

## HOST COMMUNITY AGREEMENT

This Host Community Agreement (the "HCA") is entered into as of 4/27/2017 2017 by and between the Town of Charlton (the "TOWN"), a municipal corporation duly organized under the laws of the Commonwealth, acting through its Board of Selectmen (the "SELECTMEN"), and Healthwise Foundation, Inc., a Massachusetts nonprofit corporation, with a principal place of business at 66 Clarendon Street, Unit 4, Boston, MA 02116 and a regular place of business at 60 Prospect Street, North Brookfield, MA 01535, ("HEALTHWISE").

This HCA represents the understanding and agreement between the TOWN and HEALTHWISE (the "PARTIES") with respect to development of a tract of land with improvements in the vicinity of Masonic Home Road and Worcester Road in the Town of Charlton and the use thereof for a registered marijuana dispensary ("RMD") in a manner consistent with MA Department of Public Health ("DPH") Regulations, 105 CMR 725.000, et. seq. (the "Regulations") implementing the Humanitarian Medical Use of Marijuana Act, Ch. 369 of the Acts of 2012 (the "Act"). The tract of land (the "PROPERTY") is shown as three lots with Parcel ID's 34A-A-10, 34A-A-9, and 34A-A-7 on a Plan entitled "Assessor's Map 34A" dated January 2016 and prepared by CMRPC. The development of the PROPERTY is also subject to a Remuneration Agreement (the "REMUNERATION AGREEMENT"), entered into contemporaneously with and as an essential part of and incorporated by reference in this HCA, attached as Appendix A, which provides compensation to the TOWN in order to secure approval for HEALTHWISE to utilize the PROPERTY for its intended use as a licensed marijuana dispensary.

### RECITALS

WHEREAS, HEALTHWISE plans to commence a significant capital investment in the development of a site located on the PROPERTY, to prepare the site appropriately for the intended use, and to commence such intended use as a licensed marijuana dispensary (the "PROJECT"); and

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

WHEREAS, the PARTIES agree and acknowledge that the TOWN has identified certain concerns with respect to the impact of the construction of the expanded and improved facilities on the PROPERTY, as well as their subsequent operation; and

WHEREAS, the PARTIES intend to enter into this HCA as a means of memorializing their obligations with respect to mitigation of these impacts, as well as their intention to collaborate to the fullest extent possible to ensure the proposed improvements and operations occur efficiently;

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein and other good and valuable consideration, including but not limited to the

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right of HEALTHWISE to liquidate or otherwise convey any lots owned by HEALTHWISE which are not being used for the PROJECT, the receipt and sufficiency of which is hereby acknowledged, the PARTIES hereby agree as set forth herein.

1. The PARTIES respectively represent and warrant that to the best of their knowledge:
  - a. Each is duly organized and existing and in good standing, has the full power, authority, and legal right to enter into and perform this HCA, and the execution, delivery and performance hereof and thereof (i) will not violate any judgment, order, law, bylaw, or regulation, and (ii) do not conflict with, or constitute a default under, any agreement or instrument to which either is a party or by which either party may be bound or affected; and
  - b. This HCA has been duly authorized, executed and delivered, this HCA constitutes legal, valid and binding obligations of each party, enforceable in accordance with its terms, there is no action, suit, or proceeding pending, or, to the knowledge of either party, threatened against or affecting either wherein an unfavorable decision, ruling or finding would materially adversely affect the performance of any obligations hereunder, except as otherwise specifically noted in this HCA.
2. In the event that external repairs and remodeling are required for the initial development of the PROPERTY, aesthetic concerns shall be reviewed by an Advisory Group (the "AG"), convened for this purpose and with a membership consisting of HEALTHWISE officials and two individuals to be designated by TOWN. The AG shall review and advise in writing as to proposed exterior aesthetic and/or decorative design choices to ensure the site and building design fits the character of its environs as well as the community at large, within reason.
3. HEALTHWISE commits to the provision of educational materials related to health, safety and responsible use of the products offered at the proposed site. These materials shall be readily available at the point of purchase. Such materials shall be published and distributed by HEALTHWISE and made available to the residents of the TOWN. All educational materials shall be developed in consultation with the Massachusetts Department of Public Health, the Charlton Board of Health, the Charlton Police Department, and other reasonable, relevant private groups as identified by the aforementioned, named entities. HEALTHWISE shall provide one age-appropriate system of drug awareness and/or drug abuse prevention-related educational programming, with materials, or like event per academic year for each of the TOWN school levels, e.g. Elementary, Intermediate, and Secondary. The aforesaid materials and event shall be developed in

conjunction with the Chief of Police and the Superintendent of the Dudley-Charlton Regional School District.

4. HEALTHWISE is deeply committed to being a Good Neighbor to the TOWN. Therefore, where allowed by Federal, State and Municipal laws and regulations, a "Local Labor Hiring Preference" shall exist for all residents of the TOWN applying for employment by the HEALTHWISE at the Charlton site. That is, within the confines of the law, and to the extent candidates meet the minimum, required, qualifications needed for a particular position, HEALTHWISE shall use its best efforts to employ Charlton residents before considering other candidates for open positions. In addition to the direct hiring, HEALTHWISE will work in a good faith, legal and non-discriminatory manner to hire local vendors, suppliers, contractors and builders from the Charlton area where possible.
5. HEALTHWISE shall design and operate the PROPERTY and any RMD thereon at all times in compliance with applicable MA law, the Regulations and all local bylaw, rules and regulations, and commits to close, ready, and transparent cooperation with the Charlton Police Department and other regulatory bodies (e.g. the Charlton Board of Health). HEALTHWISE therefore shall facilitate the reasonable provision of real-time access to the internal and external security real-time camera footage feeds to the Chief of Police of the Town of Charlton or the Chief's designated agent within the Charlton Police Department. HEALTHWISE shall also preserve all such security videotapes for a period of six months (or in the event of an arrest, until such arrest and charges have been finally resolved by a Court) and shall make them available to the Chief or the Chief's designee upon request. HEALTHWISE shall work with the Charlton Police Department in determining the placement of exterior security cameras, at HEALTHWISE's sole expense to ensure compliance with DPH security requirements and the Chief of Police's requirements.
6. HEALTHWISE has committed to a Good Neighbor Policy regarding the TOWN. As an expression of this Policy, HEALTHWISE shall exercise its best efforts to seek reasonable ways to contribute to the growth, development, and long-term success of the TOWN. In addition to the aforementioned items, HEALTHWISE shall contribute monetary remuneration to the TOWN. The terms shall be set forth in an agreement entitled "REMUNERATION AGREEMENT". The finalized REMUNERATION AGREEMENT is attached to this HCA as "Appendix A".
7. HEALTHWISE and the TOWN shall form an Advisory Taskforce, consisting of Healthwise Officers and officials of the TOWN, including the Health Director or other designee of the Board of Health, the Town Administrator, the Chief of Police, the Fire Chief, the Board of Selectmen, or their respective

designees, and a citizen representative appointed by the Selectmen. This Advisory Task Force shall convene as necessary, as well as timely whenever the Selectmen or Town Administrator so requests, in order to provide ongoing consultation and advice to HEALTHWISE.

8. This HCA and any REMUNERATION AGREEMENT may only be modified by the express written consent of both parties. All notices or requests required or permitted hereunder shall be in writing and addressed, if to the TOWN as follows, and shall be delivered either in hand or by certified or first class mail or by express mail by a nationally recognized delivery service (e.g., UPS or FedEx):

Town Administrator  
Town of Charlton  
Charlton Municipal Offices  
37 Main Street  
Charlton, MA 01507

If to HEALTHWISE as follows:

General Counsel  
Healthwise Foundation, INC.  
60 Prospect Street  
North Brookfield, MA 01535

Each of the PARTIES shall have the right by notice to the other to designate different and/or additional persons to whom notices and copies of notices must be sent, and to designate changes in address.

9. If and to the extent that either party is prevented from performing its obligations hereunder by an event of Force Majeure, such party shall be excused from performing hereunder and shall not be liable in damages or otherwise, and the parties shall instead negotiate in good faith with respect to appropriate modifications of the terms hereof. For purposes of this HCA, the term Force Majeure shall mean the supervening causes described here, each of which is beyond the reasonable control of the Party failing to perform: acts of God, fire, earthquakes, floods, explosion, actions of the elements, war, terrorism, riots, mob violence, a general shortage of labor, equipment, facilities, materials, or supplies in the open market, failure of transportation, strikes, lockouts, actions of labor unions, condemnation, laws, regulations, and/or orders of any governmental or military authorities, or any other cause similar to the foregoing, not within the control of such party obligated to perform such obligation.

A. The failure to perform a requirement of this Agreement shall be considered to have been caused by a Force Majeure event if the following criteria are met: (1) an event delays performance of a requirement of this Agreement beyond the time for performance established herein; (2) such event is beyond the control and without the fault of Party failing to perform and the Party failing to perform's employees, agents, consultants, and contractors; and (3) such delay could not have been prevented, avoided or minimized by the exercise of reasonable due care by the Party failing to perform's employees, agents, consultants, and contractors.

B. Financial inability and unanticipated or increased costs and expenses associated with the performance of any requirement of this Agreement shall not be considered a Force Majeure Event.

C. If any event occurs that delays or may delay the performance of any requirement of this Agreement, the Party failing to perform shall immediately, but in no event later than 5 days after obtaining knowledge of such event, notify the other Party in writing of such event. The notice shall describe in detail: (i) the reason for and the anticipated length of the delay or potential delay; (ii) the measures taken and to be taken to prevent, avoid, or minimize the delay or potential delay; and (iii) the timetable for taking such measures. If the Party failing to perform intends to attribute such delay or potential delay to a Force Majeure event, such notice shall also include the rationale for attributing such delay or potential delay to a Force Majeure event and shall include all available documentation supporting a claim of Force Majeure for the event. Failure to comply with the notice requirements set forth herein shall constitute a waiver of such Party's right to request an extension based on the event.

D. If the other Party determines that the failure to perform is caused by a Force Majeure event, and the Party failing to perform otherwise complies with the notice provisions set forth above, the other Party shall extend in writing the time for performance of such requirement. The duration of this extension shall be equal to the period of time the failure to perform is caused by the Force Majeure event. No extension shall be provided without the consent of both Parties for any period of time that the Party failing to perform's failure to perform could have been prevented, avoided or minimized by the exercise of due care.

E. A delay in the performance of a requirement of this Agreement caused by a Force Majeure event shall not, of itself, without the consent of both Parties, extend the time for performance of any other requirement of this Agreement.

10. Failure by HEALTHWISE to perform any term or provision of this HCA shall not constitute a default under this HCA unless HEALTHWISE fails to immediately commence and to then prosecute with best efforts and commercially reasonable due diligence to fully cure, correct or remedy such failure within thirty (30) days of the earlier of: (a) receipt of written notice of such failure from the TOWN or (b) when HEALTHWISE or its employees, officers, contractors or agents knew or with reasonable care should have known of such failure; or, if such cure, correction or remedy despite such efforts cannot be so completed within said thirty (30) days, HEALTHWISE thereafter fails to complete such cure, correction or remedy within ninety (90) days of the earlier of (a) or (b) above, or with respect to defaults which cannot be remedied within such ninety (90) day period, within such additional period of time as is required to reasonably remedy such default, if HEALTHWISE is exercising due diligence in the remedying of such default and provided the TOWN consents to such further extension.

11. In the event of a situation which the TOWN reasonably determines may pose a serious threat to public safety or health, all cure periods shall be seven days, or, with respect to defaults which cannot be remedied within such seven (7) day period, within such additional period of time as is required to reasonably remedy such default, provided: (a) HEALTHWISE is exercising due diligence in the remedying of such default; and (b) the TOWN consents in writing to such further extension. This provision shall not derogate from enforcement of any MA law, regulation or code, nor of any town bylaw, code or regulation by the Chief of Police or police department, the Fire Chief or fire department, the Health Director or Board of Health, and/or the Building Inspector or any other town official, board or body having jurisdiction as to same.

12. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without reference to its law concerning conflict of laws, and the Parties agree that any dispute as to the Agreement shall be decided by a Court of law, be it Commonwealth or federal, sitting in Worcester County, MA. 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 one or both parties

would be substantially or materially prejudiced. Nothing in this Agreement shall be construed as or deemed to constitute a waiver of or limitation on any legal right of enforcement the TOWN has under applicable law.

13. Except for the REMUNERATION AGREEMENT attached as Appendix A, this HCA sets forth the entire agreement of the parties with respect to the subject matter thereto. The failure of any party to strictly enforce the provisions hereof shall not be construed as a waiver of any obligation hereunder. This HCA can be modified only in a written instrument signed by the SELECTMEN and HEALTHWISE. Neither Party may assign this Agreement, nor its rights or obligations hereunder, without the prior, written consent of the other Party. This HCA, including the REMUNERATION AGREEMENT, shall: (a) be binding upon and inure to the benefit of the PARTIES and their successors and permitted assigns; and (b) continue in full force and effect for so long as HEALTHWISE or any successor or permitted assign operates a marijuana dispensary or facility in the Town of Charlton.

Executed under seal.

TOWN OF CHARLTON ADMINISTRATOR

By: \_\_\_\_\_

Robin Leal Craver

Title: Town Administrator

Hereunto duly authorized

Date: \_\_\_\_\_

HEALTHWISE FOUNDATION, INC.

By:  \_\_\_\_\_

Name: Dr. Michael J. McMenamin, Esq.

Title: Executive Director

Date: 4/25/2017

APPENDIX A

REMUNERATION AGREEMENT

This REMUNERATION AGREEMENT is entered into as of 4/27/ 2017 by and between the Town of Charlton (the "TOWN"), a municipal corporation duly organized under the laws of the Commonwealth, acting through its Board of Selectmen (the "SELECTMEN") and Healthwise Foundation, Inc., a Massachusetts nonprofit corporation, with a principal place of business at 66 Clarendon Street, Unit 4, Boston, MA 02116 and a regular place of business at 60 Prospect Street, North Brookfield, MA 01535 ("HEALTHWISE") (collectively, the "PARTIES").

RECITALS

WHEREAS, the TOWN has requested a remuneration agreement from HEALTHWISE as a condition of approval of HEALTHWISE's siting and operation of a licensed marijuana dispensary in Charlton, in conjunction with and as part of a Host Community Agreement ("HCA"), this Remuneration Agreement constituting an essential part of the HCA and being attached thereto as Appendix A, and

WHEREAS, HEALTHWISE acknowledges that its presence in Charlton foreseeably will or could cause increased demand on TOWN services, and

WHEREAS, HEALTHWISE and the TOWN have a mutual interest in the long-term sustainable development of both the HEALTHWISE project, public health and safety, and the economic growth of the TOWN, and

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein and for other good and valuable consideration, the receipt and sufficiency of which they hereby acknowledge, the PARTIES hereby agree as set forth herein:

1. HEALTHWISE, its assignee, nominee, or successor thereof, shall remit to the TOWN the full mill rate of HEALTHWISE's assessed property value in accordance with the standard property taxation schedule for the TOWN, with an estimated annual payment of: **\$10,575.00**; and agrees that neither it nor any nominee, successor or permitted assign shall seek a tax exemption from such taxes during any period covered by this Agreement unless seeking a valid abatement of property taxes due to circumstances outside of HEALTHWISE'S control, provided that HEALTHWISE under no circumstances shall seek, nor receive, an exemption or abatement based on its charitable corporation status, nature or use.



2. HEALTHWISE shall also remit to the TOWN the excise tax rate determined by the Commonwealth for sale of recreational marijuana and marijuana-infused products, currently at 2.0% of gross annual sales, for an estimated annual payment of: **\$300,000.00**
  - a. If this excise tax or any similar tax rate is modified or otherwise changed by the valid actions of the government or any other authority, the PARTIES shall have the right, upon written notice by one Party to the other Party, to an automatic adjustment of the aforesaid remittance to reflect the modified rate, effective as of the date of such notice, to reflect the change in circumstances.
    1. For means of illustration, if, hypothetically, an authority were to validly increase the allowable relevant excise tax rate to 10%, the 2% excise tax under current consideration in this Agreement would be automatically raised to 10% to reflect that margin upon notice of either party.
  - b. The introduction of or increase in any local excise tax or similar by TOWN shall trigger an immediate automatic adjustment of the REMUNERATION AGREEMENT to reflect that such tax or charge is payable in addition to the other payments addressed in this Agreement.
3. HEALTHWISE shall also remit to the TOWN a sum derived from EITHER 3% of the gross sales of medical marijuana and medical marijuana-infused items OR **\$300,000.00**, whichever is greater, per annum.
4. HEALTHWISE shall deliver a charitable grant to the TOWN to be used for purposes of general health, safety, and/or education programming in the amount of **\$50,000.00** per annum.
5. These total payments or benefits shall be delivered to TOWN on or by the 365<sup>th</sup> day from the commencement of the Payment Term. The "Payment Term" shall commence with the first date of licensed commercial operations in Charlton by HEALTHWISE under their Final Certificate of Registration conferred by the Department of Public Health.
6. All payments or benefits required by this Agreement shall be made payable to "Town of Charlton" unless the Town Administrator directs that any such be made payable to a specific Town account. All such shall be hand-delivered or mailed to the address set forth in the HCA, or, if so authorized by the Town Administrator, by electronic fund transfer to the Town.
7. These payments or benefits shall remain in effect for the full term of HEALTHWISE's or any successor or permitted assign's use of the Charlton site for the purposes of a licensed marijuana dispensary. Upon permanent

voluntary or involuntary termination of such use, payments or benefits shall immediately cease.

Executed under seal.

IN WITNESS WHEREOF, the parties hereto have caused this REMUNERATION AGREEMENT to be duly executed as of the date first set forth above.

TOWN OF CHARLTON ADMINISTRATOR

By: 

Robin Leal Craver

Title: Town Administrator

Hereunto duly authorized

Date: 4/27/2017

HEALTHWISE FOUNDTION, INC.

By: 

Name: Dr. Michael A. McMenamin, Esq.

Title: Executive Director

Date: 4/25/2017


I, the undersigned, hereby certify that I am the Clerk of Healthwise Foundation, INC., a Corporation duly organized and existing under the laws of the Commonwealth of Massachusetts; that the following is a true copy of resolutions duly adopted by the Board of Directors of said Corporation at a meeting duly held on the day of August 20th, 2015, at which a quorum was present; that such resolutions have not been rescinded or modified; and that within said Corporation, the titles and duties of "President" and "Executive Director" are synonymous and are fulfilled by a single officer:

### Section 3. Duties of Officers

The duties and powers of the officers of the Corporation shall be as follows:

**PRESIDENT--The president shall be the principal executive officer of the Corporation and, subject to the control of the board shall in general supervise and control all the daily or short-term transactions, business, and affairs of the Corporation.** He shall preside at all meetings of the stockholders. He shall be present at each annual meeting of the board a report of the condition of the business of the Corporation. He shall cause to be called special meetings of the board in accordance with these bylaws. He shall appoint and remove, employ and discharge and fix the compensation of all servants, agents, and employees of the Corporation other than the duly appointed officers. **He may sign and make all contracts and agreements in the name of the Corporation.** He shall see that the books, reports, statements and certificates required by the statutes are properly kept, made and filed according to law. He may sign all notes, drafts or bills of exchange, warrants or other orders for the payment of money duly drawn by the treasurer. He shall enforce these bylaws and perform all duties incident to the position and office, and which are required by law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 25th day of April, 2017:

  
James McMahon, Esq.  
Clerk  
Healthwise Foundation, INC.



**TOWN OF CHARLTON  
OFFICE OF THE TOWN ADMINISTRATOR**

**37 Main Street  
Charlton, MA 01507  
WWW.TOWNOFCHARLTON.NET  
Phone (508) 248-2206  
Fax (508) 248-2066**

Robin L. Craver, Town Administrator  
[robin.craver@townofcharlton.net](mailto:robin.craver@townofcharlton.net)

**Healthwise Foundation, INC: Letter of Non-Opposition**

TO WHOM IT MAY CONCERN:

The Board of Selectmen of the Town of Charlton does hereby provide non-opposition to Healthwise Foundation, INC to operate a Registered Marijuana Dispensary in Charlton. I have been authorized to provide this letter on behalf of the Board of Selectmen of the Town of Charlton by a vote taken duly noticed meeting held on April 11, 2017. The Board of Selectmen of the Town of Charlton has verified with the appropriate local use by right or pursuant to local permitting.

Name:   
Robin L. Craver, Town Administrator

Date: 4/27/2017