



January 12, 2023

The Office of Cannabis Management is releasing updated guidance for adult-use conditional cultivators. The following sections have been updated:

Section 5. Sampling and testing guidance has been updated to reflect new changes to guidance and regulations

Sections 22, 23, 24 and 25 are new, and should be read in their entirety.



Introduction

Compliance with these guidance materials and any current and future state rules, regulations, guidance, and laws is required by licensees to remain eligible and in good standing with the Adult-Use Conditional Cultivator license program. Applicants who are not compliant with this guidance and any current and future state rules, regulations, guidance, or laws risk losing their conditional license and jeopardize their ability to secure a future Adult-Use Cultivator license. Templates for reporting requirements will be made available on the Office of Cannabis Management’s (the “Office”) website.

Adult-Use Conditional Cultivator Key Reporting Deadlines to the Office:

- **Within six months of licensure:** Licensees are required to submit an Operating Plan for their business as outlined in this guidance document.
- **At the end of the first year of licensure:** Licensees are responsible for submitting an Annual Cultivation Report to the Office indicating their compliance with the guidance outlined in this document. The Office will provide feedback to Licensees indicating any necessary changes to Adult-Use Conditional Cultivator grow operations and how to come into compliance with program standards.
- **Upon expiration of the Adult-Use Conditional Cultivator Program in two years:** Licensees must submit updated records that will be used to evaluate whether the conditional licensee can transition to a full Adult-Use Cultivator license, pursuant to all applicable laws, regulations, and program guidance.

Definitions

1. **Artificial Lighting.** Horticultural Lighting Equipment (HLE) means any lighting equipment (e.g., fixtures, bulbs, ballasts, controls, etc.) that uses energy for the cultivation of plants, at any stage of growth.
2. **Batch.** A unit of adult-use cannabis produced during a period of time under similar conditions, identifiable by a unique code that allows traceability.
3. **Corrective Action Plan.** A plan submitted by a licensee and approved by the Office, for the licensee to correct a violation or non-compliance with this guidance or any rules, regulations, or laws.
4. **Cultivation Cycle.** Entirety of the cultivation period, including germination, seedling, cloning, vegetative and flowering stages of cannabis plant growth.
5. **Energy Audit.** An assessment of the licensee’s cultivation operations that details energy consumption and identifies energy efficiency measures. [EPA Energy Portfolio Manager](#) is a resource that licensees can use to audit and track energy consumption.
6. **Flowering Canopy.** An area to be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain flowering plants, including all of the space(s) within the boundaries. Canopy may be noncontiguous, but each unique area included in the total canopy calculations shall be separated by an identifiable boundary which includes, but is not limited to: interior walls, shelves, greenhouse walls, hoop house walls, garden benches, hedge rows, fencing, garden beds,



or garden plots. An Adult-Use Conditional Cultivator licensee may cultivate up to 43,560 square feet (equal to 1 acre) of flowering canopy outdoors or 25,000 square feet of flowering canopy in a greenhouse. A cultivator may grow both outdoors and in a greenhouse provided the flowering canopy in a greenhouse is equal to or less than 20,000 square feet and the total flowering canopy is equal to or less than 30,000 square feet. As part of the application process, Adult-Use Conditional Cultivators will have to submit to the Office a detailed site plan for each area where they plan to grow cannabis.

- 7. Greenhouse.** A structure or thermally isolated enclosed area of a building that maintains a specialized sunlit environment used for and essential to the cultivation, protection, or maintenance of plants.
- 8. Independent Agricultural Safety Program.** An organization promoting and advancing agricultural safety best practices through educational programs and training opportunities on topics including but not limited to agricultural worker health and hygiene, plant and soil management, pest management, land use, water management, waste management, and overall agricultural safety. An example of one such organization is the New York Center for Agriculture Medicine and Health (NYCAMH). The organization’s website is <https://www.nycamh.org/>.
- 9. Integrated Pest Management (IPM) Principles.** IPM principles (1) identify pests, their hosts, and beneficial organisms before acting; (2) establish monitoring guidelines for each pest species; (3) establish an action threshold for the pest; (4) evaluate and implement control tactics; and (5) monitor, evaluate, and document the results.
- 10. Lighting Energy Benchmarking Organization.** A non-profit organization offering independent auditing, benchmarking, and advisory services related to improving energy efficiency, sustainability, and lighting quality for horticultural activities and the human experience in the built environment. An example of one such organization is the Design Light Consortium which can be used as a resource for licensees. The organization’s website is <https://www.designlights.org/>.
- 11. Pests.** Rodents, birds, insects, or other animals or organisms that present the threat of contamination to cannabis and cannabis products, especially drying, curing or in-process cannabis flower.
- 12. Photosynthetic Photon Efficacy (PPE).** Photosynthetic photon flux divided by input electric power. In horticultural lighting, efficacy refers to micromoles of photon output per second, per watt of input power.
- 13. Plant Protection Products.** Products applied during the cultivation of cannabis including insecticides, fungicides, herbicides, rodenticides, and plant growth regulators.
- 14. Processing.** For the purposes of this guidance document “processing” includes the drying, trimming, curing, packaging and manufacture of cannabis flower products. Processing does not include extraction activities.
- 15. Production Cycle.** The cultivation cycle and additional drying, curing, and on farm processing of cannabis.
- 16. Raw Product Samples.** Samples of dried cannabis flower used for the purposes of analytical testing.



Conditional Cultivator Program Guidance

1. Recordkeeping and Data Collection Expectations and Requirements.

- a. Data Collection.** Within six months of licensure, unless otherwise specified, Adult-Use Conditional Cultivator licensees must submit all elements of an Operating Plan to the Office consisting of the information in the Operating Plan section below. One year after issuance of the Adult-Use Conditional Cultivator license, the license holder is responsible for submitting to the Office an Annual Cultivation Report consisting of the information outlined below. Adult-Use Conditional Cultivator license holders are required to submit updated records to the Office upon request, and when the conditional license expires, to be eligible for a full Adult-Use Cultivator license. Compliance with practices outlined in this document will be used by the Cannabis Control Board (the “Board”) to make licensing decisions.
- b. Operating Plan.** Cultivators must document, implement, and maintain to the satisfaction of the Office an Operating Plan that must include, at a minimum:
1. A site plan document indicating the activities performed in each area and detailing all physical boundaries, roads, and water crossings of the property, further outlined in Section 8 (Site Plan Modifications), **to be submitted to the Office within 30 days of licensure.**
 2. A security and staff safety plan detailing risk mitigation and accident prevention plans resulting from a detailed risk assessment of all stages of cannabis production, **to be submitted to the Office within 30 days of licensure.**
 3. A cultivation plan document that includes a detailed overview of all cultivation, processing, storage, and record keeping policies and procedures.
 4. A soil preparation plan document that includes a plan or recipe for soil preparation and records of analysis or descriptions of soil quality and a plan to restrict the use of short lived or single use synthetic ground covers and/or mulches.
 5. An environmental impact plan document that details the actions taken to maintain and improve ecosystem health and services with neutral or positive impact on biodiversity.
 6. A pest management and control plan document based on Integrated Pest Management (IPM) principles that is adequate for the facility type and size and includes details on prevention, observation, and interventional steps and physical/mechanical/biological and chemical methods utilized that are consistent. The plan must demonstrate conformance with lists of authorized and prohibited products and materials as determined by the Office.
 7. A cannabis sampling, analysis and testing plan document based on risks associated with materials or organisms normally present during the cultivation and production of cannabis.
 8. A quality assurance plan document that establishes criteria to detect, identity, prevent, and track harvested cannabis contamination incidents.
 9. A cannabis recall plan document that includes an annual mock recall test.
 10. A sustainable water-use and conservation plan document that addresses water sources, quality, and use.



11. A sustainable energy use and conservation plan document that addresses the sourcing and use of energy and sets energy efficiency goals including timelines and benchmarks.

c. Annual Cultivation Report. Adult-Use Conditional Cultivators must maintain the following records in an Annual Cultivation Report for submission to the Office after one year of licensure and then upon license transition, as well as to be made available to the Office upon request:

1. An up-to-date site plan.
2. All physical inventory of cannabis, at any stage, and all associated labels, must be reflected accurately in an electronic inventory management system.
3. Traceability functionality must be capable of showing the complete production history of any cannabis in any stage, including cannabis that has been released for sale to allow for a total recall of all associated cannabis if necessary.
4. A detailed database for the tracking of all seeds, clones or other plant material used, which must include the source of the seeds, clones, or other plant material.
5. Detailed plant protection application records for any propagation treatments.
6. A detailed documentation of a soil, soil mixture or substrate material assessment including type, composition, and mineral content.
7. An agricultural input list that includes all agricultural inputs used or to be used. The list must include at a minimum: product name, active ingredient, purpose, application rate, timing within life cycle of plant and method, Material Safety Data Sheet, Certificate of Analysis, product labels, and history of application.
8. Water usage per cultivation cycle, as directed by the Office.
9. Record of a facility energy audit and Year 1 energy use report.
10. Records of scouting or monitoring for pests and diseases.
11. Records of submission of cannabis from each production cycle to a New York State cannabis testing laboratory approved by the Office for all required testing.
12. Lab results from a New York State cannabis testing laboratory approved by the Office for all required testing for cannabis from each production cycle.
13. Records of plant removal and destruction of all cannabis not meeting minimum quality, strain, and safety standards.
14. A list of all equipment used in the production of cannabis.
15. Equipment maintenance and upkeep records that include at a minimum: the type of maintenance performed, the name of the mechanic who performed the maintenance and the date the work was completed.
16. Records of all employees and independent contractors.
17. Staff health and safety procedures.
18. Signed consent forms from all employees and independent contractors involved in the cultivation, production, and distribution of adult-use cannabis that apply chemicals as part of their work activities.
19. Records of routine cleaning of all containers, tools, and equipment.
20. Records of routine cleaning and sanitizing of all sanitary facilities.
21. Records of routine cleaning and sanitizing of all areas of the facility where cannabis is produced, handled, or stored.
22. Pest management records that include: A map of all traps, types and coding/numbering system for the traps must be in place, records of routine trap maintenance, and record of any



- evidence of animal or insect presence including body parts, hair, or feces in cannabis handling areas.
23. Records of an annual mock recall.
 24. Records of all complaints received which must include: a log of all complaints, defined timeline for response, persons responsible for complaint procedures and actions taken.
 25. Production water analysis results.
 26. Post-production water analysis results if there is any water runoff or discharge.
 27. Waste disposal records including material resulting from the trimming process, as well as composting or other disposal or remediation methods, if applicable.
 28. A visitor log of all persons other than employees, independent contractors involved in the cultivation, production, and distribution of adult-use cannabis, or emergency personnel responding to an emergency who access any production areas which includes at a minimum: the name of the individual, the company the individual works for, the reason for access, and the date and times the individual entered and exited the production area.
 29. A signed copy of the labor peace agreement as required by the Cannabis Law and as detailed in Section 20 (Labor Peace Agreement), below.

d. Data and Record Submission. Record submission methods will be provided by the Office.

- 2. Inspections.** The licensee shall make available to the Office data indicated under Section 1 (Recordkeeping and Data Collection Expectations and Requirements) of this document to ensure compliance with the program standards set forth by the Office. The Office maintains the rights to inspect licensees' facilities where cannabis operations are taking place. Inspections may be on-site or through remote technology. Inspections may be announced or unannounced. Applicants will be provided with an inspection evaluation report, including, if necessary, a Corrective Action Plan and related timeline to make any corrective actions.
- 3. Corrective Action Plan.** Adult-Use Conditional Cultivator licensees issued a Corrective Action Plan must be held responsible for implementing the actions required by the Office in the time specified in the Corrective Action Plan or may risk losing their ability to maintain their license and further considerations for future licensing. The Office may conduct additional inspections to verify that actions required in a Corrective Action Plan have been implemented.
- 4. Data Collection and Submission.** Adult-Use Conditional Cultivator licensees must be responsible for collecting and filing required data to the Office, including data related to the Operating Plan, Annual Cultivation Reports, Corrective Action Plans, and any other reports required for licensure and program compliance. The Office will provide more information about how licensees must submit data in the future.
- 5. Sampling and Testing.** Adult-Use Conditional Cultivator licensees shall comply with all final product testing and sampling requirements, as set forth in regulations and guidance. Please find the Office's latest lab testing guidance at: <https://cannabis.ny.gov/cannabis-laboratories>. Licensees are strongly encouraged to participate in the Office's line testing program, which will help expedite the availability of licensee's products on the market. Information regarding this program is included in this guidance.
- 6. Prohibited Products and Materials.** A public list of approved and prohibited products and materials for use in cannabis cultivation and growing activities will be provided by the Office and made available on the



Office’s website. The Office reserves the right to change or modify the products or materials considered approved or prohibited. Adult-Use Conditional Cultivator licensees may seek permission from the Office for the authorized use of a product or materials not contained in the list of approved Plant Protection Products and Materials.

- a. **Product Usage.** Application of agricultural inputs used by a license holder, such as plant protection products, fertilizers, and soil amendments, must be recorded. Licensees must develop and implement an input application recording system for each growing season. The input application recording system must include:

- 1. Product name
- 2. Active ingredient
- 3. Purpose of use
- 4. Application rate
- 5. Timing within life cycle of plant and method
- 6. Material Safety Data Sheet, Certificate of Analysis, and/or product label information
- 7. History of application (if used in past production seasons)

7. Traceability. In time for the growing season, the licensee must have or develop an on-premises based identification and traceability system that allows the cannabis product to be traced back to the licensee and specific production site, to the block and bed level, and traced forward up the supply-chain to the next distribution point. The license holder must be able to link harvested cannabis product by batch number or harvest date to the production records. Such data must be made available to the Office upon request and in the Annual Cultivation Report.

8. Site Plan Modifications. The licensee is responsible for ensuring the Office has an accurate and up to date Site Plan. If any changes are made to the areas below, the licensee has an obligation to update the Office within 10 calendar days of any such change. Site Plans will also be required upon submission of the Operating Plan and Annual Cultivation Report. Instances of combined space usage must be disclosed in the licensee’s Site Plan with a plan to prevent cross-contamination related chemical use. Site Plans must include the following information:

- a. Flowering Canopy Area (Including aggregate square footage if the canopy areas are noncontiguous. All unique areas separated by identifiable boundaries must be clearly described and labeled in the premises diagram.)
- b. Area(s) Outside of the Canopy (Immature plants only) (if applicable)
- c. Pesticide and Agricultural Chemical Storage Area
- d. Drying Area
- e. Processing Area
- f. Harvest Storage Area
- g. Packaging Area (If applicable)
- h. Composting Area (If on-site)
- i. Secure Cannabis Waste Area (Not including composting areas)
- j. Artificial Lighting used for Production of Cannabis (with wattage and Photosynthetic Photon Efficacy and placement)
- k. Heating, HVAC (if relevant)



- l. Sanitary Facilities
- m. Parcel Boundaries
- n. Perimeter Dimensions
- o. Entrances to Both the Property and Premises
- p. Exits to Both the Property and Premises
- q. All Roads
- r. All Water Crossings (includes seasonal streams)
- s. Other Activities or Other Licensed Areas. **Conditional Cultivators must keep all areas used for adult-use cannabis operations, including any growing, harvesting, drying or storage areas separate and distinct from any area designated for hemp cultivation under the Department of Agriculture and Markets Hemp Licensing Program.**

9. Lighting. Applicants may use up to 20 artificial lights during the production of cannabis.

- a. **New Equipment.** For new equipment, all fixtures must have a reported Photosynthetic Photon Efficacy of no less than 1.9 $\mu\text{mol}/\text{J}$. Equipment available on the Design Light Consortium [list](#) may also be used, as well as any other lighting equipment approved by the Office.
- b. **Existing Equipment.** Existing horticultural lighting equipment can be used if already in place at the time of conditional licensure. Technical details (wattage input, Photosynthetic Photon Efficacy) related to existing equipment **must be submitted to the Office within 30 days of licensure.** For equipment that does not meet the minimum requirement of Photosynthetic Photon Efficacy 1.9 $\mu\text{mol}/\text{J}$, a documented transition plan to more efficient lighting equipment must be in place by the conclusion of the first year in production under the conditional license. Applicants must have a plan to transition to a lower energy footprint system, as outlined in “part a” above (Photosynthetic Photon Efficacy of no less than 1.9 $\mu\text{mol}/\text{J}$), oriented toward a net zero emissions target after the conditional licensing period is over. The plan can include onsite renewable energy production, more efficient lighting equipment, carbon offsets as approved by the Office, and demonstrable carbon sequestration practices approved by the Office.

10. Sanitary Facilities. The license holder must ensure that all workers have access to hand washing and toilet facilities in all work areas; toilet units and hand washing units must be maintained in a clean and sanitary condition; and license holder must maintain records showing regular cleaning and sanitizing of all sanitary facilities. The license holder must require workers to wash and sanitize their hands before doing any work, after each visit to a toilet, after handling contaminated material, after smoking, eating, or drinking, and at any other time when their hands may have become contaminated, and there must be signage in restrooms to remind workers to wash/sanitize hands. Sanitary areas in this section must be marked in the licensee’s Site Plan.

11. Facility and Equipment Cleaning and Maintenance. Licensees are responsible for the upkeep of their facilities and maintenance of all equipment used in the production of cannabis. In addition:

- a. All containers, tools and equipment used in the production of cannabis must be well kept and maintained.
- b. All containers, tools and equipment used in the production, packaging, labeling, and storing of cannabis must be designed, constructed, maintained, operated, and arranged as to protect against the physical, chemical, and microbial contamination and deterioration of the cannabis.



- c. Containers used for the storage of cannabis must be food-grade or similar and must be clean, in good repair and suitable for the established use.
- d. All areas of the facility where cannabis is handled must be well organized and routinely cleaned and sanitized.
- e. All areas of the facility where cannabis is stored or handled must be maintained in a manner as to protect against the physical, chemical, and microbial contamination and deterioration of the cannabis.
- f. All areas of the facility where cannabis is stored or handled must utilize continual environmental monitoring for temperature, ventilation, and humidity.
- g. Areas and their intended purpose may be modified. All facility changes must be reported to the Office pursuant to Section 8 (Site Plan) of this guidance. Instances of a single space being used for multiple purposes must be disclosed in the licensee's Site Plan and may be subject to approval from the Office.

12. Drying/Processing. The license holder must ensure that any drying or processing areas are clean, well-ventilated, and free from condensation, sewage, dust, dirt, toxic chemicals or other contaminants. All buildings must provide adequate environmental controls to ensure product protection and be of adequate actual or proposed size to be able to properly dry the volume of cannabis produced. Photos or diagram of drying and processing area to be used for all product drying, processing and curing must be provided to the Office in the Site Plan, and notes on proposed staggered harvests and harvest window must be provided to the Office in the Annual Cultivation Report. Pursuant to the Cannabis Law an Adult-Use Conditional Cultivator is only permitted to process and distribute cannabis flower products without holding an Adult-Use Processor or Distributor License, until June 1, 2023. The Office will be issuing additional guidance related to the processing and distribution of cannabis flower products for Adult-Use Conditional Cultivators. Conditional Cultivators are not permitted to perform extraction activities without holding an Adult-Use Processor License.

13. Security. The license holder must install fencing, locked gates, secure doors, or other physical barriers sufficient to prevent unauthorized access to production and storage areas. Commercial-grade key or keypad equipped locks must be installed on all doors, fences, or other entries. Barrier design and installation should be context specific and account for risks posed by adjacent properties, persons, or activities.

- a. All cannabis must be stored in a secure area or location within the production area accessible to the minimum number of staff necessary for efficient operation and in such a manner as to prevent diversion, theft, or loss.
- b. Production areas must be securely locked and protected from unauthorized entry at all times.
- c. The license holder must be responsible for ensuring the integrity of the security of the operational spaces and the maintenance of sanitary operations when permitting access.

14. Packaging. The license holder must comply with all relevant packing, labeling, marketing, and advertising standards as determined in the Cannabis Law and any future state laws, regulations, and guidance. Processing and packaging activities under the Adult-Use Conditional Cultivation license must take place at the licensed premise, or at the premise of another licensed adult-use cannabis processor.

15. Cannabis Waste Disposal. The license holder must dispose of any cannabis that is outdated, damaged,



deteriorated, contaminated, or otherwise deemed not appropriate for further processing or manufacturing. The disposal of cannabis must mean that the cannabis has been rendered unrecoverable and beyond reclamation. For the purposes of this requirement, the stalks, stems, fan leaves, root balls, and soil media must be excluded from the requirement that they be rendered unrecognizable and beyond reclamation. On-site composting is a means of rendering any portion of the plant unrecoverable and beyond reclamation. No cannabis material must be intentionally diverted to a landfill. The disposal of any inputs including liquid or chemical waste must comply with applicable federal, state, and local laws and regulations. Regardless of the immediately preceding sentence, soaking cannabis in gasoline and then burning the cannabis is not an acceptable method of waste disposal.

- a. **Cannabis Waste Disposal Records.** The Applicant must maintain records of disposal, which must include:
 1. The type of plant material disposed;
 2. The weight of the disposed material, the number of plants, or in the case of a finished product, the quantity of the disposed product, batch number; and
 3. The signatures of at least two employees who witnessed the disposal.

16. Transportation. No license holder may transport cannabis outside of the licensed premises unless (1) it is in a fully enclosed vehicle or container; and (2) it is accompanied by a manifest or proof of ownership, documenting the name, physical address, certificate of analysis and license number of the license holder, and the name and physical address of the recipient of the delivery.

- a. **Laboratory Transport.** When cannabis is being transported to a laboratory for testing, a certificate of analysis is not required to accompany the shipment.

17. Plant Protection Products List. A list of Plant Protection Products approved by the Office for use on Cannabis will be available on the Office of Cannabis website.

18. Health and Safety Standards. Licensees will comply with all applicable federal, state, and local laws and regulations related to worker training, safety, health and pay including, but not limited to, the minimum wage, overtime, frequency of pay, posting requirements, pay equity, notice of pay rate, day of rest, meal periods, wage deductions, the employment of minors, paid sick leave, discrimination, and retaliation. Training materials should be available in the primary language of all employees or independent contractors involved in the cultivation, production, and distribution of adult-use cannabis.

- a. All employees or independent contractors involved in the production, cultivation and distribution of adult-use cannabis must receive safety and hygiene training, in line with standards of an independent agricultural safety programs.
- b. Safety data sheets for all chemicals must be on file and available to employees and independent contractors involved in the cultivation, production, and distribution of adult-use cannabis.
- c. Personal Protective Equipment must be assigned to employees and independent contractors involved in the cultivation, production, and distribution of adult-use cannabis as needed and must be in good working order.
- d. If respirators are required, staff must be trained in their proper use and respirators must be serviced and tagged to manufacturer's specifications.
- e. Information signs must provide clear instructions for material handling, equipment operation and general safety information for all operations.



- f. Warning signs must be posted in all areas of potential hazard.
- g. Employees and independent contractors involved in the cultivation, production, and distribution of adult-use cannabis must be trained to manage chemical and liquid spills.
- h. Emergency signage must be posted in all work areas.
- i. Someone onsite must be trained in First Aid and CPR.
- j. Well stocked first aid kits must be readily available in all operational areas.

20. Labor Peace Agreement. Within six months of licensure, the Applicant must enter into a labor peace agreement with a bona-fide labor organization, and a signed copy of the labor peace agreement must be provided to the Office. Maintenance of such labor peace agreement is an ongoing material condition of licensure. For purposes of this requirement, a “bona fide labor organization” is defined as a labor union:

- a. That represents employees in this state with regard to wages, hours and working conditions;
- b. In which officers have been elected by secret ballot or otherwise in a manner consistent with federal law, and;
- c. That is free of domination or interference by any employer and has received no improper assistance or support from any employer.

21. Mentorship Program. As a condition of licensure, Adult-Use Conditional Cultivators must participate in a social and economic equity mentorship program, as determined by the Office. The Office will outline program standards and conditions. Cultivators may be asked to participate in a range of activities, including but not limited to pre-program surveys, mentorship activities, and related data reporting.

22. Terms of Sale. Licensees must sell cannabis product that are at prices indicative of its true value when sold without any other products or services. Licensees not discriminate, directly or indirectly, in price, in discounts for time of payment or in discounts on quantity of merchandise sold between one retail dispensary and another retail dispensary purchasing cannabis bearing the same brand or trade name and of like age and quality.

Licensees authorized for distribution (distributors) must sell to any adult-use retail dispensary licensee willing to pay cash. The Office will maintain a list of all licensees delinquent in paying for cannabis products purchased on credit from distributors. Distributors cannot sell on credit to any retailer on the delinquent payment list. The Office reserves the right to investigate any sources of payment made by a dispensary.

Distributors may, but are not required to, allow licensees to pay on credit. All agreements to purchase cannabis on credit must be reported to the Office with the terms of payment and credit. Licensees that purchase cannabis products on credit have 90 days to pay for that purchase. Distributors must report licensees to the Office who are delinquent in payment. The Office reserves the right to invalidate agreements that it deems commercially unreasonable or where discriminatory pricing practices are suspected, and all licensees shall comply with future rules and regulations related to acceptable terms of credit.

For purposes of contesting and validating such claims in dispute before the Office, licensees must keep dated records of all accounts payable and payments made and provide such records upon request by the Office within 48 hours, unless a period of time longer than 48 hours is permitted by the Office in writing.



23. Restrictions on Interests and Ownership. Licensees must ensure that all individuals and entities with an interest in their license are in compliance with the restrictions placed on such individuals and entities in the CAURD True Party of Interest guidance⁹. Licensees must comply with all requirements in that guidance including, but not limited to, requirements pertaining to ownership and contracting with landlords, financiers, financial institutions, or management services entities. A failure of any individual or entity with an interest in the licensee to comply with this guidance will be considered a failure of the licensee.

24. Undue Influence. To prevent suppliers from exerting inappropriate control over retail dispensaries, the Cannabis Law places restrictions on the ability of an entity in one tier from having an interest in an entity in another tier of the industry.

Cannabis cultivators, processors, and distributors, their true parties of interest, passive investors, and any management service providers cannot have any interest in a retail dispensary license. Applicants with an interest in such a business, no matter how small that interest is, will not be approved. A licensee who, themselves or through their True Parties of Interest, passive investors, or any management service providers, holds a prohibited interest risks their license being cancelled, suspended, or revoked or other enforcement actions being taken.

The Cannabis Law also prohibits licensees authorized to cultivate, process, or distribute cannabis from giving something of value to retail dispensaries to induce the retail dispensary to buy something from the licensee authorized to cultivate, process, or distribute cannabis. Generally speaking, the Office presumes that anything such licensee gives to a retail dispensary is meant to induce the retail dispensary to buy product including, but limited to: (1) gifts; (2) discounts, except not in excess of one per centum for payment on or before ten days from date of shipment of such cannabis; (3) customer loyalty programs; (4) loans of money; (5) premiums; (6) rebates; (7) free product of any kind, except as permitted in regulations or guidance; (8) treats or services; or (9) property.

25. Availing. Availing occurs when a person who was not disclosed to the Office has an ownership or controlling interest in a licensed business. A licensee is responsible for violations committed by third parties who are availing the license.

Managers who oversee the business for the licensee are not availing the license. Availing occurs when the licensee turns control of the business over to an undisclosed party without any direct direction, supervision or oversight by the licensee, even if the undisclosed party does not profit from the use of the license. Availing may involve a failure to disclose an individual's interest in the business at the time the application is submitted to the Office or failure to disclose the transfer of an interest.

Evidence of availing includes:

- an agreement giving ownership to an undisclosed party;
- an undisclosed party receiving a percentage of the profits; and
- bank accounts, records and other licenses/permits in the undisclosed party's name.

An unauthorized entity change is a version of availing where the licensed entity stays the same, but the principals of the licensed entity, undisclosed to the Office, change. If a new person/entity is operating the



business, that is an availing. If the licensed entity is still in control but with different (unapproved) principal(s), that is an unauthorized corporate change.

To avoid an availing charge due to an authorized corporate change, be sure to obtain approval from the Office before making any ownership changes to your license.

26. Transition from Adult-Use Conditional Cultivator License. License holders must be compliant with all sections above to be eligible for license transition under the Conditional Adult-Use Cannabis Cultivation law. The Office and Board will evaluate compliance with all relevant laws, regulations, and guidance, as well as information provided in the Annual Cultivation Reports. In determining allocations of larger flowering canopy in future licensing decisions, among the criteria the Board may consider is the extent that licensees demonstrate sustainable practices in the following areas:

a. Green-house Gas Emissions Reduction.

1. Low-carbon production goals, supported by an energy audit, including the use of energy efficient equipment.

b. Waste Reduction.

1. Removal, quarantine, and treatment of plants contaminated with pests and/or diseases.
2. Waste reduction through composting, recycling, and reusing cultivation materials
3. Water harvesting and reuse practices.
4. Energy reduction goals, supporting by an energy audit, including the use of energy efficient equipment.
5. Steps to further the promotion of biodiversity. Suggested methods include but are not limited to:
 - a. Intercropping
 - b. Cover cropping
 - c. Crop rotation
 - d. Planting, or promotion of native plants
 - e. Providing habitat for native animals
 - f. Planting or promotion of specific species that promote native pollinator activities
 - g. Protecting native waterways through maintaining wild farm edges and removing invasive species.

c. Sourcing, Organic Principles and Waste.

1. On-farm compost and manure are the preferred method of soil fertility. Locally sourced, organic compost and manure are the next preferred method.
2. Cultivators are discouraged from utilizing substances, materials, or techniques that are incompatible with the general principles of organic production.
3. The Office will consider the life cycle (embodied energy) of packaging materials and whether packaging is reusable, recyclable, or compostable. Plastic for packaging of consumer products is to be avoided, unless made with a minimum post-consumer content of 25%.
4. Locally sourced inputs are preferred

d. Water.

1. Implementation of efficient irrigation technology, equipment, and practices to reduce



- erosion, prevent runoff, and avoid polluting waterways.
 - 2. Performance of regular documented maintenance on irrigation systems.
- e. **Additional Types of Consideration for Licensees in Transition Decision.** Licensees may present to the Office sustainability practices and programs, such as:
- 1. Test soil at harvest for contaminants and residual nutrient buildup.
 - 2. Provide a nesting or feeding habitat for bees and other wild pollinators through the season including at least 6% of all areas vested to pollinator beneficial planting.
 - 3. Generate renewable power onsite.
 - 4. Receive power from renewable energy sources such as solar panels, wind power, geothermal, or alternative energy co-op.
 - 5. Buy carbon credits to offset their carbon footprint as may approved by the Cannabis Control Board, other State agencies, and consistent with environmental standards, such as the New York Climate Leadership and Community Protection Act.