



LEGISLATION IMPLEMENTATION WORK GROUP
HB19-1090 - MEASURES TO ALLOW GREATER INVESTMENT FLEXIBILITY
June 17, 2019

GLOSSARY OF DEFINED TERMS

Proposed new and amended rules reflected herein are to the Medical Marijuana Rules, 1 CCR 212-1. Final proposed rules will apply to both Medical and Retail Marijuana licenses.

Definitions. The following definitions of terms, in addition to those set forth in section 44-11-104, C.R.S., shall apply to all rules promulgated pursuant to the Medical Code, unless the context requires otherwise:

“Acquire,” when used in connection with the acquisition of an Owner’s Interest of a Regulated Marijuana Business, means obtaining ownership, Control, power to vote, or sole power of disposition of the Owner’s Interest, directly or indirectly through one or more transactions or subsidiaries, through purchase, assignment, transfer, exchange, succession or other means.

“Acting in Concert” means knowing participation in a joint activity or interdependent conscious parallel action toward a common goal, whether or not pursuant to an express agreement.

“Advertising” means the act of providing consideration for the publication, dissemination, solicitation, or circulation, of visual, oral, or written communication, to induce directly or indirectly any Person to patronize a particular Medical Marijuana Business, or to purchase particular Medical Marijuana or a Medical Marijuana-Infused Product. “Advertising” includes marketing, but does not include packaging and labeling. “Advertising” proposes a commercial transaction or otherwise constitutes commercial speech.

“Affiliate” of, or Person affiliated with, a specified Person, means a Person that directly or indirectly through one or more intermediaries, Controls or is Controlled by, or is under common Control with, the Person specified.

~~“Affiliated Interest” means any Business Interest related to a Medical Marijuana Business that does not rise to the level of a Financial Interest in a Medical Marijuana Business license. An Affiliated Interest may include, but shall not be limited to, an Indirect Beneficial Interest Owner that is not a Financial Interest, an indirect financial interest, a lease agreement, secured or unsecured loan, or security interest in fixtures or equipment with a direct nexus to the cultivation, manufacture, Transfer, transportation, or testing of Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana-Infused Product. A Person who provides funding for a Research Project conducted by a Licensed Research Business is an Affiliated Interest for the Licensed Research Business, unless that Person is a Direct Beneficial Interest Owner or an Indirect Beneficial Interest Owner. Except as otherwise provided by these rules, an Affiliated Interest holder shall neither exercise control of nor be positioned so as to enable the exercise of control over the Medical Marijuana Business or its operations. A Medical Marijuana Business shall report each of its Affiliated Interests to the Division with each application for initial licensure, renewal, change of ownership or change of corporate structure.~~

“Agreement” means any unsecured convertible debt option, option agreement, warrant, or at the Division’s discretion, other document that establishes a right for a Person to obtain a Permitted Economic Interest that might convert to an ownership interest in a Retail Marijuana Establishment or Medical Marijuana Business. This definition of Agreement applies only to Permitted Economic Interests and is repealed effective January 1, 2020.

“Alarm Installation Company” means a Person engaged in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing a Security Alarm System in a Licensed Premises.

“Alternative Use Designation” means a designation approved by the State Licensing Authority, permitting a Medical Marijuana-Infused Products Manufacturer to manufacture and Transfer Alternative Use Product.

“Alternative Use Product” means Medical Marijuana Concentrate or Medical Marijuana-Infused Product that has at least one intended use that is not included in the list of intended uses in Rule M 1003-1(B). Alternative Use Product may raise public health concerns that outweigh approval of the Alternative Use Product, or that require additional safeguards and oversight. Alternative Use Product shall not be Transferred except as permitted by Rule M 607 after obtaining an Alternative Use Designation. Rule M 607 permits a Medical Marijuana-Infused Products Manufacturer to Transfer Alternative Use Product to a Medical Marijuana Testing Facility prior to receiving to receiving an Alternative Use Designation. Except where the context otherwise clearly requires, rules applying to Medical Marijuana Concentrate or Medical Marijuana-Infused Product apply to Alternative Use Product.

“Applicant” means a Person that has submitted an application for licensure, ~~or~~ registration, or permit, or for renewal of licensure, ~~or~~ registration, or permit, pursuant to these rules that was accepted by the Division for review but has not been approved or denied by the State Licensing Authority.

“Approved Training Program” means a responsible vendor program that received approval from the Division prior to being offered to a Licensee.

~~“Associated Key License” means an Occupational License for an individual who is a Direct Beneficial Interest Owner of the Medical Marijuana Business, other than a Qualified Limited Passive Investor, and any Person who controls or is positioned so as to enable the exercise of control over a Medical Marijuana Business. Each shareholder, officer, director, member, or partner of a Closely Held Business Entity that is a Direct Beneficial Interest Owner and any Person who controls or is positioned as to enable the exercise of control over a Medical Marijuana Business must hold an Associated Key License.~~

“Audited Product” means a Medical Marijuana-Infused Product with an intended use of: (1) metered dose nasal spray, (2) pressurized metered dose inhaler, (3) vaginal administration, or (4) rectal administration. Audited Product types may raise public health concerns requiring additional safeguards and oversight. These product types may only be manufactured and Transferred by a Medical Marijuana-Infused Products Manufacturer in strict compliance with Rule M 607. Prior to the first Transfer of an Audited Product to a Medical Marijuana Center or Optional Premises Cultivation Operation that has obtained a Centralized Distribution Permit, the Medical Marijuana-Infused Products Manufacturer shall submit to the Division and to the local licensing authority an independent third-party audit verifying compliance with Rule M 607. All rules regarding Medical Marijuana-Infused Product apply to Audited Product except where Rules M 607, 712, 1002-1, and 1003-1 apply different requirements.

“Bad Actor” means a Person who:

- a. Has been convicted, within the previous ten years (or five years, in the case of issuers, their predecessors and affiliated issuers), of any felony or misdemeanor:
 - i. In connection with the purchase or sale of any Security;

- ii. Involving the making of any false filing with the Federal Securities Exchange Commission; or
 - iii. Arising out of the conduct of the business of an underwriting, broker, dealer, municipal securities dealer, investment adviser or paid solicitor of purchasers of Securities;
 - b. Is subject to any order, judgment or decree of any court of competent jurisdiction, entered within the previous five years, that restrains or enjoins such Person from engaging or continuing to engage in any conduct or practice:
 - i. In connection with the purchase or sale of any Security;
 - ii. Involving the making of any false filings with the Federal Securities Exchange Commission; or
 - iii. Arising out of conduct of the business of an underwriting, broker, dealer, municipal securities dealer, investment adviser or paid solicitor of purchasers of Securities;
 - c. Is subject to a final order of a state securities commission (or an agency or officer of a state performing like functions); a state authority that supervises or examines banks, savings associations, or credit unions; a state insurance commission (or an agency or officer of a state performing like functions); an appropriate federal banking agency; the U.S. Commodity Futures Trading Commission; or the National Credit Union Administration that:
 - i. Bars the Person from:
 - A. Association with an Entity regulated by such commission, authority, agency, or officer;
 - B. Engaging in the business of Securities, insurance or banking; or
 - C. Engaging in savings association or credit union activities; or
 - ii. Constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct entered within the previous ten years;
 - d. Is subject to an order of the Federal Securities Exchange Commission entered pursuant to section 15(b) or 15B(c) of the Securities Exchange Act of 1934, or section 203(e) or (f) of the Investment Advisers Act of 1940 that:
 - i. Suspends or revokes such Person's registration as a broker, dealer, municipal securities dealer or investment adviser;
 - ii. Places limitations on the activities, functions or operations of such Person; or
 - iii. Bars such Person from being associated with any Entity, or from participating in the offering of any Penny Stock;

- e. Is subject to any order of the Federal Securities Exchange Commission entered within the previous five years that orders the Person to cease and desist from committing or causing a violation or future violation of:
 - i. Any scienter-based anti-fraud provision of the federal securities laws, including without limitations section 17(a)(1) of the Securities Act of 1933, section 10(b) of the Securities Exchange Act of 1934 and 17 C.F.R. 240.10b-5, section 15(c)(1) of the Securities Exchange Act of 1934 and section 206(1) of the Investment Advisers Act of 1940, or any other rule or regulation thereunder; or
 - ii. Section 5 of the Securities Act of 1933.
- f. Is suspended or expelled from membership in, or suspended or barred from association with a member of, a registered national securities exchange or a registered national or affiliated securities association for any act or omission to act constituting conduct inconsistent with just and equitable principles of trade;
- g. Has filed (as a registrant or issuer), or was named as an underwriter in, any registration statement or Regulation A offering statement filed with the federal Securities Exchange Commission that, within the previous five years, was the subject of a refusal order, stop order, or order suspending the Regulation A exemption, or is the subject of an investigation or proceeding to determine whether a stop order or suspension order should be issued; or
- h. Is subject to a United States Postal Service false representation order entered with the previous five years, or is subject to a temporary restraining order or preliminary injunction with respect to conduct alleged by the United States Postal Service to constitute a scheme or device for obtaining money or property through the mail by means of false representations.

“Batch Number” means any distinct group of numbers, letters, or symbols, or any combination thereof, assigned by a Medical Marijuana Optional Premises Cultivation Operation or Medical Marijuana-Infused Products Manufacturer to a specific Harvest Batch or Production Batch of Medical Marijuana.

“Blank Check Company” means an Entity that:

- a. Is a development stage company that has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other Entity or Person; and
- b. Is issuing Penny Stock.

“Business Interest” means any Person that holds a Financial Interest or an Affiliated Interest in a Medical Marijuana Business.

“Beneficial Owner” means:

- a. any Person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:
 - i. Voting power which includes the power to vote, or to direct the voting of, an Owner’s Interest; and/or,

- ii. Investment power which includes the power to dispose, or to direct the disposition of, an Owner's Interest.
- b. Any Person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement or any other contract, arrangement, or device with the purpose of effect of divesting such Person of beneficial ownership of an Owner's Interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of section 13(d) or (g) of the Securities Act of 1933 shall be deemed for purposes of such sections to be the beneficial owner of such Owner's Interest.
- c. All Owner's Interests of the same class beneficially owned by a Person, regardless of the form which such beneficial ownership takes, shall be aggregated in calculating the number of shares beneficially owned by such Person.
- d. Notwithstanding the provisions of paragraphs (a) and (c) of this rule:
 - (i)
 - A. A Person shall be deemed to be the beneficial owner of an Owner's Interest, subject to the provisions of paragraph (b) of this rule, if that Person has the right to acquire beneficial ownership of such Owner's Interest, as defined in Rule 13d-3(a) (§ 240.13d-3(a)) within sixty days, including but not limited to any right to acquire: (1) Through the exercise of any option, warrant or right; (2) through the conversion of an Owner's Interest; (3) pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or (4) pursuant to the automatic termination of a trust, discretionary account or similar arrangement; provided, however, any person who acquires an Owner's Interest or power specified in paragraphs (d)(i)(A)(1), (2) or (3), of this section, with the purpose or effect of changing or influencing the control of the issuer, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the Owner's Interests which may be acquired through the exercise or conversion of such Owner's Interests or power. Any Owner's Interests not outstanding which are subject to such options, warrants, rights or conversion privileges shall be deemed to be outstanding for the purpose of computing the percentage of outstanding Owner's Interests of the class owned by such Person but shall not be deemed to be outstanding for the purpose of computing the percentage of the class by any other Person.
 - B. Paragraph (d)(i)(A) of this section remains applicable for the purpose of determining the obligation to file with respect to the underlying Owner's Interests even though the option, warrant, right or convertible Owner's Interests is of a class of equity Owner's Interest, as defined in § 240.13d-1(i), and may therefore give rise to a separate obligation to file.
- ii. A member of a national securities exchange shall not be deemed to be a beneficial owner of an Owner's Interest held directly or indirectly by it on

behalf of another Person solely because such member is the record holder of such Owner's Interests and, pursuant to the rules of such exchange, may direct the vote of such Owner's Interests, without instruction, on other than contested matters or matters that may affect substantially the rights or privileges of the holders of the Owner's Interests to be voted, but is otherwise precluded by the rules of such exchange from voting without instruction.

iii. A person who in the ordinary course of his business is a pledgee of Owner's Interests under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged Owner's Interests until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged Owner's Interests will be exercised, provided, that:

A. The pledgee agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the issuer, nor in connection with any transaction having such purpose or effect, including any transaction subject to Rule 13d-3(b);

B. The pledgee is a Person specified in Rule 13d-1(b)(ii), including Persons meeting the conditions set forth in paragraph (G) thereof; and

C. The pledgee agreement, prior to default, does not grant to the pledgee;

1. The power to vote or to direct the vote of the pledged Owner's Interests; or

2. The power to dispose or direct the disposition of the pledged Owner's Interests, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended subject to regulation T (12 CFR 220.1 to 220.8) and in which the pledgee is a broker or dealer registered under section 15 of the Securities Act of 1933.

iv. A Person engaged in business as an underwriter of Owner's Interests who acquires Owner's Interests through his participation in good faith in a firm commitment underwriting registered under the Securities Act of 1933 shall not be deemed to be the beneficial owner of such Owner's Interests until the expiration of forty days after the date of such acquisition

“Centralized Distribution Permit” means a permit issued to an Optional Premises Cultivation Operation pursuant to section 44-11-403, C.R.S., authorizing temporary storage of Medical Marijuana Concentrate and Medical Marijuana-Infused Product received from a Medical Marijuana-Infused Products Manufacturer for the sole purpose of Transfer to commonly owned Medical Marijuana Centers. For purposes of a Centralized Distribution Permit only, the term “commonly owned” means at least one natural person has a minimum of five percent ownership in both the Optional Premises Cultivation Operation possessing the Centralized Distribution Permit and the Medical Marijuana Center.

“Child-Resistant” means special packaging that is:

- a. Designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995). Note that this rule does not include any later amendments or editions to the Code of Federal Regulations. The Division has maintained a copy of the applicable federal regulations, which is available to the public;
- b. Opaque so that the packaging does not allow the product to be seen without opening the packaging material; and
- c. Resealable for any product intended for more than a single use or containing multiple servings.

~~“Closely Held Business Entity” means an “entity” as defined in section 7-90-102, C.R.S., that has no more than fifteen shareholders, officers, directors, members, partners or owners, each of whom are natural persons, each of whom holds an Associated Key License, and each of whom is a United States citizen prior to the date of application. There must be no publicly traded market for interests in the entity. A Closely Held Business Entity and each of the natural persons who are its shareholders, officers, directors, members, partners or owners, are Direct Beneficial Interest Owners. A Closely Held Business Entity is an associated business of the Medical Marijuana Business for which it is a Direct Beneficial Interest Owner.~~

“Commercially Reasonable Royalty” means a right to compensation in the form of a royalty payment for the use of intellectual property with a direct nexus to the cultivation, manufacture, Transfer, or testing of Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana-Infused Product. A Commercially Reasonable Royalty must be limited to specific intellectual property the Commercially Reasonable Royalty ~~Interest H~~Holder owns or is otherwise authorized to license or to a product or line of products. A Commercially Reasonable Royalty will not be approved where it could cause reasonable consumer confusion or violate any federal copyright, trademark, or patent law or regulation. ~~The Commercially Reasonable Royalty shall provide for compensation to the Commercially Reasonable Royalty Holder as a percentage of gross revenue or gross profit. The royalty payment must be at a reasonable percentage rate. To determine whether the percentage rate is reasonable, the Division will consider the totality of the circumstances, including but not limited to the following factors:~~

- a. ~~The percentage of royalties received by the recipient for the licensing of the intellectual property.~~
- b. ~~The rates paid by the Licensee for the use of other intellectual property.~~
- c. ~~The nature and scope of the license, as exclusive or non-exclusive; or as restricted or non-restricted in terms of territory or with respect to whom the product may be sold.~~
- d. ~~The licensor’s established policy and marketing program to maintain his intellectual property monopoly by not licensing others or by granting licenses under special conditions designed to preserve that monopoly.~~
- e. ~~The commercial relationship between the recipient and Licensee, such as, whether they are competitors in the same territory in the same line of business.~~
- f. ~~The effect of selling the intellectual property in promoting sales of other products of the Licensee; the existing value of the intellectual property to the recipient as a generator of sales of his non-intellectual property items; and the extent of such derivative sales.~~

- ~~g. The duration of the term of the license for use of the intellectual property.~~
- ~~h. The established or projected profitability of the product made using the intellectual property; its commercial success; and its current popularity.~~
- ~~i. The utility and advantages of the intellectual property over products or businesses without the intellectual property.~~
- ~~j. The nature of the intellectual property; the character of the commercial embodiment of it as owned and produced by the licensor; and the benefits to those who have used the intellectual property.~~
- ~~k. The portion of the profit or of the selling price that may be customary in the particular business or in comparable businesses to allow for the use of the intellectual property.~~
- ~~l. The portion of the realizable profit that should be credited to the intellectual property as distinguished from non-intellectual property elements, the manufacturing process, business risks, or significant features or improvements added by the Licensee.~~

~~“Commercially Reasonable Royalty Interest Holder” means a Person that receives a Commercially Reasonable Royalty in exchange for a Licensee’s use of the Commercially Reasonable Royalty Interest Holder’s intellectual property. A Commercially Reasonable Royalty Interest Holder is an Indirect Beneficial Interest Owner.~~

“Container” means the receptacle directly containing Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana-Infused Product that is labeled according to the requirements in Rules M 1001-1 *et seq.*

“Control” means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting Owner’s Interests, by contract, or otherwise. This definition of Control includes Controls, Controlled, Controlling, Controlled by, and under common Control with.

“Controlling Beneficial Owner” means a Person that satisfies one or more of the following criteria:

- a. A natural person, an Entity that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia, a Publicly Traded Corporation, or a Qualified Private Fund that is not a Qualified Institutional Investor:
 - i. Acting alone or Acting In Concert, that owns or Acquires beneficial ownership of ten percent or more of the Owner’s Interest of a Regulated Marijuana Business;
 - ii. That is an Affiliate that Controls a Regulated Marijuana Business and includes, without limitation, any Manager; or
 - iii. That is otherwise in a position to Control the Regulated Marijuana Business except as authorized in section 44-11-407; or
- b. A Qualified Institutional Investor acting alone or Acting In Concert that owns or Acquires beneficial ownership of more than thirty percent of the Owner’s Interest of a Regulated Marijuana Business.

“Court Appointee” means a Person appointed by a court as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person; acting in accordance with section 44-11-401(1.5), C.R.S., and these rules; and authorized by court order to take possession of, operate, manage, or control a Medical Marijuana Business.

“Covered Securities” means:

- a. A Security designated as qualified for trading in the national market system pursuant to section 78k-1(a)(2) of the Securities Act of 1933 that is listed, or authorized for listing, on a national securities exchange (or tier or segment thereof); or a Security of the same issuer that is equal in seniority or that is a senior Security to a Security designated as qualified for trading in the national market system.
- b. A Security issued by an investment company that is registered, or that has filed a registration statement under the federal Investment Company Act of 1940.
- c. A Security as defined by the Federal Securities Exchange Commission by rule pursuant to 15 U.S.C. §77r(b)(3).
- d. A Security pursuant to 15 U.S.C. §77r(b)(4).

“Denied Applicant” means any Person whose application for licensure pursuant to the Medical Code has been denied, any Person whose application for a responsible vendor program has been denied, or any Licensee whose application for any of the following non-exhaustive list has been denied: a change or transfer of ownership pursuant to Rule M 205; a change of location of the Licensed Premises pursuant to Rule M 206; or a change, alteration, or modification of the Licensed Premises pursuant to Rule M 303; or a production management class increase application pursuant to Rule M 507.

“Department” means the Colorado Department of Revenue.

~~“Direct Beneficial Interest Owner” means a natural person or a Closely Held Business entity that owns a share or shares of stock in a licensed Medical Marijuana Business, including the officers, directors, members, or partners of the licensed Medical Marijuana Business or Closely Held Business Entity, or a Qualified Limited Passive Investor. Each natural person that is a Direct Beneficial Interest Owner must hold an Associated Key License. Except that a Qualified Limited Passive Investor need not hold an Associated Key License and shall not engage in activities for which an Occupational License is required.~~

“Director” means the Director of the Marijuana Enforcement Division.

“Division” means the Marijuana Enforcement Division.

“Edible Medical Marijuana-Infused Product” means any Medical Marijuana-Infused Product for which the intended use is oral consumption, including but not limited to, any type of food, drink, or pill.

“Employee License” means a license granted by the State Licensing Authority pursuant to sections 44-11-401 or 44-12-401 to an individual who is not a Controlling Beneficial Owner. Any individual who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports, or delivers Regulated Marijuana or Regulated Marijuana Products, who is authorized to input data into a Regulated Marijuana Business’s Inventory Tracking System or point of sale system, or who has unescorted access in the Restricted Access Area or Limited Access Area must hold an Employee License.

“Entity” means a domestic or foreign corporation, cooperative, general partnership, limited liability partnership, limited liability company, limited partnership, limited liability limited partnership, limited partnership association, nonprofit association, nonprofit corporation, or any other organization or association that is formed under a statute or common law of the state of Colorado or any other jurisdiction as to which the laws of this state of Colorado or the laws of any other jurisdiction governs relations among owners and between the owners and the organization or association and that is recognized under the laws of the state of Colorado or the other jurisdiction as a separate legal entity.

“Executive Director” means the Executive Director of the Department of Revenue.

“Exit Package” means an Opaque bag or other similar Opaque covering provided at the point of sale, in which Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana-Infused Product already in a Container is placed. If Medical Marijuana flower, trim, or seeds are placed into a Container that is not Child-Resistant, then the Exit Package must be Child-Resistant.

“Fibrous Waste” means any roots, stalks, and stems from a Medical Marijuana plant.

“Final Agency Order” means an Order of the State Licensing Authority issued in accordance with the Medical Code and the State Administrative Procedure Act. The State Licensing Authority will issue a Final Agency Order following review of the Initial Decision and any exceptions filed thereto or at the conclusion of the declaratory order process. A Final Agency Order is subject to judicial review.

~~“Financial Interest” means any Direct Beneficial Interest Owner, a Commercially Reasonable Royalty Interest Holder who receives more than 30 percent of the gross revenue or gross profit, a Permitted Economic Interest holder, and any other Person who controls or is positioned so as to enable the exercise of control over the Medical Marijuana Business.~~

“Finished Marijuana” means post-harvest Medical Marijuana including flower and trim that has been harvested for more than 90 days or that has completed the curing and drying process according to the Optional Premises Cultivation Operation’s written standard operating procedures that were last submitted to the Division. Standard operating procedures for curing and drying may provide a curing and drying period that is longer than 90 days but any such period must be commercially reasonable and shall not exceed 12 months. Among other factors, the Division may consider the Optional Premises Cultivation Operation’s prior business years’ business transactions to determine whether the Optional Premises Cultivation Operation’s standard operating procedures are commercially reasonable.

“Flammable Solvent” means a liquid that has a flash point below 100 degrees Fahrenheit.

“Flowering” means the reproductive state of the Cannabis plant in which there are physical signs of flower or budding out of the nodes in the stem.

“Food-Based Medical Marijuana Concentrate” means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats.

“Foreign Private Issuer” means any foreign issuer other than a foreign government except an issuer meeting the following conditions as of the last business day of its most recently completed second fiscal quarter:

- a. More than 50 percent of the outstanding voting Securities of such issuer are directly or indirectly owned of record by residents of the United States; and

b. Any of the following:

- i. The majority of the executive officers or directors are United States citizens or residents;
- ii. More than 50 percent of the assets of the issuer are located in the United States; or
- iii. The business of the issuer is administered principally in the United States.

“Good Cause” for purposes of denial of an initial, renewal or reinstatement license, registration, or permit application or certification, or for purposes of discipline of a license or certification, means:

- a. The Licensee or Applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Medical Code, any rules promulgated pursuant it, or any supplemental relevant state or local law, rule, or regulation;
- b. The Licensee or Applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the State Licensing Authority or the relevant local licensing authority; or
- c. The Licensee’s or the Applicant’s Licensed Premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

“Good Moral Character” means having a criminal history that demonstrates honesty, fairness, and respect for the rights of others and for the law.

“Harvest Batch” means a specifically identified quantity of processed Medical Marijuana that is uniform in strain, cultivated utilizing the same Pesticide and other agricultural chemicals and harvested at the same time.

“Heat/Pressure-Based Medical Marijuana Concentrate” means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of heat and/or pressure. The method of extraction may be used by only a Medical Marijuana-infused Products Manufacturer and can be used alone or on a Production Batch that also includes Water-Based Medical Marijuana Concentrate or Solvent-Based Medical Marijuana Concentrate.

“Identity Statement” means the name of the business as it is commonly known and used in any Advertising.

“Immature plant” means a nonflowering Medical Marijuana plant that is no taller than eight inches and no wider than eight inches produced from a cutting, clipping or seedling and that is in a growing container that is no larger than two inches wide and two inches tall that is sealed on the sides and bottom. Plants meeting these requirements are not attributable to a Licensee’s maximum allowable plant count, but must be fully accounted for in the Inventory Tracking System.

“Indirect Financial Interest Holder” means a Person that is not an Affiliate, a Controlling Beneficial Owner, or a Passive Beneficial Owner of a Regulated Marijuana Business and that:

- a. Holds a Commercially Reasonable Royalty in exchange for a Regulated Marijuana Business’s use of the Person’s intellectual property;

- b. Holds a Permitted Economic Interest that was issued prior to January 1, 2020, and that has not been converted into an Owner's Interest;
- c. Is a contract counterparty with a Regulated Marijuana Business, other than a customary employment agreement, that has a direct nexus to the cultivation, manufacture, sale, or testing of Regulated Marijuana, including, but not limited to, a lease of real property on which the Regulated Marijuana Business operates, a lease of equipment used in the cultivation, manufacture, or testing of Regulated Marijuana, a secured or unsecured financing agreement with the Regulated Marijuana Business, a security contract with the Regulated Marijuana Business, or a management agreement with the Regulated Marijuana Business, provided that no such contract compensates the contract counterparty with a percentage of revenue for profits of the Regulated Marijuana Business.

~~“Indirect Beneficial Interest Owner” means a holder of a Permitted Economic Interest, a recipient of a Commercially Reasonable Royalty associated with the use of intellectual property by a Licensee, a Profit Sharing Plan Employee, a Qualified Institutional Investor, or another similarly situated Person as determined by the State Licensing Authority. An Indirect Beneficial Interest Owner is not a Licensee. The Licensee must obtain Division approval for an Indirect Beneficial Interest Owner that constitutes a Financial Interest before such Indirect Beneficial Interest Owner may exercise any of the privileges of the ownership or interest with respect to the Licensee.~~

“Industrial Fiber Products” means intermediate or finished products made from Fibrous Waste that are not intended for human or animal consumption and are not usable or recognizable as Medical Marijuana. Industrial Fiber Products include, but are not limited to, cordage, paper, fuel, textiles, bedding, insulation, construction materials, compost materials, and industrial materials.

“Industrial Fiber Products Producer” means a Person who produces Industrial Fiber Products using Fibrous Waste.

“Industrial Hemp” means a plant of the genus Cannabis and any part of the plant, whether growing or not, containing a delta-9 tetrahydrocannabinol (THC) concentration of no more than three-tenths of one percent (0.3%) on a dry weight basis.

“Industrial Hygienist” means an individual who has obtained a baccalaureate or graduate degree in industrial hygiene, biology, chemistry, engineering, physics, or a closely related physical or biological science from an accredited college or university.

- a. The special studies and training of such individuals shall be sufficient in the cognate sciences to provide the ability and competency to:
 - 4j. Anticipate and recognize the environmental factors and stresses associated with work and work operations and to understand their effects on individuals and their well-being;
 - ii2. Evaluate on the basis of training and experience and with the aid of quantitative measurement techniques the magnitude of such environmental factors and stresses in terms of their ability to impair human health and well-being;
 - iii3. Prescribe methods to prevent, eliminate, control, or reduce such factors and stresses and their effects.

- b. Any individual who has practiced within the scope of the meaning of industrial hygiene for a period of not less than five years immediately prior to July 1, 1997, is exempt from the degree requirements set forth in the definition above.
- c. Any individual who has a two-year associate of applied science degree in environmental science from an accredited college or university and in addition not less than four years practice immediately prior to July 1, 1997, within the scope of the meaning of industrial hygiene is exempt from the degree requirements set forth in the definition above.

“Ineligible Issuer” means:

- a. Any issuer that is required to file reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 that has not filed all reports and other materials required to be filed during the preceding 12 months, other than reports on Form 8-K required solely pursuant to an item specified in General Instruction I.A.3(b) of Form S-3;
- b. The issuer is, or during the past three years the issuer or any of its predecessors was:
 - i. A Blank Check Company;
 - ii. A Shell Company;
 - iii. An issuer of an offering of Penny Stock;
- c. The issuer is a limited partnership that is offering and selling its Securities other than through a firm commitment underwriting;
- d. Within the past three years, a petition under the federal bankruptcy laws or any state insolvency law was filed by or against the issuer, or a court appointed a receiver, fiscal agent or similar officer with respect to the business or property of the issuer subject to the following:
 - i. In the case of an involuntary bankruptcy in which a petition was filed against the issuer, ineligibility will occur upon the earlier to occur of:
 - A. 90 days following the date of the filing of the involuntary petition (if the case has not been earlier dismissed); or
 - B. The conversion of the case to a voluntary proceeding under federal bankruptcy or state insolvency laws; and
 - ii. Ineligibility will terminate if an issuer has filed an annual report with audited financial statements subsequent to its emergence from that bankruptcy, insolvency, or receivership process;
- e. Within the past three years, the issuer or any Entity that at the time was a subsidiary of the issuer was convicted of any felony or misdemeanor described in paragraphs (i) through (iv) of section 15(b)(4)(B) of the Securities Exchange Act of 1934;

- f. Within the past three years, the issuer or any Entity that at the time was a subsidiary of the issuer was made the subject of any judicial or administrative decree or order arising out of a governmental action that:
 - i. Prohibits certain conduct or activities regarding, including future violations of, the anti-fraud provisions of the federal securities laws;
 - ii. Requires that the Person cease and desist from violating the anti-fraud provisions of the federal securities laws; or
 - iii. Determines that the Person violated the anti-fraud provisions of the federal securities laws;
- g. The issuer has filed a registration statement that is the subject of any pending proceeding or examination under section 8 of the Securities Act of 1933 or has been the subject of any refusal order or stop order under section 8 of the Securities Act of 1933 within the past three years; or
- h. The issuer is the subject of any pending proceeding under section 8A of the Securities Act of 1933 in connection with an offering.

“Initial Decision” means a decision of a hearing officer in the Department following a licensing, disciplinary, or other administrative hearing.

“Inventory Tracking System” means the required seed-to-sale tracking system that tracks Medical Marijuana from either the seed or immature plant stage until the Medical Marijuana or Medical Marijuana Infused-Product is sold to a patient at a Medical Marijuana Center, Transferred to a Medical Marijuana Testing Facility, Transferred to a Sampling Manager, Transferred to an Industrial Fiber Products Producer, Transferred to a Medical Research Facility, Transferred to a Pesticide Manufacturer, destroyed by a Medical Marijuana Business or used in a Research Project by a Licensed Research Business.

“Inventory Tracking System Trained Administrator” means an Associated Key Licensee of a Medical Marijuana Business or an occupationally licensed employee of a Medical Marijuana Business, each of whom has attended and successfully completed Inventory Tracking System training and has completed any additional training required by the Division.

“Inventory Tracking System User” means an Associated Key Licensee of a Medical Marijuana Business or an occupationally licensed Medical Marijuana Business employee who is granted Inventory Tracking System User account access for the purposes of conducting inventory tracking functions in the Inventory Tracking System. Each Inventory Tracking System User must have been successfully trained by Inventory Tracking System Trained Administrator(s) in the proper and lawful use Inventory Tracking System, and who has completed any additional training required by the Division.

~~“Key License” means an Occupational License for an individual who performs duties that are central to the Medical Marijuana Business’ operation. An individual holding a Key License has the highest level of responsibility. An example of a Key Licensee includes, but is not limited to, managers.~~

“Kief” means the resinous crystal-like trichomes that are found on Retail-Medical Marijuana flower and that are accumulated, resulting in a higher concentration of cannabinoids.

“Licensed Premises” means the premises specified in an application for a license pursuant to the Medical Code that are owned or in possession of the Licensee and within which the Licensee is

authorized to cultivate, manufacture, distribute, sell, store, transport, test, or research Medical Marijuana in accordance with the provisions of the Medical Code and these rules. Not all areas of the Licensed Premises are Limited Access Areas or Restricted Access Areas.

“Licensed Research Business” means a Marijuana Research and Development Facility or a Marijuana Research and Development Cultivation.

“Licensee” means any Person licensed, ~~or~~ registered, or permitted pursuant to the Medical Code, including an ~~Occupational-Owner~~ Licensee and an Employee Licensee.

“Limited Access Area” means a building, room, or other contiguous area upon the Licensed Premises where Medical Marijuana is grown, cultivated, stored, weighed, packaged, Transferred, or processed for Transfer, under control of the Licensee.

“Limit of Detection” or “LOD” means the lowest quantity of a substance that can be distinguished from the absence of that substance (a blank value) within a stated confidence limit (generally 1%).

“Limit of Quantitation” or “LOQ” means the lowest concentration at which the analyte can not only be reliably detected but at which some predefined goals for bias and imprecision are met.

“Liquid Edible Medical Marijuana-Infused Product” means an Edible Medical Marijuana-Infused Product that is a liquid beverage or liquid food-based product for which the intended use is oral consumption, such as a soft drink or cooking sauce.

“Manager” means:

- a. A member of a limited liability company in which management is not vested in managers rather than members;
- b. A manager of a limited liability company in which management is vested in managers rather than members;
- c. A member of a limited partnership association in which management is not vested in managers rather than members;
- d. A manager of a limited partnership association in which management is vested in managers rather than members;
- e. A general partner;
- f. An officer or director of a corporation, a nonprofit corporation, a cooperative, or a limited partnership association; or
- g. Any Person whose position with respect to an Entity, as determined under the constituent documents and organic statutes of the Entity, without regard to the Person’s title, is the functional equivalent of any of the positions described in this definition.

“Marijuana-Based Workforce Development Training Program” means a program designed to train individuals to work in the legal Medical or Retail Marijuana industry operated by an entity licensed under the Medical Code and/or the Retail Code or by a school that is authorized by the Division of Private Occupational Schools.

“Marketing Layer” means that packaging in addition to the Container that is the outermost layer visible to the consumer at the point of sale. The Marketing Layer is optional, but if used by a Licensee in addition to the required Container, it must be labeled according to the requirements in Rules M 1001-1 *et. seq.*

“Marijuana Research and Development Cultivation” means a Person that is licensed pursuant to the Medical Code to grow, cultivate, and possess Medical Marijuana, and to Transfer Medical Marijuana to a Medical Research and Development Facility or another Medical Research and Development Cultivation, all for limited research purposes authorized pursuant to section 44-11-408, C.R.S. A Marijuana Research and Development Cultivation is a Licensed Research Business.

“Marijuana Research and Development Facility” means a Person that is licensed pursuant to the Medical Code to possess Medical Marijuana for limited research purposes authorized pursuant to section 44-11-408, C.R.S. A Marijuana Research and Development Facility is a Licensed Research Business.

“Material Change” means any change that would require a substantive revision to a Medical Marijuana Business’s standard operating procedures for the cultivation of Medical Marijuana or the production of a Medical Marijuana Concentrate or Medical Marijuana-Infused Product.

“Medical Code” means the Colorado Medical Marijuana Code found at sections 44-11-101 *et. seq.*, C.R.S.

“Medical Marijuana” means marijuana that is grown and sold pursuant to the Medical Code and includes seeds and Immature Plants. Unless the context otherwise requires, Medical Marijuana Concentrate is considered Medical Marijuana and is included in the term Medical Marijuana as used in these rules.

“Medical Marijuana Business” means a licensed Medical Marijuana Center, a Medical Marijuana-Infused Products Manufacturer, an Optional Premises Cultivation Operation, a Medical Marijuana Testing Facility, a Medical Marijuana Business Operator, a Medical Marijuana Transporter, a Marijuana Research and Development Facility, or a Marijuana Research and Development Cultivation.

“Medical Marijuana Business Operator” means an entity that holds a registration, license, or permit from the State Licensing Authority to provide professional operational services to one or more Medical Marijuana Businesses, other than Licensed Research Businesses, for direct remuneration from the Medical Marijuana Business(es), which may include compensation based upon a percentage of the profits of the Medical Marijuana Business(es) being operated. A Medical Marijuana Business Operator may contract with Medical Marijuana Business(es) to provide operational services. A Medical Marijuana Business Operator’s contract with a Medical Marijuana Business does not in and of itself constitute ownership. The Medical Code and rules apply to all Medical Marijuana Business Operators regardless of whether such operator holds a registration or license. Any reference to “license” or “licensee” shall mean “registration” or “registrant” when applied to a Medical Marijuana Business Operator that holds a registration issued by the State Licensing Authority.

“Medical Marijuana Center” means a Person that is licensed pursuant to the Medical Code to operate a business as described in section 44-11-402, C.R.S., and that sells Medical Marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

“Medical Marijuana Concentrate” means a specific subset of Medical Marijuana that was produced by extracting Cannabinoids from Medical Marijuana. Categories of Medical Marijuana

Concentrate include Water-Based Medical Marijuana Concentrate, Food-Based Medical Marijuana Concentrate, Solvent-Based Medical Marijuana Concentrate, and Heat/Pressure-Based Medical Marijuana Concentrate.

“Medical Marijuana-Infused Product” means a product infused with Medical Marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures. Such products shall not be considered a food or drug for purposes of the “Colorado Food and Drug Act,” part 4 of Article 5 of Title 25, C.R.S.

“Medical Marijuana-Infused Products Manufacturer” means a Person licensed pursuant to the Medical Code to operate a business as described in section 44-11-404, C.R.S.

“Medical Marijuana Testing Facility” means a public or private laboratory licensed and certified, or approved by the Division, to conduct testing and research on Medical Marijuana, Medical Marijuana Concentrate, and Medical Marijuana-Infused Product.

“Medical Marijuana Transporter” means a Person that is licensed to transport Medical Marijuana, Medical Marijuana Concentrate, and Medical Marijuana-Infused Product from one Medical Marijuana Business to another Medical Marijuana Business or to a Medical Research Facility or Pesticide Manufacturer, and to temporarily store the transported Medical Marijuana and Medical Marijuana-Infused Product at its licensed premises, but is not authorized to sell, give away, buy, or receive complimentary Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana-Infused Product under any circumstances. A Medical Marijuana Transporter does not include a Licensee that transports its own Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana-Infused Product.

“Medical Research Facility” means a Person approved and grant-funded by the State Board of Health pursuant to section 25-1.5-106.5, C.R.S., to conduct Medical Marijuana research. A Medical Marijuana Research Facility is neither a Medical Marijuana Business, a Retail Marijuana Establishment, nor a Licensee.

“Monitoring” means the continuous and uninterrupted attention to potential alarm signals that could be transmitted from a Security Alarm System located at a Medical Marijuana Business Licensed Premises, for the purpose of summoning a law enforcement officer to the premises during alarm conditions.

“Monitoring Company” means a Person in the business of providing Monitoring services for a Medical Marijuana Business.

[“Non-objecting Beneficial Owner” means a beneficial owner who gives permission to a financial intermediary to release their name and address to the company\(ies\) or issuer\(s\) in which they have bought Securities.](#)

“Notice of Denial” means a written statement from the State Licensing Authority, articulating the reasons or basis for denial of a license application.

~~“Occupational License” means a license granted to an individual by the State Licensing Authority pursuant to section 44-11-401, C.R.S. An Occupational License may be an Associated Key License, a Key License or a Support License.~~

“Opaque” means that the packaging does not allow the product to be seen without opening the packaging material.

“Optional Premises Cultivation Operation” means a Person licensed pursuant to the Medical Code to operate a business as described in section 44-11-403, C.R.S.

“Order to Show Cause” means a document from the State Licensing Authority alleging the grounds for imposing discipline against a Licensee’s license.

“Owner’s Interest” means the shares of stock in a corporation, a membership in a nonprofit corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a partnership, and the interest of a member in a limited partnership association.

~~“Owner” means, except where the context otherwise requires, a Direct Beneficial Interest Owner.~~

“Owner License” means a license issued to an individual who is a Controlling Beneficial Owner of a Regulated Marijuana Business, who is a Passive Beneficial Owner electing to be subject to licensure, or who Controls or is positioned so as to enable the exercise of Control over a Regulated Marijuana Business.

“Passive Beneficial Owner” means any Person Acquiring any Owner’s Interest in a Regulated Marijuana Business that is not otherwise a Controlling Beneficial Owner or in Control.

“Penny Stock” means any equity security other than a Security:

- a. That is an National Market System stock, provided that:
 - i. The Security is registered, or approved for registration upon notice of issuance, on a national securities exchange that has been continuously registered as a national securities exchange since April 20, 1992; and the national securities exchange has maintained quantitative listing standards that are substantially similar to or stricter than those listing standards that were in place on that exchange on January 8, 2004; or
 - ii. The Security is registered, or approved for registration upon notice of issuance, on a national securities exchange, or is listed, or approved for listing upon notice of issuance on, an automated quotation system sponsored by a registered national securities association, that:
 - A. Has established initial listing standards that meet or exceed the following criteria:
 1. The issuer shall have: (a) stockholders’ equity of \$5,000,000; (b) market value of listed Securities of \$50 million for 90 consecutive days prior to applying for a listing (market value means the closing bid price multiplied by the number of Securities listed); or (c) net income of \$750,000 (excluding non-recurring items) in the most recently completed fiscal year or in two of the last three most recently completed fiscal years;
 2. The issuer shall have an operating history of at least one year or a market value of listed Securities of \$50 million (market value means the closing bid price multiplied by the number of Securities listed);
 3. The issuer’s stock, common or preferred, shall have a minimum bid price of \$4 per share;

4. In the case of common stock, there shall be at least 300 round lot holders of the Security (a round lot holder means a holder of a normal unit of trading);
 5. In the case of common stock, there shall be at least 1,000,000 publicly held shares and such shares shall have a market value of at least \$5 million (market value means the closing bid price multiplied by the number of publicly held shares, and shares held directly or indirectly by an officer or director of the issuer and by any Person who is the beneficial owner of more than 10 percent of the total shares outstanding are not considered to be publicly held);
 6. In the case of a convertible debt security, there shall be a principal amount outstanding of at least \$10 million;
 7. In the case of rights and warrants, there shall be at least 100,000 issued and the underlying security shall be registered on a national securities exchange or listed on an automated quotation system sponsored by a registered national securities association and shall satisfy the requirements of paragraphs (a) or (e) of this definition;
 8. In the case of put warrants (that is, instruments that grant the holder the right to sell to the issuing company a specified number of shares of the company's common stock, at a specified price until a specified period of time), there shall be at least 100,000 issued and the underlying Security shall be registered on a national securities exchange or listed on an automated quotation system sponsored by a registered national securities association and shall satisfy the requirements of paragraphs (a) or (e) of this definition;
 9. In the case of units (that is, two or more Securities traded together), all component parts shall be registered on a national securities exchange or listed on an automated quotation system sponsored by a registered national securities association and shall satisfy the requirements of paragraphs (a) or (e) of this definition; and
 10. In the case of equity Securities (other than common and preferred stock, convertible debt securities, rights and warrants, put warrants, or units), including hybrid products and derivative products, the national securities exchange or registered national securities association shall establish quantitative listing standards that are substantially similar to those found in paragraph (a)(ii) of this definition; and
- B. Has established quantitative continued listing standards that are reasonable related to the initial listing standards set forth in

paragraph (a)(ii) of this definition, and that are consistent with the maintenance of fair and orderly markets;

- b. That is issued by an investment company registered under the Federal Investment Company Act of 1940;
- c. That is a put or call option issued by the Options Clearing Corporation;
- d. That has a price of five dollars or more;
 - i. For purposes of this paragraph (d):
 - A. A Security has a price of five dollars or more for a particular transaction if the Security is purchased or sold in that transaction at a price of five dollars or more, excluding any broker or dealer commission, commission equivalent, mark-up, or mark-down; and
 - B. Other than in connection with a particular transaction, a Security has a price of five dollars or more at a given time if the inside bid quotation is five dollars or more; provided, however, that if there is no such inside bid quotation, a Security has a price of five dollars or more at a given time if the average of three or more interdealer bid quotations at specified prices displayed at that time in an interdealer quotation system, by three or more market makers in the Security, is five dollars or more.
 - C. The term “inside bid quotation” shall mean the highest bid quotation for the Security displayed by a market maker in the Security on an automated interdealer quotation system that has the characteristics set forth in section 17B(b)(2) of the Federal Securities Exchange Act of 1934, or such other automated interdealer quotation system designated by the Federal Securities Exchange Commission for purposes of this definition, at any time in which at least two market makers are contemporaneously displaying on such system bid and offer quotation for the Security at specified prices.
 - ii. If a Security is a unit composed of one or more Securities, the unit price divided by the number of shares of the unit that are not warrants, options, rights, or similar Securities must be five dollars or more as determined in accordance with paragraph (d)(i), and any share of the unit that is a warrant, option, right, or similar security, or a convertible security, must have an exercise price or conversion price of five dollars or more;
- e. That is registered, or approved for registration upon notice of issuance, on a national securities exchange that makes transaction reports available provided that:
 - i. Price and volume of information with respect to transactions in that security is required to be reported on a current and continuing basis and is made available to vendors of market information pursuant to the rules of the national securities exchange;

- ii. The Security is purchased or sold in a transaction that is effected on or through the facilities of the national securities exchange, or that is part of the distribution of the Security; and
- iii. The Security satisfies the requirements of paragraphs (a)(i) or (a)(ii):
- f. That is a security futures product listed on a national securities exchange or an automated quotation system sponsored by a registered national securities association; or
- g. Whose issuer has:
 - i. Net tangible assets in excess of \$2,000,000, if the issuer has been in continuous operation for at least three years, or \$5,000,000 if the issuer has been in continuous operation for less than three years; or
 - ii. Average revenue of at least \$6,000,000 for the last three years;

“Permitted Economic Interest” means an ~~Agreement to obtain an ownership~~ interest in a Retail Marijuana Establishment or Medical Marijuana Business issued prior to January 1, 2020 when the holder of such interest is a natural person who is a lawful United States resident and whose right to convert into an ownership interest is contingent on the holder qualifying ~~and obtaining a license~~ as a ~~Direct Beneficial Interest Controlling Beneficial~~ Owner or Passive Beneficial Owner under the Retail Code or Medical Code. ~~A Permitted Economic Interest holder is an Indirect Beneficial Interest Owner.~~

“Person” means ~~a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof; except that “Person” does not include any governmental organization an individual, an estate, a trust, an Entity, or a state or other jurisdiction.~~

“Pesticide” means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; except that the term “pesticide” shall not include any article that is a “new animal drug” as designated by the United States Food and Drug Administration.”

“Pesticide Manufacturer” means a Person who: (1) manufactures, prepares, compounds, propagates, or processes any Pesticide or device or active ingredient used in producing a Pesticide; (2) who possesses an establishment number with the U.S. Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 *et seq.*; (3) who conducts research to establish safe and effective protocols, including but not limited to establishing efficacy and toxicity, for the use of Pesticides on Medical Marijuana; (4) who has applied for and received any necessary license, registration, certifications, or permits from the Colorado Department of Agriculture pursuant to the Pesticide Act, section 35-9-101 *et seq.*, C.R.S., and/or the Pesticide Applicators’ Act, sections 35-10-101 *et seq.*, C.R.S.; (5) who is authorized to conduct business in the State of Colorado; and (6) who has physical possession of the location in the State of Colorado where its research activities occur. A Pesticide Manufacturer is neither a Medical Marijuana Business, a Retail Marijuana Establishment, nor a Licensee.

“Production Batch” means (a) any amount of Medical Marijuana Concentrate of the same category and produced using the same extraction methods, standard operating procedures and an identical group of Harvest Batch(es) of Medical Marijuana; or (b) any amount of Medical Marijuana Product of the same exact type, produced using the same ingredients, standard operating procedures and the same Production Batch(es) of Medical Marijuana Concentrate.

“Professional Engineer” means an individual who is licensed by the State of Colorado as a professional engineer pursuant to sections 12-25-101 *et seq.*, C.R.S.

“Proficiency Testing” means an assessment of the performance of a Medical Marijuana Testing Facility’s methodology and processes. Proficiency Testing is also known as inter-laboratory comparison. The goal of Proficiency Testing is to ensure results are accurate, reproducible, and consistent.

~~“Profit Sharing Plan” means a profit-sharing plan that is qualified pursuant to 26 U.S.C. § 401 of the Internal Revenue Code and subject to the Employee Retirement Income Security Act, and which provides for employer contributions in the form of cash, but not in the form of stock or other equity interests in a Medical Marijuana Business.~~

~~“Profit Sharing Plan Employee” means an employee holding an Occupational License who receives a share of a Medical Marijuana Business’s profits through a Profit Sharing Plan. A Profit Sharing Plan Employee is an Indirect Beneficial Interest Owner.~~

“Propagation” means the reproduction of Medical Marijuana plants by seeds, cuttings or grafting.

“Public Institution”, for purposes of the 1900 Series, means any entity established or controlled by the federal government, a state government, or a local government or municipality, including but not limited to institutions of higher education or public higher education research institutions.

“Public Money”, for purposes of the 1900 Series, means any funds or money obtained by the holder from any governmental entity, including but not limit to research grants.

“Publicly Traded Corporation” means any Person other than an individual that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia or another country that authorizes the sale of marijuana that:

- a. Has a class of Securities registered pursuant to section 12 of the Securities Exchange Act of 1934, as amended, that:
 - i. Constitutes Covered Securities; or
 - ii. Is qualified and quoted on the OTCQX or OTCQB tier of the OTC markets if:
 - A. The Person is then required to file reports and is filing reports on a current basis with the Federal Securities Exchange Commission pursuant to the Federal Securities Exchange Act of 1934, as amended, as if the Securities constituted Covered Securities; and
 - B. The Person has established and is in compliance with corporate governance measures pursuant to corporate governance obligations imposed on Securities qualified and quoted on the OTCQX tier of the OTC markets.
- b. Is an Entity that has a class of Securities listed on the Canadian Securities Exchange, Toronto Stock Exchange, TSX Venture Exchange, or other equity securities exchanged recognized by these Rules, if:

- i. The Entity constitutes a Foreign Private Issuer whose Securities are exempt from registration pursuant to section 12 of the Federal Securities Exchange Act of 1934, as amended, pursuant to Rule 12g3-2(b) promulgated pursuant to the federal Securities Exchange Act of 1934, as amended; and
 - ii. The Entity has been, for the preceding three hundred sixty-five days or since the formation of the Entity, in compliance with all governance and reporting obligations imposed by the relevant exchange on such Entity; or
- c. Publicly Traded Corporation does not include:
- i. An Ineligible Issuer, unless such Publicly Traded Corporation satisfies the definition of Ineligible Issuer solely because it is one or more of the following, and the Person is filing reports on a current basis with the Federal Securities and Exchange Commission pursuant to the Federal Securities Exchange Act of 1934, as amended, as if the Securities constituted Covered Securities, and prior to becoming a Publicly Traded Corporation, the Person for at least two years was licensed by the State Licensing Authority as a Regulated Marijuana Business with a demonstrated history of operations in the state of Colorado, and during such time was not subject to suspension or revocation of the business license:
 - A. a Blank Check Company;
 - B. an issuer in an offering of Penny Stock; or
 - C. a Shell Company.
 - ii. A Person disqualified as a Bad Actor.

“Qualified Institutional Investor” means:

- a. A bank as defined in Section 3(a) (6) of the Federal Securities Exchange Act of 1934, as amended, if the bank is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;
- b. A bank holding company as defined in the Federal Bank Holding Company Act of 1956, as amended, if the bank holding company is registered and current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;
- c. An insurance company as defined in Section 2(a) (17) of the Federal Investment Company Act of 1940, as amended, if the insurance company is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;
- de. An investment company registered under Section 8 of the Federal Investment Company Act of 1940, as amended, and subject to 15 U.S.C. Sec. 80a-1 to 80a-64, if the investment company is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

- d. ~~An investment adviser registered under Section 203 of the Investment Advisers Act of 1940, as amended;~~
- e. ~~Collective trust funds as defined in Section 3(c) (11) of the Investment Company Act of 1940, as amended;~~
- fe. An employee benefit plan or pension fund ~~that is~~ subject to the Federal Employee Retirement Income Security Act of 1974, as amended, excluding an employee benefit plan or pension fund sponsored by a licensee~~ed~~ or an intermediary or holding company licensee which directly or indirectly owns five ten percent or more of a licensee;
- gf. A state or federal government pension plan; or
- hg. A group comprised entirely of persons specified in (a) through (g) of this definition.

~~A Qualified Institutional Investor is an Indirect Beneficial Interest Owner.~~

~~“Qualified Limited Passive Investor” means a natural person who is a United States citizen and is a passive investor who owns less than a five percent share or shares of stock in a licensed Medical Marijuana Business. A Qualified Limited Passive Investor is a Direct Beneficial Interest Owner.~~

“Qualified Private Fund” means an issuer that would be an investment company, as defined in section 3 of the Federal Investment Company Act of 1940, but for the exclusions provided under sections 3(c)(1) or 3(c)(7) of that Act, and that:

- a. Is advised or managed by an investment adviser as defined and registered under sections 80b-1-21, title 15 of the Federal Investment Advisors Act of 1940, and for which the registered investment adviser is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder; and
- b. Satisfies one or more of the following:
 - i. Is organized under the law of a state or the United States;
 - ii. Is organized, operated, or sponsored by a U.S. person, as defined under subsection 17 CFR 230.902(k), as amended; or
 - iii. Sells Securities to a U.S. person, as defined under subsection 17 CFR 230.902(k), as amended.

“R&D Co-Location Permit” means a permit issued to a Licensed Research Business authorizing it to co-locate with a commonly owned Medical Marijuana-Infused Products Manufacturer, Retail Marijuana Products Manufacturing Facility, Optional Premises Cultivation Operation, or Retail Marijuana Cultivation Facility pursuant to Rule M 1901. A separate R&D Co-Location Permit is required for each location at which a Licensed Research Business seeks to share a single Licensed Premises.

“RFID” means Radio Frequency Identification.

“Reasonable Cause” means just or legitimate grounds based in law and in fact to believe that the particular requested action furthers the purposes of the Medical Code and Retail Code or protects the public safety.

“Regulated Marijuana” means Medical Marijuana and Retail Marijuana. If the context requires, Regulated Marijuana includes Medical Marijuana Concentrate, Medical Marijuana-Infused Products, Retail Marijuana Concentrate, and Retail Marijuana Products.

“Regulated Marijuana Business” means Medical Marijuana Businesses and Retail Marijuana Establishments.

“Regulated Marijuana Products” means Medical Marijuana-Infused Products and Retail Marijuana Products.

“Remediation” means the process by which Medical Marijuana flower or trim, which has failed microbial testing, is processed into Solvent-Based Medical Marijuana Concentrate and retested as required by these rules.

“Resealable” means that the Container maintains its Child-Resistant effectiveness for multiple openings.

“Research Project” means a discrete scientific endeavor to answer a research question or a set of research questions. A Research Project must include a description of a defined protocol, clearly articulated goal(s), defined methods and outputs, and a defined start and end date. The description must demonstrate that the Research Project will comply with all requirements in the M 1900 Series. All research and development conducted by a Licensed Research Business must be conducted in furtherance of an approved Research Project.

“Respondent” means a person who has filed a petition for declaratory order that the State Licensing Authority has determined needs a hearing or legal argument or a Licensee who is subject to an Order to Show Cause.

“Responsible Vendor Program Provider” means a Person offering an Approved Training Program, in accordance with section 44-11-1101, C.R.S., to Licensees seeking to be designated a responsible vendor.

“Restricted Access Area” means a designated and secure area within a Licensed Premises in a Medical Marijuana Center where Medical Marijuana, Medical Marijuana Concentrate, and Medical Marijuana-Infused Product are sold, possessed for sale, and displayed for sale, and where no one without a valid patient registry card is permitted.

“Retail Code” means the Colorado Retail Marijuana Code, found at sections 44-12-101 *et seq*, C.R.S.

“Retail Marijuana” means all parts of the plant of the genus *cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including but not limited to Retail Marijuana Concentrate that is cultivated, manufactured, distributed, or sold by a licensed Retail Marijuana Establishment. “Retail Marijuana” does not include industrial hemp, nor does it include fiber produced from stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product. Unless the context otherwise requires, Retail Marijuana Concentrate is considered Retail Marijuana and is included in the term “Retail Marijuana” as used in these rules.

“Retail Marijuana Concentrate” means a specific subset of Retail Marijuana that was produced by extracting Cannabinoids from Retail Marijuana. Categories of Retail Marijuana Concentrate include Water-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate, Solvent-Based Retail Marijuana Concentrate, and Heat/Pressure-Based Retail Marijuana Concentrate.

“Retail Marijuana Cultivation Facility” means an entity licensed to cultivate, prepare, and package Retail Marijuana and Transfer Retail Marijuana to Retail Marijuana Establishments, Medical Research Facilities, and Pesticide Manufacturers, but not to consumers.

“Retail Marijuana Establishment” means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturing Facility, a Retail Marijuana Testing Facility, a Retail Marijuana Establishment Operator, or a Retail Marijuana Transporter.

“Retail Marijuana Establishment Operator” means an entity that holds a license from the State Licensing Authority to provide professional operational services to one or more Retail Marijuana Establishments for direct remuneration from the Retail Marijuana Establishment(s), which may include compensation based upon a percentage of the profits of the Retail Marijuana Establishment(s) being operated. A Retail Marijuana Establishment Operator contracts with Retail Marijuana Establishment(s) to provide operational services. A Retail Marijuana Establishment Operator’s contract with a Retail Marijuana Establishment does not in and of itself constitute ownership.

“Retail Marijuana Product” means a product that is comprised of Retail Marijuana and other ingredients and is intended for use or consumption, such as, but not limited to, edible product, ointments and tinctures.

“Retail Marijuana Products Manufacturing Facility” means an entity licensed to purchase Retail Marijuana; manufacture, prepare, and package Retail Marijuana Product; and Transfer Retail Marijuana and Retail Marijuana Product to other Retail Marijuana Products Manufacturing Facilities, Retail Marijuana Stores, Medical Research Facilities, and Pesticide Manufacturers, but not to consumers.

“Retail Marijuana Store” means an entity licensed to purchase Retail Marijuana from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Product from a Retail Marijuana Products Manufacturing Facility and to Transfer Retail Marijuana and Retail Marijuana Product to consumers.

“Retail Marijuana Testing Facility” means a public or private laboratory licensed and certified, or approved by the Division, to conduct testing and research on Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Products.

“Retail Marijuana Transporter” means a Person that is licensed to transport Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Products from one Retail Marijuana Establishment to another Retail Marijuana Establishment or to a Medical Research Facility or Pesticide Manufacturer, and to temporarily store the transported Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Products at its Licensed Premises, but is not authorized to sell, give away, buy, or receive complimentary Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Products under any circumstances. A Retail Marijuana Transporter does not include a Licensee that transports and distributes its own Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Products.

“Sample” means any item collected from a Medical Marijuana Business and provided to a Medical Marijuana Testing Facility for testing. The following is a non-exhaustive list of types of Samples:

Medical Marijuana, Medical Marijuana-Infused Product, Medical Marijuana Concentrate, soil, growing medium, water, solvent or swab of a counter or equipment.

“Sampling Manager” means an Associated Key Licensee or Key Licensee designated by an Optional Premises Cultivation Operation or a Medical Marijuana-Infused Products Manufacturer to receive Transfers of Sampling Units pursuant to Rules M 508 and M 606.

“Sampling Unit” means a unit of Medical Marijuana, Medical Marijuana-Infused Product, or Medical Marijuana Concentrate Transferred to a Sampling Manager for purposes of quality control and product development pursuant to Rules M 508 and M 606, and sections 44-11-403(4) and 44-11-404(12), C.R.S.-

-“Security(ies)” means any note, stock, treasury stock, security future, security-based swap, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a “security,” or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

“Security Alarm System” means a device or series of devices, intended to summon law enforcement personnel during, or as a result of, an alarm condition. Devices may include hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in progress).

“Shell Company” means a registrant, other than an asset-backed issuer as defined in Item 1101(b) of Regulation AB, that has:

- a. No or nominal operations; and
- b. Either:
 - i. No or nominal operations;
 - ii. Assets consisting solely of cash and cash equivalents; or
 - iii. Assets consisting of any amount of cash and cash equivalents and nominal other assets.

“Shipping Container” means a hard-sided container with a lid or other enclosure that can be secured in place. A Shipping Container is used solely for the transport of Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana-Infused Product between Medical Marijuana Businesses, a Medical Research Facility, or a Pesticide Manufacturer.

“Solvent-Based Medical Marijuana Concentrate” means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of a solvent approved by the Division pursuant to Rule M 605.

“Standardized Graphic Symbol” means a graphic image or small design adopted by a Licensee to identify its business.

“State Licensing Authority” means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and Transfer of Medical Marijuana and Retail Marijuana in Colorado, pursuant to section 44-11-201, C.R.S.

“Support License” means a license for an individual who performs duties that support the Medical Marijuana Business’ operations. A Support Licensee is a Person with less decision-making authority than a Key Licensee and who is reasonably supervised by a Key Licensee or an Associated Key Licensee. Examples of individuals who need this type of license include, but are not limited to, sales clerks or cooks.

“Temporary Appointee Registration” means a registration issued to a Court Appointee pursuant to section 44-11-401(1.5)(b), C.R.S.

“THC” means tetrahydrocannabinol.

“THCA” means tetrahydrocannabinolic acid.

“Test Batch” means a group of Samples that are derived from a single Harvest Batch, Production Batch, or Inventory Tracking System package, and that are collectively submitted to a Medical Marijuana Testing Facility or a Retail Marijuana Testing Facility for testing purposes.

“Total THC” means the sum of the percentage by weight of THCA multiplied by 0.877 plus the percentage by weight of THC, i.e., Total THC = (% THCA x 0.877) + % THC.

“Transfer(s)(ed)(ing)” means to grant, convey, hand over, assign, sell, exchange, donate, or barter, in any manner or by any means, with or without consideration, any Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana-Infused Product from one Licensee to another Licensee or to a patient. A Transfer includes the movement of Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana-Infused Product from one Licensed Premises to another, even if both premises are contiguous, and even if both premises are owned by a single entity or individual or group of individuals, and also includes a virtual Transfer that is reflected in the Inventory Tracking System, even if no physical movement of the Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana-Infused Product occurs.

“Universal Symbol” means the image established by the Division and made available to Licensees through the Division’s website indicating the Medical Marijuana or Medical Marijuana Infused-Product contains marijuana.

“Unrecognizable” means marijuana or *Cannabis* plant material rendered indistinguishable from any other plant material.

“U.S. Person” means:

- a. Any natural person resident in the United States;
- b. Any partnership or corporation organized or incorporated under the laws of the United States;
- c. Any estate of which any executor or administrator is a U.S. natural person;
- d. Any trust of which any trustee is a U.S. natural person;

- e. Any agency or branch of a foreign entity located in the United States;
- f. Any non-discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary for the benefit or account of a U.S. natural person;
- g. Any discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary organized, incorporated, or (if an individual) resident in the United States; and
- h. Any partnership or corporation if:
 - i. Organized or incorporated under the laws of any foreign jurisdiction; and
 - ii. Formed by a U.S. natural person principally for the purpose of investing in Owner's Interests not registered under the Securities Act of 1933, unless it is organized or incorporated, and owned, by accredited investors (as defined in § 230.501(a)) who are not natural persons, estates or trusts.

Vegetative” means the state of the *Cannabis* plant during which plants do not produce resin or flowers and are bulking up to a desired production size for Flowering.

“Water-Based Medical Marijuana Concentrate” means a Medical Marijuana Concentrate that was produced by extracting cannabinoids from Medical Marijuana through the use of only water, ice, or dry ice.