

2018-11-19 DRAFT NETA CONDITIONS

Definitions

1. The “Establishment” means the business operated at the address identified on the Select Board’s License(s) of the Town of Brookline (“Town”) issued pursuant to the Town’s General By-Laws.
2. “Executive Management Team Members” means the individuals who are responsible for the day-to-day operations of the Establishment, including the chief executive officer (CEO) or executive director (ED), chief operations officer (COO) or director of operations, chief financial officer (CFO) or director of finance, director of human resources, chief medical officer, director of security, and any other individuals involved in the oversight and business management of the Establishment’s operations.
3. “Premises” means the property located at the address identified on the Select Board’s Marijuana Establishment License issued pursuant to the Town’s General Laws.
4. “Inspectional Departments” means the Town’s Police Department, Fire Department, Health Department, Building Department, Planning Department, and/or Department of Public Works/Transportation Division.

General Requirements

5. The hours of operation shall not exceed the hours of 10 a.m. to 10 p.m. on Mondays through Fridays, and 9 a.m. to 10 p.m. on Saturdays and Sundays. The Licensee shall not ~~change the Establishment’s operate outside of these~~ hours of operation without Select Board approval. If NETA opens before 10 a.m. on any day of the week, its 3-month and 15-month traffic monitoring report completed as part of the proposed Traffic Demand Management Plan shall include traffic counts during such earlier periods of operations.
6. The Licensee shall comply with all applicable State and local laws, regulations, by-laws, codes, conditions and agreements with the Town, including, but not limited to, G.L. c. 94G, 935 CMR 500, 105 CMR 725, the Town of Brookline’s General By-Laws (including, but not limited to, **Article 8.37 of the General By-Laws**), the Town of Brookline’s Zoning By-Laws, all applicable Town building, fire prevention, police, and health codes, regulations and standards, and any conditions imposed on licenses and permits held by the Licensee in connection with the Licensed Establishment (including, but not limited to, the Town’s Zoning Board of Appeals special permit and any Select Board license). In the event of a conflict between these conditions, on the one hand, and State or local law or regulation, on the other, State or local law or regulation shall govern.
7. The Licensee shall comply with all agreements with the Town, including but not limited to Host Community Agreement (“HCA”) with the Town. In the case where the HCA Stipulation(s) conflict with a State or local law or regulation, or with a condition imposed by a Massachusetts Cannabis Control Commission (“CCC”) or Massachusetts Department of Public Health (“DPH”) marijuana license, a condition of this Select Board License, or the Zoning Board of Appeals special permit, then the State or local law or regulation or License or permit condition shall control.

Commented [PC1]: Note the Transportation Division report, Comment # 4: It is not averse to a 9 am week-day opening on a trial basis provided that the 3 month and 15 month traffic monitoring report submitted by NETA as part of the proposed TDMP include traffic counts during this one hour period. (Both DPW and the Police Department are averse to an 8 am week-day opening, but that is not permitted by the Special Permit in any event.)

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8. The Licensee shall maintain all permits and licenses required by State and local laws in connection with the Establishment, including, but not limited to, a valid, current license in good standing from the CCC and/or DPH. Any voiding of the license of the CCC and/or DPH by operation of law (including due to cessation of operations, failure to become operational within the permitted time, or relocation without State approval), and any revocation or suspension of the State license applicable to the Establishment, shall result in an automatic suspension of the Select Board license pending hearing or the opportunity therefor and pending further determination by the Select Board made in conformity with law.
9. The Licensee's operations at the Establishment shall be limited to those permitted by a CCC and/or DPH license and the Select Board Marijuana Establishment License pertaining to the Establishment and to the Premises.
10. The Licensee may close the Establishment or cease its operations, whether on a temporary or permanent basis, if permitted by State law, and if permitted by the Select Board after a written request to close or cease operations submitted to the Select Board that explains the reason(s) therefor, the length of such closing or cessation of operations, and any plans to reopen. The notification and request for permission to the Select Board must be submitted thirty (30) days in advance of the closing or cessation of operations. In the event of an emergency preventing the thirty (30) days notice and request for Select Board permission to close or cease operations, the Licensee shall submit the notice and request to as soon as it is aware of the need to close or cease operations. Failure to provide such notice and to obtain such permission may, after hearing or reasonable opportunity therefor, result in cancellation of the license.
11. The Licensee acknowledges that the conditions herein pertain to its sales of marijuana and related products as may be permitted under existing State law, and that in adopting these conditions the Town assumes operations by the Licensee that comply with existing State law. The Town reserves the right to modify these conditions as may be permitted by law in the event that changes in State law could authorize changes in the products sold by the Licensee or in the nature of the licensee's business.

Management-Related Requirements

12. Unless already approved in connection with the Licensee's Town RMD Select Board License, the Licensee must obtain Select Board approval for Board Members, Executive Management Team Members, Directors, the Manager, and any Alternate Manager(s), and for any changes in Board Members, Executive Management Team Members, Directors, the Manager, and Alternate Manager(s), which may entail the Select Board's review of a person's suitability for such position. In the event that the Select Board or designee undertakes a criminal background check in connection with such suitability determination, the Licensee shall provide to each person for whom it seeks Select Board approval a CORI Acknowledgment Form and a hard or electronic copy of the Town's "CORI Policy: Licensing", and provide to that the person an opportunity to review such

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materials prior to the person’s execution of the CORI Acknowledgement Form and the Establishment’s submittal of the executed CORI Acknowledgement Form to the Town.

- 13. The Licensee must obtain the approval of the Chief of Police of designee for the executive(s) or manager(s) responsible for security at the Premises (including for formulating and/or implementing security measures, plans and policies pertaining to the Licensee's operations, physical facility or transportation to or from the site), and for any change of personnel in such position.
- 14. A Manager or Alternate Manager must be on the Premises during the Establishment’s hours of operation. In the event of an emergency, the Manager or Alternate Manager on site who needs to leave the Premises shall designate an Alternate Manager to act as the temporary manager on duty. A written record shall be kept which identifies the Manager or Alternate Manager on duty for each shift. The Manager or Alternate Manager on duty shall have total responsibility for the proper operation of the Establishment’s Premises and operations.

Operational Requirements

- 15. There shall be no consumption, production or manufacture of any marijuana products at the Establishment. Production and manufacture does not pertain to repackaging of marijuana products produced or manufactured off-site.
- 16. Deliveries of products shall not originate from the Premises unless explicitly required by State law.
- 17. The Licensee shall have a police officer on-site to direct pedestrian and vehicular traffic in and out of the Premises during operating hours. An additional police officer may be required if requested by the Brookline Police Department.
- 18. NETA will install sufficient concave mirror(s) to permit staff and detail officers to view the two parking spots directly behind the Eversource transformer station from the upper lot.
- 19. The Licensee shall have an attendant on the Premises during the Establishment’s hours of operation to assist visitors with parking vehicles and with ingress onto and egress from the Premises.
- 20. The Company shall not supply marijuana or marijuana products free of charge or as otherwise prohibited by 935 CMR 500.105. Prohibited endeavors shall include, but are not limited to, product “giveaways”, gifts, coupons, free or donated marijuana or the distribution of marijuana or marijuana products as an incentive, prize or bonus in a game, contest or tournament involving skill or chance.
- 21. The Licensee shall comply with the Transportation Demand Management Plan (“TDMP”) submitted to the Town pursuant to conditions of the Licensee’s special permit,

Commented [PC2]: The August 2018 TDMP requires that an officer be a required measure for traffic impact mitigation. It did not limit it to any particular period of time. Therefore, the Transportation Division seeks to have this be an ongoing requirement. Alternatively, if a time limitation is entertained, the Transportation Division seeks language requiring approval by the DPW Commissioner or designee. If the Board chooses the latter, I will draft language to that effect include in the conditions.

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as those provisions may be amended with Town approval.

22. The Company shall accept as valid proof of age a government-issued photographic identification containing a date of birth, both in connection with sales by the Company through the Establishment's operations and for deliveries of marijuana and marijuana products to locations within the Town. The Licensee shall use Police Department-approved ID scanner technology to verify the adult consumer is 21 years of age or older prior to entry into the facility and will verify ID again at point of sale. Medical patients shall be verified prior to entry and at the point of sale using the state tracking system to confirm state registration. As recommended by the Brookline Police Department in order to optimize the process for checking identifications prior to entry, the Licensee shall install some type of awning or shade at the entry door and shall also procure a shade cover for the scanning devices in order for staff to better view the scanning device.
23. Queuing of pedestrians on the sidewalk is permitted on a trial basis for the first six months of adult use sales only. ~~There shall be no queuing permitted more than (30) minutes prior to the opening time.~~ The Licensee shall have one staff person on-site to monitor and manage customer queuing on the public sidewalk. A clear path for pedestrians at least four (4) feet in width shall be kept open on the sidewalk at all times, ~~including hours when the business is closed to the public.~~ NETA staff will monitor the line and take steps to ensure that the 4-foot path of travel is present at all times for the entire length of the line, including asking customers to leave and return at another time, if necessary. The Licensee shall take measures to prevent customer queuing on the sidewalk from extending beyond the corner of Washington Street and White Place and in front of the stairs at the main entrance on the corner of Washington Street and Boylston Street, including turning customers away if the queues reach this corner, if necessary, ~~at all times, including hours when the business is closed to the public.~~ Temporary stanchions shall be used to keep the customer line in single file and to maintain a clear path of travel of four (4) feet. The stanchions shall be removed at the close of business or when not in use. ~~If the Town~~ If queuing occurs during times when the facility is not open, the Licensee shall work with the Town to implement measures to ameliorate any potential nuisance conditions posed thereby, including hiring a detail officer during hours when the business is closed to the public and providing staff during such hours to assist with managing queuing conditions. If the Town otherwise determines that queuing on the public sidewalk has become a safety hazard or nuisance, the Licensee shall meet with town officials to identify and implement methods to eliminate any queuing on the sidewalk. Any Town-recommended methods to reduce or mitigate queuing shall be borne by the Licensee. The Licensee shall comply with Town requirements relating to sidewalk occupancy permits from the Department of Public Works for such stanchions. The Licensee shall work with the Town on a Town-approved opening plan in anticipation of the commencement of Adult Use sales. The Licensee shall implement Town-recommended measures for the opening plan, which may include, but is not limited to, providing for off-hours staffing at the exterior of the building to manage lines and crowds, the hiring of one or more additional detail officers, and queuing in the Premises' parking lot in lieu of the public sidewalk during certain hours. The Licensee will not commence Adult Use sales prior to receiving written Police Department approval of the

Commented [PC3]: Recent suggestion of Lt. Raskin given press coverage of Leicester opening.

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[opening plan.](#)

~~25-24.~~ During periods of snow, NETA will maintain the public sidewalk on the exterior of the Premises in a non-slippery condition and [will remove](#) snow banks ~~will be removed~~ from the full width of the sidewalk to allow for the free flow of pedestrian traffic.

~~26-25.~~ The Licensee will work cooperatively with the Inspectional Departments in their efforts to monitor the efficacy of its procedures related to directing customers and staff to off-street parking and to implement recommended changes arising from such monitoring.

~~27-26.~~ The Licensee will endeavor to identify additional off-street customer parking opportunities in the vicinity in addition to the Homewood Suites.

~~28-27.~~ The Licensee will post Police Department-approved signage conspicuously displayed in the vicinity of sales transactions areas that inform the public of the penalties for driving under the influence of marijuana, of the penalties for persons purchasing marijuana while under-aged or on behalf of an under-aged person, and for possessing an open container of marijuana in the passenger area of a motor vehicle.

Commented [PC4]: Recent suggestion of the Police Department.

Security-Related Requirements

~~29-28.~~ The Licensee shall immediately notify the Town's Police Department of any known or suspected violation of criminal law that has taken place on or near the location of the ~~Town RMD Establishment~~. This is to include any criminal behavior related or unrelated to the business of the ~~Town RMD Establishment~~.

~~30-29.~~ The Licensee shall promptly copy the Town's Chief of Police on any notifications and submissions it makes to the Massachusetts Department of Public Health pursuant to 105 CMR 725.110(F) and/or 935 CMR 500.110(7) or other provision of law relating to the Establishment ("Incident Reporting").

~~31-30.~~ The Licensee shall facilitate the immediate access and transfer of video footage from any video surveillance system of the Establishment's interior or exterior when so requested by the Town's Police Department (which request may be made when the Police Department has a reason to believe that such footage may be of assistance in an ongoing investigation related or non-related to the Establishment's business).

~~32-31.~~ The Licensee shall connect its alarm system to a third party monitoring system, and notify the Town's Chief of Police about said third party monitoring system. In the event of accidental activation of a panic alarm, the Licensee will notify the Police Department that the activation was accidental. The Police Department may conduct a check of the facility in the event of an accidental activation.

Public Health-Specific Requirements

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26. All packaging and labeling of marijuana and marijuana products must be done in accordance with State law and regulations.
27. The Licensee must distribute a Patient Handbook to registered medical marijuana patients, and must provide educational materials for adult use consumers. Both patient and adult use educational materials must include information to ensure proper MIP dosage and safety tips, including instructions, information and warnings about the following:
 - a. Dosage safety: urging consumption on a “start Low” and “go slow” basis, including information about variability among individual tolerance to products and person-to-person variation in the effects;
 - b. Guidance for first-time or low-tolerance patients or consumers;
 - c. Information regarding dosage and ingredients of available products;
 - d. Duration: Information about both the time interval until the product effects are felt and the length of product effects;
 - e. Responsible storage: Direction to keep products away from children, kept in child-resistant packaging, and not to store near other food items;
 - f. Driving and machinery: Not to operate a vehicle or machinery under the influence;
 - g. Pregnancy: That there may be additional health risks associated with consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant.
 - h. With regard to edible MIPs:
 - (i) Alcohol: Not to mix MIPs with alcohol;
 - (ii) Eating first: To eat a full meal before consuming MIPs as doing so helps in lowering the intensity of the effects.
28. Marijuana and marijuana products, including edible marijuana products, are subject to random inspection and testing by the Town, and/or verification by the Town that inspection and/or testing has occurred, as may be consistent with State law.
29. There shall be no production or manufacture of any products at the Establishment. This does not pertain to repackaging of cannabis products produced or manufactured off-site.
30. The Licensee shall keep an updated product and price list on file with the Board and the Town's Health Department.

Facility-Specific Requirements

31. The Licensee shall maintain a designated patient/handicap drop off space/zone within its parking lot.
32. The Licensee shall conspicuously post signage at any entrance actively used by the public indicating that entry into the premises by persons not possessing valid identification is prohibited. The notice shall be no smaller than 8.5" by 11."

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33. The Licensee shall conspicuously post signs in the parking lot informing the public that parking spaces are for use by NETA customers only and that parking time is limited to 30 minutes maximum.
34. The Licensee shall maintain and keep all of its parking facilities clean from garbage and debris.
35. Prior to opening for Adult Use, the Licensee shall seal and stripe the customer parking lot adjacent to the facility.
36. The Licensee shall install and maintain lighting near its bicycle rack.
37. The Licensee shall procure and maintain the use of a pedestal-style "Parking Lot Full" sign in the customer parking lot adjacent to the facility.

Community Relations-Specific Requirements

38. The Licensee must hold an annual community meeting to provide abutters and community residents with an opportunity to comment on the Licensee's operating practices, policies and plans.
 - (a) Community meetings shall be advertised in the Brookline local newspaper between two (2) and four (4) weeks in advance of the meeting and announced on the Licensee's website beginning at least four (4) weeks in advance of the meeting and through the date of the meeting.
 - (b) The Licensee shall promptly notify the Town Administrator of community meetings and supply a copy of the Brookline [TAB local newspaper](#) advertisement.
 - (c) The Licensee shall notify all Town Meeting members of community meetings two (2) to three (3) weeks in advance of the meeting.
 - (d) As part of the Town's annual license renewal process, the Licensee shall submit a report outlining the number of attendees, a summary of comments received, and proposed responses and plans to address comments.

Access to Information and Required Notifications and Submissions

39. The Licensee shall cooperate and comply with requests for information made by the Select Board and its agents.
40. Within twenty-four (24) hours of receipt of notice of it, the Licensee shall:
 - (a) file with the Town Administrator, Director of Public Health and the Building Commissioner any summary cease and desist order, cease and desist order, quarantine order, suspension order, revocation order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, notice of any other administrative process or legal action, denial of a Certificate of Registration, denial of a renewal of a Certificate of Registration, or final action issued by a state

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- or federal agency (including, but not limited to, the CCC and/or DPH) regarding the Licensee or the Licensee's Certificate of Registration; ~~and~~
- (b) inform the Town Administrator if any of the Licensee's State agent registrations is revoked, if a renewal application for a State agent registration is denied, or if the agent is subject to any pending administrative process or legal action; and
- (c) Inform the Town Administrator of receipt of notice of any federal enforcement action against or investigation of the Licensee.
41. Within fourteen (14) days of submission to the CCC and/or DPH, the Licensee shall provide to the Select Board a copy of its application to the CCC and/or DPH for an original or renewed CCC or DPH license, with personal information such as birth dates, social security numbers (including last 4 digits), financial/bank account numbers, driver's license numbers and criminal offender record information (CORI), and personal addresses, telephone numbers and email addresses redacted. Copies of such applications may be disclosed in accordance with the provisions of the Public Records law. The Company may identify information within such documents that has not been redacted that it believes is non-public record information, for the Town's consideration.
42. The Licensee shall promptly provide prior written notice to the Town Administrator of its intent to cease accepting a form of electronic payment (*e.g.*, credit or debit card).
43. The Company shall provide the Town Administrator, Chief of Police, Fire Chief, Health Director, Planning Director, and Building Commissioner with an up-to-date list of the names, 24-hour telephone numbers and email addresses of all Executive Management Team Members, Managers, Alternate Managers, and key holders of the Premises to whom the Town may communicate if necessary during business hours and after business hours.
44. Executive Management Team Members, Managers and Alternate Managers shall respond within twenty-four (24) hours of contact by a Town staff member. The Company agrees to appear before the Select Board and/or to communicate with Town staff if requested to do so.
45. The Licensee shall maintain on the Premises in a readily-accessible location one or more binders containing (a) all operating policies and procedures required by 935 CMR 500 and 105 CMR 725, (b) an up-to-date list of all products sold by the Licensee through the Establishment's operations, including the strains and forms in which marijuana and marijuana products are sold, along with prices charged, (c) the Licensee's entire application for an original CCC and/or DPH license in connection with the Establishment and any application for a Town Select Board license, in addition to renewal applications for such licenses, if dating within the past five (5) years; (d) a Town Health Department-approved pest control and a rubbish and litter plan, (e) a copy of the Registration Cards for the Establishment's Agents staffing, or supervising staff, of the Establishment, and (f) proof of a general liability insurance policy or escrow account as required by 935 CMR 500 and/or 105 CMR 725. Upon the request of the Select Board or its agent, the licensee shall make the binder(s) available for inspection.

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46. The Licensee will cooperate with a pre-operational inspection by the Inspectional Departments prior to commencing recreational marijuana and recreational marijuana product sales.
47. The Licensee shall submit requested data and reports to the Board and its agents in the form and manner that they may determine. The Licensee may identify information within such documents that it believes is non-public record, for the Town's consideration. These submissions shall include, as part of the annual Town license renewal process, an annual report the accuracy and completeness of which is attested to under penalties of perjury detailing information that shall include:
- i. Names and 24-hour site contact information for all Executive Management Team members, Managers and Alternate Managers;
 - ii. An independent financial audit of the Licensee prepared by a licensed CPA for the preceding fiscal year;
 - iii. The number and geographical distribution of customers visiting the facility by month; (zip code information will suffice with regard geographical distribution information);
 - iv. In connection with the Transportation Demand Management Plan, performance monitoring records, reports and records of any required remedial actions, and any other records as may permit the Select Board to review the effectiveness of the TDMP and that may evidence the Licensee's continued implementation of and compliance with the TDMP's performance goals;
 - v. The number and percentage of on-site employees using the Licensee's public transportation subsidy for employees, and the number and percentage of on-site employees who generally commute to the facility using a means other than a vehicle parked in Town;
 - vi. Total number of employees whose duties entail working at the facility on a part- or full-time basis;
 - vii. Certification that all employees who drive to the facility are instructed to park in an off-site private parking facility;
 - viii. A description of changes or additions to the information the Licensee had previously provided to the Town as part of its application.
 - ix. A copy of the complete application for renewal to the CCC and/or DPH, redacted in conformity with the above. The Licensee may identify any additional information within such redacted documents that it believes is non-public record, for the Town's consideration.
 - x. In connection with community meetings held during the preceding license period, a report outlining the number of attendees, a summary of comments received, and proposed responses and plans to address comments.
 - xi. A report summarizing community complaints received during the preceding license period other than through community meetings, including the number of complaints received, a summary of the substance of each of the complaints, and the manner in which the Licensee addressed and/or remediated each of the complaints (or its planned response(s), with

Commented [PC5]: From the NETA medical marijuana license conditions. NETA is determining feasibility for Adult Use sales. I suggested that perhaps it could collect zip code information at the register/POS machine like many retail outlets do.

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respect to complaints not yet addressed/remediated).

