothing in this agreement shall prohibit Company from challenging the fair cash value of all real and personal property, as assessed by Town, pursuant to an abatement application or otherwise.

6. Security

- A. 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 the Town's Police Department in determining the placement of exterior security cameras and reviewing and approving all security plans prior to implementation and Commencement of Operations at the Establishment.

- B. 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 Establishment, and with regard to any anti-diversion procedures. In the event of any unusual circumstances as warranting additional security, the Company shall consult with Town's Police Chief to ensure appropriate security arrangements are implemented, at the Company's expense.

- C. To the extent requested by the Town's Police Department, the Company shall work with the Police Department to implement a comprehensive diversion prevention plan to prevent diversion, such plan to be in place prior to the commencement of operations at the Establishment. Such plan shall include, but is not limited to, (i) training the Company employees to be aware of, observe, and report any unusual behavior in authorized visitors or other Company employees that may indicate the potential for diversion; and (ii) utilizing appropriate tracking software to closely track all inventory at the Establishment.

- D. The Company shall promptly report the discovery of the following to the Town's Police within twenty-four (24) hours of the Company becoming aware of such event: diversion of marijuana; unusual discrepancies identified during inventory; theft; loss and any criminal action; unusual discrepancy in weight or inventory during transportation; any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport; any suspicious act involving the sale, cultivation, distribution, processing, or production of marijuana by any person; unauthorized destruction of marijuana; any loss or unauthorized alteration of records related to marijuana, consumers or dispensary agents; an alarm activation or other event that requires response by public safety personnel; failure of any security alarm system due to a loss of electrical power or mechanical malfunction that is expected to last longer than eight (8) hours; and any other breach of security.

7. Community Impact Hearing Concerns and Community Forums

The Company agrees to employ reasonable efforts to work collaboratively and cooperatively with its neighboring businesses and residents to establish written policies and procedures to address mitigation of any concerns or issues that may arise through its operation of the Establishment, including, but not limited to any and all concerns or issues raised at the Company's required Community Outreach Meeting(s) relative to the operation of the Establishment. In addition, at the request of the Selectboard, the Company shall hold community forums for discussion with neighboring residences and businesses owners in order to address community feedback and neighborhood concerns with respect to the operation of the Establishment; the Company shall establish or update its written policies and procedures to address concerns raised. Said written policies and procedures shall be presented to the Selectboard and reviewed annually by the Board 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 adopted by the Company and presented to the Selectboard shall be incorporated herein by reference and made a part of this Agreement, the same as if each were fully set forth herein.

The Company further agrees and acknowledges that in the event the Town receives five (5) or more complaints from citizens within any three (3) month period relative to the failure to mitigate conditions relative to the operation of the Establishment, the Company shall be required to meet with the Selectboard if requested by the Town, which may require that additional mitigation measures be taken, at the Company's sole expense, to address the specific nature of the complaints to the satisfaction of the Board.

8. Limitation on Use

The Corporation agrees that, even if authorized under CCC regulations, it shall not engage in on-site social consumption on the Property absent prior written approval from the Selectboard.

The Company further agrees and acknowledges that it shall only engage in indoor greenhouse cultivation and manufacturing operations at the Establishment unless it receives prior written consent from the Selectboard to change the scope of its operations beyond greenhouse cultivation and manufacturing. .

9. Annual Inspections

The Company agrees that it will voluntarily submit to a minimum of one (1) annual inspection by the Police, Fire, Health and Building Departments to ensure compliance with the terms of this Agreement and other local approvals. This provision shall not preclude the Town or any of its departments from conducting inspections at other times during the year to address enforcement matters.

10. Electrical Usage and Renewable Energy Requirements, Water Consumption, and Waste, Waste Water Controls and Pest Controls

Prior to the Commencement of Operations at the Establishment, the Company shall (a) satisfy all minimum energy efficiency and equipment standards established by the CCC and meet all applicable environmental laws, regulations, permits, and other applicable approvals and (b) adopt and use best management practices as determined by the CCC to reduce energy usage and consumption and engage in energy conservation. The Company shall use best efforts to minimize water consumption at the Establishment and shall follow the CCC's Best Management Practices for Water Use. The Company shall ensure that all recyclables and waste, including organic waste composed of or containing finished marijuana and marijuana products, shall be stored, secured, and managed in accordance with applicable state and local statutes, ordinances, and regulations. The Company shall comply with the CCC's Guidance on Integrated Pest Management and shall apply chemical controls judiciously. The Company shall comply with all relevant and applicable federal, state and local rules and regulations regarding electrical usage and renewable energy requirements, water consumption, and waste, waste water controls and pest controls. The Parties agree and acknowledge the Town may enforce this section provided that the CCC, at its discretion, declines to investigate or refer a complaint made by the Town to another law enforcement or regulatory authority.

11. Odor Control

The Company shall ensure that odor from the Establishment is not released so as to constitute a nuisance, in the opinion of the Selectboard, to surrounding properties. The Company shall develop an odor mitigation plan and submit the plan to the Town for approval, such approval not to be unreasonably withheld. At a minimum, the Company agrees to implement a dual odor control system at the Establishment. This system will include: (i) an internal building air scrubbing system

designed to continuously remove volatile compounds from the greenhouse air during periods of closed (non-actively vented) operations, and (ii) an active vapor control system desired to neutralize odors from ventilation emission points when greenhouse is ventilation is in use. The Company shall ensure proper maintenance of all odor mitigation equipment.

Complaints received by the Town concerning odors leaving the Establishment that are detectable at abutting properties must be addressed thoroughly and expediently by the Company. The Company agrees to undertake an internal investigation and report its findings and proposed corrective actions within seven (7) days of receipt of odor complaints. The Company agrees and acknowledges that in the event that the Town receives five (5) or more complaints from citizens, within any three (3) month period, with respect to odor impacts that have not been adequately mitigated in relation to the operation of the Establishment, the Company shall be required to meet with the Selectboard, which may require that additional mitigation measures be taken at the Company's sole expense including, but not limited to, having its odor prevention mechanism and technologies reviewed and assessed by Independent Engineer, to address the specific nature of the complaints to the satisfaction of the Selectboard.

Nothing set forth herein, shall limit the authority or jurisdiction of the Building Inspector, Board of Health, or any other local enforcement official from enforcing applicable state laws and regulations, the Town's local bylaws and regulations, or the conditions of the Special Permit and/or Site Plan Approval, with respect to odor violations.

12. Improvements to the Property

The Company agrees that capital improvements to the Property, if any, shall be such that the Property will match the look and feel for the Establishment proposed by the Company in its presentations and applications to the Town, and be of construction standards at least at the quality of other nearby businesses. The Company agrees to comply with all laws, rules, regulations and orders applicable to the Establishment, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the performance of such work.

13. Additional Obligations

The obligations of the Company and the Town recited herein are specifically contingent upon the Company obtaining a license for operation of Establishment in the Town, and the Company's receipt of any and all necessary local approvals to locate, occupy, and operate Establishment 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 Establishment to operate in the Town, or to refrain from

enforcement action against the Company and/or its Establishment for violation of the terms of said permits and approvals or said statutes, bylaws, and regulations.

14. Re-Opener/Review

The Company or any “controlling person” in the Company, as defined in 935 CMR 500.02, shall be required to provide to the Town notice and a copy of any other Host Community Agreement entered into for any establishment in which the Company, or any controlling person in the Company, has any interest and which is licensed by the CCC as the same type of establishment as the entity governed by this agreement.

In the event the Company or any controlling person enters into a Host Community Agreement for a Cultivation Marijuana Establishment with another municipality in the Commonwealth that contains terms that are superior to what the Company agrees to provide the Town pursuant to this Agreement, then the Parties shall reopen this Agreement and negotiate an amendment resulting in benefits to the Town equivalent or superior to those provided to the other municipality.

15. Support

The Town agrees to submit to the CCC, or such other state licensing or monitoring authority, as the case may be, the required certifications relating to the Company’s application for a license to operate the Establishment where such compliance has been properly met, 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 Establishment, 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.

16. Term

Except as expressly provided herein, this Agreement shall take effect on the date set forth above, and shall be applicable for as long as the Company operates the Establishment in Town with the exception of the Community Impact Fee, which shall be subject to the five (5) year statutory limitations of G.L. c.94G, §3(d).

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 Establishment within eighteen (18) months from the date this Agreement takes effect, this Agreement shall expire and the Company shall be required to negotiate a new Host Community Agreement in order to operate the Establishment within the Town. The Selectboard, in its discretion, may agree to an extension of the eighteen (18) month expiration, 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.

17. 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.

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 material 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.

18. 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 Administrator
Town of Montague
1 Avenue A
Turners Falls, MA 01376

With a copy to: Carolyn M. Murray, Esq.
Town Counsel
KP Law, P.C.
101 Arch Street, 12th Floor,
Boston, MA 02110

To Company: John Stobierski
Stobierski and Connor
377 Main Street
Greenfield, MA 01301

19. 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 fees and costs incurred by the Town in enforcing this Agreement.

20. 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.

21. Entire Agreement

This Agreement, including all documents incorporated herein by reference, 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.

22. 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.

23. 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.

24. 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.

25. Signatures

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

26. 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, or the Town and any other successor, affiliate or corporate entity as joint ventures or partners.

27. Nullity

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

28. 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 Property and/or Establishment (the "Indemnified Acts"). Such indemnification shall include, but shall not be limited to, all fees and costs of attorneys and other 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. Notwithstanding the above, the Company shall have no responsibility for the Indemnified Acts when such action is brought against the Town challenging the granting of the rights under this Agreement by a party also seeking the right to open a similar establishment to the one contemplated under this Agreement.

29. 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.

30. Representation of Authority

Each person signing this Agreement hereby represents and warrants that he or she has the full authority and is duly authorized and empowered to execute this Agreement on behalf of the party for which he or she signs.

[SIGNATURE PAGE TO FOLLOW]

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

TOWN OF MONTAGUE,
By and through its Selectboard,

FLOWER POWER GROWERS INC.,

By:
Title:

745762v2/MONT/0001