



## Massachusetts Cannabis Control Commission

### Marijuana Courier

#### General Information:

License Number: D0100137  
Original Issued Date: 01/20/2022  
Issued Date: 01/20/2022  
Expiration Date: 01/20/2023

### MARIJUANA COURIER PRE-CERTIFICATION NUMBER

Marijuana Courier Pre-Certification Number:

### ABOUT THE MARIJUANA COURIER LICENSEE

Business Legal Name: Healing Calyx LLC

Phone Number: 617-997-8542  
Email Address: mortoll@healingcalyx.org

Business Address 1: 380 Dwight Street  
Business City: Holyoke  
Business State: MA  
Business Zip Code: 01040  
Business Address 2: Suite 5  
Mailing Address 1: 40 Rhodes Circle  
Mailing City: Hingham  
Mailing State: MA  
Mailing Zip Code: 02043  
Mailing Address 2:

### CERTIFIED DISADVANTAGED BUSINESS ENTERPRISES (DBES)

Certified Disadvantaged Business Enterprises (DBEs): Not a DBE

### PERSONS HAVING DIRECT OR INDIRECT CONTROL

#### Person with Direct or Indirect Authority 1

Percentage Of Ownership: 70  
Percentage Of Control: 70  
Role: Owner / Partner  
Other Role:  
First Name: Michael  
Last Name: Ortoll  
Suffix:  
Gender: Male  
User Defined Gender:  
What is this person's race or ethnicity?: Hispanic, Latino, or Spanish (Mexican or Mexican American, Puerto Rican, Cuban, Salvadoran, Dominican, Colombian)  
Specify Race or Ethnicity: 100% Cuban

#### Person with Direct or Indirect Authority 2

Percentage Of Ownership: 25  
Percentage Of Control: 25  
Role: Owner / Partner  
Other Role:  
First Name: James  
Last Name: Jaron  
Suffix:  
Gender: Male  
User Defined Gender:

What is this person's race or ethnicity?: White (German, Irish, English, Italian, Polish, French)

Specify Race or Ethnicity:

#### Person with Direct or Indirect Authority 3

Percentage Of Ownership: 5 Percentage Of Control: 5

Role: Owner / Partner

Other Role:

First Name: Blake

Last Name: Mensing

Suffix:

Gender: Male

User Defined Gender:

What is this person's race or ethnicity?: White (German, Irish, English, Italian, Polish, French)

Specify Race or Ethnicity:

#### ENTITIES HAVING DIRECT OR INDIRECT CONTROL

No records found

#### CAPITAL RESOURCES - INDIVIDUALS

##### Individual Contributing Capital 1

First Name: James

Last Name: Jaron

Suffix:

Types of Capital: Monetary/Equity Other Type of Capital: Total Value of the Capital Provided: \$250000 Percentage of Initial Capital: 100

Capital Attestation: Yes

#### CAPITAL RESOURCES - ENTITIES

No records found

#### BUSINESS INTERESTS IN OTHER STATES OR COUNTRIES

##### Business Interest in Other State 1

Business Interest of an Owner or the Marijuana Courier Licensee: Business Interest of an Owner

Owner First Name: Blake

Owner Last Name: Mensing

Owner Suffix:

Entity Legal Name: Squared Holdings LLC

Entity DBA: MC2

Entity Description: Applicant for medical marijuana licensure in Michigan

Entity Phone: 908-499-4896

Entity Email:  
david@dhcconsulting.net

Entity Website: n/a

Entity Address 1: 520 N. Main Street

Entity Address 2:

Entity City: Royal Oak

Entity State: MI

Entity Zip Code: 48067

Entity Country: USA

Entity Mailing Address 1: 520 N. Main Street

Entity Mailing Address 2:

Entity Mailing City: Royal  
Oak

Entity Mailing State: MI

Entity Mailing Zip Code:  
48067

Entity Mailing Country:  
USA

##### Business Interest in Other State 2

Business Interest of an Owner or the Marijuana Courier Licensee: Business Interest of an Owner

Owner First Name: Blake

Owner Last Name: Mensing

Owner Suffix:

Entity Legal Name: Squared Holdings LLC

Entity DBA: MC2

Entity Description: Applying for medical marijuana licensure in New Jersey

Entity Phone:  
908-499-4896

Entity Email:  
david@dhcconsulting.net

Entity Website: n/a

Entity Address 1: 301 Orange Avenue

Entity Address 2:

Entity City: Cranford

Entity State: NJ

Entity Zip Code: 07016

Entity Country: USA

Entity Mailing Address 1: 301 Orange Avenue

Entity Mailing Address 2:

Entity Mailing City:	Entity Mailing State: NJ	Entity Mailing Zip Code:	Entity Mailing Country:
Cranford		07016	USA

#### DISCLOSURE OF INDIVIDUAL INTERESTS

##### Individual 1

First Name: Blake	Last Name: Mensing	Suffix:
Marijuana Establishment Name: Holyoke 420 LLC d/b/a Holyoke Cannabis	Business Type: Marijuana Retailer	
Marijuana Establishment City: Holyoke	Marijuana Establishment State: MA	

##### Individual 2

First Name: Blake	Last Name: Mensing	Suffix:
Marijuana Establishment Name: Coyote Cannabis Corporation	Business Type: Marijuana Cultivator	
Marijuana Establishment City: Uxbridge	Marijuana Establishment State: MA	

##### Individual 3

First Name: Blake	Last Name: Mensing	Suffix:
Marijuana Establishment Name: Coyote Cannabis Corporation	Business Type: Marijuana Product Manufacture	
Marijuana Establishment City: Uxbridge	Marijuana Establishment State: MA	

##### Individual 4

First Name: James	Last Name: Jaron	Suffix:
Marijuana Establishment Name: Holyoke 420 LLC d/b/a Holyoke Cannabis	Business Type: Marijuana Retailer	
Marijuana Establishment City: Holyoke	Marijuana Establishment State: MA	

##### Individual 5

First Name: Blake	Last Name: Mensing	Suffix:
Marijuana Establishment Name: H&H Cultivation LLC	Business Type: Marijuana Cultivator	
Marijuana Establishment City: Holyoke	Marijuana Establishment State: MA	

##### Individual 6

First Name: Blake	Last Name: Mensing	Suffix:
Marijuana Establishment Name: H&H Cultivation LLC	Business Type: Marijuana Product Manufacture	
Marijuana Establishment City: Holyoke	Marijuana Establishment State: MA	

##### Individual 7

First Name: James	Last Name: Jaron	Suffix:
Marijuana Establishment Name: J&L Enterprises	Business Type: Marijuana Cultivator	
Marijuana Establishment City: Orange	Marijuana Establishment State: MA	

##### Individual 8

First Name: James	Last Name: Jaron	Suffix:
Marijuana Establishment Name: J&L Enterprises Inc.	Business Type: Marijuana Product Manufacture	
Marijuana Establishment City: Orange	Marijuana Establishment State: MA	

#### MARIJUANA COURIER LICENSEE PROPERTY DETAILS

Establishment Address 1: 380 Dwight Street	Establishment Address 2: Suite 5
Establishment City: Holyoke	Establishment Zip Code: 01040
Approximate square footage of the establishment: 825	How many abutters does this property have?: 10
Have all property abutters been notified of the intent to open a Marijuana Courier Licensee at this address?: Yes	
Date generated: 07/01/2022	

### HOST COMMUNITY INFORMATION

Host Community Documentation:

Document Category	Document Name	Type	ID	Upload Date
Plan to Remain Compliant with Local Zoning	Healing Calyx LLC-Zoning Compliance Plan.pdf	pdf	611ac7db67158339c0ec73e8	08/16/2021
Certification of Host Community Agreement	Healing Calyx HCA Certification.pdf	pdf	614c99fa604619079ab7ac7c	09/23/2021
Community Outreach Meeting Documentation	Healing Calyx LLC - COM Attestation Packet.pdf	pdf	614d14dff5a8a691f8536bf	09/23/2021

Total amount of financial benefits accruing to the municipality as a result of the host community agreement. If the total amount is zero, please enter zero and provide documentation explaining this number.: \$

### PLAN FOR POSITIVE IMPACT

Plan to Positively Impact Areas of Disproportionate Impact:

Document Category	Document Name	Type	ID	Upload Date
Plan for Positive Impact	Healing Calyx LLC d_b_a GreenRush Delivery - Positive Impact Plan.pdf	pdf	61508a13578bf568253b70bc	09/26/2021
Donation Acceptance Letter	Healing Calyx LLC-NEVA donation letter.pdf	pdf	61508a362831f56830cd3490	09/26/2021

### INDIVIDUAL BACKGROUND INFORMATION

#### Individual Background Information 1

Role: Owner / Partner      Other Role:  
First Name: Michael      Last Name: Ortoll      Suffix:  
RMD Association: Not associated with an RMD  
Background Question: yes

#### Individual Background Information 2

Role: Owner / Partner      Other Role:  
First Name: James      Last Name: Jaron      Suffix:  
RMD Association: Not associated with an RMD  
Background Question: no

#### Individual Background Information 3

Role: Owner / Partner      Other Role:  
First Name: Blake      Last Name: Mensing      Suffix:  
RMD Association: Not associated with an RMD  
Background Question: yes

### ENTITY BACKGROUND CHECK INFORMATION

No records found

### MASSACHUSETTS BUSINESS REGISTRATION

Certificates of Good Standing:

Document Category	Document Name	Type	ID	Upload Date
Secretary of Commonwealth - Certificate of Good Standing	Healing Calyx LLC-Secretary of Commonwealth-Certificate of Good Standing.JPG	jpeg	612cf4a18aea4607aa2ab79b	08/30/2021
Department of Revenue - Certificate of Good standing	ViewFile.pdf	pdf	613909483e10be075d4ada46	09/08/2021
No Employee/DUA Certification Attestation	Healing Calyx LLC-Unemployment Assistance form for application (1).pdf	pdf	61390980e140910769757bb9	09/08/2021

Required Business Documentation:

Document Category	Document Name	Type	ID	Upload Date
Bylaws	Healing Calyx LLC Op Agreement-Fully Executed.pdf	pdf	61265938e1409107697528b8	08/25/2021
Articles of Organization	CorpSearchViewPDF.aspx.pdf	pdf	61390a07b9f60d076b8d6928	09/08/2021

Massachusetts Business Identification Number: 001302242

Doing-Business-As Name: GreenRush Delivery

DBA Registration City: Holyoke

## BUSINESS PLAN

Business Plan Documentation:

Document Category	Document Name	Type	ID	Upload Date
Plan for Liability Insurance	HEALING_CALYX_LLC_-_Letter_of_Intent_to_Bind_Coverage_-_Courier (1).pdf	pdf	61390b3fab6739076439f4bf	09/08/2021
Business Plan	Healing Calyx LLC-Courier Biz Plan.pdf	pdf	61508eb1734f4a69091cc3ae	09/26/2021
Proposed Timeline	Holyoke 420 LLC-Proposed Business Timeline.pdf	pdf	6150925253eb05681e9cb447	09/26/2021

## OPERATING POLICIES AND PROCEDURES

Policies and Procedures Documentation:

Document Category	Document Name	Type	ID	Upload Date
Delivery procedures	Healing Calyx LLC Delivery Procedures.pdf	pdf	5f7bd38173481907b14c9bb0	10/05/2020
Transportation of marijuana	Healing Calyx LLC - Transportation Plan.pdf	pdf	5f7bd3838109e507db0411fa	10/05/2020
Quality control and testing procedures	Healing Calyx LLC - Procedures for quality control and testing of product for contaminants.pdf	pdf	5f7bd387ac4d5e07c7f9e828	10/05/2020
Prevention of diversion	Healing Calyx LLC - Prevention of Diversion.pdf	pdf	5f7bd3a25f18f707b2bf26d7	10/05/2020
Dispensing procedures	Healing Calyx LLC - Dispensing Procedures.pdf	pdf	5f7bd3a49193d007a219640a	10/05/2020
Record-keeping procedures	Healing Calyx LLC-Recordkeeping Procedures.pdf	pdf	5f7bd4fa8109e507db0411fe	10/05/2020
Maintenance of financial records	Healing Calyx LLC-Maintenance of Financial Records.pdf	pdf	5f7bd4fcb635707e886dff2	10/05/2020
Qualifications and training	Healing Calyx LLC-Qualifications and Training.pdf	pdf	5f7bd5bbf3e55207cefa506b	10/05/2020

Storage of marijuana	Healing Calyx LLC-Storage SOPs.pdf	pdf	5f7bd64811982107a7232052	10/05/2020
Inventory procedures	Healing Calyx LLC-Inventory SOPs.pdf	pdf	5f7bd7797e8b3807d9e60650	10/05/2020
Personnel policies	Healing Calyx LLC-Personnel Policies.pdf	pdf	5f7bd80273481907b14c9bb5	10/05/2020
Energy compliance plan	Healing Calyx LLC-Energy Compliance Plan.pdf	pdf	615090d1ec8df66851058d3c	09/26/2021
Diversity plan	Healing Calyx LLC d_b_a GreenRush Delivery - Diversity Plan.pdf	pdf	615090fed7af77684608edcf	09/26/2021
Security plan	Healing Calyx LLC-Security Plan-Courier.pdf	pdf	615091b892505868ec66549b	09/26/2021

#### COMPLIANCE WITH POSITIVE IMPACT PLAN

No records found

#### COMPLIANCE WITH DIVERSITY PLAN

No records found

#### HOURS OF OPERATION

Monday From: 8:00 AM	Monday To: 8:00 PM
Tuesday From: 8:00 AM	Tuesday To: 8:00 PM
Wednesday From: 8:00 AM	Wednesday To: 8:00 PM
Thursday From: 8:00 AM	Thursday To: 11:00 PM
Friday From: 8:00 AM	Friday To: 11:00 PM
Saturday From: 8:00 AM	Saturday To: 11:00 PM
Sunday From: 8:00 AM	Sunday To: 11:00 PM

#### ATTESTATIONS

I certify that no additional entities or individuals meeting the requirement set forth in 935 CMR 500.101(1)(b)(1) or 935 CMR 500.101(2)(c)(1) have been omitted by the applicant from any marijuana establishment application(s) for licensure submitted to the Cannabis Control Commission.: I Agree

I understand that the regulations stated above require an applicant for licensure to list all executives, managers, persons or entities having direct or indirect authority over the management, policies, security operations or cultivation operations of the Marijuana Establishment; close associates and members of the applicant, if any; and a list of all persons or entities contributing 10% or more of the initial capital to operate the Marijuana Establishment including capital that is in the form of land or buildings.: I Agree

I certify that any entities who are required to be listed by the regulations above do not include any omitted individuals, who by themselves, would be required to be listed individually in any marijuana establishment application(s) for licensure submitted to the Cannabis Control Commission.: I Agree

#### Notification:

I certify that any changes in ownership or control, location, or name will be made pursuant to a separate process, as required under 935 CMR 500.104(1), and none of those changes have occurred in this application.:

I certify that to the best knowledge of any of the individuals listed within this application, there are no background events that have arisen since the issuance of the establishment's final license that would raise suitability issues in accordance with 935 CMR 500.801.:

I certify that all information contained within this renewal application is complete and true.:

#### AGREEMENTS WITH MARIJUANA RETAILERS

##### Agreements with Marijuana Retailers 1

Owner First Name: James Owner Last Name: Jaron

Owner Suffix:

Marijuana Retailer Legal Name: Holyoke 420 LLC

Marijuana Retailer DBA: Holyoke Cannabis

Marijuana Retailer Description:

Date generated: 07/01/2022

Page: 6 of 7

<b>Marijuana Retailer Phone:</b> 413-322-8611	<b>Marijuana Retailer Email:</b> info@holyocecannabis.com	<b>Marijuana Retailer Website:</b> www.HolyokeCannabis.com	
<b>Marijuana Retailer Address 1:</b> 380 Dwight Street		<b>Marijuana Retailer Address 2:</b> Unit 3	
<b>Marijuana Retailer City:</b> Holyoke	<b>Marijuana Retailer State:</b> MA	<b>Marijuana Retailer Zip Code:</b> 01040	<b>Marijuana Retailer Country:</b> USA
<b>Marijuana Retailer Mailing Address 1:</b> 380 Dwight Street		<b>Marijuana Retailer Mailing Address 2:</b> Unit 3	
<b>Marijuana Retailer Mailing City:</b> Holyoke	<b>Marijuana Retailer Mailing State:</b> MA	<b>Marijuana Retailer Mailing Zip Code:</b> 01040	<b>Marijuana Retailer Mailing Country:</b>

#### MARIJUANA RETAILER AGREEMENT DOCUMENTATION

Supporting Document:

Document Category	Document Name	Type	ID	Upload Date
	Healing Calyx-Holyoke Cannabis-Delivery Agreement-Fully Executed.pdf	pdf	6142596525900e079f2b923e	09/15/2021

#### AGREEMENTS WITH THIRD-PARTY TECHNOLOGY PLATFORM PROVIDER

No records found

#### THIRD-PARTY TECHNOLOGY PLATFORM PROVIDER DOCUMENTATION

Supporting Document:

Document Category	Document Name	Type	ID	Upload Date
	Onfleet Proposal - Standard Plans pt 3 of 3.pdf	pdf	615c8d282831f56830cd6ef3	10/05/2021
	Onfleet Proposal - Standard Plans pt 2 of 3.pdf	pdf	615c8d2cc28c0968f3845f2e	10/05/2021
	Onfleet Proposal - Standard Plans pt 1 of 3.pdf	pdf	615c8d30ff5a8a691f857a78	10/05/2021

**Healing Calyx LLC**  
**Plan to Remain Compliant with Local Zoning**

Healing Calyx LLC (“HC” or the “Company”) is committed to remaining compliant with all applicable zoning bylaws of the City of Holyoke, MA, including, but not limited to Sections 7.10 (Marijuana Facilities) and 9.1 (enforcement of zoning ordinance). A marijuana Courier operation is a by-right zoning use under the Holyoke Zoning Ordinance in the IG zoning district where our facility is located (380 Dwight Street, Suite 5, Holyoke, MA 01040). HC has secured a Host Community Agreement with the City of Holyoke, which was executed on August XX, 2021.

For the lifetime of the facility, HC shall adhere to the operational requirements found in Section 7.10.5: Operational Requirements 1) Use: a) Marijuana establishments may only use their designated square footage for the purposes of operating such an establishment, as encompassed in this Ordinance. b) No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises except at RMRE’s, as defined. c) Operations, including deliveries to and from any marijuana facility, may not occur within the hours of 11:00 p.m. to 8:00 a.m.



## 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:

Healing Calyx LLC d/b/a Greenrush Delivery

2. Name of applicant's authorized representative:

Michael Ortoll, Manager

3. Signature of applicant's authorized representative:



4. Name of municipality:

City of Holyoke

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

Terence Murphy, Acting Mayor



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).*):

MurphyT@Holyoke.org

8. Host community agreement execution date:

7/22/21

# Community Outreach Meeting Attestation Form

## Instructions

Community Outreach Meeting(s) are a requirement of the application to become a Marijuana Establishment (ME) and Medical Marijuana Treatment Center (MTC). 935 CMR 500.101(1), 500.101(2), 501.101(1), and 501.101(2). The applicant must complete each section of this form and attach all required documents as a single PDF document before uploading it into the application. If your application is for a license that will be located at more than one (1) location, and in different municipalities, applicants must complete two (2) attestation forms – one for each municipality. Failure to complete a section will result in the application not being deemed complete. 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).

## Attestation

I, the below indicated authorized representative of that the applicant, attest that the applicant has complied with the Community Outreach Meeting requirements of 935 CMR 500.101 and/or 935 CMR 501.101 as outlined below:

1. The Community Outreach Meeting was held on the following date(s): 9/14/21
2. At least one (1) meeting was held within the municipality where the ME is proposed to be located.
3. At least one (1) meeting was held after normal business hours (this requirement can be satisfied along with requirement #2 if the meeting was held within the municipality and after normal business hours).



4. A copy of the community outreach notice containing the time, place, and subject matter of the meeting, including the proposed address of the ME or MTC was published in a newspaper of general circulation in the municipality at least 14 calendar days prior to the meeting. A copy of this publication notice is labeled and attached as “Attachment A.”

- a. Date of publication: 8/27/20
- b. Name of publication: The Holyoke Sun

5. A copy of the community outreach notice containing the time, place, and subject matter of the meeting, including the proposed address of the ME or MTC was filed with clerk of the municipality. A copy of this filed notice is labeled and attached as “Attachment B.”

- a. Date notice filed: 9/7/21

6. A copy of the community outreach notice containing the time, place, and subject matter of the meeting, including the proposed address of the ME or MTC was mailed at least seven (7) calendar days prior to the community outreach meeting to abutters of the proposed address, and residents within 300 feet of the property line of the applicant’s proposed location as they appear on the most recent applicable tax list, notwithstanding that the land of the abutter or resident is located in another municipality. A copy of this mailed notice is labeled and attached as “Attachment C.” Please redact the name of any abutter or resident in this notice.

- a. Date notice(s) mailed: 9/7/21

7. The applicant presented information at the Community Outreach Meeting, which at a minimum included the following:
- a. The type(s) of ME or MTC to be located at the proposed address;
  - b. Information adequate to demonstrate that the location will be maintained securely;
  - c. Steps to be taken by the ME or MTC to prevent diversion to minors;
  - d. A plan by the ME or MTC to positively impact the community; and
  - e. Information adequate to demonstrate that the location will not constitute a nuisance as defined by law.
8. Community members were permitted to ask questions and receive answers from representatives of the ME or MTC.



Name of applicant:

Healing Calyx LLC

Name of applicant's authorized representative:

Michael Ortoll

Signature of applicant's authorized representative:



A Community Outreach Meeting was held on 9/14/2021 at 6pm via Zoom Meeting. There were four people in attendance and a recording of the meeting was created.

Link to Virtual Community Outreach Meeting 9/14/21

<https://youtu.be/es7npikXMYw>

# Permission to Hold Virtual Meeting



Quinn Heath <quinn@mensinggroup.com>

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## Fwd: Seeking an HCA for a Courier License

1 message

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**Blake Mensing** <blake@mensinggroup.com>  
To: Quinn Heath <Quinn@mensinggroup.com>

Mon, Sep 20, 2021 at 10:42 AM

----- Forwarded message -----

From: **John Dyjach** <dyjachj@holyoke.org>  
Date: Wed, Aug 18, 2021 at 9:11 AM  
Subject: Re: Seeking an HCA for a Courier License  
To: Blake Mensing <blake@mensinggroup.com>  
Cc: Aaron Vega <vegaa@holyoke.org>

Good morning Blake,  
We will review the HCA and certification and present for signatures.  
Statement below authorizing a virtual community outreach meeting.

***Per the Massachusetts Cannabis Control Commission's administrative order regarding virtual web-based community outreach meetings, please take this as Holyoke's written confirmation that the request for a virtual community meeting by Healing Calyx, LLC d/b/a Spark Home Delivery, for a proposed marijuana facility at 380 Dwight St. Suite 5 Holyoke, MA is approved.***

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John A. Dyjach  
Assistant Director, Economic Development Dept.  
City Hall Annex, Ste.406  
20 Korean Veterans Plaza  
Holyoke, MA 01040  
Phone: (413) 322-5655

On Tue, Aug 17, 2021 at 3:28 PM Blake Mensing <blake@mensinggroup.com> wrote:  
Thanks very much, John.

Here are the HCA and HCA certification forms signed by Healing Calyx's principal, Michael Ortoll.

I look forward to receiving the fully executed HCA and HCA Certification Form back from the Mayor at his earliest convenience. If you, the Mayor, or anyone else at City Hall have any questions please do not hesitate to contact me and we'll be happy to answer them.

We will be endeavoring to hold the Community Outreach Meeting in the first week or so of September and I was wondering if either you or Aaron was the proper contact person to give us the authorization to hold that outreach meeting virtually? If so, a reply to this email indicating we may hold a virtual community outreach meeting would suffice for purposes of the CCC's review of our impending application for a provisional Courier license.

Best,

Blake



Sender notified by  
Mailtrack

On Tue, Aug 17, 2021 at 2:01 PM John Dyjach <dyjachj@holyoke.org> wrote:  
Hi Blake,





The Ice-O-Tops will be in Springfield for one night only. The team recently announced the winner of a design contest for the jerseys to be worn.

Submitted photo

## Thunderbirds unveil special jerseys

SPRINGFIELD — The Springfield Thunderbirds announced today that they have unveiled their Springfield Ice-O-Tops jersey that will be worn on Saturday, Feb. 12 when the team hosts the Providence Bruins at 7:05 p.m. at the MassMutual Center.

See JERSEYS, page 17

# Silk takes 'Rumble at the Ridge'

SCARBOROUGH, Me. — For the first time since 2005, NASCAR Whelen Modified Tour teams returned to Beech Ridge Motor Speedway on Saturday, and the finish of the Rumble at the Ridge 200 made it well worth the wait.

Former Whelen Modified Tour champion Ron Silk chased down Modified ace Matt Hirschman and passed him for the top spot inside the final 10 laps to score his 16th career win and first in his debut at the oval. In front of a strong crowd at the flat, tricky, Maine track, Silk celebrated with his Stuart Motorsports team. The win helped them put a bit of a rough start to the year for their standards behind them in fine fashion.

The race was the third and final of the Whelen Modified Tour season promoted by Josh Vanada and his JDV Productions team.

"I knew I was a little bit better than Matt coming to the last restart and I got a terrible restart and made it harder than I needed to," Silk said. "I tried rolling the top, but it was going to be tough to make that work. We were able to get under him into turn three and it was a good, hard race. It always feels good to get back to Victory Lane. I'm really happy for my team to get them back here."

Silk started seventh and wasn't a factor for the lead for nearly the entire

distance. Hirschman started from the Mayhew Tools Dominator pole, and led the most laps. A mix of differing strategies affected the outcome — as teams were allowed to change four Hoosier tires, but most elected to take them at different times.

In fact, in the middle of the race, Stafford, Connecticut, native Woody Pitkat took the top spot after bolting on fresh tires and led the middle portion of the event. It was Hirschman, though, who charged to the front in the final laps. He took the lead back in the final 50 circuits, and led until Silk got around him in the final laps.

Hirschman was happy with his second-place effort, as the driver who is known for tire conservation came up just short. Hirschman now has two finishes inside the top-two in his two starts of the Whelen Modified Tour season, including a victory at Oswego Speedway in June in another event promoted by JDV Productions.

"The handling just got tight late, I had a better car the first half of the race compared to the second and that's not the way you want it to go," Hirschman said. "But it was good racing. I'm glad we came here today. The first time I've ever raced here — and I enjoyed that. We performed well, led a lot of laps, and just didn't keep it all the way to the end."

Patrick Emerling was third, rebounding for a mid-race pit road mistake to close the gap to Whelen Modified Tour championship points leader Justin Bonsignore with four races left in the season.

"We improved our car a lot on the pit stops there," Emerling said. "We were knocking on the door of Matt and I think we were the fastest car on the track at the end. Good points day for us. First time here, we can't be disappointed salvaging a pretty solid day over a pretty major issue we had in the pits and getting ourselves trapped a lap down."

Matt Swanson was fourth, with Doug Coby completing the top-five. Anthony Nocella finished sixth, followed by Kyle Bonsignore, Justin Bonsignore, Kyle Ebersole and J.B. Fortin.

The NASCAR Whelen Modified Tour will return to the track on Saturday, September 4, at Oswego Speedway in New York. The series will compete in four consecutive races, on four consecutive weekends, to crown the 2021 champion.

For more information on Beech Ridge Motor Speedway, visit beechridge.com. For more information on the NASCAR Whelen Modified Tour, visit nascard.com. For more information on JDV Productions, visit JDVProductions.com and follow on social media.

## Public Notices

### NOTICE OF PUBLIC HEARING

A The Ordinance Committee of the Holyoke City Council and the Planning Board will hold a joint public hearing on Tuesday, September 14, 2021 at 6:30pm to hear a zone change application from RA to RD for Ivan Trushchiy at 405 Inglewood St to rezone the parcel in a manner consistent with commercial development patterns in the area. Meeting will take place at Holyoke City Hall 535 Dwight St and can be accessed remotely via [www.zoom.us](http://www.zoom.us) Meeting ID: 821 5712 3241 Meeting Password: 125056 or by call in at 1-848-558-8856 with same Meeting ID and Password. Written public comment can be submitted to [publiccomment@holyoke.org](mailto:publiccomment@holyoke.org). For information on this application please contact City Council Admin Asst Jeffery Anderson-Burgos at [Anderson-Burgos@holyoke.org](mailto:Anderson-Burgos@holyoke.org) or by phone at 413-522-5525.

Ordinance Chair, Rebecca Lai  
08/27, 09/03/2021

### COMMUNITY OUTREACH MEETING

Notice is hereby given that a Community Outreach Meeting for a proposed Marijuana Establishment is scheduled for September

14, 2021 at 6:00pm, in light of COVID-19, it will be held via Zoom Meeting. Join the meeting at: <https://us06web.zoom.us/j/83370357024> or by calling (928) 205-6099 and entering Meeting ID 833 7035 7024. The proposed Marijuana Center is anticipated to be located at 380 Dwight Street, Unit 5, Holyoke, MA, 01040. There will be an opportunity for the public to ask questions. 08/27/2021

### CITY OF HOLYOKE LICENSE BOARD NOTICE OF PUBLIC HEARING

The Holyoke License Board will be holding a Public Hearing on Wednesday, September 1, 2021 at 5:00 pm via Zoom.com; ID: 817 9806 9899; CALL IN: +1 848 558 8856 regarding an application for an Annual All Alcohol License for El Paraiso Colombian located at 351 High Street under the HRA Center City Liquor License Program pursuant to M.G.L. Ch. 138.

Applicant: Juan C. Uribe  
License Board:  
Jose Correa, Chairman  
08/20, 08/27/2021

### Commonwealth of Massachusetts The Trial Court

### Probate and Family Court

Hampden Division  
50 State Street  
Springfield, MA 01103  
(413)748-8600  
Docket No. HD21P1417EA

### Estate of:

Barbara Ann Steirach

Also known as:

Barbara Ann Padio

Date of Death: 04/25/2021

### INFORMAL PROBATE PUBLICATION NOTICE

To all persons interested in the above captioned estate, by Petition of Petitioner Ellen M. Stevenson of Holyoke, MA, a Will has been admitted to informal probate.

Ellen M. Stevenson

of Holyoke, MA, has been

informally appointed as the

Personal Representative of the

estate to serve without

surety on the bond.

The estate is being

administered under informal

procedure by the Personal

Representative under the

Massachusetts Uniform

Probate Code without super-

vision by the Court. Inventory

and accounts are not required

to be filed with the Court, but

interested parties are entitled

to notice regarding the admin-

istration from the Personal

Representative and can petition

the Court in any matter

relating to the estate, including

distribution of assets and

expenses of administration.

Interested parties are entitled

to petition the Court to insti-

tute formal proceedings and to obtain orders terminating or restricting the powers of Personal Representatives appointed under informal procedure. A copy of the Petition and Will, if any, can be obtained from the Petitioner. 08/27/2021

### LEGAL NOTICE

CITY OF HOLYOKE

GAS & ELECTRIC

DEPARTMENT

DECORATIVE

STREETLIGHT POLES &

LED LUMINAIRES

A Sealed bids for the above

contract will be received by

Holyoke Gas & Electric Dept.

until 11:00 a.m., September

3, 2021 at the Office of the

Manager, 99 Suffolk St.,

Holyoke, MA, 01040, at which

time proposals will be publicly

opened and read.

Additional information may

be obtained from:

Chi Wong

Holyoke Gas & Electric Dept.

99 Suffolk St.

Holyoke, MA 01040

(413) 535-0308

[cwong@hged.com](mailto:cwong@hged.com)

The right is hereby

reserved to reject any or all

proposals, or to accept any

proposal that in the opinion

of the Manager may be for

the best interest of the City of

Holyoke.

Please mark sealed envelopes

"Decorative Streetlight

Poles & LED Luminaires"

and address them to:  
James M. Lavelle, Manager  
Holyoke Gas & Electric Dept.  
99 Suffolk St.  
Holyoke, MA 01040  
08/27/2021

### Commonwealth of Massachusetts

The Trial Court

Hampden Probate and

Family Court

50 State Street

Springfield, MA 01103

(413)748-7758

Docket No. HD21P1026EA

Estate of:

Roger Francis Thomas

Date of Death: 01/22/2021

CITATION ON PETITION FOR

FORMAL ADJUDICATION

To all interested persons:

A Petition for S/A- Formal

Adjudication of Intestacy

and Appointment of

Personal Representative

has been filed by Richard

Thomas of Southwick, MA

requesting that the Court enter

a formal Decree and Order

and for such other relief as

is requested in the Petition.

The Petitioner requests

that: Richard Thomas of

Southwick, MA be appointed

as Personal Representative(s)

of said estate to serve Without

Surety on the bond in un-

supervised administration.

IMPORTANT NOTICE

You have the right to obtain

a copy of the Petition from the

Petitioner or at the Court. You

have a right to object to this

proceeding. To do so, you or your attorney must file a written appearance and objection at this Court before: 10:00 a.m. on the return day of 09/16/2021.

This is NOT a hearing date, but a deadline by which you must file a written appearance and objection if you object to this proceeding. If you fail to file a timely written appearance and objection followed by an affidavit of objections within thirty (30) days of the return day, action may be taken without further notice to you.

### UNSUPERVISED ADMINISTRATION UNDER THE MASSACHUSETTS UNIFORM PROBATE CODE (MUPC)

A Personal Representative appointed under the MUPC in an unsupervised administration is not required to file an inventory or annual accounts with the Court. Persons interested in the estate are entitled to notice regarding the administration directly from the Personal Representative and may petition the Court in any matter relating to the estate, including the distribution of assets and expenses of administration.

WITNESS, Hon. Barbara

M. Hyland, First Justice of this

Court.

Date: August 19, 2021

Rosemary A. Saccomani

Register of Probate

08/27/2021

## The Sun OBITUARY POLICY

Turley Publications offers two types of obituaries.

One is a free, brief **Death Notice** listing the name of deceased, date of death and funeral date and place.

The other is a **Paid Obituary**, costing \$120, which allows families to publish extended death notice information of their own choice and may include a photograph. **Death Notices & Paid Obituaries** should be submitted through a funeral home to: [obits@turley.com](mailto:obits@turley.com).

Exceptions will be made only when the family provides a death certificate and must be pre-paid.



## PUBLIC NOTICES ARE NOW ONLINE

- 1 Email all notices to [notice@turley.com](mailto:notice@turley.com)
- 2 Access archives and digital tear sheets by newspaper title.
- 3 Find a quick link to the state of Massachusetts' public notice web site to search all notices in Massachusetts newspapers.

Public notice deadlines are Mondays at noon, Fridays noon for Monday holidays.

visit [www.publicnotices.turley.com](http://www.publicnotices.turley.com)



September 7, 2021

To Whom it May Concern:

Notice is hereby given that a Community Outreach Meeting for a proposed Marijuana Establishment is scheduled for Tuesday, September 14, 2021 at 6:00 p.m. In light of COVID-19, the meeting will be held virtually as follows:

Join Zoom Meeting: <https://us06web.zoom.us/j/83370357024>

Meeting ID: 833 7035 7024

or Via Dial-in: (929) 205-6099 and enter Meeting ID

The proposed Marijuana Courier is anticipated to be located at 380 Dwight Street, Unit 5, Holyoke, MA, 01040. There will be an opportunity for the public to ask questions.

Sincerely, on behalf of Healing Calyx LLC d/b/a Greenrush Delivery,

Blake M. Mensing  
Founder & Chief Counsel  
The Mensing Group LLC  
100 State Street, 9th Floor  
Boston, MA 02109  
Direct: (617) 333-8725  
Email: [Blake@MensingGroup.com](mailto:Blake@MensingGroup.com)



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To: HOLYOKE MAYOR'S OFFICE  
536 DWIGHT STREET ROOM 1  
HOLYOKE, MA 01040

PS Form 3817, April 2007 PSN 7530-02-000-9065



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Boston, MA 02109



To: HOLYOKE CITY CLERK  
536 DWIGHT STREET ROOM 2  
HOLYOKE, MA 01040

PS Form 3817, April 2007 PSN 7530-02-000-9065



September 7, 2021

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Founder & Chief Counsel  
The Mensing Group LLC  
100 State Street, 9th Floor  
Boston, MA 02109  
Direct: (617) 333-8725  
Email: Blake@MensingGroup.com





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BOSTON, MA 02109

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To: [REDACTED]  
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Boston, MA 02109

To: [REDACTED]  
HOLYOKE, MA 01040



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To: [Redacted]  
WINCHESTER, MA 01890



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Boston, MA 02109

To: [Redacted]  
SAN JOSE, CA 95110



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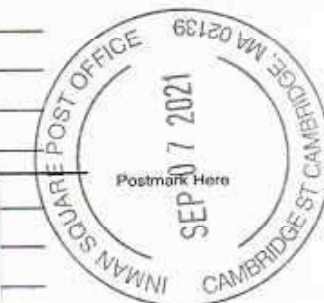
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[Redacted]  
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HOLYOKE, MA 01040



HOLYOKE, MA 01040



HOLYOKE, MA 01040



HOLYOKE, MA 01040



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HOLYOKE, MA 01040



HOLYOKE, MA 01040



HOLYOKE, MA 01040



HOLYOKE, MA 01041



HOLYOKE, MA 01040



BOSTON, MA 02109



BOSTON, MA 02109



HOLYOKE, MA 01040



HOLYOKE, MA 01040



HOLYOKE, MA 01040



HOLYOKE, MA 01040



HOLYOKE, MA 01040



HOLYOKE, MA 01040



WINCHESTER, MA 01890



SAN JOSE, CA 95110



HOLYOKE, MA 01040



HOLYOKE, MA 01040

ID	Address	Owner	Co-Owner	Owner Ad	Owner Ad	Owner Cit	Owner Sta
021-01-003A						HOLYOKE MA	
021-01-003B						HOLYOKE MA	
021-01-009						HOLYOKE MA	
021-01-001						HOLYOKE MA	
021-01-002						HOLYOKE MA	
022-01-002						HOLYOKE MA	
022-01-001						HOLYOKE MA	
022-01-006						HOLYOKE MA	
033-07-020						HOLYOKE MA	
033-07-021						HOLYOKE MA	
021-01-006						BOSTON MA	
021-01-007						BOSTON MA	
021-01-004						HOLYOKE MA	
030-06-014						HOLYOKE MA	
033-07-017						HOLYOKE MA	
022-01-004						HOLYOKE MA	
022-01-005						HOLYOKE MA	
030-06-015						HOLYOKE MA	
021-01-005						WINCHES MA	
033-06-003						SAN JOSE CA	
033-07-019						HOLYOKE MA	
030-06-016						HOLYOKE MA	

Owner Zip	Total Valu	Land Valu	Last Sale	Last Sale	Last Sale	Last Sale	Page
01040	27200	7300	2001-12-1	7877978	12033	252	
01040	31100	11200	2001-12-1	7877978	12033	252	
01040	46700	10200	2001-12-1	7877978	12033	252	
01040	5700	5700	2001-12-1	7877978	12033	252	
01040	45900	10200	2001-12-1	7877978	12033	252	
01040	45900	10200	2001-12-1	7877978	12033	252	
01040	5700	5700	2001-12-1	7877978	12033	252	
01040	46800	10200	2001-12-1	7877978	12033	252	
01041	244700	22900	2007-08-3	270000	16898	2	
01040	301800	33200	2005-05-0	140000	14996	112	
02109	39100	39100	1994-04-2				
02109	270700	98500	1994-04-2				
01040	521500	57400	2009-05-1	375000	17787	598	
01040	28700	28700	2016-03-2	1	21109	182	
01040	92700	22100	2017-05-0	90000	21668	86	
01040	102500	58500	2004-04-2	1	14130	86	
01040	60600	37700	2004-04-2	1	14130	86	
01040	2176	2176	2019-04-2	1	22642	450	
01890	508600	38600	2017-12-0	475000	21975	53	
95110	82300	33100	2018-06-0	195000	22205	237	
01040	550200	27400	2016-03-3	100	21119	197	
01040	202500	19600	2019-06-2	250000	22728	512	

## **POSITIVE IMPACT PLAN**

*Governed by: M.G.L. c. 94G, §4 and 935 CMR 500.101(1)(a)(11)*

Healing Calyx LLC d/b/a GreenRush Delivery (“Healing Calyx” or “the Company”) is dedicated to serving and supporting those disproportionately harmed by cannabis prohibition. Healing Calyx’s Positive Impact Plan is an effort to respond to evidence which demonstrates that certain populations have been disproportionately impacted by high rates of arrest and incarceration for marijuana and other drug crimes as a result of state and federal drug policy.

The Cannabis Control Commission has identified the following Groups as those that should be targeted and supported:

1. Certified Economic Empowerment recipients;
2. Social Equity Program participants;
3. Past or present residents of the geographic areas of disproportionate impact (“ADI”), which have been defined by the Commission and identified in its Guidance for Identifying Areas of Disproportionate Impact;
4. Massachusetts residents who have past drug convictions; and
5. Massachusetts residents with parents or spouses who have past drug convictions.

To support such populations, Healing Calyx has created this Positive Impact Plan

## **GOALS**

**#1** - Provide Massachusetts residents from ADIs with increased access to education and/or job training in the cannabis industry by giving financial support to *New England Veterans Alliance, Inc.*

**#2** - Provide Massachusetts residents who have past drug convictions or who have parents or spouses who have had drug convictions with education and support relating to sealing criminal records to reduce barriers to entry in the cannabis industry and the workforce in general.

## **PROGRAMS**

Our commitment to positively impact disproportionately harmed populations is an essential part of the company’s ethos. Specifically, to implement the defined Goals, Healing Calyx will:

1. Give an annual donation of \$2,500 to *New England Veterans Alliance, Inc. (NEVA)*. NEVA endeavors to develop skills for its members through mentoring, educational and informational events with cannabis industry networking opportunities, and to provide financial support to allow them to continue to provide cultivation education and peer support groups for Veterans in Massachusetts. Funds donated will support two *New England Veterans Alliance, Inc.* programs that provide: (1) education to veterans on cannabis cultivation; and (2) peer support groups for veterans relating to cannabis use and cultivation. *New England Veterans Alliance, Inc.* has a membership consisting heavily of Massachusetts residents disproportionately impacted by the War on Drugs, including residents in Cannabis Control Commission defined “areas of disproportionate impact” and individuals who have had a past drug conviction and have lived in the

Commonwealth of Massachusetts within the last 12 months. A donation to NEVA will help residents of areas of disproportionate impact increase their chances of receiving a position in the cannabis industry through mentorship, educational, and information events in addition to networking opportunities with cannabis companies.

2. Host an annual record sealing workshop teaching which criminal records can be sealed and how to seal them. The workshop will also assist individuals through the sealing process with the courts or probation department. The workshop will be advertised in print and online sources to include ADI and local newspapers. Specific sources utilized will include *The Holyoke Sun*. The workshop will be held at Healing Calyx's facilities or via video conference, and will have a capacity of at least 5 in-person participants. The topics for the workshops will include practical training and information that will assist Massachusetts residents to identify and seal eligible drug convictions.

## **MEASUREMENTS**

1. Healing Calyx will develop specific initiatives, creating partnerships and achieving measurable outcomes to ensure that Healing Calyx meets the Plan's goals. We will audit the progress of the plan annually upon provisional license renewal and will disclose tracked measurement metrics. Metrics tracked will include the following:
2. At the end of each year, Healing Calyx will conduct an analysis and create a report on the amounts and percentages of donations and other financial support that the company has given to NEVA as outlined above. Healing Calyx will continue to assess the viability and impact of financial donations made and annually review donation amounts. NEVA will provide an annual report to Healing Calyx summarizing the use of the funds, as well as indicating the number of veterans participating in the programs are from an area of disproportionate impact and/or whether the particular program assisted veterans with past drug convictions.

Healing Calyx will document the record sealing workshop date, the topics discussed, the number of attendees, to which targeted group the attendees belong and referral sources. Participating individuals or businesses will be asked to complete an assessment of the program which will provide insight into the demographics of the attendees, the helpfulness and clarity of the topics presented as well as suggestions for future programs.

## **DISCLOSURES**

Healing Calyx acknowledges and will adhere to the requirements set forth in 935 CMR 500.105(4) which provides the permitted and prohibited advertising, branding, marketing, and sponsorship practices of every Marijuana Establishment.

Any actions taken, or programs instituted, by Healing Calyx will not violate the Commission's regulations with respect to limitations on ownership or control or other applicable state laws.

Healing Calyx understands that the progress or success of this plan must be demonstrated upon each annual license renewal period in conformity with 935 CMR 500.103(4)(b).



41 Jay St Unit 3  
Gardner, MA 01440  
EIN: 81-2401618  
[INFO@NEVAUSA.ORG](mailto:INFO@NEVAUSA.ORG)  
Phone: (603)508-6382

---

September 26, 2021

To the Massachusetts Cannabis Control Commission:

On behalf of the New England Veterans Alliance, Inc. (NEVA), a Massachusetts charitable corporation and IRS recognized 501(c)(3), we are happy to accept a donation of \$2,500 from Healing Calyx LLC. We look forward to receiving the donation on an annual basis.

The purpose of NEVA is to cultivate veterans through alternative therapeutic programs. NEVA does important work in New England and across the country to improve veterans' lives, and build community for veterans. We are excited that Healing Calyx LLC is interested in supporting our work.

Specifically, this donation will go towards our two programming areas: (1) Our "Veterans Cultivation Program" (VCP) supports veterans in learning how to cultivate cannabis. The goal of the VCP is to help educate the veteran community, to encourage self-sustainability through cultivation therapy, and to alleviate the financial burden on veterans while providing a purpose and connection to our local communities and (2) Peer support groups for veterans across New England.

**We are an organization made up of veterans, and run by veterans.** The majority of our members and leadership also come from communities that have been impacted, or have had their own lives impact, by the "war on drugs." Our membership and leadership are heavily made up of people meeting the following criteria:

- Residents of an area of disproportionate impact, as identified by the Cannabis Control Commission, for at least 5 of the past 10 years and an income that does not exceed 200% of the Federal Poverty Level;
- Past drug conviction(s) and residence in Massachusetts for at least the preceding 12 months
- Are married to or the child of a person with a drug conviction and residence in Massachusetts for at least the preceding 12 months;
- Have been arrested for cannabis or cannabis-related charges in any U.S. State; and/or
- Are women, Disabled, Native American, LGBTQ, African American, Hispanic, or other Minority.

For more information on our organization and programming, please visit: <https://www.nevausa.org/>

We are able to provide an annual report to Healing Calyx LLC summarizing the use of the funds, as well as indicating whether the veterans participating in the programs are from an area of disproportionate impact and/or whether the particular program assisted veterans with past drug convictions. A copy of the annual report will be provided to the Cannabis Control Commission upon request.

Respectfully,

*Derek Cloutier*

Derek Cloutier, President/Founder  
New England Veterans Alliance Inc

## HEALING CALYX, LLC

### FIRST AMENDED AND RESTATED OPERATING AGREEMENT

This First Amended and Restated Operating Agreement (this “Agreement”) of Healing Calyx, LLC, a Massachusetts limited liability company (the “Company”), is entered into as of the Effective Date by and among the Company, the Members executing this Agreement as of the date hereof.

#### WITNESSETH:

**WHEREAS**, the Company was formed under the laws of the Commonwealth of Massachusetts by the filing of a Certificate of Organization with the Secretary of the Commonwealth (the “Secretary of State”) on January 10, 2018, in accordance with the Massachusetts Limited Liability Company Act (the “Massachusetts Act”); and

**WHEREAS**, the Company desires to admit additional Members in the Company;

**WHEREAS**, the Members now desire to amend and restate the original operating agreement of the Company in the form of this Agreement to fully set forth their agreements and understandings regarding the Company and to own and operate the Company in accordance with the terms of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

#### ARTICLE I DEFINITIONS

##### Section 1.01 Definitions.

Capitalized terms used herein and not otherwise defined shall have the meanings set forth in this Section 1.01.

(a) “Adjusted Capital Account Deficit” means, with respect to any Member, the deficit balance, if any, in such Member’s Capital Account as of the end of the relevant Fiscal Year, after giving effect to the following adjustments:

(1) crediting to such Capital Account any amount that such Member is obligated to restore or is deemed to be obligated to restore pursuant to Treasury Regulations Sections 1.704-1(b)(2)(ii)(c), 1.704-2(g)(1) and 1.704-2(i); and

(2) debiting to such Capital Account the items described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

(b) “Adjusted Taxable Income” of a Member for a Fiscal Year (or portion thereof) with respect to the Membership Interest held by such Member means the federal taxable income allocated by the Company to the Member with respect to its Membership Interest (as adjusted by any final determination in connection with any tax audit or other proceeding) for such Fiscal Year (or portion thereof); *provided*, that such taxable income shall be computed (i) minus any excess taxable loss or

excess taxable credits of the Company for any prior period allocable to such Member with respect to its Membership Interest that were not previously taken into account for purposes of determining such Member's Adjusted Taxable Income in a prior Fiscal Year to the extent such loss or credit would be available under the Code to offset income of the Member (or, as appropriate, the direct or indirect owners of the Member) determined as if the income, loss, and credits from the Company were the only income, loss, and credits of the Member (or, as appropriate, the direct or indirect members of the Member) in such Fiscal Year and all prior Fiscal Years, and (ii) taking into account any special basis adjustment with respect to such Member resulting from an election by the Company under Code Section 754.

(c) “Affiliate” means, with respect to any Person, any other Person who, directly or indirectly (including through one or more intermediaries), controls, is controlled by, or is under common control with, such Person. For purposes of this definition, “control,” when used with respect to any specified Person, shall mean the power, direct or indirect, to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities or partnership or other ownership interests, by contract or otherwise; and the terms “controlling” and “controlled” shall have correlative meanings.

(d) “Applicable Law” means all applicable provisions of (a) constitutions, treaties, statutes, laws (including the common law), rules, regulations, decrees, ordinances, codes, proclamations, declarations or orders of any Massachusetts or federal Governmental Authority; (b) any consents or approvals of any Massachusetts or federal Governmental Authority; and (c) any orders, decisions, advisory or interpretative opinions, injunctions, judgments, awards, decrees of, or agreements with, any Massachusetts or federal Governmental Authority.

(e) “BBA” means the Bipartisan Budget Act of 2015.

(f) “Book Depreciation” means, with respect to any Company asset for each Fiscal Year, the Company's depreciation, amortization, or other cost recovery deductions determined for federal income tax purposes, except that if the Book Value of an asset differs from its adjusted tax basis at the beginning of such Fiscal Year, Book Depreciation shall be an amount which bears the same ratio to such beginning Book Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year bears to such beginning adjusted tax basis; *provided*, that if the adjusted basis for federal income tax purposes of an asset at the beginning of such Fiscal Year is zero and the Book Value of the asset is positive, Book Depreciation shall be determined with reference to such beginning Book Value using any permitted method selected by the Managers in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g)(3).

(g) “Book Value” means, with respect to any Company asset, the adjusted basis of such asset for federal income tax purposes, except as follows:

(1) the initial Book Value of any Company asset contributed by a Member to the Company shall be the gross Fair Market Value of such Company asset as of the date of such contribution;

(2) immediately prior to the distribution by the Company of any Company asset to a Member, the Book Value of such asset shall be adjusted to its gross Fair Market Value as of the date of such distribution;



(3) the Book Value of all Company assets may, in the sole discretion of the Managers, be adjusted to equal their respective gross Fair Market Values, as determined by the Managers, as of the following times:

(i) the acquisition of an additional Membership Interest in the Company by a new or existing Member in consideration for more than a *de minimis* Capital Contribution;

(ii) the distribution by the Company to a Member of more than a *de minimis* amount of property (other than cash) as consideration for all or a part of such Member's Membership Interest; and

(iii) the liquidation of the Company within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g);

(4) the Book Value of each Company asset shall be increased or decreased, as the case may be, to reflect any adjustments to the adjusted tax basis of such Company asset pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Account balances pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m); *provided*, that Book Values shall not be adjusted pursuant to this paragraph (4) to the extent that an adjustment pursuant to paragraph (c) above is made in conjunction with a transaction that would otherwise result in an adjustment pursuant to this paragraph (4); and

(5) if the Book Value of a Company asset has been determined pursuant to paragraph (1) or adjusted pursuant to paragraphs (3) or (4) above, such Book Value shall thereafter be adjusted to reflect the Book Depreciation taken into account with respect to such Company asset for purposes of computing Net Income and Net Losses.

(i) "Business Day" means a day other than a Saturday, Sunday or other day on which commercial banks in the City of Holyoke are authorized or required to close.

(j) "Capital Contribution" means, for any Member, the total amount of cash and cash equivalents and the Book Value of any property contributed to the Company by such Member.

(k) "Code" means the Internal Revenue Code of 1986, as amended.

(l) "Company Minimum Gain" means "partnership minimum gain" as defined in Treasury Regulations Section 1.704-2(b)(2), substituting the term "Company" for the term "partnership" as the context requires.

(m) "Divorce" means any legal proceeding to terminate or dissolve or separate the Marital Relationship of a Member, and includes an action for annulment, legal separation, or similar proceedings that involves a judicial division of joint or marital property of the Member and his Spouse.

(n) "Disability" means a Manager (i) is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months, or (ii) is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months. "Disabled" when used as an adjective and "Disability" when used as a noun

shall have a correlative meaning. To the extent of a dispute or an ambiguity regarding the terms “disability” and “disabled,” the parties agree to apply the definition set forth in the Americans with Disabilities Act, 42 USC, sec. 12102.

(o) “Effective Date” means the date on which the City of Holyoke executes a Host Community Agreement with the Company for any marijuana establishment license type.

(p) “Electronic Transmission” means any form of communication not directly involving the physical transmission of paper that creates a record that may be retained, retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process.

(q) “Estimated Tax Amount” of a Member for a Fiscal Year means the Member’s Tax Amount for such Fiscal Year as estimated in good faith from time to time by the Managers. In making such estimate, the Managers shall take into account amounts shown on Internal Revenue Service Form 1065 filed by the Company and similar state or local forms filed by the Company for the preceding taxable year and such other adjustments as the Managers reasonably determine are necessary or appropriate to reflect the estimated operations of the Company for the Fiscal Year.

(r) “Fair Market Value” of any asset as of any date means the purchase price that a willing buyer having all relevant knowledge would pay a willing seller for such asset in an arm’s length transaction, as determined in good faith by the Managers based on such factors as the Managers, in the exercise of their reasonable business judgment, consider relevant.

(s) “Fiscal Year” means the calendar year, unless the Company is required to have a taxable year other than the calendar year, in which case Fiscal Year shall be the period that conforms to its taxable year.

(t) “GAAP” means United States generally accepted accounting principles in effect from time to time.

(u) “Governmental Authority” means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of law), or any arbitrator, court or tribunal of competent jurisdiction.

(v) “Independent Third Party” means, with respect to any Member, any Person who is not an Affiliate of such Member.

(w) “Insurer” means the insurance company through which the Company purchases life and disability insurance policies under Section 9.02(c) and as identified on Schedule C attached hereto.

(x) “Joinder Agreement” means the joinder agreement in form and substance attached hereto as Exhibit A.

(y) “Lien” means any mortgage, pledge, security interest, option, right of first offer, encumbrance or other restriction or limitation of any nature whatsoever.

(z)

(aa) “Managers” means each Person identified as of the date hereof as a Manager in Section 7.02. Only Members of the Company may serve as Managers.

(bb) “Marital Relationship” means a civil union, domestic partnership, marriage or any other similar relationship that is legally recognized in any jurisdiction.

(cc) “Member” means (a) each Person identified on the Members Schedule as of the date hereof as a Member who has executed this Agreement or a counterpart thereof; and (b) each Person who is hereafter admitted as a Member in accordance with the terms of this Agreement and the Massachusetts Act, in each case so long as such Person is shown on the Company’s books and records as the owner of Membership Interests. The Members shall constitute “members” (as that term is defined in the Massachusetts Act) of the Company.

(dd) “Member Nonrecourse Debt” means “partner nonrecourse debt” as defined in Treasury Regulations Section 1.704-2(b)(4), substituting the term “Company” for the term “partnership” and the term “Member” for the term “partner” as the context requires.

(ee) “Member Nonrecourse Debt Minimum Gain” means an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if the Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Treasury Regulations Section 1.704-2(i)(3).

(ff) “Member Nonrecourse Deduction” means “partner nonrecourse deduction” as defined in Treasury Regulations Section 1.704-2(i), substituting the term “Member” for the term “partner” as the context requires.

(gg) “Membership Interest” means an interest in the Company owned by a Member, including such Member’s right (a) to its distributive share of Net Income, Net Losses and other items of income, gain, loss and deduction of the Company; (b) to its distributive share of the assets of the Company; (c) to vote on, consent to or otherwise participate in any decision of the Members as provided in this Agreement; and (d) to any and all other benefits to which such Member may be entitled as provided in this Agreement or the Massachusetts Act. The Membership Interest of each Member shall be expressed as a percentage interest and shall be as set forth on the Members Schedule.

(hh) “Net Income” and “Net Loss” mean, for each Fiscal Year or other period specified in this Agreement, an amount equal to the Company’s taxable income or taxable loss, or particular items thereof, determined in accordance with Code Section 703(a) (where, for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or taxable loss), but with the following adjustments:

(1) any income realized by the Company that is exempt from federal income taxation, as described in Code Section 705(a)(1)(B), shall be added to such taxable income or taxable loss, notwithstanding that such income is not includable in gross income;

(2) any expenditures of the Company described in Code Section 705(a)(2)(B), including any items treated under Treasury Regulations Section 1.704-1(b)(2)(iv)(I) as items described in Code Section 705(a)(2)(B), shall be subtracted from such taxable income or taxable loss, notwithstanding that such expenditures are not deductible for federal income tax purposes;

(3) any gain or loss resulting from any disposition of Company property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Book Value of the property so disposed, notwithstanding that the adjusted tax basis of such property differs from its Book Value;

(4) any items of depreciation, amortization and other cost recovery deductions with respect to Company property having a Book Value that differs from its adjusted tax basis shall be computed by reference to the property's Book Value (as adjusted for Book Depreciation) in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g);

(5) if the Book Value of any Company property is adjusted as provided in the definition of Book Value, then the amount of such adjustment shall be treated as an item of gain or loss and included in the computation of such taxable income or taxable loss; and

(6) to the extent an adjustment to the adjusted tax basis of any Company property pursuant to Code Sections 732(d), 734(b) or 743(b) is required, pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis).

(ii) "Nonrecourse Deductions" has the meaning set forth in Treasury Regulations Section 1.704-2(b).

(jj) "Nonrecourse Liability" has the meaning set forth in Treasury Regulations Section 1.704-2(b)(3).

(kk) "Operational" means the Company is generating revenues pursuant to its activities under Massachusetts [Regulation] 935 CMR 500.000, "ADULT USE OF MARIJUANA"

(ll) "Person" means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association or other entity.

(mm) Intentionally Omitted.

(nn) "Quarterly Estimated Tax Amount" of a Member for any calendar quarter of a Fiscal Year means the excess, if any of (a) the product of (a) a quarter (1/4) in the case of the first calendar quarter of the Fiscal Year, half (1/2) in the case of the second calendar quarter of the Fiscal Year, three-quarters (3/4) in the case of the third calendar quarter of the Fiscal Year, and one (1) in the case of the fourth calendar quarter of the Fiscal Year and (ii) the Member's Estimated Tax Amount for such Fiscal Year over (b) all distributions previously made during such Fiscal Year to such Member.

(oo) "Remaining Members" means all Members (other than an Offering Member), whose Membership Interests are subject to sale pursuant to Section 13.01, Section 13.02, or Section 13.03.

(pp) "Representative" means, with respect to any Person, any and all directors, officers, employees, consultants, financial advisors, counsel, accountants and other agents of such Person.

(qq) "Securities Act" means the Securities Act of 1933.

(rr) “Spouse” means a spouse, a party to a civil union, a domestic partner, a same-sex spouse or partner, or any person in a Marital Relationship with a Member.

(ss) “Subsidiary” means, with respect to any Person, any other Person of which a majority of the outstanding shares or other equity interests having the power to vote for directors or comparable managers are owned, directly or indirectly, by the first Person.

(tt) “Tax Amount” of a Member for a Fiscal Year means the product of (a) the Tax Rate for such Fiscal Year and (b) the Adjusted Taxable Income of the Member for such Fiscal Year with respect to its Membership Interest.

(uu) “Tax Rate” of a Member, for any period, means the highest marginal combined federal, state and local tax rate applicable to an individual residing in Holyoke, Massachusetts, taking into account (a) the character (for example, long-term or short-term capital gain, ordinary or exempt) of the applicable income and (b) if applicable, the deduction under IRC Section 199A.

(vv) “Transfer” means to, directly or indirectly, sell, transfer, assign, pledge, encumber, hypothecate or similarly dispose of, either voluntarily or involuntarily, by operation of law or otherwise, or to enter into any contract, option or other arrangement or understanding with respect to the sale, transfer, assignment, pledge, encumbrance, hypothecation or similar disposition of, any Membership Interests owned by a Person or any interest (including a beneficial interest) in any Membership Interests owned by a Person. “Transfer” when used as a noun shall have a correlative meaning. “Transferor” and “Transferee” mean a Person who makes or receives a Transfer, respectively.

(ww) “Treasury Regulations” means the final or temporary regulations issued by the United States Department of Treasury pursuant to its authority under the Code, and any successor regulations.

(xx) “Will” means an instrument executed by a Member that provides for the disposition of property to take effect on and after the death of the Member.

## **Section 1.02 Interpretation.**

For purposes of this Agreement: (a) the words “include,” “includes” and “including” shall be deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; and (c) the words “herein,” “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole. The definitions given for any defined terms in this Agreement shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. Unless the context otherwise requires, references herein: (x) to Articles, Sections, and Exhibits mean the Articles and Sections of, and Exhibits attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented or modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Exhibits and Schedules referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

## **ARTICLE II ORGANIZATION**

### **Section 2.01     Formation.**

(a)     The Company was formed on January 10, 2018 pursuant to the provisions of the Massachusetts Act, upon the filing of the Certificate of Organization with the Secretary of Commonwealth.

(b)     This Agreement shall constitute the “limited liability company agreement” (as that term is used in the Massachusetts Act) of the Company. The rights, powers, duties, obligations and liabilities of the Members shall be determined pursuant to the Massachusetts Act and this Agreement. To the extent that the rights, powers, duties, obligations and liabilities of any Member are different by reason of any provision of this Agreement than they would be under the Massachusetts Act in the absence of such provision, this Agreement shall, to the extent permitted by the Massachusetts Act, control.

### **Section 2.02     Purpose.**

The Company’s purposes shall be to operate one or more marijuana establishments, to engage in other business activities reasonably related thereto, and to engage in any other act and to transact any and all business endeavors which a limited liability company may transact under the Act. The Company shall have all the powers necessary or convenient to carry out the purposes for which it is formed, including the powers granted by the Massachusetts Act.

### **Section 2.03     Name.**

The name of the Company is “Healing Calyx, LLC” or such other name or names as may be designated by the Managers; *provided*, that the name shall always contain the words “Limited Liability Company” or the abbreviation “L.L.C.” or the designation “LLC.” The Managers shall give prompt notice to each of the Members of any change to the name of the Company.

### **Section 2.04     Principal Office.**

The principal office of the Company is located at 177 Huntington Avenue, Suite 1703, #20453, Boston, MA 02115, or such other place as may from time to time be determined by the Managers. The Managers shall give prompt notice of any such change to each of the Members.

### **Section 2.06     Registered Office and Registered Agent.**

The registered agent and registered office of the Company are designated in the Certificate. The Manager may from time to time, in accordance with the Act, change the Company’s registered office and/or registered agent. The Managers shall select and designate a registered office and registered agent for the Company in each other state in which the Company is required to maintain or appoint one.

**Section 2.05 Filings; Registered Office; Registered Agent.**

(a) The Managers are hereby authorized to execute, file, and record all such certificates and documents, including amendments to the Certificate of Organization.

(b) The registered office of the Company shall be the office of the initial registered agent named in the Certificate of Organization or such other office (which need not be a place of business of the Company) as the Managers may designate from time to time in the manner provided by the Massachusetts Act and Applicable Law.

(c) The registered agent for service of process on the Company in the Commonwealth of Massachusetts shall be the initial registered agent named in the Certificate of Organization or such other Person or Persons as the Managers may designate from time to time in the manner provided by the Massachusetts Act and Applicable Law.

**Section 2.06 Term.**

The term of the Company commenced on the date the Certificate of Organization was filed with the Secretary of the Commonwealth and shall continue in existence perpetually until the Company is dissolved in accordance with the provisions of this Agreement.

**ARTICLE III  
CAPITAL CONTRIBUTIONS; CAPITAL ACCOUNTS**

**Section 3.01 Initial Capital Contributions.**

Contemporaneously with the execution of this Agreement, each Member has made an initial Capital Contribution and is deemed to own Membership Interests in the amounts set forth opposite such Member's name and address on Schedule A attached hereto (the "Members Schedule"). The Managers shall maintain and update the Members Schedule upon the issuance or Transfer of any Membership Interests to any new or existing Member in accordance with this Agreement.

**Section 3.02 Additional Capital Contributions.**

No Member shall be required to make any additional Capital Contributions to the Company. Any future Capital Contributions made by any Member shall only be made with the consent of the Managers. To the extent that a Member makes an additional Capital Contribution to the Company, the Managers shall revise the Members Schedule to reflect an increase in the Membership Interest of the contributing Member that fairly and equitably reflects the value of its additional Capital Contribution in relation to the aggregate amount of all Capital Contributions made by the Members.

**Section 3.03 Maintenance of Capital Accounts.**

The Company shall establish and maintain for each Member a separate capital account (a "Capital Account") on its books and records in accordance with this Section 3.03. Each Capital Account shall be established and maintained in accordance with the following provisions:

(a) Each Member's Capital Account shall be increased by the amount of:

- (1) such Member's Capital Contributions, including such Member's initial Capital Contribution and any additional Capital Contributions;
  - (2) any Net Income or other item of income or gain allocated to such Member pursuant to Article V; and
  - (3) any liabilities of the Company that are assumed by such Member or secured by any property distributed to such Member.
- (b) Each Member's Capital Account shall be decreased by:
- (i) the cash amount or Book Value of any property distributed to such Member pursuant to Article VI and Section 16.03;
  - (ii) the amount of any Net Loss or other item of loss or deduction allocated to such Member pursuant to Article V; and
  - (iii) the amount of any liabilities of such Member assumed by the Company or that are secured by any property contributed by such Member to the Company.

#### **Section 3.04 Succession Upon Transfer.**

In the event that any Membership Interests are Transferred in accordance with the terms of this Agreement, the Transferee shall succeed to the Capital Account of the Transferor to the extent it relates to the Transferred Membership Interests and, subject to Section 5.04, shall receive allocations and distributions pursuant to Article V, Article VI and Article XII in respect of such Membership Interests.

#### **Section 3.05 Negative Capital Accounts.**

In the event that any Member shall have a deficit balance in its Capital Account, such Member shall have no obligation, during the term of the Company or upon dissolution or liquidation of the Company, to restore such negative balance or make any Capital Contributions to the Company by reason thereof, except as may be required by Applicable Law or in respect of any negative balance resulting from a withdrawal of capital or dissolution in contravention of this Agreement.

#### **Section 3.06 No Withdrawals From Capital Accounts.**

No Member shall be entitled to withdraw any part of its Capital Account or to receive any distribution from the Company, except as otherwise provided in this Agreement. No Member shall receive any interest, salary, management or service fees or drawing with respect to its Capital Contributions or its Capital Account, except as otherwise provided in this Agreement. The Capital Accounts are maintained for the sole purpose of allocating items of income, gain, loss and deduction among the Members and shall have no effect on the amount of any distributions to any Members, in liquidation or otherwise.

#### **Section 3.07 Loans From Members.**

Loans by any Member to the Company shall not be considered Capital Contributions and shall not affect the maintenance of such Member's Capital Account, other than to the extent provided in Section 3.03(a)(iii), if applicable.



**Section 3.08        Modifications.**

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such Treasury Regulations. If the Managers determine that it is prudent to modify the manner in which the Capital Accounts, or any increases or decreases to the Capital Accounts, are computed in order to comply with such Treasury Regulations, the Managers may authorize such modifications without the consent any Member.

**ARTICLE IV  
MEMBERS**

**Section 4.01        Admission of New Members.**

(a)        New Members may be admitted from time to time in connection with a Transfer of Membership Interests, subject to compliance with the provisions of Article XII, and in either case, following compliance with the provisions of Section 4.01(b).

(b)        In order for any Person not already a Member of the Company to be admitted as a Member, such Person shall have executed and delivered to the Company a written undertaking substantially in the form of the Joinder Agreement. Upon the amendment of the Members Schedule by the Managers and the satisfaction of any other applicable conditions, including the receipt by the Company of payment for the issuance of Membership Interests, such Person shall be admitted as a Member and deemed listed as such on the books and records of the Company. The Managers shall also adjust the Capital Accounts of the Members as necessary in accordance with Section 3.03.

**Section 4.02        No Personal Liability.**

Except as otherwise provided in the Massachusetts Act, by Applicable Law or expressly in this Agreement, no Member will be obligated personally for any debt, obligation or liability of the Company or other Members, whether arising in contract, tort or otherwise, solely by reason of being a Member.

**Section 4.03        Death and Disability.**

The death or Disability of any Member shall not cause the dissolution of the Company. In such event, the Company and its business shall be continued by the remaining Member or Members and the provisions of Article IX shall apply.

**Section 4.04        Meetings of Members.**

(a)        Meetings of the Members may be called by (i) the        or (ii) by a Member or group of Members holding a majority of the Membership Interests.

(b)        Written notice stating the place, date and time of the meeting and, in the case of a meeting of the Members not regularly scheduled, describing the purposes for which the meeting is called, shall be delivered not fewer than ten (10) days and not more than thirty (30) days before the date of the meeting to each Member, by or at the direction of the Managers or the Member(s) calling the meeting, as the case may be. The Members may hold meetings at the Company's principal office

or at such other place as the Managers or the Member(s) calling the meeting may designate in the notice for such meeting.

(c) Any Member may participate in a meeting of the Members by means of conference telephone or other communications equipment by means of which all Persons participating in the meeting can hear each other, and participation in a meeting by such means shall constitute presence in person at such meeting.

(d) On any matter that is to be voted on by Members, a Member may vote in person or by proxy, and such proxy may be granted in writing, by means of Electronic Transmission or as otherwise permitted by Applicable Law. Every proxy shall be revocable in the discretion of the Member executing it unless otherwise provided in such proxy; *provided*, that such right to revocation shall not invalidate or otherwise affect actions taken under such proxy prior to such revocation.

(e) The business to be conducted at such meeting need not be limited to the purpose described in the notice and can include business to be conducted by Members; *provided*, that the appropriate Members shall have been notified of the meeting in accordance with Section 4.04(b). Attendance of a Member at any meeting shall constitute a waiver of notice of such meeting, except where a Member attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

#### **Section 4.05 Quorum.**

A quorum of any meeting of the Members shall require the presence of the Members holding a majority of the outstanding Membership Interests. Subject to Section 4.06, no action at any meeting may be taken by the Members unless the appropriate quorum is present. Subject to Section 4.06, no action may be taken by the Members at any meeting at which a quorum is present without the affirmative vote of Members holding a majority of the outstanding Membership Interests.

#### **Section 4.06 Action without a Meeting.**

Notwithstanding the provisions of Section 4.05, any matter that is to be voted on, consented to or approved by Members may be taken without a meeting, without prior notice and without a vote if consented to, in writing or by Electronic Transmission, by 100 per cent of the Members. No such action shall be taken without unanimous consent. A record shall be maintained by the Managers of each such action taken by written consent of a Member or Members.

#### **Section 4.07 Power of Members.**

The Members shall have the power to exercise any and all rights or powers granted to Members pursuant to the express terms of this Agreement and the Massachusetts Act. Except as otherwise specifically provided by this Agreement or required by the Massachusetts Act, no Member, in its capacity as a Member, shall have the power to act for or on behalf of, or to bind, the Company.

#### **Section 4.08 No Interest in Company Property.**

No real or personal property of the Company shall be deemed to be owned by any Member individually, but shall be owned by, and title shall be vested solely in, the Company. Without limiting

the foregoing, each Member hereby irrevocably waives during the term of the Company any right that such Member may have to maintain any action for partition with respect to the property of the Company.

#### **Section 4.9            Certification of Membership Interests.**

(a)        The Managers may, but shall not be required to, issue certificates to the Members representing the Membership Interests held by such Member.

(b)        If the Managers shall issue certificates representing Membership Interests in accordance with Section 4.9(a), then in addition to any other legend required by Applicable Law, all certificates representing issued and outstanding Membership Interests shall bear a legend substantially in the following form:

THE MEMBERSHIP INTERESTS REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A LIMITED LIABILITY COMPANY AGREEMENT AMONG THE COMPANY AND ITS MEMBERS, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL EXECUTIVE OFFICE OF THE COMPANY. NO TRANSFER, SALE, ASSIGNMENT, PLEDGE, HYPOTHECATION OR OTHER DISPOSITION OF THE MEMBERSHIP INTERESTS REPRESENTED BY THIS CERTIFICATE MAY BE MADE EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF SUCH LIMITED LIABILITY COMPANY AGREEMENT.

THE MEMBERSHIP INTERESTS REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS AND MAY NOT BE TRANSFERRED, SOLD, ASSIGNED, PLEDGED, HYPOTHECATED OR OTHERWISE DISPOSED EXCEPT PURSUANT TO (A) A REGISTRATION STATEMENT EFFECTIVE UNDER SUCH ACT AND LAWS, OR (B) AN EXEMPTION FROM REGISTRATION THEREUNDER.

#### **Section 4.11           Other Activities; Business Opportunities.**

Nothing contained in this Agreement shall prevent any Member or any of its Affiliates from engaging in any other activities or businesses, regardless of whether those activities or businesses are similar to or competitive with the Business. None of the Members nor any of their Affiliates shall be obligated to account to the Company or to the other Member for any profits or income earned or derived from other such activities or businesses. None of the Members nor any of their Affiliates shall be obligated to inform the Company or the other Member of any business opportunity of any type or description. Notwithstanding the foregoing, the members agree not to have an ownership interest in, consult to, manage, or be employed by a competing business located within a 5-mile radius of the Business of the Company.

### **ARTICLE V ALLOCATIONS**

## **Section 5.01          Allocation of Net Income and Net Loss.**

For each Fiscal Year (or portion thereof), after giving effect to the special allocations set forth in Section 5.02, Net Income and Net Loss of the Company shall be allocated among the Members pro rata in accordance with their Membership Interests.

## **Section 5.02          Regulatory and Special Allocations.**

Notwithstanding the provisions of Section 5.01:

(a) If there is a net decrease in Company Minimum Gain (determined according to Treasury Regulations Section 1.704-2(d)(1)) during any Fiscal Year, each Member shall be specially allocated Net Income for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Member's share of the net decrease in Company Minimum Gain, determined in accordance with Treasury Regulations Section 1.704-2(g). The items to be so allocated shall be determined in accordance with Treasury Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 5.02 is intended to comply with the "minimum gain chargeback" requirement in Treasury Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(b) Member Nonrecourse Deductions shall be allocated in the manner required by Treasury Regulations Section 1.704-2(i). Except as otherwise provided in Treasury Regulations Section 1.704-2(i)(4), if there is a net decrease in Member Nonrecourse Debt Minimum Gain during any Fiscal Year, each Member that has a share of such Member Nonrecourse Debt Minimum Gain shall be specially allocated Net Income for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to that Member's share of the net decrease in Member Nonrecourse Debt Minimum Gain. Items to be allocated pursuant to this paragraph shall be determined in accordance with Treasury Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This Section 5.02(b) is intended to comply with the "minimum gain chargeback" requirements in Treasury Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(c) Nonrecourse Deductions shall be allocated to the Members in accordance with their Membership Interests.

(d) In the event any Member unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), Net Income shall be specially allocated to such Member in an amount and manner sufficient to eliminate the Adjusted Capital Account Deficit created by such adjustments, allocations or distributions as quickly as possible. This Section 5.02(d) is intended to comply with the "qualified income offset" requirement in Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(e) The allocations set forth in paragraphs (a), (b), (c) and (d) above (the "Regulatory Allocations") are intended to comply with certain requirements of the Treasury Regulations under Code Section 704. Notwithstanding any other provisions of this Article V (other than the Regulatory Allocations), the Regulatory Allocations shall be taken into account in allocating Net Income and Net Losses among Members so that, to the extent possible, the net amount of such allocations of Net Income and Net Losses and other items and the Regulatory Allocations to each Member shall be equal to the net amount that would have been allocated to such Member if the Regulatory Allocations had not occurred.

## **Section 5.03          Tax Allocations.**

(a) Subject to Section 5.03(b), Section 5.03(c) and Section 5.03(d), all income, gains, losses and deductions of the Company shall be allocated, for federal, state and local income tax purposes, among the Members in accordance with the allocation of such income, gains, losses and deductions pursuant to Section 5.01 and Section 5.02, except that if any such allocation for tax purposes is not permitted by the Code or other Applicable Law, the Company's subsequent income, gains, losses and deductions shall be allocated among the Members for tax purposes, to the extent permitted by the Code and other Applicable Law, so as to reflect as nearly as possible the allocation set forth in Section 5.01 and Section 5.02.

(b) Items of Company taxable income, gain, loss and deduction with respect to any property contributed to the capital of the Company shall be allocated among the Members in accordance with Code Section 704(c) and the traditional method with curative allocations of Treasury Regulations Section 1.704-3(c), so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its Book Value.

(c) If the Book Value of any Company asset is adjusted pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(f) as provided in clause (c) of the definition of Book Value in Section 1.01, subsequent allocations of items of taxable income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Book Value in the same manner as under Code Section 704(c).

(d) Allocations of tax credit, tax credit recapture and any items related thereto shall be allocated to the Members according to their interests in such items as determined by the Managers taking into account the principles of Treasury Regulations Section 1.704-1(b)(4)(ii).

(e) Allocations pursuant to this Section 5.03 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Net Income, Net Losses, distributions or other items pursuant to any provisions of this Agreement.

#### **Section 5.04        Allocations in Respect of Transferred Membership Interests.**

In the event of a Transfer of Membership Interests during any Fiscal Year made in compliance with the provisions of this Agreement, Net Income, Net Losses and other items of income, gain, loss and deduction of the Company attributable to such Membership Interests for such Fiscal Year shall be determined using the interim closing of the books method.

### **ARTICLE VI DISTRIBUTIONS**

#### **Section 6.01        General.**

(a) Subject to Section 6.02, distributions of available cash shall be made to the Members when and in such amounts as determined by the Managers in their sole discretion. After making all distributions required for a given Fiscal Year under Section 6.02, distributions determined to be made by the Managers pursuant to this Section 6.01(a) shall be paid to the Members in accordance with their respective Membership Interests.

(b) Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make any distribution to Members if such distribution would violate § 18-607 of the Massachusetts Act or other Applicable Law.

#### **Section 6.02 Tax Advances.**

(a) Subject to any restrictions in the Company's then applicable debt-financing arrangements, and subject to the determination by the Managers to retain any other amounts necessary to satisfy the Company's obligations, at least five (5) days before each date prescribed by the Code for a calendar-year corporation to pay quarterly installments of estimated tax, the Company shall use commercially reasonable efforts to distribute cash to each Member in proportion to and to the extent of such Member's Quarterly Estimated Tax Amount for the applicable calendar quarter (each such distribution, a "Tax Advance").

(b) If, at any time after the final Quarterly Estimated Tax Amount has been distributed pursuant to Section 6.02(a) with respect to any Fiscal Year, the aggregate Tax Advances to any Member with respect to such Fiscal Year are less than such Member's Tax Amount for such Fiscal Year (a "Shortfall Amount"), then the Company shall use commercially reasonable efforts to distribute cash in proportion to and to the extent of each Member's Shortfall Amount. The Company shall use commercially reasonable efforts to distribute Shortfall Amounts with respect to a Fiscal Year before the 75th day of the next succeeding Fiscal Year; *provided*, that if the Company has made distributions other than pursuant to this Section 6.02, the Managers may apply such distributions to reduce any Shortfall Amount.

(c) If the aggregate Tax Advances made to any Member pursuant to Section 6.02 for any Fiscal Year exceed such Member's Tax Amount (an "Excess Amount"), such Excess Amount shall reduce subsequent Tax Advances that would be made to such Member pursuant to this Section 6.02, except to the extent taken into account as an advance pursuant to Section 6.02(d).

(d) Any distributions made pursuant to this Section 6.02 shall be treated for purposes of this Agreement as advances on distributions pursuant to Section 6.01 and shall reduce, dollar-for-dollar, the amount otherwise distributable to such Member pursuant to Section 6.01.

#### **Section 6.03 Tax Withholding; Withholding Advances.**

(a) Tax Withholding. Each Member agrees to furnish the Company with any representations and forms as shall be reasonably requested by the Managers to assist it in determining the extent of, and in fulfilling, any withholding obligations it may have.

(b) Withholding Advances. The Company is hereby authorized at all times to make payments ("Withholding Advances") with respect to each Member in amounts required to discharge any obligation of the Company (as determined by the Tax Matters Representative based on the advice of legal or tax counsel to the Company) to withhold or make payments to any federal, state, local or foreign taxing authority (a "Taxing Authority") with respect to any distribution or allocation by the Company of income or gain to such Member and to withhold the same from distributions to such Member. Any funds withheld from a distribution by reason of this Section 6.03(b) shall nonetheless be deemed distributed to the Member in question for all purposes under this Agreement. If the Company makes any Withholding Advance in respect of a Member hereunder that is not immediately withheld from actual distributions to the Member, then the Member shall promptly reimburse the Company for the amount of such payment, plus interest at a rate equal to the prime rate published in the Wall Street Journal on the date of payment plus two percent (2.0%) per annum (the "Company

Interest Rate”), compounded annually, on such amount from the date of such payment until such amount is repaid (or deducted from a distribution) by the Member (any such payment shall not constitute a Capital Contribution). Each Member’s reimbursement obligation under this Section 6.03(b) shall continue after such Member transfers its Membership Interests.

(c) Indemnification. Each Member hereby agrees to indemnify and hold harmless the Company and the other Members from and against any liability with respect to taxes, interest or penalties that may be asserted by reason of the Company’s failure to deduct and withhold tax on amounts distributable or allocable to such Member. The provisions of this Section 6.03(c) and the obligations of a Member pursuant to Section 6.03(b) shall survive the termination, dissolution, liquidation and winding up of the Company and the withdrawal of such Member from the Company or Transfer of its Membership Interests. The Company may pursue and enforce all rights and remedies it may have against each Member under this Section 6.03(c), including bringing a lawsuit to collect repayment with interest of any Withholding Advances.

(d) Overwithholding. Neither the Company nor the Managers shall be liable for any excess taxes withheld in respect of any distribution or allocation of income or gain to a Member. In the event of an overwithholding, a Member’s sole recourse shall be to apply for a refund from the appropriate Taxing Authority.

#### **Section 6.04        Distributions in Kind.**

(a) The Managers are hereby authorized, as they may reasonably determine, to make distributions to the Members in the form of securities or other property held by the Company; *provided*, that Tax Advances shall only be made in cash. In any non-cash distribution, the securities or property so distributed will be distributed among the Members in the same proportion and priority as cash equal to the Fair Market Value of such securities or property would be distributed among the Members pursuant to Section 6.01.

(b) Any distribution of securities shall be subject to such conditions and restrictions as the Managers determine are required or advisable to ensure compliance with Applicable Law. In furtherance of the foregoing, the Managers may require that the Members execute and deliver such documents as the Managers may deem necessary or appropriate to ensure compliance with all federal and state securities laws that apply to such distribution and any further Transfer of the distributed securities, and may appropriately legend the certificates that represent such securities to reflect any restriction on Transfer with respect to such laws.

### **ARTICLE VII MANAGEMENT**

#### **Section 7.01        Management of the Company.**

The business and affairs of the Company shall be managed, operated and controlled by or under the direction of the Managers. Subject to the provisions of Section 7.05, the Managers shall have, and are hereby granted, full and complete power, authority and discretion for, on behalf of and in the name of the Company, to take such actions as they may deem necessary or advisable to carry out any and all of the objectives and purposes of the Company.

#### **Section 7.02        Number, Election and Term of Managers.**

(a) The number of Managers shall be fixed from time to time by the affirmative vote of Members holding a majority of the outstanding Membership Interests, but the number of Managers shall not be less than one (1) nor more than the number of Members. The Company shall initially have three (3) Managers, who shall be Michael Ortoll, James Jaron, and Blake Mensing.

(b) Each Manager shall serve until the earliest of Manager's death, Disability, resignation, or removal.

(c) The Managers shall maintain a schedule of all Managers with their respective mailing addresses (the "Managers Schedule"), and shall update the Managers Schedule upon the removal or replacement of any Manager in accordance with this Section 7.02 or Section 7.03. A copy of the Managers schedule as of the execution of this Agreement is attached hereto as Schedule B.

### **Section 7.03          Removal; Resignation.**

(a) A Manager may only be removed for Cause. "Cause" means:

(i) the Manager's commission of fraud, embezzlement, misappropriation of funds, material misrepresentation, breach of fiduciary duty or other act of dishonesty against the Company;

(ii) the Manager's conviction of a felony or of a misdemeanor if such misdemeanor involves moral turpitude or misrepresentation, including a plea of guilty or nolo contendere;

(iii) the Manager's material breach of any provision of this Agreement, which breach is not cured within thirty (30) days following written notice; and /or

(iv) the Manager's intentional wrongful act or gross negligence that has a material detrimental effect on the Company;

(v) the Manager's commission, permission, aid or abetment of any illegal practices in the operation of the Company or other prohibited activity under Mass 935 CMR 500;

(vi) the Manager's inability to perform his duties under this Agreement as the result of his incapacity due to physical or mental illness, and such inability lasts ninety (90) days after its commencement; or

(vii) the appointment of a guardian or conservator for a Member.

(b) A Manager may resign at any time by delivering his written resignation to the Company. Any such resignation shall be effective upon receipt thereof unless it is specified to be effective at some other time or upon the occurrence of some other event. The acceptance of a resignation by the other Managers shall not be necessary to make it effective.

(c) The resignation of a Manager who is also a Member shall not constitute a withdrawal or expulsion of the Manager as a Member of the Company or otherwise affect the Manager's rights as a Member.



(d) The removal of a Manager shall constitute a withdrawal or expulsion of the Manager as a Member.

#### **Section 7.04 Action by Managers.**

(a) If there is more than one Manager serving, all decisions requiring action of the Managers or relating to the business or affairs of the Company shall be decided by the affirmative vote or consent of a majority of the Managers as determined per capita (one (1) vote per Manager).

(b) On any matter that is to be voted on by Managers, a Manager may vote in person or by proxy, and such proxy may be granted in writing, by means of Electronic Transmission or as otherwise permitted by Applicable Law. Every proxy shall be revocable in the discretion of the Manager executing it unless otherwise provided in such proxy; *provided*, that such right to revocation shall not invalidate or otherwise affect actions taken under such proxy prior to such revocation.

(c) Any action of the Managers may be taken without a meeting if either (i) a written consent of a majority of the Managers shall approve such action; *provided*, that prior written notice of such action is provided to all Managers at least one (1) Business Day before such action is taken, or (ii) a written consent constituting all of the Managers shall approve such action. Such consent shall have the same force and effect as a vote at a meeting and may be stated as such in any document or instrument filed with the Secretary of the Commonwealth of Massachusetts.

#### **Section 7.05 Actions Requiring Approval of Members.**

Without the unanimous written approval of all Members, the Company shall not, and shall not enter into any commitment to:

(a) amend, modify or waive the Certificate of Organization or this Agreement; *provided* that a Manager may, without the consent of the Members, amend the Members Schedule following any new issuance, redemption, repurchase or Transfer of Membership Interests in accordance with this Agreement;

(b) issue additional Membership Interests or admit additional Members to the Company;

(c) incur any indebtedness, pledge or grant Liens on any assets or guaranty, assume, endorse or otherwise become responsible for the obligations of any other Person in excess of \$100,000 in a single transaction or series of related transactions, or in excess of \$250,000 in the aggregate at any time outstanding;

(d) make any loan, advance or capital contribution in any Person in excess of \$50,000;

(e) appoint or remove the Company's auditors or make any changes in the accounting methods or policies of the Company (other than as required by GAAP);

(f) enter into or effect any transaction or series of related transactions involving the purchase, lease, license, exchange or other acquisition (including by merger, consolidation, acquisition of stock or acquisition of assets) by the Company of any assets and/or equity interests of any Person, other than in the ordinary course of business;

(g) enter into or effect any transaction or series of related transactions involving the sale, lease, license, exchange or other disposition (including by merger, consolidation, sale of stock or sale

of assets) by the Company of any assets, other than sales of inventory in the ordinary course of business consistent;

- (h) establish a Subsidiary or enter into any joint venture or similar business arrangement;
- (i) settle any lawsuit, action, dispute or other proceeding or otherwise assume any liability with a value in excess of \$50,000 or agree to the provision of any equitable relief by the Company;
- (j) initiate or consummate an initial public offering or make a public offering and sale of the Membership Interests or any other securities;
- (k) make any investments in any other Person in excess of \$50,000; or
- (l) merge, consolidate, dissolve, wind-up or liquidate the Company or initiate a bankruptcy proceeding involving the Company.

#### **Section 7.07      Officers.**

The Managers may appoint individuals as officers of the Company (the “Officers”) as they deem necessary or desirable to carry on the business of the Company and the Managers may delegate to such Officers such power and authority as the Managers deem advisable. No Officer need be a Member of the Company. Any individual may hold two or more offices of the Company. Each Officer shall hold office until his successor is designated by the Managers or until his earlier death, Disability, resignation, or removal. Any Officer may resign at any time on written notice to the Managers. Any Officer may be removed by the Managers with or without cause at any time. A vacancy in any office occurring because of death, Disability, resignation, removal or otherwise, may, but need not, be filled by the Managers.

#### **Section 7.08      Other Activities of Managers; Business Opportunities.**

The Managers shall devote so much time and attention to the business of the Company as they deem appropriate in their sole discretion. Nothing contained in this Agreement shall prevent any Manager from engaging in any other activities or businesses, regardless of whether those activities or businesses are similar to or competitive with the Company. None of the Managers shall be obligated to account to the Company or to the Members for any profits or income earned or derived from other such activities or businesses. None of the Managers shall be obligated to inform the Company or the Members of any business opportunity of any type or description.

#### **Section 7.09      Compensation and Reimbursement of Managers; No Employment.**

(a) The Managers shall not be compensated for their services as Managers, but the Company shall reimburse the Managers for all ordinary, necessary and direct expenses incurred by the Managers in performance of their duties as Managers. All reimbursements for expenses shall be reasonable in amount. Nothing contained in this Section 7.09 shall be construed to preclude any Manager from serving the Company in any other capacity and receiving reasonable compensation for such services.

(b) This Agreement does not, and is not intended to, confer upon any Manager any rights with respect to continued employment by the Company, and nothing herein should be construed to have created any employment agreement with any Manager.

**Section 7.10 No Personal Liability.**

Except as otherwise provided in the Massachusetts Act, by Applicable Law or expressly in this Agreement, no Manager will be obligated personally for any debt, obligation or liability of the Company, whether arising in contract, tort or otherwise, solely by reason of being a Manager.

**ARTICLE VIII  
TRANSFER**

**Section 8.01 General Restrictions on Transfer.**

(a) Each Member agrees that such Member will not Transfer any of his Membership Interests unless permitted under this Agreement.

(b) Notwithstanding any other provision of this Agreement, each Member agrees that it will not Transfer all or any portion of its Membership Interest in the Company, and the Company agrees that it shall not sell any Membership Interests:

(1) except as permitted under the Securities Act and other applicable federal or state securities or blue sky laws, and then, with respect to a Transfer of Membership Interests, only upon delivery to the Company of an opinion of counsel in form and substance satisfactory to the Company to the effect that such Transfer may be effected without registration under the Securities Act;

(2) if such Transfer or issuance would cause the Company to be considered a “publicly traded partnership” under Section 7704(b) of the Code within the meaning of Treasury Regulations Section 1.7704-1(h)(1)(ii), including the look-through rule in Treasury Regulations Section 1.7704-1(h)(3);

(3) if such Transfer or issuance would affect the Company’s existence or qualification as a limited liability company under the Massachusetts Act;

(4) if such Transfer or issuance would cause the Company to lose its status as a partnership for federal income tax purposes;

(5) if such Transfer or issuance would cause the Company to be required to register as an investment company under the Investment Company Act of 1940, as amended; or

(6) if such Transfer or issuance would cause the assets of the Company to be deemed “Plan Assets” as defined under the Employee Retirement Income Security Act of 1974 or its accompanying regulations or result in any “prohibited transaction” thereunder involving the Company.

(c) Any Transfer or attempted Transfer of any Membership Interest in violation of this Agreement shall be null and void, no such Transfer shall be recorded on the Company’s books and

the purported Transferee in any such Transfer shall not be treated (and the purported Transferor shall continue be treated) as the owner of such Membership Interest for all purposes of this Agreement.

**Section 8.04      Membership Interests Covered.**

This Agreement shall cover all of the Membership Interests now owned or hereafter acquired by the Members while this Agreement remains in effect.

**Section 8.06.      Future Issuances.**

The Company may not issue Membership Interests to any Person who is not already a party to this Agreement unless, contemporaneously with the issuance of such Membership Interests such Person executes and delivers a Joinder Agreement.

**ARTICLE IX**  
**MANDATORY PURCHASE UPON DEATH OR DISABILITY OF MEMBER**

**Section IX.1      Purchase by Company upon Death or Disability of Member.**

Upon the death or Disability of a Member, the executor, administrator, trustee, surviving Spouse, or other legal representative of such deceased or Disabled Member shall sell, and the Company shall purchase, all (but not less than all) of the Membership Interests owned by the deceased or Disabled Member at the time of his death or his Disability, in accordance with the procedures set forth in this Article IX. Subject to Section 9.08, the Company shall apply towards the Purchase Price all the proceeds of the Policy or Policies on the deceased or Disabled Member's life collected by the Company.

**Section IX.2      Payments.**

All lump sum payments shall be paid by certified or official bank check or by wire transfer of immediately available funds. The closing of the purchase of the Membership Interests owned by the deceased or Disabled Member at the time of his death or Disability, shall take place not more than sixty (60) Business Days after the Company's receipt of the proceeds of the Policy or Policies on the deceased or Disabled Member's life.

**Section IX.3      Provision in Will.**

Each Member agrees to maintain in effect at all times a Will directing his or her personal representative and the trustee of any trust to be created pursuant to the terms of such Will to carry out the terms of this Agreement and to execute all documents and to take all other appropriate action to effectuate the purposes of this Agreement; *provided, however*, the failure to maintain such Will shall not affect the rights or obligations of any Member or the estate of any Member under this Agreement.

**ARTICLE X**  
**MANDATORY PURCHASE UPON TERMINATION OF MARITAL RELATIONSHIP**

**Section X.1 Purchase by Member upon Termination of Marital Relationship.**

If the Marital Relationship of a Member is terminated by the death of the Member's Spouse or by Divorce, and such Member does not succeed to all of his or her Spouse's interest at such time (the "Spouse's Interest," regardless of whether the interest is characterized as marital, non-marital or separate property, or as property held as joint tenants), then the Spouse, the Spouse's estate, or the trustee of any trust to which the Spouse's Interest passes, as the case may be, shall sell to such Member, and such Member shall purchase, the Spouse's Interest for the Purchase Price set forth in Article XIII.

**Section X.2 Membership Interests or Interest Owned in Trust.**

Any Membership Interests or interest therein held by a Member as a trustee of a trust as a result of the death or incapacity of the Spouse or the Member's Divorce from the Spouse shall be treated as owned by the Member for purposes of this Agreement, and any obligation of a Member to sell or offer to sell the Membership Interests or interest therein includes any Membership Interests or interest therein held by the Member as trustee of the trust.

**Section X.3 Lump Sum or Installment Payments.**

A Member may pay the Purchase Price for the Spouse's Interest in (a) one lump sum by certified or official bank check or by wire transfer of immediately available funds or (b) installment payments evidenced by a promissory note made at the time of purchase, which shall bear interest at the rate of 2.5% per annum. If paid in installment payments, the Member shall pay the Purchase Price plus accrued interest in twelve (12) equal quarterly installments. Such Member shall have the right to pay all or any part of such Member's note at any time or times in advance of maturity without premium or penalty by paying the principal amount to be prepaid together with accrued interest thereon to the date of prepayment.

**Section X.4 Transfer of Spouse's Interest.**

In the event that a Spouse's Interest is purchased in accordance with the provisions hereof, upon the execution and delivery of the promissory note or the lump sum payment of the Purchase Price, in each case as provided in Section 10.3, an automatic Transfer to the relevant Member of the Spouse's Interest being purchased shall be deemed to have occurred, and the parties shall execute and deliver any instruments and perform any acts that may be necessary or reasonably requested by the Company to effectuate and evidence the Transfer.

**ARTICLE XI**  
**TRIGGERING EVENTS FOR OPTION TO BUY MEMBERSHIP INTERESTS**

**Section XI.1 Voluntary Transfers.**

(a) When a Member (the "Offering Member") desires to Transfer any or all of his or her Membership Interests (the "Offered Interests"), the Offering Member shall give prompt, written, unconditional, and irrevocable notice to the Company and the Remaining Members of such intention, and the Company, first, and each Remaining Member, second, shall have the option to purchase all

(but not less than all) of the Offered Interests pursuant to the terms of Article XII and Article XIII of this Agreement.

(b) A Member may Transfer all of his Membership Interest to a trust or similar estate, tax or administrative planning vehicle for the benefit of one or more members of the immediate family of such Member, so long as such Member retains control of all voting rights related to such trust or other vehicle during such transferring Member's lifetime. A Member shall give at least five (5) Business Days notice to the Company prior to any Transfer of any of his Membership Interests pursuant to this Section 11.01(b).

### **Section 11.02 Involuntary Transfer.**

Prior to any Involuntary Transfer of Shares during the life of a Member (the "Transferring Member") for any reason (other than in connection with the Divorce of a Member as addressed in Article X of this Agreement), the Member shall give prompt written notice to the Company and the Remaining Members disclosing in full the nature and details of the Involuntary Transfer, and the Company, *first*, and each Remaining Stockholder, *second*, shall have the option to purchase all (but not less than all) of the Shares owned by the Transferring Member at the effective date of the Involuntary Transfer pursuant to the terms of Article X and Article XIII. For the purposes hereof, an "Involuntary Transfer" includes, but is not limited to, a potential Transfer of Membership Interest that occurs in connection with any of the following: (a) a sale upon execution or in foreclosure of any pledge, hypothecation, lien or charge; (b) a voluntary or involuntary petition under any federal or state bankruptcy, insolvency or related law; (c) the appointment of a receiver; (d) an assignment for the benefit of creditors; (e) attachment, assignment or other collection action; and (f) the appointment of a guardian or conservator for a Member.

## **ARTICLE XII OPTION PROCEDURES**

### **Section XII.1 Exercise of Option.**

Whenever the Company and/or the Remaining Members have the option to purchase (1) the Offered Interests of an Offering Member pursuant to the terms of Section 11.01 or (2) all of the Membership Interests owned by a Transferring Member pursuant to the terms of Section 11.02 (in either the case of (1) or (2), the "Option Interests"), the following procedures shall apply:

(a) The initial right of the Company to purchase all (but not less than all) of the Option Interests shall be exercisable with the delivery of a written notice by the Company to the Offering Member or the Transferring Member, as the case may be, and the Remaining Members within thirty (30) days of (i) in the case of a voluntary Transfer pursuant to 11.01, the receipt of the Offering Member's written notice regarding the Offered Interests; or (ii) in the case of an Involuntary Transfer pursuant to Section 11.02, the receipt of the Transferring Member's written notice of Involuntary Transfer. The Company's written notice of exercise shall be binding upon delivery and irrevocable by the Company.

(b) If the Company does not elect to purchase all of the Option Interests, the Remaining Members shall have the right to purchase all (but not less than all) of the Option Interests. For a period of thirty (30) days following the earlier of the expiration of the Company's option period set forth in Section 12.01(a) or receipt of written notice from the Company that it does not elect to purchase the Option Interests, each Remaining Member

shall have the right to elect to purchase all (but not less than all) of his pro rata portion of the Option Interests by delivering written notice to the Company and the Offering Member or the Transferring Member, as the case may be. The pro rata portion of each Remaining Member for the purposes of this Section 12.01(b) shall be determined by dividing (i) the number of Membership Interests owned by a Remaining Member by (ii) the total number of Membership Interests owned by all of the Remaining Members. Each Remaining Member's exercise notice shall be binding upon delivery and irrevocable by such Remaining Member.

(c) If the Remaining Members pursuant to Section 12.01(b) do not, in the aggregate, elect to purchase all of the Option Interests, each Remaining Member electing to purchase his or her pro rata portion of the Option Interests in accordance with Section 12.01(b) (each, an "Exercising Member") shall have the right to purchase all (but not less than all) of any remaining Option Interests not elected to be purchased by the other Remaining Members. As promptly as practicable following the expiration of the Remaining Members' option period set out in Section 12.01(b), the Offering Member or Transferring Member, as the case may be, shall deliver a written notice to each Exercising Member stating the number of remaining Option Interests available for purchase. For a period of thirty (30) days following the receipt of such written notice, each Exercising Member shall have the right to elect to purchase all (but not less than all) of the remaining Option Interests by delivering a written notice to the Company and the Offering Member or the Transferring Member, as the case may be. If more than one Exercising Member delivers an exercise notice pursuant to this Section 12.01(c) (each, an "Over-Allotment Participating Member"), the remaining Option Interests shall be allocated pro rata among the Over-Allotment Participating Members based on a fraction determined by dividing (i) the number of Membership Interests owned by the Over-Allotment Participating Member by (ii) the number of Membership Interests owned by all Over-Allotment Participating Members; unless within thirty (30) days following the receipt of written notice to that effect, the Over-Allotment Participating Members deliver a joint written notice to the Company and the Offering Member or Transferring Member, as the case may be, agreeing to a different allocation for all (but not less than all) of the remaining Option Interests. Each Over-Allotment Participating Member's exercise notice shall be binding upon delivery and irrevocable by the Over-Allotment Participating Member.

(d) The failure of the Company or any Remaining Member to deliver an exercise notice by the end of their respective option periods shall constitute a waiver of the applicable rights of first offer under Article XII with respect to the Transfer of such Option Interests, but shall not affect their respective rights with respect to any future Transfers.

## **Section XII.2 Lump Sum or Installment Payments.**

Any purchaser of Membership Interests pursuant to this Article XII may pay the applicable Purchase Price in (a) one lump sum by certified or official bank check or by wire transfer of immediately available funds or (b) installment payments evidenced by a promissory note made at the time of purchase, which shall bear interest at the rate of five percent (5%) per annum (or the maximum rate allowable under Applicable Law if less than five percent (5%) per annum). If paid in installment payments, the Member shall pay the Purchase Price plus accrued interest in twelve (12) equal quarterly installments. The purchaser shall have the right to pay all or any part of the purchaser's note at any time or times in advance of maturity without premium or penalty by paying the principal amount to be prepaid together with accrued interest thereon to the date of prepayment.

### **Section XII.3 Cooperation.**

Each Member shall take all actions as may be reasonably necessary to consummate any sale that complies with this Article XII, including executing and delivering agreements, certificates, instruments, and consents as may be deemed necessary or appropriate.

### **Section XII.4 Failure to Exercise Option.**

In the case of an option to purchase the Offered Interests of an Offering Member pursuant to Section 12.01, if neither the Company nor the Remaining Members elect to purchase all of the Offered Interests, then the Offering Member may, during the thirty (30) day period following the expiration of the required periods of such option (which period may be extended for a reasonable time not to exceed ninety (90) days), subject to and under this Agreement, Transfer, all of such Offered Membership Interests on terms and conditions no more favorable to such Transferee than those specified in an offer made under or as provided by this Agreement. If the Offering Member does not Transfer the Option Interests within such period, the rights provided hereunder shall be deemed to be revived and the Option Interests shall not be offered to any Person unless first re-offered to the Company and the Remaining Members in accordance with this Agreement.

### **Section XII.5 No Further Rights or Obligations.**

If a Member's Membership Interests are sold in connection with a voluntary Transfer or Involuntary Transfer, the Member shall cease to be a party to this Agreement and shall have no further rights or obligations hereunder, and this Agreement may be amended or terminated without the Member's consent.

## **ARTICLE XIII PURCHASE PRICE**

### **Section XIII.1 Stipulated Value.**

As of the date of this Agreement, through the date on which the Company has been Operational for twenty-four consecutive (24) months (the "Initial Period"), the value of the Company shall be determined upon a unanimous consent of the Members on a quarterly basis. After the date on which the Company is Operational (the "Post Period"), the value of the Company shall be determined on the basis of four times (4X) the average net earnings (annual gross revenues of the Company minus annual expenses and minus any annual federal, state, and local income taxes payable by the Company) for the two (2) most recent Fiscal Years. The value of an individual Member's Membership Interest shall be the entire value for the Company as determined under this Section 13.01, multiplied by his ownership percentage. Such value shall remain effective until a new stipulation is agreed to in accordance with Section 13.02 (such per Membership Interest value, as updated from time to time, the "Stipulated Value").

### **Section XIII.2 Value to be Stipulated Quarterly or Annually.**

In the case of (a) the Initial Period, within thirty (30) days after the end of each fiscal quarter; or (b) the Post Period, within thirty (30) days after the end of each Fiscal Year, the Members of record on the last day of such quarter or Fiscal Year, as the case may be, voting in proportion to their respective Membership Interests held as of such day, shall agree upon the Stipulated Value to be computed as of the end of such quarter or Fiscal Year, as the case may be. The Stipulated Value shall be agreed to in writing by such Members holding a majority of the Membership Interests issued and



outstanding on such day. In the event a Member of record on such day is no longer a Member at the time of such vote (which shall not be more than thirty (30) days after the end of such quarter or Fiscal Year, as the case may be), the transferee, if any, of such Member's Membership Interests shall vote such Membership Interests with respect to such Stipulated Value; *provided, however*, if the Company has redeemed such Interests, such Membership Interests shall be deemed canceled with respect to such vote. In the event of the death or Disabled of any such Member of record after the last day of such quarter or Fiscal Year, as the case may be, and if such Member's Membership Interests have not yet been transferred or redeemed at the time of such vote, none of the executor, administrator, surviving Spouse, or other legal representative of such deceased or Disabled Member shall be entitled to vote the deceased or Disabled Member's Membership Interests with respect to such Stipulated Value.

#### **Section XIII.3 Purchase Price.**

In the event of a sale or Transfer of Membership Interests pursuant to this Agreement, the purchase price shall be the Stipulated Value multiplied by the number of Membership Interests subject to sale (the "Purchase Price").

#### **Section XIII.4 Failure to Stipulate Does Not Invalidate Agreement.**

The failure of the Members to update the Stipulated Value as provided for herein shall not affect the validity or enforceability of this Agreement.

#### **Section XIII.5 Value of Decedent's Interest.**

In the event of a purchase of (a) a deceased or Disabled Member's interest as provided by Article IX of this Agreement or (b) a deceased Spouse's Interest as provided by Article X of this Agreement, the Purchase Price shall not be less than the value of the decedent's interest as finally determined for federal estate tax purposes.

#### **Section XIII.6 Termination of Marital Relationship.**

In the event of a purchase of the Spouse's Interest as provided by Article X of this Agreement, the Purchase Price shall be determined by multiplying (a) the Stipulated Value by (b) the number of Membership Interests held by the Member, and by (c) the fraction or percentage that represents the interest of the Spouse in the Member's Interest.

### **ARTICLE XIV EXCULPATION AND INDEMNIFICATION**

#### **Section 14.01 Exculpation of Covered Persons.**

(a) Covered Persons. As used herein, the term "Covered Person" shall mean (i) each Member; (ii) each officer, director, stockholder, partner, member, Affiliate, employee, agent or representative of each Member, and each of their Affiliates; and (iii) each Manager, Officer, employee, agent or representative of the Company.

(b) Standard of Care. No Covered Person shall be liable to the Company or any other Covered Person for any loss, damage or claim incurred by reason of any action taken or omitted to be

taken by such Covered Person in his, her or its capacity as a Covered Person, so long as such action or omission does not constitute fraud or willful misconduct by such Covered Person.

(c) Good Faith Reliance. A Covered Person shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements (including financial statements and information, opinions, reports or statements as to the value or amount of the assets, liabilities, Net Income or Net Losses of the Company or any facts pertinent to the existence and amount of assets from which distributions might properly be paid) of the following Persons or groups: (i) another Manager; (ii) one or more Officers or employees of the Company; (iii) any attorney, independent accountant, appraiser or other expert or professional employed or engaged by or on behalf of the Company; or (iv) any other Person selected in good faith by or on behalf of the Company, in each case as to matters that such relying Person reasonably believes to be within such other Person's professional or expert competence. The preceding sentence shall in no way limit any Person's right to rely on information to the extent provided in the Massachusetts Act.

#### **Section 14.02      Liabilities and Duties of Covered Persons.**

This Agreement is not intended to, and does not, create or impose any fiduciary duty on any Covered Person. The provisions of this Agreement, to the extent that they restrict the duties and liabilities of a Covered Person otherwise existing at law or in equity, are agreed by the Members to replace such other duties and liabilities of such Covered Person.

#### **Section 14.03      Indemnification.**

(a) Indemnification. To the fullest extent permitted by the Massachusetts Act, as the same now exists or may hereafter be amended, substituted or replaced (but, in the case of any such amendment, substitution or replacement, only to the extent that such amendment, substitution or replacement permits the Company to provide broader indemnification rights than the Massachusetts Act permitted the Company to provide prior to such amendment, substitution or replacement), the Company shall indemnify, hold harmless, defend, pay and reimburse any Covered Person against any and all losses, claims, damages, judgments, fines or liabilities, including reasonable legal fees or other expenses incurred in investigating or defending against such losses, claims, damages, judgments, fines or liabilities, and any amounts expended in settlement of any claims (collectively, "Losses") to which such Covered Person may become subject by reason of:

(1) any act or omission or alleged act or omission performed or omitted to be performed on behalf of the Company, any Member or any direct or indirect Subsidiary of the foregoing in connection with the Business of the Company; or

(2) such Covered Person being or acting in connection with the business of the Company as a member, stockholder, Affiliate, manager, director, officer, employee or agent of the Company, any Member, or any of their respective Affiliates, or that such Covered Person is or was serving at the request of the Company as a member, manager, director, officer, employee or agent of any Person including the Company;

(3) *provided, however*, that (x) such Covered Person acted in good faith and in a manner believed by such Covered Person to be in, or not opposed to, the best interests of the Company and within the scope of such Covered Person's authority conferred on him or it by the Company and, with respect to any criminal proceeding, had no reasonable cause to believe his conduct was unlawful, and (y) such Covered Person's conduct did not constitute fraud or willful misconduct. In connection with the foregoing, the termination of any action, suit or proceeding by

judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the Covered Person did not act in good faith or, with respect to any criminal proceeding, had reasonable cause to believe that such Covered Person's conduct was unlawful, or that the Covered Person's conduct constituted fraud or willful misconduct.

(b) Ortoll's Indemnification for Prior Pre-Existing LLC Liabilities: Ortoll agrees to indemnify and hold harmless the other members from any debt, claim, action or proceeding which arises out of the conduct by the Company prior to the execution of this Agreement, unless otherwise expressly assumed by them herein.

(c) Control of Defense. Upon a Covered Person's discovery of any claim, lawsuit or other proceeding relating to any Losses for which such Covered Person may be indemnified pursuant to this Section 14.03, the Covered Person shall give prompt written notice to the Company of such claim, lawsuit or proceeding; *provided*, that the failure of the Covered Person to provide such notice shall not relieve the Company of any indemnification obligation under this Section 14.03, unless the Company shall have been materially prejudiced thereby. Subject to the approval of the disinterested Members, the Company shall be entitled to participate in or assume the defense of any such claim, lawsuit or proceeding at its own expense. After notice from the Company to the Covered Person of its election to assume the defense of any such claim, lawsuit or proceeding, the Company shall not be liable to the Covered Person under this Agreement or otherwise for any legal or other expenses subsequently incurred by the Covered Person in connection with investigating, preparing to defend or defending any such claim, lawsuit or other proceeding. If the Company does not elect (or fails to elect) to assume the defense of any such claim, lawsuit or proceeding, the Covered Person shall have the right to assume the defense of such claim, lawsuit or proceeding as it deems appropriate, but it shall not settle any such claim, lawsuit or proceeding without the consent of the Company (which consent shall not be unreasonably withheld, conditioned or delayed).

(d) Reimbursement. The Company shall promptly reimburse (and/or advance to the extent reasonably required) each Covered Person for reasonable legal or other expenses (as incurred) of such Covered Person in connection with investigating, preparing to defend or defending any claim, lawsuit or other proceeding relating to any Losses for which such Covered Person may be indemnified pursuant to this Section 14.03; *provided*, that if it is finally judicially determined that such Covered Person is not entitled to the indemnification provided by this Section 14.03, then such Covered Person shall promptly reimburse the Company for any reimbursed or advanced expenses.

(e) Entitlement to Indemnity. The indemnification provided by this Section 14.03 shall not be deemed exclusive of any other rights to indemnification to which those seeking indemnification may be entitled under any agreement or otherwise. The provisions of this Section 14.03 shall continue to afford protection to each Covered Person regardless of whether such Covered Person remains in the position or capacity pursuant to which such Covered Person became entitled to indemnification under this Section 14.03 and shall inure to the benefit of the executors, administrators, legatees and distributees of such Covered Person.

(f) Insurance. To the extent available on commercially reasonable terms, the Company may purchase, at its expense, insurance to cover Losses covered by the foregoing indemnification provisions and to otherwise cover Losses for any breach or alleged breach by any Covered Person of such Covered Person's duties in such amount and with such deductibles as the Managers may determine; *provided*, that the failure to obtain such insurance shall not affect the right to indemnification of any Covered Person under the indemnification provisions contained herein, including the right to be reimbursed or advanced expenses or otherwise indemnified for Losses hereunder. If any Covered Person recovers any amounts in respect of any Losses from any insurance

coverage, then such Covered Person shall, to the extent that such recovery is duplicative, reimburse the Company for any amounts previously paid to such Covered Person by the Company in respect of such Losses.

(g) Funding of Indemnification Obligation. Notwithstanding anything contained herein to the contrary, any indemnity by the Company relating to the matters covered in this Section 14.03 shall be provided out of and to the extent of Company assets only, and no Member (unless such Member otherwise agrees in writing) shall have personal liability on account thereof or shall be required to make additional Capital Contributions to help satisfy such indemnity by the Company.

(h) Savings Clause. If this Section 14.03 or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify and hold harmless each Covered Person pursuant to this Section 14.03 to the fullest extent permitted by any applicable portion of this Section 14.03 that shall not have been invalidated and to the fullest extent permitted by Applicable Law.

(i) Amendment. The provisions of this Section 14.03 shall be a contract between the Company, on the one hand, and each Covered Person who served in such capacity at any time while this Section 14.03 is in effect, on the other hand, pursuant to which the Company and each such Covered Person intend to be legally bound. No amendment, modification or repeal of this Section 14.03 that adversely affects the rights of a Covered Person to indemnification for Losses incurred or relating to a state of facts existing prior to such amendment, modification or repeal shall apply in such a way as to eliminate or reduce such Covered Person's entitlement to indemnification for such Losses without the Covered Person's prior written consent.

#### **Section 14.04 Survival.**

The provisions of this Article XIV shall survive the dissolution, liquidation, winding up and termination of the Company.

### **ARTICLE XV ACCOUNTING; TAX MATTERS**

#### **Section 15.01 Financial Statements.**

The Company shall furnish to each Member the following reports:

(a) Annual Financial Statements. As soon as available, and in any event within one hundred and twenty (120) days after the end of each Fiscal Year, audited consolidated balance sheets of the Company as at the end of each such Fiscal Year and audited consolidated statements of income, cash flows and Members' equity for such Fiscal Year, in each case setting forth in comparative form the figures for the previous Fiscal Year, accompanied by the certification of independent certified public accountants of recognized national standing selected by the Managers, certifying to the effect that, except as set forth therein, such financial statements have been prepared in accordance with GAAP, applied on a basis consistent with prior years, and fairly present in all material respects the financial condition of the Company as of the dates thereof and the results of their operations and changes in their cash flows and Members' equity for the periods covered thereby.

(b) Quarterly Financial Statements. As soon as available, and in any event within 60 days after the end of each quarterly accounting period in each Fiscal Year (other than the last fiscal

quarter of the Fiscal Year), unaudited consolidated balance sheets of the Company as at the end of each such fiscal quarter and for the current Fiscal Year to date and unaudited consolidated statements of income, cash flows and Members' equity for such fiscal quarter and for the current Fiscal Year to date, in each case setting forth in comparative form the figures for the corresponding periods of the previous fiscal quarter, all in reasonable detail and all prepared in accordance with GAAP, consistently applied (subject to normal year-end audit adjustments and the absence of notes thereto), and certified by the principal financial or accounting officer of the Company.

(c) Monthly Financial Statements. As soon as available, and in any event within 30 days after the end of each monthly accounting period in each fiscal quarter (other than the last month of the fiscal quarter), unaudited consolidated balance sheets of the Company as at the end of each such monthly period and for the current Fiscal Year to date and unaudited consolidated statements of income, cash flows and Members' equity for each such monthly period and for the current Fiscal Year to date, all in reasonable detail and all prepared in accordance with GAAP, consistently applied (subject to normal year-end audit adjustments and the absence of notes thereto).

#### **Section 15.02      Inspection Rights.**

Upon reasonable notice from a Member, the Company shall afford such Member and its Representatives access during normal business hours to (i) the Company's properties, offices, and/or facilities; (ii) the corporate, financial and similar records, reports and documents of the Company, including all books and records, minutes of proceedings, internal management documents, reports of operations, reports of adverse developments, copies of any management letters and communications with Members or Managers, and to permit each Member and its Representatives to examine such documents and make copies thereof or extracts therefrom; and (iii) any Officers, senior employees and accountants of the Company, and to afford each Member and its Representatives the opportunity to discuss and advise on the affairs, finances and accounts of the Company with such Officers, senior employees and accountants (and the Company hereby authorizes such employees and accountants to discuss with such Member and its Representatives such affairs, finances and accounts); *provided* that (x) the requesting Member shall bear its own expenses and all reasonable expenses incurred by the Company in connection with any inspection or examination requested by such Member pursuant to this Section 15.02 and (y) if the Company provides or makes available any report or written analysis for any Member pursuant to this Section 15.02, it shall promptly provide or make available such report or analysis to or for the other Members.

#### **Section 15.03      Income Tax Status.**

It is the intent of this Company and the Members that this Company shall be treated as a partnership for U.S., federal, state and local income tax purposes. Neither the Company nor any Member shall make an election for the Company to be classified as other than a partnership pursuant to Treasury Regulations Section 301.7701-3.

#### **Section 15.04      Tax Matters Representative.**

(a) Appointment; Removal. The Members hereby appoint [NAME] as the "partnership representative" as provided in Code Section 6223(a) (the "Tax Matters Representative"). The Tax Matters Representative may resign at any time. The Tax Matters Representative may be removed at any time by a vote of Members holding a majority of the Membership Interests. In the event of the resignation or removal of the Tax Matters Representative, Members holding a majority of the Membership Interests shall select a replacement Tax Matters Representative.

(b) Tax Examinations and Audits. The Tax Matters Representative is authorized and required to represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by Taxing Authorities, including resulting administrative and judicial proceedings, and to expend Company funds for professional services and costs associated therewith. The Tax Matters Representative shall promptly notify the Members in writing of the commencement of any tax audit of the Company, upon receipt of a tax assessment and upon the receipt of a notice of final partnership adjustment, and shall keep the Members reasonably informed of the status of any tax audit and resulting administrative and judicial proceedings. Without the consent of Members holding a majority of the Membership Interests, the Tax Matters Representative shall not extend the statute of limitations, file a request for administrative adjustment, file suit relating to any Company tax refund or deficiency or enter into any settlement agreement relating to items of income, gain, loss or deduction of the Company with any Taxing Authority.

(c) US Federal Tax Proceedings. To the extent permitted by applicable law and regulations, the Tax Matters Representative shall cause the Company to annually elect out of the partnership audit procedures set forth in Subchapter C of Chapter 63 of the Code as amended by the BBA (the "Revised Partnership Audit Rules") pursuant to Code Section 6221(b). For any year in which applicable law and regulations do not permit the Company to elect out of the Revised Partnership Audit Rules, then within forty-five (45) days of any notice of final partnership adjustment, the Tax Matters Representative shall cause the Company to elect the alternative procedure under Code Section 6226, and furnish to the Internal Revenue Service and each Member during the year or years to which the notice of final partnership adjustment relates a statement of the Member's share of any adjustment set forth in the notice of final partnership adjustment.

(d) Tax Returns and Tax Deficiencies. Each Member agrees that such Member shall not treat any Company item inconsistently on such Member's federal, state, foreign or other income tax return with the treatment of the item on the Company's return. Any deficiency for taxes imposed on any Member (including penalties, additions to tax or interest imposed with respect to such taxes and taxes imposed pursuant to Code Section 6226) will be paid by such Member and if required to be paid (and actually paid) by the Company, will be recoverable from such Member as provided in Section 6.03(b).

(e) Section 754 Election. The Tax Matters Representative will make an election under Code Section 754 if requested in writing by another Member.

(f) Indemnification. The Company shall defend, indemnify, and hold harmless the Tax Matters Representative against any and all liabilities sustained as a result of any act or decision concerning Company tax matters and within the scope of the Tax Matters Representative's responsibilities, so long as such act or decision was done or made in good faith and does not constitute gross negligence or willful misconduct

## **Section 15.05 Tax Returns.**

At the expense of the Company, the Managers (or any Officer that the Managers may designate pursuant to Section 7.06) shall endeavor to cause the preparation and timely filing (including extensions) of all tax returns required to be filed by the Company pursuant to the Code as well as all other required tax returns in each jurisdiction in which the Company owns property or does business. As soon as reasonably possible after the end of each Fiscal Year, the Managers or designated Officer will cause to be delivered to each Person who was a Member at any time during such Fiscal Year, IRS Schedule K-1 to Form 1065 and such other information with respect to the Company as may be

necessary for the preparation of such Person's federal, state and local income tax returns for such Fiscal Year.

#### **Section 15.06      Company Funds.**

All funds of the Company shall be deposited in its name, or in such name as may be designated by the Managers, in such checking, savings or other accounts, or held in its name in the form of such other investments as shall be designated by the Managers. The funds of the Company shall not be commingled with the funds of any other Person. All withdrawals of such deposits or liquidations of such investments by the Company shall be made exclusively upon the signature or signatures of such Officer or Officers as the Managers may designate.

### **ARTICLE XVI DISSOLUTION AND LIQUIDATION**

#### **Section 16.01      Events of Dissolution.**

The Company shall be dissolved and its affairs wound up only upon the occurrence of any of the following events:

- (a) an election to dissolve the Company made by all of the holders of the Membership Interests;
- (b) the sale, exchange, involuntary conversion, or other disposition or Transfer of all or substantially all the assets of the Company; or
- (c) The entry of a decree of judicial dissolution under the Massachusetts Act.

#### **Section 16.02      Effectiveness of Dissolution.**

Dissolution of the Company shall be effective on the day on which the event described in Section 16.01 occurs, but the Company shall not terminate until the winding up of the Company has been completed, the assets of the Company have been distributed as provided in Section 16.03 and the Certificate of Organization shall have been cancelled as provided in Section 16.04.

#### **Section 16.03      Liquidation.**

If the Company is dissolved pursuant to Section 16.01, the Company shall be liquidated and its business and affairs wound up in accordance with the Massachusetts Act and the following provisions:

- (a) Liquidator. At least one (1) of the Managers, or another Person selected by the Managers, shall act as liquidator to wind up the Company (the "Liquidator"). The Liquidator shall have full power and authority to sell, assign, and encumber any or all of the Company's assets and to wind up and liquidate the affairs of the Company in an orderly and business-like manner.
- (b) Accounting. As promptly as possible after dissolution and again after final liquidation, the Liquidator shall cause a proper accounting to be made by a recognized firm of certified public accountants of the Company's assets, liabilities and operations through the last day of the calendar month in which the dissolution occurs or the final liquidation is completed, as applicable.

(c) **Distribution of Proceeds.** The Liquidator shall liquidate the assets of the Company and distribute the proceeds of such liquidation in the following order of priority, unless otherwise required by mandatory provisions of Applicable Law:

(1) *first*, to the payment of all of the Company's debts and liabilities to its creditors (including Members, if applicable) and the expenses of liquidation (including sales commissions incident to any sales of assets of the Company);

(2) *second*, to the establishment of and additions to reserves that are determined by the Liquidator to be reasonably necessary for any contingent unforeseen liabilities or obligations of the Company; and

(3) *third*, to the Members in accordance with the positive balances in their respective Capital Accounts, as determined after taking into account all Capital Account adjustments for the taxable year of the Company during which the liquidation of the Company occurs.

(d) **Discretion of Liquidator.** Notwithstanding the provisions of Section 16.03(c) that require the liquidation of the assets of the Company, but subject to the order of priorities set forth in Section 16.03(c), if upon dissolution of the Company the Liquidator reasonably determines that an immediate sale of part or all of the Company's assets would be impractical or could cause undue loss to the Members, the Liquidator may defer the liquidation of any assets except those necessary to satisfy Company liabilities and reserves, and may, upon unanimous consent of the Members, distribute to the Members, in lieu of cash, as tenants in common and in accordance with the provisions of Section 16.03(c), undivided interests in such Company assets as the Liquidator deems not suitable for liquidation. Any such distribution in kind shall be subject to such conditions relating to the disposition and management of such properties as the Liquidator deems reasonable and equitable and to any agreements governing the operating of such properties at such time. For purposes of any such distribution, any property to be distributed will be valued at its Fair Market Value as determined by the Liquidator in good faith.

#### **Section 16.04      Cancellation of Certificate.**

Upon completion of the distribution of the assets of the Company as provided in Section 16.03(c) hereof, the Company shall be terminated and the Liquidator shall cause the cancellation of the Certificate of Organization in the Commonwealth of Massachusetts and of all qualifications and registrations of the Company as a foreign limited liability company in jurisdictions other than the Commonwealth of Massachusetts and shall take such other actions as may be necessary to terminate the Company.

#### **Section 16.05      Survival of Rights, Duties and Obligations.**

Dissolution, liquidation, winding up or termination of the Company for any reason shall not release any party from any Loss that at the time of such dissolution, liquidation, winding up or termination already had accrued to any other party or thereafter may accrue in respect of any act or omission prior to such dissolution, liquidation, winding up or termination. For the avoidance of doubt, none of the foregoing shall replace, diminish or otherwise adversely affect any Member's right to indemnification pursuant to Section 10.03.

#### **Section 16.06      Recourse for Claims.**



Each Member shall look solely to the assets of the Company for all distributions with respect to the Company, such Member's Capital Account, and such Member's share of Net Income, Net Loss and other items of income, gain, loss and deduction, and shall have no recourse therefor (upon dissolution or otherwise) against the Liquidator or any other Member.

## **ARTICLE XVII MISCELLANEOUS**

### **Section 17.01      Spousal Consent.**

Each member agrees that if such Member is in a Marital Relationship at the time the Member executes this Agreement, the Member shall cause the Member's Spouse to execute a Spousal Consent in the form attached hereto as Exhibit B. If a Member is in a Marital Relationship or enters into a in a Marital Relationship after the date the Member executes this Agreement, the Member shall cause such new Spouse to execute a Spousal Consent. If such new Spouse shall fail or refuse to execute a Spousal Consent within sixty (60) days of the date of his/her/their marriage to a Member, such failure or refusal shall constitute a material breach of this Agreement by the Member of such Spouse, and the Company shall have the right to equitable relief to force the execution of a Spousal Consent by such Spouse or otherwise deem the Spousal Consent to be so executed by implication under equitable principles of law. The costs and expenses incurred by the Company in connection herewith shall be the obligation of the Member in a Marital Relationship with such refusing Spouse. The execution of the Spousal Consent by a Spouse or new Spouse shall constitute an acceptance of all the terms and conditions hereof.

### **Section 17.02      Expenses.**

Except as otherwise expressly provided herein, all costs and expenses, including fees and disbursements of counsel, financial advisors and accountants, incurred in connection with the preparation and execution of this Agreement, or any amendment or waiver hereof, and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses.

### **Section 17.02      Further Assurances.**

In connection with this Agreement and the transactions contemplated hereby, the Company and each Member hereby agrees, at the request of the Company or any other Member, to execute and deliver such additional documents, instruments, conveyances and assurances and to take such further actions as may be required to carry out the provisions hereof and give effect to the transactions contemplated hereby.

### **Section 17.03      Confidentiality.**

(a) Each Member acknowledges that during the term of this Agreement, it will have access to and become acquainted with trade secrets, proprietary information and confidential information belonging to the Company and its Affiliates that are not generally known to the public, including, but not limited to, information concerning business plans, financial statements and other information provided pursuant to this Agreement, operating practices and methods, expansion plans, strategic plans, marketing plans, contracts, customer lists or other business documents that the Company treats as confidential, in any format whatsoever (including oral, written, electronic or any other form or medium) (collectively, "Confidential Information"). In addition, each Member acknowledges that: (i) the Company has invested, and continues to invest, substantial time, expense

and specialized knowledge in developing its Confidential Information; (ii) the Confidential Information provides the Company with a competitive advantage over others in the marketplace; and (iii) the Company would be irreparably harmed if the Confidential Information were disclosed to competitors or made available to the public. Without limiting the applicability of any other agreement to which any Member is subject, no Member shall, directly or indirectly, disclose or use (other than solely for the purposes of such Member monitoring and analyzing its investment in the Company, including, without limitation, use for personal, commercial or proprietary advantage or profit, any Confidential Information of which such Member is or becomes aware. Each Member in possession of Confidential Information shall take all appropriate steps to safeguard such information and to protect it against disclosure, misuse, espionage, loss and theft.

(b) Nothing contained in Section 17.04(a) shall prevent any Member from disclosing Confidential Information: (i) upon the order of any court or administrative agency; (ii) upon the request or demand of any regulatory agency or authority having jurisdiction over such Member; (iii) to the extent compelled by legal process or required or requested pursuant to subpoena, interrogatories or other discovery requests; (iv) to the extent necessary in connection with the exercise of any remedy hereunder; (v) to the other Member; (vi) to such Member's Representatives who, in the reasonable judgment of such Member, need to know such Confidential Information and agree to be bound by the provisions of this Section 17.04 as if a Member; or (vii) to any potential permitted Transferee in connection with a proposed Transfer of Membership Interests from such Member, as long as such Transferee agrees to be bound by the provisions of this Section 17.04 as if a Member; *provided*, that in the case of clause (i), (ii) or (iii), such Member shall notify the Company and other Member of the proposed disclosure as far in advance of such disclosure as practicable (but in no event make any such disclosure before notifying the Company and other Member) and use reasonable efforts to ensure that any Confidential Information so disclosed is accorded confidential treatment satisfactory to the Company, when and if available.

(c) The restrictions of Section 17.04(a) shall not apply to Confidential Information that: (i) is or becomes generally available to the public other than as a result of a disclosure by a Member in violation of this Agreement; (ii) is or has been independently developed or conceived by such Member without use of Confidential Information; or (iii) becomes available to such Member or any of its Representatives on a non-confidential basis from a source other than the Company, the other Member or any of their respective Representatives; *provided*, that such source is not known by the receiving Member to be bound by a confidentiality agreement regarding the Company.

(d) The obligations of each Member under this Section 17.04 shall survive (i) the termination, dissolution, liquidation and winding up of the Company, (ii) the withdrawal of such Member from the Company, and (iii) such Member's Transfer of its Membership Interests.

## **Section 17.05 Intellectual Property**

(a) The Company recognizes that the Members may own good and valuable patents, trade secrets, trademarks, domain names, and copyrights and other intellectual property rights created by the Members prior to or outside the business of the Company for purposes outside the purpose of the Company ("Member IP") such Member IP shall remain solely the property of those Members respectively. Notwithstanding the foregoing, if the Company wishes to use any Member IP, such use shall be subject to a license by and between such Member and the Company, which License shall be negotiated on, and include only, terms acceptable such Member owning the Member IP

(c) Notwithstanding any other provision of this Agreement, each Member acknowledges and agrees that all ownership rights with respect to patents, trade secrets, trademarks, domain names,

and copyrights created by each of them in connection with the purpose of the Company, (collectively, “Company IP”) shall be owned by the Company and shall be considered assets of the Company. Such ownership rights of Company IP may be transferred, licensed, or assigned to third parties only upon the approval of a majority of the Membership Interests.

(d) Each Member warrants that any Company IP produced by such Member is not subject to any claim of ownership by any other Member, individually. Each Member further warrants that any rights in Company IP either now held or later acquired by that Member shall not result in any royalty, fee, or credit to the Member’s Capital Account as described in Section 3.03 of this Agreement.

(e) Each Member and Manager shall also have the right, but not the obligation, to contribute his or her individual Member IP, or any derivative thereof, to the Company that he or she may create that is unrelated to the Company’s purpose (collectively, “Future Assets”). In such an event, the Member or Manager shall agree unanimously in writing (as a supplement or amendment to this Agreement, the terms of which will be incorporated herein by reference) to the material terms and conditions that will govern the ownership, development, management and commercialization of those Future Assets and the Member’s and Manager’s individual respective rights, obligations and liabilities with respect thereto, which shall be attached as a Schedule to this Agreement and incorporated herein by reference.

(f) Each Member and Manager acknowledges and agrees that any works that each of them may create in connection with the Company’s purpose (individually and/or collectively, the “Works”) is/are hereby deemed a “work made for hire” as defined in 17 U.S.C. § 101, which comprise Company IP and are owned by the Company. If, for any reason, any of the Works, or any portion of them, do not constitute a “work made for hire,” such Member or Manager agrees to irrevocably assign the Works to the Company, in each case without additional consideration, all right, title, and interest throughout the world across all mediums, now known or hereinafter devised, in and to such Company IP. Each Member hereby irrevocably grants and assigns to the Company all rights in the Works free from any restrictions and limitations.

#### **Section 17.06 Notices.**

All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 17.06):

If to the Company:

Michael Ortoll  
40 Rhodes Circle  
Hingham, MA 02043

with a copy to:

If to a Member or Manager, to such Member's or Manager's respective mailing address as set forth on the Members Schedule or Managers Schedule, as applicable.

**Section 17.07 Headings.**

The headings in this Agreement are inserted for convenience or reference only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Agreement or any provision of this Agreement.

**Section 17.08 Severability.**

If any term or provision of this Agreement is held to be invalid, illegal or unenforceable under Applicable Law in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Except as provided in Section 14.03(g), upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

**Section 17.09 Entire Agreement.**

This Agreement, together with the Certificate of Organization and all related Exhibits and Schedules, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

**Section 17.10 Successors and Assigns.**

Subject to the restrictions on Transfers set forth herein, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns. This Agreement may not be assigned by any Member except as permitted by this Agreement and any assignment in violation of this Agreement shall be null and void.

**Section 17.11 No Third-Party Beneficiaries.**

Except as provided in Article XIV, which shall be for the benefit of and enforceable by Covered Persons as described therein, this Agreement is for the sole benefit of the parties hereto (and their respective heirs, executors, administrators, successors and assigns) and nothing herein, express or implied, is intended to or shall confer upon any other Person, including any creditor of the Company, any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

**Section 17.12 Amendment.**

No provision of this Agreement may be amended or modified except by an instrument in writing executed by the Company and the Members holding a majority of the Membership Interests. Any

such written amendment or modification will be binding upon the Company and each Member. Notwithstanding the foregoing, amendments to the Members Schedule and the Managers Schedule may be made by a Manager in accordance with Section 3.01 and Section 7.03(c).

#### **Section 17.13      Waiver.**

No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. For the avoidance of doubt, nothing contained in this Section 17.13 shall diminish any of the explicit and implicit waivers described in this Agreement.

#### **Section 17.14      Governing Law.**

All issues and questions concerning the application, construction, validity, interpretation and enforcement of this Agreement shall be governed by and construed in accordance with the internal laws of the Commonwealth of Massachusetts, without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Massachusetts or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the Commonwealth of Massachusetts.

#### **Section 17.15      Submission to Jurisdiction.**

The parties hereby agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby, whether in contract, tort or otherwise, shall be brought in the Superior Court of the Commonwealth of Massachusetts, so long as one of such courts shall have subject-matter jurisdiction over such suit, action or proceeding, and that any case of action arising out of this Agreement shall be deemed to have arisen from a transaction of business in the Commonwealth of Massachusetts. Each of the parties hereby irrevocably consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding that is brought in any such court has been brought in an inconvenient form. Service of process, summons, notice or other document by registered mail to the address set forth in Section 17.04 shall be effective service of process for any suit, action or other proceeding brought in any such court.

#### **Section 17.17      Equitable Remedies.**

Each party hereto acknowledges that a breach or threatened breach by such party of any of its obligations under this Agreement would give rise to irreparable harm to the other parties, for which monetary damages would not be an adequate remedy, and hereby agrees that in the event of a breach or a threatened breach by such party of any such obligations, each of the other parties hereto shall, in addition to any and all other rights and remedies that may be available to them in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond).

**Section 17.18      Attorneys' Fees.**

In the event that any party hereto institutes any legal suit, action or proceeding, including arbitration, against another party in respect of a matter arising out of or relating to this Agreement, the prevailing party in the suit, action or proceeding shall be entitled to receive, in addition to all other damages to which it may be entitled, the costs incurred by such party in conducting the suit, action or proceeding, including reasonable attorneys' fees and expenses and court costs.

**Section 17.19      Remedies Cumulative.**

The rights and remedies under this Agreement are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise, except to the extent expressly provided in Section 14.02 to the contrary.

**Section 17.20      Counterparts.**

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email or other means of Electronic Transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

**The Company:**

HEALING CALYX, LLC



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

Name: Michael Ortoll

Title: Manager

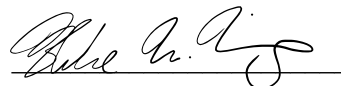
**The Members and Managers:**

  
\_\_\_\_\_

JAMES JARON

\_\_\_\_\_

BLAKE MENSING



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

**The Company:**

HEALING CALYX, LLC

By: \_\_\_\_\_  
Name:  
Title: Manager

**The Members and Managers:**

MICHAEL ORTOLL

\_\_\_\_\_

JAMES JARON

 *James Jaron* 8/13/2021

BLAKE MENSING

\_\_\_\_\_



**EXHIBIT A**  
**FORM OF JOINDER AGREEMENT**

**JOINDER AGREEMENT**

THIS JOINDER AGREEMENT (this “Joinder Agreement”) is executed pursuant to the terms of the Amended and Restated Limited Liability Company Agreement of Healing Calyx, LLC (the “Company”) dated as of \_\_\_\_\_, 2020, a copy of which is attached hereto and is incorporated herein by reference (the “Agreement”), by the undersigned. All capitalized terms used and not defined herein shall have the meaning ascribed to such terms in the Agreement. By execution and delivery of this Joinder Agreement, the undersigned agrees as follows:

1. Acknowledgment. The undersigned acknowledges that such Person is acquiring the Membership Interests (as defined in the Agreement) in the Company subject to the terms and conditions of the Agreement.

2. Agreement. The undersigned hereby (a) agrees that the undersigned shall be a Member and shall have the rights, and be subject to the obligations of a Member pursuant to the terms and conditions thereof contained in the Agreement, (b) agrees that all Membership Interests in the Company acquired by the undersigned shall be bound by and subject to the terms of the Agreement, (c) adopts the Agreement and agrees to become a party to, to be bound by, and to comply with the provisions of the Agreement with the same force and effect as if the undersigned were an original signatory to such Agreement, and (d) assumes all of the obligations of the transferring Member.

3. Notice. Any notice required to be provided by the Agreement shall be given to the undersigned at the address listed beside such undersigned’s signature below.

4. Governing Law. This Joinder Agreement and the rights of the parties hereto shall be interpreted in accordance with the laws of the Commonwealth of Massachusetts, and all rights and remedies shall be governed by such laws without regard to principles of conflict of laws.

Accordingly, the undersigned has executed and delivered this Joinder Agreement this \_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
[Name]

Address for Notices:

\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT B  
FORM OF SPOUSAL CONSENT**

**SPOUSAL CONSENT AND AGREEMENT**

I, Anna C. Mensing, hereby acknowledge that I am the spouse of Blake Mensing (the “Member”). In addition, I hereby acknowledge that (1) the Member is a party to, and bound by, the Amended and Restated Limited Liability Company Agreement of Healing Calyx, LLC, dated as of

August 13, 2021 (as the same may hereafter be amended, amended and restated, supplemented or otherwise modified, the “Agreement”), (2) the Member is a “Member,” and the direct and/or indirect owner of “Membership Interests” within the meaning of, and for purposes of, the Agreement, and (3) I have read the Agreement and any other documents referred to therein. I hereby consent to, agree to, approve and ratify each and every one of the terms and provisions of the Agreement and the other documents referred to therein and agree that my interest, if any, in the Membership Interests shall be irrevocably bound by the Agreement and further understand and agree that any community property interest I may have in such Membership Interests shall be similarly bound by the Agreement. I also hereby acknowledge that I may not acquire, directly or indirectly, any Membership Interests, whether by gift, purchase or otherwise and whether by will, intestate succession, operation of law or decree, order or injunction of any court, except in strict compliance with the terms and conditions of the Agreement and any other documents referred to therein. I further agree to provide all notices and information that may be required of me in the Agreement in the time and manner set forth therein.

**I am aware that the legal, financial and related matters contained in the Agreement are complex and that I am free to seek independent professional guidance or counsel with respect to this Spousal Consent and Agreement. I have either sought such guidance or counsel or determined after reviewing the Agreement that I will waive such right.**

Accordingly, the undersigned has executed and delivered this Spousal Consent and Agreement as of the 13th day of August, 2021.



\_\_\_\_\_  
Signature of Spouse

Name: Anna C. Mensing

Address: 1865 Washington Street  
Holliston, MA 01746

Name of Member: Blake Mensing

**SCHEDULE A  
MEMBERS SCHEDULE**

<b>Member Name and Address</b>	<b>Membership Interest</b>
Michael Ortoll 40 Rhodes Circle Hingham, MA 02043	70% (70,000 Units)
James Jaron 188 Berkshire Avenue Southwick, MA 01077	25% (25,000 Units)
Blake Mensing 1865 Washington Street Holliston, MA 01746	5% (5,000 Units)
<b>Total:</b>	100%/100,000 Units

**SCHEDULE B  
MANAGERS SCHEDULE**

**Manager Name and Address**

Michael Ortoll  
40 Rhodes Circle  
Hingham, MA 02043

James Jaron  
188 Berkshire Avenue  
Southwick, MA 01077

Blake Mensing  
1865 Washington Street  
Holliston, MA 01746



**The Commonwealth of Massachusetts**  
**William Francis Galvin**

Minimum Fee: \$500.00

Secretary of the Commonwealth, Corporations Division  
 One Ashburton Place, 17th floor  
 Boston, MA 02108-1512  
 Telephone: (617) 727-9640

Special Filing Instructions

**Certificate of Organization**

(General Laws, Chapter )

Identification Number: 001302242

1. The exact name of the limited liability company is: HEALING CALYX LLC

**2a. Location of its principal office:**

No. and Street: 177 HUNTINGTON AVE STE 1703

#20453

City or Town: BOSTON State: MA Zip: 02115 Country: USA

**2b. Street address of the office in the Commonwealth at which the records will be maintained:**

No. and Street: 177 HUNTINGTON AVE STE 1703

#20453

City or Town: BOSTON State: MA Zip: 02115 Country: USA

**3. The general character of business, and if the limited liability company is organized to render professional service, the service to be rendered:**

I AM FORMING FOR THE PURPOSE OF APPLYING FOR A MARIJUANA LICENSE. I WILL NOT DEAL IN MARIJUANA OR DOING ANY BUSINESS WITH MARIJUANA.

**4. The latest date of dissolution, if specified:**

**5. Name and address of the Resident Agent:**

Name: LEGALINC CORPORATE SERVICES INC.

No. and Street: 1900 WEST PARK DRIVE

SUITE 280B

City or Town: WESTBOROUGH State: MA Zip: 01581 Country: USA

I, KYLE LAVENDER resident agent of the above limited liability company, consent to my appointment as the resident agent of the above limited liability company pursuant to G. L. Chapter 156C Section 12.

**6. The name and business address of each manager, if any:**

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code

**7. The name and business address of the person(s) in addition to the manager(s), authorized to execute documents to be filed with the Corporations Division, and at least one person shall be named if there are no managers.**

Title	Individual Name	Address (no PO Box)
-------	-----------------	---------------------

	First, Middle, Last, Suffix	Address, City or Town, State, Zip Code
SOC SIGNATORY	MICHAEL ORTOLL	177 HUNTINGTON AVE STE 1703, #20453 BOSTON, MA 02115 USA

**8. The name and business address of the person(s) authorized to execute, acknowledge, deliver and record any recordable instrument purporting to affect an interest in real property:**

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
REAL PROPERTY	MICHAEL ORTOLL	177 HUNTINGTON AVE STE 1703, #20453 BOSTON, MA 02115 USA

**9. Additional matters:**

**SIGNED UNDER THE PENALTIES OF PERJURY, this 10 Day of January, 2018,  
MARSHA SIHA**

*(The certificate must be signed by the person forming the LLC.)*

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are deemed to have been filed with me on:

January 10, 2018 02:49 PM

A handwritten signature in black ink, reading "William Francis Galvin". The signature is written in a cursive style with a large, stylized initial "W".

WILLIAM FRANCIS GALVIN

*Secretary of the Commonwealth*



72 River Park Street Needham MA 02494 617-500-1824

Cannabis Control Commission  
Union Station,  
2 Washington Square,  
Worcester, MA 01604

RE: HEALING CALYX LLC d/b/a Greenrush Delivery; Courier License

Please be informed that the above referenced applicant has made formal application through our general brokerage for general liability and product liability insurance with minimum limits of \$1,000,000 per occurrence, and \$2,000,000 annual aggregate, and application for additional excess liability limits. In accordance with 935 CMR 500.101(1); 935 CMR 500.105(10), the deductible for each policy can be no higher than \$5,000 per occurrence. In accordance with 935 CMR 500.145(4), Vehicles used for delivery by HEALING CALYX LLC. shall carry liability insurance in an amount not less than \$1,000,000 combined single limit. The below underwriters have received this application and are expecting to provide proposals within the coming weeks. HEALING CALYX LLC has purchased a bond through our brokerage with a bond limit in compliance with the Commission's request. We look forward to providing liability coverage to HEALING CALYX LLC as soon as a bindable proposal is available.

Quadscore Insurance Services  
Cannasure Insurance Services, Inc.  
Next Wave Insurance Services LLC  
Canopus US Insurance Company  
United Specialty Insurance Company

Best Regards,

*James Boynton*

James Boynton  
Managing Broker  
MA Insurance License #1842496



# HEALING CALYX LLC

Business Plan for the City of Holyoke  
Courier License



## Executive Summary

Healing Calyx LLC



### Mission

Our mission is to operate an adult-use cannabis Courier business that serves the highest quality cannabis products while serving as a model to regulatory authorities and a trusted employer within the City of Holyoke.

### Goals

- ✓ Capture the burgeoning adult-use cannabis market by offering superior product quality and selection in a customer-focused atmosphere
- ✓ Develop a recognizable and trusted brand known for fair employment practices and consistently superb product quality and customer service
- ✓ Serve as a model to regulatory authorities.
- ✓ Stimulate the local economy by employing resident staff and vendors.

### The Company

Healing Calyx LLC (hereinafter, "HC") is a privately funded Massachusetts limited liability company seeking to obtain adult-use cannabis retail and delivery-only retail licenses from the Cannabis Control Commission to operate at 380 Dwight Street, Unit 5, Holyoke, MA 01040. HC also intends to pursue full vertical integration upon the identification of a suitable cultivation and manufacturing facility within the Commonwealth of Massachusetts.

HC was founded by Economic Empowerment Priority Certificate-holder and Social Equity Program Participant, Michael Ortoll in 2017. Michael Ortoll is a successful Cuban-American CEO-Entrepreneur

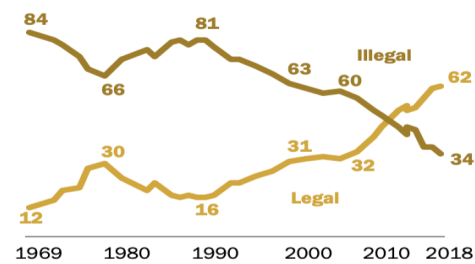
with over 20 years of start-up and operational business experience. Michael will lead the charge of advancing our company’s strategies and entry into the market. Michael brought on two partners to take HC to the next level.

James Jaron, of Holyoke, MA, and Blake Mensing, of Holliston, MA have joined Michael as founders of Healing Calyx. Mr. Jaron and Mr. Mensing are passionate about creating a trusted, engaging recreational cannabis Courier service in the heart of Holyoke’s canal district. Mr. Jaron has successfully run two businesses in Western Massachusetts energy sector. Mr. Mensing is one of the Commonwealth’s preeminent cannabis attorneys, providing legal and business consulting services to Massachusetts cannabis business clients. Healing Calyx is dedicated to providing safe, high-quality cannabis products in an inviting, Spanish-friendly Courier operation.

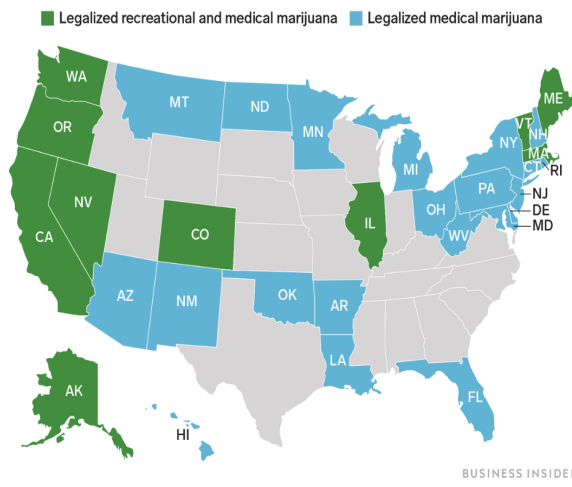
**Market Overview**  
**National Landscape**

Public support for legalizing recreational cannabis has steadily risen from 12% in 1969 to an estimated 62% today. Those in favor understand that this industry will generate billions of dollars for the economy, create hundreds of thousands of jobs, decrease crime, free up police resources, take power and money away from drug cartels and street gangs, and put an end to an unregulated black market.

*Do you think the use of marijuana should be made legal, or not? (%)*



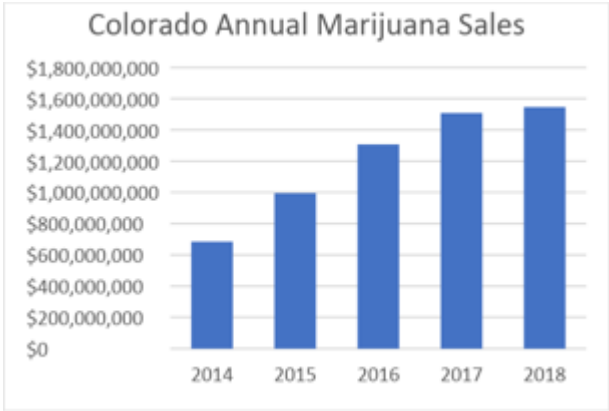
**States where marijuana is legal**



In 2018, twenty-one states considered legalization bills. As of today, eleven states and the District of Columbia have legalized cannabis for recreational adult-use, and thirty-three states have legalized cannabis for medicinal purposes, illustrating the increasing acceptance throughout the United States and the potential market opportunity presented by a regulated industry. In 2016, the legal cannabis industry generated \$7.2 billion in revenue and it is estimated that by 2025, the cannabis industry will exceed \$24 billion in annual economic activity.

**Massachusetts Market**

Massachusetts’ adult-use market potential stands at \$1.8 to \$2.0 billion, based on the analysis of the Massachusetts market relative to Colorado, which is generally accepted as the most established, regulated adult-use market in the United States. Colorado sales per resident were \$269 in 2017 and grew slightly to



\$272 in 2018, indicating the signs of a maturing market. Projecting that per capita number onto Massachusetts' 6.9 million population yields a \$1.875B market. Furthermore, considering Massachusetts' 8.45% higher income, the state's market potential exceeds \$2.0 billion.

### **Massachusetts Sales Projections**

The chart above shows the progression of cannabis sales in Colorado. As you can see, Colorado reached a plateau within four years. And we anticipate Massachusetts will follow a similar trajectory. Thus, sales will likely plateau in 2023.

### **Competition**

As of today, there are zero licensed adult-use Cannabis Couriers operating in Holyoke and we are striving to be the first to open for business in the City. We feel that our decades of experience in a variety of different fields (ie. as employees, business owners, and cannabis connoisseurs), gives us a competitive advantage for true quality within the team and products sold. We believe that diversity is the cornerstone of success and that our unique backgrounds will encourage creativity and drive innovation. We will focus internally to become the highest functioning and most authentic cannabis Courier serving Holyoke and surrounding municipalities that have opted in to allow their citizens to receive at-home deliveries. Rather than seeking to be the "Walmart" of cannabis, as many large out of state operators strive toward, we are taking the exact opposite approach. We intend to create a tailor made experience for each customer's preferences and experience level with cannabis in all its forms. As cannabis consumers, we are focused on creating a Courier experience for actual enthusiasts of the plant, not relying on some corporate market research to tell us what will sell.

Due to its infancy, there are currently only two or three licensed Couriers operating in the entire state of Massachusetts. With a three year exclusivity period for Economic Empowerment Applicants and Social Equity Applicants, HC sees a vacuum for a delivery service to fill. Especially given the likelihood of the COVID-19 crisis affecting our daily lives, HC firmly believes that minimizing the number of patrons at storefronts by converting them into delivery customers will help to mitigate risk while allowing people the convenience of cannabis at home. HC's property is located in the heart of downtown Holyoke with proximity to three operating adult-use retailers.

### **Products & Services**

#### **Products**

Given our collective connections in Massachusetts cannabis, we intend to curate a wholly unique line up of menu offerings that will be unparalleled in Holyoke. In particular, Michael and Blake have contacts in all corners of the state and in all facets of the supply chain, which they will leverage to allow our retail partners' cannabis selection to stand out from the crowd. With a focus on representing smaller operators dedicated to the craft of cannabis cultivation and manufacturing, Blake has over 160 cannabis clients in Massachusetts that are always willing to pick up the phone and we anticipate sourcing most of our products from entities that Blake helped to license. Additionally, Blake is the Co-Owner of Coyote Cannabis Corporation, a craft bubble hash rosin and cultivation operation opening soon in Uxbridge. James and Blake are the Co-Owners of neighboring Holyoke 420 LLC d/b/a Holyoke Cannabis and we have entered into our first Delivery Agreement with Holyoke Cannabis, which will provide steady supply of their entire adult-use cannabis menu. The HC team also firmly intends to cultivate and manufacture our own unique cultivars and marijuana infused products once we have found the right facility and municipality. By becoming vertically integrated, HC will be well positioned to meet the majority of its supply side demand and will take great pride in presenting products grown and manufactured with the end-user's experience at the forefront, not just for profit at any cost.

### **Product Quality and Testing**

We will request appropriate documentation to confirm all products were properly tested as defined within 935 CMR 500.130(4). Only cannabis material that passes purity standards will be processed, pursuant to 935 CMR 500.160 Testing of Marijuana and Marijuana Products.

A portion of raw cannabis material used for processing will be cultivated on the premises. HC will utilize Best MGMT Practices, Good Agricultural Practices, Good Cultivation Practices, and Good Handling Practices to limit contamination, including but not limited to mold, fungus, bacterial diseases, rot, pests, pesticides not approved by the Department, mildew, and any other contaminant identified as posing potential harm.

All cannabis in Massachusetts is tracked in the state's seed-to-sale software system provided by METRC®. HC intends to use the METRC® point of sale (POS) as required by 935 CMR 500.105(8) (e). Any product not to standard will be removed from sales, put in a locked container, the supplier and the Cannabis Control Commission will be notified, and the defective product will be returned to the supplier for proper destruction as outlined in 935 CMR 500.130(5).

### **Required Product Labeling**

All HC employees will be trained to understand 935 CMR 500.105: General Operational Requirements for Marijuana Establishments and will be trained to identify any products that violate these regulations. Our employees will be required to understand 935 CMR 500.105(5)(c) Labeling of Marijuana Concentrates and Extracts. Our staff will be trained to ensure every container holding a cannabis product is properly labeled, contains a warning label and discloses the total THC content. HC believes it is our responsibility to inspect and identify all products to ensure the safety of our patrons. We will also require all employees to undergo Responsible Vendor Training, which is a regulatory requirement that all retailers must adhere to.

### **Marketing Strategy**

HC is dedicated to respecting and adhering to the rules and regulations that govern the marketing techniques of cannabis products. Our plan is to promote our product through authorized digital, media and print platforms. HC will NOT market, advertise or brand:

- In any manner that is deemed deceptive or misleading;
- to audiences under the age of 21 years old;
- In any way that appeals to an audience under the age of 21 years old via promotional giveaways or coupons;
- By any unsolicited means; and/ or
- By any portable means including vehicles, clothing or merchandise.

Our marketing and advertising campaign will focus on maintaining our unparalleled network and further developing close personal relationships within the cannabis community and adult-use retail locations through:

- Direct, personal communication;
- Subscription via email;
- Web presence; and
- Attending cannabis/hemp/wellness related conventions and events.

Advertising via print publications, including but not limited to:

- Sensi Magazine
- 420 Magazine
- Dope Magazine

Advertising via digital/mobile platforms, including but not limited to:

- Weedmaps.com
- Leafly.com
- Stickyguide.com
- Instagram
- Facebook

### **Security Plan**

A security system including alarms and surveillance that fully comply with the guidelines stated in 935 CMR 500.110 and all other rules and regulations governing the security measures of retail shops will be installed by a licensed and insured vendor. It is of the utmost importance to HC that the premises, our employees, and the general public are protected and safe while in and around our facility.

Surveillance/ Alarm shall include:

- The outside perimeter shall be sufficiently lit to facilitate surveillance
- Commercial grade security equipment will be installed to alarm the perimeter, including all entry and exit points and windows.
- Video Cameras shall be installed in all points of entry and exit and in the parking lot
- A silent duress alarm shall be installed to notify local law enforcement in an emergency
- Video cameras to run for 24 hours and shall provide date and time stamps
- Video camera shall be installed in all areas that may contain cannabis product

Access:

- HC will adopt procedures to prevent loitering to ensure that no unauthorized individuals access the facility
- All entrances will be secured to ensure no unauthorized personnel access the facility
- Limited access areas will be designated and labeled as such
- All cannabis products will be secured and locked away to prevent diversion, theft or loss
- Keys and access codes will be accessible specifically to authorized personnel only
- All cannabis products will be kept out of plain sight from the general public
- All employees will wear visible ID badges
- All guests will wear visibly Guest ID Badges

Staff:

- Safety protocol and drills will be implemented and practices in the event of emergency, diversion or theft.
- Staff will undergo regular and updated training and safety awareness

## **STAFFING & TRAINING**

We will recruit staff from the local Holyoke community where possible. Preference will be given to Veterans and individuals with knowledge and/or experience in the use of cannabis. It is of utmost importance to HC that we hire a staff that is diverse in age, gender, and race and represents the communities and customers whom we serve.

Staff will be trained in the following topics (including, but not limited to):

### **1. Marijuana Establishment Agent Training**

- HC will ensure that all marijuana establishment agents complete training prior to performing job functions. Training shall be tailored to the roles and responsibilities of the job function of each marijuana establishment agent, including a Responsible Vendor Program under 935 CMR 500.105(2)(b). At a minimum, staff shall receive eight hours of on-going training annually.

### **2. Responsible Vendor Training**

- All current owners, managers, and employees of a Marijuana Establishment that are involved in the handling and sale of marijuana for adult use at the time of licensure or renewal of licensure, as applicable, shall have attended and successfully completed a responsible vendor program to be designated a “responsible vendor.”
- Once a licensee is designated a “responsible vendor,” all new employees involved in the handling and sale of marijuana for adult use shall successfully complete a responsible vendor program within 90 days of hire.
- After the initial successful completion of a responsible vendor program, each owner, manager, and employee involved in the handling and sale of marijuana for adult use shall successfully complete the program once every year thereafter to maintain designation as a “responsible vendor.”
- HC will maintain records of responsible vendor training program compliance for four years and make them available for inspection by the Commission and any other applicable licensing authority upon request during normal business hours.
- Documentation of all required training, including training regarding privacy and confidentiality requirements, and the signed statement of the individual indicating the date, time, and place he or she received said training and the topics discussed, including the name and title of presenters; 500.105(d)(2)(d)

### **3. Courier Specialist (2-week training)**

- Training of seed to sale software
- Creation of transportation manifest
- Two-day shadowing of marijuana establishment agents
- One day learning tour of a cultivation facility
- Completion of security service provider's basic practices and policies
- Once operational, new specialists will be required to pair with veteran specialists for a minimum of 1 month
- Manual provided on subjects including:
  - cash handling, safe vehicle operation, law enforcement interaction, radio, and reporting.

### **4. Economic Empowerment Staffing Plan**

The purpose of the Staffing Plan is to outline how Healing Calyx LLC intends to fulfill, in part, one of its core missions: to economically empower individuals and communities that have been disproportionately affected by state and federal drug policy. Healing Calyx LLC recognizes the opportunity to strengthen individuals, and through them their families and communities, by seeking out employees with drug-related CORIs who may otherwise not be able to secure positive employment opportunities, and employees who reside in areas of disproportionate impact as defined by the Cannabis Control Commission. Healing Calyx LLC considers the percentages required by the priority review provisions to be a bare minimum, and will strive to provide economic empowerment to the people and communities most affected by the war on drugs at every opportunity, and at every level within the company. The founder, CEO, and majority owner, Michael Ortoll, a Latino man, was convicted of a cannabis related crime. Under his direction, Healing Calyx LLC hopes to help mitigate some of the prevailing ill-effects caused by historic and current state and federal policies.

The Staffing Plan details each position necessary to run and operate a 2,000 square foot marijuana retail store. Services conducted by vendors not included.

### **Executive Structure**

Michael Ortoll – CEO (with a cannabis related conviction that entitled Michael to become one of 123 Economic Empowerment Applicants in Massachusetts)

James Jaron – Owner

Blake M. Mensing – Owner

Individual TBD - CFO

10+ years of experience, HC to advertise position in areas of disproportionate impact and we will prioritize minority candidates, or people with CORIs that are not disqualifying for suitability for licensure under the Commission's regulations.

### **In-Store Management**

Marketing Manager - 100% FTE

General Manager - Individual TBD - 100% FTE

### **Staff**

Sr. Bud Tender - Individual TBS - 100% FTE

3+ years experience in bud tending, or equivalent

Courier Drivers (2-6) - Individuals TBD - 100% FTE

1+ years experience in customer service positions, delivery, or equivalent  
Resides in area of disproportionate impact and/or has drug-related CORI



Administrative Assistant - Individual TBD - 100% FTE

2+ years experience

Resides in area of disproportionate impact and/or has drug-related CORI

5. The overall company policy review will include but not be limited to the following topics:

- Sexual Harassment Policy (Review upon hire and annually with all employees)
- Employee-at-Will
- EEO (Equal Employment Opportunity)
- Other forms of harassment and filing complaints internally and externally with EEOC (Equal Employment Opportunity Commission) and MCAD (Massachusetts Commission Against Discrimination)
- Worksite Safety
- Rules and regulations governing the manufacturing of recreational cannabis
- Anti-diversion
- Facility access and security protocols
- Disaster preparedness
- Alcohol and drug-free work policy
- Employee Performance Evaluations
- Exempt vs. Non-Exempt and Overtime Classification in accordance with FLSA law (Non-Exempt employees who work in excess of 40 hours in any given 7-day week will receive 1.5 times the employee's hourly rate in accordance with federal and state law)
- FMLA and MMLA (Eligibility and Rights)
- Insurance benefits
- Benefit Time
- Workers Compensation
- Unemployment Compensation

# **Healing Calyx LLC**

## **Record Keeping Procedures**

Healing Calyx LLC's ("HC") records shall be available to the Cannabis Control Commission ("CCC") upon request pursuant to 935 CMR 500.105(9). HC shall maintain records in accordance with generally accepted accounting principles. All written records required in any section of 935 CMR 500.000 are subject to inspection, in addition to written operating procedures as required by 935 CMR 500.105(1), inventory records as required by 935 CMR 500.105(8) and seed-to-sale tracking records for all marijuana products are required by 935 CMR 500.105(8)(e).

Personnel records will also be maintained, in accordance with 935 CMR 500.105(9)(d), including but not limited to job descriptions and/or employment contracts each employee, organizational charts, staffing plans, periodic performance evaluations, verification of references, employment contracts, documentation of all required training, including training regarding privacy and confidentiality agreements and the signed statement confirming the date, time and place that training was received, record of disciplinary action, notice of completed responsible vendor training and eight-hour duty training, personnel policies and procedures, and background checks obtained in accordance with 935 CMR 500.030. Personnel records will be maintained for at least 12 months after termination of the individual's affiliation with HC, in accordance with 935 CMR 500.105(9)(d)(2). Additionally, business will be maintained in accordance with 935 CMR 500.104(9)(e) as well as waste disposal records pursuant to 935 CMR 500.104(9)(f), as required under 935 CMR 500.105(12).

## **VISITOR LOG**

HC will maintain a visitor log that documents all authorized visitors to the facility, including outside vendors, contractors, and visitors, in accordance with 935 CMR 500.110(4)(e). All visitors must show proper identification and be logged in and out; that log shall be available for inspection by the Commission at all times.

## **REAL-TIME INVENTORY RECORDS**

HC will maintain real-time inventory records, including at minimum, an inventory of all marijuana and marijuana products received from wholesalers, ready for sale to wholesale customers, and all damaged, defective, expired, or contaminated marijuana and marijuana products awaiting disposal, in accordance with 935 CMR 500.105(8). Real-time inventory records may be accessed via METRC, the Commonwealth's seed-to-sale tracking software of record. HC will keep continuously maintain hard copy documentation of all inventory records. The record of each inventory shall include, at a minimum, the date of inventory, a summary of inventory findings, and the names, signatures, and titles of the individuals who conducted the inventory.

## **MANIFESTS**

HC will maintain records of all manifests for no less than one year and make them available to the Commission upon request, in accordance with 935 CMR 500.105(f). Manifests will include, at a minimum, the originating Licensed Marijuana Establishment Agent's (LME) name, address, and registration number; the names and registration number of the marijuana establishment agent who

transported the marijuana products; the names and registration number of the marijuana establishment agent who prepared the manifest; the destination LME name, address, and registration number; a description of marijuana products being transported, including the weight and form or type of product; the mileage of the transporting vehicle at departure from origination LME and the mileage upon arrival at the destination LME, as well as the mileage upon returning to the originating LME; the date and time of departure from the originating LME and arrival at destination LME; a signature line for the marijuana establishment agent who receives the marijuana; the weight and inventory before departure and upon receipt; the date and time that the transported products were re-weighted and re-inventoried; and the vehicle make, model, and license plate number. HC will maintain records of all manifests

## **INCIDENT REPORTS**

HC will maintain incident reporting records notifying appropriate law enforcement authorities and the Commission about any breach of security immediately, and in no instance, more than 24 hours following the discovery of the breach, in accordance with 935 CMR 500.110(7). Incident reporting notification shall occur, but not be limited to, during the following occasions: discovery of discrepancies identified during inventory; diversion, theft, or loss of any marijuana product; any criminal action involving or occurring on or in the Marijuana Establishment premises; and 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 relating to marijuana; an alarm activation or other event that requires response by public safety personnel or security personnel privately engaged by the Marijuana Establishment; the failure of any security alarm due to a loss of electrical power or mechanical malfunction that is expected to last more than eight hours; or any other breach of security.

HC shall, within ten calendar days, provide notice to the Commission of any incident described in 935 CMR 500.110(7)(a) by submitting an incident report in the form and manner determined by the Commission which details the circumstances of the event, any corrective action taken, and confirmation that the appropriate law enforcement authorities were notified. HC shall maintain all documentation relating to an incident for not less than one year or the duration of an open investigation, whichever is longer, and made available to the Commission and law enforcement authorities upon request.

## **TRANSPORTATION LOGS**

In the event that HC operates its own vehicle to transport marijuana products, it will maintain a transportation log of all destinations traveled, trip dates and times, starting and ending mileage of each trip, and any emergency stops, including the reason for the stop, duration, location, and any activities of personnel existing the vehicle, as required by 935 CMR 500.115(13). HC shall retain all transportation logs for no less than a year and make them available to the Commission upon request.

## **SECURITY AUDITS**

HC will, on an annual basis, obtain at its own expense, a security system audit by a vendor approved by the Commission, in accordance with 935 CMR 500.110(8). A report of the audit will be submitted, in a form and manner determined by the Commission, no later than 30 calendar days after

the audit is conducted. If the audit identifies concerns related to HC's security system, HC will also submit a plan to mitigate those concerns within ten business days of submitting the audit.

## **CONFIDENTIAL RECORDS**

HC will ensure that all confidential information, including but not limited to employee personnel records, financial reports, inventory records and manifests, business plans, and other documents are kept safeguarded and private, in accordance with 935 CMR 500.105(1)(k). All confidential hard copy records will be stored in lockable filing cabinets within the Director of Compliance's Office. No keys or passwords will be left in locks, doors, in unrestricted access areas, unattended, or otherwise left accessible to anyone other than the responsible authorized personnel. All confidential electronic files will be safeguarded by a protected network and password protections, as appropriate and required by the Commission. All hard copy confidential records will be shredded when no longer needed.

Following the closure of the Marijuana Establishment, all records will be kept for at least two years at HC's sole expense and in a form and location acceptable to the Commission, pursuant to 935 CMR 500.105(9)(g).

# **Healing Calyx LLC**

## **Maintaining of Financial Records**

Healing Calyx LLC's ("HC") policy is to maintain financial records in accordance with 935 CMR 500.105(9)(e). The records will include manual or computerized records of assets and liabilities, monetary transactions; books of accounts, which shall include journals, ledgers, and supporting documents, agreements, checks, invoices and vouchers; sales records including the quantity, form, and cost of marijuana products; and salary and wages paid to each employee, stipends paid to each board member, and any executive compensation, bonus, benefit, or item of value paid to any individual affiliated with a Marijuana Establishment, including members of the non-profit corporation.

Following the closure of HC, all records will be kept for at least two years, at HC's sole expense, and in a form and location acceptable to the Commission, in accordance with 935 CMR 500.105(9)(g). HC shall keep financial records for a minimum of three years from the date of the filed tax return, in accordance with 830 CMR 62C.25.1(7) and 935 CMR 500.140(6)(e).

# Healing Calyx LLC

## Personnel Policies

Healing Calyx LLC (“HC”) has drafted and instituted these personnel policies to provide equal opportunity in all areas of employment, including hiring, recruitment, training and development, promotions, transfers, layoff, termination, compensation, benefits, social and recreational programs, and all other conditions and privileges of employment, in accordance with applicable federal, state, and local laws. HC shall make reasonable accommodations for qualified individuals with demonstrated physical or cognitive disabilities, in accordance with all applicable laws. In accordance with 935 CMR 500.101(2)(e)(8)(h), HC is providing these personnel policies, including background check policies, for its adult-use Marijuana Delivery-Only Retail Establishment.

Management is primarily responsible for seeing that equal employment opportunity policies are implemented, but all members of the staff share the responsibility for ensuring that, by their personal actions, the policies are effective and apply uniformly to everyone. Any employee, including managers, that HC determines to be involved in discriminatory practices are subject to disciplinary action and may be terminated. HC strives to maintain a work environment that is free from discrimination, intimidation, hostility, or other offenses that might interfere with work performance. In keeping with this desire, we will not tolerate any unlawful harassment of employees by anyone, including any manager, co-worker, vendor or clients.

In accordance with 935 CMR 500.105 (1), General Operational Requirements for Marijuana Establishments, Written Operating Procedures, as a Marijuana Establishment, HC has and follows a set of detailed written operating procedures for each location. HC has developed and will follow a set of such operating procedures for each facility. HC’s operating procedures shall include, but are not necessarily limited to the following:

1. (a) Security measures in compliance with 935 CMR 500.110;
2. (b) Employee security policies, including personal safety and crime prevention techniques;
3. (c) A description of the Marijuana Establishment’s hours of operation and after-hours contact information, which shall be provided to the Commission, made available to law enforcement officials upon request, and updated pursuant to 935 CMR 500.000.
4. (d) Storage of marijuana in compliance with 935 CMR 500.105(11);
5. (e) Description of the various strains of marijuana to be cultivated, processed or sold, as applicable,  
and the form(s) in which marijuana will be sold;
6. (f) Procedures to ensure accurate record-keeping, including inventory protocols in compliance with  
935 CMR 500.105(8) and (9);

7. (g) Plans for quality control, including product testing for contaminants in compliance with 935 CMR 500.160;
8. (h) A staffing plan and staffing records in compliance with 935 CMR 500.105(9);
9. (i) Emergency procedures, including a disaster plan with procedures to be followed in case of fire  
or other emergencies;
- 10.(j) Alcohol, smoke, and drug-free workplace policies;
- 11.(k) A plan describing how confidential information will be maintained;
- 12.(l) A policy for the immediate dismissal of any marijuana establishment agent who has:
  1. Diverted marijuana, which shall be reported to law enforcement officials and to the Commission;
  2. Engaged in unsafe practices with regard to operation of the Marijuana Establishment, which shall be reported to the Commission; or
  3. Been convicted or entered a guilty plea, plea of *nolo contendere*, or admission to sufficient facts of a felony drug offense involving distribution to a minor in the Commonwealth, or a like violation of the laws of another state, the United States or a foreign jurisdiction, or a military, territorial, or Native American tribal authority.
- (m) A list of all board members and executives of a Marijuana Establishment, and members, if any, of the licensee must be made available upon request by any individual. 935 CMR 500.105(1) (m) requirement may be fulfilled by placing this information on the Marijuana Establishment's website.
- (n) Policies and procedures for the handling of cash on Marijuana Establishment premises including but not limited to storage, collection frequency, and transport to financial institution(s).
- (o) Policies and procedures to prevent the diversion of marijuana to individuals younger than 21 years old.
- (p) Policies and procedures for energy efficiency and conservation that shall include:
  1. Identification of potential energy use reduction opportunities (including but not limited to natural lighting, heat recovery ventilation and energy efficiency measures), and a plan for implementation of such opportunities;
  2. Consideration of opportunities for renewable energy generation, including, where applicable, submission of building plans showing where energy generators could be placed on the site, and an explanation of why the identified opportunities were not pursued, if applicable;
  3. Strategies to reduce electric demand (such as lighting schedules, active load management and energy storage); and

4. Engagement with energy efficiency programs offered pursuant to M.G.L. c. 25, § 21, or through municipal lighting plants.

In accordance with 935 CMR 500.105(2), all of HC's current owners, managers and employees that are involved in the handling and sale of marijuana will successfully complete Responsible Vendor Training Program, and once designated a "responsible vendor" require all new employees involved in handling and sale of marijuana to complete this program within 90 days of hire. This program shall then be completed annually and those not selling or handling marijuana may participate voluntarily. HC shall maintain records of responsible vendor training compliance, pursuant to 935 CMR 500.105(2)(b). Responsible vendor training shall include: discussion concerning marijuana effect on the human body; diversion prevention; compliance with tracking requirements; identifying acceptable forms of ID, including medical patient cards; and key state and local laws.

All employees of HC will be duly registered as marijuana establishment agents and have to complete a background check in accordance with 935 CMR 500.030(1). All marijuana establishment agents will complete a training course administered by HC and complete a Responsible Vendor Program in compliance with 935 CMR 500.105(2)(b). Employees will be required to receive a minimum of eight hours of on-going training annually pursuant to 935 CMR 500.105(2)(a).

In accordance with 935 CMR 500.105 (9), General Operational Requirements for Marijuana Establishments, Record Keeping, HC's personnel records will be available for inspection by the Commission, upon request. HC's records shall be maintained in accordance with generally accepted accounting principles. Written records that are required and are subject to inspection include, but are not necessarily limited to, all records required in any section of 935 CMR 500.000, in addition to the following:

The following HC personnel records:

1. Job descriptions for each employee and volunteer position, as well as organizational charts consistent with the job descriptions;
2. A personnel record for each of HC's marijuana establishment agents. Such records shall be maintained for at least 12 months after termination of the individual's affiliation with HC and shall include, at a minimum, the following:
  - a. all materials submitted to the Commission pursuant to 935 CMR 500.030(2);
  - b. documentation of verification of references;
  - c. the job description or employment contract that includes duties, authority, responsibilities, qualifications, and supervision
  - d. documentation of all required training, including training regarding privacy and confidentiality requirements, and the signed statement of the individual indicating the date, time, and place he or she received said training and the topics discussed, including the name and title of presenters;



- e. documentation of periodic performance evaluations;
  - f. a record of any disciplinary action taken; and
  - g. notice of completed responsible vendor and eight-hour related duty training.
- 3. A staffing plan that will demonstrate accessible business hours and safe cultivation conditions;
  - 4. Personnel policies and procedures; and
  - 5. All background check reports obtained in accordance with 935 CMR 500.030.

Following closure of a Marijuana Establishment, all records must be kept for at least two years at the expense of the Marijuana Establishment and in a form and location acceptable to the Commission. HC understands that in the event that HC were to close, all records will be kept for at least two years at the expense of HC.

**Healing Calyx LLC (d/b/a GreenRush Delivery)**  
**Energy Compliance Plan**

Healing Calyx LLC d/b/a GreenRush Delivery (“HC” or “the Company”) will be leasing hybrid electric vehicles for our delivery fleet in order to reduce greenhouse gas emissions. The vehicles will be serviced regularly to ensure that our gas mileage is at peak performance for the small hybrid electric vehicles we will be utilizing (likely a small SUV).

For our dispatch hub, we will be utilizing Energy Star rated heating and cooling systems with AC mini-splits to minimize our in-office energy consumption. In addition, we will utilize only LED lighting to reduce demand for electricity.

## **DIVERSITY PLAN**

Healing Calyx LLC d/b/a GreenRush Delivery (“Healing Calyx” or “the Company”) is committed to actively promoting diversity, inclusion, and cultural competency, by implementing programmatic and operational procedures and policies that will help to make Healing Calyx a leader and champion of diversity, both locally and throughout the broader Massachusetts cannabis industry.

City Specific Data - Holyoke is a city in Hampden County, Massachusetts with a 2019 population of approximately 40,000. According to the Census.gov, the racial composition of Holyoke was approximately: 87.5% white, 4.5% Black or African American, and 0.7% Asian. Approximately 51.6% of the population of Holyoke is female.

Source: <https://www.census.gov/quickfacts/fact/table/holyokecitymassachusetts/BZA115219>

Healing Calyx’s commitment to diversity is reflected in the following Goals, which shall be pursued through the Programs outlined herein, and the progress of which shall be judged by the Measurements/Metrics as stated below, and adjusted as needed if necessary:

### **Goal One:**

Achieve at least the following goals for our staffing needs from individuals from the following groups:

- Veterans - 10%
- People with Disabilities - 10%
- LGBTQ+ - 10%
- Women - 50%
- Minorities - 20%

### **Programs to Achieve Diversity Goal One:**

- Increase diversity of the make-up of our staff by actively seeking out people who are members of the groups listed in Goal One, through both in-house hiring initiatives and annual advertisements in the *The Holyoke Sun* at least once a year and as frequently as needed as staffing needs dictate.
- Establish clearly written policies regarding diversity and a zero-tolerance policy for discrimination and/or sexual harassment, which shall be incorporated into our employee handbook.

### **Metrics and Measurements for Diversity Goal One:**

- Healing Calyx shall evaluate its personnel files on a semi-annual basis to determine how many employees are members of the groups listed in Goal One occupy positions within the company and that number shall be divided by Healing Calyx’s total staffing at its facility to determine the percentage achieved.

**Goal Two:** Provide education to 100% of employees on issues including the prevention of sexual harassment, racial and cultural diversity, and methods of fostering an inclusive work atmosphere.

### **Programs to Achieve Diversity Goal Two:**

- Provide an on-site interactive workshop, once a year at Healing Calyx’s Establishment at a date and time determined by Healing Calyx management. These workshops would cover such topics as the prevention of sexual harassment, racial and cultural diversity, and methods of fostering an inclusive work atmosphere.

## Healing Calyx LLC

- Establish clearly written policies regarding diversity and a zero-tolerance policy for discrimination and/or sexual harassment, which shall be incorporated into our employee handbook.

### **Metrics and Measurements for Diversity Goal Two:**

- Healing Calyx will track the number of employees who attend the annual workshop in order to determine their progress towards Diversity Goal Two.
- *Qualitative Metrics*: Healing Calyx will perform annual evaluation of inclusion/diversity initiatives to ensure diversity is one of Healing Calyx's strengths and remains a primary focus. This may include anonymous employee surveys or other private submission opportunities so that we can attempt to avoid any sort of reluctance for our employees to inform management how we are truly doing in pursuit of our diversity plan goals. The results of the surveys shall be compared to prior years' results to allow Healing Calyx to adjust our programs in the event that our goals are not being achieved.

### **Our goals are objectively reasonable.**

Healing Calyx's staffing goals at our Establishment are objectively reasonable because of the facts (the demographics listed in the paragraph above) and our ability to advertise job positions in *The Holyoke Sun*.

Healing Calyx acknowledges that the progress or success of our plan will be documented upon renewal (one year from provisional licensure, and each year thereafter).

Healing Calyx will adhere to the requirements set forth in 935 CMR 500.105(4) which provides the permitted and prohibited advertising, branding, marketing, and sponsorship practices of Marijuana Establishments.

Healing Calyx acknowledges that any actions taken, or programs instituted will not violate the Commission's regulations with respect to limitations on ownership or control or other applicable state laws.