



Neamat, LLC
290 Millville Road
Uxbridge, MA 01569

MC282693; Case No. ENF-2022-0000001179

FINAL ORDER AND STIPULATED AGREEMENT

This Final Order and Stipulated Agreement (herein, “Order”) between the Commonwealth of Massachusetts Cannabis Control Commission (the “Commission”) and Neamat, LLC (“Respondent”) (together, the “Parties”) is offered for the purposes of settlement and in lieu of **further administrative action. The Commission finds that resolution of this matter serves the** purposes of M.G.L. c. 94G, 935 CMR 500.350, 500.450, and 500.500 because Respondent has accepted responsibility for the violations set forth in this Order and has no other record of compliance infractions.

Accordingly, the Commission and Respondent stipulate to the following facts of record, applicable law, findings, and remedies:

1. The Commission has jurisdiction over the conduct and operations of licensed Marijuana Establishments (“MEs”) and the subject matter herein pursuant to the provisions of the Commonwealth’s marijuana laws, St. 2016 c. 334 § 76, M.G.L. c. 94G, and 935 CMR 500.000 *et seq.*;
2. The Commission may rely on its statutory and regulatory authority to conduct investigations of compliance with Commission laws, impose fines on the holder of a **license, or otherwise restrict a license**;
3. In accordance with its statutory mandate, the Commission has adopted regulations for the administration, clarification and enforcement of laws regulating and licensing marijuana **establishments which include the following**:
 - a. Methods and forms of application which an applicant for a license shall follow and complete before consideration by the commission. M.G.L. c. 94G § 4(a½)(i);
 - b. A schedule of application, license and renewal fees in an amount necessary to pay **for all regulation and enforcement costs of the commission. M.G.L. c. 94G § 4(a½)(ii)**;
 - c. Standards for the licensure of marijuana establishments, including, but not limited to updating that licensure. M.G.L. c. 94G § 4(a½)(v); and
 - d. **Creating a schedule of cultivator license fees commensurate with cultivation size.** M.G.L. c. 94G § 4(a½)(xxvii).



Facts of Record

4. Respondent is an adult-use Marijuana Establishment located at 290 Millville Road Uxbridge, MA 01569. Respondent is currently licensed to operate as an Outdoor Marijuana Cultivator utilizing a Tier 3 Canopy;
5. On or around May 5, 2020, Respondent submitted a Marijuana Cultivator license application to the Commission. The Commission deemed the application complete on May 21, 2020;
6. On August 6, 2020, the Commission issued a Provisional License to Respondent to operate as a Tier 9 outdoor Marijuana Cultivator, which allowed cultivation using a Canopy of 70,001–80,000 square feet (“SF”);
7. On August 10, 2020, Respondent submitted a Voluntary Tier Relegation Form. As the reason for requesting relegation, Respondent stated they “were unclear how canopy was to be calculated for outdoor cultivation when we applied. We have just over 3 acres of an **enclosed, fenced area, however, our designated canopy [...] will be 19,367 SF. That is calculated by the surface area of the trenches or garned [sic] beds only**”;
8. On August 12, 2020, Investigator Michael McCarthy (“McCarthy”) conducted a due **diligence review of Respondent’s Tier Relegation request. McCarthy recommended the request be approved**;
9. On August 27, 2020, the Commission’s Executive Director approved Respondent’s **request to change operations from Tier 9/Outdoor to Tier3/Outdoor. Respondent’s new authorized tier was 10,001–20,000 SF of Canopy**;
10. On October 12, 2020, staff of the Commission’s Investigations and Enforcement **Department (“Enforcement”) conducted a post provisional license inspection (“PPLI”)**. During the PPLI inspection, Respondent assured Enforcement staff that its Canopy would not exceed Tier 3;
11. **On February 5, 2021, the Commission issued a Final License to Respondent as a Tier 3 outdoor Marijuana Cultivator. As a condition of final licensure, Respondent was permitted to cultivate, harvest, possess and acquire Marijuana, but could not sell or transport Marijuana to other Marijuana Establishments**;
12. Respondent began its planting season on June 1, 2021, and planted in excess of its licensed cultivation tier on or around July 15, 2021;



13. On July 28, 2021, Respondent submitted a Tier Expansion Request Form seeking to increase its cultivation tier to a Tier 4 Canopy. A Tier 4 cultivation license allows a Marijuana Establishment to cultivate Marijuana using a Canopy area of 20,001–30,000 SF;
14. On August 9, 2021, the Commission denied Respondent’s Tier Expansion Request because Commission regulations require licensees to demonstrate eligibility through sales **data while operating at the higher end of their cultivation tier and Respondent had not yet commenced full business operations.** As a result of the Commission’s decision, Respondent’s license to cultivate Marijuana remained limited to use in a Tier 3 Canopy;
15. **On September 29, 2021, Enforcement staff conducted a Post-Final License Inspection (“PFLI”)** on the licensed premises;
16. While conducting the PFLI, Enforcement staff measured the cultivation area and determined that the size of Respondent’s Canopy was 35,525 SF. Enforcement’s technique for measuring the cultivation area was to use the static distance between the T-posts in each row for the area width (five feet) multiplied by the length of each plant row, which varied in distance;
17. Enforcement staff also discovered additional cultivation areas beyond the garden beds. Plants were found growing in five-gallon pots around a portion of Respondent’s **perimeter fence line;**
18. Having determined that Respondent’s canopy exceeded the maximum square footage permitted for a Tier 3 Marijuana Cultivator, Enforcement staff issued a Notice of **Deficiency (“NOD”) to Respondent on October 7, 2021, citing violations of 935 CMR 500.005(1)(c) and 935 CMR 500.050(2)(c);**
19. On October 8, 2021, Respondent submitted a Plan of Correction (“POC”). In the POC, **Respondent countered that, based on its calculations, its total Canopy area was 26,216 SF.** The POC indicated the width of each row had been measured by the tilled garden bed, which was less than the width relied on by Enforcement staff in its calculation;
20. **26,216 SF exceeds the maximum Canopy area of 20,000 square feet allowed under Respondent’s Tier 3 cultivation license;**
21. On November 16, 2021, Respondent submitted an amended POC featuring an amended **Canopy calculation based on the linear feet (LF) measured by Enforcement staff, or 7,105 LF.** The amended POC restated that Respondent had measured its Canopy using a different identifiable boundary than the boundary chosen by Enforcement – Respondent’s identifiable boundary was the width of each raised garden bed, which is 3.5 feet. **Adopting Enforcement’s calculation of 7,105 LF, Respondent calculated a difference of 24,867.50 (24,868 rounded up) SF of excessive Canopy, differing from its first Plan of**



Correction identifying 26,216 SF of Canopy. As a result, Respondent claimed that its Canopy had exceeded its tier limit by 4,868 SF;

22. **In its Amended Plan of Correction, Respondent also indicated that it had destroyed** twenty percent of its “in-field” Canopy on November 2, 2021, and November 3, 2021, as a corrective measure for the overage. Towards that end, Respondent listed plants as “wasted” in the Commission’s Seed to Sale System of Record (“Metrc”);
23. Enforcement could not verify that Respondent had destroyed twenty percent of its in-field crops to correct the excessive Canopy because the Metrc record attributes plant destruction to other causes such as weather, plant death, root rot, plant weakness, or **plants not being harvestable**;
24. On December 9, 2021, Respondent, through legal counsel, provided a second amended POC, which reasserted Respondent’s position that it cultivated at least 4,868 square feet of plants beyond its approved cultivation tier;
25. According to the amended POC, Respondent leveled the entirety of its garden beds on or around November 15, 2021, during its farming cycle. Respondent further asserted it has been operating within 20,000 SF of Canopy as of November 3, 2021;

Applicable Law

26. An applicant for licensure as a Marijuana Cultivator must choose the tier at which it will be initially licensed. 935 CMR 500.005(1)(c); 935 CMR 500.050(2)(b);
27. **Cultivation tiers are based on the square footage of Canopy. 935 CMR 500.050(2)(b);**
28. Each applicant for licensure must pay the Commission a nonrefundable application fee and an annual license fee. 935 CMR 500.005(1)(a). For Marijuana Cultivator applicants, **the application and annual license fee amounts depend on the cultivation tier and whether the applicant will operate as an indoor or outdoor cultivator. 935 CMR 500.005(1)(d);**
29. A Tier 3 Canopy is 10,001–20,000 square feet. 935 CMR 500.050(1)(c)1.c. An applicant **must pay an application fee of \$300.00 and an annual license fee of \$2,500 to pursue a Tier 3 outdoor cultivation license. 935 CMR 500.005(1)(d);**
30. A Tier 4 Canopy is 20,001–30,000 square feet. 935 CMR 500.050(1)(c)1.d. For that **cultivation tier, an outdoor Marijuana Cultivator applicant must pay an application fee of \$1,500 and an annual license fee of \$10,000. 935 CMR 500.005(1)(d);**
31. Canopy is an area to be calculated in square feet and measured using clearly identifiable **boundaries of all areas(s) that will contain Flowering and/or Vegetative plants larger than**



eight inches tall and eight inches wide at any point in time, including all of the space(s) within the boundaries. 935 CMR 500.002;

32. **Canopy may be noncontiguous, but each unique area included in the total Canopy** calculations shall be separated by an identifiable boundary which includes, but is not limited to: interior walls, shelves, Greenhouse walls, hoop house walls, garden benches, hedge rows, fencing, garden beds, or garden plots. If Flowering and/or Vegetative plants **larger than eight inches tall and eight inches wide are being cultivated using a shelving system**, the surface area of each level shall be included in the total Canopy calculation. 935 CMR 500.002;
33. **A Marijuana Cultivator may apply to the Commission to change its cultivation tier to** either expand or reduce production. 935 CMR 500.050(2)(c); 935 CMR 500.050(2)(d);
34. If a Marijuana Cultivator submits an application to expand production, it shall demonstrate that while cultivating at the top of its production tier, it has sold 85% of its product consistently over the six months preceding the application for expanded production for an indoor cultivator, or during the harvest season prior to the application for expanded production for an outdoor cultivator. 935 CMR 500.050(2)(c);
35. Acceptance of a provisional or final license constitutes an agreement by the Marijuana Establishment that it will adhere to the practices, policies, and procedures that are **described in its application materials, as well as all relevant laws, regulations, and any conditions imposed by the Commission as part of licensure.** 935 CMR 500.103(2)(d);

Stipulated Findings

36. The Commission, through its Executive Director, and Respondent have come to mutual agreement and understanding, and jointly propose to the Commission a resolution of the alleged violations in lieu of proceeding with an administrative hearing to determine the **merits of such allegations. The terms and conditions of this Order are expressly subject** to ratification of the full Commission. Pursuant to M.G.L. c. 10, § 76, three Commissioners shall constitute a quorum and the affirmative vote of three Commissioners shall be required for ratification of this agreement;
37. In lieu of proceeding with an administrative hearing and subsequent proceedings, Respondent further agrees to the stipulated findings set forth in Paragraphs 38–39, inclusive of all subparagraphs;
38. From July 15, 2021–November 3, 2021, Respondent conducted unauthorized cultivation operations under License No. MC282693, violating 935 CMR 500.005(1)(c), 935 CMR 500.050(2)(b), 935 CMR 500.050(2)(c) and 935 CMR 500.103(2)(d);
 - a. **On or around June 1, 2021, the Respondent began their planting season on June 1, 2021 and planted in excess of their tier on or around July 15, 2021;**



- b. On July 28, 2021, Respondent submitted a Tier Expansion Request to the Commission to expand their operations to tier 4;
 - c. On August 9, 2021, the Commission denied the Tier Expansion Request, and the **Respondent remained licensed at tier 3;**
 - d. On September 29, 2021, Enforcement staff measured the canopy and discovered the Respondent was operating as a tier 4 outdoor cultivator, in excess of their authorized tier. Enforcement staff also discovered plants growing in five-gallon **pots around a portion of Respondent’s perimeter fence line.**
 - e. Respondent exceeded its canopy by 4,868 SF;
 - f. Respondent continued to operate at the tier 4 cultivation level until it harvested its plants on November 3, 2021;
39. From July 15, 2021–November 3, 2021, Respondent deprived the Commission of the annual licensing fee commensurate to the cultivation tier under which it operated, violating 935 CMR 500.005(1)(a) and 935 CMR 500.005(1)(d);
- a. The annual license fee for a tier 3 outdoor Marijuana Cultivator is \$2,500 and the fee for a tier 4 outdoor Marijuana Cultivator is \$10,000. The Commission was deprived of a difference of \$7,500, prorated for the 111 days of Respondent’s noncompliant operations ($\$7,500/365 = \$20.5/\text{day}$);
 - b. \$20.5 for 111 days of noncompliant operations amounts to \$2,275 owed;
 - c. Respondent harvested its plants, inclusive of the excessive Canopy, on November 3, 2021;

Stipulated Remedy

40. Weighing Respondent’s acknowledgement of cultivating above its licensed tier, and the **need for ongoing compliance oversight to ensure accurate canopy size and seed-to-sale inventory tracking**, Respondent further agrees to the stipulated remedies and terms set forth in Paragraphs 41–61, inclusive of all subparagraphs;
41. **Respondent shall submit to a twenty-four-month probationary period (the “probationary period”)** for this license, which will take effect on ratification of this Order:
- a. Any substantial noncompliance with any Commission laws by Respondent during the probationary period shall constitute full and adequate grounds for license **suspension or revocation;**
 - b. Prior to enforcing this provision, the Commission agrees to send Respondent a Letter of Warning providing notice of the alleged substantial noncompliance and an opportunity for Respondent to correct the deficiencies;
42. Respondent shall participate in continuing education during the probationary period:
- a. Respondent’s owners and agents shall take and complete the following courses: (1) the Massachusetts Metrc New Business Training and (2) the Metrc Learn **training courses (collectively, the “courses”). Respondent must take the courses** at least once during each year of the probationary period, totaling two (2)



trainings. Respondent must provide a certificate or other documentation demonstrating completion of each course to its assigned Investigator within 30 days of completing the course;

- b. **The Commission may require Respondent's owners to take additional trainings** during the probationary period as the Commission deems reasonably necessary to resolve documented compliance concerns regarding Metrc competency;

- 43. **Respondent is precluded from seeking tier expansion for MC282693 during the** probationary period;
- 44. Respondent shall request Enforcement staff to come on site to measure their canopy, and **certify the size of the canopy at the start of each growing season during the probationary** period.
- 45. Respondent shall pay a recoupment fee to the Commission in the amount of **\$2,275** to account for the application and license fee (prorated) that was not paid while the Respondent operated at a tier 4 canopy;
- 46. Respondent's failure to comply with its licensed tier limitations shall result in a penalty assessment of **\$20,000.00**.
- 47. Respondent shall provide the payments in Paragraphs 45–46 by check or money order **payable to the Cannabis Control Commission Marijuana Regulation Fund within 30 days** of the ratification of this Order. Payments for penalties and recoupment assessed against the Respondent shall be mailed to the following address:
 - a. Via USPS:
 - Cannabis Control Commission**
 - PO Box 412144
 - Boston, MA 02241-2144
 - b. Via Courier/Overnight:
 - Bank of America Lockbox Services
 - Cannabis Control Commission 412144
 - MA5-527-02-07
 - 2 Morrissey Boulevard**
 - Dorchester, MA 02125
- 48. This Order may be admissible as evidence in any future hearing before the Commission **or used in connection with any future licensure or administrative actions by the** Commission;
- 49. Any issues relating to the underlying complaint and investigation that formed the basis **for this Order against Respondent (and any defenses that Respondent may have to such**



complaint or investigation) shall not be at issue in a proceeding against Respondent for failing to comply with the terms of this Order;

50. **Respondent agrees that the Commission may consider the Order and the facts and circumstances described therein in connection with review of an application for licensure, renewal of licensure, or suitability review;**
51. **Respondent acknowledges advisement of hearing rights and process of the proceedings and wishes to resolve all issues which were the subject of the investigation or in any way related to the investigation by entering into this Order;**
52. **If approved by the Commission and upon execution of all parties, this Order shall have the same force and effect as an order entered after formal hearing pursuant to 935 CMR 500.500(12), except that it may not be appealed. Failure to comply with the terms of this Order, including but not limited to failure to make a timely payment in accordance with Paragraphs 45–46, may constitute the basis for further administrative action against Respondent;**
53. Respondent acknowledges that the Commission advised Respondent of its opportunity to consult with an attorney of their choosing and Respondent represents that they have had an opportunity to do so prior to signing the Order. Respondent acknowledges that they have been given a reasonable period of time in which to consider the terms of this Order **before signing it. Respondent acknowledges and confirms that they have entered into this Order voluntarily and of their own free will, without duress or coercion, and that they are competent to enter into this Order. Respondent acknowledges that they have carefully read and fully understand the meaning and intent of this Order;**
54. Respondent further understands and knowingly and voluntarily waives the following rights:
 - a. The right to proceed with the adjudicatory proceeding;
 - b. **The right to cross-examine witnesses, subpoena witnesses, present evidence and testify on Respondent’s own behalf at that hearing;**
 - c. The right to appeal this Order;
55. **Respondent consents to the terms and conditions described herein and agrees to waive its right to judicial review of this agreement pursuant to M.G.L. c. 30A, § 14;**
56. Upon execution by all parties, this Order shall represent the entire and final agreement of **the parties. In the event that any provision of this Order is deemed unenforceable by a court of competent jurisdiction, such provision shall be severed, and the remainder of the Order shall be given full force and effect;**



57. This Order shall be binding upon Respondent and shall inure to the benefit of the parties to this Order and their respective successors and assignees and shall be construed in accordance with and governed by the laws of the Commonwealth of Massachusetts;
58. Upon ratification of this agreement by the Commission, this Order shall become a permanent part of Respondent's record and shall be open to public inspection and disclosure pursuant to the Commission's standard policies and procedures or applicable law;
59. The Commission may reject the terms of this Order or otherwise deny ratification and entry of the Order. In such event, the terms of the Order shall be null and void, including but not limited to Respondent's admissions, and the parties will proceed to hearing;
60. This Order may be executed by e-mail and any signature delivered by either email or first-class mail shall be deemed to be as valid as an original signature;
61. All costs and expenses incurred by Respondent to comply with this Order shall be the sole responsibility of Respondent and shall not in any way be the obligation of the Commission; and
62. For purposes of addressing any future violations of the Order, the Commission regulations, 935 CMR 500.000, *et seq.*, shall include all later adopted regulations that are in effect at the time of the subsequent violation.

This Order is subject to ratification by the Commission. Upon ratification, this Order becomes binding on the Parties. Failure to comply with the above conditions may result in administrative action against Respondent up to and including suspension and/or revocation of registration.

Commonwealth of Massachusetts Cannabis Control Commission



Shawn Collins, Executive Director

December 9, 2022

Date Signed

Ratified by Commission vote (5 yes, ~~0~~ no, ~~0~~ abstain) on November 8, 2022.
December

Respondent Neamat, LLC



Neamat, LLC

11/14/22

Date Signed