L-6624

CITY OF NEWTON, MASSACHUSETTS
AND MME NEWTON RETAIL, LLC a/k/a MEDMEN
HOST COMMUNITY AGREEMENT

THIS HOST COMMUNITY AGREEMENT ("AGREEMENT") is entered into as of this 31st day of Oct., 2019 by and between **MME Newton Retail, LLC a/k/a MedMen** ("MedMen" or the "Company"), a Massachusetts limited liability company with a principal office address of 50 Congress Street, Suite 420, Boston, MA 02109 and the **City of Newton**, a Massachusetts municipal corporation with a principal address of 1000 Commonwealth Avenue, Newton Centre, Massachusetts 02459 ("the City"), acting by and through its Mayor.

WHEREAS, the Company seeks to locate a Marijuana Establishment ("ME"), as defined in and subject to the provisions of M.G.L. Chapter 94G and Chapter 55 of the Acts of 2017, at 232 Boylston Street, Newton, in accordance with regulations issued by the Massachusetts Cannabis Control Commission ("CCC") at 935 CMR 500.000 *et. seq.*; and

WHEREAS, the Company intends to provide certain benefits to the City in the event that it receives a Final License from the CCC to operate an ME (the "CCC License"), and receives all other required local permits and approvals; and

WHEREAS, the parties agree that the terms, conditions, and funds required herein are reasonable and directly proportional to the costs of addressing the potential health, safety, and other effects or impacts of the ME on the City.

NOW THEREFORE, in consideration of the provisions of this Host Community Agreement ("HCA" or "Agreement"), the Company and the City agree as follows:

1. The Company agrees to make payments to the City, in the amounts and under the terms provided herein (the "Funds"). The Treasurer of the City shall hold the funds in conformity with applicable laws for the purposes of addressing the public health, safety, education, administrative, infrastructure, and other effects or impacts as may be identified of the ME on the City and on its municipal and school programs, services, personnel, and facilities. The Funds shall be used at the City's sole discretion, and the City will track expenditures on an annual basis.

2. The Company shall pay to the City the following sums:

   (a) 3% of the Company's gross revenues from the sale of Medical Marijuana, if any, calculated as of the first date of medical sales.
   (b) 3% of the Company's gross revenues from the sale of Adult-Use (i.e. Recreational) Marijuana calculated as of the first date of retail sales.

Payments made pursuant to this provision shall be made on a quarterly basis and shall represent 3% gross revenues from relevant sales made in the preceding quarter. The quarters are to be defined as follows – Quarter 1 is January 1 through March 31, Quarter 2 is April 1 through June 30, Quarter 3 is July 1 through September 30, and Quarter 4 is October 1 through December 31. Payments to the City representing a percentage of gross revenues received by the Company during a given quarter shall be made on or before the last day of the next month. (As an example, the payment due for sales occurring during Quarter 1 shall be made on or before the last day of the first month of Quarter 2, i.e., April 30.) The Company shall provide the City with copies of its periodic financial filings to the CCC documenting sales, and also a copy of its annual filing as a non-profit, if any, to the Massachusetts Office of the Attorney General.

3. This Agreement shall take effect on the date the ME commences operations (the "Effective Date") and continue in effect for a period of five (5) years from the Effective Date or until the permanent cessation of operations at the ME, whichever is earlier. The Company shall provide notice to the City of the date of final inspection of the ME by the CCC and immediately upon learning of the date ME operations will commence, shall notify the City of such date. At the conclusion of the term of this Agreement the parties shall renegotiate a new HCA in accordance with the current prevailing regulations and laws as they may be amended or replaced. In the event the Company no longer does business in the City or in any way loses or has its license revoked by the CCC, this Agreement shall become null and void; however the Company will be responsible for the prorated portion of the quarterly payment due under Section 2 above.

4. The purpose of the payments by the Company is to assist the City in addressing any public health, safety, education, administrative, infrastructure, and other effects or impacts as may be identified of the ME on the City and on its municipal and school programs, services, personnel, and facilities. The City may expend the above-referenced payments for these purposes at its sole and absolute discretion.

5. The Company, in addition to any funds specified herein, shall contribute to public charities or private non-profit entities in the City an amount not less than $2,500.00 in the first year of this Agreement, and shall escalate five percent (5%) annually thereafter. Said charities shall be determined by the Company in its reasonable discretion.

6. To the extent permissible by law, the Company will make jobs available to and will use best efforts to hire qualified Newton residents and residents of areas of disproportionate impact, as defined in 935 CMR 500.002 and further identified by the Commission. The Company will provide to the City copies of the following plans submitted to the CCC as part of its license application:

a. Positive Impact Plan - to positively impact areas of disproportionate impact as defined by the CCC;

b. Diversity Plan – to promote equity in the operation of the ME among minorities, women, veterans, people with disabilities, and people of all gender identities and sexual orientation.

7. The Company shall notify the City of the name and relevant information, including but not limited to the information set forth in 935 CMR 500.030, of the person proposed to act as on-site manager of the ME. The submitted information shall include the results of a criminal history (CORI) check on the person proposed to act as on-site manager of the ME, verifying that the individual is of suitable character to act as on-site manager. This notification process shall also apply to any change of on-site manager.

8. The Company shall provide the City with certification and a written summary of the training which shall be provided to the on-site manager and to all agents of the ME. The Company shall further provide the City with a copy of its policy (as required pursuant to 935 CMR 500.105(l)(a) and (b)) for the immediate dismissal of any dispensary agent who has (a) diverted marijuana, which shall be reported to law enforcement officials and to the CCC; or (b) engaged in unsafe practices with regard to the operation of the ME, which shall be reported to the CCC.

9. The Company shall work with the Newton Police Department to implement a comprehensive diversion prevention plan to prevent diversion, such plan to be in place prior to the sales commencement date. Such plan will include, but is not limited to, (a) training ME employees to be aware of, observe, and report any unusual behavior in customers, or other ME employees that may indicate the potential for diversion; (b) strictly adhering to maximum sale quantities and time periods for purchases (per CCC guidelines); (c) in the case of medical patients, rigorous patient identification and verification procedures through the MMJ Online System; (d) utilizing seed-to-sale tracking software to track closely all inventory at the ME; (e) refusing to complete a transaction if the customer (i) requests additional marijuana product because a prior purchase was damaged or lost; (ii) threatens or attempts to coerce an ME employee in order to obtain excess marijuana product; or (iii) attempts to elicit guilt or sympathy from an ME employee in order to obtain excess marijuana product.

10. Company agrees to display and distribute educational and informational materials, to be provided by Newton's Department of Health and Human Services (HHS), in easily accessible and highly visible locations in its marijuana establishment. Such materials will include, but not be limited to:

1. Educational materials related to health, safety, and responsible use of marijuana products;
2. Informational materials, including advertisements for drug dependence education, prevention, and cessation programs in the community.

Such materials may be in the form of flyers, pamphlets, posters, bag inserts, and online information, or other forms of information. The location for display of these materials must be approved by the HHS Commissioner or designee. The Company is responsible for communicating with the HHS when materials need to be replenished.

11. The Company shall maintain its books, financial records, and any other data related to its finances and operation in accordance with standard accounting practices and any applicable regulations and guidelines promulgated by the Commonwealth. All records shall be retained for a period of at least seven (7) years. The City shall have the right to enter and audit or inspect said records upon reasonable notice to Company, provided, however, that said records shall not become a public record by virtue of the audit or inspection.

12. The Company shall schedule an annual meeting every June with the Mayor, or his or her designee, to review the previous year's operations in the City.

13. At all times during the Term of this agreement, property, both real and personal, owned or operated by the Company shall be treated as taxable, and all applicable real estate and personal property taxes for that property shall be paid either directly by the Company or by its lessor, and the Company shall not object to or otherwise challenge the taxability of such property and shall not seek a non-profit exemption from paying such taxes. Notwithstanding the foregoing, (i) if real or personal property owned or operated by the Company is determined to be non-taxable or partially non-taxable, a determination of which the Company agrees not to seek at any time during this Agreement, or (ii) if the Company is determined to be entitled or subject to exemption with the effect of reducing or eliminating the tax which would otherwise be due if not so exempted, then the Company shall pay to the City an amount which when added to the taxes, if any, paid on such property, shall be equal to the taxes which would have been payable on such property at fair cash value and at the otherwise applicable tax rate, if there had been no abatement or exemption. This payment shall be in addition to the payment made by the Company under Section 1 of this Agreement.

14. The obligations of the Company and the City recited herein are specifically contingent upon the Company obtaining the CCC License for operation of an ME in the City, and the Company's receipt of any and all necessary local permits and approvals to locate, occupy, and operate an ME in the City. If the Company fails to obtain the necessary CCC License(s) or such local permits and approvals, then this Agreement shall be of no further force and effect.

15. This Agreement does not affect, limit, or control the authority of City boards, commissions, and departments to carry out their respective powers and duties to decide upon and to issue, or to deny, applicable permits and other approvals under the statutes and regulations of the Commonwealth, the Zoning Ordinances of the City, or applicable regulations of those boards, commissions, and departments, or to enforce said statutes, bylaws, and regulations. The City, by entering into this Agreement, is not thereby required or obligated to issue such permits,

including, without limitation, a special permit issued by the Newton City Council, and approvals as may be necessary for the ME to operate in the City, or to refrain from enforcement action against the Company and/or its ME for violation of the terms of said permits and approvals or said statutes, bylaws, and regulations.

16. The Company shall not assign, sublet, or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the City, and shall not assign any of the monies payable under this Agreement, except by and with the written consent of the City.

17. This Agreement is binding upon the parties hereto, their successors, assigns, and legal representatives. Neither the City nor the Company shall assign or transfer any interest in the Agreement without the written consent of the other. The company shall copy the City on any request it submits to the CCC for location change, ownership or control change, change to structure of the Company, or name change pursuant to 935 CMR 500.104 and shall provide the City with a copy of CCC's decision on said request within 24 hours of receipt.

18. The Company agrees to comply with all laws, rules, regulations, and orders applicable to the ME, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the performance of such work.

19. Any and all notices or other communications required or permitted under this Agreement shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by overnight commercial delivery service, to the parties at the addresses set forth below or furnished from time to time in writing hereafter by one party to the other party. Any such notice or correspondence shall be deemed given when so delivered by hand; if so mailed, when deposited with the U.S. Postal Service; or if sent by overnight commercial delivery service, when deposited with such delivery service.

City:
City of Newton
Attention: Mayor
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459-1449

with a copy (by first class mail, postage prepaid) to:
City Solicitor
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459-1449

MME Newton Retail, LLC a/k/a MedMen:
Dan Edwards, Esquire
MedMen
10115 Jefferson Blvd.
Culver City, CA 90232

with a copy (by first class mail, postage prepaid) to:

Schlesinger and Buchbinder, LLP
Attention: Stephen J. Buchbinder, Esquire
1200 Walnut Street
Newton, MA 02461-1267

20. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.

21. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Massachusetts, and the Company submits to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.

22. This Agreement, including all documents incorporated herein by reference, constitutes the entire integrated Host Community Agreement between the Company and the City with respect to the matters described herein. This Agreement supersedes all prior agreements, negotiations, and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto. This paragraph, however, shall not apply to separate permitting or permit conditions as may be required by the City as noted in paragraph 15, above.

23. This Agreement shall be null and void in the event that the Company shall not locate an ME in the City or shall relocate such ME outside of the City. In the case of any relocation outside of the City, an adjustment of funds due to the City hereunder shall be calculated based upon the period of occupation of the ME within the City, but in no event shall the City be responsible for the return of any funds already provided to it by the Company.

24. The Company shall be deemed to be in default of this Agreement if the Company fails to maintain all necessary licenses and permits required to operate the ME facility in accordance with the CCC License, or if it breaches any term of this Agreement and fails to cure said breach within thirty (30) days of notice thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

CITY OF NEWTON

Ruthanne Fuller

By: Ruthanne Fuller

Its: Mayor, duly authorized

Date: 10/31/19

MME NEWTON RETAIL, LLC a/k/a MEDMEN

By: Adam Bierman

Its: CEO, duly authorized

Date: 10.24.19

Approved as to legal form and character:

Marie M. Lawlor

Deputy City Solicitor