Dear Licensee:

Congratulations on obtaining Board approval for an Adult-Use Distributor License!

The Compliance Unit at the Office of Cannabis Management (the Office or OCM) is providing you with a Compliance Welcome Packet (packet) for your information. This packet is a tool to assist you with preparing to commence operations and does not replace guidance, laws, or regulations.

All licensees are bound by current and future state laws, rules, regulations, terms and conditions, and guidance.

This packet includes important information to assist you with understanding requirements in law, regulation, and guidance that are important to your licensed operations.

Please read all materials included in the packet. Violations of applicable laws, regulations, and guidance will require you to take corrective action. The information in this packet is intended to assist you in avoiding common violations and prepare for compliance inspections.

This Compliance Welcome Packet contains information related to the following:

- **Introduction & Key Reminders**
- **Security Requirements**
- **Site, Operating, and Environmental Plans**
- **Traceability**
- **Transportation**
- **Marketing & Advertising and Undue Influence**
- **Terms of Sale & Delinquency**

The Compliance Unit is here to answer your questions about commencing operations and operating in a compliant manner. The Compliance Unit can be reached at compliance@ocm.ny.gov.

Please remember when emailing the Compliance Unit to include your full license number and entity name to avoid delays in response from the Office.

Review, sign and submit the enclosed attestation form to the Compliance Unit when you commence the operational activity authorized by your issued license.

Kindly confirm receipt of this packet and let us know if you have any questions.

Thank you.
Office of Cannabis Management
Compliance Unit, Health and Safety Division

Section A: Introduction & Key Reminders

This document is intended to assist you in preparing to begin operations and maintaining compliance with law, regulation, and guidance**.** This document provides guidance that may help you prepare for future compliance inspections. The Office's Compliance Unit may inspect your premises at any time to determine your compliance with law, regulation, and guidance, and these inspections may be announced or unannounced.

Please use this document as a reference as you begin operations. These key requirements are only **some** of the items that are required in cannabis law and OCM regulations. This document **does not** include all requirements but provides some key reminders as you work toward operating a compliant business.

Please reference the below links for applicable regulation and guidance documents:

- **Adult-Use Cannabis Regulations** (These regulations include license specific, general business, and general operating requirements and prohibitions)
- **Adult-Use Packaging and Labeling & Marketing and Advertising Regulations**
- **Adult-Use Packaging and Labeling & Marketing and Advertising Guidance**
- **Laboratory Testing Limits**
- **Electronic Inventory Tracking System FAQs**
- **Adult-Use Cannabis Violations, Hearings, and Enforcement Regulations**

These can all be found at https://cannabis.ny.gov/ All adult use licensees are bound by current and future state laws, rules, regulations, terms and conditions, and guidance.

Regulations are periodically amended by the Office and have a public comment period. Comments regarding the proposed amendments should be sent to regulations@ocm.ny.gov

Proposed amendments (if applicable) and full versions of the regulations can be found here: https://cannabis.ny.gov/marihuana-regulation-and-taxation-act-mrta

An Adult-Use Distribution License permits the purchase, possession, distribution, and sale of cannabis from a duly licensed processor, cooperative or collective, microbusiness, ROD, or ROND. A distributor may only sell cannabis products to a duly licensed adult-use retail dispensary, a ROD, or on-site consumption licensee.

Distributor Authorizations and Prohibitions

Pursuant to Part §123.7 & §123.8

Distributor are authorized/required to:

- ✓ acquire cannabis products from a licensed processor or microbusiness, cooperative or ROD, ROND
- ✓ **ONLY** sell cannabis product to a duly licensed Adult-Use Retail dispensary and a ROD
- ✓ transport or store in a warehouse cannabis product for another distributor
- ✓ comply with article 20-C of the Tax Law and register for Sales Tax with NYS Department of Taxation and Finance

- ✓ transport only cannabis products between adult-use cannabis licensees; and between the licensed premises of an adult-use cannabis facility for purposes of distributing the cannabis products
- ✓ have in their possession invoices or manifests for such cannabis products

Distributor are prohibited from:

- X Transporting cannabis product to an unlicensed retailer
- X accept, sell, transfer, distribute, or agree to sell, transfer, or distribute, any cannabis product that is **NOT** in a retail package and labeled pursuant to Part 128
- X accept, sell, transfer, distribute, or agree to sell, transfer, or distribute, any cannabis product that has **NOT** been tested pursuant to Part 130

Section B: Security Requirements

§125.3 Security and Storage of Cannabis

Distributors must abide by all security requirements set forth in §125.3. Licensees shall implement sufficient security measures to deter diversion, theft or loss of cannabis or cannabis products, theft or loss of cash, to prevent unauthorized entrance into areas containing cannabis or cannabis products, and to ensure the safety of the licensee's employees and the general public.

Some key areas around security on which to focus include the following:

- ✓ **Implementation and maintenance of a Security Plan, which may be included in your Operating Plan, that details efforts to:**
  - Prevent unauthorized access
  - Deter theft or loss of cannabis and cannabis products
  - Prevent loitering
  - Lock all perimeter doors and windows
  - Provide for safe cash storage and handling

- ✓ **Installation and maintenance of a commercial-grade security system, which includes:**
  - A perimeter alarm that communicates with an internal representative and a third-party central monitoring station
  - Video surveillance in all areas that may contain cannabis or cannabis products, all surveillance areas, all points of entry and exit, and in any parking lot
  - Failure notification system that reports an audible, text, or visual notification of any failure in the security system
  - Keep all locks, storage and security equipment in full operating order

- ✓ **Video surveillance systems should have the following features/capabilities:**
  - The ability to produce a clear, still image from any camera angle
  - Able to export still images
  - Include a date and time stamp embedded on all recordings
  - Ability to retain video recordings for no less than 60 days
  - Remain operational during a power outage for a minimum of 8 hours

- ✓ **Storage Requirements:**
  - Keep cannabis and its products in a secure, locked, and approved place on the licensed premises to prevent theft while still protecting against contamination and deterioration of the cannabis products within.
  - Always lock the storage area, only opening it when needed.
  - Ensure cannabis or cannabis products being stored aren't visible from outside the premises.
  - Limit access to authorized personnel and maintain a list of authorized individuals.

- ✓ **Cannabis Waste Handling (125.11(h)):**
  - Securely store cannabis waste until it's made unusable.
  - Lock exterior waste containers, even after making the waste unusable.

- ✓ **Security Breaches Reporting (125.3(e)):**

- Report any security breaches or incidents outlined in the regulations to the office within 24 hours of discovery.
- Within ten (10) days of an incident, submit an incident report detailing what happened, actions taken, and confirmation of notifying law enforcement. An email to compliance@ocm..ny.gov is also suggested when reporting an incident related to your situation.

Section C: Site, Operating, and Environmental Plans

§125.2 Site, Operating, and Environmental Plans.

Site Plan

Adult-Use Distributors must document, implement, and maintain a site plan, which shall be made available to the Office upon request.

Pursuant to § 125.2, a licensee shall document, implement, and maintain an up to date site plan of all activities at their location.

- ✓ Activities performed in each area of the premises
- ✓ Details of all parcel boundaries
- ✓ Entrances and exits to both the property and premises
- ✓ Perimeter dimensions of property
- ✓ Any facilities on-premises where licensed activities are taking place or cannabis or cannabis products are being stored

For a comprehensive list of all site plan requirements, refer to § 125.2(a) in the Adult-Use Cannabis Regulations.

Adult-Use Distributors may change the location of their licensed premises by submitting a written request to the Office along with an application fee pursuant to § 120.4. **Any changes to the Cannabis business address or a change in location require an application submission with Licensing and approval from the Cannabis Control Board pursuant to § 120.18 (d)**.

Contact the Licensing Unit regarding requests for a location change. Further information regarding changes to Cannabis business operations and locations can be found in § 120.18 and § 120.9 of the Adult-Use Cannabis Regulations.

Operating Plan

Licensees must also document, implement, and maintain an operating plan which must include information such as:

- ✓ Written operating procedures
- ✓ An employee handbook
- ✓ Full descriptions of employee roles and responsibilities
- ✓ Employee safety information
- ✓ List of licensees authorized to conduct retail sales of cannabis products

For more information about what a complete operating plan must contain, refer to § 125.2(b) in the Adult-Use Cannabis Regulations.

Section D: Traceability

§ 125.8 Inventory and Tracking

Traceability Requirements

Adult-Use Distribution licensees must utilize an electronic real-time inventory tracking system that has the ability to integrate with the Office's back-end solution, Biotrack THC, via the program's application programing interface (API). Licensees are not required to use Biotrack as their inventory system, as long as the system they choose has the ability to integrate with Biotrack via the API. The inventory tracking system should be capable of showing any cannabis that has been released for sale, to allow for a total recall of all cannabis if necessary.

- ✓ **The inventory tracking system should maintain complete cannabis and cannabis product inventory**, as well as inventory adjustments, from processing, transport, laboratory testing, distribution, waste, disposal, product return, or any other activity. See 9 NYCRR §125.8 for more information on inventory tracking requirements.

- ✓ **Until the Office has Biotrack online and operational to receive information as a state-solution, all distributors are required to use their electronic inventory tracking system for all movement of cannabis products in their possession. These reports will be required to be submitted on a weekly basis. The Office is continuing to build the platform for these reports to be submitted. All inventory must be tracked in your electronic inventory tracking and will be required to be submitted. The Office will share more information as this becomes available.**

- ✓ **All cannabis products processed for distribution shall be identified and categorized in a processor's inventory tracking system** and include information detailing the milligrams of total THC in the cannabis product.

- ✓ **All cannabis and cannabis products distributed by an Adult-Use Distributor licensee shall be assigned a unique lot identifier**, which allows for complete traceability of all cannabis and cannabis products processed during a specific period of time and under similar conditions. All cannabis and cannabis products must be recorded in the licensee's inventory tracking system, which should include the following information:

    - Lot number
    - Product type or form of the cannabis or cannabis products
    - Weight, volume, or count
    - Date of activity
    - Type of activity being performed including transportation
    - Additives/ingredients used
    - Product form change in real time

Additional Resources: Biotrack – New York State Digital Tagging Overview

Section E: Transportation

§125.10 Transport of Cannabis and Cannabis Products

Adult-Use Distributor licensees are permitted to transport cannabis products between Adult-Use Processors and Adult-Use licensed dispensaries. Listed below are several areas of compliance to remember when transporting cannabis products:

Vehicle Requirements

- ✓ Must own (or lease) vehicle to be used for delivery
- ✓ Vehicle must not have any signs, markings, or advertisements that indicate that the transportation is used to transport cannabis
- ✓ Vehicle must have temperature controls and an operating GPS
- ✓ Cannabis products must be transported in a locked box, container, or cage to secure within the vehicle

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Documentation

- ✓ A transportation manifest identifying all cannabis products must accompany every transportation event
- ✓ Person in vehicle must have identification as an employee of a licensee or person authorized to transport cannabis
- ✓ Maintain Transaction Records of all cannabis purchased and distributed
- ✓ Detailed sales information required for each sales transaction:
  - individual cannabis product item(s) sold;
  - selling price;
  - tax due;
  - method of payment;
  - employee completing the sales transaction:
  - a device used to complete a sales transaction that may be a combination of software and hardware;
  - sales transaction number;
  - date and time of the sale; and
  - the name, address and license number of the retail dispensary.

Cannabis being Transported

- ✓ You may only distribute packaged cannabis product which has passed testing conducted by an OCM permitted laboratory.
- ✓ Cannabis products must be transported in a manner that will protect them against contamination and deterioration

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Traveling

- ✓ Not make any unnecessary stops in between destinations.
- ✓ Randomize transport times.
- ✓ Only transport cannabis and cannabis products within the borders of New York State.

Employees conducting transportation

- ✓ Ability to communicate with employees at the licensed entity at all times that the vehicle contains cannabis and cannabis products
- ✓ If a transport is attempted and not completed and the cannabis item remains in the possession of the employee conducting the transport, the employee must return the cannabis products to the licensed premises of the employee.
    - The returned inventory may be restocked if the inventory is in a new, unopened condition and was handled in a manner that did not compromise the integrity of the cannabis or cannabis products
- ✓ Only licensees, or employees thereof, may be in any vehicle as it is being used to transport cannabis or cannabis products.
- ✓ Employees transporting cannabis and cannabis products must be at least 18 years of age.

Section F: Marketing and Advertising & Undue Influence

§124.1 Undue Influence and Incentives, §129 - Adult-Use Marketing and Advertising

This communication is intended to provide information that will assist you in making decisions regarding marketing and advertising.

As a reminder, the Office of Cannabis Management (the Office) does not "pre-approve" marketing and advertising. It is a licensee's obligation to ensure its marketing and advertising complies with all applicable law, regulations, and guidance.

This section highlights certain frequent issues which have been identified by the Office, but there are requirements related to marketing and advertising that are not described here. For additional information on marketing and advertising, refer to the relevant regulations (9 NYCRR Part 128-129) and the guidance document.
In considering your marketing and advertising, consider the following things:

- ✓ **Consider your Advertisements.** Many things may be subject to the rules on marketing, advertising and advertisements. Examples of advertisements include publications, videos, use of a brand representative, websites, social media, print media, broadcast media, TV, radio, streaming media, out of home media, merchandise, event sponsorship, street art, murals, and digital communications, as well as any other form of media that is for the purpose of causing, directly or indirectly, the purchase or use of a brand or cannabis product.

- ✓ **Caution on Arrangements with retailers.** There are limits on the ways suppliers of cannabis of cannabis products may interact with retailers of these products. You should be very careful about offering anything of value (such as gifts, royalties, rebates, and other treats or services of any nature) — including marketing and advertising — to retailers. The transfer of these goods and services, unless allowed by law, regulation, or guidance, can create undue influence between licensees.

  However, there are certain things you can offer suppliers. These things which you can offer are explained in law, regulation, and guidance. One example would be *Retail Advertising Specialties*.

  - A retail advertising specialty is cannabis merchandise (i.e. any consumer good that does not contain cannabis and includes or displays the brand of a licensee) that a supplier provides to a retailer and is not intended for retail sale at the dispensary.
  - These could be used as décor within the dispensary or they could be provided to customers.
  - The total amount of retail advertising specialties that a processor may provide may not exceed $200 per brand in any one calendar year per licensee. Examples of retailer advertising specialties include trays, rolling papers, mats, menu cards, matches, paper napkins, filters, thermometers, clocks, shirts, hats, visors, branded signs, refrigerators, display cabinets, art, and calendars.

- ✓ Some examples of things that would be prohibited because they create undue influence include:

  - Conducting "brand activations", "table", or otherwise advertise using a brand representative within a licensed retail premises.
  - Offering advertising specialties in excess of the $200 per brand per calendar year limit.
  - Offering certain free samples or other things as a condition of selling a licensee's product in a dispensary.

- Requiring dispensary employees to wear a certain licensee's merchandise, regardless of if they have been provided that merchandise. Outside of retail advertising specialties, brands may provide merchandise of a nominal value to be passed on to dispensary employees. These employees may choose to wear this merchandise at work, but an Adult-Use Processor may never require employees wear a brand's merchandise.
- Offering incentives in exchange for recommending certain brands to customers or as a reward for hitting a certain sales target of that brand's products.
- Making an agreement with a retailer to place a product in a certain place on shelves, menus, etc.

There are other general business requirements and prohibitions that are intended to prevent undue influence that may impact your operations. For additional information on undue influence, refer to the relevant regulations (9 NYCRR Part 124) located at www.cannabis.ny.gov/regulations.

While the Office does not pre-approve marketing and advertising, any questions regarding your ongoing compliance with applicable law, regulation, and guidance may be directed to the Office's compliance unit at compliance@ocm.ny.gov.

Section G: Terms of Sale

§124.2 - Terms of Sale

Adult-Use Distributors must implement and execute written contracts between parties for all transactions related to the purchase of cannabis products. For detailed information about terms of sales, refer to § 124.2 in Adult-Use Regulations.

Before commencing operations relating to the acquisition and/or sale of cannabis products, consider the following:

- ✓ Distributors must sell cannabis products and cannabis paraphernalia at prices indicative of their true value, when sold without any other products, terms, or services.
- ✓ Distributors cannot discriminate in price, payment terms, or discounts for time of payment or in discounts on quantity of merchandise sold.
  - Distributors are permitted to offer volume-based discounts on cannabis and cannabis products, provided that such discounts are offered to all licensed purchasers.
- ✓ Distributors cannot require or offer exclusivity provisions in goods or services contracts, nor refuse to sell any brand of cannabis or cannabis product to any purchaser willing to pay in cash.
  - If a retailer is willing to pay in cash, the following stipulations apply:
    - Checks shall not be from third parties.
    - Checks drawn on the account of a retailer cannot be post-dated.
    - Distributors are not required to accept checks drawn on a retail dispensary's account.
- ✓ Distributors may, but are not required to, accept payment on credit from retailers. **If retailers purchase cannabis products on credit, they must pay their balance within thirty (30) days.**
  - Distributors are required to report retailers who are delinquent in payment for cannabis products to the Office.
  - Distributors may not sell cannabis products on credit to any retailer reported and found by the Office to have a delinquent payment due.

Section H: Delinquent Payments

§124.2(e)

All information, guidance and reporting links for delinquent payments can be found on the Office webpage. All questions can be submitted to codreporting@ocm.ny.gov

Introduction

Suppliers may, but are not required to, sell cannabis products to retailers on credit, provided that payments comply with the requirements set forth in 9 NYCRR § 124.2 and retailers purchasing cannabis products on credit pay for such products within 30 days, unless otherwise approved by the Cannabis Control Board (Board).

Suppliers are required to report retailers who do not pay within 30 days of delivery to the Office. The Office will publish a C.O.D. list which will be provided to all suppliers. Suppliers are prohibited from selling cannabis products on credit to any retailer on this list.

The Board may impose any penalty or condition otherwise authorized by 9 NYCRR § 124.2 if a retailer does not pay past due invoices under this subdivision.

Timely payment by retailers and compliance with reporting requirements for suppliers are critical. The Board may revoke, cancel, or suspend a license issued pursuant to 9 NYCRR § 124.2(k) for actions in violation of any of the provisions of 9 NYCRR § 124.2, making a false statement in any disclosures filed pursuant to 9 NYCRR § 124.2, or failing or refusing in any manner to comply with any of the provisions of 9 NYCRR § 124.2.

Written Notice of Default

If a retailer obtained cannabis products on credit from a supplier and failed to make payment to the supplier on or before the final payment date, then the supplier must provide a written notice of default to the retailer.

- ✓ The supplier must send the written notice of default by first class mail to the retailer unless another written form of notification was agreed upon between the retailer and supplier. A Notice of Default template can be found here www.cannabis.ny.gov/notice-of-default-template for suppliers who wish to use it.
- ✓ The supplier must send the written notice of default on or before the notification dates determined by the Office. A schedule of notification dates can be found here: www.cannabis.ny.gov/2024-credit-calendar.

Retailers who receive a written notice of default from suppliers will be published on the Office's C.O.D. list in accordance with the schedule set forth in subdivision (b) above, and such list will be distributed to all suppliers. Retailers who do not make full payment to their suppliers are prohibited from purchasing cannabis products on credit.

Reporting Delinquent Payments to the Office

Suppliers are required to file with the Office, on or before each notification date, copies of the notices sent by them to all delinquent retailers. In addition to copies of the notices, the following information will be required to be sent to the Office:

- ✓ Supplier's name
- ✓ Supply license number
- ✓ Delinquent retailer's name
- ✓ Delinquent retailer's operating address
- ✓ Credit amount owed by retailer
- ✓ Date of delivery

Instructions for submitting this information to the Office can be found here: www.cannabis.ny.gov/supplier-instructions. The schedule of notification dates can be found here: www.cannabis.ny.gov/2024-credit-calendar.

Reporting Payments Made by Licensees

A supplier must notify the Office within one business day of receiving payment in full as defined above from the retailer. The Office will update the C.O.D. list to reflect this payment. Suppliers are required to submit the following information to the Office:

- ✓ Supplier's name
- ✓ Supply license number
- ✓ Delinquent retailer's name
- ✓ Delinquent retailer's operating address

Instructions for submitting this information to the Office can be found here: www.cannabis.ny.gov/supplier-instructions. The schedule of notification dates can be found here: www.cannabis.ny.gov/2024-payment-calendar.

If a retailer has made payment in full on an outstanding invoice the Office may permit, via written approval, sales to any retailer who has received notice of default, or who is named on a delinquent list, on terms other than for cash prior to the publication of the next appropriate delinquent list if the following conditions are met:

- ✓ Reporting requirements noted in Section 4 of this guidance have been provided to the Office and is to the satisfaction of the Office;
- ✓ The supplier requests to supply the retailer with cannabis products on credit; and
- ✓ The retailer does not have other outstanding credits with other suppliers.

Office Publication of the C.O.D. List

Pursuant to Title 9 NYCRR Section 124.2, suppliers must report delinquent payments due from retailers who have purchased cannabis products from them on credit. The Office of Cannabis Management (Office) will compile a cash on delivery list (C.O.D. list) of all retailers who are delinquent in payments for credit purchases and make it available to suppliers (distributors, microbusinesses, cooperatives, Registered Organizations with dispensaries, and Registered Organizations without dispensaries) for their review prior to extending credit to a retailer. An updated list will be published weekly on Wednesday's.

The C.O.D. (Cash on Delivery) Reporting Platform has been created to allow suppliers to:

- Report retailers who have failed to make payment on an invoice as required in 9 NYCRR Section 124.2, (results in retailer being added to the C.O.D. list).

- Report receipt of full payment for the total invoice amount due from a retailer (results in retailer being removed from the C.O.D. list).
- Review the C.O.D. list prior to extending credit sales to retailers
- Suppliers are prohibited from extending credit to any retailer who appears on the C.O.D List

Important Information

The C.O.D. reporting platform is restricted to suppliers only. Do not share the link or login credentials below with anyone.

- The link to the C.O.D. reporting platform is: https://survey.alchemer.com/s3/7772700/CODlist and is restricted to suppliers only.
  *To receive access and log in credentials to report a delinquent payment, send an email to codreporting@ocm.ny.gov *using the email address provided in your application*.

Resources

The following material has been included to assist you when accessing the C.O.D. Reporting Platform for the first time.

- Delinquent Payments Guidance
- C.O.D. List – Supplier Instructions
- 2024 Credit Calendar
- 2024 Payment Calendar
- Notice of Default Template
- Delinquent Payment FAQ's

Please take the time to review as the materials detail the regulatory responsibilities of both retailers and suppliers who engage in credit sales.

Note: Suppliers do not require Office approval prior to enforcing their payment terms against a purchaser. The Office is not a collections agency or payment enforcer.

Distributor Attestation Form

Instructions

- Review, sign and submit this attestation form to compliance@ocm.ny.gov.
- Incomplete forms will be returned to the licensee for completion.
- Please reach out to compliance@ocm.ny.gov with any questions.

Licensee Information

License Number:	
Business Entity Name:	
DBA (if applicable):	
Address:	
Phone:	**Email:**
Website:	
Hours of Operation:	
Electronic Inventory System Name:	
Third Party Central Monitoring Station Name:	

Attestations

Attestation	Initials
I confirm that I will only receive and deliver to Adult-Use licensed holders for cannabis products.	_____
I confirm the facility will be maintained in accordance with good manufacturing standards and practices in with all applicable laws, rules, and regulations	_____
I confirm the electronic inventory tracking system has been installed, is operational and will meet the inventory tracking and reporting requirements set forth in regulations and guidance.	_____
I confirm that all required security system components have been installed, are operational and turned over to the central monitoring station listed above.	_____
I confirm that I will maintain all records for the timeframe required in regulations and guidance and will make those records available to the Office for review upon request.	_____
I confirm that I understand that the Office will perform routine inspections and all areas of the facility will be made available for inspection.	_____
I confirm that I will notify the Office in writing of construction or event at my licensed facility which necessitates temporary closure of the facility, interruption of security coverage or removal of inventory no less than two weeks prior to such construction or event and will notify the Office in writing prior to re-opening.	_____

I confirm that I understand the requirements and documentation required for transporting cannabis products.	_____
I confirm that I have procedures in place for reporting self-identified and responding to the Office's quarantine and recalls; this includes ability to track and trace all products created, notify all affected parties, and have a separate secure area for storing products in such event.	_____
I confirm that I have read all applicable regulations, guidance documents and checklists and will maintain compliance with all applicable laws, regulations and guidance.	_____

Signature

I understand that the statements made in this attestation will be accepted for all purposes as the equivalent of an Affidavit and that any false statements, including omissions, made herein, in addition to being the possible basis for a revocation of any approval given as a result of this application, may be punishable as a misdemeanor under the provisions of Section 210.45 of the Penal Law of the State of New York.

Signature: _____

Date Signed: _____

Printed Name: _____

Title: _____