



# TOWN OF NEEDHAM

TOWN HALL  
1471 Highland Avenue  
Needham, MA 02492-2669

Office of the  
BOARD OF SELECTMEN

TEL: (781) 455-7500  
FAX: (781) 449-4569  
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June 14, 2016

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

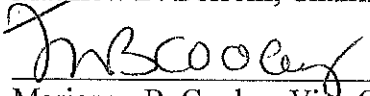
To Whom it May Concern:


By virtue of a vote taken at a duly noticed meeting held on June 14, 2016, the Needham Board of Selectmen does hereby provide a letter of non-opposition for Sage Cannabis, Inc. of Milford Massachusetts to operate a Registered Marijuana Dispensary in the Town of Needham at 29 – 37 Franklin Street.

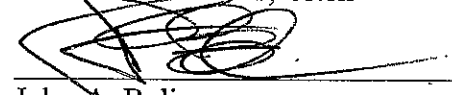
The Needham Board of Selectmen has verified with the appropriate local officials that the proposed RMD facility is located in a zoning district that allows such use by right or pursuant to local permitting.

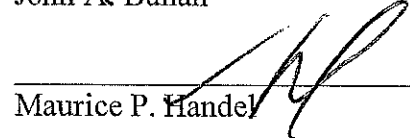
Sincerely,

  
Matthew D. Borrelli, Chairman

  
Marianne B. Cooley, Vice Chairman

  
Daniel P. Matthews, Clerk

  
John A. Bulian

  
Maurice P. Handel

SELECTMEN OF NEEDHAM

## COMMUNITY BENEFIT AGREEMENT

THIS COMMUNITY BENEFIT AGREEMENT (this "Agreement") is entered into this 14<sup>th</sup> day of June by and between the TOWN OF NEEDHAM, a Massachusetts municipal corporation with a principal address of 1471 Highland Avenue, Needham, MA 02492 (the "Town"), and Sage Cannabis, Inc., a Massachusetts nonprofit corporation with a principal address of 13 Commercial Way, Milford, MA 01757 (the "Operator").

WHEREAS, the Operator wishes to locate a Registered Marijuana Dispensary dispensing facility ("RMD") at 29-37 Franklin Street, Needham (the "Facility") in accordance with regulations issued by the Massachusetts Department of Public Health ("DPH"); and

WHEREAS, the Operator intends to provide certain benefits to the Town by way of gift or grant in the event that it receives a Final Certificate of Registration to operate an RMD in Needham by DPH, and all local approvals, permits and licenses;

NOW THEREFORE, in consideration of the provisions of this Agreement, the Operator offers and the Town accepts this Agreement and the Operator and the Town agree as follows:

### 1. Annual Payments

- (a) The Operator agrees to make a donation to the Town, in the amounts and under the terms provided herein for the purposes of addressing any impacts of the RMD facility on the Town and on municipal programs, services, personnel, and facilities. The funds shall be used at the Town's sole discretion.
- (b) The Operator shall pay to the Town an "Annual Payment", which shall be the greater of the "Minimum Payment" or the "Percentage of Gross Sales", as set forth below:

Calendar Year	Minimum Payment	Percentage of Gross Sales
2016	\$50,000	3.0% of Gross Sales
2017	\$100,000	3.0% of Gross Sales
2018	\$100,000	3.0% of Gross Sales
2019	\$100,000	3.00% of Gross Sales
All Subsequent Years	2.5% more than the prior year's Minimum Payment, on a cumulative basis	3.00% of Gross Sales

For the purposes of this Agreement, "gross sales" shall mean the total gross sales revenue from all products sold by the Operator in Needham.

- (c) Each Annual Payment shall be paid to the Town not later than April 1 following the calendar year. For example, the payment for calendar year 2016 shall be due not later than April 1, 2017.

- (d) Subject to the provisions of Section 8 of this Agreement, the Operator shall be bound by the Minimum Payment and the Percentage of Gross Sales attributable to each calendar year set forth above regardless of the year in which the RMD commences operations.
- (e) If the Operator is granted the certificates and approvals described in paragraph 8 of this Agreement, the Operator agrees to give 100% of the Needham RMDs Surplus Revenue, as defined below, back to the Town and as more particularly described in the next sentence. The Operator shall make a donation to the Town of 50% of such Surplus Revenue directly to the Town's General Fund to be used in furtherance of Sage's nonprofit purpose for the benefit of registered qualifying patients as required by 105 CMR 725.100(A), and 50% of such Surplus Revenue to local charities to be decided upon by mutual agreement of the Town's Board of Selectmen and the Operator's Board of Directors.

As used in this Agreement, the term "Surplus Revenue" shall mean, with respect to any fiscal period, cash receipts of medicated product sales by the Operator's Needham Dispensary location only, less the sum of the following to the extent paid or set aside by the Operator: (a) all principal and interest payments on indebtedness of the Operator and all other sums paid to all present and future lenders; (b) all expenditures incurred in connection with the operation of the Operator's business related to the Needham RMD and to the Needham RMD's proportionate share of the Milford production facility; (c) all capital expenditures, including physical plant and equipment related to the Needham RMD and to the Needham RMD's proportionate share of the Milford production facility; (d) all applicable local, state and federal taxes related to the Needham RMD and to the Needham RMD's proportionate share of the Milford production facility; and (e) such reserves as the Operator deems reasonably necessary for operation of the Operator's business and/or to satisfy any requirements of the Operator's contractual counterparties, related to the Needham RMD and to the Needham RMD's proportionate share of the Milford production facility.

In the event the Town and the Operator cannot agree as to the amounts due the Town and/or the appropriate designation of local charities under this agreement, the parties agree to submit their dispute to the American Arbitration Association for mediation. Either of the parties can initiate this procedure by giving notice to the other that they have reached an impasse and if they do not agree to the amounts due within 30 days thereof, either party may submit the dispute to the Boston office of the American Arbitration Association for mediation. The fees of the American Arbitration Association and the mediator shall be paid one half by each party.

- (f) In the event that the Operator enters into a community benefit agreement with another municipality in the Commonwealth of Massachusetts that contains financial terms that are superior to what the Operator agrees to provide the Town pursuant to this Agreement,

then the parties shall reopen this Agreement and negotiate an amendment resulting in financial benefits to the Town equivalent or superior to those provided to the other municipality.

- (g) The provisions of this Agreement shall be applicable as long as the Operator operates a RMD dispensing facility in the Town, pursuant to a license issued by DPH.

2. **Financial Records and Audit Rights of Town**

- (a) The Operator shall submit independently audited financial records to the Town not later than March 15 of each calendar year, with a certification of the gross sales for the respective year, for the purpose of determining whether the Annual Payment shall be the applicable Minimum Payment or the Percentage of Gross Sales, and for determining the amount of surplus revenue to be distributed under Section 1(e).
- (c) If required by the DPH, all financial records submitted to the Town shall be simultaneously submitted to DPH by the Operator, subject to patient confidentiality requirements. The Operator shall also submit to the Town copies of any additional financial records that the Operator must submit to DPH.
- (d) The Operator shall maintain its 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 DPH. All records shall be kept for a period of at least seven (7) years.
- (e) During the term of this Agreement and for three (3) years following termination of this Agreement, the Town shall have the right to examine, audit and copy (at its sole cost and expense) those parts of the Operator's books and financial records which relate to the determination of the required Annual Payment and to the Operator's compliance with this Agreement. Such examinations may be made upon not less than thirty (30) days prior written notice from the Town and shall occur only during normal business hours at such place where said books, financial records and accounts are maintained. The Town's examination, copying or audit of such records shall be conducted in such manner as not to interfere with the Operator's normal business activities.

3. **Purpose of Annual Payment**

The Town may use the proceeds of each annual payment in its sole and absolute discretion.

4. **Property Taxes**

- (a) At all times during the term of this Agreement, property, both real and personal, owned or operated by the Operator shall be treated as taxable, and all applicable real estate and personal property taxes for that property shall be paid either directly by the Operator or by its landlord, and the Operator shall not challenge the taxability of such property and shall not submit an application for any statutory exemption from such taxes.



- (b) Notwithstanding Section 4(a): (i) if real or personal property owned or operated by the Operator is determined to be exempt for taxation or partially exempt, 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 full value, then the Operator 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 full assessed value and at the otherwise applicable tax rate, if there had been no abatement or exemption. The payment described in this Section 4(b) shall be in addition to the payments made by the Operator under Section 1 of this Agreement.

## 5. Sales Taxes

The Town reserves the right to collect sales taxes, or similar transactional taxes, from the Operator, in the event that such collections are authorized by law during the term of this Agreement. The payment of any such taxes described in this Section shall be in addition to the payments made by the Operator under Section 1 and Section 4 of this Agreement.

## 6. Security & Operations

- (a) The Operator shall maintain a cooperative relationship with the Needham Police Department, including but not limited to attending periodic meetings to review operational concerns, cooperation in investigations, and communication to the Needham Police Department of any suspicious activities at or in the RMD location. In addition the operator will make the same video feeds and records that are available to the DPH available to the Needham Police Department. The Operator agrees to have at least two security personnel on duty at all times that the facility is open for business.
- (b) The Operator agrees to limit sales to one ounce or less per customer per visit, if allowed by DPH.
- (c) All visits will be by appointment.
- (d) The Operator agrees to consult with Board of Selectmen at a public meeting prior to initial and replacement hiring of manager of RMD facility.

## 7. Termination

This Agreement shall terminate at the time that either of the following occurs:

- (a) the Town notifies the Operator of the Town's termination of this Agreement; or
- (b) the Operator ceases to operate a RMD in Needham. In the case of a relocation out of the Town, an adjustment of funds due to the Town hereunder shall be calculated based upon the period of occupation of the RMD dispensing facility within the Town, but in no event



shall the Town be responsible for the return of any funds already provided to it by the Operator.

#### **8. Registration Contingency**

The obligations of the Operator and the Town recited herein are specifically contingent upon the Operator's obtaining 1. a Final Certificate of Registration to operate a RMD dispensing facility in the Town from the DPH; and 2. the Operator's receipt of any and all necessary local approvals to locate, occupy, and operate a RMD dispensing facility in the Town.

#### **9. Compliance with Legal Requirements**

The Operator shall comply with all laws, rules, regulations and orders applicable to the operation of an RMD, including the bylaws and regulations of the Town, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the operation of an RMD. 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 By-laws of the Town, or applicable regulations of those boards, commissions, and departments, or to enforce said statutes, By-laws, 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 RMD dispensing facility to operate in the Town, or to refrain from enforcement action against the Operator and/or its RMD dispensing facility for violation of the terms of said permits and approvals or said statutes, By-laws, and regulations

#### **10. Recreational Use of Marijuana Waiver Provision**

By signing this Agreement, Sage hereby agrees to waive any rights it has or may have in the future to sell adult-use marijuana in the Town of Needham without first obtaining approval from the Town of Needham Board of Selectmen (the "Board").

#### **11. Notices**

Any and all notices, 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, to the parties at the addresses set forth below or furnished from time to time in writing hereafter by one party to the other party. Any such notice or correspondence shall be deemed given when so delivered by hand, if so mailed, when deposited with the U.S. Postal Service, or if sent by private overnight or other delivery service, when deposited with such delivery service.

For the Town:

Town Manager  
1471 Highland Avenue  
Needham, MA 02492



For the Operator:

Michael Dundas, Chief Executive Officer  
Sage Cannabis, Inc.  
13 Commercial Way  
Milford, MA 01757

12. **Binding Effect**

This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Neither the Town nor the Operator shall assign or transfer any interest in the Agreement without the written consent of the other.

13. **Waiver**

The obligations and conditions set forth in this Agreement may be waived only by means of a written document signed by the party waiving such obligation or condition. Forbearance or indulgence by a party shall not be construed as a waiver, nor limit the remedies that would otherwise be available to that party under this Agreement or applicable law. No waiver of any breach or default shall constitute or be deemed evidence of a waiver of any subsequent breach or default.

14. **Amendment**

This Agreement may only be amended by a written document duly executed by both of the Parties. No modification or waiver of any provision of this Agreement shall be valid unless duly authorized as an amendment hereof and duly executed by the Town and the Operator.

15. **Headings**

The article, section, and paragraph headings in this Agreement are for convenience only, are no part of this Agreement and shall not affect the interpretation of this Agreement.

16. **Severability**

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, or if any such term is so held when applied to any particular circumstance, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, or affect the application of such provision to any other circumstances, and this Agreement shall be construed and enforced as if such invalid, illegal or unenforceable provision were not contained in this Agreement.

17. **Governing Law**



This Agreement shall be governed by and construed in accordance with the substantive law of the Commonwealth of Massachusetts, without regard to the conflicts of laws provisions thereof.

**18. Entire Agreement**

This Agreement, including all documents incorporated by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. 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.

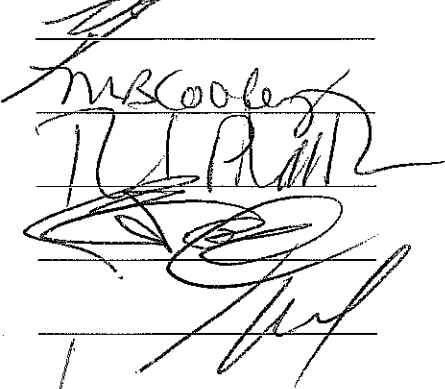
**19. Counterparts**

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

IN WITNESS WHEREOF, the Parties to this Agreement have hereunto set their hands and seals on the day and year first above written.

TOWN OF NEEDHAM

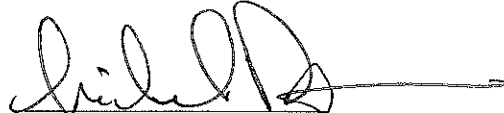
Board of Selectmen

The Board of Selectmen section contains four handwritten signatures, each written over a horizontal line. The signatures are in cursive and vary in style, representing the members of the town's governing body.

Needham Town Manager

The signature of the Needham Town Manager is written in cursive over a horizontal line. The signature appears to be "Kate [unclear]".

OPERATOR

  
Michael Dundas, CEO  
Sage Cannabis, Inc.

The OPERATOR section features a large, stylized handwritten signature in cursive over a horizontal line. Below the signature, the name and title of the signatory are printed: "Michael Dundas, CEO Sage Cannabis, Inc."

A small, circular handwritten mark or signature is located in the bottom right corner of the page.