

HOST COMMUNITY AGREEMENT
BETWEEN
THE CITY OF SPRINGFIELD
AND
6 BRICK'S LLC

This **HOST COMMUNITY AGREEMENT** made on this 24th day of December, 2020 by and between the **City of Springfield**, a municipal corporation existing within the Commonwealth of Massachusetts, acting by and through its Mayor pursuant to G.L.c. 94G, §3, hereinafter referred to as the "**City**", and **6 Brick's LLC**, a Massachusetts Limited Liability Company with a principal place of business located at 1860 Main Street, Springfield, MA 01103 hereinafter referred to as "**Company**".

WHEREAS, the City has conducted Request for Qualifications/Proposals ("RFQ/P") 19-116 for the selection of Marijuana Establishments wishing to operate in Springfield; and

WHEREAS, Company was selected during the RFQ/P process and seeks approval to operate as an Adult Use Marijuana Retailer as defined by Massachusetts General Laws and Cannabis Control Commission regulations; and

WHEREAS, the City and Company entered into a Host Community Agreement in September of 2019 to memorialize the terms of Company's support of community initiatives and commitment to mitigate actual or potential adverse community impacts due to operation of a Marijuana Establishment in Springfield; and

WHEREAS, City has received an application for an amended Host Community Agreement based on a change of location by Company; and

WHEREAS, City has evaluated the new location of Company; and

WHEREAS, this amended Host Community Agreement shall constitute the stipulations of responsibilities between the City and Company pursuant to G.L. c. 94G, §3, as amended by c. 55 of the Acts of 2017 for the Company's operation of an Adult Use Marijuana Retailer in the City at the newly specified location.

NOW, THEREFORE, for the consideration set forth herein, the Parties hereto mutually agree as follows:

A. Community Impact.

1. As a result of the Company's operation of the Adult Use Marijuana Retailer located at 1860 Main Street in Springfield, MA, the City anticipates that additional expenses will be incurred by the City based on impacts in several areas including, but not limited to, law enforcement services, inspectional services, permitting services, administrative services, public health services and impacts on public roadways maintained by the City. In order to mitigate the direct and indirect financial impacts imposed on the City, Company agrees to annually pay a Host Community Impact Fee to the City.
2. Host Community Impact Fee. Based on Company's operation of an Adult Use Marijuana Retailer within the City, Company shall make annual payments to the City for the direct and indirect financial impacts to the City.

- a. The annual payment shall be equal to three (3%) percent of the gross revenue from the retail sale of marijuana and marijuana products pursuant to G.L. c. 94G, §3.
- b. Company shall make the annual payment quarterly on the 1st of January, April, July and October of the calendar year beginning the first full quarter after opening/beginning sales.

B. Real Estate Taxes: At all times during the term of this Agreement, real estate taxes for the property at which Company is operating will be paid either directly by Company or by its landlord.

C. Term.

1. **Initial Term:** Upon execution by all Parties, this Agreement shall commence as of the date of execution and shall continue in effect for five (5) years following that date, unless earlier terminated or extended in accordance with this Agreement.
2. **Renewal Term:** At the end of the Initial Term of this Agreement, the Parties shall renegotiate a new Host Community Agreement in accordance with the current prevailing laws and regulations.

D. Termination.

1. In the event Company no longer operates within the City, Company shall notify the City within thirty (30) days after it ceases to operate. This Agreement shall terminate upon written notification to the City of Company ceasing operations.
2. In the event of termination of this Agreement by Company, the final annual payment of the Host Community Impact Fee as described in Section A hereof, shall be paid to the City by the Company within thirty (30) days following the date of termination.
3. This Agreement shall be null and void in the event Company does not begin operation in the City, unless by written amendment signed by both Parties.

E. Security.

1. Company shall maintain a security plan in accordance with the Cannabis Control Commission regulations. Company shall comply with all security requirements set forth in 935 CMR 500.00 and any subsequent amendments and regulations.
2. Company shall cooperate with the City of Springfield Police Department for, including but not limited to, the scheduling of periodic meetings to review operational concerns, the security plan, and delivery procedures.
3. For the first seven (7) days of opening, Company will provide a police detail for the purposes of traffic and crowd management during peak hours of operation, which shall include, but not be limited to, Fridays between 3pm-8pm, and during regular business hours on Saturdays and Sundays. Company and City will schedule to meet in order to review traffic impacts and crowd management after the first seven (7) days of operation

to determine if police details are still required during peak hours of operation and to determine if peak hours of operation have changed. After the first seven (7) days, if it is determined that a police detail is still required during peak hours based on traffic impacts and crowd management, Company and City will meet every seven (7) days up to one (1) month after Company's opening date to determine if a police detail is still required during peak hours.

4. Company will report the discovery of the following occurrences to the City of Springfield Police and Fire Departments within twenty-four (24) hours of awareness of the event:
 - a. Amendments to Company's security plan;
 - b. Diversion of marijuana or marijuana products at Company's operating site;
 - c. Loss and any criminal action;
 - d. Diversions, accidents, or other losses occurring during transport;
 - e. Failure of any security alarm system; or
 - f. An alarm activation that requires the response of public safety personnel.

F. Marijuana Awareness and Educational Programs. To further marijuana awareness and to further mitigate the impact of marijuana use, Company agrees to provide, in cooperation with the Springfield Department of Health & Human Services ("HHS") and/or the Springfield Public Schools ("SPS"), public health & safety programs regarding marijuana education at least twice annually with the exact timing and content of such programming to be developed in consultation with HHS and/or SPS.

G. Community Support.

1. Local Hiring. Company agrees that, to the extent permissible by law, the Company will make every effort in a legal and non-discriminatory manner to hire City residents for at least 50% of the staff at the Company's Adult Use Marijuana Retail Establishment in Springfield.
2. Equity Hiring. Company agrees that, to the extent permissible by law, the Company will make every effort in a legal and non-discriminatory manner to hire staff that meet any of the following criteria:
 - a. Individuals with a drug-related CORI, but that are otherwise legally employable in a cannabis-related enterprise;
 - b. Individuals from Black, African American, Hispanic or Latino descent;
 - c. Individuals that are residents of Areas Of Disproportionate Impact, as defined by the Cannabis Control Commission;
 - d. Individuals that are Cannabis Control Commission-designated Social Equity Program participants; and/or
 - e. Individuals that are United States military veterans.
3. Local Vendors. Company agrees that, to the extent permissible by law, the Company will make every effort in a legal and non-discriminatory manner to contract with local businesses, suppliers, contactors and vendors in the provision of goods and services related to the overall operation of the Company.
4. Company will create a community advisory board for the purpose of establishing open communication between Company and community members about neighborhood

concerns. Such a board is strictly advisory in nature and will not have authority to control Company decision-making. The (i) composition of the community advisory board, including the number of members and constituents represented, (ii) the time, location and frequency of any formal or informal meetings of such board (if any), and (iii) the method and means of communication, are to be determined by the Company in its sole discretion, provided that, (a) with respect to the composition of such advisory board, Company will make reasonable efforts to solicit input from neighborhood councils, neighboring businesses, and/or City health, safety and welfare personnel, and (b) with respect to frequency of meetings, Company will make reasonable efforts to schedule community advisory board meetings no less frequently than once a quarter during the first consecutive twelve (12) month period of the Initial Term of this Agreement.

H. Support by the City.

1. Upon execution of this Agreement, the City agrees to execute the Host Community Agreement Certification Form, attached to this Agreement as Exhibit A, to establish that the City and Company have negotiated and executed a Host Community Agreement as required by the Massachusetts Cannabis Control Commission.
2. Upon proper demonstration of compliance, the City agrees to submit to the Cannabis Control Commission a certification stating Company has complied with all applicable laws and ordinances related to the Company's application for a Marijuana Establishment license.
3. The City makes no representation or promise that it will act in any particular way on any additional local requirements, including but not limited to, a Special Permit Application, a Health and Human Services Permit or a Building Permit. The City will review these local requirements based on the normal and regular course of conduct and in compliance with governing rules and regulations of the City, its Boards and Commissions.

I. Annual Meeting of the Parties. The City of Springfield shall send a notice no later than December 1st of each year of the proposed date and time of an annual meeting of the Parties to the designated representative of the Company.

Company: Payton Shubrick, Chief Executive Officer
6 Brick's LLC
1860 Main Street
Springfield, MA 01103

With a copy to: Michael Schneider, Esq.
Doherty, Wallace, Pillsbury & Murphy, P.C.
One Monarch Place, Suite 1900
Springfield, MA 01144

City: Mayor's Office
City of Springfield
36 Court Street, Rm. 214
Springfield, MA 01103

With a Copy to: City of Springfield
Law Department

City Solicitor
36 Court Street, Rm. 210
Springfield, MA 01103

The Parties shall promptly notify each other of any change of their respective addresses or representatives set forth above. After proper notification, such new address shall become the notice address or such new representative shall become the notice representative hereunder. Notice and other communications shall be deemed given when deposited in the United States mail and sent registered or certified, postage prepaid, to the last known address of the Party concerned.

J. Notification of Assignment.

1. Company shall be prohibited at all times from assigning, in whole or in part, any portion of this Agreement without the prior written consent of the City.
2. Ownership & Control.
 - a. Prior to a change of ownership, where an owner acquires or increases ownership to ten percent (10%) or more of equity, Company shall notify City.
 - b. Prior to a change in control of the Company, where an individual, corporation, or entity shall be in a position to control the decision-making of the Company, Company shall notify the City at least 60 days in advance. A position to control the decision-making of the Company entails the following:
 1. Actual control of more than 50% of the voting equity;
 2. Power to appoint directors;
 3. Contractual rights to control; and/or
 4. The right to veto significant events.
3. In the event of an assignment of ownership and/or control as described above, Company shall ensure the controlling Parent Company executes a Guaranty and Keep Well Agreement with the City. Such Guaranty and Keep Well Agreement is attached hereto as Exhibit B.

K. Entire Agreement. This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties hereto with respect to the subject matter of this Agreement. This Agreement may not be changed verbally, and may only be amended by an agreement in writing signed by both Parties.

L. No Rights in Third Parties. This Agreement is not intended to, nor shall it be construed to, create any rights in any third parties.

M. Severability. If any provision of this Agreement shall be held by a court of competent jurisdiction to be contrary to law, that provision will be enforced to the maximum extent permissible and the remaining provisions of this Agreement shall remain in full force and effect, unless to do so would result in either party not receiving the benefit of its bargain.


N. Governing Law and Exclusive Venue. The Parties agree that this Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, and that a

court of competent jurisdiction in Springfield, Massachusetts, Hampden County shall be the exclusive venue for any legal proceedings that may arise from this Agreement.

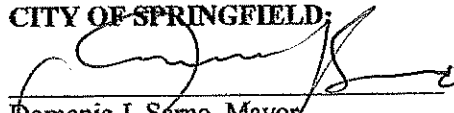
O. Successors. This Agreement shall be binding upon and shall inure to the benefit of the Parties, their respective heirs, executors, administrators and assigns.

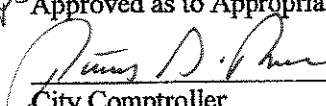
In Witness Whereof, 6 Brick's LLC and the City have executed this amended Host Community Agreement as of the date the same is finally signed by all Parties listed below.

COMPANY: 6 BRICK'S LLC


By: Payton Shubrick, Principal & CEO
Date Signed: 12/29/2020

CITY OF SPRINGFIELD:


Domenic J. Sarno, Mayor
Date Signed: 1/28/21

psb
Approved as to Appropriation: N/A
 1-26-2021
City Comptroller

Approved as to Form:


Duping City Solicitor 1/27/21

Approved:

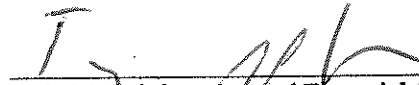

Chief Administrative and Financial Officer

Exhibit A



Host Community Agreement Certification Form

Instructions

Certification of a host community agreement is a requirement of the application to become a Marijuana Establishment (ME) and Medical Marijuana Treatment Center (MTC). Applicants must complete items 1-3. The contracting authority for the municipality must complete items 4-8. Failure to complete a section will result in the application not being deemed complete. This form should be completed and uploaded into your application. Please note that submission of information that is "misleading, incorrect, false, or fraudulent" is grounds for denial of an application for a license pursuant to 935 CMR 500.400(2) and 501.400(2).

Certification

The parties listed below do certify that the applicant and municipality have executed a host community agreement on the specified date below pursuant to G.L. c. 94G § 3(d):

1. Name of applicant:

6 Brick's LLC

2. Name of applicant's authorized representative:

Payton Shubrick

3. Signature of applicant's authorized representative:

Payton Shubrick

4. Name of municipality:

Springfield, MA

5. Name of municipality's contracting authority or authorized representative:



6. Signature of municipality's contracting authority or authorized representative:

7. Email address of contracting authority or authorized representative of the municipality (*this email address may be used to send municipal notices pursuant to 935 CMR 500.102(1) and 501.102(1).*):

8. Host community agreement execution date:



Exhibit B

EXHIBIT B TO HOST COMMUNITY AGREEMENT

FORM OF GUARANTY AND KEEP WELL AGREEMENT

Note this is a sample form of guaranty and keep well agreement. Actual terms and conditions may vary between selected entities.

This Guaranty And Keep Well Agreement ("**Guaranty**") is made as of this ___ day of _____, 20___, by _____, a Parent Company (form of business entity) ("**Guarantor**"), having its office at _____ on behalf of ("**Company**") to and for the benefit of the City of Springfield, Massachusetts, a municipal corporation (the "**City**").

RECITALS

- A. _____, a marijuana establishment ("**Company**") and the City have executed the certain Host Community Agreement ("**HCA**") dated _____, 20___, as the same may from time to time be amended ("**Agreement**" with capitalized terms herein having the same meaning as therein defined, unless expressly otherwise defined herein), which Agreement sets forth the terms and conditions upon which Company has agreed to develop, construct, operate and maintain the marijuana establishment in the City of Springfield ("**Project**").
- B. Guarantor, as the ultimate parent company of Company, will benefit from the financial success of Company.
- C. The execution and delivery of this Guaranty is required under the terms of the HCA.
- D. This Guaranty is a guarantee of the obligations of the Company as set forth in the Agreement only.

NOW, THEREFORE, in consideration of the foregoing premises and in order to induce the City to execute and deliver the Agreement, Guarantor, acknowledging that, but for the execution and delivery of this Guaranty, the City would not have entered into the Agreement with Developer, hereby covenants and agrees as follows:

- 1. Guarantor hereby absolutely, unconditionally and irrevocably guarantees to the City the following obligations as they relate to this Agreement (collectively, the "**Obligations**"): (i) the full and faithful performance by Company of its obligations to Complete the Project and comply with the terms of the HCA; and (ii) Company's prompt payment as and when due of all amounts of every kind or nature whatsoever required of Company under the HCA executed on _____, including the Company's annual payments and charitable donations as described in Section A and F of the HCA.
- 2. Upon assignment of Company as described in Section J of the HCA, Guarantor hereby absolutely, unconditionally and irrevocably guarantees to the City the obligations set forth herein will still be performed and carried out.
- 3. During the twenty-four (24) months following the Operations Commencement Date (the "**Keep Well Period**"), Guarantor agrees to fund Company all amounts necessary to allow Company to maintain and operate the Project and keep the Project open for business in the ordinary course during the Keep Well Period (the "**Keep Well Obligation**"), but only to the extent that Company's cash flow, which includes any proceeds from obligations arising from loans or other

debt which the Company was the financier thereof, from operations which is used to maintain and operate the Project and keep the Project open for business in the ordinary course during the Keep Well Period is insufficient to accomplish such purpose.

4. Guarantor will have and maintain available financial resources in an amount reasonably sufficient to fund all amounts necessary to allow Guarantor to perform all of its obligations hereunder, including, without limitation, the Keep Well Obligation.
5. Upon notice to Guarantor from the City that Company has failed to perform any of the Obligations, Guarantor agrees to:
 - a. assume full responsibility for and perform the Obligations in accordance with the terms, covenants and conditions of the Agreement;
 - b. indemnify and hold the City harmless from and against any and all loss, cost, damage, injury, liability, claim or expense the City may suffer or incur by reason of any nonpayment or nonperformance of any of the Obligations; and
6. Upon any Event of Default hereunder, the City shall have the following rights and remedies:
 - a. In addition, the City may bring any action at law or in equity or both, to compel Guarantor to perform its obligations hereunder and to collect compensation for all loss, cost, damage, injury and expense which may be sustained or incurred by the City as a direct or indirect consequence of Guarantor's failure to perform those obligations.
 - b. The City may release Company of all or any portion of its liability under this Agreement or the HCA at the sole discretion of the City.
 - c. The City must consent to any assignment or successive assignments of this Agreement by Company.
7. Guarantor expressly agrees that until the Obligations are fully satisfied and each and every term, covenant and condition of this Guaranty is fully performed, including, without limitation, the Keep Well Obligation, Guarantor shall not be released by or because of:
 - a. Any act or event which might otherwise discharge, reduce, limit or modify Guarantor's obligations under this Guaranty;
 - b. Any waiver, extension, modification, forbearance, delay or other act or omission of the City, or any failure to proceed promptly or otherwise as against Guarantor or any collateral, if any;
 - c. Any action, omission or circumstance which might increase the likelihood that Guarantor may be called upon to perform under this Guaranty or which might affect the rights or remedies of Guarantor; or
 - d. Any dealings occurring at any time between Company and the City, whether relating to the Agreement or otherwise.
8. Guarantor hereby expressly waives and surrenders any defense to its liability under this Guaranty based upon any of the foregoing acts, omissions, agreements, waivers or matters. It is the

purpose and intent of this Guaranty that the obligations of Guarantor under it shall be absolute and unconditional under any and all circumstances. Guarantor waives:

- a. All statutes of limitations as a defense to any action or proceeding brought against Guarantor by the City to the fullest extent permitted by law;
 - b. Any defense based on: (i) any legal disability of Company, (ii) any release, discharge, modification, impairment or limitation of the liability of Company under the Agreement from any cause, whether consented to by the City or arising by operation of law or from any bankruptcy or other voluntary or involuntary proceeding, in or out of court, for the adjustment of debtor-creditor relationships ("Insolvency Proceeding"), or (iii) any rejection or disaffirmance of the Agreement in any such Insolvency Proceeding;
 - c. Any defense based on any action taken or omitted by the City in any Insolvency Proceeding involving Company, including any election to have a claim allowed as being secured, partially secured or unsecured, any extension of credit by the City to Company in any Insolvency Proceeding, and the taking and holding by the City of any security for any such extension of credit; and
 - d. All presentations, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, notices of acceptance of this Guaranty and of the existence, creation, payment or nonpayment of the Obligations and demands and notices of every kind and nature.
9. The City shall not be required, as a condition precedent to making a demand upon Guarantor after an Event of Default or to bringing an action against Guarantor after an Event of Default upon this Guaranty, to make demand upon, or to institute any action or proceeding at law or in equity against Company, any other guarantor or anyone else, or exhaust its remedies against Company, any other guarantor or anyone else, or against any collateral, if any, given to secure the Obligations. All remedies afforded to the City by reason of this Guaranty are separate and cumulative remedies and it is agreed that no one of such remedies, whether exercised by the City or not, shall be deemed to be exclusive of any of the other remedies available to the City and shall not limit or prejudice any other legal or equitable remedy which the City may have.
10. Until the termination of this Guaranty in accordance with its terms, Guarantor hereby waives all rights of subrogation, contribution and indemnity against Company, now or hereafter arising, whether arising hereunder, by operation of law or contract or otherwise, as well as the benefit of any collateral which may from time to time secure the Obligations, and to that end, Guarantor further agrees not to seek any reimbursement, restitution, or collection from, or enforce any right or remedy of whatsoever kind or nature in favor of Guarantor against, Company or any other person or any of their respective assets or properties for or with respect to any payments made by Guarantor to the City hereunder or in respect of the Obligations or the Keep Well Obligation. However, Guarantor's waiver of its rights of subrogation is specifically limited to the extent that the exercise of such rights would adversely affect the City's rights pursuant to the Agreement. The City, in the course of exercising any remedies available to it under the Agreement, at its sole option may elect which remedies it may wish to pursue without affecting any of its rights hereunder. The City may elect to forfeit any of its rights, even if such actions shall result in a full or partial loss of rights of subrogation which Guarantor, but for the City's actions, might have had.

11. If, at any time, all or any part of any payment previously applied by the City to any of the Obligations is rescinded or must otherwise be restored or returned by the City for any reason, including, without limitation, the insolvency, bankruptcy, dissolution, liquidation or reorganization of Company, or upon or as a result of the appointment of a receiver, intervenor, custodian or conservator of, or trustee or similar officer for, Company or any substantial part of its property, Guarantor shall remain liable for the full amount so rescinded or returned.
12. Before signing this Guaranty, Guarantor investigated the financial condition and business operations of Company, the present and former condition, uses and ownership of the Project, and such other matters as Guarantor deemed appropriate to assure itself of Developer's ability to discharge its obligations under the Agreement. Guarantor assumes full responsibility for that due diligence, as well as for keeping informed of all matters which may affect Company's ability to pay and perform the Obligations. The City has no duty to disclose to Guarantor any information which it may have or receive about Company's financial condition or business operations, the condition or uses of the Project, or any other circumstances bearing on Company's ability to perform under the HCA.
13. Except for Permitted Affiliate Payments, any rights of Guarantor, whether now existing or hereafter arising, to receive payment on account of any indebtedness (including interest) owed to it by Company, or to withdraw capital invested by it in Company, or to receive distributions from Company, shall, to the extent and in the manner provided herein, be subordinate as to time of payment and in all other respects to the full and prior payment and performance of Obligations (to the extent then due). Following and during the continuance of an Event of Default, Guarantor shall not be entitled to enforce or receive payment of any sums or distributions from Company other than Permitted Affiliate Payments, until the Obligations have been paid and performed in full (to the extent then due) and any such sums received in violation of this Guaranty shall be received by Guarantor in trust for the City.
14. Guarantor covenants with the City as follows:
 - a. Guarantor will furnish to the City the following:
 - i. No later than ninety (90) days after the end of each fiscal quarter of Guarantor an unaudited balance sheet and income statement, certified as true and correct by the chief financial officer of Guarantor or by any other duly authorized representative of Guarantor reasonably acceptable to the City, which shall be prepared in accordance with GAAP consistently applied (except insofar as any change in the application thereof is disclosed in such financial statements).
 - ii. No later than one hundred twenty (120) days after the end of each fiscal year of Guarantor an audited balance sheet and income statement prepared in accordance with GAAP.

None of the aforesaid financial statements or any certificate or statement furnished to the City by or on behalf of Guarantor in connection with the transactions contemplated hereby, and none of the representations and warranties in this Guaranty, shall contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein or herein, in light of the circumstances under which they were made, not misleading.

- b. Guarantor shall give notice to the City promptly upon the occurrence of:

- i. any known default or Event of Default; and
- ii. any (A) material default or event of default by Guarantor under any contractual obligation of Guarantor or (B) litigation, investigation or proceeding which may exist at any time between Guarantor or any Person or Governmental Authority which could have a material adverse effect on the ability of Guarantor to pay its obligations hereunder.

Each notice pursuant to this paragraph shall be accompanied by a statement setting forth details of the occurrence referred to therein and stating what action Guarantor proposes to take with respect thereto.

- c. Guarantor agrees, upon the reasonable request of the City, to do any act or execute any additional documents as may be reasonably required by the City to accomplish or further confirm the provisions of this Guaranty.
15. The City may declare Guarantor to be in default under this Guaranty upon the occurrence of any of the following events (each, an "**Event of Default**", and collectively, "**Events of Default**").
- a. If Guarantor fails to pay any amounts required to be paid or expended under this Guaranty and such nonpayment continues for ten (10) Business Days after written notice from the City;
 - b. If Guarantor fails to comply with any covenants and agreements made by it in this Guaranty (other than those specifically described in any other subparagraph of this paragraph 16) and such noncompliance continues for fifteen (15) days after written notice from the City, provided, however, that if any such noncompliance is reasonably susceptible of being cured within thirty (30) days, but cannot with due diligence be cured within fifteen (15) days, and if Guarantor commences to cure any noncompliance within said fifteen (15) days and diligently prosecutes the cure to completion, then Guarantor shall not during such period of diligently curing be in default hereunder as long as such default is completely cured within thirty (30) days of the first notice of such default to Guarantor;
 - c. If any representation or warranty made by Guarantor hereunder was false or misleading in any material respect as of the time made;
 - d. If Guarantor ceases to do business or terminates its business for any reason whatsoever or shall cause or institute any proceeding for the dissolution of Guarantor; or
 - e. Except on satisfaction of the Obligations and expiration of the Keep Well Obligation, if Guarantor attempts to withdraw, revoke or assert that the Guaranty is of no force or effect.
16. If any of the provisions of this Guaranty, or the application thereof to any Person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Guaranty, or the application of such provision or provisions to Persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and every provision of this Guaranty shall be valid and enforceable to the fullest extent permitted by law.
17. This writing is intended by the parties hereto as a final expression of this Guaranty, and is intended to constitute a complete and exclusive statement of the term of the agreement among the parties hereto related to the subject matter hereof. There are no promises or conditions, expressed or implied, unless contained in this writing. No course of dealing, course of performance or trade

usage, and no parol evidence of any nature, shall be used to supplement or modify the terms of this Guaranty. No amendment, modification, termination or waiver of any provision of this Guaranty, shall in any event be effective unless the same shall be in writing and signed by the City, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No waiver shall be implied from the City's delay in exercising or failing to exercise any right or remedy against Developer, Guarantor or any collateral given to secure the Obligations.

18. Notices shall be given as follows:

- a. Any notice, demand or other communication which any party may desire or may be required to give to any other party hereto shall be in writing delivered by (i) hand-delivery, (ii) a nationally recognized overnight courier, or (iii) mail (but excluding electronic mail, i.e., "e-mail") addressed to a party at its address set forth below, or to such other address as the party to receive such notice may have designated to all other parties by notice in accordance herewith:

If to City: Mayor
City of Springfield
36 Court Street, Room 210
Springfield, Massachusetts 01103

with copies to: City Solicitor
City of Springfield
36 Court Street
Springfield, Massachusetts 01103

If to Parent Company: _____

Attn: _____

with copies to: _____

Attn: _____

- b. Any such notice, demand or communication shall be deemed delivered and effective upon actual delivery.

19. Time is of the essence in performance of this Guaranty by Guarantor.

20. Guarantor's obligations under this Guaranty are in addition to its obligations under any other existing or future guaranties, each of which shall remain in full force and effect until it is expressly modified or released in a writing signed by the City. Guarantor's obligations under this Guaranty are independent of those of Company under the Agreement.

21. The terms of this Guaranty shall bind and benefit the legal representatives, successors and assigns of the City and Guarantor; provided, however, that Guarantor may not assign this Guaranty, or assign or delegate any of its rights or obligations under this Guaranty, without the prior written consent of the City in each instance.

22. This Guaranty shall be governed by, and construed in accordance with, the local laws of the Commonwealth of Massachusetts without application of its law of conflicts principles.
23. If at any time during the Term, Guarantor is not a resident of the Commonwealth or has no officer, director, employee, or agent thereof available for service of process as a resident of the Commonwealth, or if any permitted assignee thereof shall be a foreign corporation, partnership or other entity or shall have no officer, director, employee, or agent available for service of process in the Commonwealth, Guarantor or its assignee hereby designates the Secretary of the Commonwealth, as its agent for the service of process in any court action between it and the City or arising out of or relating to this Guaranty and such service shall be made as provided by the laws of the Commonwealth for service upon a non-resident.
24. Guarantor acknowledges that it expects to derive a benefit as a result of the Agreement because of its relationship to Company, and that it is executing this Guaranty in consideration of that anticipated benefit.
25. The obligations of Guarantor under this Guaranty with respect to the Obligations set forth in paragraph 1 hereof, shall terminate and be of no further force or effect (subject to reinstatement pursuant to paragraph 11 hereof) upon the satisfaction of such Obligations set forth in paragraph 1 hereof and with respect to the Keep Well Obligation, shall terminate and be of no further force or effect upon the expiration of the Keep Well Period.
26. Dispute Resolution:
 - a. It is acknowledged by the parties hereto that a quick and efficient resolution of any dispute, claim, or controversy arising under or relating to this Guaranty, the breach, termination, or validity of this Guaranty, or the dealings between the parties or their successors, or with respect to any claim arising by virtue of any representations made by any party hereto (collectively, a "Dispute") is critical to the implementation of this Guaranty. In order to effectuate such intent, the parties hereto do hereby establish this dispute resolution procedure. All Disputes shall be subject to this Section, it being the intention of the parties hereto that all such Disputes be subject thereto regardless of any specific reference or absence of such reference as provided herein. No time bar defenses shall be available based upon the passage of time during any negotiation called for by this Section.
 - b. Either party hereto shall give the other party written notice of any Dispute ("Dispute Notice") which Dispute Notice shall set forth the amount of loss, damage, and cost of expense claimed, if any.
 - c. Within ten (10) Business Days of the Dispute Notice, the parties hereto shall meet to negotiate in good faith to resolve the Dispute.
 - d. At any time, either party hereto may seek injunctive relief from the Court (as hereinafter defined). Subject to the arbitration provisions of this Section, it is the express intention of the parties hereto that the exclusive venue of all judicial actions of any notice whatsoever which relate in any way to this Agreement shall be filed in the Superior Court Department of the Trial Court sitting in the Hampden County Hall of Justice in the City, or the United States District Court sitting in the City (the "Court") in furtherance of arbitration of the Dispute.

- e. In the event the Dispute is unresolved within thirty (30) days of the Dispute Notice by good faith negotiations, the Dispute shall be arbitrated upon the filing by either party hereto of a written demand, with notice to the other party hereto, to the Judicial Arbitration and Mediation Service ("JAMS") (to the extent such rules are not inconsistent as provided for herein) in the City before a single arbitrator to be selected under JAMS selection process. Arbitration of the Dispute shall be governed by the then current commercial arbitration rules of JAMS. Within ten (10) days after receipt of written notice of the Dispute being brought to the arbitrator, each party hereto shall submit to the arbitrator a best and final settlement with respect to each issue submitted to the arbitrator and an accompanying statement of position containing supporting facts, documentation and data. Upon such Dispute being submitted to the arbitrator for resolution, the arbitrator shall assume exclusive jurisdiction over the Dispute, and shall utilize such consultants or experts as he shall deem appropriate under the circumstances to assist in the resolution of the Dispute, and will be required to make a final binding determination with a reasoned opinion, not subject to appeal, within forty-five (45) days of the date of submission. Nothing herein shall prevent either party hereto from seeking injunctive relief in Court to maintain the status quo in furtherance of arbitration.
- f. For each issue decided by the arbitrator, the arbitrator shall award the reasonable expenses of the proceeding, including reasonable attorneys' fees, to the prevailing party hereto with respect to such issue. The arbitrator in arriving at his decision shall consider the pertinent facts and circumstances as presented in evidence and be guided by the terms and provisions of this Guaranty and applicable law, and shall apply the terms of this Guaranty without adding to, modifying or changing the terms in any respect, and shall apply the laws of the Commonwealth to the extent such application is not inconsistent with this Guaranty.
- g. Any arbitration award may be entered as a judgment in the Court. A printed transcript of any such arbitration proceeding shall be kept and each of the parties hereto shall have the right to request a copy of such transcript, at its sole cost.
- h. The parties hereto agree that, in addition to monetary relief, the arbitrator may make an award of equitable relief including but not limited to a temporary, preliminary or permanent injunction and the parties hereto further agree that the arbitrator is empowered to enforce any of the provisions of this Guaranty.