
THE LAW OFFICES OF BELLO & MORTON, LLC

184 Main Street Wareham, Massachusetts 02571 · 508-295-2522

May 26, 2021

The Wareham Board of Selectman
Memorial Town Hall
54 Marion Road
Wareham, Ma 02571

*Re: Application for Special Permit Assessors Map 132, Lot A1, Building 3, Section 1,
Address: being a steel building located at 8 Elm Street in the Tremont Nail Factory
Redevelopment Overlay District*

Dear Board of Selectman or designee:

Please find enclosed the Application for Special Permit for 8 Elm Street, Building 3, Section 1 pursuant to the Article 4 Tremont Nail Factory Redevelopment Overlay district 463.1 "Allowed Uses". On behalf of the Petitioner, Aspen Blue Wareham, Inc. we submit the following:

1. Applicant:

Patrick Casey, President/CEO
Aspen Blue Wareham, Inc.
20 Centerville Road
Warwick, RI 02886

2. Completed Special Permit Application

Copy Attached as *Exhibit A*.

3. Certified Abutters List:

Copy Attached as *Exhibit B*.

4. Current Deed:

Plymouth County Registry of Deeds Book 50393, Page 35 (Deed) attached as *Exhibit C*.

5. Aspen Blue's Submission to the Town of Wareham's Request for Proposals: Lease of 8 Elm Street Steel Space Building dated November 10, 2020. (*Exhibit D*)

6. Host Community Agreement between the Town of Wareham and Aspen Blue Wareham, Inc executed May 5, 2021. (*Exhibit E*)

7. Commercial Lease between the Town of Wareham ("Landlord") and Aspen Blue Wareham, Inc. ("Tenant") executed May 5, 2021. (*Exhibit F*)

8. Recorded Plan of Parcel:

Attached as *Exhibit G* is a copy of the Relevant Plan. Please note our building is in the Tremont Nail Factory Redevelopment Overlay District, listed under the Wareham Assessors page as Building 3.

9. Plan of Existing Conditions, prepared by G.A.F. Engineering, Inc. and Presentation Plan . (*Exhibit H*)

10. Aspen Blue Wareham, Inc. Odor Mitigation Plan prepared by Kyle Baker CSO and Co-Founder of EcoBuds dated (Exhibit I)

11. Architectural Rendering of Aspen Blue Wareham site prepared by Dennis Colwell Architects, Inc. (*Exhibit J*)

11. Narrative Application and Description: below herewith

Dear Board of Selectman or designee:

Aspen Blue Wareham, Inc (the "Applicant") is submitting this application for Special Permit pursuant to the Wareham Zoning By-Laws Article 463.1 "Allowed Uses" in the Tremont Nail Factory Redevelopment Overlay District ("TNFROD").

Background and Introduction:

The Applicant is a reputable and experienced company with extensive experience in the retail, cultivation, and manufacturing of marijuana. Their Request for Proposal's submission (attached here as *Exhibit D*) goes into detail of their relevant project experience with several facilities including in Attleboro, Mashpee, and Wellfleet. Upon review of the RFP, the Applicant has negotiated and executed a Host Community Agreement with the Town of Wareham as well as Commercial Lease.

Standing and Status:

We are seeking a Special Permit for marijuana product manufacturing use procedurally set out in the Wareham Zoning By-Laws in Article 463.4 of the TNFROD.

The By- Laws in 463.1 provide that the uses in the Tremont Nail Factory Redevelopment Overlay District, "*shall only be allowed by Special Permit by the Board of Selectman or their designee in accordance with section 1460...*," of the Wareham Zoning By-Law.

Also, relevant the By- law does allow the following in Section 463.4:

"In addition, one marijuana product manufacturing use shall be allowed in accordance with CMR 935 500. et seq., but not including marijuana retail sales, dispensary or cultivation. Required conformance with State regulations shall include requirements of 935 CMR 500.105, 935 CMR 500.130, 935 CMR 500.160, 105 CMR 500.000, and 105 CMR 300.000, among other regulations."

Accordingly, the Applicant, has executed a Host Community Agreement with the Town of Wareham as well as a Commercial Lease for the property with the intentions of operating a

marijuana product manufacturing facility on the Building 3 as further described in the Exhibit A of the Commercial Lease.

Project Site Description

This steel building is located on a larger parcel of land which the Town owns in the Tremont Nail Factory Redevelopment Overlay District. The legal description for the site is as follows:

The steel building located in Wareham, Massachusetts approximately 30,400 square feet in gross area, including the parking lot surrounding the location as shown on plan recorded on February 9, 1989 with the Plymouth Registry of Deeds in Book 32, Page 229, labeled as "storage building" adjacent to a 30' wide easement to the Commonwealth Electric Co. & N.E. Telephone Co.

Listed under the Wareham Assessors Page as Building 3, Section 1, a building located on the property address: 8 Elm Street, Wareham MA 02571.

Community Impact and Standard under the Special Permit Zoning By- Laws:

When looking at the approval of a Use Special Permit the Board of Selectman or their designee shall look at the following factors as set out in the By-Laws 1460 as directed by Article 463.1:

The Board of Appeals or Planning Board shall not approve any application for a Special Permit unless it finds that in its judgement, all of the following conditions are met:

- 1. The Use as developed will not adversely affect the neighborhood.*
- 2. The specific site is an appropriate location for such a Use, structure, or condition.*
- 3. There will be no nuisance or serious hazard to vehicles or pedestrians.*
- 4. Adequate and appropriate facilities will be provided for the proper operation of the proposed Use. This includes the provision of appropriate sewage treatment facilities which provide for denitrification, when the permit granting authority deems such facilities necessary for protection of drinking water supply wells, ponds, or saltwater embayments.*

5. The Use or structure as proposed does not pose a substantial detriment to the town or neighborhood in which it is proposed.

6. The proposal, as approved, conforms to all other applicable provisions of the Wareham Zoning By-law

Community Impact and Standard as Applied to our case:

The Applicant is very interested in upkeeping the character of the purpose of the TNFROD. With an extensive Odor Mitigation Plan, they understand the unique nature of their proposal and have worked to ensure that the intent and purpose of the district is upheld. Further, the community impact this use would bring has been reviewed and contemplated under the Host Community Agreement as executed between the parties. Understanding the “Annual Payments” due to the Town under that agreement are used to mitigate the direct or indirect financial impact upon Wareham for the use of this facility.

Under the criteria for the Special Permit standard, we submit the follow:

1. The Use of this facility will not adversely affect the neighborhood or community. The TNFROD lays a pathway for one marijuana manufacturing facility and this use shall be of benefit to the Town. The Applicant and the Town have addressed operational areas of concern in their executed Commercial Lease and Host Community Agreement. The proposed use shall be of advantage to the Town and its residents.
2. The site is an appropriate location because it is an industrial building already set back from the road. Further Section 464.1 of the Zoning By- Law states, “there is no dimensional standards” with the TNFROD, and there is no parking, loading standard, or landscaping requirements. Traffic will be limited to only employees of the facilities, their representatives, and limited number of deliveries and pick-ups from the site. Therefore, there is no hazard to pedestrians or vehicles.
3. The site has adequate parking and loading for the propose use. The proposed facility will be served with Town water and Sewer. Also, there any odor nuisance shall be mitigated in accordance with Aspen Blue Wareham’s Odor Mitigation plan. We also propose the

proposed use will not increase the Police or Fire Department Services. Trash will be removed by a private hauler as well.

4. The Applicant's application should be approved as use is not substantially detrimental to the neighborhood for the applicant to operate a marijuana manufacturing facility in the steel building in this district. The TNFROD was approved by Town meeting and there is a history of prior approval for special permit use by another marijuana manufacturing company on this site.
5. This proposal does comply with all other zoning bylaws and warrants approval based on the submitted information and standards in the applicable provisions in TNFROD.

All things considered allowing this Use Special Permit would not be detrimental to the neighborhood and certainly would not derogate from the intent of the Zoning By Law.

Respectfully submitted,



Jilian A. Morton, Esq.
BBO #693811
The Law Offices of Bello & Morton, LLC
184 Main Street
Wareham, Massachusetts 02571
508-295-2522
jam@mortonlawllc.com

EXHIBIT A

TOWN OF WAREHAM
ZONING BOARD OF APPEALS

APPLICATION FOR A PUBLIC HEARING FOR A VARIANCE/SPECIAL PERMIT

Certain uses are allowed in several zoning districts only by means of a Variance and/or Special Permit from the Zoning Board of Appeals. Those uses are indicated in the Wareham Zoning By-Laws. To apply for a Variance/Special Permit from the Zoning Board of Appeals, please do the following:

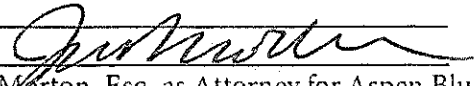
- o Complete this form.
- o Complete information packets. (Directions attached)
- o Submit application form and packet to Town Clerk for signature.
- o Submit application form and packet to Town Collector for signature.
- o Submit completed form, packets, and appropriate fees** to the Zoning Board of Appeals secretary.

**Permits may be issued only after a public hearing. There is a filing fee of \$300.00 per lot, per application for all non-conforming residential lots, whether built upon or not. There is a filing fee of \$750.00 per lot, per application for all commercial applications. In the case of a multi-family development, the fee is \$300.00 plus an additional \$50.00 for every unit over two (2). Please make check payable to the Town of Wareham.

**A check to cover two (2) legal advertisements for the public hearing should be made payable to Wareham Week in the amount of \$80.00.

**The applicant will also be responsible for the costs of sending out abutter notifications by Certified Mail. The cost is \$6.73 per certified letter to each abutter. Please see Zoning Board secretary for cost of mailings. Please make check payable to the Town of Wareham.

I hereby apply for a Variance/Special Permit for a use to be made of the following described place:

Part of 8 Elm Street, Wareham,
STREET & NUMBER: MA (Building #3) MAP: 132 LOT: A1
ZONING DISTRICT: TNEROD
USE REQUESTED: marijuana product manufacturing use
OWNER OF LAND & BUILDING: Wareham BOS TEL.# 508-291-3101
ADDRESS OF OWNER: 54 Marion Rd #5, Wareham, MA 02571
PERSON(S) WHO WILL UTILIZE PERMIT: Aspen Blue Wareham, Inc.
ADDRESS: 20 Centerville Road, Warwick, RI 02886
DATE: 5/26/2021 SIGNATURE: 
This application was received on the date stamped here: Jilian A. Morton, Esq. as Attorney for Aspen Blue Wareham, Inc.
Town Clerk: _____ Date: _____
Tax Collector: _____ Date: _____
Planning/Zoning Dept.: _____ Date: _____
Application fee paid: _____ Check #: _____ Receipt: _____
Advertising fee paid: _____ Check # _____ Receipt: _____
Abutters fee paid: _____ Check # _____ Receipt: _____

TOWN OF WAREHAM

APPLICANT/CONTRACTOR/REPRESENTATIVE INFORMATION SHEET

Check Applicable: _____ Variance Special Permit _____ Site Plan _____ Appeal _____

Date stamped in: _____ Date decision is due _____

Applicant's Name: Aspen Blue Wareham, Inc. c/o Attorney Jilian A. Morton, Esq.

Applicant's Address: 20 Centerville Road, Warwick, RI 02886

Telephone Number: 508-295-2522

Cell Phone Number: _____

Email Address: jam@mortonlawllc.com

Address of Property/Project: 8 Elm Street, Wareham, MA- Building 3, Section 1

Landowner's Name: Wareham Board of Selectman

Owner's Address: 54 Marion Rd #5, Wareham, MA 02571

Telephone Number: 508-291-3101

Contact Person: Attorney Jilian A. Morton Telephone Number: 508-295-2522

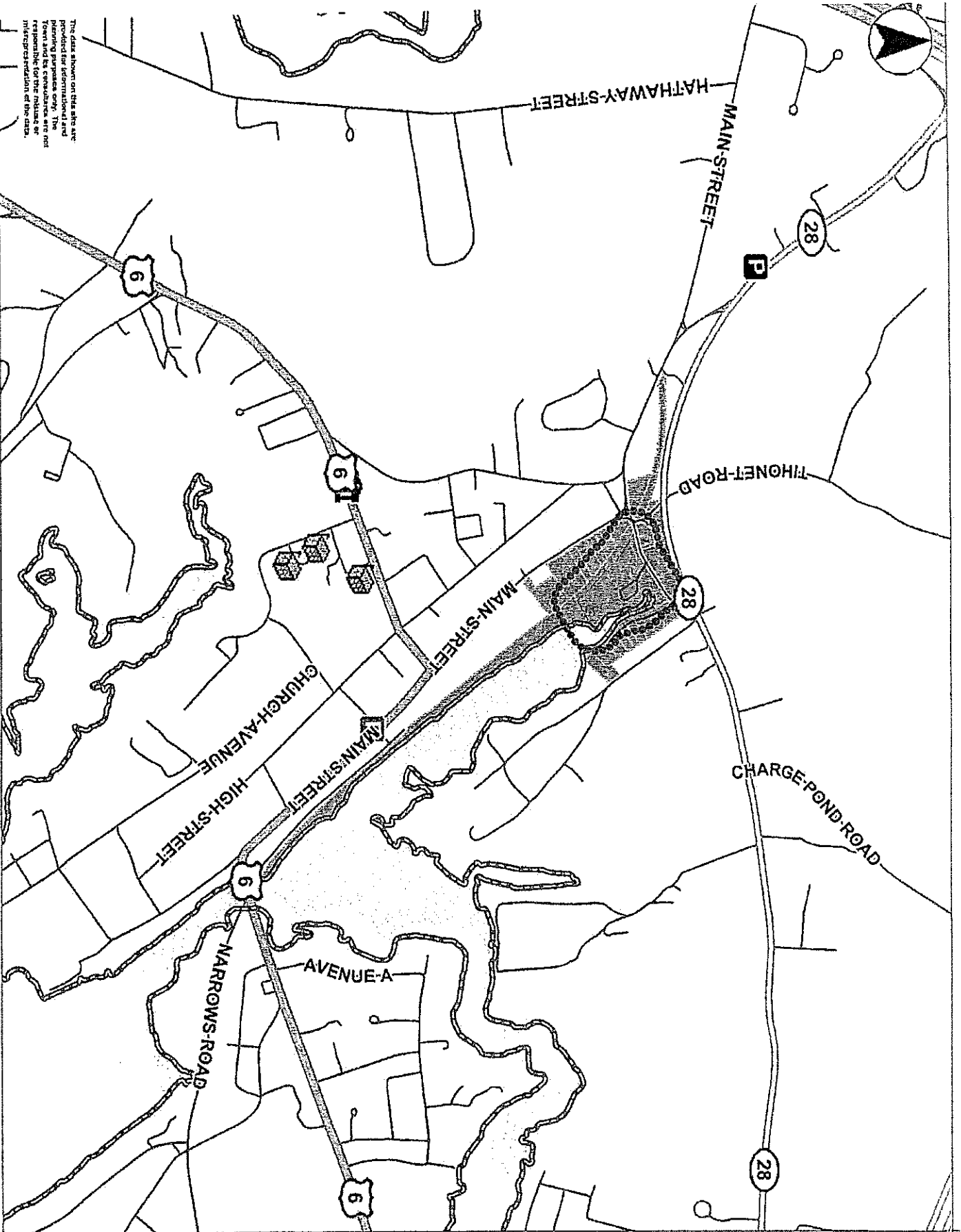
Map 132 Lot A1 Zone Tremont Nail Factory
Redevelopment Overlay District

Date Approved _____ Date Denied _____

Comments: _____

EXHIBIT B

TOWN OF WAREHAM ABUTTERS									
MAP 132 LOT A1									
OWNER TOWN OF WAREHAM									
MAP & LOT	OWNER	CO-OWNER	STREET ADDRESS	TOWN	STATE	ZIP CODE			
61-1209	COMMONWEALTH OF MASS	EXEC OFFICE OF TRANS & CONST	10 PARK PLAZA RM 3170	BOSTON	MA	02116			
109/A-2-1050	KASPAR PAUL F		2565 GRAN HWY	WAREHAM	MA	02571			
132-1000/A	MILL POND STATION LLC		158 THONET RD	WAREHAM	MA	02571			
61-1013	WAREHAM HISTORICAL SOCIETY INC		PO BOX 211	WAREHAM	MA	02571			
132-1000/B	SEA LAVENDER LLC	C/O JOSEPH ZEADY	PO BOX 91	ONSET	MA	02558			
61-1014/B	WESLEY UNITED METHODIST CHURCH	OF WAREHAM	PO BOX 729	WAREHAM	MA	02571			
61-1016	MAKEPEACE COMPANY A D		158 THONET RD	WAREHAM	MA	02571			
132-B1	ASSAD SANDRA A TRUSTEE OF THE	SCS REALTY TRUST	PO BOX 3085	WAREHAM	MA	02571			
132-A1	TOWN OF WAREHAM		54 MARION RD	WAREHAM	MA	02571			
61-1024	SYLVIA MARTHA		447-449 MAIN ST	WAREHAM	MA	02571			
132-W1	MICHELS G SCOTT	HOWELL GREGORY J	651 LUNNS WAY	PLYMOUTH	MA	02360			
132-1044	DESCOUSA JOYCE TRUSTEE		289 ALDEN RD	FAIRHAVEN	MA	02719			
132-1048	BEAN DAVID J		6 SWAN LANE	WAREHAM	MA	02571			
132-1049/A	LORRAINE SCOTT F	LORRAINE MELODY S	10 SWAN LANE	WAREHAM	MA	02571			
132-1049/B	ESTES GEORGE A JR	ESTES CLAUDETTE G	12 SWAN LANE	WAREHAM	MA	02571			
132-1087	TREMONT NAIL LIMITED PARTNERSHIP	C/O MELANIE KENYON	PO BOX 306	WAREHAM	MA	02571			
132-1050/A	BREBERG CAROL D		16 SWAN LANE	WAREHAM	MA	02571			
132-1050/B	PILSBURY CHARLES H		25 MAYFLOWER RIDGE DR	WAREHAM	MA	02571			
CERTIFIED ABUTTERS AS THEY									
APPEAR ON OUR TAX ROLLS									
AS OF 4/30/2021									
<i>W. Rock Glass</i>									
ASSESSORS OFFICE									
REQUESTED BY									
JILIAN MORTON									
JAM@MORTONLAWLLC.COM									



The data shown on this site are provided for informational and planning purposes only. The Town and its constituents are not responsible for any errors or misrepresentation of the data.

1600

3200 ft

Printed on 09/18/2021 at 10:09 AM

MapOnline by PeopleGIS

- MA Place
- Fire Station
- Police Station
- Town Hall
- Public Library
- School
- Building
- Public
- Private
- ESD
- Town Boundary
- MA Highway
- Interstate
- US Highway
- Numbered Road
- Street
- Stream
- Barren Area
- 5-10 ft
- 10-15 ft
- 15-20 ft
- 20-30 ft
- 30-40 ft
- 40-50 ft
- 50-60 ft
- 60-70 ft
- 70+ ft
- Adjacent Town Labels
- Adjacent Towns
- Water

EXHIBIT C

90932
Received & Recorded
PLYMOUTH COUNTY
REGISTRY OF DEEDS
TO JUN 20 2004 11:53 AM
JUN 18 2004 11:53 AM
REGISTER
By 2856d Pg 277 204

Quitclaim Deed

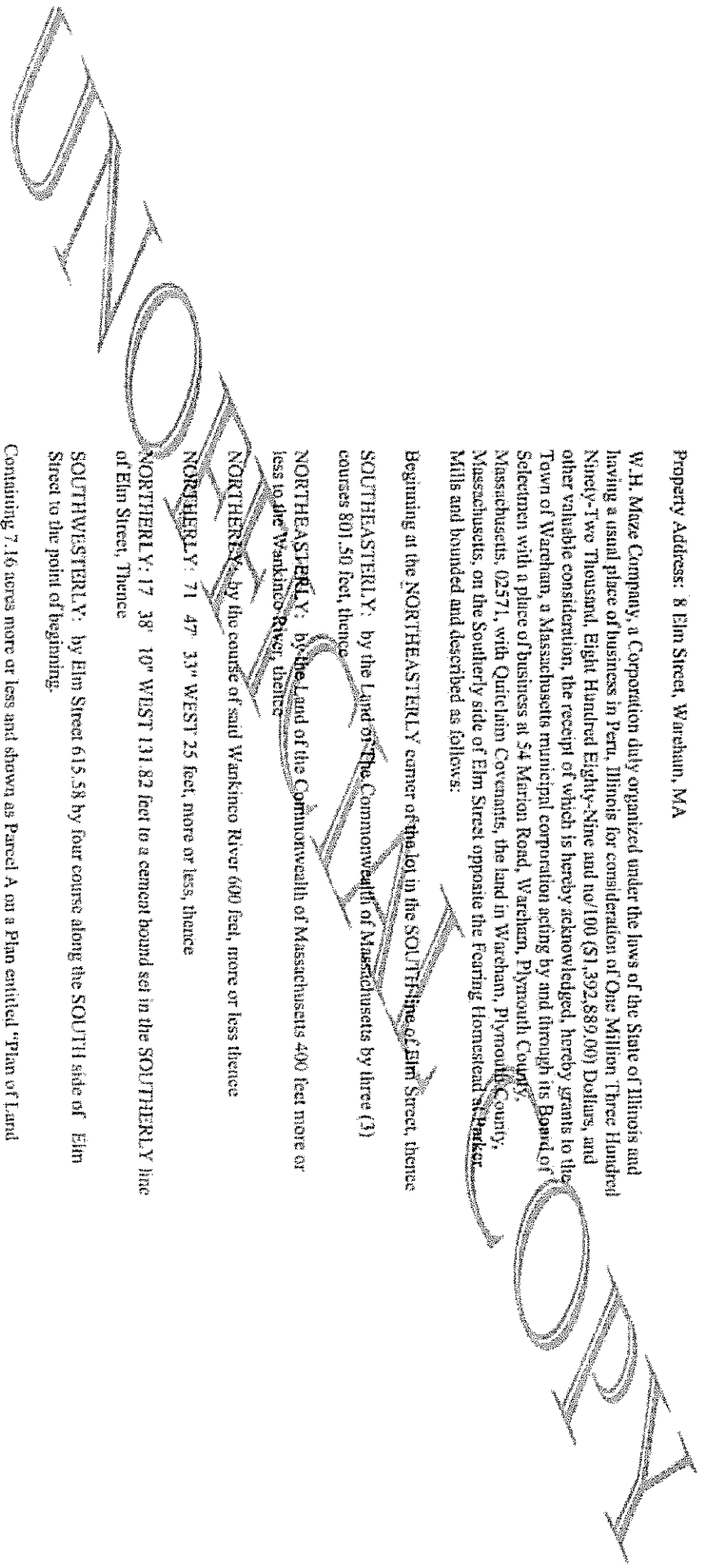
Property Address: 8 Elm Street, Wareham, MA

W. H. Mize Company, a Corporation duly organized under the laws of the State of Illinois and having a usual place of business in Peru, Illinois for consideration of One Million Three Hundred Ninety-Two Thousand Eight Hundred Eighty-Nine and no/100 (\$1,392,889.00) Dollars, and other valuable consideration, the receipt of which is hereby acknowledged, hereby grants to the Town of Wareham, a Massachusetts municipal corporation acting by and through its Board of Selectmen with a place of business at 54 Marion Road, Wareham, Plymouth County, Massachusetts, 02571, with Quitclaim Covenants, the land in Wareham, Plymouth County, Massachusetts, on the Southerly side of Elm Street opposite the Fearing Homestead at Barker Mills and bounded and described as follows:

Beginning at the NORTHEASTERLY corner of the lot in the SOUTH side of Elm Street, thence SOUTHEASTERLY, by the Land of The Commonwealth of Massachusetts by three (3) courses 801.50 feet, thence NORTHEASTERLY, by the Land of the Commonwealth of Massachusetts 400 feet more or less to the Wankinco River, thence NORTHERLY, by the course of said Wankinco River 600 feet, more or less thence NORTHERLY, 71' 47" 33" WEST 25 feet, more or less, thence NORTHERLY, 17' 38" 10" WEST 131.82 feet to a cement bound set in the SOUTHERLY line of Elm Street, Thence SOUTHWESTERLY, by Elm Street 615.58 by four courses along the SOUTH side of Elm Street to the point of beginning.

Containing 7.16 acres more or less and shown as Parcel A on a Plan entitled "Plan of Land Prepared for Tremont Nail Limited Partnership, Elm Street, Wareham, Massachusetts", dated February 9, 1989 and drawn by Britman Engineering Company Limited, Civil Engineers and Surveyors recorded in Plymouth County Registry of Deeds in Plan Book 32, Page 229.

Subject to a 30' wide easement to Commonwealth Electric Company and New England Telephone and Telegraph Company as shown on said Plan.



For Grantor's title deed of Melaine S. Johnson, General Partner, Fremont National Partnership, to W. H. Maze Company dated April 4, 1989, and recorded with said Deeds in Book 9104, Page 167.

This deed has been accepted by the Town of Wreaham pursuant to the Acceptance and certified Town Meeting vote, each of which is attached hereto and incorporated herein by reference.

The undersigned certifies that there has been full compliance with the provisions of G.L. c. 7 §401. No deed stamp taxes are due on this conveyance pursuant to G.L. c. 640, §1.

This sale does not constitute a transfer of all or substantially all of the assets of the Grantor.

WITNESS my hand and seal this 29th day of June, 2004.

W. H. Maze Company

By: Peter M. Loveland
Peter M. Loveland, President

By: Peter M. Loveland
Peter M. Loveland, Treasurer

STATE OF ILLINOIS

Last filed 5/21/04

On this 29th day of June, 2004, before me, the undersigned notary public, personally appeared Peter M. Loveland, to me known to be the President and Peter M. Loveland, to me known to be the Treasurer, and the persons executing these presents on behalf of W. H. Maze Company; the parties executing the foregoing instrument, and proved to me through satisfactory evidence of identification, which were personal knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public:

My comm'n expires:

William R. Radtke



WREAHAM NATIONAL PARTNERSHIP

The Town of Wareham, acting by and through its Board of Selectmen, pursuant to the authority granted by the vote under Article 26 of the April 26, 2004 Annual Town Meeting, a certified copy of which vote is attached hereto, hereby accepts the foregoing deed on this 23rd day of June, 2004.

TOWN OF WAREHAM
By its Board of Selectmen

[Signature]
Patrick G. Tropeano, Chairman

[Signature]
Bruce D. Sawyeau, Clerk

[Signature]
Cynthia K. Chamberlain

[Signature]
R. Kenda Fernandes-Abbon

[Signature]
Marilyn M. Phillips

COMMONWEALTH OF MASSACHUSETTS

Plymouth

On this 23rd day of June, 2004, before me, the undersigned notary public, personally appeared LEONARD E. STORAPARDO of the Board of Selectmen of the Town of Wareham, and provided to me through satisfactory evidence of identification, which were Presented by KENNARD to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as member of the Board of Selectmen of the Town of Wareham.

[Signature]
Notary Public

My Commission expires: November 23, 2007





TOWN OF WAREHAM
54 MARION ROAD
WAREHAM, MASSACHUSETTS 02571

TOWN CLERK

APRIL 28, 2004

I hereby certify the following to be the vote on ARTICLE TWENTY-SIX of the ANNUAL TOWN MEETING convened on April 26, 2004, reconvened and voted on April 27, 2004:

ARTICLE 26

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain, or otherwise, for historic preservation purposes under the Community Preservation Program, the fee or other interests in land located at Elm Street in the Town of Wareham, Massachusetts shown as Assessors Map 132, Lots A1, containing 7.16 acres more or less, and lot W2, containing .57 acres more or less, more fully described in a deed recorded in the Plymouth Registry of Deeds in Book 9104 Page 167, said land to be held, managed, and controlled by the Town and, provided further, that management of such property may be delegated to the Wareham Historical Commission, and/or the Wareham Economic and Community Development Corporation, a nonprofit organization, and as funding therefore to raise and appropriate, transfer from available funds, transfer from the Community Preservation Fund, and/or borrow a sum of money pursuant to G.L. c. 44B or any other general or special law for said acquisition and to authorize the treasurer with the approval of the Board of Selectmen to issue any bonds or notes that may be necessary for that purpose. And further to authorize the Board of Selectmen to convey concurrently at the closing and in perpetuity a historic preservation restriction pursuant to G.L. c. 184, § 31-33; or take any other action relative thereto.

passed by the Board of Selectmen at the request of the Community Preservation Committee

MOTION: I move the Town vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain, or otherwise, for historic preservation purposes under the Community Preservation Program, the fee or other interests in land located at Elm Street in the Town of Wareham, Massachusetts shown on Assessors Map 132, Lots A1, containing 7.16 acres more or less, and lot W2, containing .57 acres more or less, more fully described in a deed recorded in the Plymouth Registry of Deeds in Book 9104, Page 167, said land to be held, managed, and controlled by the Board of Selectmen and, provided further, that management of such property may be delegated to the Wareham Historical Commission, and/or the Wareham Economic and Community Development Corporation, a not for profit corporation, as the funding therefore to transfer from the Community Preservation Fund the amount of \$126,584, and borrow the amount of \$1,265,930 pursuant to G.L. c. 44B or any other general or special law for said acquisition, and to authorize the treasurer with the approval of the Board of Selectmen to issue any bonds or notes that may be necessary for that purpose. And further to authorize the Board of Selectmen to convey concurrently

at the closing and in perpetuity a historic preservation restriction pursuant to G.L. c. 184, § 31-33.

COMMUNITY PRESERVATION REPORT:

Mr. Larry Stiller, member of the Community Preservation Committee, gave the body the following report on the land in question. The Community Preservation Committee, the Land Trust, the Historic Commission and many other groups are very excited about this particular property. We think it is an important historical piece with unlimited possibilities. As you mentioned there is seven acres here and as you can see seven hundred feet along the Wankinco river there, about 800 feet of road frontage, and 48,000 square feet of usable building space. It also contains one of the, if not the oldest, continuously operating business in Southeastern Massachusetts. Now, this property will eventually be passed, be owned by the Town, and it will be managed by a local non-profit group of varied interests appointed by the Board of Selectmen. Now this has been a long negotiation with the owners, and I think we've negotiated an exceptional price. We got the price down, and actually I personally spent several months working with the owners to get them to donate one or both of the historical buildings. Those in the national historical trust take the tax credit that they get for that and apply it to further reduce the price of the property. After about two or three months, they came back and agreed to do that. So we think we have a very favorable price here. We also think this is a unusual opportunity because with the financing here we have at least five years to come up with a long-term plan for the multiple use of this property. There is so many possibilities that we will have a lot of time to really think this thing through. We have also a minimum of, not limited by, but a minimum of two years rental from the rail company and some storage facilities, and we will receive more than enough money for two or three years to pay the maintenance cost. The Community Preservation Committee has already voted to pay the interest for as long as the bond is out there so that no further bonds need to be committed. We also feel that there is a great opportunity here for private funding. We already have interest for land raising to help further pay for this. There are opportunities for private business development here. There are enormous numbers of public funds that are available on the state and federal levels for historic preservation, for restoration or for reuse of commercial properties. There are recreation funds, we have already approached Fish and Game who are very interested because of the fish run, and the possibility, obviously, it's a good canoe and kayak launch facility as well. We also, if you look at this in connection with the other warrant articles that are coming up afterwards, this completes a potential public access corridor that goes from the current Minot Forest through the Bryant Farm property, which is next, along behind the town, with the proposal along the railroad tracks to create the walkway right up to the Tremont Nail property with access from the property from the Wankinco to other rivers, Wareham and Agawam. We also think that this could potentially be a destination site. The family that's done such a good job with the Company Store across the street. We also have the possibility, this is an historic site, for visitation. There are numerous recreation opportunities. There's a lot of interest in establishing a museum there. The owners are going to give us a good part of the equipment. I don't know if you have ever taken a tour, but we were watching this done and they told us that the newest piece of equipment that they need to actually do the nails goes back to 1862. So if you have never taken the tour, it is fascinating.

so part of this could be devoted to the museum, as there's an enormous amount of interest for seeing

the funds just to do that part of it. There is also plenty of business opportunities with 48,000 square feet there. Including some traditional more historic businesses, i.e., woodworking, pottery, etc. There's a lot of opportunities for office space. It could be town office space, non-profit or actually leased out for office space. Also during the time that we are in control of this, we'll keep the jobs there. The company has agreed, with a lot of arm twisting, to keep that mill factory there for at least two years. They are committed for that. And if they decide to leave, we tried to get them to sign an option to let the people in town purchase the business if they leave, there's a lot of interest in that, they wouldn't commit to that, but we made that clear to them that we would like to have local ownership. So in conclusion, I think there is extraordinary enthusiasm for this property. It's a unique opportunity for the town to preserve I think one of the most important historical sites that we have. Thank you.

VOTE: UNANIMOUS - FAVORABLE ACTION

A TRUE COPY, ATTEST:

Mary Ann Silva

MARY ANN SILVA
TOWN CLERK

UNANIMOUS FAVORABLE ACTION



CERTIFICATE OF CORPORATE VOTE

I, James M. Royston, under oath do hereby certify as follows:

1. I am the duly elected and qualified Clerk/Secretary of W. H. Maza Company, a Illinois corporation having its usual place of business in Peru, Illinois.

2. A joint meeting of the shareholders and directors of the Corporation was duly called and held in the offices of the Corporation on

3. The following is an exact excerpt of a resolution unanimously adopted by the Directors and Shareholders at said meeting:

VOTED: That the Corporation, by its President, Kevin M. Loveland and by its Treasurer, Peter M. Loveland, are hereby authorized to sell the real estate identified as Parcel A on a Plan entitled "Plan of Land Prepared for Tremont Mall Limited Partnership, Elm Street, Wareham, Massachusetts", dated February 9, 1989 and drawn by Branch Engineering Company Limited, Civil Engineers and Surveyors, recorded in Plymouth County Registry of Deeds in Plan Book 32, Page 229 to the Town of Wareham, acting by and through its Selectmen, for the sum of One Million Three Hundred Ninety Two Thousand, Eight Hundred Eighty-Nine and no/100ths (\$1,392,889.00) Dollars under such terms and conditions as the President and Treasurer deems appropriate.

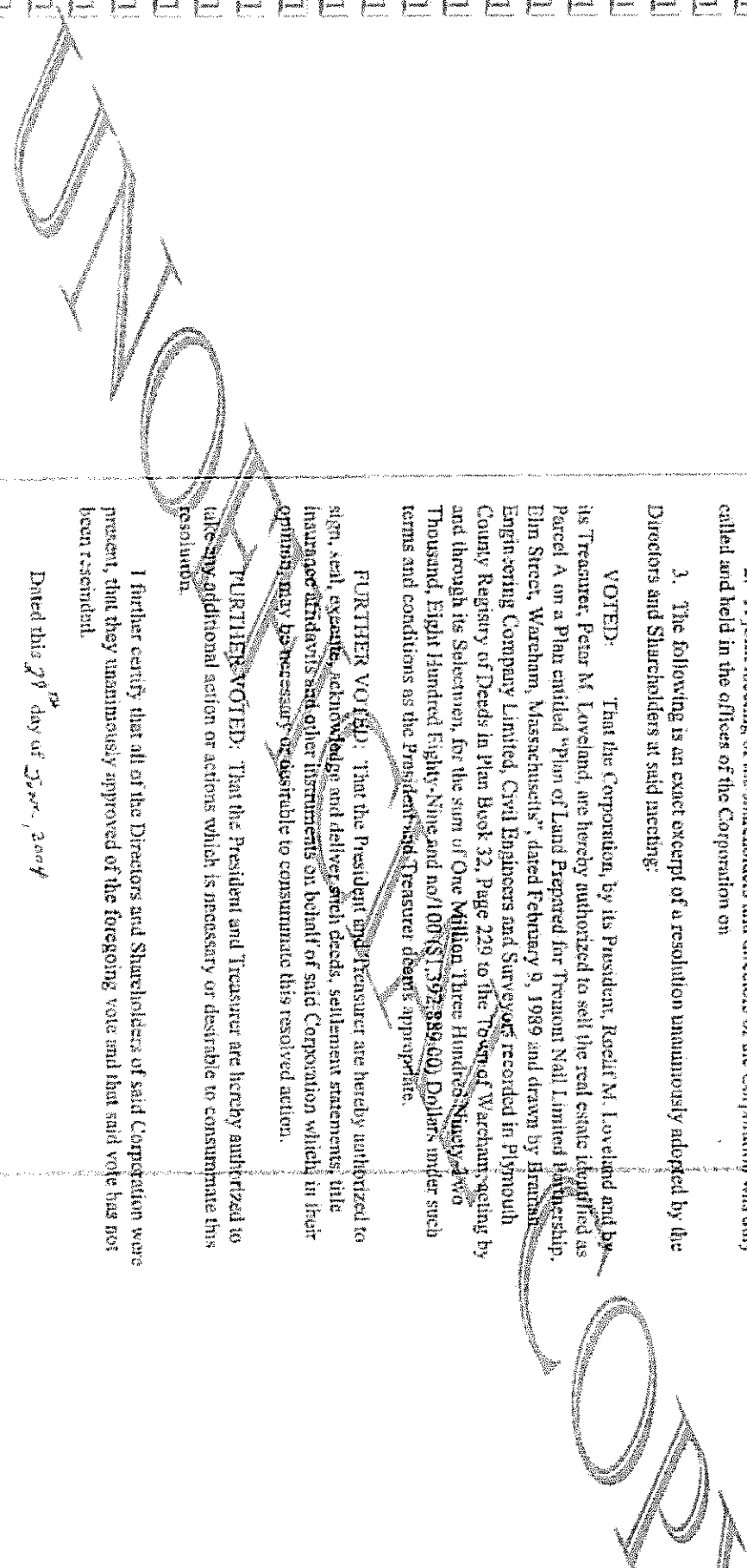
FURTHER VOTED: That the President and Treasurer are hereby authorized to sign, seal, execute, acknowledge and deliver such deeds, settlement statements, title insurance commitments and other instruments on behalf of said Corporation which in their opinion may be necessary or desirable to consummate this resolved action.

FURTHER VOTED: That the President and Treasurer are hereby authorized to take any additional action or actions which is necessary or desirable to consummate this resolution.

I further certify that all of the Directors and Shareholders of said Corporation were present, that they unanimously approved of the foregoing vote and that said vote has not been rescinded.

Dated this 29th day of June, 2007

James M. Royston
James M. Royston, Clerk/Secretary



STATE OF PENNSYLVANIA

Allegheny County

* 03

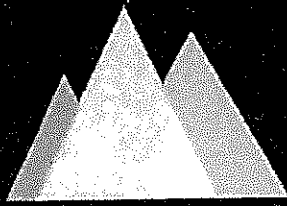
On this *29th* day of June, 2004, before me, the undersigned notary public, personally appeared James M. Royston, to me known to be the Clerk/Secretary, and the person executing this presents on behalf of W.H. Mazze Company, the parties executing the foregoing instrument, and proved to me through satisfactory evidence of identification, which was *2 PA Drivers License* the person whose name is signed on this document, and acknowledged to me that he signed it voluntarily for its stated purpose. to be

Notarial Seal
Vicki Vento, Notary Public
Of Hans Twp., Allegheny County
My Commission Expires Apr. 18, 2005
Member Pennsylvania Association of Notaries

[Signature]
Notary Public:
My comm'n expires:

W. H. MAZZE COMPANY

EXHIBIT D



ASPEN BLUE

*** ORIGINAL ***

72 Pine Street | Providence, Rhode Island 02903

Contact:

Patrick Casey | 401-633-4984

Matthew Wilkes | 401-286-2119

TOWN OF WAREHAM REQUEST FOR PROPOSALS

Lease of 8 Elm Street

STEEL SPACE BUILDING

TOWN ADMINISTRATOR

Memorial Town Hall

54 Marion Road

Wareham, MA 02571

NOVEMBER 10, 2020

TABLE OF CONTENTS

01 ABOUT ASPEN BLUE

Company Overview & Financial Stability	04
Executive Management Team	06
Relevant Project Experience	08
Company References	09

02 PROJECT APPROACH & SCOPE

Approach & Overview	11
Scope Of Services	18

03 PRICE PROPOSAL

Breakdown Per Form Provided	28
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04 APPENDICES/REQUIRED FORMS

Certificate Of Non-Collusion	30
Certification of Tax Compliance	31
Compliance Certification	32
Non-Discrimination and Affirmative Action Certification	33

FINANCIAL STABILITY



Damiano & Company

Certified Public Accountants

November 9, 2020

Town of Wareham
Town Administrator
Memorial Town Hall
54 Marion Road
Wareham, MA 02571

Re: Aspen Blue, LLC / Wareham Steel Building RFP

To The Town Administrator:

We handle monthly accounting and reporting for Aspen Blue, LLC and its affiliates. The company has substantial balance sheet equity (over \$939,000) and minimal debt, with more than adequate cash on for its MA cannabis initiatives. It is presently funding construction of its Cape Cod store with cash.

Regards,

Steven Damiano CPA

Steven Damiano, CPA

200 Centerville Road ~ Suite #1 ~ Warwick, RI 02886 ~ 401.942.4000 ~ www.damianocpa.com

EXECUTIVE MANAGEMENT TEAM (CONTINUED)

ANDREW WILKES

Chief Financial Officer (Interim)

Mr. Wilkes started his career in accounting as an auditor for a Big 4 CPA firm, and formed his own recruiting company in 1990, focusing on the financial sectors. For the past 20 years, he has served as CFO and CEO of a multi-state employment agency with over 1,000 employees, which has experienced top line growth virtually every year. He is a prudent and successful investor, in a wide range of fields including real estate and cannabis. Mr. Wilkes holds a BS degree (Business Administration) from Bryant College, where he graduated Magna Cum Laude, and is a member of Aspen Blue, LLC.

RUSS ADAMS

VP, IT/Security

Mr. Adams spent two decades as the Director of Security Operations at Foxwoods Resort Casino, where he was responsible for 600 employees and a \$30 million budget. His scope of duties at Foxwoods included both physical security and digital/electronic security encompassing communications, information technology, video surveillance and integrated alarm systems. He retired from Foxwoods after 20 years and performed security consulting for area universities and businesses, while also serving as a civilian employee within the Warwick Police Department where he managed background investigations.

ZACHARY CATTAN

Director of Extraction

With a Bachelor's degree in Science, Engineering from the University of Vermont, Zachary Cattan will direct and oversee the extraction and manufacturing process for Aspen Blue. Mr. Cattan is one of most respected extraction experts in the industry. After serving as Project Manager and Extraction Lab Director for Revolutionary Clinics (Fitchburg, MA), Mr. Cattan now manages the design, build-out and start-up of new facilities for select cannabis operators and will take on the role of Director of Extraction for Aspen Blue. His team has distilled oil and created thousands of products for medical/adult use.

MARCY LEVENTHAL

Products and Compliance Advisor

A 20 year veteran of the regulated marijuana industry and co-owner of a manufacturing license in Sacramento, CA, IMJ, Partners, Inc., Marcy will provide strategic guidance to Aspen Blue. Her extensive knowledge of the process for creating and branding manufactured products, the requisite data capture and compliance will help steer production goals and procedural plans for the Aspen Blue manufacturing facility.

RACHEL CROSS

VP, Retail Operations

Ms. Cross joined Aspen Blue in March 2020, after having spent 2 years as Regional Manager for a Canadian cannabis company entering the Massachusetts market. Prior to that, she spent several years in Colorado as the General Manager and Senior Sales Consultant for a well-known medical and recreational marijuana retailer. She will initially be responsible for coordinating all store openings, eventually supervising day-to-day operations at Aspen's three stores.

JULIO VASQUEZ

VP, Retail Operations

Mr. Vasquez began his career in the marijuana industry at Thomas C. Slater Compassion Center as a curer 4 years ago, quickly rising to Manager of Packaging and Labeling, and then Inventory Manager. His weekly responsibilities include packaging in compliance with state regulations, procurement and maintaining relations with vendors, management of sales team, product tracking, internal liaison between departments, training of sales floor and inventory personnel, and product inspection for health/safety. Mr. Vasquez held many consultations with patients where he advised them on the differences of effects from various methods of consumption, and his focus at Aspen will be inventory management.

COMPANY REFERENCES

Dennis Colwell, Jr. RA, NCARB

Dennis Colwell Architects, Inc.

132 Central Street, Suite 203

Foxborough, MA 02035

www.dc-architect.com | dennis@dc-architect.com

T 508.241.2122 x100 | F 508.455.4466

Pannone Lopes Devereaux & O'Gara LLC

Benjamin L. Rackliffe

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Abbey Friedler, Esq.

One Beacon Street, Suite 1320

Boston, MA 02108

AFriedler@barrettsingal.com | www.barrettsingal.com

T 617.598.6700 | F 617-722-0276

Bentley Builders LLC

Jason Pannone

20 Centerville Road, Suite 2

Warwick, RI 02886

jpannone@bbuildllc.com

T 401.578.6063

Additional references available upon request.



OUR APPROACH & OVERVIEW



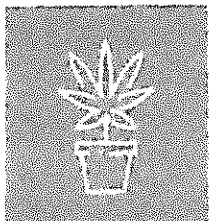
Aspen Blue will run vertical operations in Massachusetts, cultivating, producing and selling the finest products produced in the Commonwealth. In Wareham, Aspen Blue will manufacture the best quality cannabis extractions and cannabis products utilizing time-tested manufacturing techniques, top-of-the-line extraction and manufacturing equipment, experienced operators, and compliant procedures.

The company will operate with the intention of producing and distributing safe, pure, accessibly priced cannabis medicated and adult-use products to Commonwealth customers.

LONG-TERM BUSINESS OBJECTIVES

Through the success of its vertical marijuana operations, Aspen Blue will utilize its operating experience and business acumen in the Northeastern region of the United States to create a nationally acclaimed brand of marijuana and marijuana products.

Aspen Blue will cultivate marijuana, produce marijuana infused products, sell them at its dispensary operations, and distribute the products for sale at strategic partner retail facilities located outside the geographical areas of its internal facilities.



PRODUCTS AND SERVICES

Aspen Blue will use marijuana of the highest quality at its state-of-the-art manufacturing facility to create extractions and manufactured products in accordance with state mandated Good Manufacturing Practices (GMPs). Services will include educational product training to all entities that purchase Aspen Blue products.

EXTRACTIONS

These products are created using CO2 to extract cannabinoids such as THC and CBD. Cannabinoids are the medicinally therapeutic and beneficial compounds found in the plant. This allows for more controlled formulations and higher cannabinoid levels than those traditionally found in raw flowers.

WAX: extraction that yields crystallized molecules, softer in texture and opaque in appearance

BUDDER: generally made using an CO2 extraction process; it is sticky and smooth with a high moisture content.

CRUMBLE OR HONEYCOMB: crumbly and dry, low moisture content wax.

SHATTER: extraction which yields undisturbed molecules, harder in texture and a glass-like transparency ranging from yellow to dark amber.

OIL: extraction which yields undisturbed molecules, liquid in texture and a glass-like transparency ranging from yellow to dark amber.

LIVE RESIN: Fresh, frozen whole cannabis flowers that have not been subject to any drying or curing, yield this extraction which is more robust in flavor and generally yellow and crystalline in appearance.

SOLVENTLESS EXTRACTIONS

These products are created without using hydrocarbon solvents to extract the chemical compounds (THC, CBD) of the plant. This allows for more controlled formulations and higher cannabinoid levels than those traditionally found in flowers, along with zero residual solvents present.

CLEAR CONCENTRATE: an extraction technique for decarboxylated cannabinoids using fractional distillation. It is extremely pure and offers a very pleasant, smooth and enjoyable vapor that is often enhanced with reintroduced fruit terpenes.

ROSIN: an extraction technique that separates trichomes from cannabis using heat and pressure.



SUPPLY & DISTRIBUTION

The company plans to enter into a Host Community Agreement with the Town of Wareham to operate a manufacturing facility and produce top-tier products. The source material for extraction will come primarily from internally produced marijuana from Aspen Blue's two cultivation facilities in proximity to Wareham. The finished marijuana extractions and products will supply its licensed retail facilities and other licensed entities across the Commonwealth. Additionally, Aspen Blue will obtain a Special Permit from the Town of Wareham to operate its manufacturing facility. When Aspen Blue obtains full approval from the Town of Wareham, it will submit to the Massachusetts Cannabis Control Commission for licensure at the state level.

Aspen Blue Wareham will specialize in producing several specific types of manufactured marijuana products that will allow the company to optimize efficiency and production. This model allows the company to maintain complete quality control on all internally produced marijuana products.

From a production standpoint, the company's main obligation will be to successfully meet the demand of its own retail facilities and other licensed Commonwealth facilities, so there is a sufficient supply of products available for customers throughout the state. By selecting equipment that can process an abundance of biomass and manufacturing equipment that automates a substantial amount of work during the manufacturing process, Aspen Blue will ensure its production output meets customer demand.

DELIVERIES

Deliveries will be received at the Receiving dock, which will be protected by a sally port that would only be utilized if the vehicle was too large to enter into the building. All intake will be conducted and verified in a separate area prior to being added to the Aspen Blue general inventory. All shipments will adhere to strict chain-of-custody protocols and will be loaded indoors in the shipping area, into smaller "sprinter" like vehicles. Any transfers of cannabis will be overseen by the security supervisor on duty.



DATA SECURITY

The company will utilize an industry specific business management platform in conjunction with other programs such as Microsoft Office, QuickBooks and others deemed appropriate. These systems will enable the company to automate procedures and record all relevant data, while reducing the potential for human errors.

Aspen Blue will operate transparently, through the use of a data management system (DMS). Not only will DMS reports provide a complete digital overview of the company, they will also act as a communication and planning tool. These systems will allow the company to identify operational strengths and weaknesses through various reports, such as revenue reports, inventory reports, employee performance records, extraction and manufacturing reports, customer data, etc. This data will help the company improve its business processes and operations.

The company will select a comprehensive cloud-based inventory & information management system which has demonstrated success with legal marijuana businesses and bank-level encryption. The business management platform will offer the company intuitive tools for the management of raw materials, product testing, production costs, and task delegation to easily handle extraction, manufacturing, packaging and distribution. The platform will perform multiple functions for the company, including production costing, employee & task scheduling, state compliant labeling, state compliance reporting & integration, integrated test results, time clock, multi-location support, and custom reporting. It will also communicate directly with METRC, the state-required tracking system.



FINANCIAL CONSIDERATIONS

Aspen Blue has considerable experience working with municipalities. In addition to lease payments, the Town of Wareham will receive 3% of Aspen's gross revenues from this manufacturing facility. Aspen Blue Wareham's projected annual revenues are \$8,040,000. Therefore, the Town of Wareham would receive \$241,200 annually to be used at the municipalities discretion in addition to its lease payments. Additionally, Aspen Blue will donate \$25,000 to local charitable organizations, selected in conjunction with the town, that directly benefit the Wareham community.

Additional financial details available upon request.



OUR SCOPE OF SERVICES

CURRENT GOOD MANUFACTURING PRACTICES (CONTINUED)

MANUFACTURING AREAS

The manufacturing area is suitable in size, design, and construction for safe manufacturing operations. The Director of Manufacturing shall not permit any operation in the department that is unsafe or unsuitable for the facility. Operations will have sufficient space as to promote safe and orderly processes and prevent constituent mix-ups. If a condition exists that prohibits the safe and sanitary manufacturing of medical marijuana products, the Director of Manufacturing, in his or her discretion may suspend manufacturing operations until resolved.

ENVIRONMENTAL CONTROLS

The company will provide adequate ventilation equipment such as filters, fans, exhausts, dust collection, and other air-blowing equipment, that minimizes odors, dust, and vapors (including steam and noxious fumes) in areas where they may contaminate product constituents or contact surfaces. Manufacturing Associates must utilize equipment that controls temperature, humidity, and/or microorganisms as necessary to ensure the quality of the medical marijuana product.

DAILY WALK THROUGH INSPECTIONS

The Director of Manufacturing or designee will visually inspect all manufacturing areas daily to identify potential hazards. The inspection shall cover at a minimum an assessment of the condition of:

- Floors, walls, and ceilings must be clean and in good repair;
- Fixtures, ducts, and pipes must not contaminate product constituents or contact surfaces by dripping, other leakage, or condensation;
- Aisles or working spaces between equipment must be adequately unobstructed and permit all persons to work and protect against contamination of constituents, contact surfaces, and garments.

SANITATION REQUIREMENTS

The company will provide adequate ventilation equipment such as filters, fans, exhausts, dust collection, and other air-blowing equipment, that minimizes odors, dust, and vapors (including steam and noxious fumes) in areas where they may contaminate product constituents or contact surfaces. Manufacturing Associates must utilize equipment that controls temperature, humidity, and/or microorganisms as necessary to ensure the quality of the medical marijuana product.

UV sterilization door strips and dip tanks will be installed in critical locations throughout the manufacturing facility. Frequent hand-washing is necessary in all manufacturing activities and must be enforced by the Director of Manufacturing. Employees that do not comply with hand-washing requirements may be terminated.

OUR SCOPE OF SERVICES

CURRENT GOOD MANUFACTURING PRACTICES (CONTINUED)

- Before any work period;
 - After any break; and
 - At any other time when the hands may have become soiled or contaminated during manufacturing processes.
-
- No removable jewelry may be worn during work;
 - Gloves are required for handling product constituents at risk for contamination. The gloves must be of an impermeable material;
 - Hair nets, caps, beard covers, or other effective hair restraints must be used when necessary;
 - Product constituents should be stored in clean and safe conditions according to the item's needs away from employee personal effects, cleaning supplies, and other products;
 - Personal food items, chewing gum, drinking beverages, and use of tobacco products in manufacturing areas is prohibited;
 - Every employee is required to take any other precaution necessary to protect against the contamination of medical marijuana products; and
 - Every employee is required to take any precaution necessary to maintain the security of the facility, to prevent unauthorized access to controlled access areas, and to maintain strict control of all medical marijuana in storage and in-process.

EXTRACTION PRODUCT SAFETY AND TRAINING

The Director of Manufacturing is responsible for ensuring all employees are properly trained to execute all manufacturing emergency procedures. Employees directly involved with extraction equipment or processes must undergo thorough training of each emergency procedure. This includes training employees to carefully assess the situation before approaching any potential safety hazard. Each employee is required to wear the appropriate protective clothing when producing extractions or working with extraction equipment, including lab coats, protective eyewear, gloves, hair nets, and facial hair nets.

The Director of Manufacturing will post conspicuous maps indicating a safe escape route out of the facility in the event of any emergency. All employees will be trained how to properly disengage all extraction equipment in the event of an emergency.

OUR SCOPE OF SERVICES

CURRENT GOOD MANUFACTURING PRACTICES (CONTINUED)

CALCULATION OF YIELD

Actual yields and percentages of theoretical yield must be determined at the conclusion of each appropriate phase of manufacturing and processing. Such calculations are always performed by one person and independently verified by a second person; or, if the yield is calculated by automated equipment, may be independently verified by one person. If the percentage of theoretical yield at any process step or at the end of manufacturing falls outside the maximum or minimum percentage of theoretical yield allowed in the MPR, the manufacturing manager must conduct an investigation of the batch and determine, to the extent possible, the source of the discrepancy. The deviation must be documented, justified, and approved by the Director of Manufacturing.

PROCESS MONITORING DURING MANUFACTURING

Process specifications will be established by the Director of Manufacturing for manufacturing process parameters at or during any point, step, or stage where control is necessary to ensure the quality of the batch of medical marijuana product, and to detect any unanticipated occurrence that may result in contamination, adulteration, or a failure to meet specifications. Any deviation from the specified process parameters must be approved by the manufacturing manager, documented, and justified in the Procedure Variance Log.

MANUFACTURING FAILURES

Any unexplained occurrence or discrepancy, and any failure of the product to meet its specifications or requirements, must be documented and investigated. The investigation must extend to any related batches that may have been associated with the same specific failure, discrepancy, or problem; this may include, but is not limited to:

1. Batches of the same medical marijuana product,
2. Other batches processed on the same equipment or during the same time period, or
3. Other batches produced using the same lots of constituents or packaging constituents.

GRINDING PLANT MATERIAL

THC and strain specific materials will always be ground in separate and designated machines and at separate times to prevent the possibility of contamination. If contamination occurs, a manager should be notified so corrective action can be taken and a Corrective Action Report can be filed.

Before beginning grinding procedures, the Manufacturing Associate performing the task must sanitize the appropriate grinder in accordance with SOPs. Marijuana plant material will be ground in 5-pound increments

OUR SCOPE OF SERVICES

CURRENT GOOD MANUFACTURING PRACTICES (CONTINUED)

PRECIPITATION AND FILTRATION

Precipitation and filtration must occur at cool temperatures, with the kegs remaining in the blast proof freezer and the filtration equipment remaining within the negative air pressure laboratory. Manufacturing Associates must wear safety gear during precipitation and filtration processes including: gloves, facemasks, hair coverings, and scrubs or a lab coat. All pressurized canisters will be secured appropriately at all times with chains securing both the top and the bottom and the utilization of safety caps, when possible.

Before beginning filtration procedures, the Manufacturing Associate performing the task must sanitize filtration equipment and tools. Two Manufacturing Associates must verify that the correct keg of extracted oil has been selected by verifying the batch number against the batch production record. The Associates then attach the filtration intake hose to the extracted oil keg and attach the output hose to a clean Post Filtration Collection Keg. The other end of the intake hose is attached to the filtration machine and the output hose is attached to the output nozzle of the filtration machine. CO₂ is filtered out of the extracted oil through the filtration pump, with the pure filtered product moving to the Post Filtration Collection Keg. Manufacturing Associates must record the volume of CO₂ collected, the date, and time of completion on the Filtration Log and within the seed-to-sale software. Once the process is complete, Associates must disconnect all hoses and clean the equipment, tools, work surfaces, the empty keg, and floors around the equipment.

Manufacturing Associates must then drain any CO₂ byproduct into a clean and empty chemical waste container, label the container as CO₂ waste, and place the container in chemical waste storage for disposal. Medical marijuana plant material filtered from the extracted oil is also removed from the equipment, weighed and recorded, then placed in medical marijuana waste storage for disposal.

ROTARY EVAPORATION

Manufacturing Associates must wear safety gear during evaporation procedures including: gloves, facemasks, hair coverings, and scrubs or a lab coat.

Before beginning procedures, the Manufacturing Associate performing the task must sanitize the rotary evaporator and necessary tools. Two Manufacturing Associates then verify that the correct keg of filtered extracted oil has been selected by verifying the batch number against the batch production record. The Associates will fill the reaction vessel with the oil to be evaporated. The oil is then heated and agitated to allow the CO₂ within the oil to evaporate and collect within the receiving flask. After venting the system to release pressure, Manufacturing Associates will drain the oil into sanitized, labeled, 1L mason jars. The mason jars full of oil must be placed immediately within Raw Storage. Associates will record the batch ID, date, machine used, amount of CO₂ solution used, volume of CO₂ recovered, and weight of crude oil collected in the evaporation log and within the seed-to-sale software.

03

PRICE
PROPOSAL

04

APPENDICES/
REQUIRED
FORMS

ATTACHMENT

CERTIFICATION OF TAX COMPLIANCE:

Pursuant to M.G.L. C62C ss 49A, the undersigned certifies, on behalf of the Business and the individual members of the Business, under penalties of perjury that it has complied with all laws of The Commonwealth of Massachusetts related to the payment of taxes.

 Name Of Person Signing Proposal

Atom Blue LLC Name of Business

84-1984766 SS No. or FID No.

ATTACHMENT

NON-DISCRIMINATION AND AFFIRMATIVE ACTION CERTIFICATION:

The Contractor agrees to comply with all applicable Federal and State statutes, rules and regulations prohibiting discrimination in employment, including but not limited to, the Americans with Disabilities Act 42 USC 12101, 28 CFR Part 35, or as amended; 29 USC S.791 et. seq.; Executive Orders 227, 237, 246; MGL C. 151B; and MGL C. 272, S. 92A, S98 et seq., or any amendments to these provisions. Pursuant to Executive Orders 227 and 246, the Contractor is required to take affirmative actions designed to eliminate the patterns and practices of discrimination including providing written notice of its commitment to non-discrimination to any labor association with which it has an employment agreement, and to certified minority and women-owned businesses and organizations or businesses owned by individuals with disabilities. The Town of Chester shall not be liable for any costs associated with the Contractor's defense of claims of discrimination.



(Signature)

Patrick J. Cooney

(Name Of Person Signing Proposal)

Aspen Blue LLC

(Name Of Business)

11/10/20

(Date)

EXHIBIT E

**HOST COMMUNITY AGREEMENT
FOR THE SITING OF A
MARIJUANA ESTABLISHMENT
IN THE TOWN OF WAREHAM**

This Agreement (“**Agreement**”) is entered into this 5th day of May, 2021 (the “**Effective Date**”), by and between the Town of Wareham with a principal address at 54 Marion Road, Wareham, Massachusetts (“**Wareham**”), and Aspen Blue Wareham, Inc., a Massachusetts limited liability company with its principal place of business at 20 Centerville Road, Warwick, RI 02886 (“**Aspen Blue**”), and Aspen Blue may each be referred to herein as a “**Party**,” and collectively as the “**Parties**.”

RECITALS

WHEREAS Aspen Blue intends to apply to the Cannabis Control Commission (the “**CCC**”) to operate as a marijuana product manufacturer, as that term is defined by G. L. c. 94G, §1, at the property located at 8 Elm Street, Wareham, MA 02571 (the “**Property**”), pursuant to G. L. c. 94G and the CCC regulations at 935 CMR 500; and

WHEREAS the Parties acknowledge that the CCC will request certain information from Wareham as part of the CCC’s licensing process for the Property, and Wareham will respond promptly to such requests, and

WHEREAS, this Agreement shall constitute the stipulations of responsibilities between Wareham and Aspen Blue pursuant to G. L. c. 94G, §3, as amended by Stat. 2017 c. 55, §25 for Aspen Blue’s operations at the Property; and

NOW THEREFORE, in consideration of the provisions of this Agreement and other good and valuable consideration, the receipt of which is hereby acknowledged by the Parties, the Parties agree as follows:

AGREEMENT

- 1) **Community Impact.** Wareham anticipates that, as a result of Aspen Blue’s operations at the Property, Wareham will incur additional expenses and impacts upon its road system, law enforcement, inspectional services, permitting services, administrative services, and public health services, in addition to potential unforeseen impacts upon Wareham. Accordingly, in order to mitigate the direct and indirect financial impact upon Wareham and the use of Wareham’s resources, Aspen Blue agrees to annually pay a community impact fee to Wareham, in the amounts and under the terms provided herein (the “**Annual Payments**”).
- 2) **Annual Payments.** In the event that (i) Aspen Blue obtains Final Licenses from the CCC for operation as a marijuana products manufacturer in Wareham, (ii) the Parties execute a lease for the premises on mutually agreeable terms, and (iii) Aspen Blue receives any and all necessary and required permits, licenses, and/or approvals required by Wareham, and at the expiration of any final appeal period related thereto, said matter not being further appealed, which said permits, licenses, and/or approvals allow Aspen Blue to locate, occupy, and

operate as a marijuana products manufacturer (the "Opening"), then Aspen Blue agrees to provide the following annual payment during the Term:

- a. Aspen Blue shall make Annual Payments equal to three percent (3%) of Aspen Blue's gross revenue from the wholesale sales of marijuana products, as that term is defined in 935 CMR 500, from the Property;
 - b. The Annual Payments required pursuant to this section shall not exceed four hundred fifty thousand dollars (\$450,000.00) during any calendar year of the Term.
 - c. Aspen Blue shall make the Annual Payments quarterly each calendar year on the 1st of January, April, July, and October, beginning on the first of such dates during the Term.
 - d. The Annual Payments shall be inclusive of, and act in lieu of, the local sales tax required to be paid pursuant to M.G.L. c. 64N, §3, which the Parties agree Aspen Blue shall not be subject to at any point during its operation in Wareham.
- 3) **Wareham Response to CCC.** Wareham agrees to (i) respond appropriately to all requests made by the CCC within 30 days of any such request from the CCC, (ii) provide such other information as may be requested by the CCC in connection with Aspen Blue's applications for licenses at the Property, and (iii) cooperate in good faith with the CCC at all times in connection with the licensing process.
- 4) **Community Support and Additional Obligations.**
- a. To the extent permissible by law, Aspen Blue will make good faith efforts in a legal and non-discriminatory manner to hire or contract with local businesses, suppliers, contractors, builders, and vendors in the provision of goods and services called for in the construction, maintenance, and continued operations of the Property.
 - b. Except for senior management, and to the extent permissible by law, Aspen Blue shall use reasonable efforts to hire qualified residents of Wareham.
 - c. Aspen Blue shall provide \$25,000 per year to local charitable organization or cause to be mutually agreed upon by Aspen Blue and the Town Administrator.
- 5) **Term and Termination.** This Agreement shall take effect on the Effective Date, subject to the contingencies noted herein for Aspen Blue's necessary state and local permits, licenses, and approvals. This Agreement shall continue in effect for so long as Aspen Blue continues to operate as a marijuana product manufacturer in Wareham, and will be renewable by mutual agreement at five (5) years from the Effective Date.

With a copy provided to:

Jilian A. Morton, Esq.
The Law Offices of Bello & Morton, LLC
184 Main Street
Wareham, Massachusetts 02571

and


Benjamin L. Rackliffe, Partner
Pannone Lopes Devereaux & O'Gara LLC
Northwoods Office Park Suite 215 N
1301 Atwood Avenue
Johnston, Rhode Island 02919

13) **Third Parties.** Nothing contained in this Agreement shall create a contractual relationship with, or cause in action in favor of, any third party against either Wareham or Aspen Blue.

In witness whereof, the Parties have executed this Agreement on the date first set forth above:

ASPEN BLUE WAREHAM, INC.

By:


Name: Patrick J. Casey III
Title: President/CEO

TOWN OF WAREHAM:

By:

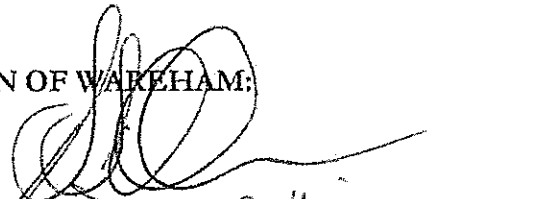

Name: Derek Sullivan
Title: Town Administrator

EXHIBIT F

COMMERCIAL LEASE

THIS COMMERCIAL LEASE (the "Lease") is made as of the 5th day of May 2021 by and between The Town of Wareham, whose address is Town Hall 54 Marion Road, Wareham 02571 (the "Landlord"), and Aspen Blue Wareham, Inc., whose address is 20 Centerville Road, Warwick, RI 02886 (the "Tenant").

FUNDAMENTAL LEASE PROVISIONS

The provisions below shall be referred to in this Lease as the "Fundamental Lease Provisions." Unless otherwise defined herein, capitalized terms used in this Lease shall have the meanings listed in the Fundamental Lease Provisions.

Property: 8 Elm Street, Wareham, MA 02571

Commencement Date: 30 days after issuance by the Cannabis Control Commission of the Commonwealth of Massachusetts Tenant's Provisional License

Landlord: Town of Wareham

Tenant: Aspen Blue Wareham, Inc.,
20 Centerville Road, Warwick, RI 02886

Leased Premises: The land, driveways, sidewalks, parking areas, service areas and landscaped areas located thereon, and all appurtenances associated therewith and legally described in Exhibit A attached hereto (the "Land", and the Land and Building together being the "Leased Premises")

Licensing Period: Six (6) months from the Town's final municipal entitlement, per Section 9.24 below.

Basic Improvements: "Basic Improvements" shall be made to the Leased Premises, which include both restoration of the building and building code compliance for the intended use, including HVAC, fire suppression and utilities. All of the Basic Improvements shall be complete within one year after the Commencement Date.

Initial Term: Five (5) Lease Years, commencing on the Commencement Date.

Renewal Options: Three (3) renewal options of five (5) years each, as described in Section 1.04 hereof, subject to compliance with applicable law.

Initial Base Rent: To be calculated and adjusted pursuant to Section 2.01 below.

Operating Expenses: Tenant is responsible for 100% of Operating Expenses (as defined in Section 2.03)

Use of Leased Premises: Tenant to occupy the Building as sole tenant. Tenant to use the Leased Premises for marijuana product manufacturing (as that term is defined by M.G.L. c. 94G, §1) as well as other activities Tenant reasonably chooses to pursue and receives licensure for at the site, and all lawful uses incidental to such uses.

[Remainder of page left intentionally blank.]

ARTICLE I. GRANT OF LEASE; TERM

Section 1.01 Grant of Lease. In consideration of the payments of rent and other amounts to be made by the Tenant and the covenants and conditions to be kept and performed by the Tenant, all as hereinafter set forth, the Landlord leases the Leased Premises and the Personal Property to the Tenant.

Section 1.02 Initial Term. The "Initial Term" shall be as set forth in the Fundamental Lease Provisions.

Section 1.03 Lease Year. "Lease Year" means each twelve (12) month period, beginning with the Commencement Date, and each yearly anniversary thereof, provided, that if the Commencement Date is not the first day of a calendar month, the Term of this Lease shall be extended by the period commencing on the Commencement Date and ending on the last day of the month in which the Commencement Date occurs. All occupancy of the Leased Premises and use of the Personal Property by Tenant prior to the Commencement Date shall be in accordance with and subject to all of the terms and conditions of this Lease.

Section 1.04 Renewal Options. Provided the Tenant is not in default under this Lease, and subject to applicable law, the Tenant shall have an option to renew the Initial Term for the successive five [5] year periods described in the Fundamental Lease Provisions (each, a "Renewal Term"). Tenant shall notify Landlord at least ninety (90) days prior to end of each Renewal Term by delivery in writing of notice of intent to renew. Except as otherwise set forth in Section 4.01(c) below, the same terms and conditions of this Lease shall apply during any Renewal Term, including the rent adjustments described in Section 2.02 below. The Initial Term, as it may be extended by a Renewal Term shall be hereinafter referred to as the "Term."

ARTICLE II BASE RENT AND OTHER PAYMENTS

Section 2.01 Base Rent.

(a) Rent Commencement Date. Tenant shall commence paying Base Rent (defined below) on the date (the "Rent Commencement Date") on that date which is thirty (30) days after issuance by the Cannabis Control Commission of Tenant's provisional license.

(b) Base Rent. Monthly base rent ("Base Rent") shall be as follows:

\$12,000.00 per month, triple net.

Base Rent for the Renewal Term shall be increased by Two and One-Half Percent (2.5%).

(c) Due Dates for Base Rent. The Tenant shall pay the Landlord monthly installments of Base Rent in advance, commencing on the Rent Commencement Date and continuing on the first day of each calendar month during the Term. If the Rent Commencement Date is a day other than the first day of a calendar month, the Tenant shall, on the Rent Commencement Date, pay the Landlord a fraction of the Base Rent equal to the number of days remaining in such month divided by the total number of days in such month.

Section 2.02 Operating Expenses.

(a) Tenant's Obligation for Improvements. Tenant agrees to pay the cost of all labor and materials for improvements to the building to make the structure code-compliant for operation of the proposed use. All costs for Building Improvements under this Lease, other than Base Rent, is designated "Obligatory Improvements."

(b) Definition of Operating Expenses. "Operating Expenses" means all costs and expenses of operating, repairing, and maintaining the Building and the driveways, sidewalks, parking areas, service areas and landscaped areas located on the Land, including without limitation, (i) real and personal property taxes and assessments imposed upon the Building, the Land and other improvements on the Land, (ii) utilities (including light, heat, air-conditioning, electricity, water and sewage), (iii) such amount of any tax which the Landlord is required to pay or reimburse as a result of the same being imposed or levied upon the Landlord or the Building, (iv) insurance premiums for any insurance carried by Landlord pursuant to this Lease and applicable to the Land, Building, (v) license, permit or inspection fees, except in connection with the Landlord's Work (defined below), (vi) removal of snow, ice, rubbish, dirt and debris, (vii) all costs of maintaining lighting facilities, (viii) materials, supplies and services, and sales and use taxes on supplies and services, (ix) the cost of trash removal, and (x) any other expense or charge, whether or not mentioned in this Lease, which would be considered as an expense of managing, maintaining, leasing, operating or repairing the Building or Land.

Section 2.03 Place and Manner of Payment. The Tenant shall make all payments of Base Rent, and all other payments due the Landlord under this Lease at the Landlord's address set forth in the preamble, or at such other place as the Landlord may designate to the Tenant by written notice. The Tenant shall make such payments in whatever form or forms it is able, pursuant to such delivery procedures as Landlord and Tenant may mutually agree upon. To the extent possible, except as expressly provided herein, the Tenant shall pay all Operating Expenses for which it is responsible under Section 2.02 directly to the third-party service provider or authority. Landlord shall provide copies to Tenant of all bills, invoices, or statements for any Operating Expenses billed to Landlord within five (5) business days of Landlord's receipt thereof. Tenant shall not be responsible for any late payment fees or interest due for late payments as a result of Landlord's failure to timely deliver any such bills, invoices, or statements to Tenant.

Section 2.04 Late Charges. If any installment of the Base Rent, or any other payment provided for under this Lease which is payable by the Tenant is not received by the Landlord within five (5) days after the date when due, the Tenant shall immediately pay the Landlord an amount equal to five percent (5%) of the overdue amount as a late charge (the "Late Charge"). The Landlord and the Tenant agree that the Late Charge represents a fair and reasonable estimate of the costs that the Landlord will incur by reason of any such late payment by the Tenant. Acceptance of the Late Charge by the Landlord shall not constitute a waiver of the Tenant's default with respect to the overdue amount, nor prevent the Landlord from exercising any other rights and remedies available to the Landlord under this Lease.

Section 2.05 Interest on Overdue Amounts. The Base Rent, and all other amounts due the Landlord under this Lease which are not paid when due shall bear interest at a per annum rate (the "Default Rate") equal to the "prime rate" (or substantial equivalent) published from time to time in *The Wall Street Journal* plus five percent (5%), from the date that is ten (10) days from the date such

amount was due until paid; provided, however, that if such rate shall exceed the lawful rate of interest which the Landlord is entitled to charge under applicable state law, then the per annum rate of interest on any such overdue amounts shall be the maximum rate permitted by such law.

Section 2.06 Advances by Landlord. In the event that the Tenant shall fail to timely pay any amount due the Landlord under this Lease other than Base Rent, the Landlord, at its option, may advance such payment. The Tenant shall pay the Landlord the amount of any such advance, together with interest thereon at the rate specified in Section 2.05 above from the date that is the later of: (a) the date of such advance by the Landlord; or (b) the date that is thirty (30) days from the date such amount was due from Tenant, until repayment thereof by the Tenant. The Tenant shall make such repayment not later than the first day of the calendar month following the date of such advance.

Section 2.07 Rent Net to Landlord. Except as otherwise set forth herein, this is a triple net Lease and the rent and all other sums payable hereunder by Tenant shall be paid without setoff, counterclaim, recoupment, abatement, suspension or deduction. This Lease shall not terminate, nor shall Tenant have any right to terminate this Lease during the term hereof, nor shall Tenant be entitled to any abatement, deduction, deferment or reduction of rent hereunder, except as otherwise expressly provided in this Lease, nor shall the obligations of Tenant under this Lease be affected by any interference with the Tenant's use of the Leased Premises not within Landlord's control. It is the intention of the parties hereto that Tenant's obligations hereunder shall be separate and independent covenants and agreements, that the annual Base Rent, Additional Rent and all other sums payable by Tenant hereunder shall continue to be payable, except as expressly provided herein, and that the obligations of Tenant hereunder shall continue unaffected.

ARTICLE III USE, CARE AND OCCUPANCY OF THE LEASED PREMISES

Section 3.01 Environmental Compliance. The Tenant hereby agrees that:

(a) The Tenant shall, at its sole cost and expense at all times during the Term, comply in all respects with the Relevant Environmental Laws in its use and operation of the Leased Premises.

(b) The Tenant shall not use the Leased Premises for the purpose of storing any Hazardous Substance except in full compliance with the Relevant Environmental Laws and other applicable law and shall not cause the release of any Hazardous Substance.

(c) The Tenant shall notify the Landlord promptly and in reasonable detail in the event that the Tenant becomes aware of or suspects (i) the presence of any Hazardous Substance on the Leased Premises (other than any Permitted Hazardous Substance), or (ii) the presence of a violation of the Relevant Environmental Laws on the Leased Premises.

(d) If the Leased Premises are used or maintained by Tenant so as to subject the Tenant or the Landlord of the Leased Premises to a claim of violation of the Relevant Environmental Laws, the Tenant shall immediately cease or cause cessation of such use or operations and shall remedy and fully cure any violations of Relevant Environmental Laws arising from Tenant's activities at, or use of, the Leased Premises at its sole cost and expense.

(e) At its sole cost and expense, the Tenant shall (i) immediately pay, when due, the cost of compliance with the Relevant Environmental Laws pertaining to Tenant's use of the Leased Premises

or Tenant's use of Hazardous Substances at the Leased Premises, and (ii) keep the Leased Premises free of any liens imposed pursuant to the Relevant Environmental Laws arising from or related to Tenant's use of the Leased Premises or Tenant's use of Hazardous Substances at the Leased Premises. The Tenant shall, at all times, use, handle and dispose of any Permitted Hazardous Substance in a commercially reasonable manner and in compliance with the Relevant Environmental Laws and applicable industry standards. The Tenant shall cooperate with the Landlord in any program between the Landlord and any governmental entity for proper disposal and/or recovery of any Permitted Hazardous Substance.

(f) Tenant shall dispose of all inventories, refuse and scrap materials in or about the Leased Premises, off site in a suitable facility.

(g) The Tenant shall indemnify, save and hold the Landlord harmless from and against any claim, liability, loss, damage or expense (including, without limitation, reasonable attorneys' fees and disbursements) arising out of any violation of the covenants of the Tenant contained in this Section 3.02 by the Tenant, or out of any violation of the Relevant Environmental Laws by the Tenant, its owners, employees, agents and contractors.

(h) In the event that the Tenant fails to comply with the any of the foregoing requirements of this Section 3.02, after the expiration of the cure period permitted under the Relevant Environmental Laws, if any, the Landlord may, but shall not be obligated to, exercise its right to do one or more of the following: (i) elect that such failure constitutes an Event of Default (as defined in Section 7.01 below); and (ii) take any and all actions, at the Tenant's sole cost and expense, that the Landlord deems necessary or desirable to cure any such noncompliance. Any costs incurred by the Landlord pursuant to this subsection 3.02(h) shall become immediately due and payable by the Tenant without notice and with interest thereon from the date incurred at the Default Rate.

Capitalized terms used in this Section 3.02 and not otherwise defined herein shall have the following meanings:

"Hazardous Substance" means any of the following as defined by the Relevant Environmental Laws: solid wastes; medical or nuclear waste or materials; toxic or hazardous substances, petroleum products or derivatives, wastes, or contaminants (including, without limitation, polychlorinated biphenyls ("PCBs"), paint containing lead, and urea-formaldehyde foam insulation; and discharges of sewage or effluent.

"Permitted Hazardous Substance" means any Hazardous Substance which is necessary and commercially reasonable for the provision of any service related to the use of the Leased Premises permitted hereunder, including, without limitation, silver nitrites and certain radioactive isotopes used for diagnostic imaging.

"Relevant Environmental Laws" means all applicable federal, state and local laws, rules, regulations, orders, judicial determinations, and decisions or determinations by any judicial, legislative or executive body of any governmental or quasi-governmental entity, as they may be amended from time to time, whether presently existing or hereinafter enacted, adopted or ordered with respect to: (a) the existence on, discharge from or to, or removal from all or any portion of the Land of any Hazardous Substance; and (b) the effects on the

environment of all or any portion of the Land (including, without limitation, any wetlands located on the Land) or of any activity now, previously, or hereafter conducted on the Land.

Landlord shall be responsible, at its sole cost and expense, for the cost of mitigating or remediating (or arranging for the mitigation or remediation of) any existing environmental conditions which, if not mitigated or remediated, would render Tenant non-compliant with the provisions herein, including but not limited to an apparently leaking or defective electronic transformer. The Tenant shall comply with the Activity and use Limitation.

Section 3.02 Care of Leased Premises. The Tenant shall not perform any acts or carry on any practices within the Leased Premises which may damage the Leased Premises or the Building. The Tenant, at its sole cost and expense, except as otherwise set forth in this Lease, shall keep the Leased Premises in good condition and repair and shall not make any alterations, additions or improvements to the Leased Premises without the Landlord's written consent.

Section 3.03 Quiet Enjoyment. Upon timely payment of all amounts due the Landlord under this Lease and performance of the covenants and agreements herein contained, in the manner and at the time set therefor, the Tenant shall, and may peacefully and quietly have, hold and occupy the Leased Premises during the Term and Landlord shall defend Tenant against any disturbance thereof.

ARTICLE IV. BUILDING MAINTENANCE, and SERVICES

Section 4.01 Maintenance and Repair.

(a) Tenant's Obligatory Improvements. Prior to Term, Tenant shall be responsible, for performance of all maintenance, repairs, and replacements pertaining to the Leased Premises, at its sole expense, including but not limited to, performance of capital repairs or replacements that are agreed to. This shall include, but not be limited to, maintaining and repairing the structural components, roof, foundation, walls, mechanical systems, equipment, and fixtures at the Leased Premises in a good and clean operating condition, maintaining and repairing all doors, windows, plate glass and Building fronts in good order, condition and repair including, without limitation, the heating unit, fixtures, equipment, air conditioning equipment, electrical fixtures and equipment, electrical installations, plumbing and plumbing equipment and fixtures, all interior painting and decorations of every kind. Tenant shall also be responsible for trash pick-up and janitorial service. Tenant shall keep and maintain the Leased Premises in a clean, sanitary and safe condition and shall comply with all directions, rules and regulations of the health officer, fire marshal, building inspector, or other proper officials of the governmental agencies having jurisdiction at Tenant's sole cost and expense. Tenant shall also maintain and repair all parking lots, lawns, sidewalks, landscaping, and be responsible for all snow, ice, rubbish, dirt and debris removal, and keep all such areas in good repair, at Tenant's sole cost. Tenant's obligation to maintain and repair shall require Tenant to pay all costs and expenses of every kind and nature required to operate, manage, equip, clean, police and protect, light, landscape, heat, insure, repair, replace and maintain the Leased Premises.

(b) Landlord's Right to Perform. If Tenant refuses or neglects to commence and to complete repairs required by it under this Lease promptly and adequately, Landlord may enter the

Leased Premises, but shall not be required to do so, to make and complete said repairs and Tenant shall pay the cost thereof to Landlord upon demand.

Section 4.02. Taxes.

(a) Tenant shall be responsible and pay for all real property taxes and special assessments upon the Leased Premises (including taxes assessed upon the Tenant's leasehold interest in the Leased Premises, the Building and the Land) and the personal property taxes assessed upon Tenant's personal property.

(b) Tenant shall pay all taxes for any personal property owned by the Tenant which become due and payable during the term of this Lease before they become subject to penalties.

Section 4.03. Utilities.

(a) The Tenant shall pay when due all charges for utilities provided to the Leased Premises during the term of this Lease, including, without limitation, gas, electricity, light, heat, power, water, sewer, and telephone or other communication services and shall cause the utilities to be placed into the Tenant's name as of the Commencement Date. The Tenant shall furnish to the Landlord receipts or other satisfactory proof of payment of such charges upon demand by the Landlord.

(b) The Landlord shall not be liable for any failure of water supply, electric current or other utility, for injury to persons, including death, or damage to property, or for interference with light or other easements, however caused.

Section 4.04 Alterations and Improvements. The Tenant shall make permanent and temporary alterations, additions, changes and improvements ("Improvements") on or to the Leased Premises with the Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. If the Landlord consents to such Improvements by the Tenant, the Tenant shall pay the cost of such Improvements, and before commencement of the work or delivery of any materials to the Leased Premises or Building, the Tenant shall furnish the Landlord with the following: (a) plans and specifications, (b) names and addresses of all contractors, (c) copies of contracts, (d) necessary permits, (e) indemnification of the Landlord in form and amount satisfactory to the Landlord against any and all claims, loss, costs, damages, liabilities, and expenses which may arise in connection with such Improvements, and (f) certificates of insurance from all contractors performing labor or furnishing materials insuring the Landlord, in such amounts as Landlord shall reasonable determine, against any and all liabilities which may arise out of such Improvements. All Improvements shall be installed in a good, workmanlike manner and only new high-grade materials shall be used. Whether the Tenant furnishes the Landlord the foregoing or not, the Tenant shall hold the Landlord harmless from and against any and all liabilities of every kind and nature which may arise out of or be connected with said Improvements. Upon completing any Improvements, the Tenant shall furnish the Landlord with contractors' affidavits and full and final waivers of lien and receipted bills covering all labor and materials expended and used in or for such Improvements. All Improvements shall comply with all insurance requirements and with all ordinances, regulations and requirements of all federal, state, and local statutes and regulations of the State of Massachusetts and any department thereof. The Tenant shall permit the Landlord to supervise construction operations in connection with Improvements, if the Landlord requests to do so. All Improvements, hardware, non-trade fixtures, and all improvements, temporary or permanent, in or upon the Leased Premises, whether

placed there by the Tenant or the Landlord, shall, become the property of the Landlord and shall remain upon the Leased Premises at the termination of this Lease, by lapse of time or otherwise. The Tenant reserves the right to remove all trade fixtures installed by the Tenant.

Section 4.05 Liens and Encumbrances. Tenant shall not create or permit to be created, nor allow to remain, and will promptly (within fifteen (15) days following receipt of notice of the lien) discharge or bond over, at its sole cost and expense, any lien, encumbrance or charge upon the Leased Premises or any part thereof or upon Tenant's leasehold interest therein, except such as are created by Landlord or Landlord's mortgagee(s).

ARTICLE V. CONDITION OF LEASED PREMISES

Section 5.01 Condition of Leased Premises. Prior to Tenant's occupancy of the Premises, Landlord and Tenant shall agree on Improvements to the Leased Premises, sufficient for taking possession. The taking of possession of the Leased Premises by the Tenant shall be conclusive evidence that the Tenant accepts the same "as is" and that the Leased Premises and the Building were in satisfactory condition at the time possession was taken.

Section 5.02 Removal of Improvements and Equipment. Upon expiration or earlier termination of this Lease, Tenant shall (if requested by Landlord) promptly remove all or any portion of any improvements or alterations made by or through Tenant from the Leased Premises, repair any damage to the Leased Premises and/or the Building caused by such removal, and restore the Leased Premises and the Building to a condition reasonably acceptable to Landlord. If Landlord does not request Tenant to remove such items, title to such items (including, without limitation, any and all equipment installed at the Leased Premises) shall automatically vest in Landlord as of the expiration or earlier termination of this Lease. Tenant shall indemnify, defend, and save harmless Landlord, Landlord's officers, directors, members, shareholders, agents and employees against and from any liability or claim thereof (including, but not limited to, actual reasonable attorneys' fees and costs) whether for injury to persons, including death, or damage to property arising out of Tenant's construction, furnishing or installation in the Leased Premises of any improvements, alterations, additions, trade fixtures, equipment, or furnishings.

ARTICLE VII. INSURANCE; INDEMNIFICATION; DAMAGE TO OR CONDEMNATION OF THE LEASED PREMISES

Section 6.01 Fire Insurance on Building. Landlord shall maintain fire and extended coverage insurance covering the Building. Tenant shall pay Landlord monthly, in addition to and along with payments called for in Section 2.01 of the Lease, an amount equal to one-twelfth (1/12) of the annual premium of the fire and the extended coverage insurance policy for the Premises. Landlord shall then pay the fire and extended coverage insurance premiums when they become due. Adjustment in the monthly payments may be made to account for any announced change in premium rates made by the company which issues the insurance policies. In the event of any of those changes, Landlord may then adjust the monthly payments by an amount sufficient to accumulate the amount required to pay the insurance premiums on their next due date. Landlord shall give written notice to Tenant of any adjustments in the monthly payments for extended coverage insurance. Following receipt of the notice, beginning with the next succeeding monthly payment, Tenant shall pay to Landlord the new amount. If the amount accumulated by Landlord shall ever be insufficient to make a payment required

for an insurance premium, then Landlord shall give written notice of the amount of the shortage to Tenant and Tenant shall immediately forward that amount to Landlord.

Section 6.02 Fire Insurance on Tenant's Improvements and Personal Property. Tenant shall maintain, at its expense, its own fire and extended coverage insurance with respect to its personal property kept upon the Leased Premises and with respect to all partitioning, fixturing, wall and floor coverings, and decorations in the Leased Premises, which insurance shall be in an amount not less than the full replacement cost of said property, adjusted annually, and shall reflect Landlord as an additional insured and loss payee.

Section 6.03 Liability Insurance. Tenant shall maintain, at its expense, a comprehensive general liability and/or umbrella insurance policy for bodily injury and property damage in the amount of at least Two Million Dollars (\$2,000,000.00) per single occurrence, and Five Million Dollars (\$5,000,000.00) in the aggregate. The policy shall name Landlord and Landlord's mortgagee, if any, as additional insureds and loss payees. Upon request of Landlord from time to time, Tenant shall increase the amount of its insurance policy to remain consistent with the coverage limits maintained by tenants of other real estate developments similar to the Building and operations similar to that of Tenant in the Massachusetts area. The foregoing insurance required of Tenant may be provided as a part of any umbrella insurance policy carried by Tenant or any affiliate of Tenant, so long as the Leased Premises are designated in such policy.

Section 6.04 Worker's Compensation Insurance; Business Interruption Insurance. Tenant shall maintain, at its expense, a policy of worker's compensation insurance as required by law and business interruption insurance in an amount sufficient to allow Tenant to continue to pay all rent during times that it cannot conduct business, such as a result of a casualty.

Section 6.05 Insurance Carrier. All insurance maintained by Tenant shall be placed with responsible insurance companies qualified to do business in the Commonwealth of Massachusetts and shall provide that such insurance may not be canceled unless Landlord is notified in writing fifteen (15) days prior to such cancellation.

Section 6.06 Landlord's Right to Cure. If Tenant fails to maintain or keep in effect the insurance coverage provided in this Article, Landlord may, but shall not be obligated to, purchase such insurance and the cost thereof shall be considered Additional Rent immediately payable by Tenant.

Section 6.08 Insurance Risks. Tenant agrees that it will not keep, use, sell or offer for sale in or upon the Leased Premises any article which may be prohibited by the non-standard high-risk policy. Tenant agrees to pay any increase in premiums for fire and extended coverage insurance that may be charged during the term of this Lease with respect to fire and extended coverage insurance which may be carried by Landlord on the Leased Premises or on the Building, resulting from the type of business carried on or the type of articles kept, used, sold or offered for sale at the Leased Premises, whether or not Landlord has consented to the same.

Section 6.09 Indemnification. Tenant shall indemnify and hold the Landlord harmless during the Term from and against any and all liability, damages, expenses, fees, penalties, causes of action, suits, costs, legal fees, claims or judgments (collectively "damages") arising from Tenant's default or breach of its obligations hereunder, from Tenant's use of the Leased Premises, or from injury to persons or property occasioned by any act or acts, omission or omissions of Tenant, its

agents, servants, contractors, employees, visitors, invitees or licensees, occurring in, within the Building, Leased Premises, and Land. Such indemnity shall include any costs incurred by the Landlord in connection with such liability, including, without limitation, reasonable attorneys' fees and disbursements. Subject to the terms of Section 7.07 above, Landlord shall indemnify and hold the Tenant harmless during the Term from and against any and all damages arising from Landlord's default or breach of its obligations hereunder, or from injury to persons or property occasioned by any act or acts, omission or omissions of Landlord, its agents, servants, contractors, employees, visitors, invitees or licensees, occurring in, within the Building, Leased Premises, and Land. The indemnification obligations under this Lease shall survive the termination or expiration of this Lease.

Section 6.10 Damage to the Leased Premises.

(a) If Landlord reasonably determines that less than twenty-five percent (25%) of the Leased Premises are damaged, and Landlord shall repair and restore the Leased Premises to substantially the same condition prior to such casualty within one hundred twenty (120) days of the event of casualty. There shall be no abatement of Base Rent or Additional Rent. If Landlord fails to timely restore the Leased Premises as required under this subsection, and such failure prevents Tenant from conducting any operations at the Leased Premises, Tenant shall have the right to terminate this Lease upon giving written notice to Landlord of such termination.

(b) If the Landlord reasonably determines that twenty five percent (25%) or more of the Leased Premises becomes untenantable by reason of fire or other casualty, which determination shall be made and written notice thereof given to the Tenant within thirty (30) days of such fire or other casualty, or that repair and restoration of the damage will exceed two hundred ten (210) days then either Landlord or Tenant may, within thirty (30) days after Landlord's renders its determination of the time required for restoration, give the other party written notice of its election to terminate this Lease, in which event this Lease shall terminate effective as of the date of such fire or casualty. In the event that neither party elects to terminate this Lease pursuant to this subsection, then Landlord shall restore the Leased Premises to substantially the same condition prior to such casualty within two hundred ten (210) days. There shall be no abatement of Base Rent or Additional Rent. If the Landlord fails to timely restore the Leased Premises as required under this subsection, and such failure prevents Tenant from conducting any operations at the Leased Premises, Tenant shall have the right to terminate this Lease upon giving written notice to Landlord of such termination.

(c) In the event the Lease is not terminated after any casualty, and repair or restoration activities undertaken by Landlord require the removal of the Tenant's property, including furniture and trade fixtures or equipment which might otherwise impede or obstruct the repair or restoration of the Leased Premises, the Landlord shall have the right, at the Tenant's sole cost and expense, to remove, store and replace (after completion of such repairs or restoration) such furniture, trade fixtures and equipment on behalf of the Tenant. The Tenant shall pay the Landlord the cost of any such removal, storage or replacement, in whole or in part, within ten (10) days after receipt of an invoice therefor from the Landlord. The failure of the Tenant to pay any such invoice within such ten (10) day period shall constitute an advance by the Landlord to the Tenant in the amount of such invoice, payable by the Tenant pursuant to Section 2.06 hereof.

(d) Notwithstanding anything contained in this Section 6.10 to the contrary, in the event: (i) any mortgagee of the Building shall not allow Landlord to use adequate insurance proceeds to repair or restore the Building or the Leased Premises; or (ii) the Lease is in the last twelve (12) months of its

Term, then either Landlord or Tenant may terminate this Lease by notifying the other in writing of such termination.

(e) In the event of any termination of this Lease in accordance with this Section 7.10, the Lease shall terminate, be of no further force or effect, and the parties hereto shall have no further obligations or liabilities to one another under the terms of this Lease, except for such provisions expressly stated to survive the termination of this Lease.

Section 6.12 Condemnation.

(a) In the event that the entire Leased Premises is taken by any public authority under the power of eminent domain or sold for public or quasi-public use in lieu of condemnation, then the term of this Lease shall cease as of the effective day of such taking. The Tenant shall pay the Landlord the Base Rent, Additional Rent and Operating Expense up to the effective day of such taking.

(b) In the event that the Landlord reasonably determines (which determination shall be set forth in a written notice from the Landlord to the Tenant given within thirty (30) days after a final determination that such taking or sale will occur) that less than all, but twenty-five percent (25%) or more, of the area of the Leased Premises is taken under eminent domain or sold for public or quasi-public use in lieu of condemnation, either party hereto shall have the right to terminate this Lease by giving the other written notice thereof to the other within ten (10) days after the date of such notice. In the event that either Landlord or Tenant so elects to terminate this Lease, the Tenant shall immediately pay the Landlord the Base Rent, Additional Rent and the Operating Expense up to the effective day of such taking. In the event neither party elects to terminate this Lease, the Tenant shall continue in possession of the remainder of the Leased Premises, and all of the terms and conditions of this Lease shall continue in full force and effect, except that the Base Rent shall be reduced in proportion to the area of that portion of the Leased Premises taken, and the Landlord, at its own cost and expense, shall make all repairs or alterations to the Building necessary to constitute the remainder of the Leased Premises a complete architectural unit substantially similar, excepting size, to the Leased Premises before such taking.

(c) In the event that the Landlord reasonably determines (which determination shall be set forth in a written notice from the Landlord to the Tenant given within thirty (30) days after a final determination that such taking or sale will occur) that less than twenty-five percent (25%) of the area of the Leased Premises is taken under eminent domain or sold for public or quasi-public use in lieu of condemnation, the Tenant shall continue in possession of the remainder of the Leased Premises, and all of the terms and conditions of this Lease shall continue in full force and effect, except that the Base Rent shall be reduced in proportion to the area of that portion of the Leased Premises taken, and the Landlord, at its own cost and expense, shall make all repairs or alterations to the Building necessary to constitute the remainder of the Leased Premises a complete architectural unit substantially similar, excepting size, to the Leased Premises before such taking.

(d) All damages awarded for any taking under the power of eminent domain or as consideration for a sale in lieu of condemnation, whether for all or a part of the Leased Premises, shall belong to and be the property of the Landlord, except for any losses attributable to the loss of Tenant's leasehold estate, Tenant's relocation or moving expenses, or damage, removal, or destruction of Tenant's property

(e) In the event the Lease is not terminated, and repair or restoration activities undertaken by Landlord require the removal of the Tenant's property, including furniture and trade fixtures or equipment which might otherwise impede or obstruct the repair or restoration of the Leased Premises, the Landlord shall have the right, at the Tenant's sole cost and expense, to remove, store and replace (after completion of such repairs or restoration) such furniture, trade fixtures and equipment on behalf of the Tenant. The Tenant shall pay the Landlord the cost of any such removal, storage or replacement, in whole or in part, within ten (10) days after receipt of an invoice therefor from the Landlord. The failure of the Tenant to pay any such invoice within such ten (10) day period shall constitute an advance by the Landlord to the Tenant in the amount of such invoice, payable by the Tenant pursuant to Section 2.08 above.

(f) In the event that either party terminates this Lease in accordance with the terms of this Section 6.12, the Lease shall terminate, be of no further force or effect, and the parties hereto shall have no further obligations or liabilities to one another under the terms of this Lease, except for such provisions expressly stated to survive the termination of this Lease.

ARTICLE VII. DEFAULT AND REMEDIES

Section 7.01 Events of Default. The occurrence of any of the following events shall constitute default by the Tenant under the terms of this Lease (each an "Event of Default"):

(a) The Tenant shall fail to pay any amount due the Landlord under this Lease within fourteen (14) days after the date when due.

(b) The Tenant shall fail to perform or observe any non-monetary covenant contained in this Lease for a period of thirty (30) days after receiving written notice of such failure from the Landlord. Except as otherwise provided herein, in the event of a breach of a term, covenant or condition of this Lease which requires more than the payment of money to cure and which cannot because of the nature of such default be cured within said thirty (30) days, then Tenant is deemed to be complying with said notice and shall not be in default if, promptly upon receipt of such notice, Tenant immediately takes steps to cure the default as soon as reasonably possible and proceeds thereafter continuously with due diligence to cure the default within a period of time which, under all prevailing circumstances, shall be reasonable.

(c) The Tenant shall (i) file an application for, or consent to, the appointment of a receiver for fifty percent (50%) or more of Tenant's assets, (ii) file a voluntary petition in bankruptcy, (iii) have an involuntary petition filed against it which is not dismissed within sixty (60) days, (iv) assign, or consent to the assignment of, any of its property for the benefit of any creditor of the Tenant, or (v) generally fail to pay its debts as they come due.

(d) The Tenant shall fail to pay rent or any other charges payable hereunder timely more than two (2) times in any twelve (12) month period, notwithstanding that such payments have been made within the applicable cure period.

(e) The Tenant shall abandon the Leased Premises or vacate the Leased Premises for a period of more than thirty (30) consecutive days.

(f) The Tenant defaults under any other obligation of Tenant to Landlord and/or any of Landlord's affiliates.

Section 7.02 Remedies. Upon the occurrence of an Event of Default, the Landlord shall have the right to exercise all or any one or any combination of the following remedies:

(a) Landlord shall have the right to terminate the Lease and shall be entitled to possession of the Leased Premises. Landlord may make its election to terminate known to Tenant by delivery of a notice of termination. No agreement to accept a surrender of the Leased Premises and no act or omission by Landlord shall constitute an acceptance of surrender of the Leased Premises unless made in writing and signed by Landlord. No re-entry or taking possession of the Leased Premises by Landlord shall constitute an election by Landlord to terminate this Lease unless written notice of such intention is given to Tenant. Any termination shall be immediately effective and Landlord shall be entitled to forthwith commence an action in summary proceedings to recover possession of the Leased Premises. Tenant waives all notice in connection with such termination, including, by way of illustration but not limitation, notice of intent to terminate, demand for possession or payment, and notice of re-entry. If Landlord terminates this Lease or terminates Tenant's right to possess the Premises because of a default, Landlord may hold Tenant liable for Base and Additional Rent under the Lease accrued to the date the Lease terminates. Landlord may also accelerate the Base Rent (and a reasonable estimate of the Additional Rent) that would have been payable over the remainder of the Term. The present value of this accelerated rent (calculated by using a reasonable discount factor) shall be immediately due and payable, reduced by the present value of the reasonable rental value of the Premises during the balance of the Term. Landlord may also receive from Tenant, as they become due, all other monthly payments for which Tenant is obligated under this Lease.

(b) The Landlord may exercise any remedy available at law or in equity.

(c) The Landlord may cure such default and charge the Tenant with any reasonable costs or expenses paid or incurred by the Landlord in effecting such cure, together with interest on such costs or expenses from the date incurred until paid by the Tenant at the rate set forth in Section 2.05 of this Lease.

(d) Landlord may, as an alternative to terminating the Lease, serve a written demand for possession or payment of any sums due hereunder. Unless the rent is paid in accordance with the demand for possession or payment or such other Event of Default is cured within the grace period provided in Section 8.01 above, Landlord shall be entitled to possession of the Leased Premises and Tenant shall have no further right to possession under the Lease. Tenant shall remain liable to Landlord for the payment of all rent and other charges which Tenant has agreed to pay under the Lease throughout the remainder of the Lease Term. Should Landlord elect to re-enter, as herein provided, it may from time to time, without terminating this Lease, make such alterations and repairs as may be necessary in order to relet the Leased Premises, and relet the Leased Premises or any part thereof for such term or terms (which may be for a term extending beyond the Term of this Lease) and at such rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable, provided that, except as otherwise required by law, Landlord shall not be required to expend any funds to relet the Leased Premises except as Landlord may elect in its sole discretion. Upon each such reletting all rentals and other sums received by Landlord from such reletting shall be applied, first, to the payment of any indebtedness other than rent due hereunder from Tenant to Landlord; second, to the payment of any costs and expenses of such reletting, including reasonable

brokerage fees and attorneys' fees and of costs of such alterations and repairs; third, to the payment of rent and other charges due from Tenant; and the residue, if any, shall be held by Landlord and applied in payment of future rent as the same may become due and payable. If such rentals and other sums received from such reletting during any month are insufficient to pay the rent and other charges due from Tenant, Tenant shall pay such deficiency to Landlord. Such deficiency shall be calculated and paid monthly. No such entry or taking possession of said Leased Premises by Landlord, and no delivery of a notice to quit to Tenant shall be construed as an election on its part to terminate this Lease. Notwithstanding any such reletting without termination, Landlord may at any time hereafter elect to terminate this Lease for such previous breach.

Section 7.03 Early Termination Events. Each of the following events (each, an "Early Termination Event") shall result in the termination of this Lease but shall not be considered an Event of Default or provide Landlord or Tenant with any remedies against one another other than to terminate this Lease.

(a) The seizure by any governmental authority seeking forfeiture of the Leased Premises or any portion thereof, whether or not the court proceeding has actually commenced.

(b) The entry of judgment (whether final or not) that has the effect (whether by restraining order, injunction, declaration, or otherwise) of establishing the Tenant's use of the Leased Premises constitutes a public or private nuisance.

(c) A final, non-appealable judgment establishing that Tenant's operation violates Landlord's contractual obligations (i) pursuant to any private covenants of record restricting the Leased Premises, or (ii) pursuant to Landlord's obligations under its mortgage agreement or other loan document with Landlord's bank.

(d) Termination of the Lease by Tenant pursuant to Section 7.03.

In the event that the Lease terminates in accordance with the terms of this Section 7.03, the Lease shall terminate, be of no further force or effect, and the parties hereto shall have no further obligations or liabilities to one another under the terms of this Lease, except for such provisions expressly stated to survive the termination of this Lease

Section 7.04 Expenses and Damages. In the event that Landlord shall institute any suit against Tenant for violation of or to enforce any of the covenants or conditions of this Lease, or to enforce or protect its interest or rights hereunder, Landlord shall be entitled to all of its costs, expenses and reasonable fees of its attorney(s) in connection therewith, prior to trial, at trial, on appeal and for post judgment proceedings. The court shall award costs, expenses and fees, as part of its ruling on the merits, even though no specific written demand shall have been made therefore in the pleadings.

ARTICLE VIII. TERMINATION

Section 8.01 Surrender of Possession.

(a) Except as otherwise provided herein, at the time of the expiration or termination of the tenancy created herein, the Tenant shall surrender the Leased Premises in the same condition as existed immediately after the completion of the Landlord's Work and the Tenant's Work, ordinary

wear, tear, casualty and condemnation damage all excepted. Unless the Landlord requires their removal and notifies Tenant of such requirement at the time of consenting to such alteration and except as otherwise set forth below, in which case the Tenant shall remove same, at the Tenant's sole cost, all alterations, or improvements made during the Term to the Leased Premises (except office furniture, the light fixtures and HVAC system installed as part of the Tenant's Work, and trade fixtures, equipment and personal property owned by Tenant) shall remain upon and be surrendered with the Leased Premises upon termination of this Lease, without molestation or injury, and shall become the property of the Landlord.

(b) In the event that the removal of any personal property or trade fixtures by or on behalf of the Tenant shall damage the Leased Premises, the Tenant shall, at its sole cost and expense, cause such damage to be immediately repaired. In the event the Tenant shall so fail to cause repair of any such damage, the Landlord may do so and the Tenant shall pay the Landlord the cost thereof within ten (10) days after receiving an invoice therefor from the Landlord, together with interest at the rate set forth in Section 2.05 above if not paid within such ten (10) day period. Any such payment obligation shall survive this Lease.

Section 8.02 Holding Over. In the event the Tenant holds over after termination or expiration of this Lease, the Tenant's tenancy shall be from month to month, subject to all of the obligations of the Tenant under this Lease; provided, however, that the Base Rent shall automatically increase by fifty percent (50%) during any such holdover period.

Section 8.03 Re-Renting. For a period commencing one hundred eighty (180) days prior to the expiration or termination of this Lease, the Landlord may show the Leased Premises to prospective tenants, during reasonable hours and upon reasonable notice to the Tenant.

ARTICLE IX. MISCELLANEOUS

Section 9.01 Assignment and Subletting. Tenant shall not assign this Lease in whole or in part (other than in connection with a transfer of all or substantially all of its equity or assets to either (i) a wholly or substantially owned subsidiary or (ii) an assignee which has at least the same net worth and technical capabilities of Tenant at the time of the signing of this Lease and such assignee has the necessary licensure to operate the Leased Premises for the use contemplated herein), or sublet all or any part of the Leased Premises without Landlord's prior written consent, which consent may be withheld at Landlord's sole discretion. Tenant shall provide Landlord prior written notice before any assignment that does not require Landlord's consent. A change of control of Tenant shall be deemed a transfer requiring Landlord's consent. In the event Tenant shall, with such consent, assign this Lease or sublet all or any portion of the Leased Premises, Tenant and its assignee or subtenant shall remain subject to all provisions of this Lease. Any assignment or sublease in violation of this Section 10.02 will be void. The consent by Landlord to an assignment or sublease will not be construed to relieve Tenant from obtaining Landlord's prior written consent in writing to any further assignment or sublease. Any assignment of the entire Lease to which Landlord consents shall relieve Tenant from any further liability under this Lease, provided that such assignee has at least the same net worth of Tenant at the time of the signing of this Lease and such assignee has the necessary licensure to operate the Leased Premises for the use contemplated herein. No permitted subtenant may assign or encumber its sublease or further sublease all or any portion of its subleased space, or otherwise permit the subleased space or any part of its subleased space to be used or occupied by others, without

Landlord's prior written consent in each instance. Any assignee must assume all of the obligations and duties of Tenant under this Lease pursuant to an assumption agreement satisfactory to Landlord of which Landlord is the beneficiary. If Tenant requests Landlord's consent to a specific assignment or subletting, or provides Landlord with notice of an assignment that does not require Tenant's consent, Tenant will submit in writing to Landlord (a) the name and address of the proposed assignee or subtenant; (b) the business terms of the proposed assignment or sublease; (c) reasonably satisfactory information as to the nature and character of the business of the proposed assignee or subtenant, and as to the nature of its proposed use of the space; (d) banking, financial, or other credit information reasonably sufficient to enable Landlord to determine the financial responsibility and character of the proposed assignee or subtenant; (e) the proposed form of assignment (including lease assumption provisions) or sublease for Landlord's reasonable approval; and (f) any other information reasonably required by Landlord.

Section 9.02 Access to Premises. The Landlord and the Landlord's agents shall have the right to enter the Leased Premises during business hours after reasonable notice to Tenant to examine the same, to show the Premises to prospective purchasers or Tenants, or for any other proper purpose permitted by this Lease, provided, however, that such access shall be conditioned upon and subject to all requirements under any applicable access or control laws, other applicable state, local, or federal laws, and the terms of any licenses or land use permits.

Section 9.03 Lease Subordinate. This Lease shall be subordinate to any mortgage now or hereafter encumbering the Land and Building or Building, and all advances to be made thereunder, interest thereupon, and all renewals, replacements and extensions thereof, provided the mortgagee named in such mortgage agrees, in the event of a foreclosure, to recognize the rights of the Tenant under this Lease so long as an Event of Default has not occurred, which shall be evidenced by a conventional subordination, non-disturbance and attornment agreement between Tenant and any mortgagee. Tenant covenants and agrees to execute and deliver, within five (5) business days after requested by Landlord, such instrument or instruments subordinating this Lease to the lien of any such mortgage or mortgagees as shall be desired by the Landlord and any mortgagees or proposed mortgagees and if Tenant fails to execute and deliver the same within such five (5) business days period, Tenant hereby irrevocably appoints the Landlord the attorney-in-fact of the Tenant to execute and deliver any such instrument or instruments for and in the name of Tenant. In the event said mortgagee(s) shall not accept any instrument or instruments executed by Landlord pursuant to the power of attorney contained herein, Landlord, at its option, may declare Tenant's failure to execute and deliver said instruments a default in the performance of the Lease and may proceed to enforce any and all remedies accruing to Landlord upon a default by Tenant hereunder. In the event any proceedings are brought for foreclosure of, or in the event of the conveyance by deed in lieu of foreclosure of, or in the event of the exercise of the power of sale under, any mortgage made by Landlord covering the Leased Premises, Tenant hereby attorns to, and covenants and agrees to execute any instrument in writing reasonably satisfactory to the new owner, whereby Tenant attorns to such successor in interest and recognizes such successor as the Landlord under this Lease. Tenant, within five (5) business days after request (at any time or times) by Landlord, will execute and deliver to Landlord, an estoppel certificate, in form acceptable to Landlord, certifying: (i) the Commencement Date, the Rent Commencement Date and expiration date of the Term; (ii) that this Lease is unmodified and in full force and effect, or is in full force and effect as modified, stating the modification; (iii) that Tenant does not claim that Landlord is in default in any way, or listing any such claimed default and that Tenant does not claim any rights of setoff, or listing such rights of setoff; (iv) the amount of monthly rent and additional rent due hereunder as of the date of the certificate, the

date to which the rent has been paid in advance, and the amount of any security deposit or prepaid rent; (v) Tenant has accepted the Leased Premises and is conducting its business therein (if such is the case); and (vi) such other matters as may be reasonably requested by Landlord. Any such certificate may be relied on by any prospective purchaser, mortgagee or Landlord of the Leased Premises or any part thereof.

Section 9.04 Parking. Tenant shall have the right to use all existing parking areas on the Land in connection with its lease of the Leased Premises.

Section 9.05 Signs. With the Landlord's written approval, such approval not to be unreasonably withheld, Tenant shall have the right to install signs on or about the Leased Premises, provided that all signs shall comply with applicable zoning laws and other governmental regulations. The cost of installing, maintaining and removing any signs on or about the Leased Premises shall be borne by the Tenant.

Section 9.06 Sale or Transfer by Landlord. If Landlord shall sell or transfer the Leased Premises, Landlord shall be automatically and entirely released of all covenants and obligations under this Lease from and after the date of such conveyance or transfer, provided the purchaser on such sale has assumed and agreed to carry out all covenants and obligations of Landlord under this Lease.

Section 9.07 No Recording. The Tenant shall not record this Lease without the prior written consent of the Landlord; provided, however, that the Tenant may at its sole cost and expense, prepare and record a memorandum of this Lease, which the Landlord shall execute upon approval of the form thereof, which approval shall not be unreasonably withheld.

Section 9.08 No Implied Waiver. One or more waivers of any covenant or condition by the Landlord shall not constitute a waiver of a further breach of the same covenant or condition.

Section 9.09 Modifications and Agreements. No modification of this Lease shall be effective unless made in writing and executed by both the Landlord and the Tenant.

Section 9.10 Cumulative Rights. All rights and remedies of the Landlord under this Lease shall be cumulative, and none shall exclude any other remedies by law.

Section 9.11 Headings. The headings in this Lease are inserted only for convenience and are not to be construed as part of this Lease.

Section 9.12 Binding Effect. The covenants, conditions and agreements made and entered into by the parties hereto shall inure to the benefit of and shall be binding upon their respective heirs, successors, representatives and assigns.

Section 9.13 Rules and Regulations. The Landlord may from time to time promulgate reasonable and uniform rules and regulations which shall be applicable to all tenants of the Building. The Tenant and its agents and employees shall comply with all of such rules and regulations.

Section 9.14 Notices. Any notice required or permitted by this Lease shall be deemed to have been properly given, if in writing and delivered to the parties at the address specified in the preamble, and shall be deemed received (a) upon delivery, if delivered in person, (b) one (1) business day after having been deposited for next day overnight delivery with a nationally recognized overnight

courier service, or (c) two (2) business days after having been deposited in any U.S. post office or mail depository and sent by certified mail, postage paid, return receipt requested. Either party may, at any time, designate in writing a substitute address for that set forth above, and thereafter notices shall be directed to such substitute address.

Any notices to Landlord shall include a copy to:

Town Administrator
Memorial Town Hall
54 Marion Rd
Wareham, MA 02571

Any notices to Tenant shall include a copy to:

Jilian A. Morton, Esq.
The Law Offices of Bello & Morton, LLC
184 Main Street
Wareham, Massachusetts 02571

and

Benjamin L. Rackliffe, Partner
Pannone Lopes Devereaux & O'Gara LLC
Northwoods Office Park Suite 215 N
1301 Atwood Avenue
Johnston, Rhode Island 02919

Section 9.16 Severability. This Lease is intended to be performed in accordance with, and only to the extent permitted by all applicable laws, ordinances, rules and regulations. If any provision of this Lease or the application thereto to any person, entity or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Lease and the application of such provision to other persons, entities or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

Section 9.17 Counterparts; Facsimile. This Lease may be executed in multiple counterparts and by facsimile, each of which shall be deemed an original and all of which shall constitute one agreement, and the signature of either the Landlord or the Tenant to any counterpart shall be deemed to be a signature to, and may be appended to, any other counterpart.

Section 9.18 Brokers. Landlord and Tenant represent and warrant one another that there are no claims for brokerage commissions or finder's fees in connection with this Lease as a result of contracts made by Tenant or Landlord, and Landlord and Tenant agree to indemnify and one another and hold the other harmless from all liabilities arising from any such claim arising from an alleged agreement or act by Landlord or Tenant, as applicable (including, without limitation, the cost of counsel fees in connection herewith); such agreement to survive the termination of this Lease

Section 9.19 Waiver of Jury Trial. Landlord and Tenant hereby waive trial by jury in connection with any action for summary proceedings to recover possession of realty. Further,

Landlord and Tenant waive trial by jury in connection with any action arising out of or relating to the covenants, terms, conditions or provisions of this Lease, with the exception of actions for personal injury or property damage.

Section 9.20 Entire Agreement. This Lease and the Exhibits attached hereto and forming a part hereof set forth all of the covenants, agreements, stipulations, promises, conditions and understandings between Landlord and Tenant concerning the Leased Premises, and there are no covenants, agreements, stipulations, promises, conditions or understandings either oral or written, between them other than set forth herein or therein.

Section 9.21 Accord and Satisfaction. No payment by Tenant or receipt by Landlord of a lesser amount than the full Rent due shall be deemed to be other than on account of the earliest stipulated Rent, nor shall any endorsement or statement on any check, such as "*paid in full*" or the like, or any letter accompanying any check or payment as Rent or other payment be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of Rent or pursue any other remedy in this Lease.

Section 9.22 Applicable Law; Jurisdiction. This Lease agreement shall be governed by and construed and interpreted in accordance with the laws of the state of Massachusetts. Each Party hereto consents to the exclusive jurisdiction of the Courts of Plymouth County in the State of Massachusetts in the event any action is brought for declaratory relief or enforcement of any of the terms and provisions of this Agreement by either party. Venue shall be in the Courts of Plymouth County in the Commonwealth of Massachusetts and neither party shall challenge such venue as an inconvenient forum.

Section 9.23 Limitation of Right of Recovery. It is specifically understood and agreed that there shall be no personal liability of any of the officers, directors, principals, employees or agents of Landlord or of Tenant, as the case may be, in respect to any of the covenants, conditions or provisions of this Lease.

Section 9.24 Licensing Period. Tenant's obligations hereunder are subject to Tenant obtaining, at its sole cost and expense and within six (6) months after the Town of Wareham's issuance of all requisite municipal entitlements, a Provisional License from the Cannabis Control Commission of the Commonwealth of Massachusetts permitting the processing of adult use and medical marijuana. Landlord acknowledges that Tenant's obligations hereunder do not include a covenant to obtain the Provisional License, and that Tenant shall not be obligated to appeal any denial of such License. Tenant, upon written notice to Landlord, shall have the right to extend the Licensing Period for an additional sixty (60) days provided that Tenant has used commercially reasonable efforts to obtain the Provisional License prior to the expiration of the initial Licensing Period. In the event that Tenant does not obtain the Provisional License in form and substance satisfactory to Tenant within the Licensing Period (and any extended Licensing Period), Tenant shall have the right to terminate this Lease at no additional cost to Tenant upon written notice to Landlord within thirty (30) days after expiration of the Licensing Period.

[SIGNATURES ON FOLLOWING PAGE]

The Landlord and the Tenant have executed this Lease on the day and year first above written.


LANDLORD:

Town of Wareham

By: _____
Name: Derek Sullivan
Its: Town Administrator

TENANT:

Aspen Blue Wareham, Inc.

By:  _____
Name: Patrick J. Casey, III
Its: President

The Landlord and the Tenant have executed this Lease on the day and year first above written.

LANDLORD:

Town of Wareham

By: Peter Teitelbaum
Name: Peter Teitelbaum
Its: Chairman, Board of Selectmen

TENANT:

Aspen Blue Wareham, Inc.

By: _____
Name: Patrick J. Casey, III
Its: President

Exhibit A to
COMMERCIAL LEASE

Legal Description

The steel building located in Wareham, Massachusetts of approximately 15,200 square feet in gross floor area, plus a 10 foot offset around the building for access, and the parking spaces abutting the location as shown on plan recorded on February 9, 1989 with the Plymouth Registry of Deeds in Book 32, Page 229, labeled as "storage building" adjacent to a 30' wide easement to the Commonwealth Electric Co. & N.E. Telephone Co.

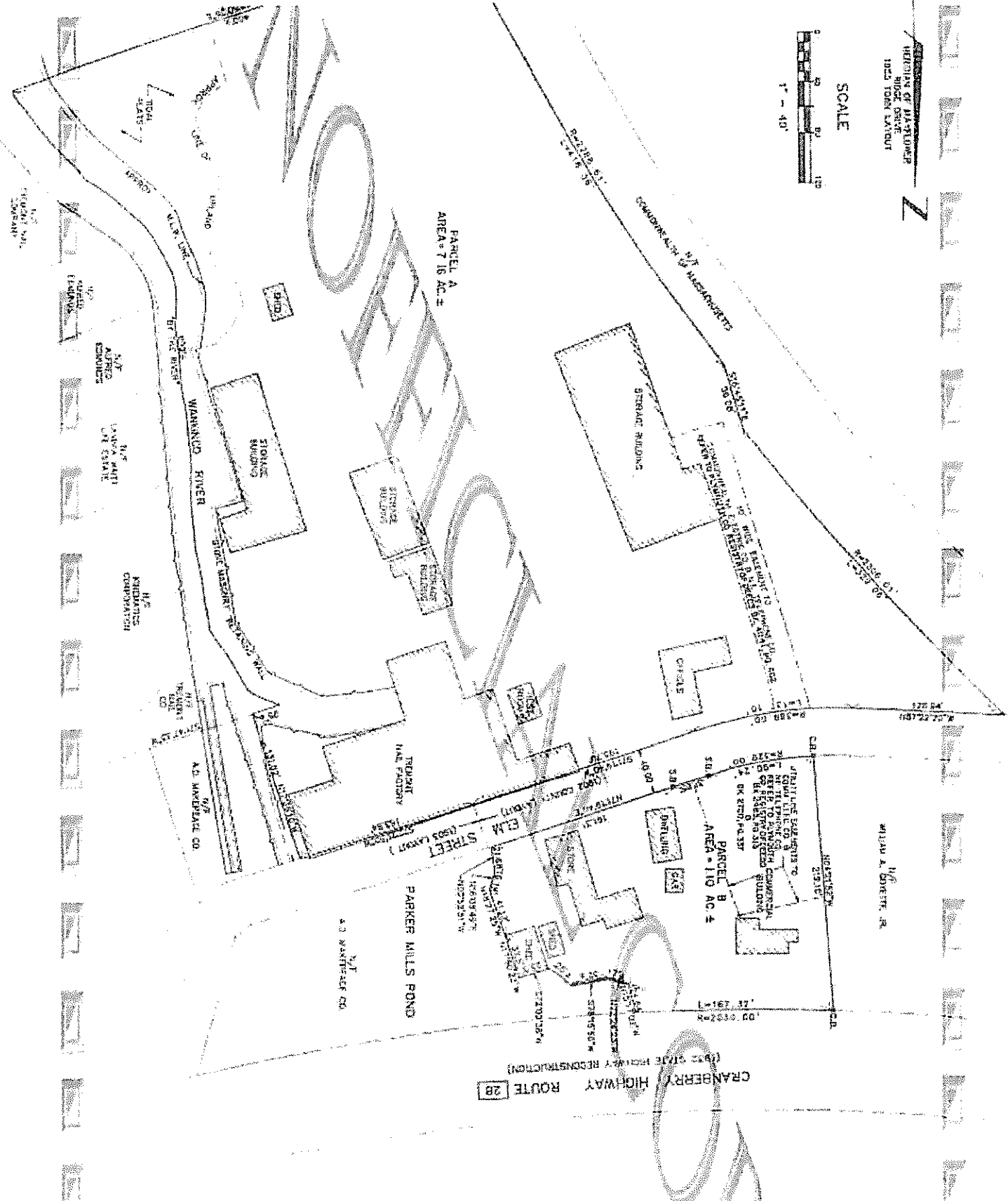
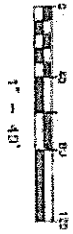
Listed under the Wareham Assessors Page as Building 3, Section 1, a building located on the property address: 8 Elm Street, Wareham MA 02571.

part
one

EXHIBIT G

SECTION OF THE PLAN
1923 TOWN LAYOUT

SCALE



1 CERTIFY THAT I AM THE REGISTERED PROFESSIONAL ENGINEER WHOSE LICENSE NO. IS 3885 AND WHOSE EXPIRES ON JULY 31, 1923 AND WHOSE EXPIRES ON JULY 31, 1923

1 CERTIFY THAT I AM THE REGISTERED PROFESSIONAL ENGINEER WHOSE LICENSE NO. IS 3885 AND WHOSE EXPIRES ON JULY 31, 1923 AND WHOSE EXPIRES ON JULY 31, 1923

1 CERTIFY THAT I AM THE REGISTERED PROFESSIONAL ENGINEER WHOSE LICENSE NO. IS 3885 AND WHOSE EXPIRES ON JULY 31, 1923 AND WHOSE EXPIRES ON JULY 31, 1923

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SHEET OF 1

EXHIBIT H

EXHIBIT I

Preamble:

The intent of this document is to provide insight and a basic understanding of the cannabis manufacturing industry. While its focus is on the specifics of odor mitigation and to provide an overview of the general design features of the Aspen Blue cannabis processing site located in Wareham, Massachusetts.; We feel that it is important that any community, town, region, and most importantly its citizens are properly equipped with thorough information. This document should be viewed as supplemental to the technical plans and designs that Aspen Blue will be provided to the committee.

In addition to the odor mitigation plan developed for the Wareham processing site; Aspen Blue has provided a similarly robust plan for the town of Mashpee, Massachusetts, of which has been approved and reviewed by an Industrial Hygienist, reviewed by Massachusetts Department of Environmental Protection, and approved by the Board of Health locally. The Mashpee Odor Mitigation Plan has been attached for reference, as it will have little to no deviation in functionality, and only differencing in design as to meet the processing facilities specifications. Because of this, Aspen Blue will be able to seamlessly integrate the existing plan throughout the entirety of their infrastructure and during transport.

In this document, we will attempt to discuss and clarify, through analogies and parallel industries, the challenges and most current solutions to prevent and mitigate concerns. This discussion is drawing from diverse background and technical expertise in biosecurity, technology, building design, agriculture, microbiology, engineering, economics, chemistry, rules and regulation from cities, states, and federal entities like the EPA, FDA, CDC, USDA, and standards like that of FOCUS, ASTM, ANSI, and ISO.

As of writing this, we have had the opportunity to engage with hundreds of cannabis manufacturing sites located "East of the Mississippi". These sites have been in large city centers, suburban landscapes, small towns, and far off rural areas. With this experience, it is notable that each have a common theme; significant economic growth and opportunity. As a son of a plumber, I have been delighted to see a resurgence of trade-related skills being put to use daily at these sites. High schools, colleges, and universities engaging with new science and curriculum to prepare students for new and higher-paying jobs. This has led to a renewed interest in agriculture, the trades, engineering, science, entrepreneurs finding new ways to solve problems, new businesses created, and new tax revenue. Simply put, American innovation is hard at work and at its best with this new and emerging industry.

The chief concern of any manufacturer should be one of Consumer Health and Safety & Employee Wellbeing. Secondary to those are operational efficiency and profitability. It is our opinion after speaking and engaging with the Aspen Blue founders and team that they exemplify these ideals and intend to act upon them both in design and organizational philosophy.

Odor and Its Source

Humans can recognize 10,000 different odors. However, no two people sense anything the same. Because of this, odor is subjective. Much like the "Pain Scale" in healthcare, odor is experienced by individuals differently. For some, the smell of freshly roasted and brewed coffee is pleasant and for some it's offensive.

Our sense of smell, like our sense of taste, is a part of our chemosensory system; what we smell and taste, or interpret as such, are molecules. These molecules that we smell are volatile and evaporate. These are called Volatile Organic Compounds (VOC's), and can be found in everything from bread, onions, ice cream, and yes, even cannabis.

When most people think of cannabis smell, they think of an intense aroma... but, like wine, cigars, and cheese- the smell and tastes of cannabis can be quite diverse. Cannabis has the ability to produce aromatics like that of blueberry, citrus, muffins, and even whipped cream. Commonly, these aromatics are broadly described as: Fruity, earthy, and floral with at least 48 variations. These odors from the cannabis plant are from terpenes which are VOC's and are produced by the cannabis plant in abundance by the trichome during the flowering stage. It is at this stage (the flower stage, harvest, and processing) that cannabis odor may be at its height. These stages occur later in the life cycle of cannabis cultivation.

Example:

For anyone that has ever grown a tomato plant, you likely have a vivid memory of picking tomatoes or brushing against them and the unique and unforgettable smell that proceeds. The smell that we fondly remember, is also a VOC and like the cannabis plant, derived from a trichome.

This is the *source* of odor in cannabis processing.

Odor mitigation

Principle 1) Containment

"In any odor mitigation plan, one of the primary forms of control is to *contain* the *source* of the odor."

Example:

At home, if we were to cut an onion and have leftovers, we might choose to put it in a plastic bag or wrap it in cellophane. We do this because the odor of the onion tends to be strong and the bag acts as a barrier to contain it and so that it doesn't "smell-up" the fridge.

In similar fashion, the building design of a cannabis manufacturer exercises the same concept to contain odors. This often comes in the form of spray foam insulation. In addition to significantly increasing energy efficiency, it also "air-seals" or creates a conditioned space that reduces the air exchanges between the outside and inside air. We call this the envelope and its efficiency is measured in Cubic feet per minute (CFM). The spray foam is applied to the interior of the walls, making a monolithic and impermeable structure that significantly limits the air exchanges between the outside and inside environments and much like our bag,

acts as a barrier to contain the source of odor. We can also think of our fridge as an additional barrier... both insulating and containing our food. Aspen Blue is exercising this concept through its building design.

Principle 2) Elimination

"An odor mitigation plan should have redundancies that further mitigate instances of smell by eliminating cause."

Example:

Because we know the source of cannabis odor, being VOC's, we know that we can remove them. Just like our onion example, the cutting board and knife that we likely used may have remnants of onion odor still on it. We remove that odor and possible contaminants by washing and cleaning those things. Molecularly what is occurring, is that the cleaning/disinfection agent we use (being a cleaner, disinfectant, or soap), is changing or acting upon the onion's chemistry and removing the source.

In odor and biosecurity mitigation, we apply these same concepts.

At Aspen Blue's site, they will be using three methods to mitigate odor risks:

- Containment
- Elimination/termination
- Filtration
- Exhausting

These methods are in regular use in food-agriculture and commercial processing sites to ensure food is safe to eat from disease and controls odor

One of the main methods of elimination of odor is through chlorine dioxide and disinfection efforts. Aspen Blue will be using DiKlor which is a highly effective disinfectant for mold, bacteria, and viruses, but also very effective at breaking down odor. It works by breaking down or oxidizing the molecular structure of the target pathogens or VOC's.

Because Aspen Blue is installing a system that manages the application of the disinfectant at the *source* of the odor, where the cannabis is grown, the odor is being actively broken down. Additional methods of *elimination* use systems that force air through units that "scrub" the air of VOC's and pathogens in a similar oxidative fashion with DiKlor Clo₂.

Principle 3) Filtration

"An odor mitigation plan should use *filtration* to mitigate *exhaust* related odors."

Just like our HVAC systems at home, cannabis manufacturers have them too...except they're huge and sometimes referred to as an Environmental Control Systems (ECS). Like our HVA systems, there are internal components of that system like filters and intercoolers that manage particulates and condition the air to our liking. These systems in general draw fresh air in and push old air out(exhaust). Cannabis HVAC systems generally have a centralized exhaust point, where air is collected to a central point and exhausted to the outside of the building. In the design of cannabis HVAC systems, like that of Aspen Blue, carbon filtration is used to force the exhaust air across the filter to Adsorb odor-causing molecules. This is analogous to our onion.

Additional recirculating filtration systems from Purafil will be used that consider the volume of the facility to recirculate the full atmospheric volume of Aspen Blue's site 3 to 5 air cycle's per hour. Purafil's Smart line of filtration units will utilize Sphinx OdorMax media; which accounts for the volume and flow of air as it relates to the depth of media for maximizing odor control in the air to effectively remove odor causing VOC's, like terpenes.

Example:

When we put our bagged onion in the fridge, we still may smell some odor. This is because the same molecules are on the bag itself. We combat this issue by putting a box of baking soda in our fridge. The baking soda "grabs" or Absorbs the odor-causing molecules to neutralize them.

In similar fashion, carbon *filtration acts* to Adsorb odor causing molecules and "trap" them before they exit. This is because there are millions of pores and cavities on the charcoal particles and traps particulates of certain size...like molecules that cause odor. It's for this reason that we see charcoal filtration in use in commercial settings, in drinking water, gas masks, and in our fish tanks at home. It is an effective means to *filter* unwanted chemicals, smells, and tastes from air and water.

Principle 4) Avoidance

"An odor mitigation plan should *avoid* detection."

It should seem logical that the best way to solve a problem is to avoid it and prevent it from occurring. As with any industry that deals with odor challenges (be it food processing, paper mills, or cannabis manufacturers) getting the problem as far away as possible is paramount to avoid detection. No matter the location of manufacturing, be it a city, suburb, or farm, one control mechanism is where and how to *exhaust*.

Example:

Just like our chimneys at home, the goal is to get the exhaust (smoke) up and away. The ideal location of roof exhaust is at the highest point of a structure and determined by building code.

Aspen Blue is exercising this principle in the design of the building and its environmental control

systems. They will be using what's referred to as a high-plume fan. It acts in similar fashion to our fireplaces at home. The high plume will heat the air-exhaust to a temperature higher than the surrounding environment and create what is called the *chimney effect*. This effect, coupled with the height of the building, theoretically propels the exhaust high and away from detection... perhaps up to 90 feet.

Principle 4) Transfer

"An odor mitigation plan should track, communicate, and resolve instances of noncompliance and odor complaints."

When problems arise, as they do, it's important to be able to communicate those concerns in order to fix them. As such, the most important part of an odor mitigation plan is to provide a way for residents and officials to communicate concern or discontent to the manufacturer who can change and fix it. In a way, we *transfer* those problems to someone that can resolve it.

The odor mitigation plan, it outlines the chain-of-custody and who to contact in the event of a concern. These plans are generally available to the public through the local city government.

Aspen Blue and other like-minded cannabis companies strive to be a positive member of the community and look to add to the community's success. Manufacturers that are providing direct information to interact, learn, and engage about their companies have a high chance for success and their ability to resolve problems when they occur.

Concluding

Aspen Blue has gone to great length and expense to create a thorough odor mitigation plan. One that has the best interests of the consumer, employee, and community at heart and addresses the problem completely.

The systems and design of Aspen Blue brings together a series of redundancies that mitigate problems of odor and contamination from occurring. From the building design meant to contain odor, the disinfectants and deodorizers that destroy, trap, and filter odor, and the mechanical systems employed to avoid and dispel odors- these measures act to significantly decrease the probability of a complaint or concern. If ever a problem, the plan offers a direct and easy way to address it.

Organizations, like that of Aspen Blue, that commit to these concepts and put them into action have a high probability of being a great new asset to the community. By identifying the problems before they start, creating solutions to alleviate them, and committing to being a responsible neighbor cannabis manufacturing can be an economic boon to any community.

Signed,

Kyle Baker

Kyle R.L Baker
CSO and Co-founder
EcoBuds

Aspen Blue's Wareham Processing Site

Biosecurity and Odor Mitigation Plan for:
8 Elm St.
Wareham, MA

1. Overview- Odor Mitigation Plan	3
2. Disclosures and supporting information	5
3. FACILITY ODOR EMISSIONS INFORMATION	6
a. Facility Information	6
b. Specific odor---emitting activity(ies)	6
c. Phases (timing, length, etc.) of odor---emitting activities	7
4. ODOR MITIGATION	7
a. Administrative Controls	8
i. Procedural activities	8
i. Staff training procedures	8
ii. Recordkeeping systems and forms	9
b. Engineering Controls	9
5. Components of engineering controls	10
a. System design	10
b. Operational processes	10
c. Maintenance plan	10
6. System design	11
System 1: Automated Disinfection	11
System 2: Gas-Phase	11
7. Maintenance plan	11
a. Timeline for implementation of odor mitigation practices	11
i. Approval of BOMP by the Department	12
ii. Approval of BOMP by other City agencies	12
iii. Purchase and installation of engineering controls	12
iv. Inspections and approval by City agencies	12
d. Complaint tracking system	12
8. Additional Notes:	14

1. Overview- Odor Mitigation Plan

Cannabis, a word derived from the Hebrew *kneh-bosm*, which literally means "aromatic reed," releases organic vapors originating from the plant's numerous terpenes. The release of these terpene-derived organic vapors may be further increased at various stages of manufacturing, such as during flowering, trimming, harvest, and processing. While different strains of cannabis produce different forms and amounts of terpenes, the more potent strains, which are generally more sought after as medicines and adult-use adjuncts, typically have higher concentrations of odor. Growing these strains will, without an effective odor reduction plan, increase the opportunity and likelihood of complaints from neighbors, both residential and commercial, who may be exposed to cannabis odors.

To avoid such conflicts and to maintain "good neighbor" status, while creating a work environment comfortable for employees and not running afoul of OSHA or other workplace standards, cultivators may turn to a variety of technologies used for odor mitigation. A first-line strategy employed for odor control of the facility is the design of the building itself. By operating a closed and sealed facility there is very little exchange of air from inside the facility to the exterior, mitigating the vast majority of odors escaping.

After building construction, additional odor reducing strategies are used to suppress and mitigate odors. These include carbon adsorption, masking-agents, and neutralizers (including oxidants). Since the effectiveness of an odor reduction strategy is measured by the elimination of odor, the operator's goal is to eliminate the offending odor's molecules which are responsible for the problem in the first place. As such, Aspen Blue has invested in specific technologies from EcoBuds, Biowall and Purafil. These combined technologies, which include the "Digital Immune System and Smart-line filtration". These technologies work together to provide comprehensive solutions to biosecurity and odor related risks.

In addition, the facility will employ a rooftop mounted high plume fan for heat and air exchange. EcoBuds and its alliance partner bioWALL, a global leader in deodorization and disinfection, will install a facility-wide, patented dual-phase Chlorine Dioxide (ClO₂) system for successful deodorization of cannabis' terpene-generated Volatile Organic Compounds (VOC's).

The DiKlor® ClO₂ is both EPA-registered and FDA-compliant. By deploying a sophisticated ClO₂ system in both liquid and gas application phases, the Mashpee, MA facility can be both effectively and safely treated for both odor and pathogens using a plan built on science and dedication to best practices. The automated nature of the system supplies consistent, predictable suppression of both odors and pathogens, while removing the time and expense of manual cleaning and reduces risks such as unnecessary employee exposure and human error.

ClO₂ is always an optimal choice because it provides the dual benefit of being both an odor control agent as well as a disinfectant. This reduces costs and increases efficiencies within the operation. Chlorine dioxide also reacts more rapidly and completely than other available oxidizers. Unlike most oxidants, chlorine dioxide's efficacy remains consistent within a broad range of pH. This allows it to oxidize (reduce) odor causing compounds, such as organic vapors, in virtually all environmental conditions.

ClO₂ is also unique in its operation. Due to its extremely small molecular size and its course of action, ClO₂ neutralizes certain organic molecules on contact. Since it is also most effective in the absence of light, treatment applications may be optimized during "dark" cycles. Upon the reintroduction of light, ClO₂ breaks down, taking the remnants of the destroyed odor molecule with it, while leaving no toxic residues to negatively impact regulatory testing.

The EcoBuds system has taken chlorine dioxide disinfection within the cannabis industry to a new level by helping to introduce the use of bioWall's Replenish® system- the cannabis industry's only patented dual liquid/gas automated disinfecting and odor reduction system. BioWall is a global authority on mitigating biological and chemical threats. BioWall, through its parent company Sabre, was instrumental in helping the Federal Government mitigate the Anthrax attacks in the early 2000's. They have industry expertise and on-the-ground experience for effective decontamination and odor reduction in industries such as biohazard remediation, food agriculture, oil & gas, and water treatment.

ClO₂ is a safe and effective broad-spectrum biocide used across numerous industries for decades. As a selective oxidant, ClO₂ is a broad spectrum biocide and sterilant, highly

effective in remediating a vast array of biological and chemical contaminants, neutralizing odor, destroying mold and mold spores, purifying drinking water and sterilizing large spaces – including indoor agriculture, large scale barns, food processing plants, sensitive equipment and commercial kitchens. These properties make ClO₂ an ideal cannabis cultivation facility management tool as it fights and suppresses mold and mildew while simultaneously reducing the odor associated with production.

2. Disclosures and supporting information

- A. In compliance with the Massachusetts Department of Environmental Protection (MassDEP) & the MassDEP Air Compliance & Enforcement codes; Guidance for Adopting Municipal Regulations to Control Air Pollution under M.G.L. chapter 111, section 31C (hereinafter, "Guidelines"). Massachusetts General Laws Chapter 111

- B. All plans are dependent and subject to state, local, and/or municipal regulations and laws pertaining to building code and other established rules related to the plan.

3. FACILITY ODOR EMISSIONS INFORMATION

a. Facility Information

The proposed cannabis cultivation site, located at 8 Elm, in Wareham, Massachusetts is owned and operated by Aspen Blue.

b. Specific odor--emitting activity(ies)

The specific odor related activities at this site may be categorized as cannabis processing and drying.

The location of the odor related activities is isolated to the designated processing areas, and drying rooms located within the facility. The cannabis is the most fragrant is during the trimming a processing of the plant materials at this site.

The main strategy employed for odor control of the facility is the design of the building itself and insulated air-sealed rooms. By operating a closed and sealed facility with fully contained units, there is very little exchange of air from inside the facility, mitigating the vast majority of orders from escaping the facility.

The facility is heavily modernized, conforming to higher than average standards and utilizes the best of class methods to increase energy efficiencies, increase noise reduction, and enhance odorcontainment.

For the purposes of biosecurity and odor mitigation; 1) spray foam is inert and not subject to decay, molding, and bacterial build-up present in most commonly used insulation materials. 2) Closed-cell foam creates a "true-conditioned space" and "air-seals" the envelope of the superstructure, thereby preventing air exchanges and odors from permeating to the outside.

c. Phases (timing, length, etc.) of odor---emitting activities

Odor related activities may occur on an ongoing basis, for example: Every two weeks on Tuesday, during normal business hours.

4. ODOR MITIGATION

Odor emitting activities shall be contained within the superstructure and infrastructure of this site. Odor reducing/mitigating technologies using a combination of filtration and deodorizers throughout the sealed facility. These systems recirculate and neutralize odor causing compounds. Additional technologies and systems that use proven methods from food-animal production and processing will be executed to eliminate odor at the source. The main strategy employed for odor control of the facility is the design of the building itself. By operating a closed and sealed facility there is very little exchange of air from inside the facility mitigating the vast majority of odors from escaping the facility.

In addition to a closed and sealed facility, the facility will deploy a state-of-the-art odor mitigation system. An automated odor reduction, disinfection and humidity offset system developed by our partner Ecobuds, Inc, bioWall, and Purafil.

All technologies used shall be within the guidelines for safe manufacturing and are environmentally friendly.

a. Administrative Controls

i. Procedural activities

The ventilation of this site is exercised through a rooftop mounted high plume fan located on the roof for the purpose of temperature regulation. Based on the construction of this site, the exhaust vent is approximately

forty(40') feet above ground level. Additional redundancies take the form of odor scrubbing technology and devices deployed in animal rendering facilities. These devices manage and eliminate odor at the vent level.

i. Staff training procedures

The Director of Cultivation, Agent-in-Charge, and/or General Manager shall be responsible to day-to-day activities and management of activities. The Odor Plan is under the responsibilities and management of these person(s).

The Staff shall be trained on the use of facilities engineering controls. The controls are, but not limited to, the ventilation of the facility, temperature controls and disinfections/deodorization systems.

Staff shall be trained within 15 days of employment on the safety, recognition, and handling of procedures, processes, and technologies involved with the systems. Additional training shall be conducted to attest and record the employee's knowledge and understanding of the respective technologies, methodologies, and systems of the plan, no less than bi-annually. Training may be conducted in person or via digital learning platforms or a combination thereof.

ii. Recordkeeping systems and forms

The automated systems keep detailed records of environmental activities and use of ClO₂ and.

b. Engineering Controls

i. ClO₂, an oxidant, has been able to cause the rapid and complete chemical destruction of many volatile organic chemicals and pathogens. In general, the oxidants have been capable of achieving high treatment efficiencies (e.g., > 90 percent) for unsaturated aliphatic (e.g., trichloroethylene [TCE]) and aromatic compounds (e.g., benzene), with very fast reaction rates (90 percent destruction in minutes). Field applications have clearly affirmed that matching the oxidant and in situ delivery system to the contaminants of concern (COCs) and the site conditions is the key to successful implementation and achieving performance goals for odor mitigation. Since the automated odor and disinfection system is designed and implemented within the sealed facility, odor mitigation is occurring at the source of the odor at all times.

5. Components of engineering controls

a. System design

The Replenish system is based on existing logistics of the Food Ag industry. A Semi-truck with specialized equipment fills and recharges a

special "smart" tank. The refilling process, "Replenish" is a lossless system and has zero waste, restoring the concentration to full capacity. The smart tank uses a variety of inline and in-tank sensors to measure the PPM of the Clo₂, and ultimately diverts the concentrations to the plumbed systems (inline sprayers, Gas-Phase emitters). The pumps that deliver the CLo₂ are operated by "if this, then that" and timed programming methods, sometimes called AI.)

The Purafil Smart line air filtration systems media (OdorMax) , a proprietary SPHINX engineered media blend designed for grow house odor removal uses chemisorption process to chemically transform contaminant gases into inert solids trapped inside the media, removing gases permanently from the air, unlike activated carbon, rated to withstand a continuous operating temperature of up to 125°F continuously, with bi annual media exchanges to ensure the life and efficacy of adsorption.

b. Operational processes

Operational processes of the Biosecurity and Odor Mitigation Plan are automated and monitored in real-time to ensure 100% uptime and efficacy.

c. Maintenance plan

Maintenance of the systems shall be routine and scheduled in accordance with manufacture recommendation and regulation. All maintenance rendered shall be documented in detail and retained in a centralized repository.

6. System design

System 1: Automated Disinfection

Through a series of proportioning pumps, the stock solution of ClO₂ is diluted to the appropriate concentrations to installed inline spray systems. These systems are custom to each room and have spray nozzles that are specific to spray width, distance, and gallons per minute. These nozzles are directed to floor levels to address "hard-non-porous surfaces" and disinfect to a LOG 6 reduction using 100 ppm ClO₂.

System 2: Gas-Phase

Like the Automated Disinfection system, The Gas-Phase Emitter operates from proportioning pumps and the smart tank. The difference is that the device (Gas-Phase Emitter) is specialized to execute the gas phase of the ClO₂.

System 3: Odor scrubbing from air
The configuration of the Purafil units are specified to filter the entire volume of Air within the Aspen Blue Site 3-5 times per hour through specialized media used to adsorb VOC's.

7. Maintenance plan

a. Timeline for implementation of odor mitigation practices

The timeline should begin upon receipt of approval from the Town of Mashpee; of the "Biosecurity and Odor Mitigation Plan" or "BOMP"

- i. Approval of BOMP by the Department
- ii. Approval of BOMP by other City agencies
- iii. Purchase and installation of engineering controls
- iv. Inspections and approval by City agencies

d. Complaint tracking system

An odor caused by the release of an air contaminant is considered air pollution and a violation of the local ordinance if the MassDEP or local regulatory authority determines that the odor has unreasonably interfered with the enjoyment of life or property. Many citizen complaints of air pollution involve the presence of objectionable odors. Community Gardens

is committed to being a good neighbor and has made considerable efforts to avoid any instance of nuisances to the community.

All complaints received, whether by telephone, letter or through the MassDEP of Environmental Protection or local authorities will be immediately forwarded to the General Manager or his designee for review.

Complaints of Odor related instances may be reported by telephone and email to:

Name: Matthew Wilkes
Email: mwilkes85@gmail.com
Phone (401) 286-1010

8. Additional Notes:

Basics

ClO₂ is water soluble true-gas. Essentially, what that means is that it always remains a gas, but can be put in water at a wide variety of concentrations without actually mixing with the H₂O molecule. They stay separate.

Being a gas, ClO₂ always wants to leave the solution and enter what we call the "gas-phase". The solution of ClO₂ stays in water until agitated or not contained. The molecule(ClO₂) remains in the physical state of matter, gas. As such, the gas can only be held together if contained (or by gravitational force), in our instance this represents the greenhouse or indoor facility. There is a great deal of empty space between molecules, which have a lot of kinetic energy (also, oxidation potential). The particles move very fast and collide into one another, causing them to diffuse, or spread out, until they are evenly distributed throughout the volume of the facility (or container).

Gases have measurable properties: temperature (T), volume (V) and number of particles, which is expressed in a mole number (n or mol). This measurement allows us to very precisely and mathematically "dose" a given space; in-fact exactly. If it's a liquid, we measure in Parts Per Million(PPM). In our use, generally at 100PPM (These are the sprayers).

OXIDATION

ClO₂ oxidizes volatile organic compounds, size-specific mold, bacteria, and viruses (sans your skin, or plant cells and trichomes). Oxidation is the process in which an electron is taken away from a molecule. Taking away electrons disrupts important cellular structures of microbes (like a cell wall). Oxidation can disrupt the cell wall of bacteria and/or mold: the membrane stops functioning, no transport of molecules is possible (like sugars). Also, the barrier can break or burst open and important constituents can leak out of the cell (denatures the protein structures) Oxidation can also affect all structures inside the cell such as important enzymes and DNA. Damage caused by oxidation can sometimes be repaired by cells, but when there is too much oxidation damage, the cell/microbial will die.

The System

The system operates on three basic principles; 1)Detection of specific biological activity (mold/bacteria), 2)Termination of biological activity (mold/bacteria), and 3)verification of termination of biological activity.

Specialized devices monitor the airborne environmental conditions and identify mold and bacteria.

System Operations

The Replenish system is based on existing logistics of the Food Ag industry. A Semi-truck with specialized equipment fills and recharges a special "smart" tank. The refilling process, "Replenish" is a lossless system and has zero waste, restoring the concentration to full capacity. The smart tank uses a variety of inline and in-tank sensors to measure the PPM of the Clo₂, and ultimately diverts the concentrations to the plumbed systems (inline sprayers, BioBud-e). The pumps that deliver the CLo₂ are operated by "if this, then that" and timed programming methods, sometimes called AI.

System 1: Automated Disinfection

Through a series of proportioning pumps, the stock solution of ClO₂ is diluted to the appropriate concentrations to installed inline spray systems. These systems are custom to each room and have spray nozzles that are specific to spray width, distance, and gallons per minute. These nozzles are directed to floor levels to address "hard-non-porous surfaces" and disinfect to a LOG 6 reduction using 100 ppm Clo₂. The amount of Clo₂ in gallons is determined by the square footage of the space and based on the centipoise (in this case, 0-1=1,000 Sqft of coverage, per 1 gallon).

System 2: Gas-Phase

Like the Automated Disinfection system, The Gas-Phase Emitters operate off of proportioning pumps and the smart tank. The difference is that the device (Gas-Phase Emitter) is specialized to execute the gas phase of the Clo₂. This is essentially accomplished by using a media that looks like marbles, where the Clo₂ cascades across the media and excites/agitates the Clo₂ out of solution and into the room (or any given space) to its gas-phase....delivering precise mols of Clo₂ that are OSHA safe

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COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

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Lieutenant Governor

IAN A. BOWLES
Secretary

LAURIE BURT
Commissioner

**Guidance for Adopting Municipal Regulations to Control
Air Pollution under M.G.L. chapter 111, section 31C**

A city or town, through its Board of Health or other legal authority (referred to in this fact sheet as "Board of Health"), has the authority to enact "reasonable" rules and regulations to control air pollution, pursuant to Massachusetts General Laws Chapter 111, Section 31C (Section 31C). These regulations are enforceable only after they are approved by the Massachusetts Department of Environmental Protection (MassDEP) and printed in a newspaper published in the city or town (if there is no newspaper published in the city or town, the regulation must be posted in a public place).

Boards of Health may enact regulations to control air pollution if the regulation serves to prevent:

1. Nuisance to members of the town;
2. Danger to the public health of the town; or
3. Detriment to public comfort and convenience in the town.

According to Section 31C "air pollution" includes (but is not limited to) the emission of smoke, particulate matter, soot, cinders, ashes, toxic and radioactive substances, fumes, vapors, gases, industrial odors, and dusts that may arise within the town's boundaries and are a nuisance, danger, or detriment.

Procedural Requirements of Section 31C

Before sending a regulation or an amendment of a previously approved regulation to MassDEP for approval, the Board of Health must hold a public hearing to give the public an opportunity to comment on the regulation. The date, time, place and subject of the hearing must be printed in a newspaper published in the city or town, or if there is no newspaper published in the city or town, the notice of the hearing must be posted in a public place within the city or town. The text of the regulation or amended regulation does not have to be published in the newspaper before the hearing, but it should be made available to the public at or before the hearing.

The notice must be published in the newspaper twice, in two successive weeks before the hearing, as follows:

- The first notice must be published at least two weeks (14 days) before the hearing; and
- The second notice must be published sometime during the week immediately following the week of the first publication. For example, if a hearing is scheduled to be held on June 15, the first notice should be published by June 1, and the second notice must be published during the week of June 8, 2009.



After the hearing, if the Board of Health approves the regulation or amended regulation, the regulation must then be approved by MassDEP. To obtain MassDEP's approval, the Board of Health must submit the following information:

1. A letter requesting approval of the regulations;
2. One copy of the regulation; and
3. Copies of the two public hearing notices that were published or posted (please make sure the copies show the date on which the notices were published).

This information must be submitted to Assistant Commissioner, Bureau of Waste Prevention, MassDEP, One Winter Street, Boston, MA 02108

MassDEP will inform the Board of Health in writing whether the agency approves or disapproves the regulation.

If MassDEP approves the regulation, the Board of Health must print a copy of it in a newspaper published in the city or town to give the regulation the force of law¹.

Substantive Requirements of Section 31C

Regulations adopted by cities and towns pursuant to Section 31C must be "reasonable." Although there is no specific definition of "reasonable" in the statute, these regulations should be clear, concise and not conflict with existing laws and regulations.

Section 31C contains a penalty provision that should be included in the regulation either in its entirety or by reference:

Whoever violates any order, rule or regulation promulgated or adopted under the provisions of this section shall be punished, for the first offense, by a fine of not less than one thousand nor more than five thousand dollars and for a subsequent offense, by a fine of not less than five thousand nor more than ten thousand dollars. For the purpose of this paragraph each day or part thereof of violation of such an order, rule or regulation whether such violation be continuous or intermittent, shall be construed as a separate and succeeding offense.

Regulations adopted by the Board of Health can include limits, bans and/or moratoriums on certain activities that produce air pollution (e.g. outdoor wood fired boilers). The regulation must be at least as stringent as any applicable state or federal law or regulation.

Local Regulations Adopted Pursuant to M.G.L. Chapter 111, Section 31

Boards of Health also have the authority to "make reasonable health regulations" pursuant to M.G.L. Chapter 111, Section 31. Regulations adopted under Section 31 do not have to be approved by MassDEP, but this section of the statute requires that "attested copies of sanitary codes, and all rules, regulations and standards, and any amendments and additions thereto" must be filed with MassDEP (Please send them to: Assistant Commissioner, Bureau of Waste Prevention, MassDEP, One Winter Street, Boston, MA 02108).

¹ If no newspaper is published in the city or town, a copy of the regulation must be posted in a public place in the city or town.

An air pollution regulation may be adopted pursuant to both Section 31 and Section 31C, but the procedural and substantive requirements of Section 31C must be followed in order to give the air pollution regulation the force of law.

For More Information

- MassDEP encourages Boards of Health to consult with their Town Counsel on the procedural and substantive requirements for adopting air regulations under Section 31C, and to consult with other cities/towns to develop a consistent approach for regulating air pollution.
- Contact Marc Cohen in MassDEP's Bureau of Waste Prevention (email: marc.cohen@state.ma.us or telephone: 617/292-5873), with questions about the requirements of Section 31C.

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF ENVIRONMENTAL PROTECTION

310 CMR 7.00 AIR POLLUTION CONTROL REGULATIONS

310 CMR 7.25 U BEST AVAILABLE CONTROLS FOR CONSUMER AND
COMMERCIAL PRODUCTS

7.25: U Best Available Controls for Consumer and Commercial Products

(1) Purpose. 310 CMR 7.25 applies to and sets forth requirements for the control of volatile organic compound emissions from the use of consumer and commercial products as defined in Title I Part D Subpart 2 Section 183(e)(1)(B) of the federal Clean Air Act.

[(2) through (10): Reserved]

(11) Architectural and Industrial Maintenance (AIM) Coatings.

(a) Applicability.

1. Except as provided in 310 CMR 7.25(11)(a)2., the requirements of 310 CMR 7.25(11) apply to any person who, on or after January 1, 2009, supplies, sells, offers for sale, blends for sale, or manufactures any architectural coating listed in 310 CMR 7.25(11)(b) for use within Massachusetts, as well as any person who applies or solicits the application of any architectural coating within Massachusetts.
2. The provisions of 310 CMR 7.25(11) do not apply to any person who supplies, sells, offers for sale, blends for sale, or manufactures any architectural coating that is for exclusive use outside of Massachusetts.

(b) Definitions. Terms used in 310 CMR 7.25 are defined at 310 CMR 7.00: *Definitions* or in 310 CMR 7.25. Where a term is defined in both 310 CMR 7.00: *Definitions* and in 310 CMR 7.25, the definition in 310 CMR 7.25 shall apply.

AEROSOL COATING PRODUCT means an aerosol coating product containing pigments or resins that is packaged in a disposable can for hand-held application, or for use in specialized equipment for ground traffic/marketing applications.

ANTENNA COATING means a coating labeled and formulated exclusively for application to equipment and associated structural appurtenances that are used to receive or transmit electromagnetic signals.

ANTIFOULING COATING means a coating labeled and formulated for application to submerged stationary structures and their appurtenances to prevent or reduce the attachment of marine or freshwater biological organisms. To qualify as an antifouling coating, the coating must be registered with both the U.S. EPA under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. § 136 *et seq.*) and with the under the Massachusetts Pesticide Control Act.

APPURTENANCE means any accessory to a stationary structure coated at the site of installation, whether installed or detached, including but not limited to: bathroom and kitchen fixtures; cabinets; concrete forms; doors; elevators; fences; hand railings; heating equipment, air conditioning equipment, and other fixed mechanical equipment or stationary tools; lampposts; partitions, pipes and piping systems; rain gutters and downspouts; stairways; fixed ladders; catwalks and fire escapes; and window screens.

ARCHITECTURAL COATING means a coating to be applied to stationary structures or the appurtenances at the site of installation, to portable buildings at the site of installation, to pavements, or to curbs. Coatings applied in shop applications or to nonstationary structures such as airplanes, ships, boats, railcars, and automobiles, and adhesives are not considered architectural coatings for the purposes of 310 CMR 7.25.

ASTM means the American Society for Testing and Materials.

BAAQMD means Bay Area Air Quality Management District of the State of California.

BITUMENS means black or brown materials including, but not limited to, asphalt, tar, pitch, and asphaltite that are soluble in carbon disulfide, consist mainly of hydrocarbons, and are obtained from natural deposits or as residues from the distillation of crude petroleum or coal.

BITUMINOUS ROOF COATING means a coating that incorporates bitumens that is labeled and formulated exclusively for roofing.

BITUMINOUS ROOF PRIMER means a primer that incorporates bitumens that is labeled and formulated exclusively for roofing.

BOND BREAKER means a coating labeled and formulated for application between layers of concrete to prevent a freshly poured top layer of concrete from bonding to the layer over which it is poured.

CALCIMINE RECOATER means a flat solvent-borne coating formulated and recommended specifically for recoating calcimine-painted ceilings and other calcimine-painted substrates.

CARB means the California Air Resources Board.

CLEAR BRUSHING LACQUERS means clear wood finishes, excluding clear lacquer sanding sealers, formulated with nitrocellulose or synthetic resins to dry by solvent evaporation without

chemical reaction and to provide a solid, protective film, which are intended exclusively for application by brush and which are labeled as specified in 310 CMR 7.25(11)(d)3.

CLEAR WOOD COATINGS means clear and semi-transparent coatings, including lacquers and varnishes, applied to wood substrates to provide a transparent or translucent solid film.

COATING means a material applied onto or impregnated into a substrate for protective, decorative, or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealers, and stains.

COLORANT means a concentrated pigment dispersion in water, solvent, and/or binder that is added to an architectural coating after packaging in sale units to produce the desired color.

CONCRETE CURING COMPOUND means a coating labeled and formulated for application to freshly poured concrete to retard the evaporation of water.

CONCRETE SURFACE RETARDER means a mixture of retarding ingredients such as extender pigments, primary pigments, resin, and solvent that interact chemically with the cement to prevent hardening on the surface where the retarder is applied, allowing the retarded mix of cement and sand at the surface to be washed away to create an exposed aggregate finish.

CONSUMER means any person who purchases or acquires any product for personal, family, household, or institutional use. Persons acquiring a product for resale are not consumers for that product.

CONVERSION VARNISH means a clear acid curing coating with an alkyd or other resin blended with amino resins and supplied as a single component or two-component product. Conversion varnishes produce a hard, durable, clear finish designed for professional application to wood flooring. The film formation is the result of an acid-catalyzed condensation reaction, affecting a transesterification at the reactive ethers of the amino resins.

DATE-CODE means the day, month and year on which the product was manufactured, filled, or packaged, or a code indicating such a date.

DRY FOG COATING means a coating labeled and formulated only for spray application such that overspray droplets dry before subsequent contact with incidental surfaces in the vicinity of the surface coating activity.

EXEMPT COMPOUND a compound identified as exempt under the definition of Volatile Organic Compound (VOC), under 310 CMR 7.25(11)(b). Exempt compounds content of a coating shall be determined by U.S. EPA Method 24 or South Coast Air Quality Management District (SCAQMD) Method 303-91 (Revised August 1996).

FAUX FINISHING COATING means a coating labeled and formulated as a stain or a glaze to create artistic effects including, but not limited to, dirt, old age, smoke damage, and simulated marble and wood grain.

FIRE-RESISTIVE COATING means an opaque coating labeled and formulated to protect structural integrity by increasing the fire endurance of interior or exterior steel and other structural materials, that has been fire tested and rated by a testing agency and approved by building code officials for use in bringing assemblies of structural materials into compliance with federal, state, and local building code requirements. The fire-resistive coating and the testing agency shall have been approved by building code officials. The fire-resistive coating shall be tested in accordance with ASTM Designation E 119-98.

FIRE-RETARDANT COATING means a coating labeled and formulated to retard ignition and flame spread, that has been fire tested and rated by a testing agency approved by building code officials for use in bringing building and construction materials into compliance with federal, state, and local building code requirements. Building code officials shall have been approved the fire-retardant coating and the testing agency. The fire-retardant coating shall be tested in accordance with ASTM Designation E 84-99.

FLAT COATING means a coating that is not defined under any other definition in 310 CMR 7.25 and that registers gloss less than 15 on an 85° meter or less than five on a 60° meter according to ASTM Designation D 523-89 (1999).

FLOOR COATING means an opaque coating that is labeled and formulated for application to flooring, including, but not limited to, decks, porches, steps, and other horizontal surfaces that may be subjected to foot traffic.

FLOW COATING means a coating labeled and formulated exclusively for use by electric power companies or their subcontractors to maintain the protective coating systems present on utility transformer units.

HIGH-TEMPERATURE COATING means a high performance coating labeled and formulated for application to substrates exposed continuously or intermittently to temperatures above 204°C.

IMPACTED IMMERSION COATING means a high performance maintenance coating formulated and recommended for application to steel structures subject to immersion in turbulent, debris-laden water. These coatings are specifically resistant to high-energy impact damage caused by floating ice or debris.

INDUSTRIAL MAINTENANCE COATING means high performance architectural coating, including primers, sealers, undercoaters, intermediate coats, and topcoats, formulated for application to substrates exposed to one or more of the following extreme environmental conditions listed in a. through e., and labeled as specified in 310 CMR 7.25(11)(d)2.:

- (a) Immersion in water, wastewater, or chemical solutions (aqueous and non-aqueous solutions), or chronic exposures of interior surfaces to moisture condensation;

- (b) Acute or chronic exposure to corrosive, caustic, or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions;
- (c) Repeated exposure to temperatures above 121/C (250/F);
- (d) Repeated heavy abrasion, including mechanical wear and frequently repeated scrubbing with industrial solvents, cleansers, or scouring agents; or
- (e) Exterior exposure of metal structures and structural components.

LABEL means any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon any product or product package, for purposes of branding, identifying, or giving information with respect to the product or to the contents of the package.

LACQUER means a clear or opaque wood coating, including clear lacquer sanding sealers, formulated with cellulosic or synthetic resins to dry by evaporation without chemical reaction and to provide a solid, protective film.

LOW-SOLIDS COATING means a coating containing 0.12 kilogram or less of solids per liter (one pound or less of solids per gallon) of coating material.

LUBRICANT means a product designed to reduce friction, heat, noise, or wear between moving parts, or to loosen rusted or immovable parts or mechanisms. Lubricant does not include automotive power steering fluids; products for use inside power generating motors, engines, and turbines, and their associated power-transfer gearboxes; two-cycle oils or other products designed to be added to fuels; products for use on the human body or animals or products that are sold exclusively to establishments that manufacture or construct goods or commodities, and labeled not for retail sale.

MAGNESITE CEMENT COATING means a coating labeled and formulated for application to magnesite cement decking to protect the magnesite cement substrate from erosion by water.

MANUFACTURER means any person who manufactures, processes, imports, assembles, produces, packages, repackages, or re-labels a product.

MANUFACTURERS MAXIMUM RECOMMENDATION means the maximum recommendation for thinning that is indicated on the label or lid of the coating container.

MASTIC TEXTURE COATING means a coating labeled and formulated to cover holes and minor cracks and to conceal surface irregularities, and is applied in a single coat of at least ten mils (0.010 inch) dry film thickness.

METALLIC PIGMENTED COATING means a coating containing at least 48 grams of elemental metallic pigment per liter of coating as applied (0.4 pounds per gallon) when tested in accordance with SCAQMD Method 318-95.

MULTI-COLOR COATING means a coating that is packaged in a single container and that exhibits more than one color when applied in a single coat.

NON-FLAT HIGH GLOSS COATING means a non-flat coating that registers a gloss of 70 or above on a 60° meter according to ASTM Designation D 523-89 (1999).

NON-FLAT COATING means a coating that is not defined under any other definition in 310 CMR 7.25(11)(b) and that registers a gloss of 15 or greater on an 85° meter and five or greater on a 60° meter according to ASTM Designation D 523-89 (1999).

NON-INDUSTRIAL USE means any use of architectural coatings except in the construction or maintenance of any of the following: facilities used in the manufacturing of goods and commodities; transportation infrastructure, including highways, bridges, airports and railroads; facilities used in mining activities, including petroleum extraction; and utilities infrastructure, including power generation and distribution, and water treatment and distribution systems.

NUCLEAR COATING means a protective coating formulated and recommended to seal porous surfaces such as steel or concrete that otherwise would be subject to intrusion by radioactive materials. These coatings must be resistant to long-term, *e.g.*, service life, cumulative radiation exposure (tested according to ASTM Method D 4082-89, *Standard Test Method for Effects of Gamma Radiation on Coatings for Use in Light-Water Nuclear Power Plants*), relatively easy to decontaminate, and resistant to various chemicals to which the coatings are likely to be exposed (Tested according to ASTM Method D 3912-80, Reapproved 1989, *Standard Test Method for Chemical Resistance of Coatings Used in Light-Water Nuclear Power Plants*).

PESTICIDE means and includes any substance or mixture of substances labeled, designed, or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator, provided that the term "pesticide" does not include any substance, mixture of substances, or device that the U.S. EPA does not consider to be a pesticide.

POST-CONSUMER COATING means a finished coating that would have been disposed of as waste, having completed its usefulness to a consumer, and does not include manufacturing wastes.

PRE-TREATMENT WASH PRIMER means a primer that contains a minimum of 0.5% acid, by weight, when tested in accordance with ASTM Designation D 1613-96, and that is labeled and formulated for application directly to bare metal surfaces to provide corrosion resistance and to promote adhesion of subsequent topcoats.

PRIMER means a coating labeled and formulated for application to a substrate to provide a firm bond between the substrate and subsequent coats.

QUICK-DRY ENAMEL means non-flat coating that is labeled as specified in 310 CMR 7.25(11)(d)6. and that is formulated to have the following characteristics:

- (a) Is capable of being applied directly from the container under normal conditions with ambient temperatures between 16/C and 27/C;
- (b) When tested in accordance with ASTM Designation D 1640-95, sets to touch in two hours or less, is tack free in four hours or less, and dries hard in eight hours or less by the mechanical test method; and
- (c) Has a dried film gloss of 70 or above on a 60° meter.

QUICK-DRY PRIMER SEALER AND UNDERCOATER mean a primer, sealer, or undercoater that is dry to the touch in 30 minutes and can be re-coated in two hours when tested in accordance with ASTM Designation D 1640-95.

RECYCLED COATING means an architectural coating formulated such that 50% or more of the total weight consists of secondary and post-consumer coating, with 10% or more of the total weight consisting of post-consumer coating.

RESIDENCE means areas where people reside or lodge, including, but not limited to, single and multiple family dwellings, condominiums, mobile homes, apartment complexes, motels, and hotels.

ROOF COATING means a non-bituminous coating labeled and formulated exclusively for application to roofs for the primary purpose of preventing penetration of the substrate by water or reflecting heat and ultraviolet radiation. Metallic pigmented roof coatings, which qualify as metallic pigmented coatings, shall not be considered in this category, but shall be considered to be in the Metallic Pigmented Coatings category.

RUST PREVENTIVE COATING means a coating formulated exclusively for non-industrial use to prevent the corrosion of metal surfaces and labeled as specified in 310 CMR 7.25(11)(d)4.

SANDING SEALER means a clear or semi-transparent wood coating labeled and formulated for application to bare wood to seal the wood and to provide a coat that can be abraded to create a smooth surface for subsequent applications of coatings. A Sanding Sealer that also meets the definition of a Lacquer is not included in this category, but it is included in the Lacquer category.

SCAQMD means South Coast Air Quality Management District of the State of California.

SEALER means a coating labeled and formulated for application to a substrate for one or more of the following purposes: to prevent subsequent coatings from being absorbed by the substrate, or to prevent harm to subsequent coatings by materials in the substrate.

SECONDARY COATING (REWORK) means a fragment of a finished coating or a finished coating from a manufacturing process that has converted resources into a commodity of real economic value, but does not include excess virgin resources of the manufacturing process.

SHELLAC means a clear or opaque coating formulated solely with the resinous secretions of the lac beetle (*Lacifer lacca*), thinned with alcohol, and formulated to dry by evaporation without a chemical reaction.

SHOP APPLICATION means application of a coating to a product or a component of a product in or on the premises of a factory or a shop as part of a manufacturing, production, or repairing process (e.g., original equipment manufacturing coatings).

SOLICIT means to require for use or to specify, by written or oral contract.

SPECIALTY PRIMER, SEALER, AND UNDERCOATER means a coating that is formulated for application to a substrate to seal fire, smoke or water damage; to condition excessively chalky surfaces; or to block stains. An excessively chalky surface is one that is defined as having a chalk rating of four or less as determined by ASTM Designation D 4214-98.

STAIN means a clear, semi-transparent, or opaque coating labeled and formulated to change the color of a surface, but not conceal the grain pattern or texture.

SWIMMING POOL COATING means a coating labeled and formulated to coat the interior of swimming pools and to resist the adverse effects of chemicals in swimming pool water.

SWIMMING POOL REPAIR AND MAINTENANCE COATING means a rubber-based coating labeled and formulated to be used over existing rubber-based coatings for the repair and maintenance of swimming pools.

TEMPERATURE-INDICATOR SAFETY COATING means a coating labeled and formulated as a color-changing indicator coating for the purpose of monitoring the temperature and safety of the substrate, underlying piping, or underlying equipment, and for application to substrates exposed continuously or intermittently to temperatures above 204°C (400°F).

THERMOPLASTIC RUBBER COATING AND MASTIC means a coating or mastic formulated and recommended for application to roofing or other structural surfaces and that incorporates no less than 40% by weight of thermoplastic rubbers in the total resin solids and may also contain other ingredients including, but not limited to, fillers, pigments, and modifying resins.

TINT BASE means an architectural coating to which colorant is added after packaging in sale units to produce a desired color.

TRAFFIC MARKING COATING means a coating labeled and formulated for marking and striping streets, highways, or other traffic surfaces including, but not limited to, curbs, driveways, parking lots, sidewalks, and airport runways.

UNDERCOATER means a coating labeled and formulated to provide a smooth surface for subsequent coatings.

VARNISH means a clear or semi-transparent wood coating, excluding lacquers and shellacs, formulated to dry by chemical reaction on exposure to air. Varnishes may contain small amounts of pigment to color a surface, or to control the final sheen or gloss of the finish.

VOC CONTENT means the weight of VOC per volume of coating, calculated according to the procedures specified in 310 CMR 7.25(11)(f)1.

WATERPROOFING CONCRETE/MASONRY SEALER means a clear or pigmented film-forming coating that is labeled and formulated for sealing concrete and masonry to provide resistance against water, alkalis, acids, ultraviolet light, and staining.

WATERPROOFING SEALER means a coating labeled and formulated for application to a porous substrate for the primary purpose of preventing the penetration of water.

WOOD PRESERVATIVE means a coating labeled and formulated to protect exposed wood from decay or insect attack that is registered with both the U.S. EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. § 136, *et seq.*) and with the Massachusetts Pesticide Control Act.

(c) Standards.

1. VOC Content Limits. Except as provided in 310 CMR 7.25(11)(c)2. Through 310 CMR 7.25(11)(c)4., 310 CMR 7.25(11)(c)6., and 310 CMR 7.25(11)(c)7., no person subject to 310 CMR 7.25 shall:
 - a. manufacture or blend for sale within Massachusetts;
 - b. supply, sell, or offer for sale within Massachusetts; or
 - c. solicit for application or apply within Massachusetts any architectural coating with a VOC content in excess of the corresponding limit specified in 310 CMR 7.25(11)(c)1.: *Table 1*.

**Table 1. VOC Content Limits for Architectural And Industrial Maintenance Coatings
Effective January 1, 2009**

Coating Category	VOC Content Limit (grams/liter)
Flat Coatings	100
Non-flat Coatings	150
Non-flat High Gloss Coatings	250
SPECIALTY COATINGS	
Antenna Coatings	530
Antifouling Coatings	400

Bituminous Roof Coatings	300
Bituminous Roof Primers	350
Bond Breakers	350
Calcimine Recoater	475
Clear Wood Coatings;	
Clear Brushing Lacquers	680
Lacquers (including lacquer sanding sealers)	550
Sanding Sealers (other than lacquer sanding sealers)	350
Varnishes	350
Conversion Varnishes	725
Concrete Curing Compounds	350
Concrete Surface Retarders	780
Dry Fog Coatings	400
Faux Finishing Coatings	350
Fire Resistive Coatings	350
Fire Retardant Coatings	
Clear	650
Opaque	350
Floor Coatings	250
Flow Coatings	420
Form release Compounds	250
Graphic Arts Coatings (Sign Paints)	500
High Temperature Coatings	420
Impacted Immersion Coatings	780
Industrial Maintenance Coatings	340
Low solids Coatings	120
Magnesite Cement Coatings	450
Mastic Texture Coatings	300
Metallic Pigmented Coatings	500
Multi-color Coatings	250
Nuclear Coatings	450
Pre Treatment Wash Primers	420
Primers, Sealers, and Undercoaters	200
Quick Dry Enamels	250
Quick Dry Primers, Sealers and Undercoaters	200
Recycled Coatings	250
Roof Coatings	250
Rust Preventative Coatings	400
Shellacs	
Clear	730
Opaque	550
Specialty Primers, Sealers, and Undercoaters	350
Stains	250
Swimming Pool Coatings	340

Swimming Pool Repair and Maintenance Coatings	340
Temperature indicator Safety Coatings	550
Thermoplastic Rubber Coatings and Mastics	550
Traffic Marking Coatings	150
Waterproofing Sealers	250
Waterproofing Concrete/Masonry Sealers	400
Wood Preservatives	350

Limits are expressed in grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water, exempt compounds, or colorant added to tint bases.

2. Most Restrictive VOC Limit. If anywhere on the container of any architectural coating, or any label or sticker affixed to the container, or in any sales, advertising, or technical literature supplied by a manufacturer or anyone acting on its behalf, any representation is made that indicates that the coating meets the definition of, or is recommended for use, for more than one of the coating categories specified in 310 CMR 7.25(11)(c)1., then the lowest VOC content limit shall apply. 310 CMR 7.25(11)(c)2. does not apply to the following coating categories:
 - a. Lacquer coatings (including lacquer sanding sealers).
 - b. Metallic pigmented coatings.
 - c. Shellacs.
 - d. Fire-retardant coatings.
 - e. Pretreatment wash primers.
 - f. Industrial maintenance coatings.
 - g. Low-solids coatings.
 - h. Wood preservatives.
 - i. High-temperature coatings.
 - j. Temperature-indicator safety coatings.
 - k. Antenna coatings.
 - l. Antifouling coatings.
 - m. Flow coatings.
 - n. Bituminous roof primers.
 - o. Specialty primers, sealers, and undercoaters.
 - p. Calcimine recoaters.
 - q. Concrete surface retarders.
 - r. Conversion varnishes.
 - s. Impacted Immersion Coatings.
 - t. Nuclear coatings.
 - u. Thermoplastic rubber coating and mastic.

3. Sell-through of Coatings. A coating manufactured prior to January 1, 2009, may be sold, supplied, offered for sale, or applied after January 1, 2009, until January 1, 2012,

so long as the coating complied with the VOC content standards and other applicable requirements in effect at the time the coating was manufactured. 310 CMR 7.25(11)(c)3. shall not apply if:

- a. A coating does not display the date on which the product was manufactured or a code indicating such date as required by 310 CMR 7.25(11)(d)1.a.i.; or
 - b. The manufacturer has not filed an explanation of the code with the Department by the deadlines specified in 310 CMR 7.25(11)(d)1.a.ii.(i) for a coating on which the manufacturer has used a code indicating the date of manufacture that is different than the code specified in 310 CMR 7.25(11)(d)1.a.ii.(ii).
4. Exclusions. The VOC content standards specified in 310 CMR 7.25(11)(c)1. Shall not apply to:
- a. Any aerosol coating product.
 - b. Any architectural coating that is sold in a container with a volume of one liter (1.057 quart) or less.
5. Coatings Not Listed in 310 CMR 7.25(11)(c)1.: Table 1. For any coating that does not meet any of the definitions for the specialty coatings categories listed in 310 CMR 7.25(11)(c)1.: *Table 1*, the VOC content limit shall be determined by classifying the coating as a flat coating, non-flat coating, or non-flat high gloss coating based on its gloss, as defined in 310 CMR 7.25(11)(b), and the corresponding flat, non-flat, or nonflat high gloss coating limit shall apply.
6. Lacquers. Notwithstanding the provisions of 7.25(11)(c)1., a person or facility may add up to 10% by volume of VOC to a lacquer to avoid blushing of the finish during days with relative humidity greater than 70% and temperature below 65/F, at the time of application, provided that the coating contains acetone and no more than 550 grams of VOC per liter of coating, less water and exempt compounds, prior to the addition of VOC.
7. Products Registered Under FIFRA.
- a. AIM coatings registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 U.S.C. § 136-136y) must comply with the VOC standards specified in 310 CMR 7.25(11)(c)1.: *Table 1*, by 12 months after the VOC limit compliance date specified in 310 CMR 7.25(11)(c)1. Such products must also be registered under the Massachusetts Pesticide Control Act.

- b. The labeling requirements of 310 CMR 7.25(11)(d) do not apply to products that are registered as pesticides under FIFRA and the Massachusetts Pesticide Control Act.
 - c. For coatings that are registered under FIFRA, the three-year sell-through period provided in 310 CMR 7.25(11)(c)3. shall begin one year after the date specified in 310 CMR 7.25(11)(c)1.
8. Thinning. No person who applies or solicits the application of any architectural coating shall apply a coating that is thinned to exceed the applicable VOC limit specified in Table 1.
9. Painting Practices. All architectural coating containers used to apply the contents therein to a surface directly from the container by pouring, siphoning, brushing, rolling, padding, ragging, or other means, shall be closed when not in use. These architectural coatings containers include, but are not limited to, drums, buckets, cans, pails, trays, or other application containers. Containers of any VOC-containing materials used for thinning and cleanup shall also be closed when not in use.

(d) Labeling Requirements.

1. Each manufacturer of any architectural coating subject to this rule shall display the information required in 310 CMR 7.25(11)(d)1.a. through 7.25(11)(d)1.c. on the coating container (or label) in which the coating is sold or distributed.
- a. Product Dating.
 - i. The date the coating was manufactured, or a code representing the date, shall be indicated on the label, lid, or bottom of the container.
 - ii. Explanation of the Code.
 - (i) If the manufacturer uses a code indicating the date of manufacture for any coating, an explanation of the code shall be filed with the Department no later than:
 - the effective date of the applicable standard specified in 310 CMR 7.25(11)(c)1.; or, the date on which the product first becomes available for sale, distribution, or use within Massachusetts, whichever is later; and
 - 12 months prior to any date on which the product first becomes available for sale, distribution, or use within Massachusetts after any modification to an existing product's date-code format.

- (ii) A manufacturer who uses the following code to indicate the date of manufacture shall not be subject to the requirements of 310 CMR 7.25(11)(d)1.a.ii.(i), if the code is represented separately from other codes on the product container so that it is easily recognizable:

YY DDD

where:

YY = two digits representing the year in which the product was manufactured.

DDD = three digits representing the day of the year on which the product was manufactured, with "001" representing the first day of the year, "002" representing the second day of the year, and so forth (*i.e.*, the "Julian date").

- iii. No person shall erase, alter, deface or otherwise remove or make illegible any date or code indicating the date of manufacture from any regulated product container without the express authorization of the manufacturer.
- iv. Codes indicating the date of manufacture are public information and may not be claimed as confidential.

b. Thinning Recommendations. A statement of the manufacturer's recommendation regarding thinning of the coating shall be indicated on the label or lid of the container. 310 CMR 7.25(11)(d)1.b. does not apply to the thinning of architectural coatings with water. If thinning of the coating prior to use is not necessary, the recommendation must specify that the coating must be applied without thinning.

c. VOC Content. Each container of any coating subject to this rule shall display either the maximum or the actual VOC content of the coating, as supplied, including the maximum thinning as recommended by the manufacturer. VOC content shall be displayed in grams of VOC per liter of coating. VOC content displayed shall be calculated using product formulation data, or shall be determined using the test methods in 310 CMR 7.25(11)(f)2. The equations in 310 CMR 7.25(11)(f)1. Shall be used to calculate VOC content.

- 2. Industrial Maintenance Coatings. In addition to the information specified in 310 CMR 7.25(11)(d)1.a. through 310 CMR 7.25(11)(d)1.c., each manufacturer of any industrial maintenance coating subject to this rule shall display on the label or the lid of the container in which the coating is sold or distributed one or more of the following descriptions:

- a. "For industrial use only."
 - b. "For professional use only."
 - c. "Not for residential use." or "Not intended for residential use."
3. Clear Brushing Lacquers. The labels of all clear brushing lacquers shall prominently display the statements "For Brush Application Only" and "This product must not be thinned or sprayed."
 4. Rust Preventive Coatings. The labels of all rust preventive coatings shall prominently display the statement "For Metal Substrates Only."
 5. Specialty Primers, Sealers, and Undercoaters. The labels of all specialty primers, sealers, and undercoaters shall prominently display one or more of the following descriptions:
 - a. For blocking stains.
 - b. For fire-damaged substrates.
 - c. For smoke-damaged substrates.
 - d. For water-damaged substrates.
 - e. For excessively chalky substrates.
 6. Quick Dry Enamels. The labels of all quick dry enamels shall prominently display the words "Quick Dry" and the dry hard time.
 7. Non-flat High Gloss Coatings. The labels of all non-flat high gloss coatings shall prominently display the words "High Gloss."

(e) Recordkeeping and Reporting Requirements.

1. Each manufacturer of a product subject to a VOC content limit in 310 CMR 7.25(11)(c) of this regulation shall keep records demonstrating compliance with the VOC content limits in accordance with 310 CMR 7.25(11)(f). Such records shall clearly list each product by name (and identifying number, if applicable) as shown on the product label and in applicable sales and technical literature, the VOC content as determined in 310 CMR 7.25(11)(f), the names and chemical abstract service (CAS) numbers of the VOC constituents in the product, the dates of the VOC content determinations, the coating category and the applicable VOC content limit. These records shall be kept on site for a period not less than three years and shall be made available to the Department within 90 days of a written request.
2. A responsible official from each manufacturer shall, upon request of the Department, provide data concerning the distribution and sales of coatings subject to a VOC content limit in 310 CMR 7.25(11)(c). The responsible official shall within 90 days provide information including, but not limited to:

- a. the name and mailing address of the manufacturer;
- b. the name, address and telephone number of a contact person;
- c. the name of the product as it appears on the label and the coating category in 310 CMR 7.25(11)(c) under which it is regulated;
- d. whether it is marketed for interior or exterior use or both;
- e. the number of gallons sold in Massachusetts in containers greater than one liter and less than one liter;
- f. the actual VOC content and VOC content limit in grams per liter. If thinning is recommended, list the actual VOC content and VOC content after recommended thinning. If containers less than one liter have a different VOC content than containers greater than one liter, list separately;
- g. the names and CAS numbers of the VOC constituents in the product; and
- h. the names and CAS numbers of any compounds in the products specifically exempted under 310 CMR 7.25(11)(c).

(f) Compliance Provisions and Test Methods.

1. Calculation of VOC Content. For the purpose of determining compliance with the VOC content limits in 310 CMR 7.25(11)(c)1.: *Table 1*, the VOC content of a coating shall be determined according to 310 CMR 7.25(11)(f)1.a. or 310 CMR 7.25(11)(f)1.b., as appropriate. The VOC content of a tint base shall be determined without colorant that is added after the tint base is manufactured.

- a. For all coatings other than low-solids coatings, the VOC content of the coating in units of grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water and exempt compounds, shall be determined using Equation (1) as follows:

$$\text{VOC Content} = (W_v - W_w - W_{ec}) / (V_c - V_w - V_{ec}) \text{ Equation (1)}$$

Where,

VOC Content = grams of VOC per liter of coating

W_v = weight of volatiles, in grams

W_w = weight of water, in grams

W_{ec} = weight of exempt compounds, in grams

V_c = volume of coating, in liters

V_w = volume of water, in liters

V_{ec} = volume of exempt compounds, in liters

- b. For low-solids coatings, the VOC content in units of grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, including the volume of any water and exempt compounds, shall be determined using Equation (2) as follows:

$$\text{VOC Content (ls)} = (W_v - W_w - W_{cc}) / (V_c) \text{ Equation (2)}$$

where,

VOC Content (ls) = the VOC content of a low solids coating in grams per liter of coating

W = weight of volatile, in grams

W_w = weight of water, in grams

W_{cc} = weight of exempt compounds, in grams

V_c = volume of coating, in liters

2. VOC Content of Coatings. Except as provided in 310 CMR 7.25(11)(f)3. and (f)4., U.S. EPA Method 24 shall be used to determine the physical properties of a coating in order to perform the calculations in 310 CMR 7.25(11)(f)1. An alternative method to determine the VOC content of coatings is SCAQMD Method 304-91 (Revised February 1996). The exempt compounds content shall be determined by SCAQMD Method 303-91 (Revised August 1996). The manufacturer may use U.S. EPA Method 24, an alternative test method as provided in 310 CMR 7.25(11)(f)3., formulation data, or any other reasonable means (e.g., quality assurance records, recordkeeping) to determine the VOC content of the coating. However, if there are any inconsistencies between the results of a Method 24 test and any other means for determining VOC content, the Method 24 results shall govern, except when an alternative method is approved by EPA. The Department may require the manufacturer to conduct a Method 24 analysis.
3. Alternative Test Methods. Other test methods demonstrated to provide results that are acceptable for purposes of determining compliance with 310 CMR 7.25(11)(c)1. May be used provided that the manufacturer has received an approval from CARB for the alternative testing method to be used in architectural and maintenance coatings VOC content determination. A copy of CARB's approval, including all conditions established by CARB applicable to the testing procedure, shall be submitted to the Department within 30 days upon the Department's written request.
4. Methacrylate Traffic Coating Markings. Analysis of methacrylate multi-component coatings used as traffic marking coatings shall be conducted according to a modification of U.S. EPA Method 24 (40 CFR 59, subpart D, Appendix A). This

method has not been approved for methacrylate multicomponent coatings used for purposes other than traffic marking coatings or for other classes of multicomponent coatings.

5. Test Methods. The following test methods are incorporated by reference herein, and shall be used to test coatings subject to the provisions of this rule:
- a. Flame Spread Index. The flame-spread index of a fire-retardant coating shall be determined by the ASTM Designation E 84-99, *Standard Test Method for Surface Burning Characteristics of Building Materials*.
 - b. Fire-resistance Rating. The fire-resistance rating of a fire-resistive coating shall be determined by ASTM designation E 119-98, *Standard Test Methods for Fire Tests of Building Construction Materials*
 - c. Gloss Determination. The gloss of a coating shall be determined by ASTM Designation D 523-89 (1999), *Standard Test Method for Specular Gloss*.
 - d. Metal Content of Coatings. The metallic content of a coating shall be determined by SCAQMD Method 318-95, *Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction*, SCAQMD Laboratory *Methods of Analysis for Enforcement Samples*.
 - e. Acid Content of Coatings. The acid content of a coating shall be determined by ASTM Designation D 1613-96, *Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products*.
 - f. Drying Times. The set-to-touch, dry-hard, dry-to-touch and dry-to-recoat times of a coating shall be determined by ASTM Designation D 1640-95, *Standard Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature*. The tack free time of a quick-dry enamel coating shall be determined by the Mechanical Test Method of ASTM Designation D 1640-95.
 - g. Surface Chalkiness. The chalkiness of a surface shall be determined using ASTM Designation D 4214-98, *Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films*.
 - h. Exempt Compounds – Siloxanes. To determine the cyclic, branched, or linear completely methylated siloxanes content of a coating, the coating shall be analyzed according to BAAQMD Method 43, *Determination of Volatile Methylsiloxanes in Solvent-Based Coatings, Inks, and Related Materials*, BAAQMD Manual of Procedures, Volume III, adopted November 6, 1996.
 - i. Exempt Compounds - Parachlorobenzotrifluoride (PCBTF). To determine parachlorobenzotrifluoride content of a coating, the coating shall be analyzed according to BAAQMD Method 41, *Determination of Volatile Organic Compounds in Solvent-Based Coatings and Related Materials Containing Parachlorobenzotrifluoride*, BAAQMD Manual of Procedures, Volume III, adopted December 20, 1995.

- j. Exempt Compounds – Volatile Organic Compounds Exempted Under U.S. EPA Method 24. To determine the composition of a coating with respect to volatile organic compounds that are exempt under U.S. EPA Method 24, the coating shall be analyzed according to SCAQMD Method 303-91 (Revised August 1996), *Determination of Exempt Compounds*, SCAQMD "Laboratory Methods of Analysis for Enforcement Samples."
- k. VOC Content of Coatings. The VOC content of a coating shall be determined by U.S. EPA Method 24 as it exists in appendix A of 40 Code of Federal Regulations (CFR) Part 60, *Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings.*
- l. Alternative Methods for Determining VOC Content of Coatings. The VOC content of coatings may be determined by either U.S. EPA Method 24 or by SCAQMD Method 304-91 (Revised 1996), *Determination of Volatile Organic Compounds (VOC) in Various Materials*, SCAQMD *Laboratory Methods of Analysis for Enforcement Samples.*
- m. Methacrylate Traffic Marking Coatings. The VOC content of methacrylate multi-component coatings used as traffic marking coatings shall be determined by the procedures in 40 CFR part 59, subpart D, appendix A, *Determination of Volatile Matter Content of Methacrylate Multi-component Coatings Used as Traffic Marking Coatings*, (September 11, 1998).

(12) Consumer Products.

(a) Applicability.

- 1. Except as provided in 310 CMR 7.25(12)(a)2., the requirements of 310 CMR 7.25(12) apply to any person who, on or after January 1, 2009, sells, supplies, offers for sale, or manufactures any consumer product listed in 310 CMR 7.25(12)(c)1. for use in Massachusetts.
- 2. a. The provisions of 310 CMR 7.25(12) do not apply to any person who, sells, supplies, offers for sale, or manufactures in Massachusetts any consumer product specified in 310 CMR 7.25(12)(b) that is for exclusive use outside of Massachusetts as long as the manufacturer or distributor can demonstrate both that the consumer product is intended for shipment and use outside of Massachusetts and that the manufacturer or distributor has taken reasonable prudent precautions to assure that the consumer product is not distributed to Massachusetts.
- b. The provision in 310 CMR 7.25(12)(a)2.a. does not apply to consumer products that are sold, supplied, or offered for sale by any person to retail outlets in Massachusetts.

(b) Definitions. Terms used in 310 CMR 7.25 are defined at 310 CMR 7.00: *Definitions* or in 310 CMR 7.25. Where a term is defined in both 310 CMR 7.00: *Definitions* and in 310 CMR 7.25, the definition in 310 CMR 7.25 shall apply.

ACP EXECUTIVE ORDER means the document approved and signed by CARB that includes the conditions and requirements of the ACP, and which allows a manufacturer to sell products in the state of California under the ACP.

ADHESIVE means any product that is used to bond one surface to another by attachment. Adhesive does not include products used on humans and animals, adhesive tape, contact paper, wallpaper, shelf liners, or any other product with an adhesive incorporated onto or in an inert substrate. For Contact Adhesive, "adhesive" does not include units of product, less packaging, which consist of more than one gallon. For Construction, Panel, and Floor Covering Adhesive, and General Purpose Adhesive, "adhesive" does not include units of product, less packaging, which weigh more than one pound and consist of more than 16 fluid ounces. This limitation does not apply to aerosol adhesives.

ADHESIVE REMOVER means a product designed to remove adhesive from either a specific type of substrate or a variety of types of substrates. Adhesive removers do not include products that remove adhesives intended for use on humans or animals. For the purpose of 310 CMR 7.25(11)(b):

ADHESIVE REMOVER and 310 CMR 7.25(11)(b): ADHESIVE REMOVER 1. through 4. , the term "adhesive" shall mean a substance used to bind one or more materials. Adhesive includes, but is not limited to: caulks; sealants; glues; or similar substances used for the purpose of forming a bond.

1. FLOOR AND WALL COVERING ADHESIVE REMOVER means a product designed or labeled to remove floor or wall coverings and associated adhesive from the underlying substrate;

2. GASKET OR THREAD LOCKING ADHESIVE REMOVER means a product designed or labeled to remove gaskets or thread locking adhesives. Products labeled for dual use as a paint stripper and gasket remover and/or thread locking adhesive remover are considered Gasket or Thread Locking Adhesive Remover.

3. GENERAL PURPOSE ADHESIVE REMOVER means a product designed or labeled to remove cyanoacrylate adhesives as well as non-reactive adhesives or residue from a variety of types of substrates. General Purpose Adhesive Remover includes, but is not limited to, products that remove thermoplastic adhesives; pressure sensitive adhesives; dextrin or starch-based adhesives; casein glues; rubber or latex-based adhesives; as well as products that remove stickers; decals; stencils; or similar materials. General Purpose Adhesive Remover does not include Floor or Wall Covering Adhesive Remover.

4. SPECIALTY ADHESIVE REMOVER means a product designed to remove reactive adhesives from a variety of substrates. Reactive adhesives include adhesives that require a hardener or catalyst in order for the bond to occur. Examples of reactive adhesives include, but are not limited to: epoxies, urethanes, and silicones. Specialty Adhesive Remover does not include Gasket or Thread Locking Adhesive Remover.

AEROSOL ADHESIVE means an aerosol adhesive product in which the spray mechanism is permanently housed in a non-refillable can designed for hand-held application without the need for

ancillary hoses or spray equipment. Aerosol Adhesives include Special Purpose Spray Adhesives, Mist Spray Adhesives, and Web Spray Adhesives.

AEROSOL COOKING SPRAY means any aerosol product designed either to reduce sticking on cooking and baking surfaces or to be applied on food, or both.

AEROSOL PRODUCT means a pressurized spray system that dispenses product ingredients by means of a propellant contained in a product's container or a mechanically induced force. Aerosol Product does not include Pump Spray.

AGRICULTURAL USE means the use of any pesticide or method or device for the control of pests in connection with the commercial production, storage or processing of any animal or plant crop. Agricultural Use does not include the sale or use of pesticides in properly labeled packages or containers that are intended for home use; use in structural pest control; industrial use; or institutional use. For the purposes of this definition only:

1. HOME USE means use in a household or its immediate environment.
2. STRUCTURAL PEST CONTROL USE means a use requiring a license under the Massachusetts Pesticide Control Act.
3. INDUSTRIAL USE means use for or in a manufacturing, mining, or chemical process or use in the operation of factories, processing plants, and similar sites.
4. INSTITUTIONAL USE means use within the lines of or on property necessary for the operation of buildings such as hospitals, schools, libraries, and auditoriums.

AIR FRESHENER means any consumer product including, but not limited to, sprays, wicks, powders, and crystals, designed for the purpose of masking odors, or freshening, cleaning, scenting, or deodorizing the air. Air Freshener includes dual-purpose air freshener/ disinfectant products. Air Freshener does not include products that are used on the human body, products that function primarily as cleaning products as indicated on a product label, or Toilet/Urinary Care Products, disinfectant products claiming to deodorize by killing germs on surfaces, or institutional/industrial disinfectants when offered for sale solely through institutional and industrial channels of distribution. Air Freshener does include spray disinfectants and other products that are expressly represented for use as air fresheners, except institutional and industrial disinfectants when offered for sale through institutional and industrial channels of distribution. To determine whether a product is an air freshener, all verbal and visual representations regarding product use on the label or packaging and in the product's literature and advertising may be considered. The presence of, and representations about, a product's fragrance and ability to deodorize (resulting from surface application) shall not constitute a claim of air freshening.

ALL OTHER CARBON CONTAINING COMPOUNDS means any other compound that contains at least one carbon atom and is not an Exempt Compound or an LVP-VOC.

ALL OTHER FORMS means all consumer product forms for which no form-specific VOC standard is specified. Unless specified otherwise by the applicable VOC standard, All Other Forms include, but are not limited to, solids, liquids, wicks, powders, crystals, and cloth or paper wipes (towelettes).

ALTERNATIVE CONTROL PLAN or ACP means an emissions-averaging program approved by CARB pursuant to California Code of Regulations, Title 17, Subchapter 8.5, Article 4, Sections 94540-94555.

ANTIMICROBIAL HAND OR BODY CLEANER OR SOAP means a cleaner, or soap, that is designed to reduce the level of microorganisms on the skin through germicidal activity. Antimicrobial Hand or Body Cleaner or Soap includes, but is not limited to antimicrobial hand or body washes/cleaners, food-handler hand washes, healthcare personnel hand washes, pre-operative skin preparations and surgical scrubs. Antimicrobial Hand or Body Cleaner or Soap does not include prescription drug products, Antiperspirants, Astringent/Toner, Deodorant, Facial Cleaner or Soap, General-use Hand or Body Cleaner or Soap, Hand Dishwashing Detergent (including antimicrobial), Heavy-duty Hand Cleaner or Soap, Medicated Astringent/Medicated Toner, and Rubbing Alcohol.

ANTIPERSPIRANT means any product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze bottles, that is intended by the manufacturer to be used to reduce perspiration in the human axilla by at least 20% in at least 50% of a target population.

ANTI-STATIC PRODUCT means a product that is labeled to eliminate, prevent, or inhibit the accumulation of static electricity. Anti-Static Product does not include Electronic Cleaner, Floor Polish or Wax, Floor Coating, and products that meet the definition of Aerosol Coating Product or Architectural Coating.

ARCHITECTURAL COATING means a coating to be applied to stationary structures or the appurtenances at the site of installation, to portable buildings at the site of installation, to pavements, or to curbs.

ASTM means the American Society for Testing and Materials.

ASTRINGENT/TONER means any product not regulated as a drug by the United States Food and Drug Administration (FDA) that is applied to the skin for the purpose of cleaning or tightening pores. This category also includes clarifiers and substrate-impregnated products. This category does not include any hand, face, or body cleaner or soap product, Medicated Astringent/Medicated Toner, cold cream, lotion, or antiperspirant.

AUTOMOTIVE BRAKE CLEANER means a cleaning product designed to remove oil, grease, brake fluid, brake pad material or dirt from motor vehicle brake mechanisms.

AUTOMOTIVE HARD PASTE WAX means an automotive wax or polish that is:

1. designed to protect and improve the appearance of automotive paint surfaces; and
2. a solid at room temperature; and
3. contains 0% water by formulation.

AUTOMOTIVE INSTANT DETAILER means a product designed for use in a pump spray that is applied to the painted surface of automobiles and wiped off prior to the product being allowed to dry.

AUTOMOTIVE RUBBING OR POLISHING COMPOUND means a product designed primarily to remove oxidation, old paint, scratches or swirl marks, and other defects from the painted surfaces of motor vehicles without leaving a protective barrier.

AUTOMOTIVE WAX, POLISH, SEALANT OR GLAZE means a product designed to seal out moisture, increase gloss, or otherwise enhance a motor vehicle's painted surfaces. Automotive Wax, Polish, Sealant or Glaze includes, but is not limited to, products designed for use in autobody repair shops and drive-through car washes, as well as products designed for the general public. Automotive Wax, Polish, Sealant or Glaze does not include Automotive Rubbing or Polishing Compounds, automotive wash and wax products, surfactant-containing car wash products, and products designed for use on unpainted surfaces such as bare metal, chrome, glass, or plastic.

AUTOMOTIVE WINDSHIELD WASHER FLUID means any liquid designed for use in a motor vehicle windshield washer system either as antifreeze or for the purpose of cleaning, washing, or wetting the windshield. Automotive windshield washer fluid does not include fluids placed by the manufacturer in a new vehicle.

BATHROOM AND TILE CLEANER means a product designed to clean tile or surfaces in bathrooms. Bathroom and Tile Cleaner does not include products designed primarily to clean toilet bowls, toilet tanks, or urinals.

BUG AND TAR REMOVER means a product labeled to remove either or both of the following from painted motor vehicle surfaces without causing damage to the finish:

1. biological-type residues such as insect carcasses and tree sap; and
2. road grime, such as road tar, roadway paint markings, and asphalt.

CARB means the California Air Resources Board.

CARBURETOR OR FUEL-INJECTION AIR INTAKE CLEANERS means a product designed to remove fuel deposits, dirt, or other contaminants from a carburetor, choke, throttle body of a fuel-injection system, or associated linkages. Carburetor or fuel-injection air intake cleaners does not include products designed exclusively for direct introduction into the fuel lines or fuel storage tank prior to introduction into the carburetor or fuel injectors.

CARPET AND UPHOLSTERY CLEANER means a cleaning product designed for the purpose of eliminating dirt and stains on rugs, carpeting, and the interior of motor vehicles and/or on household furniture or objects upholstered or covered with fabrics such as wool, cotton, nylon or other synthetic fabrics. Carpet and Upholstery Cleaner includes, but is not limited to, products that make fabric protectant claims. Carpet and Upholstery Cleaner does not include General Purpose Cleaners, Spot Removers, vinyl or leather cleaners, dry cleaning fluids, or products designed exclusively for use at industrial facilities engaged in furniture or carpet manufacturing.

CHARCOAL LIGHTER MATERIAL means any combustible material designed to be applied on, incorporated in, added to, or used with charcoal to enhance ignition. Charcoal Lighter Material does not include any of the following:

1. electrical starters and probes;

2. metallic cylinders using paper tinder;
3. natural gas;
4. propane; and
5. fat wood.

COLORANT means any pigment or coloring material used in a consumer product for an aesthetic effect, or to dramatize an ingredient.

CONSTRUCTION, PANEL, AND FLOOR COVERING ADHESIVE means any one component adhesive that is designed exclusively for the installation, remodeling, maintenance, or repair of:

1. structural and building components that include, but are not limited to, beams, trusses, studs, paneling (such as drywall or drywall laminates, fiberglass reinforced plastic (FRP), plywood, particle board, insulation board, pre-decorated hardboard or tileboard, *etc.*), ceiling and acoustical tile, molding, fixtures, countertops or countertop laminates, cover or wall bases, and flooring or subflooring; or
2. floor or wall coverings that include, but are not limited to, wood or simulated wood covering, carpet, carpet pad or cushion, vinyl backed carpet, flexible flooring material, non-resilient flooring material, mirror tiles and other types of tiles, and artificial grass. Construction, Panel, and Floor Covering Adhesive does not include Floor Seam Sealer.

CONSUMER means any person who purchases or acquires any product for personal, family, household, or institutional use. Persons acquiring a product for resale are not Consumers for that product.

CONSUMER PRODUCT means a chemically formulated product used by household and institutional consumers including, but not limited to, detergents; cleaning compounds; polishes; floor finishes; cosmetics; personal care products; home, lawn, and garden products; disinfectants; sanitizers; aerosol paints; and automotive specialty products; but does not include other paint products, furniture coatings, or architectural coatings. Consumer Product, as defined in 310 CMR 7.25, includes Aerosol Adhesives used for consumer, industrial, or commercial uses.

CONTACT ADHESIVE means an adhesive that:

1. is designed for application to both surfaces to be bonded together; and
2. is allowed to dry before the two surfaces are placed in contact with each other; and
3. forms an immediate bond that is impossible, or difficult, to reposition after both adhesive-coated surfaces are placed in contact with each other; and
4. does not need sustained pressure or clamping of surfaces after the adhesive-coated surfaces have been brought together using sufficient momentary pressure to establish full contact between both surfaces. Contact Adhesive does not include rubber cements that are primarily intended for use on paper substrates. Contact Adhesive also does not include vulcanizing fluids that are designed and labeled for tire repair only.

CONTACT ADHESIVE - GENERAL PURPOSE means any contact adhesive that is not a Contact Adhesive - Special Purpose.

CONTACT ADHESIVE - SPECIAL PURPOSE means a contact adhesive that:

1. is used to bond melamine-covered board, unprimed metal, unsupported vinyl, Teflon, ultra high molecular weight polyethylene, rubber, high pressure laminate or wood veneer 1/16 inch or less in thickness to any porous or nonporous surface, and is sold in units of product, less packaging, that contain more than eight fluid ounces; or
2. is used in automotive applications that are:
 - a. automotive under-the-hood applications requiring heat, oil or gasoline resistance; or
 - b. body-side molding, automotive weather-strip or decorative trim.

CONTAINER/PACKAGING means the part or parts of the consumer or institutional product that serve only to contain, enclose, incorporate, deliver, dispense, wrap or store the chemically formulated substance or mixture of substances which is solely responsible for accomplishing the purposes for which the product was designed or intended. Container/ Packaging includes any article onto or into which the principal display panel and other accompanying literature or graphics are incorporated, etched, printed or attached.

CRAWLING BUG INSECTICIDE means any insecticide product that is designed for use against ants, cockroaches, or other household crawling arthropods, including, but not limited to, mites, silverfish or spiders. Crawling Bug Insecticide does not include products designed to be used exclusively on humans or animals, or any house dust mite product. For the purposes of 310 CMR 7.25(11)(b): CRAWLING BUG INSECTICIDE only:

1. HOUSE DUST MITE PRODUCT means a product whose label, packaging, or accompanying literature states that the product is suitable for use against house dust mites, but does not indicate that the product is suitable for use against ants, cockroaches, or other household crawling arthropods.
2. HOUSE DUST MITE means mites that feed primarily on skin cells shed in the home by humans and pets and which belong to the phylum Arthropoda, the subphylum Chelicerata, the class Arachnida, the subclass Acari, the order Astigmata, and the family Pyroglyphidae.

DATE-CODE means the day, month and year on which the product was manufactured, filled, or packaged, or a code indicating such a date.

DEODORANT means any product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze bottles, that indicates or depicts on the container or packaging, or any sticker or label affixed thereto, that the product can be used on or applied to the human axilla to provide a scent and or minimize odor. A Deodorant Body Spray product that indicates or depicts on the container or packaging, or any sticker or label affixed thereto, that it can be used on or applied to the human axilla is a Deodorant as defined in 310 CMR 7.25(12)(b).

DEODORANT BODY SPRAY is a Personal Fragrance Product, as defined in 310 CMR 7.25(12)(b), with 20% or less fragrance that is designed for application all over the human body to provide a scent. A Deodorant Body Spray product that indicates or depicts on the container or packaging, or any sticker or label affixed thereto, that it can be used on or applied to the human axilla is a Deodorant as defined in 310 CMR 7.25(12)(b).

DEVICE means any instrument or contrivance other than a firearm that is designed for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than

human and other than bacterium, virus, or another microorganism on or in living human or other living animals); but not including equipment used for the application of pesticides when sold separately therefrom.

DISINFECTANT means any product intended to destroy or irreversibly inactivate infectious or other undesirable bacteria, pathogenic fungi, or viruses on surfaces or inanimate objects and whose label is registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136, *et seq.*). Disinfectant does not include any of the following:

1. products designed solely for use on humans or animals;
2. products designed for agricultural use;
3. products designed solely for use in swimming pools, therapeutic tubs, or hot tubs;
4. products which, as indicated on the principal display panel or label, are designed primarily for use as bathroom and tile cleaners, glass cleaners, general purpose cleaners, toilet bowl cleaners, or metal polishes.

DISTRIBUTOR means any person to whom a consumer product is sold or supplied for the purposes of resale or distribution in commerce, except that manufacturers, retailers, and consumers are not distributors.

DOUBLE PHASE AEROSOL AIR FRESHENER means an aerosol air freshener with the liquid contents in two or more distinct phases that requires the product container be shaken before use to mix the phases, producing an emulsion.

DRY CLEANING FLUID means any non-aqueous liquid product designed and labeled exclusively for use on:

1. fabrics that are labeled "for dry clean only," such as clothing or drapery; or
2. S-coded fabrics. Dry Cleaning Fluid includes, but is not limited to, those products used by commercial dry cleaners and commercial businesses that clean fabrics such as draperies at the customer's residence or work place. Dry Cleaning Fluid does not include Spot Remover or Carpet and Upholstery Cleaner. For the purposes of 310 CMR 7.25(11)(b): DRY CLEANING FLUID, S-coded fabric means an upholstery fabric that is designed to be cleaned only with water-free spot cleaning products as specified by the Joint Industry Fabric Standards Committee.

DUSTING AID means a product designed to assist in removing dust and other soils from floors and other surfaces without leaving a wax or silicone based coating. Dusting Aid does not include Pressurized Gas Duster.

ELECTRICAL CLEANER means a product labeled to remove heavy soils such as grease, grime, or oil from electrical equipment, including, but not limited to, electric motors, armatures, relays, electric panels, or generators. Electrical Cleaner does not include General Purpose Cleaner, General Purpose Degreaser, Dusting Aid, Electronic Cleaner, Energized Electrical Cleaner, Pressurized Gas Duster, Engine Degreaser, Anti-static Product, or products designed to clean the casings or housings of electrical equipment.

ELECTRONIC CLEANER means a product labeled for the removal of dirt, moisture, dust, flux, or oxides from the internal components of electronic or precision equipment such as circuit boards, and the internal components of electronic devices, including but not limited to, radios, compact disc (CD) players, digital video disc (DVD) players, and computers. Electronic Cleaner does not include General Purpose Cleaner, General Purpose Degreaser, Dusting Aid, Pressurized Gas Duster, Engine Degreaser, Electrical Cleaner, Energized Electrical Cleaner, Anti-static Product, or products designed to clean the casings or housings of electronic equipment.

ENERGIZED ELECTRICAL CLEANER means a product that meets both of the following criteria:

1. the product is labeled to clean and/or degrease electrical equipment, where cleaning and/or degreasing is accomplished when electrical current exists, or when there is a residual electrical potential from a component such as a capacitor; and
2. the product label clearly displays the statements: "For Energized Equipment use only. Not to be used for motorized vehicle maintenance, or their parts." Energized Electrical Cleaner does not include Electronic Cleaner.

ENGINE DEGREASER means a cleaning product designed to remove grease, grime, oil and other contaminants from the external surfaces of engines and other mechanical parts.

EXISTING PRODUCT means any formulation of the same product category and form sold, supplied, manufactured, or offered for sale in Massachusetts prior to January 1, 2009, or any subsequently introduced identical formulation.

FABRIC PROTECTANT means a product designed to be applied to fabric substrates to protect the surface from soiling from dirt and other impurities or to reduce absorption of liquid into the fabric's fibers. Fabric Protectant does not include waterproofers, products designed for use solely on leather, or products designed for use solely on fabrics that are labeled for dry clean only and sold in containers of ten fluid ounces or less.

FABRIC REFRESHER means a product labeled to neutralize or eliminate odors on nonlaundered fabric including, but not limited to, soft household surfaces, rugs, carpeting, draperies, bedding, automotive interiors, footwear, athletic equipment, clothing and/or on household furniture or objects upholstered or covered with fabrics such as, but not limited to, wool, cotton, or nylon. Fabric Refresher does not include Anti-static Product, Carpet and Upholstery Cleaner, soft household surface sanitizers, Footwear or Leather Care Product, Spot Remover, or Disinfectant, or products labeled for application to both fabric and human skin. For the purposes of 310 CMR 7.25(11)(b): FABRIC REFRESHER only, soft household surface sanitizer means a product labeled to neutralize or eliminate odors on surfaces whose label is registered as a sanitizer under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136 *et seq.*).

FACIAL CLEANER OR SOAP means a cleaner or soap designed primarily to clean the face. Facial Cleaner or Soap includes, but is not limited to, facial cleansing creams, semisolids, liquids, lotions, and substrate-impregnated forms. Facial Cleaner or Soap does not include prescription drug products, Antimicrobial Hand or Body Cleaner or Soap, Astringent/Toner, General-use Hand or Body Cleaner or Soap, Medicated Astringent/Medicated Toner, or Rubbing Alcohol.

FAT WOOD means pieces of wood kindling with high naturally occurring levels of sap or resin that enhance ignition of the kindling. Fat wood does not include any kindling with substances added to enhance flammability, such as wax-covered or wax-impregnated wood-based products.

FLEA AND TICK INSECTICIDE means any insecticide product that is designed for use against fleas, ticks, their larvae, or their eggs. Flea and Tick Insecticide does not include products that are designed to be used exclusively on humans or animals and their bedding.

FLEXIBLE FLOORING MATERIAL means asphalt, cork, linoleum, no-wax, rubber, seamless vinyl, and vinyl composite flooring.

FLOOR COATING means an opaque coating that is labeled and formulated for application to flooring, including, but not limited to, decks, porches, steps, and other horizontal surfaces that may be subjected to foot traffic.

FLOOR POLISH OR WAX means a wax, polish, or any other product designed to polish, protect, or enhance floor surfaces by leaving a protective coating that is designed to be periodically replenished. Floor Polish or Wax does not include spray buff products, products designed solely for the purpose of cleaning floors, floor finish strippers, products designed for unfinished wood floors, and coatings subject to architectural coatings regulations.

FLOOR SEAM SEALER means any product designed and labeled exclusively for bonding, fusing, or sealing (coating) seams between adjoining rolls of installed flexible sheet flooring.

FLOOR WAX STRIPPER means a product designed to remove natural or synthetic floor polishes or waxes through breakdown of the polish or wax polymers, or by dissolving or emulsifying the polish or wax. Floor Wax Stripper does not include aerosol floor wax strippers or products designed to remove floor wax solely through abrasion.

FLYING BUG INSECTICIDE means any insecticide product that is designed for use against flying insects or other flying arthropods, including but not limited to flies, mosquitoes, moths, or gnats. Flying Bug Insecticide does not include wasp and hornet insecticide, products that are designed to be used exclusively on humans or animals, or any mothproofing product. For the purposes of 310 CMR 7.25(11)(b): FLYING BUG INSECTICIDE only, moth-proofing product means a product whose label, packaging, or accompanying literature indicates that the product is designed to protect fabrics from damage by moths, but does not indicate that the product is suitable for use against flying insects or other flying arthropods.

FOOTWEAR OR LEATHER CARE PRODUCT means any product designed or labeled to be applied to footwear or to other leather articles/components, to maintain, enhance, clean, protect, or modify the appearance, durability, fit, or flexibility of the footwear or leather article/component. Footwear includes both leather and non-leather foot apparel. Footwear or Leather Care Product does not include Fabric Protectant, General Purpose Adhesive, Contact Adhesive, Vinyl/Fabric/Leather/Polycarbonate Coating, Rubber and Vinyl Protectant, Fabric Refresher,

products solely for deodorizing, or sealant products with adhesive properties used to create external protective layers greater than two millimeters thick.

FORM-RELEASE COMPOUND means a coating labeled and formulated for application to a concrete form to prevent the freshly poured concrete from bonding to the form. The form may consist of wood, metal, or some material other than concrete.

FRAGRANCE means a substance or complex mixture of aroma chemicals, natural essential oils, and other functional components with a combined vapor pressure not in excess of two millimeters of mercury at 20°C, the sole purpose of which is to impart an odor or scent, or to counteract a malodor.

FURNITURE COATING means any paint designed for application to room furnishings including, but not limited to, cabinets (such as kitchen, bath and vanity cabinets), tables, chairs, beds, and sofas.

FURNITURE MAINTENANCE PRODUCT means a wax, polish, conditioner, or any other product designed for the purpose of polishing, protecting or enhancing finished wood surfaces other than floors. Furniture Maintenance Product does not include Dusting Aids, Wood Cleaners and products designed solely for the purpose of cleaning, and products designed to leave a permanent finish such as stains, sanding sealers and lacquers.

GEL means a colloid in which the disperse phase has combined with the continuous phase to produce a semisolid material, such as jelly.

GENERAL PURPOSE ADHESIVE means any non-aerosol adhesive designed for use on a variety of types of substrates. General Purpose Adhesive does not include:

1. contact adhesives;
2. construction, panel, and floor covering adhesives;
3. adhesives designed exclusively for application on one specific category of substrates (*i.e.*, substrates that are composed of similar materials, such as different types of metals, paper products, ceramics, plastics, rubbers, or vinyls); or
4. adhesives designed exclusively for use on one specific category of articles (*i.e.*, articles that may be composed of different materials but perform a specific function, such as gaskets, automotive trim, weather-stripping, or carpets).

GENERAL PURPOSE CLEANER means a product designed for general all-purpose cleaning, in contrast to cleaning products designed to clean specific substrates in certain situations. General Purpose Cleaner includes products designed for general floor cleaning, kitchen or countertop cleaning, and cleaners designed to be used on a variety of hard surfaces and does not include general purpose degreasers and electronic cleaners.

GENERAL PURPOSE DEGREASER means any product labeled to remove or dissolve grease, grime, oil and other oil-based contaminants from a variety of types of substrates, including automotive or miscellaneous metallic parts. General Purpose Degreaser does not include Engine Degreaser, General Purpose Cleaner, Adhesive Remover, Electronic Cleaner, Electrical Cleaner, Energized Electrical Cleaner, Metal Polish/Cleanser, products used exclusively in solvent cleaning tanks or related equipment, or products that are:

1. sold exclusively to establishments that manufacture or construct goods or commodities; and
2. labeled "not for retail sale". Solvent cleaning tanks or related equipment includes, but is not limited to, cold cleaners, vapor degreasers, conveyORIZED degreasers, film cleaning machines, or products designed to clean miscellaneous metallic parts by immersion in a container.

GENERAL-USE HAND OR BODY CLEANER OR SOAP means a cleaner or soap designed to be used routinely on the skin to clean or remove typical or common dirt and soils. General-use Hand or Body Cleaner or Soap includes, but is not limited to, hand or body washes, dual-purpose shampoo-body cleaners, shower or bath gels, and moisturizing cleaners or soaps. General-use Hand or Body Cleaner or Soap does not include prescription drug products, Antimicrobial Hand or Body Cleaner or Soap, Astringent/Toner, Facial Cleaner or Soap, Hand Dishwashing Detergent, Heavy-duty Hand Cleaner or Soap, Medicated Astringent/Medicated Toner, or Rubbing Alcohol.

GLASS CLEANER means a cleaning product designed primarily for cleaning surfaces made of glass. Glass cleaner does not include products designed solely for the purpose of cleaning optical materials used in eyeglasses, photographic equipment, scientific equipment and photocopying machines.

GRAFFITI REMOVER means a product labeled to remove spray paint, ink, marker, crayon, lipstick, nail polish, or shoe polish, from a variety of non-cloth or non-fabric substrates. Graffiti Remover does not include Paint Remover or Stripper, Nail Polish Remover, or Spot Remover. Products labeled for dual use as both a paint stripper and graffiti remover are considered Graffiti Removers.

GRAPHIC ARTS COATING OR SIGN PAINT means a coating labeled and formulated for hand-application by artists using brush or roller techniques to indoor and outdoor signs (excluding structural components) and murals including letter enamels, poster colors, copy blockers, and bulletin enamels.

HAIR MOUSSE means a hair-styling foam designed to facilitate styling of a coiffure and provide limited holding power.

HAIR SHINE means any product designed for the primary purpose of creating a shine when applied to the hair. Hair Shine includes, but is not limited to, dual-use products designed primarily to impart sheen to the hair. Hair Shine does not include Hair Spray, Hair Mousse, Hair Styling Product, or products whose primary purpose is to condition or hold the hair.

HAIR SPRAY means a product that is applied to styled hair, and is designed or labeled to provide sufficient rigidity to hold, retain and/or (finish) the style of the hair for a period of time. Hair Spray includes aerosol hair sprays, pump hair sprays, spray waxes; color, glitter, or sparkle hairsprays that make finishing claims; and products that are both a styling and finishing product. Hair Spray does not include spray products that are intended to aid in styling but do not provide finishing of a hairstyle.

For the purposes of 310 CMR 7.25(11)(b): HAIR SPRAY, "finish" or "finishing" means the maintaining and/or holding of previously styled hair for a period of time. For the purposes of 310

CMR 7.25(11)(b): HAIR SPRAY, “styling” means the forming, sculpting, or manipulating of the hair to temporarily alter the hair's shape.

HAIR STYLING PRODUCT means a product manufactured on or after January 1, 2009, that is designed or labeled for the application to wet, damp, or dry hair to aid in defining, shaping, lifting, styling and/or sculpting the hair. Hair Styling Product includes, but is not limited to, hair balm, clay, cream, creme, curl straightener, gel, liquid, lotion, paste, pomade, putty, root lifter, serum, spray gel, stick, temporary hair straightener, wax, spray products that aid in styling but do not provide finishing of a hairstyle, and leave-in volumizers, detanglers and/or conditioners that make styling claims. Hair Styling Product does not include Hair Mousse, Hair Shine, Hair Spray, or shampoos and/or conditioners that are rinsed from the hair prior to styling.

For the purposes of 310 CMR 7.25(11)(b): HAIR STYLING PRODUCT, “finish” or “finishing” means the maintaining and/or holding of previously styled hair for a period of time, and “styling” means the forming, sculpting, or manipulating of the hair to temporarily alter the hair's shape.

HEAVY-DUTY HAND CLEANER OR SOAP means a product designed to clean or remove difficult dirt and soils such as oil, grease, grime, tar, shellac, putty, printer's ink, paint, graphite, cement, carbon, asphalt, or adhesives from the body with or without the use of water. Heavy-duty Hand Cleaner or Soap does not include prescription drug products, Antimicrobial Hand or Body Cleaner or Soap, Astringent/Toner, Facial Cleaner or Soap, General-use Hand or Body Cleaner or Soap, Medicated Astringent/Medicated Toner or Rubbing Alcohol.

HERBICIDE means a pesticide product designed to kill or retard a plant's growth, but excludes products that are:

1. for agricultural use; or
2. restricted materials that require a permit for use and possession.

HIGH VOLATILITY ORGANIC COMPOUND (HVOC) means any volatile organic compound that exerts a vapor pressure greater than 80 millimeters of mercury when measured at 20°C.

HOUSEHOLD PRODUCT means any consumer product that is primarily designed to be used inside or outside of living quarters or residences that are occupied or intended for occupation by individuals, including the immediate surroundings.

INSECTICIDE means a pesticide product that is designed for use against insects or other arthropods, but excluding products that are:

1. for agricultural use; or
2. for a use that requires a structural pest control license under the Massachusetts Pesticide Control Act; or
3. restricted materials that require a permit for use and possession.

INSECTICIDE FOGGER means any insecticide product designed to release all or most of its content, as a fog or mist, into indoor areas during a single application.

INSTITUTIONAL PRODUCT OR INDUSTRIAL AND INSTITUTIONAL (I&I)

PRODUCT means a consumer product that is designed for use in the maintenance or operation of an establishment that:

1. manufactures, transports, or sells goods or commodities, or provides services for profit; or
2. is engaged in the nonprofit promotion of a particular public, educational, or charitable cause. Establishments include, but are not limited to, government agencies, factories, schools, hospitals, sanitariums, prisons, restaurants, hotels, stores, automobile service and parts centers, health clubs, theaters, or transportation companies. Institutional Product does not include household products and products that are incorporated into or used exclusively in the manufacture or construction of the goods or commodities at the site of the establishment.

LABEL means any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon any product or product package, for purposes of branding, identifying, or giving information with respect to the product or to the contents of the package.

LAUNDRY PREWASH means a product that is designed for application to a fabric prior to laundering and that supplements and contributes to the effectiveness of laundry detergents and/or provides specialized performance.

LAUNDRY STARCH PRODUCT means a product that is designed for application to a fabric, either during or after laundering, to impart and prolong a crisp, fresh look and may also act to help ease ironing of the fabric. Laundry Starch Product includes, but is not limited to, fabric finish, sizing, and starch.

LAWN AND GARDEN INSECTICIDE means an insecticide product labeled primarily to be used in household lawn and garden areas to protect plants from insects or other arthropods.

LIQUID means a substance or mixture of substances that is capable of a visually detectable flow as determined under ASTM D4359-90(2000)e1, D 4359 90 *Standard Test Method For Determining Whether A Material Is A Liquid Or A Solid*, ASTM International. Liquid does not include powders or other materials that are composed entirely of solid particles.

LVP-VOC or Low-Vapor-Pressure VOC means a chemical compound or mixture that contains at least one carbon atom and meets one of the following:

1. has a vapor pressure less than 0.1 millimeters of mercury at 20°C, as determined by CARB Method 310; or
2. is a chemical compound with more than 12 carbon atoms, or a chemical mixture comprised solely of compounds with more than 12 carbon atoms as verified by formulation data, and the vapor pressure and boiling point are unknown; or
3. is a chemical compound with a boiling point greater than 216°C, as determined by CARB Method 310; or
4. is the weight percent of a chemical mixture that boils above 216°C, as determined by CARB Method 310.

For the purposes of 310 CMR 7.25(11)(b): LVP-VOC, chemical compound means a molecule of definite chemical formula and isomeric structure, and chemical "mixture" means a substrate comprised of two or more chemical compounds.

MANUFACTURER means any person who manufactures, processes, imports, assembles, produces, packages, repackages, or re-labels a product.

MEDICATED ASTRINGENT/MEDICATED TONER means any product regulated as a drug by the FDA that is applied to the skin for the purpose of cleaning or tightening pores. Medicated Astringent/Medicated Toner includes, but is not limited to, clarifiers and substrate-impregnated products. Medicated Astringent/Medicated Toner does not include hand, face, or body cleaner or soap products, Astringent/Toner, cold cream, lotion, antiperspirants, or products that must be purchased with a doctor's prescription.

MEDIUM VOLATILITY ORGANIC COMPOUND (MVOC) means any volatile organic compound that exerts a vapor pressure greater than two millimeters of mercury and less than or equal to 80 millimeters of mercury when measured at 20°C.

METAL POLISH/CLEANSER means any product designed primarily to improve the appearance of finished metal, metallic, or metallized surfaces by physical or chemical action.

To improve the appearance means to remove or reduce stains, impurities, or oxidation from surfaces or to make surfaces smooth and shiny. Metal Polish/Cleanser includes, but is not limited to, metal polishes used on brass, silver, chrome, copper, stainless steel and other ornamental metals. Metal Polish/Cleanser does not include Automotive Wax, Polish, Sealant or Glaze, wheel cleaner, Paint Remover or Stripper, products designed and labeled exclusively for automotive and marine detailing, or products designed for use in degreasing tanks.

MIST SPRAY ADHESIVE means any aerosol that is not a special purpose spray adhesive and which delivers a particle or mist spray, resulting in the formation of fine, discrete particles that yield a generally uniform and smooth application of adhesive to the substrate.

MULTI-PURPOSE DRY LUBRICANT means any lubricant that is:

1. designed and labeled to provide lubricity by depositing a thin film of graphite, molybdenum disulfide (moly), or polytetrafluoroethylene or closely related fluoropolymer (teflon) on surfaces; and
2. designed for general purpose lubrication, or for use in a wide variety of applications.

MULTI-PURPOSE LUBRICANT means any lubricant designed for general purpose lubrication, or for use in a wide variety of applications. Multi-purpose Lubricant does not include Multi-purpose Dry Lubricants, Penetrants, or Silicone-based Multi-purpose Lubricants.

MULTI-PURPOSE SOLVENT means any organic liquid designed to be used for a variety of purposes, including cleaning or degreasing of a variety of types of substrates, or thinning, dispersing or dissolving other organic materials. Multi-purpose Solvent includes solvents used in institutional facilities, except for laboratory reagents used in analytical, educational, research, scientific or other laboratories. Multi-purpose Solvent does not include solvents used in cold cleaners, vapor degreasers, conveyorized degreasers or film cleaning machines, or solvents that are incorporated into, or used exclusively in the manufacture or construction of, the goods or commodities at the site of the establishment.

NAIL POLISH means any clear or colored coating designed for application to the fingernails or toenails and including but not limited to, lacquers, enamels, acrylics, base coats, and top coats.

NAIL POLISH REMOVER means a product designed to remove nail polish and coatings from fingernails or toenails.

NON-AEROSOL PRODUCT means any consumer product that is not dispensed by a pressurized spray system.

NON-CARBON CONTAINING COMPOUND means any compound that does not contain any carbon atoms.

NON-RESILIENT FLOORING means flooring of a mineral content that is not flexible. Non-Resilient Flooring includes terrazzo, marble, slate, granite, brick, stone, ceramic tile and concrete.

NON-SELECTIVE TERRESTRIAL HERBICIDE means a terrestrial herbicide product that is toxic to plants without regard to species.

OVEN CLEANER means any cleaning product designed to clean and to remove dried food deposits from oven walls.

PAINT means any pigmented liquid, liquefiable, or mastic composition designed for application to a substrate in a thin layer that is converted to an opaque solid film after application and is used for protection, decoration or identification, or to serve some functional purpose such as the filling or concealing of surface irregularities or the modification of light and heat radiation characteristics.

PAINT REMOVER OR STRIPPER means any product designed to strip or remove paints or other related coatings, by chemical action, from a substrate without markedly affecting the substrate. Paint Remover or Stripper does not include Multi-purpose Solvents, paintbrush cleaners, products designed and labeled exclusively as Graffiti Removers, and hand cleaner products that claim to remove paints and other related coatings from skin.

PENETRANT means a lubricant designed and labeled primarily to loosen metal parts that have bonded together due to rusting, oxidation, or other causes. Penetrant does not include Multi-purpose Lubricants that claim to have penetrating qualities, but are not labeled primarily to loosen bonded parts.

PERSONAL FRAGRANCE PRODUCT means any product which is applied to the human body or clothing for primary purpose of adding a scent, or masking a malodor, including cologne, perfume, aftershave, and toilet water. Personal Fragrance Product does not include:

1. Deodorant;
2. medicated products designed primarily to alleviate fungal or bacterial growth on feet or other areas of the body;
3. mouthwashes, breath fresheners and deodorizers;

4. lotions, moisturizers, powders or other skin care products used primarily to alleviate skin conditions such as dryness and irritations;
5. products designed exclusively for use on human genitalia;
6. soaps, shampoos, and products primarily used to clean the human body; and
7. fragrance products designed to be used exclusively on non-human animals.

PESTICIDE means and includes any substance or mixture of substances labeled, designed, or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator, provided that the term "pesticide" does not include any substance, mixture of substances, or device that the United States Environmental Protection Agency does not consider to be a pesticide.

PRESSURIZED GAS DUSTER means a pressurized product labeled to remove dust from a surface solely by means of mass air or gas flow, including surfaces such as photographs, photographic film negatives, computer keyboards, and other types of surfaces that cannot be cleaned with solvents. Pressurized Gas Duster does not include Dusting Aid.

PRINCIPAL DISPLAY PANEL OR PANELS means that part or those parts of a label that are so designed as to most likely be displayed, presented, shown or examined under normal and customary conditions of display or purchase. Whenever a principal display panel appears more than once, all requirements pertaining to the principal display panel shall pertain to all such principal display panels.

PRODUCT BRAND NAME means the name of the product exactly as it appears on the principal display panel of the product.

PRODUCT CATEGORY means the applicable category that best describes the product as listed in Definitions.

PRODUCT LINE means a group of products of identical form and function belonging to the same product category or categories.

PROPELLANT means a liquefied or compressed gas that is used in whole or in part, such as a co-solvent, to expel a liquid or any other material from the same self-pressurized container or from a separate container.

PUMP SPRAY means a packaging system in which the product ingredients within the container are not under pressure and in which the product is expelled only while a pumping action is applied to a button, trigger or other actuator.

RESPONSIBLE PARTY means the company, firm or establishment that is listed on the product label. If the label lists two companies, firms or establishments, the responsible party is the party that the product was manufactured for or distributed by, as noted on the label.

RESTRICTED MATERIALS means pesticides established as restricted materials under applicable Massachusetts laws or regulations.

RETAIL OUTLET means any establishment at which consumer products are sold, supplied, or offered for sale directly to consumers.

RETAILER means any person who sells, supplies, or offers consumer products for sale directly to consumers.

ROLLON PRODUCT means any antiperspirant or deodorant that dispenses active ingredients by rolling a wetted ball or wetted cylinder on the affected area.

RUBBER AND VINYL PROTECTANT means any product designed to protect, preserve or renew vinyl, rubber, and plastic on vehicles, tires, luggage, furniture, and household products such as vinyl covers, clothing, and accessories. Rubber and Vinyl Protectant does not include products primarily designed to clean the wheel rim, such as aluminum or magnesium wheel cleaners, and tire cleaners that do not leave an appearance-enhancing or protective substance on the tire.

RUBBING ALCOHOL means any product containing isopropyl alcohol (also called isopropanol) or denatured ethanol and labeled for topical use, usually to decrease germs in minor cuts and scrapes, to relieve minor muscle aches, as a rubefacient, and for massage.

SEALANT AND CAULKING COMPOUND means any product with adhesive properties that is designed to fill, seal, waterproof, or weatherproof gaps or joints between two surfaces. Sealant and Caulking Compound does not include roof cements and roof sealants; insulating foams; removable caulking compounds; clear, paintable, or water resistant caulking compounds; floor seam sealers; products designed exclusively for automotive uses; or sealers that are applied as continuous coatings. Sealant and Caulking Compound also does not include units of product, less packaging, which weigh more than one pound and consist of more than 16 fluid ounces. For the purposes of 310 CMR 7.25(11)(b): SEALANT AND CAULKING COMPOUND only, removable caulking compound means a compound that temporarily seals windows or doors for three to six month time intervals. For the purposes of 310 CMR 7.25(11)(b): SEALANT AND CAULKING COMPOUND only, clear/paintable/water resistant caulking compound means a compound that:

1. contains no appreciable level of opaque fillers or pigments;
2. transmits most or all visible light through the caulk when cured;
3. is paintable; and
4. is immediately resistant to precipitation upon application.

SEMISOLID means a product that, at room temperature, will not pour, but will spread or deform easily, including but not limited to gels, pastes, and greases.

SHAVING CREAM means an aerosol product that dispenses a foam lather intended to be used with a blade or cartridge razor, or other wet shaving system, in the removal of facial or other bodily hair. Shaving Cream does not include Shaving Gel.

SHAVING GEL means an aerosol product that dispenses a post-foaming semisolid designed to be used with a blade, cartridge razor, or other shaving system in the removal of facial or other bodily hair. Shaving Gel does not include Shaving Cream.

SILICONE-BASED MULTI-PURPOSE LUBRICANT means any lubricant that is:

1. signed and labeled to provide lubricity primarily through the use of silicone compounds including, but not limited to, polydimethylsiloxane; and
2. designed and labeled for general purpose lubrication, or for use in a wide variety of applications. Silicone-based Multi-purpose Lubricant does not include products designed and labeled exclusively to release manufactured products from molds.

SINGLE-PHASE AEROSOL AIR FRESHENER means an aerosol air freshener with the liquid contents in a single homogeneous phase and that does not require that the product container be shaken before use.

SOLID means a substance or mixture of substances that, either whole or subdivided (such as the particles comprising a powder), is not capable of visually detectable flow as determined under ASTM D4359-90(2000)e1, *Standard Test Method For Determining Whether A Material Is A Liquid Or A Solid*, ASTM International.

SPECIAL PURPOSE SPRAY ADHESIVE Means an aerosol adhesive that meets any of the following definitions:

1. MOUNTING ADHESIVE means an aerosol adhesive designed to permanently mount photographs, artwork, and any other drawn or printed media to a backing (such as paper, board, cloth, etc.) without causing discoloration to the artwork.
2. FLEXIBLE VINYL ADHESIVE means an aerosol adhesive designed to bond flexible vinyl to substrates. Flexible vinyl means a non-rigid polyvinyl chloride plastic with at least 5%, by weight, of plasticizer content. A plasticizer is a material, such as a high boiling point organic solvent, that is incorporated into a plastic to increase its flexibility, workability, or distensibility, and may be determined using ASTM D1045- 95(2001), "*Standard Test Methods for Sampling and Testing Plasticizers Used in Plastics*," ASTM International, or from product formulation data.
3. POLYSTYRENE FOAM ADHESIVE means an aerosol adhesive designed to bond polystyrene foam to substrates.
4. AUTOMOBILE HEADLINER ADHESIVE means an aerosol adhesive designed to bond together layers in motor vehicle headliners.
5. POLYOLEFIN ADHESIVE means an aerosol adhesive designed to bond polyolefins to substrates.
6. LAMINATE REPAIR/EDGE BANDING ADHESIVE means an aerosol adhesive designed for:
 - a. The touch-up or repair of items laminated with high-pressure laminates (*e.g.*, lifted edges, delaminates, *etc.*); or
 - b. The touch-up, repair, or attachment of edge-bonding materials, including but not limited to, other laminates, synthetic marble, veneers, wood molding, and decorative metals.

For the purposes of this definition, high pressure laminate means sheet materials that consist of paper, fabric, or other core material that have been laminated at temperatures exceeding 265° F, and at pressures between 1,000 and 1,400 psi.

7. AUTOMOTIVE ENGINE COMPARTMENT ADHESIVE means an aerosol adhesive designed for use in motor vehicle under-the-hood applications that require oil and plasticizer resistance, as well as high shear strength, at temperatures of 93°C through 135°C.

SPOT REMOVER means any product labeled to clean localized areas, or remove localized spots or stains on cloth or fabric such as drapes, carpets, upholstery, and clothing, that does not require subsequent laundering to achieve stain removal. Spot Remover does not include Dry Cleaning Fluid, Laundry Prewash, or Multi-purpose Solvent.

SPRAY BUFF PRODUCT means a product designed to restore a worn floor finish in conjunction with a floor buffing machine and special pad.

STICK PRODUCT means any antiperspirant or deodorant that contains active ingredients in a solid matrix form, and that dispenses the active ingredients by frictional action on the affected area.

STRUCTURAL WATERPROOF ADHESIVE means an adhesive whose bond lines are resistant to conditions of continuous immersion in fresh or salt water, and that conforms with Federal Specification MMM-A-181D (Type 1, Grade A).

TERRESTRIAL means to live on or grow from land.

TIRE SEALANT AND INFLATION means any pressurized product that is designed to temporarily inflate and seal a leaking tire.

TOILET/URINAL CARE PRODUCT means any product designed or labeled to clean and/or to deodorize toilet bowls, toilet tanks, or urinals. Toilet bowls, toilet tanks, or urinals include, but are not limited to, toilets or urinals connected to permanent plumbing in buildings and other structures, portable toilets or urinals placed at temporary or remote locations, and toilet or urinals in vehicles such as buses, recreational motor homes, boats, ships, and aircraft. Toilet/Urinal Care Product does not include Bathroom and Tile Cleaner or General Purpose Cleaner.

TYPE A PROPELLANT means a compressed gas such as CO₂, N₂, N₂O, or compressed air that is used as a propellant, and is either incorporated with the product or contained in a separate chamber within the product's packaging.

TYPE B PROPELLANT means any halocarbon that is used as a propellant, including chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), and hydrofluorocarbons (HFCs).

TYPE C PROPELLANT means any propellant that is not a Type A or Type B propellant, including propane, isobutane, n-butane, and dimethyl ether (also known as dimethyl oxide).

UNDERCOATING means any aerosol product designed to impart a protective, non-paint layer to the undercarriage, trunk interior, and/or firewall of motor vehicles to prevent the formation of rust or to deaden sound. Undercoating includes, but is not limited to, rubberized, mastic, or asphaltic products.

USAGE DIRECTIONS means the text or graphics on the product's principal display panel, label, or accompanying literature that describes to the end user how and in what quantity the product is to be used.

VINYL/FABRIC/LEATHER/POLYCARBONATE COATING means a coating designed and labeled exclusively to coat vinyl, fabric, leather, or polycarbonate substrates.

VOC CONTENT means except for charcoal lighter products, the total weight of VOC in a consumer product expressed as a percentage of the product weight (exclusive of the container or packaging), as determined pursuant to 310 CMR 7.25(12)(h)1.

For charcoal lighter material products only,

$$\text{VOC CONTENT} = \text{Certified Emissions} * 100 / \text{Certified Use Rate.}$$

Where:

Certified Emissions = the emissions level for products approved by the CARB and as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (February 27, 1991), expressed to the nearest 0.001 pound CH₂ per start.

Certified Use Rate = the usage level for products approved by CARB and as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (February 27, 1991), expressed to the nearest 0.001 pound certified product used per start.

WASP AND HORNET INSECTICIDE means any insecticide product that is designed for use against wasps, hornets, yellow jackets or bees by allowing the user to spray from a distance a directed stream or burst at the intended insects, or their nest.

WATERPROOFER means a product designed and labeled exclusively to repel water from fabric or leather substrates. Waterproofer does not include Fabric Protectants.

WAX means a material or synthetic thermoplastic substance generally of high molecular weight hydrocarbons or high molecular weight esters of fatty acids or alcohols, except glycerol and high polymers (plastics). Wax includes, but is not limited to, substances derived from the secretions of plants and animals such as carnuba wax and beeswax, substances of a mineral origin such as ozocerite and paraffin, and synthetic polymers such as polyethylene.

WEB SPRAY ADHESIVE means any aerosol adhesive that is not a mist spray or special purpose spray adhesive.

WOOD CLEANER means a product labeled to clean wooden materials including, but not limited to, decking, fences, flooring, logs, cabinetry, and furniture. Wood Cleaner does not include Dusting Aid, General Purpose Cleaner, Furniture Maintenance Product, Floor Wax Stripper, Floor Polish or Wax, or products designed and labeled exclusively to preserve or color wood.

WOOD FLOOR WAX means wax based products for use solely on wood floors.

(c) Standards.

1. VOC Content Limits. Except as provided in 310 CMR 7.25(12)(d) (Variances), CMR 7.25(12)(e) (Innovative Products), and 310 CMR 7.25(12)(i) (Alternative Control Plans), no person subject to 310 CMR 7.25 shall:
 - a. manufacture for use within Massachusetts; or
 - b. sell, supply, or offer for sale within Massachusetts any consumer product that contains volatile organic compounds in excess of the limits specified in 310 CMR 7.25(11)(c)1.: *Table 2.*

Table 2. VOC Content Limits for Consumer Products Effective January 1, 2009

Product Category	Percent VOC by Weight (%W)
Adhesive Removers	
Floor or Wall Covering	5
Gasket or Thread Locking	50
General Purpose	20
Specialty	70
Adhesives	
Aerosol:	
Mist Spray	65
Web Spray	55
Special Purpose Spray Adhesives:	
Mounting; Automotive Engine Compartment; Flexible Vinyl	70
Polystyrene Foam and Automobile Headliner	65
Polyolefin and Laminate Repair/Edgebanding	60
Construction, Panel, and Floor Covering	
Contact:	
General Purpose	55
Special Purpose	80
General Purpose	10
Structural Waterproof	15
Air Fresheners	
Single-phase Aerosols	30
Double-phase Aerosols	25
Liquids/pump Sprays	18
Solids/Semisolid	3
Antiperspirants	
Aerosol	40 HVOC 10 MVOC

Non-aerosol	0 HVOC
	0 MVOC
Anti-static	
Non-aerosol	11
Automotive Brake Cleaners	45
Automotive Rubbing or Polishing Compound	17
Automotive Wax, Polish, Sealant or Glaze	
Hard Paste Waxes	45
I Instant Detailers	3
All Other Forms	15
Automotive Windshield Washer Fluids	35
Bathroom and Tile Cleaners	
Aerosols	7
All Other Forms	5
Bug and Tar Remover	40
Carburetor or Fuel-injection Air Intake Cleaners	45
Carpet and Upholstery Cleaners	
Aerosols	7
Non-aerosols (Dilutables)	0.1
Non-aerosols (Ready-to-Use)	3.0
Charcoal Lighter Material	See 310 CMR 7.25(12)(c)8.
Cooking Spray Aerosols	18
Deodorants	
Aerosol	0 HVOC
	10 MVOC
Non-aerosol	0 HVOC
	0 MVOC
Dusting Aids	
Aerosols	25
All Other Forms	7
Engine Degreasers	
Aerosols	35
Non-aerosols	5
Electrical Cleaner	45
Electronic Cleaner	75
Fabric Protectants	60
Fabric Refresher	
Aerosol	15
Non-aerosol	6
Floor Polishes/ Waxes	
Products for Flexible Flooring Materials	7
Products for Non-resilient Flooring	10
Wood Floor Wax	90
Floor Wax Strippers	

Non-aerosol	See 310 CMR 7.25(12)(c)10.
Footwear or Leather Care Products	
Aerosol	75
Solid	55
All Other Forms	15
Furniture Maintenance Products	
Aerosols	17
All other Forms Except Solid or Paste	7
Graffiti Remover	
Aerosol	50
Non-aerosols	30
General Purpose Cleaners	
Aerosols	10
Non-aerosols	4
General Purpose Degreasers	
Aerosols	50
Non-aerosols	4
Glass Cleaners	
Aerosols	12
Non-aerosols	4
Hair Mousses	6
Hair Shines	55
Hair Sprays	55
Hair Styling Products	
Aerosol and Pump Sprays	6
All Other Forms	2
Heavy-duty Hand Cleaner or Soap	8
Insecticides	
Crawling Bug (Aerosol)	15
Crawling Bug (all other forms)	20
Flea and Tick	25
Flying Bug (Aerosol)	25
Flying Bug (all other forms)	35
Foggers	45
Lawn and Garden (all other forms)	20
Lawn and Garden (Non-Aerosol)	3
Wasp and Hornet	40
Laundry Prewash	
Aerosol / Solids	22
All Other Forms	5
Laundry Starch Products	5
Metal Polishes/ Cleansers	30
Multi-purpose Lubricant (Excluding Solid or Semi-solid Products)	50
Nail Polish Remover	75

Non-selective Terrestrial Herbicide	
Non-aerosols	3
Oven Cleaners	
Aerosols/Pump Sprays	8
Liquids	5
Paint Remover or Stripper	50
Penetrants	50
Rubber and Vinyl Protectants	
Aerosols	10
Non-aerosols	3
Sealants and Caulking Compounds	4
Shaving Creams	5
Shaving Gel	7
Silicone-based Multi-Purpose Lubricants (Excluding Solid or Semi-solid Products)	60
Spot Removers	
Aerosols	25
Non-aerosols	8
Tire Sealants and Inflators	20
Toilet/Urinal Care Products	
Aerosol	10
Non-aerosols	3
Undercoatings	
Aerosols	40
Wood Cleaner	
Aerosol	17
Non-aerosols	4

2. Most Restrictive Limit. Notwithstanding the definition of product category in 310 CMR 7.25(12)(b), if anywhere on the container or packaging of any consumer product manufactured on or after January 1, 2009, or any FIFRA-registered insecticide manufactured on or after January 1, 2010, or on any sticker or label affixed thereto, any representation is made that the product may be used as, or is suitable for use as a consumer product for which a lower VOC limit is specified in 310 CMR 7.25(12)(c)1., then the lowest VOC limit shall apply. This requirement does not apply to general purpose cleaners, antiperspirant/deodorant products and insecticide foggers. This lowest VOC limit requirement shall apply to the consumer product irrespective of whether the definition of the consumer product category, as defined in 310 CMR 7.25(12)(b), explicitly excludes the other consumer product category or categories that have been represented in the product's labeling information.

3. Sell-through of Consumer Products.

- a. A consumer product listed in 310 CMR 7.25(12)(c)1.: *Table 2* and manufactured prior to the effective date specified in 310 CMR 7.25(12)(c)1., may be sold, supplied, or offered for sale after the effective date specified in 310 CMR 7.25(12)(c)1.: *Table 2*, so long as the consumer product complied with the VOC content standards and other applicable requirements in effect at the time the consumer product was manufactured. This does not apply to the following:
 - i. Any consumer product that does not display on the product container or package the date on which the product was manufactured, or a code indicating such date, in accordance with 310 CMR 7.25(12)(f)1.
 - ii. Any consumer product on which the manufacturer has used a code indicating the date of manufacture that is different than the code specified in 310 CMR 7.25(12)(f)1.e.ii., but an explanation of the code has not been filed with the Department by the deadlines specified in 310 CMR 7.25(12)(f)1.e.i.
 - iii. Solid Air Fresheners and Toilet/Urinal Care Products that contain paradichlorobenzene. These products are subject to a one-year sell-through period as provided in 310 CMR 7.25(12)(c)13.b.

4. Exclusions.

- a. The VOC content standards specified in 310 CMR 7.25(12)(c)1. shall not apply to:
 - i. Any LVP-VOC.
 - ii. Fragrances up to a combined level of 2% by weight contained in any consumer product, and colorants up to a combined level of 2% by weight contained in any antiperspirant or deodorant.
 - iii. VOCs that contain more than ten carbon atoms per molecule and for which the vapor pressure is unknown, or that have a vapor pressure of two mm Hg or less at 20°C in antiperspirants or deodorants.
 - iv. Air fresheners that are comprised entirely of fragrance, less compounds not defined as VOCs in 310 CMR 7.25(12)(b) or exempted under 310 CMR 7.25(12)(c)4.a.i.
 - v. Insecticides containing at least 98% paradichlorobenzene.

- vi. Adhesives sold in containers of one fluid ounce or less.
 - vii. Bait Station Insecticides. For the purpose of 310 CMR 7.25(11)(c)4., bait station insecticides are containers enclosing an insecticidal bait that is not more than 0.5 ounce by weight, where the bait is designed to be ingested by insects and is composed of solid material feeding stimulants with less than 5% active ingredients.
- b. The medium volatility organic compound (MVOC) content standards specified in 310 CMR 7.25(12)(c)1. for antiperspirants or deodorants shall not apply to ethanol.
5. Use of Toxic Air Contaminants in Antiperspirant or Deodorant. No person shall sell, supply, offer for sale, or manufacture any antiperspirant or deodorant for use in Massachusetts that contains any compound that has been identified by the CARB in Title 17, California Code of Regulations, Division 3, Chapter 1, Subchapter 7, Section 93000, as a toxic air contaminant.
6. Products that are Diluted Prior to Use.
- a. For consumer products for which the label, packaging, or accompanying literature specifically states that the product should be diluted with water or non-VOC solvent prior to use, the limits specified in 310 CMR 7.25(12)(c)1. shall apply to the product only after the minimum recommended dilution has taken place. For purposes of 310 CMR 7.25(11)(c)6., minimum recommended dilution shall not include recommendations for incidental use of a concentrated product to deal with limited special applications such as hard-to-remove soils or stains.
 - b. For consumer products for which the label, packaging, or accompanying literature states that the product should be diluted with any VOC solvent prior to use, the limits specified in 310 CMR 7.25(12)(c)1. shall apply to the product only after the maximum recommended dilution has taken place.
7. Products Registered Under FIFRA.
- a. For consumer products registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 U.S.C. § 136-136y), the effective date of the VOC standards is one year after the date specified in 310 CMR 7.25(12)(c)1.: *Table 2* Such products shall also be registered under the Massachusetts Pesticide Control Act.

- b. The labeling requirements of 310 CMR 7.25(12)(f) do not apply to products that are registered as pesticides under FIFRA and under the Massachusetts Pesticide Control Act.
8. Charcoal Lighter Materials. No person shall sell, supply, offer for sale or manufacture for use in Massachusetts any charcoal lighter materials as defined in 310 CMR 7.25(12)(b) unless the manufacturer of that product has been granted a currently effective charcoal lighter materials certification (Executive Order) for that product by CARB under the Consumer Products provisions of Title 17 California Code of Regulations, § 94509(h). A copy of the certification decision by CARB, including all conditions established by CARB applicable to the certification, shall be submitted to the Department within 30 days upon the Department's written request.
9. Aerosol Adhesives.
- a. These standards apply to all uses of aerosol adhesives, including consumer, industrial, and commercial uses. Except as otherwise provided in 310 CMR 7.25(12)(c)3. (Sell-Through of Consumer Products), 310 CMR 7.25(12)(d) (Variances), 310 CMR 7.25(12)(e) (Innovative Products), and 310 CMR 7.25(12)(i) (Alternative Control Plans), no person shall sell, supply, offer for sale, or manufacture any aerosol adhesive for use in Massachusetts that, at the time of sale, use, or manufacture, contains VOCs in excess of the specified standard.
- b. No person shall sell, supply, offer for sale, or manufacture any aerosol adhesive for use in Massachusetts that, at the time of sale, use, or manufacture, contains any of the following compounds: methylene chloride, perchloroethylene, or trichloroethylene.
- c. If a product meets more than one of the definitions specified in 310 CMR 7.25(12)(b) for Special Purpose Spray Adhesive, then the VOC limit for the product shall be the lowest applicable VOC limit specified in 310 CMR 7.25(12)(c)1.: *Table 2*.
10. Floor Wax Strippers. Effective January 1, 2009, no person shall sell, supply, offer for sale or manufacture any floor wax stripper for use in Massachusetts unless the following requirements are met:
- a. The label of each non-aerosol floor wax stripper must specify a dilution ratio for light or medium build-up of polish that results in an as-used VOC concentration of 3% by weight or less.

- b. If a non-aerosol floor wax stripper is also intended to be used for removal of heavy build-up of polish, the label of that floor wax stripper must specify a dilution ratio for its use on heavy build-up of polish that results in an as-used VOC concentration of 12% by weight or less.
- c. The term “light build-up”, “medium build-up”, or “heavy build-up” is not specifically required, as long as comparable terminology is used.

11. Contact Adhesives, Electronic Cleaners, Footwear or Leather Care Products, and General Purpose Degreasers.

- a. Except as provided in 310 CMR 7.25(12)(c)11.b., 310 CMR 7.25(12)(c)11.c., and 310 CMR 7.25(12)(c)11.d., effective January 1, 2009, no person shall sell, supply, offer for sale, or manufacture for use in Massachusetts any contact adhesive, electronic cleaner, footwear or leather care product, or general purpose degreaser that contains any of the following compounds: methylene chloride, perchloroethylene, or trichloroethylene.
- b. Impurities. The requirements of 310 CMR 7.25(12)(c)11.a. shall not apply to any contact adhesive, electronic cleaner, footwear or leather care product, or general purpose degreaser containing methylene chloride, perchloroethylene, or trichloroethylene that is present as an impurity in a combined amount equal to or less than 0.01% by weight.
- c. Sell-through of Products. Contact adhesives, electronic cleaners, footwear or leather care products, and general purpose degreasers that contain methylene chloride, perchloroethylene, or trichloroethylene and were manufactured before January 1, 2009, may be sold, supplied, or offered for sale until January 1, 2012, so long as the product container or package displays the date on which the product was manufactured, or a code indicating such date, in accordance with 310 CMR 7.25(12)(f).
- d. Notification for products sold during the sell-through period. Any person who sells or supplies a consumer product subject to standards in 310 CMR 7.25(12)(c)11.a. shall notify, in writing, the purchaser that the sell-through period for that product will end on January 1, 2012 if both of the following conditions are met:
 - (i) the product is sold or supplied to a distributor or retailer; and
 - (ii) the product is sold or supplied on or after June 30, 2012.

12. Adhesive Removers, Electrical Cleaners, and Graffiti Removers.

- a. Except as provided below in 310 CMR 7.25(12)(c)12.b., effective January 1, 2009, no person shall sell, supply, offer for sale, or manufacture for use in Massachusetts any adhesive remover, electrical cleaner, or graffiti remover that contains any of the following compounds: methylene chloride, perchloroethylene, or trichloroethylene.
- b. Impurities. The requirements of 310 CMR 7.25(12)(c)12.a. shall not apply to any adhesive remover, electrical cleaner, or graffiti remover containing methylene chloride, perchloroethylene, or trichloroethylene that is present as an impurity in a combined amount equal to or less than 0.01% by weight.
- c. Sell-through of Products. adhesive removers, electrical cleaners, and graffiti removers that contain methylene chloride, perchloroethylene, or trichloroethylene and were manufactured before January 1, 2009, may be sold, supplied, or offered for sale until January 1, 2012, so long as the product container or package displays the date on which the product was manufactured, or a code indicating such date, in accordance with 310 CMR 7.25(12)(f).
- d. Notification for Products Sold During the Sell-through Period. Any person who sells or supplies a consumer product subject to standards in 310 CMR 7.25(12)(c)12.a. shall notify, in writing, the purchaser that the sell-through period for that product will end on January 1, 2012 if both of the following conditions are met:
 - (i) the product is sold or supplied to a distributor or retailer; and
 - (ii) the product is sold or supplied on or after June 30, 2012.

13. Solid Air Fresheners and Toilet/Urinal Care Products.

- a. Effective January 1, 2009, no person shall sell, supply, offer for sale, or manufacture for use in Massachusetts any solid air freshener or toilet/urinal care products that contain para-dichlorobenzene.
- b. Solid air fresheners and toilet/urinal care products that contain paradichlorobenzene and were manufactured before January 1, 2009 may be sold, supplied, or offered for sale until January 1, 2010, so long as the product container or package displays the date on which the product was manufactured, or a code indicating such date, in accordance with 310 CMR 7.25(12)(f).

14. Products Containing Ozone-depleting Compounds.

- a. Effective January 1, 2009, no person shall sell, supply, offer for sale or manufacture for use in Massachusetts any consumer product that contains any of the following ozone-depleting compounds:

CFC-11 (trichlorofluoromethane), CFC-12 (dichlorodifluoromethane),
CFC-113 (1,1,1-trichloro-2,2,2-trifluoroethane),
CFC-114 (1-chloro-1,1-difluoro-2-chloro-2,2-difluoroethane),
CFC-115 (chloropentafluoroethane), halon 1211 (bromochlorodifluoromethane),
halon 1301 (bromotrifluoromethane), halon 2402 (dibromotetrafluoroethane),
HCFC-22 (chlorodifluoromethane),
HCFC-123 (2,2-dichloro-1,1,1-trifluoroethane),
HCFC-124 (2-chloro-1,1,1,2-tetrafluoroethane),
HCFC-141b (1,1-dichloro-1-fluoroethane),
HCFC-142b (1-chloro-1,1-difluoroethane), 1,1,1-trichloroethane, and carbon tetrachloride.

- b. The requirements of 310 CMR 7.25(12)(c)14.a. shall not apply to any ozone depleting compounds that may be present as impurities in a consumer product in an amount equal to or less than 0.01% by weight of the product.
- c. The requirements of 310 CMR 7.25(12)(c)14.a. shall not apply to any existing product formulation that complies with the requirements in 310 CMR 7.25(12)(c)1. or any existing product formulation that is reformulated to meet the requirements in 310 CMR 7.25(12)(c)1., provided that ozone depleting compound content of the reformulated product does not change.

(d) Variances.

1. Any person who cannot comply with the requirements set forth in 310 CMR 7.25(12)(c)1., because of extraordinary reasons beyond the person's reasonable control may apply in writing to the Department for a variance. The variance application shall set forth the following:
 - a. the specific grounds upon which the variance is sought;
 - b. the proposed dates by which compliance with the provisions of 310 CMR 7.25(12)(c)1. will be achieved;
 - c. a compliance report detailing the methods by which compliance will be achieved.
 - d. information to support criteria in 310 CMR 7.25(12)(d)3.
2. Upon receipt of a variance application containing the information required in 310 CMR 7.25(12)(d)1., the Department shall hold a public hearing to determine whether, under what conditions, and to what extent, a variance from the requirements in 310 CMR 7.25(12)(c)1. is necessary and will be permitted. A hearing shall be initiated no

later than 75 days after receipt of a variance application. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 30 days prior to the hearing. Notice of the hearing shall also be submitted for publication in the *Massachusetts Register* and sent to every person who requests such notice, not less than 30 days prior to the hearing. The notice shall state that the parties may, but need not be, represented by counsel at the hearing. At least 30 days prior to the hearing, the variance application shall be made available to the public for inspection. Information submitted to the Department by a variance applicant may be claimed as confidential, and such information shall be handled in accordance with the Department's confidentiality procedures. The Department may consider such confidential information in reaching a decision on a variance application. Interested members of the public shall be allowed a reasonable opportunity to testify at the hearing and their testimony shall be considered.

3. No variance shall be granted unless all of the following findings are made:
 - a. that because of reasons beyond the reasonable control of the applicant, requiring compliance with 310 CMR 7.25(12)(c)1. would result in extraordinary economic hardship;
 - b. that the public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants which would result from issuing the variance;
 - c. that the compliance report proposed by the applicant can reasonably be implemented, and will achieve compliance as expeditiously as possible.
4. Any variance order shall specify a final compliance date by which the requirements of 310 CMR 7.25(12)(c)1. will be achieved. Any variance order shall contain a condition that specifies increments of progress necessary to assure timely compliance, and any other conditions that the Department deems necessary.
5. A variance shall cease to be effective upon failure of the party to whom the variance was granted to comply with any term or condition of the variance.
6. Upon the application of any person, the Department may review, and for good cause, modify or revoke a variance from requirements of 310 CMR 7.25(12)(c)1.
7. All variances, or modifications to variances, shall be approved by EPA.

(e) Innovative Products.

1. Any manufacturer of a consumer product which has been granted an Innovative Product exemption by CARB under the Innovative Products provisions in Subchapter 8.5, Article 2, Section 94511, or Subchapter 8.5, Article 1, Section 94503.5 of Title 17 of the California Code of Regulations, and such Innovative Products Exemption has been approved by EPA, shall be, for that product, exempt from the VOC limits in 310 CMR 7.25(12)(c)1.: *Table 2* for the period of time that the CARB Innovative Product exemption remains in effect. Any manufacturer claiming an Innovative Product exemption on this basis must submit to the Department a copy of the CARB Innovative Product exemption decision (*i.e.*, the Executive Order), including all conditions established by CARB applicable to the exemption.

2. Manufacturers of consumer products that have been granted an Innovative Products exemption under the Innovative Products provisions in Subchapter 8.5, Article 2, Section 94511, or Subchapter 8.5, Article 1, Section 94503.5 of Title 17 of the California Code of Regulations based on California specific data, or that have not been granted an exemption by CARB, may seek an Innovative Products exemption in accordance with the following criteria:
 - a. The Department shall exempt a consumer product from the VOC limits specified in 310 CMR 7.25(12)(c)1. if a manufacturer demonstrates by clear and convincing evidence that, due to some characteristic of the product formulation, design, delivery systems or other factors, the use of the product will result in less VOC emissions as compared to:
 - i. the VOC emissions from a representative consumer product which complies with the VOC limits specified in 310 CMR 7.25(12)(c)1., or
 - ii. the calculated VOC emissions from a non-complying representative product, if the product had been reformulated to comply with the VOC limits specified in 310 CMR 7.25(12)(c)1. VOC emissions shall be calculated using the following equation:

$$ER = ENC \times VOCSTD / VOCNC$$

where:

ER = the VOC emissions from the non-complying representative product, had it been reformulated

ENC = the VOC emissions from the non-complying representative product in its current formulation

VOCSTD = the VOC limit specified in the table of standards in 310 CMR 7.25(12)(c)1.

VOCNC = the VOC content of the non-complying product in its current formulation

If a manufacturer demonstrates that this equation yields inaccurate results due to some characteristic of the product formulation or other factors, an alternative method that accurately calculates emissions may be used upon approval of the Department.

- b. For the purposes 310 MR 7.25(11)(e)2.b., “representative consumer product” means a consumer product that meets all of the following criteria:
 - i. the representative product shall be subject to the same VOC limit in 310 CMR 7.25(12)(c)1. as the innovative product.
 - ii. the representative product shall be of the same product form as the innovative product, unless the innovative product uses a new form that does not exist in the product category at the time the application is made.
 - iii. the representative product shall have at least similar efficacy as other consumer products in the same product category based on tests generally accepted for that product category by the consumer products industry.
- c. A manufacturer shall apply in writing to the Department for any exemption claimed under 310 CMR 7.25(12)(e)2.a. The application shall include the supporting documentation that demonstrates the emissions from the innovative product, including the actual physical test methods used to generate the data and, if necessary, the consumer testing undertaken to document product usage. In addition, the applicant shall provide any information necessary to enable the Department to establish enforceable conditions for granting the exemption including the VOC content for the innovative product and test methods for determining the VOC content. All information submitted by a manufacturer pursuant to 310 CMR 7.25(11)(e)2.c. shall be handled in accordance with the procedures specified in applicable Massachusetts confidentiality requirements.
- d. Within 30 days of receipt of the exemption application, the Department shall determine whether an application is complete.
- e. Within 90 days after an application has been deemed complete, the Department shall determine whether, under what conditions, and to what extent, an exemption from the requirements of 310 CMR 7.25(12)(c) will be permitted. The applicant and the Department may mutually agree to a longer time period for reaching a decision, and additional supporting documentation may be submitted by the applicant before a decision has been reached. The Department shall notify the applicant of the decision in writing and specify such terms and conditions that are necessary to insure that emissions from the product will meet the emissions reductions specified in 310 CMR 7.25(e)2.a.

- f. In granting an exemption for a product, the Department shall establish conditions that are enforceable. These conditions shall include the VOC content of the innovative product, dispensing rates, application rates and any other parameters determined by the Department to be necessary. The Department shall also specify the test methods for determining conformance to the conditions established. The test methods shall include criteria for reproducibility, accuracy, sampling and laboratory procedures.
- g. For any product for which an exemption has been granted pursuant to this section, the manufacturer shall notify the Department in writing within 30 days of any change in the product formulation or recommended product usage directions, and shall also notify the Department within 30 days if the manufacturer learns of any information which would alter the emissions estimates submitted to the Department in support of the exemption application.
- h. If the VOC limits specified in 310 CMR 7.25(12)(c)1. are lowered for a product category through any subsequent rule making, all innovative product exemptions granted for products in the product category, except as provided in 310 CMR 7.25(12)(e)2.h., shall have no force and effect as of the effective date of the modified VOC standard. 310 CMR 7.25(12)(e)2.h. shall not apply to those innovative products which have VOC emissions less than the applicable lowered VOC limit and for which a written notification of the product's emissions status versus the lowered VOC limit has been submitted to and approved by the Department at least 60 days before the effective date of such limits.
- i. If the Department determines that a consumer product for which an exemption has been granted no longer meets the criteria for an innovative product specified in 310 CMR 7.25(12)(e)2.a., the Department may modify or revoke the exemption as necessary to assure that the product will meet these criteria.

(f) Labeling Requirements.

1. Product Dating.

- a. No person shall sell, supply, offer for sale, or manufacture a consumer product subject to 310 CMR 7.25(12)(c) for use in Massachusetts unless each consumer product container or package clearly displays the day, month, and year on which the product was manufactured, or a code indicating such date.
- b. For products manufactured on or after January 1, 2009, the date-code shall be displayed on the product container or package such that it is readily observable without irreversibly disassembling any portion of the product container or

packaging. For the purposes of 310 CMR 7.25(11)(f)1.b., information may be displayed on the bottom of a container as long as it is clearly legible without removing any product packaging.

- c. No person shall erase, alter, deface or otherwise remove or make illegible any date or code indicating the date of manufacture from any regulated product container without the express authorization of the manufacturer.
- d. Explanation of the Code.
 - i. If a manufacturer uses a code indicating the date of manufacture for any consumer product subject to 310 CMR 7.25(12)(c), an explanation of the code shall be filed with the Department no later than 12 months prior to:
 - the effective date of the applicable standard specified in 310 CMR 7.25(12)(c)1.; or, the date on which the product first becomes available for sale, distribution, or use within Massachusetts, whichever is later; and
 - any date on which the product first becomes available for sale, distribution, or use within Massachusetts after any modification to an existing product's date-code format.
 - ii. A manufacturer who uses the following code to indicate the date of manufacture shall not be subject to the requirements of 310 CMR 7.25(12)(f)1.d.i., if the code is represented separately from other codes on the product container so that it is easily recognizable:

YY DDD

where:

YY = two digits representing the year in which the product was manufactured

DDD = three digits representing the day of the year on which the product was manufactured, with "001" representing the first day of the year, "002" representing the second day of the year, and so forth (*i.e.*, the "Julian date").

- e. The requirements of 310 CMR 7.25(12)(f)1. shall not apply to products containing no VOCs, as defined in 310 CMR 7.25(12)(b), or containing VOCs at 0.10 percent by weight or less.
- f. Codes indicating the date of manufacture are public information and may not be claimed as confidential.

2. Additional Labeling Requirements for Aerosol Adhesives, Adhesive Removers, Electronic Cleaners, Electrical Cleaners, Energized Electrical Cleaners, and Contact Adhesives.

a. In addition to the requirements specified in 310 CMR 7.25(12)(f)1., the manufacturer and responsible party for each aerosol adhesive, adhesive remover, electronic cleaner, electrical cleaner, energized electrical cleaner, and contact adhesive product subject to 310 CMR 7.25 shall ensure that all products clearly display the following information on each product container that is manufactured on or after January 1, 2009:

i. The product category as specified in 310 CMR 7.25(12)(c)1. or an abbreviation of the category shall be displayed;

ii. The applicable VOC standard for the product that is specified in 310 CMR 7.25(12)(c)1., except for energized electrical cleaner, expressed as a percentage by weight, shall be displayed;

iii. If the product is classified as a special purpose spray adhesive, the applicable substrate and/or application or an abbreviation of the substrate or application that qualifies the product as special purpose shall be displayed;

iv. If the manufacturer or responsible party uses an abbreviation as allowed under 310 CMR 7.25(12)(f)2.a.i. and 310 CMR 7.25(12)(f)2.a.iii., an explanation of the abbreviation must be filed with the Department no later than 90 days prior to:

- the effective date of the applicable standard specified in 310 CMR 7.25(12)(c)1.; or, the date on which the product first becomes available for sale, distribution, or use within Massachusetts, whichever date is later; and
- any date on which the product first becomes available for sale, distribution, or use within Massachusetts after any modification to an existing product's abbreviation.

b. The information required in 310 CMR 7.25(12)(f)3.a., shall be displayed on the product container such that it is readily observable without removing or disassembling any portion of the product container or packaging. For the purposes of this subsection, information may be displayed on the bottom of a container as long as it is clearly legible without removing any product packaging.

c. No person shall remove, alter, conceal, or deface the information required in 310 CMR 7.25(12)(f)2.a. prior to final sale of the product.

(g) Recordkeeping and Reporting Requirements.

1. Each responsible party for a product subject to a VOC content limit in 310 CMR 7.25(12)(c) shall keep records demonstrating compliance with the VOC content limits in accordance with 310 CMR 7.25(12)(h). If the Department requests such information and the responsible party does not have or does not provide the information requested by the Department, the Department may require the reporting of this information by the person that has the information, including, but not limited to, any formulator, manufacturer, supplier, parent company, private labeler, distributor, or repackager. All records for compliance determination, including 310 CMR 7.25(12)(g)2. and 310 CMR 7.25(12)(g)3., shall be kept on site for a period of time not less than three years and shall be made available to the Department within 90 days of request.
2. Upon a written request by the Department, a responsible official from each responsible party shall provide, to the Department within 90 days, the information for any consumer product or products that the Department may specify including, but not limited to, all or part of the following information:
 - a. the company name, telephone number, and designated contact person;
 - b. any claim of confidentiality made pursuant to applicable Massachusetts confidentiality requirements, 310 CMR 3.00;
 - c. the product brand name for each consumer product subject to recordkeeping and reporting requirements and the product label;
 - d. the product category to which the consumer product belongs;
 - e. the applicable product form(s) listed separately;
 - f. an identification of each product brand name and form as a Household Product or Industrial and Institutional Product, or both;
 - g. for reporting information submitted by multiple companies, an identification of each company that is submitting relevant data separate from that submitted by the responsible party.
 - h. for each product brand name and form, the net percent by weight of the total product, less container and packaging, comprised of the following, rounded to the nearest 0.1%:
 - i. Total Exempt Compounds
 - ii. Total LVP-VOCs that are not fragrances
 - iii. Total All Other Carbon-Containing Compounds that are not fragrances
 - iv. Total All Non-Carbon-Containing Compounds
 - v. Total Fragrance
 - vi. For products containing greater than two percent by weight fragrance:

- the percent of fragrance that are LVP-VOCs, and
- the percent of fragrance that are All Other Carbon-Containing Compounds

vii. Total Paradichlorobenzene

i. for each product brand name and form, the identity, including the specific chemical name and associated Chemical Abstract Services (CAS) number, of the following:

- i. Each Exempt Compound
- ii. Each LVP-VOC that is not a fragrance

j. if applicable, the weight percent comprised of propellant for each product;

k. If applicable, an identification of the type of propellant (Type A, Type B, Type C, or a blend of the different types);

l. If applicable, the net percent by weight of each ozone-depleting compound that is listed in 310 CMR 7.25(12)(c)14. and is contained in a product subject to reporting under 310 CMR 7.25(12)(g) in any amount greater than 0.1% by weight.

(h) Compliance Testing Requirements.

1. The responsible party shall determine compliance with the VOC content requirements of this regulation according to one of the following:
 - a. CARB Method 310 Determination of Volatile Organic Compounds (VOC) in *Consumer Products and Reactive Organic Compounds in Aerosol Coating Products*, adopted September 25, 1997, and as last amended on May 5, 2005;
 - b. An alternative test method to CARB Method specified in 310 CMR 7.25(12)(h)1.a. that is shown to accurately determine the concentration of VOCs in a subject product, or its emissions, if the applicant has received an approval from CARB for the alternative test method for determining the VOC content of the subject product and the applicant submits to the Department a copy of the CARB Executive Order, including all applicable conditions and limitations;
 - c. VOC content determination using product formulation and records.
 - i. Testing to determine compliance with the requirements of 310 CMR 7.25 may be demonstrated through calculation of the VOC content from records of the amounts of constituents used to make the product pursuant to the following equation:

$$\text{VOC Content} = (B-C) \times 100 / A$$

where,

A = total net weight of unit (excluding container and packaging)

B = total weight of all VOCs, as defined in 310 CMR 7.25(12)(b), per unit

C = total weight of VOCs exempted under 310 CMR 7.25(12)(c)4., per unit

ii. If product records demonstrate compliance with the VOC limits, but these records are contradicted by product testing performed using CARB Method 310, the results of CARB Method 310 shall take precedence over the product records and may be used to establish a violation of the requirements of 310 CMR 7.25.

iii. Compliance determinations based on product formulation records may not be used unless the manufacturer of a consumer product keeps accurate records for each day of production of the amount and chemical composition of the individual product constituents. These records shall be kept for at least three years.

2. Testing to determine whether a product is a liquid or solid shall be performed using ASTM D4359-90(2000)e1, *Standard Test Method for Determining Whether a Material Is a Liquid or a Solid*, ASTM International.
3. Testing to determine compliance with the certification requirements for charcoal lighter material shall be performed using the procedures specified in the South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Table 1, Section 200.9)(February 28, 1991).
4. Testing to determine distillation points of petroleum distillate-based charcoal lighter materials shall be performed using ASTM D86-04b, *Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure*, ASTM International.
5. Testing to determine plasticizer in flexible vinyl adhesive shall be performed using ASTM D1045-95(2001), *Standard Test Methods for Sampling and Testing Plasticizers Used in Plastics*, ASTM International.
6. Records shall accurately reflect the constituents used to manufacture a product, the chemical composition of the individual product, and any other test, processes, or records used in connection with product manufacture.

(i) Alternative Control Plans.

1. The VOC content limits specified in 310 CMR 7.25(12)(c)1.: Table 2. shall not apply to any manufacturer for any consumer product that is subject to an ACP for the period

of time that the ACP remains in effect provided that the manufacturer complies with all conditions and requirements of the ACP Executive Order.

2. Any manufacturer who claims an exemption pursuant to 310 CMR 7.25(12)(i)1. Shall submit to the Department a copy of the ACP Executive Order within 30 days of receiving the ACP Executive Order from CARB
3. Any manufacturer who claims an exemption pursuant to 310 CMR 7.25(12)(i)1. Shall notify the Department within 30 days of any violation of the ACP as determined by CARB pursuant to California Code of Regulations, Title 17, Subchapter 8.5, Article 4, Section 9454

EXHIBIT J

