

**AGREEMENT FOR PAIN MEDICATION LICENSE EXEMPTION**

This Agreement for Pain Medication License Exemption (“Agreement”) is made and entered into between \_\_\_\_\_ and the City of Sunrise, Broward County, Florida (the “City”) this day of \_\_\_\_\_, 20\_\_\_\_\_.

WHEREAS, \_\_\_\_\_ is the lessee/owner (hereinafter “Applicant”) of that certain property located at \_\_\_\_\_ (the "Property"), in the City; and

WHEREAS, \_\_\_\_\_, (~~hereinafter “Applicant”~~) pursuant to Section 7-301 of the City Code, ~~lessee/owner~~ has represented to the City that it the lessee/owner is exempt from the pain medication license as required under the provisions of Chapter 7, Article X, Section 7-301(b) definition of “Exempt Pharmacy” number 7 of the Code of the City of Sunrise and that Applicant will not purchase, store or dispense more than a monthly aggregate cumulative total of five thousand (5,000) unit doses of all combined schedule I or schedule II substances as defined by Section 7-301 of the City Code. The Applicant may exceed the monthly aggregate by up to ten (10%) percent provided the Applicant’s annual aggregate of schedule II substances does not exceed 60,000 unit doses; on a monthly basis and, therefore, is exempt from pain medication license as required under the provisions of Chapter 7, Article X of the Code of the City of Sunrise; and

WHEREAS, Applicant, pursuant to Section 7-31 of the City Code, has applied for a City Local Business Tax Receipt ( the “LBTR”) for occupation and use on the Property as a retail pharmacy (the “Project”), under and pursuant to the provisions of Section 7-27 of the Code of the City of Sunrise; and

WHEREAS, the City, by the adoption of Ordinance No. \_\_\_\_\_, ~~on June 28, \_\_\_\_\_~~, 2011, provided for pain medication license requirements for “pain management clinics” and “pharmacies”, as defined in said Ordinance; and

WHEREAS, the City is concerned about the proliferation of ~~schedule I and~~ schedule II substances at pain management clinics and pharmacies; and

WHEREAS, Applicant believes that its pharmacy is exempt from the pain medication license requirements of Ordinance No. \_\_\_\_\_, adopted on June 28 \_\_\_\_\_, 2011, pursuant to the provisions of Chapter 7 Article X of the City Code; and

WHEREAS, Applicant wishes to give the City assurances that Applicant will not purchase, store or dispense more than a monthly aggregate of five thousand (5,000) unit doses of schedule II substances as defined by Section 7-301 of the City Code. The Applicant may exceed the monthly aggregate by up to ten (10%) percent provided the Applicant’s annual aggregate of schedule II substances does not exceed 60,000 unit doses; it will not purchase, store, or dispense or otherwise fill prescriptions for more than five thousand (5,000) unit doses of all combined schedule I or schedule II substances on a monthly basis; and

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**WHEREAS**, Applicant agrees to provide the City a list of all principals, officers and/or pharmacists at the Project Site for the City to perform criminal background checks on all such individuals. Applicant further represents that no principal, officer or pharmacist has been convicted of a violation of Florida Statutes Chapter 893 within the last ten (10) years; and

**WHEREAS**, the City is willing to agree to the exemption to Section 7-301 of the City Code ~~for from~~ the Applicant lessee/owner provided ~~that~~ the City receives legally enforceable assurances that - Applicant will not purchase, store or dispense more than a monthly aggregate of five thousand (5,000) unit doses of all combined schedule II substances as defined by Section 7-301 of the City Code. The Applicant may exceed the monthly aggregate by up to ten (10%) percent provided the Applicant's annual aggregate of schedule II substances does not exceed 60,000 unit doses; and Applicant will not store, dispense or otherwise fill prescriptions more than five thousand (5,000) unit doses of all combined schedule I and schedule II substances on a monthly basis and will, therefore, voluntary abide by these conditions on the nature of its operations and that

**WHEREAS**, the City is willing to agree to the exemption to Section 7-301 of the City Code for the Applicant provided the City receives legally enforceable assurances that Applicant will defend, indemnify and hold the City harmless against any and all claims, demands, damages or suits that may arise from the issuance of the LBTR; and

**WHEREAS**, Applicant understands and agrees that the City may and/or will utilize all available means to verify compliance with this Agreement, including documents from any Federal, State, and local agencies.

**NOW, THEREFORE**, in consideration of the above premises, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the undersigned hereby agrees as follows:

1. In addition to any of the requirements of Section 7-32 and 7-42 of the City Code, Applicant on behalf of itself and on behalf of any its assigns or sub-lessees voluntarily agrees that it will not purchase, store or dispense more than a monthly aggregate of five thousand (5,000) unit doses of all combined schedule II substances as defined by Section 7-301 of the City's Code. The Applicant may exceed the monthly aggregate by up to ten (10%) percent provided the Applicant's annual aggregate of schedule II substances does not exceed 60,000 unit doses ~~that it will not store, dispense or otherwise fill prescriptions more than five thousand (5,000) unit doses of all combined schedule I and schedule II substances on a monthly basis, at or in the Project site, either directly or indirectly.~~ Applicant agrees to file an affidavit with the Police Chief on the seventh day of the month following execution of this Agreement ~~\_\_\_\_\_~~, 2014 and on the seventh day of each month thereafter for the prior month identifying the types and quantities of each ~~schedule I and~~ schedule II substances as defined in Section 7-301 of the City's Code (a) that were purchased during the reporting period, (b) that were sold in the reporting period, and (c) that were stored at or in the Project site.

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2. Applicant also agrees to allow the City, through its Police Department the right to inspect the premises, with or without prior notice and without the necessity of a warrant or other legal document, at any time during regular business hours for the purpose of determining compliance with the terms of this Agreement.
3. Applicant further agrees that in the event a criminal conviction for violation of Chapter 893 exists for any of its principals, ~~officers~~ ~~owners~~ and/or pharmacists, that Applicant shall immediately cease operations as set forth in Paragraph 4 below.
4. Applicant agrees that notwithstanding the provisions of Section 7-49 of the City Code, upon determination of a ~~conviction under violation of~~ Chapter 893 or upon ~~criminal conviction order citation or other~~ written notice of Applicant's non-compliance with this Agreement of the City Code as determined ~~by the City~~, Applicant shall immediately cease any and all operations or activities at the Project site. In the event that Applicant does not immediately cease such operations or activities, Applicant hereby consents to the closure of the Project by the City, without any liability to the City, and ~~with~~ Applicant ~~shall responsible to~~ pay any costs incurred by the City to effectuate such a closure, including, but not limited to, attorney's fees and costs, and any such costs shall accrue interest at the then existing statutory rate of interest. Applicant further agrees that it freely and voluntarily waives any right of appeal of such a determination of non-compliance with the terms hereof as it relates to the storage or dispensing of ~~any schedule I or~~ schedule II substance. However, Applicant shall retain the right of appeal, as set for in Section 7-49(b) of the City Code, for any other violations of the requirements of Sections 7-32 and 7-42 of the City Code.
5. Applicant further agrees that in addition to any of the penalties set forth in Section 7-50 of the City Code, in the event the LBTR is revoked for violation of the terms of this Agreement, Applicant voluntarily agrees that it, its owners and operators directly or indirectly, will not apply for any other LBTR within the boundaries of the City for a period of two (2) years.
6. Applicant agrees to defend, indemnify and hold harmless and forever release and discharge the City and its agents and authorized personnel from any and all liability that may arise out of, or in connection with, the issuance of said LBTR and any of the terms of this Agreement, including the costs of any suit, attorney's fees and other expenses in connection therewith, and including but not limited to any liability resulting from the negligence of the City and its agents and authorized personnel.
7. The obligations of Applicant under this Agreement shall become operative and effective only upon the execution of this Agreement.
8. Applicant acknowledges that the acceptance of this Agreement is a complete estoppel on it, its heirs, and assigns as to any rights, real, apparent or otherwise, that Applicant

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may have to challenge the efficacy of any conditions hereof and/or any conditions noted on the LBTR. Applicant agrees that it will notify any and all successors and assigns of the terms hereof and that failure to do so will constitute an independent breach of this Agreement.

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**IN WITNESS WHEREOF**, \_\_\_\_\_ does hereunto set its hand and seal on the year and date first above written.

APPLICANT: \_\_\_\_\_

By: \_\_\_\_\_, its

\_\_\_\_\_

ATTEST: \_\_\_\_\_(SEAL)

Subscribed and sworn to before me this \_\_\_ day of \_\_\_\_\_, 2011, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, who is \_\_\_\_\_ personally known to me or \_\_\_\_\_ produced identification.

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Type of identification produced:

Notary Public, State of Florida at Large

My Commission Expires:

ACCEPTED BY CITY THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2011.

BY: \_\_\_\_\_  
Bruce J. Moeller, City Manager

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Stuart R. Michelson, City Attorney

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