

CANNABIS AGREEMENT
Between
THE TIMBISHA SHOSHONE TRIBE
And
THE STATE OF NEVADA

I. Introduction

This Agreement (“Agreement”) is made by and between the Timbisha Shoshone Tribe (“TST” or “Tribe”) and the State of Nevada. The State is authorized to enter into this Agreement pursuant to Nevada Revised Statute (“NRS”) §223.250 and by the provisions of Nevada Revised Statutes §§277.080 to 277.170.

II. Definitions

A. “Agreement” means this Cannabis Agreement between the Tribe and the State of Nevada, as may be amended.

B. “Auditor” means a certified public accountant licensed and in good standing in the State of Nevada.

C. “CCB” means Nevada’s Cannabis Compliance Board.

D. “Cannabis” has the same meaning as in NRS 678A.085.

E. “Essential Government Services” means services provided by the Tribe including, but not limited to, administration, public facilities, fire, police, health, education, elder care, social services, sewer, water, environmental and land use, transportation, utility services, community development, and economic development.

F. “Indian Country” means the lands of the Tribe, including the Tribe’s Reservation, and all lands held in trust status by the United States for the Tribe or its Tribal Members.

G. “Marijuana,” “edible marijuana products,” “marijuana concentrates,” “marijuana- infused products,” and “useable marijuana” as used in this Agreement shall have the same meanings as in NRS 453.096 or any amendments thereto. Together, these terms shall be referred to as “cannabis product” or “cannabis products.”

H. “Cannabis cultivation facility” means any cannabis cultivator in Indian Country licensed or otherwise allowed by the Tribe pursuant to Timbisha Shoshone Tribe Medical Marijuana Ordinance No. 4A, Sections 4A.056 and 4A.352, and Timbisha Shoshone Tribe Regulation and Taxation of Marijuana Ordinance No. 4B, Sections 4B.003(9.) and 4B.013 to cultivate and sell cannabis at wholesale to cannabis product manufacturing facilities and other cannabis cultivation facilities.

I. “Cannabis dispensary” or “cannabis store” means any cannabis business in Indian Country licensed or otherwise allowed by the Tribe pursuant to the Timbisha Shoshone Tribe Medical Marijuana Ordinance No. 4A, Sections 4A.115 and 4A.352, and Timbisha Shoshone Tribe Regulation and Taxation of Marijuana Ordinance No. 4B, Section 4B.003(17.) to sell or dispense cannabis products.

J. “Cannabis product manufacturing facility” means any cannabis processor in Indian Country licensed or otherwise allowed by the Tribe pursuant to the Timbisha Shoshone Tribe Medical Marijuana Ordinance No. 4A, Section 4A.105, and Timbisha Shoshone Tribe Regulation and Taxation of Marijuana Ordinance No. 4B, Sections 4B.003(10.) and 4B.003(11.) to process cannabis into useable cannabis, cannabis concentrates, and cannabis-infused products, package and label useable cannabis and cannabis infused products for sale to cannabis dispensaries or cannabis stores, and sell cannabis products at wholesale to cannabis dispensaries or cannabis stores.

K. “Department” means the Nevada Department of Taxation.

L. “Parties,” as defined in Part III, means the State and the Tribe.

M. “Tribe’s Law” means any and all Statutes, Law and Order Codes, Ordinances, and Regulations and any amendments thereto that have been or will be adopted by the Tribe related to the regulation of cannabis, including, but not limited to the Timbisha Shoshone Tribe Medical Marijuana Ordinance No. 4A (“Ordinance 4A”), and Timbisha Shoshone Tribe Regulation and Taxation of Marijuana Ordinance No. 4B (“Ordinance 4B”), and Chapters 4A and 4B of the Timbisha Shoshone Tribe Administrative Code.

N. “State,” as defined in Part III, means the State of Nevada.

O. “State Licensee” means any cannabis product manufacturing facility, cannabis cultivation facility, cannabis distributor, cannabis testing facility, adult-use retail cannabis store or medical cannabis dispensary licensed by the State.

P. “State Tax” means any cannabis excise tax or sales and use tax imposed by the State on sales of recreational marijuana and medical marijuana products.

Q. “Tribal Distributor” means a distributor licensed by the Tribe that transports cannabis on behalf of the Tribe in Indian Country.

R. “Tribal Distributor Agent” means an agent of the Tribe who is authorized and carded to work and/or volunteer for a Tribal Distributor.

S. “Tribal Enterprise” means a business or agency owned in whole or in part by the Tribe and authorized to sell cannabis products under the Timbisha Shoshone Tribe’s Law.

T. “Tribal Tax” means a tax imposed by the Tribe on cannabis activities.

U. “Tribe” as defined in Part III, means the Timbisha Shoshone Tribe.

III. Parties

The Parties to this Agreement are the Tribe and the State (collectively, the “Parties”).

The Tribe is located on Tribal Trust Lands, known as the Timbisha Shoshone Tribe, located in Nye County, in the State of Nevada. The Tribe is a federally-recognized Indian tribe possessed of the full sovereign powers of a tribal government.

The State is a state within the United States of America, possessed of the full powers of a state government. The Nevada Department of Taxation (the “Department”) is an executive department of the State government operating under the authority of the Governor, which had statutory authority with respect to cannabis under Nevada Revised Statutes (“NRS”) Chapters 453A and 453D until June 30, 2020. As of July 1, 2020, all statutory authority with respect to cannabis transferred to the Cannabis Compliance Board (“CCB”) and Title 56 of the NRS. The Department still has authority with respect to the taxation of cannabis sales. The Nevada Cannabis Compliance Board Regulations (“NCCR”) are the regulations governing the licensure and administration of cannabis in Nevada.

The Tribe and the State are separate sovereigns, and each recognizes and respects the laws and authority of the other sovereign.

NRS 223.250 allows the Governor to enter into an agreement with any federally-recognized Indian tribe located within the geographical boundaries of Nevada regarding cannabis.

IV. Purpose and History

Historically, the cultivation, possession, delivery, distribution, and sale of cannabis have been illegal across the United States and in Indian Country. In 2016, Nevada voters passed Question 2, which sets forth a tightly regulated, state licensed system allowing for the cultivation, processing, and retail sale of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products for recreational purposes within the State.

While the federal Controlled Substances Act continues to designate marijuana as a Schedule 1 substance, on August 29, 2013, the United States Department of Justice issued a memorandum to all United States Attorneys (the “Cole Memorandum”) setting forth guidance regarding marijuana enforcement. In that memo, James M. Cole, Deputy Attorney General, established eight enforcement priorities of particular importance to the federal government: (1) preventing the distribution of marijuana to minors; (2) preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels; (3) preventing the diversion of marijuana from states

where it is legal under state law in some form to other states; (4) preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity; (5) preventing violence and the use of firearms in the cultivation and distribution of marijuana; (6) preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use; (7) preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and (8) preventing marijuana possession or use on federal property. The Cole Memorandum further stated that the focus of federal law enforcement resources and efforts will be on those whose conduct interferes with the stated priorities and that state and local governments should provide sufficiently robust regulatory and enforcement systems to protect against these harms.

On October 28, 2014, the United States Department of Justice issued another memorandum to all United States Attorneys (the “Wilkinson Memorandum”) providing a policy statement regarding marijuana issues in Indian Country. In that memo, Monty Wilkinson, Director, Executive Office for United States Attorneys, acknowledged that “(t)he eight priorities in the Cole Memorandum will guide United States Attorneys’ marijuana enforcement efforts in Indian Country, including in the event that sovereign Indian Nations seek to legalize the cultivation or use of marijuana in Indian Country.” The Wilkinson Memorandum effectively treated tribal governments the same as state governments in the decision to legalize marijuana.

Through Nevada law and the CCB’s implementing rules, the State has decriminalized the cultivation, possession, delivery, distribution, sale, and use of cannabis in Nevada and has attempted to set forth a civil regulatory system that accomplishes the federal priorities set forth above and keeps cannabis cultivation, processing, and sale in Nevada regulated and safe for the public.

After serious deliberation, the Tribe, as a sovereign nation, has also determined that present day circumstances make a complete ban of cannabis within Indian Country ineffective and unrealistic and has decriminalized its sale and possession in certain circumstances. At the same time, consistent with the federal priorities, the need still exists for strict regulation and control over the cultivation, possession, delivery, distribution, sale, and use of cannabis in Indian Country.

The State and the Tribe recognize the need for cooperation and collaboration with regards to cannabis in Indian Country. The State has authorized the entry of this Agreement by the Compacting Legislation, enacted by the 79th (2017) Session of the Nevada Legislature on May 23, 2017, signed by the Governor on June 2, 2017, effective June 2, 2017. Through this Compacting Legislation, the State authorized the Governor to enter agreements with American Indian tribes concerning the regulation of marijuana.

The Parties share a strong interest in ensuring that cannabis production, processing, and sales in Indian Country are well-regulated to protect public safety and community

interests. The Parties acknowledge that pursuant to federal law, 21 U.S.C. § 812, marijuana is a Schedule I controlled substance and that this Agreement does not protect the sales or regulation of marijuana in Indian Country from federal law; however, the Parties have entered into this Agreement in order to strengthen their ability to meet these mutual interests and to provide a framework for cooperation to ensure a robust tribal and state regulatory and enforcement system sufficient to meet the federal priorities identified in the Cole and Wilkinson Memoranda.

The Parties acknowledge that the laws of the Tribal government relating to the possession, delivery, production, cultivation, processing, testing and use of cannabis, edible cannabis products, cannabis-infused products and cannabis products are at least as restrictive as the provisions of Title 56 of the NRS and any regulations adopted pursuant thereto and the Tribal government is enforcing or will enforce those laws. The Parties acknowledge that updating the laws of the Tribal government is a continuing duty.

The Parties agree that it is in the best interests of the Tribe and the State that they enter into this Agreement to enhance public health and safety, ensure a lawful and well-regulated cannabis market, encourage economic development in Indian Country, and provide fiscal benefits to both the Tribe and the State.

V. Terms

A. Applicability

This Agreement applies to the cultivation, processing, and sale of cannabis products in Indian Country where the Tribe or a Tribal Enterprise (i) delivers, causes delivery to be made to, or receives delivery of cannabis products from a State Licensee,¹ or (ii) physically transfers possession of cannabis products from the seller to the buyer within Indian Country. Except as otherwise provided herein, the cultivation, processing, sale, and possession of cannabis products in Indian Country pursuant to the Tribe's Law and in accordance with this Agreement are not subject to the terms of Title 56 of the NRS, NCCR, and any amendments thereto and any such activities will not be a criminal or civil offense under Nevada state law.

B. Medical Marijuana Dispensary and Retail Store Sales

The Tribe and/or its Tribal Enterprises may sell medical and retail cannabis products in Indian Country pursuant to the Tribe's Law and this Agreement.

1. The Tribe shall notify the CCB at least 30 days prior to the opening of any medical cannabis dispensary or retail store location owned by the Tribe or a Tribal Enterprise. Such notification shall include:

¹ This Agreement does not authorize delivery and retail sales to consumers in non-Indian Country as delineated in subsection B(5) of section V in this Agreement.

- a. The identity of the Tribal entity which is operating the medical cannabis dispensary or retail store location;
- b. Location of the premises; and
- c. Certification that the premises are located in Indian Country.

2. Dispensary sales of all cannabis products by the Tribe and any Tribal Enterprise must be conducted in accordance with the Tribe's Law and the internal policies and controls of the Tribe or Tribal Enterprise. The Tribe's Ordinance 4A and Ordinance 4B, as they exist on the date of this Agreement, are attached as Exhibit A ("Ordinance 4A") and Exhibit B ("Ordinance 4B") respectively. Current copies of the Tribe's Ordinance 4A and Ordinance 4B (in addition to medical marijuana and retail marijuana internal policies and controls of the Tribe and any Tribal Enterprise) will be made available for review by the State upon request. The Tribe agrees to notify the State of any changes to the Tribe's Law that may affect cannabis products within ten (10) working days of the date of adoption by the Tribe.

3. All cannabis products purchased by a medical cannabis dispensary or retail store from a State Licensee will be verified upon delivery in Indian Country, and confirmation of receipt will be made by executing the delivery invoice. The medical cannabis dispensary or retail store will input or cause to be inputted all delivered purchases into the State's tracking system within twenty-four (24) hours of any such delivery.

4. All cannabis products purchased by the Tribe or a Tribal Enterprise from the tribal government, tribal enterprise, or member of another federally-recognized Indian Tribe with a reservation located within Nevada, or sold by the Tribe or a Tribal Enterprise to the tribal government, tribal enterprise, or member of another federally-recognized Indian Tribe with a reservation located within Nevada, will be recorded in either the Tribe's or the State's tracking system within twenty-four (24) hours of any such receipt or delivery. The Tribe and any Tribal Enterprise will make such records available for review by the State upon request.

5. A Tribal Distributor may transport cannabis between the Tribe and any State Licensee, including a medical cannabis and adult-use cannabis dispensary licensed by the State. When a Tribal Distributor transports cannabis in non-Indian Country, the Tribe will require that the Tribal Distributor Agent have in his or her immediate possession, at all times during the transport, an agent card issued by the Tribe and a cannabis establishment agent registration card issued by the State. The Tribe may require State Licensees transporting cannabis in Indian Country to have in his or her immediate possession, at all times during the transport, cannabis establishment agent registration cards issued by the State and the Tribe. The Parties agree that Tribal Distributors and State Licensees must abide by the laws of the State and Tribe when transporting in Indian Country and in non-Indian Country. This Agreement does not authorize the Tribe or any agent of the Tribe to transport cannabis or cannabis products to any person not in Indian Country, other than a State Licensee.

6. The Parties agree to maintain up-to-date websites and/or databases with a list of Tribal Distributors and adult-use cannabis distributors licensed to transport by the State and the Tribes and Tribal Enterprises. The Parties mutually agree to communicate within five business days or as soon as reasonably possible the discipline of a Tribal Transporter and adult-use cannabis distributor for violations of the State and/or the Tribe's Law.

C. Cultivating and Processing of Cannabis Products

The Tribe may allow the cultivating and processing of cannabis products in Indian Country pursuant to the following terms:

1. The Tribe shall notify the CCB at least 90 days prior to the start of operations of any cannabis product manufacturing facility or cannabis cultivation facility by the Tribe or a Tribal Enterprise. Such notifications shall include:

- a. The identity of the Tribal entity which is operating the cannabis product manufacturing facility or cannabis cultivation facility;
- b. Location of the premises; and
- c. Certification that the premises are located in Indian Country.

2. Cultivating and processing of cannabis products by the Tribe and any Tribal Enterprise must be conducted in accordance with the Tribe's Law and the internal policies and controls of the Tribe or Tribal Enterprise. The Tribe's Ordinance 4A and Ordinance 4B as they exist on the date of this Agreement are attached as Exhibits. Current copies of the Tribe's Law and Tribe's Ordinance 4A and Ordinance 4B and any internal cannabis policies and controls of the Tribe and any Tribal Enterprise will be made available for review by the State upon request. The Tribe agrees to notify the State of any changes to the Tribe's Law that may affect cannabis products within ten (10) days of the date of adoption by the Tribe.

3. The State may require that cannabis products sold by cannabis product manufacturing facilities and cannabis cultivation facilities to State Licensees be packaged, tested and labeled in compliance with State cannabis laws. With respect to "edibles," this may include State preapproval of the product packaging and labeling before sale to State Licensees; PROVIDED, that such preapproval shall not be unreasonably withheld and shall be timely provided. All transactions between the Tribe and State Licensees will be executed through the State traceability system following the same rules as State Licensees.

D. State Licensees

1. The Tribe and Tribal Enterprises may purchase cannabis products from or sell cannabis products to State Licensees or any other entity operating under a valid agreement authorized by the Compacting Legislation,

including any amendments thereto, with or otherwise authorized by the State. All transactions between the Tribe and State Licensees must be executed through the State traceability system, and cannabis products purchased from or sold to State Licensees must be tested by a medical or adult-use cannabis independent testing laboratory licensed by the State to equivalent or higher standards as those required by Nevada's cannabis laws. Prior to testing, the Tribe and Tribal Enterprise will input, at a minimum, into the State's traceability system the following information:

- a. Facilities;
- b. Items;
- c. Packages;
- d. Units of Measure;
- e. Lab Tests;
- f. Locations;
- g. Transfers;
- h. Strains;
- i. Plants;
- j. Plant batches; and
- k. Harvests.

Should the categories or information inputted into the State's traceability system need changing or refining, the State will provide notice of the change to the Tribe. If the Tribe is unable to implement the changes within thirty (30) days of the State's notice, the Parties agree to meet to discuss a reasonable time to implement the changes. If the Parties cannot agree on a time to implement the changes, the Tribe may invoke the dispute resolution process described in subsection G of section V. All sales between the Tribe and/or Tribal Enterprise and State Licensees will be suspended until completion of the dispute resolution process.

2. The State will not cite, fine, or otherwise take any other adverse licensing or other action against any State Licensee due to the mere fact that it bought or sold cannabis products from or to the Tribe or a Tribal Enterprise in accordance with the terms of this Agreement and the Tribe's Law.

3. To the extent necessary, the State will work with the Tribe, Tribal Enterprise, and with any State Licensees or otherwise authorized cannabis product manufacturing facilities, cannabis cultivation facilities, medical cannabis dispensaries and retail stores to assure such entities that the Tribe and Tribal Enterprises are legally authorized to purchase and sell cannabis products pursuant to the terms of this Agreement.

E. Taxes

1. State Tax.

a. If a Tribe's cannabis cultivation facility completes a wholesale sale to a state licensed cannabis establishment in non-Indian Country, the excise

tax imposed by NRS 372A.290(1)-(2) must be paid by the Tribes' cannabis cultivation facility to the Department at the rate set forth in the statute multiplied by the fair market value of the cannabis at wholesale (any amendments to, including changes in the applicable tax rate, or subsequent codifications of, the statutes will be applicable).

b. Nothing in this Agreement authorizes the Tribe to make retail sales of cannabis or cannabis products to consumers in non-Indian Country. The location of a retail sale will be determined in accordance with the rules set forth in Chapters 372 and 360B of the NRS and NAC. Such unauthorized sales constitute a material breach of this Agreement. Upon written notification to the Tribe, the State shall be entitled to immediately suspend or terminate this Agreement if the State discovers such unauthorized sales.

c. The State acknowledges that no State Tax or fee, assessment, or other charge imposed by the State or local governments may be assessed against or collected from the Tribe, Tribal Enterprises, State Licensees, or medical marijuana card holders in Indian Country related to any commercial activity related to the production, processing, sale, and possession of cannabis products governed by this Agreement. To the extent Tribal Tax is erroneously collected and remitted to the State, the State shall reimburse any such amount to the Tribe within a reasonable amount of time of discovery by any party. To the extent that any State Tax is erroneously collected and remitted to the Tribe, the Tribe shall reimburse any such amount to the State within a reasonable amount of time of discovery by any party. Any reimbursed amounts received by the Tribe will be used for Essential Government Services. No reimbursement will be granted of State Tax collected from a consumer by State Licensees on the sale of cannabis or cannabis product in non-Indian Country if that cannabis or cannabis product was originally purchased by the State Licensee from the Tribe or Tribal Enterprises. The State Sales Tax must be collected on sales made in non-Indian Country, in accordance with Chapters 372 and 360B of the Nevada Revised Statutes and remitted to the State of Nevada.

2. Tribal Tax.

The Tribe shall impose and maintain a Tribal Tax that is equal to at least 100 percent of the State Tax on all sales of cannabis products in Indian Country, unless (1) the sale is to the Tribe, Tribal Enterprise, or an enrolled member of the Tribe; (2) the transaction is otherwise exempt from State cannabis taxation under state or federal law; or (3) the transaction involves cannabis products used in the course of medical treatments by a clinic, hospital, or similar facility owned and operated by the Tribe within Indian Country. The Tribe may choose to levy a Tribal Tax on any transaction that may otherwise be exempt. While not required under State law, the Tribe agrees to use the proceeds of the Tribal Tax for Essential Government Services or Community Social Programs.

3. Tax Compliance.

At the State's request, the Tribe will obtain, at its own expense, an Auditor to test the Tribe's compliance with this subsection of this Agreement (subsection E of section V). The Auditor will review a sample of records, to be determined by the Auditor, to

verify the requirements of this subsection and will provide the State with a report detailing the results of the testing procedures, to include identification of any instances of noncompliance with the terms of this subsection. This subsection does not limit the State's authority to conduct examinations pursuant to NRS Chapter 360.

F. Safety and Enforcement

The Tribe shall be responsible for and address safety and enforcement issues in accordance with the Tribe's Law, Tribe's Ordinance 4A and Ordinance 4B, this Agreement, and internal policies and controls of the Tribe or Tribal Enterprise.

1. Premises Checks

a. **By the Tribe.** The Tribe's Police Department or other authorized agency may conduct its own premises checks in Indian Country to observe compliance with the Tribe's Law, Tribe's Ordinance 4A and Ordinance 4B, and this Agreement and to provide support and education to Tribal Enterprises and staff. To the extent it is informed of the results of such premises checks, the Tribe's Tribal Council will share the results of the premises checks with the State.

b. **By the State.** The State, through its staff, may also request premises checks to be done by the Tribe's Police Department or any other authorized agency. The State may be, and is authorized to be, present to observe any such check to observe compliance with this Agreement and with the Tribe's Law. The State can observe any part of the program during these checks. The State will contact the Tribe's Police Department or any other authorized agency to provide twenty-four (24) hours' written notice of such premises check. The Tribe's Police Department and/or authorized Tribal authorities must participate in all requested premises checks. The State is not required to be present at all requested premises checks that the State requests the Tribe's Police or any other authorized agency to conduct. The State and Tribe will share the results of such premises checks with Tribe's Tribal Council. The State will not request such checks to cause more than one to be conducted every 30 days unless there is a documented complaint or probable cause to believe that there is a compliance issue. If there is such a non-compliance issue, the State may request a premises check at any time with a twenty-four (24) hours' written notice provided to the Tribe's Police Department or any other authorized agency from the State.

c. **Cooperation.** With regard to Paragraph b., above, both Parties agree to cooperate in good faith to undertake all State-requested premises checks jointly. The Tribe's Police Department and/or authorized Tribal authorities will make reasonable efforts to arrange and conduct all State-requested premises checks within twenty-four (24) hours of receiving written notice of such request by the State. All such written notices shall be sent to the Chief of Police and the Chairman of the Tribe. Should either Party have any concerns arising out of a premises check or the results thereof, the Parties will meet in good faith to discuss any suggested changes to

protocols of the premises checks themselves or of cannabis product sales by the Tribe or Tribal Enterprise that were checked.

2. **Compliance Checks/Minors**

a. **By the Tribe.** The Tribe may conduct its own compliance checks in Indian Country using minors ages 18, 19, or 20 through the Tribe's Police Department or other authorized agency in accordance with Tribal regulations and policies. To the extent it is informed of the results of such checks, the Tribe's Tribal Council will provide the results of the checks to the State. No criminal action may be taken against any minor who purchases marijuana as part of such a compliance check.

b. **By the State.** State staff may also conduct compliance checks. Prior to conducting any such compliance check, the State will contact the Tribe's Police Department or other authorized agency to provide twenty-four (24) hours' written notice of such compliance check. The Tribe's Police Department and/or authorized Tribal authorities must observe and participate in all compliance checks. The State will share the results of such compliance checks with the Tribe's Tribal Council.

c. **Cooperation.** Both Parties will cooperate in good faith to undertake all State-requested compliance checks jointly. The Tribe's Police Department or other authorized agency will make reasonable efforts to arrange and conduct all State-requested compliance checks within twenty-four (24) hours of being provided written notice of such request by the State. All such written notices shall be sent to the Chief of Police and the Chairman of the Tribe. Should either Party have any concerns arising out of a compliance check or the results thereof, the Parties will meet in good faith to discuss any suggested changes to protocols of the compliance checks themselves or of marijuana sales by the Tribe or Tribal Enterprise that were checked.

G. **Dispute Resolution**

Should a dispute arise between the Parties regarding compliance with this Agreement by either Party, or by their officers, employees or agents, the Parties will attempt to resolve the dispute through the following dispute resolution process:

1. **Notice**

Either Party may invoke the dispute resolution process by notifying the other, in writing, of its intent to do so. The notice must set out the issues in dispute and the notifying Party's position on each issue.

2. **Meet and Confer**

The first stage of the process will include a face-to-face meeting between representatives of the two Parties to attempt to resolve the dispute by negotiation. The meeting must be convened within thirty (30) days after the receiving Party's receipt of the written notice described in subsection 1. The representatives of each Party will come to the meeting with the authority to settle the dispute. If the dispute is resolved, the resolution will be memorialized in a writing signed by the Parties.

3. **Mediation**

If the Parties are unable to resolve the dispute within sixty (60) days after the receiving Party's receipt of the written notice sent under subsection 1 above, the Parties will engage the services of a mutually agreed upon qualified mediator to assist them in attempting to negotiate the dispute. Costs for the mediator will be borne equally by the Parties. The Parties will pursue the mediation process in good faith until the dispute is resolved or until the mediator determines that the Parties are not able to resolve the dispute. If the Parties cannot agree on a format for the mediation process, the format will be that directed by the mediator. If the dispute is resolved, the resolution will be memorialized by the mediator in a writing signed by the Parties, which will bind the Parties.

4. **Arbitration**

a. If a Party terminates the dispute resolution process before completion, or if the mediator determines that the dispute cannot be resolved in the mediation process, or if the dispute is not resolved within one hundred twenty (120) days after the date the mediator is selected, either Party may initiate binding arbitration proceedings under the rules of the American Arbitration Association ("AAA"), but the AAA need not administer the arbitration. If the arbitrator determines that a Party is in violation of a material provision of this Agreement, and such violation is not or cannot be cured within thirty (30) days after issuance of the arbitrator's written decision, then the other Party may terminate this Agreement with sixty (60) days' prior written notice;

- i. The arbitrator shall have no authority to award monetary damages or issue injunctive or other equitable relief; and,
- ii. Each Party will bear its own legal costs incurred under this section. All costs of the arbitrator will be shared equally.

b. If after mediation the dispute remains unresolved and binding arbitration is not initiated within one hundred twenty (120) days after the

date the mediator is selected, either Party may terminate this Agreement upon 30 days' written notice sent to the persons listed in section VI of this Agreement.

c. In any action filed by a third party challenging either the Tribe's or the State's authority to enter into or enforce this Agreement, the Parties each agree to support this Agreement and defend their own separate authority to enter into and implement this Agreement; provided, however, that this provision does not waive, and must not be construed as a waiver of, the sovereign immunity of the Tribe, or the State, or any of its subdivisions or enterprises thereof.

H. Termination

This Agreement may be terminated with sixty (60) days' prior written notice that the Tribe is in default if the CCB determines (i) that the Tribal government laws relating to the possession, delivery, cultivation, production, processing, testing and use of cannabis products are not as restrictive as the provisions of Title 56 of the Nevada Revised Statutes and any regulations adopted or any amendments thereto; (ii) that the Tribal government is not enforcing its laws; or (iii) that the Tribal government violated State law or regulations or the terms of this Agreement, provided:

1. The State has given the Tribe written notice detailing the claimed default, and granting the Tribe a 45-day period of time to cure the default. In the event that the State determines that the default has been cured or the Tribe has cured the default or is making satisfactory progress toward the cure of the default during the 45-day period, the notice of default shall be withdrawn;

2. In the event that the State determines that the Tribe has not cured the default, that satisfactory progress in the cure of the default is not being made by the Tribe, or that it is impossible for the Tribe to cure the default within 45 days of the notice of default, then, the State shall give written notice to the Tribe of the State's determination, whereupon, the Tribe may invoke the dispute resolution process of subsection G, above, by giving notice within ten days to the State that the alternative dispute process has been invoked by the Tribe. The outcome of the alternative dispute resolution process will determine whether this Agreement may be terminated by the State, should the alternative dispute process be invoked.

3. Should the Tribe fail or refuse to invoke the alternative dispute process, then, the State's determination to terminate stands.

I. Sovereign Immunity

The State agrees that, except for the limited purpose of resolving disputes in accordance with subsection G, above, the signing of this Agreement by the Tribe does not imply a waiver of sovereign immunity by the Tribe or any of its subdivisions or enterprises and is not intended as a waiver of sovereign immunity and that any action by the State in regard to cannabis regulation by the Tribe shall be in accord with this Agreement. Except as expressly provided otherwise, herein, the Tribe retains its sovereignty and immunity from suit.

J. No Limitation

The Parties agree that the signing of this Agreement and the resultant benefits and obligations shall not be construed as limiting any otherwise lawful activity of the Tribe or its subdivisions or enterprises nor subject the Tribe or its subdivisions or enterprises to any State jurisdiction not agreed to in this Agreement.

VI. Communication and Notice

A. Communication

The Parties agree to maintain regular and open communication regarding the administration and implementation of this Agreement. The Parties agree that the following individuals will be designated primary contacts regarding administration of this Agreement:

For the State:

Office of the Governor
General Counsel
101 N. Carson Street
Carson City, NV 89701
(775) 684-5670

Cannabis Compliance Board
Executive Director
P.O. Box 1948
Carson City, NV 89701
(775) 687-6299

For the Tribe:

Timbisha Shoshone Tribe
Attn: Chairperson
621 West Line Street, Suite 108
Bishop, California 93514
(760) 872-3670

The Parties agree that if either party believes that the goals and objectives of this Agreement are not being met, that they will meet promptly to discuss any issues and concerns.

B. Notice

Any notice that may be or is required to be sent under this Agreement shall be sent as follows:

If to the State:	Office of the Governor General Counsel 101 N. Carson Street Carson City, NV 89701 (775) 684-5670
With a copy to:	Cannabis Compliance Board Executive Director P.O. Box 1948 Carson City, NV 89701 (775) 687-6299
If to the Tribe:	Timbisha Shoshone Tribe Attn: Chairperson 621 West Line Street, Suite 108 Bishop, California 93514 (760) 872-3670
With a copy to:	Norberto J. Cisneros, Esq. MADDOX & CISNEROS, LLP 3230 South Buffalo Drive, Suite 108 Las Vegas, Nevada 89117 (702) 366-1900

VII. Effect, Duration, and Amendment

A. Term

This Agreement shall remain in effect for a term of five (5) years, unless the Parties mutually agree in writing that this Agreement should be vacated or terminated and superseded by a new agreement or compact between the Parties within that time frame. This Agreement shall be automatically renewed for successive periods of five (5) years, unless a party provides written notice to the other, no later than one hundred twenty (120) days before the expiration of the then current five (5) year period that it wishes to modify the terms of this Agreement.

B. Amendment

No amendment or alteration of this Agreement shall arise by implication or course of conduct. This Agreement may be altered only by a subsequent written document, approved by the Parties, expressly stating the Parties' intention to amend this Agreement.

C. Severability

If any provision of this Agreement or its application to any person or circumstance is held invalid, the remainder of this Agreement is not affected.

D. Change in Classification

If the classification of marijuana as a Schedule I drug is altered in any way or current federal marijuana enforcement policy substantively changes, the Parties agree to meet and discuss the need to modify this Agreement. If such modifications cannot be agreed upon, then either Party may invoke the dispute resolution process described in subsection G of section V, above.

This Agreement is hereby made this 26 day of March, 2021.

STATE OF NEVADA

TIMBISHA SHOSHONE TRIBE



Governor



Chairperson Jimmy-John Thompson

EXHIBIT A

EXHIBIT A

**TIMBISHA SHOSHONE TRIBE
MEDICAL MARIJUANA ORDINANCE
ORDINANCE NO. 4A
Adopted March 15, 2021**

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ORDINANCE 4A SECTIONS

GENERAL PROVISIONS

SECTION 4A.001 Short Title. The Timbisha Shoshone Medical Marijuana Ordinance No. 4 may be cited as the Medical Marijuana Ordinance, or Ordinance 4A.

SECTION 4A.002 Findings and Purpose. The Timbisha Shoshone hereby finds and declares that: The United States recognizes Indian tribes as domestic dependent nations with sovereignty over their members and territories.

1. The Federal Controlled Substances Act, 21 U.S.C. Section 801, *et seq.*, classifies marijuana as a Schedule 1 drug and prohibits any possession or use of marijuana except in the course of federally approved research projects. The Controlled Substances Act makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana.

2. On August 29, 2013, U.S. Division of Justice Deputy Attorney General James M. Cole issued a memorandum to all United States Attorneys providing updated guidance to federal prosecutors concerning marijuana enforcement under the federal Controlled Substances Act. The guidance memorandum applies to all of the Division of Justice's federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states. The guidance memorandum reiterates Congress's determination that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The guidance memorandum notes that the Division of Justice is committed to enforcement of the Controlled Substances Act consistent with those determinations. It also notes that the Division of Justice is committed to using its investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, the guidance memorandum provides guidance to the Division of Justice attorneys and law enforcement to focus their enforcement resources on persons or organizations whose conduct interferes with any one or more of the following important priorities:

- (a) preventing the distribution of marijuana to minors;
- (b) preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- (c) preventing the diversion of marijuana from states where it is legal under state law in some form to other states
- (d) preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- (e) preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- (f) preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- (g) preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- (h) preventing marijuana possession or use on federal property.

3. On October 28, 2014 the United States Division of Justice, Executive Office for United States Attorneys Director Monty Wilkinson issued a memorandum to all United States Attorneys entitled "Policy Statement Regarding Marijuana Issues in Indian Country." This memorandum states that the eight priorities in the August 29, 2013, guidance memorandum will also guide United States Attorneys' marijuana enforcement efforts in Indian Country, including in the event that sovereign Indian Nations seek to legalize the cultivation or use of marijuana in Indian Country. This memorandum states each United States Attorney should consult with the affected tribes on a government-to-government basis when evaluating marijuana enforcement activities in Indian Country.

4. Article V, Section 2., of the Timbisha Shoshone Tribal Constitution authorizes the governing body of the Tribe to engage in business activities which promote the economic well-being of the Tribe and its members. The Timbisha Shoshone intends to scrupulously abide by the letter and spirit of the Cole and Wilkinson memoranda.

5. The Timbisha Shoshone Tribe has decided to open lands within its jurisdiction to the possession, consumption, cultivation, processing and distribution of marijuana by enacting the Medical Marijuana Ordinance and the regulations that may be promulgated thereunder.

6. The Timbisha Shoshone Tribal Council finds as a matter of fact that the medical use of marijuana provides a more humane and compassionate regimen of medical treatment for debilitating, chronic and acute illnesses and serious medical conditions including, by way of illustration, but not limited to, acquired immune deficiency anemia syndrome, diabetes, severe chronic nausea, severe pain, cancer, glaucoma, and other conditions of similar magnitude by relieving pain, in some cases enhancing the effects of traditional medicines and medical treatment, all of which leads to a healthier environment for Tribal members and members of the community at large.

7. The Timbisha Shoshone Tribe's decision through its Tribal Council to legalize the medical use of marijuana on the Reservation was driven by the Tribe's concern for and the promotion of the general health and welfare of Tribal members as well as the health and welfare of the community at large which the Tribal Council finds, as a matter of fact, is enhanced through the legalization of medical marijuana use on the Reservation.

8. The Timbisha Shoshone Tribe has further determined that the recreational use of marijuana and the sale of recreational marijuana in a manner that is scrupulously consistent with the Cole and Wilkinson memoranda and in compliance with any Compact reached with the State of Nevada is in the best interest of the Tribe and the Tribal members.

SECTION 4A.003 Control of Marijuana.

1. The Timbisha Shoshone's Medical Marijuana Ordinance and the regulations that may be promulgated thereunder shall govern the cultivation, processing, and distribution of marijuana on the Reservation and Colony and will provide an additional source of revenue for Tribal essential governmental services and social programs.

2. Tribal regulation of the possession, consumption, cultivation, processing, distribution and sale of marijuana on the Reservation is necessary to protect the health, security, and general welfare of the Tribal community. In order to further these goals and to provide an additional source of governmental revenue, the Tribe has enacted Timbisha Shoshone's Medical Marijuana Ordinance and the regulations that may be promulgated thereunder, which shall be liberally construed to fulfill the purposes for which it has been adopted.

3. Nothing in Timbisha Shoshone's Medical Marijuana Ordinance and the regulations that may be promulgated thereunder shall be deemed to be in positive conflict with the Controlled Substances Act, 21 U.S.C. Section 801, *et seq.*

4. Nothing in Timbisha Shoshone's Medical Marijuana Ordinance and the regulations that may be promulgated thereunder shall be deemed to create a protected property interest in cultivating, marketing and/or distributing marijuana for medical use or otherwise engaging in the compassionate medical marijuana business or industry, even when authorized or licensed by the Tribe as provided for herein.

5. Timbisha Shoshone's Medical Marijuana Ordinance and the regulations that may be promulgated thereunder shall be interpreted according to, deemed to be consistent with and applied consistently with the Cole and Wilkinson memoranda. Should additional guidance by the Division of Justice, or any related Agency thereof, be issued, this Ordinance shall be interpreted and applied so that the additional guidance and this Ordinance are not in conflict.

SECTION 4A.004 Sovereign Immunity. Nothing in Timbisha Shoshone's Medical Marijuana Ordinance and the regulations that may be promulgated thereunder shall be construed to limit the jurisdiction of the Tribe, the Tribal Court or Tribal law enforcement personnel and nothing herein shall limit or constitute a waiver of the sovereign immunity of the Tribe or its officers, instrumentalities, employees, elected officials, and agents or authorize any form of a prospective waiver of such sovereign immunity.

SECTION 4A.005 Authorization to Engage in the Marijuana Business and Industry. The Tribe is hereby authorized pursuant to this Ordinance to engage in or authorize the engagement in all facets of the Marijuana Business and Industry of any kind or nature whatsoever, either directly or indirectly through, but not limited to, the Tribe, itself, wholly owned Tribal subsidiaries, wholly owned Tribal affiliates, agencies of the Tribe, political subdivisions of the Tribe, divisions of the Tribe or any other wholly owned Tribal business entity or arrangement. Neither the Tribe nor its wholly owned subsidiaries, affiliates, agencies, political subdivisions or any other wholly owned Tribal business entity or arrangement must be licensed as provided by this Ordinance, but the Tribe's Marijuana Business and Industry shall be conducted consistent with the terms and conditions of this Ordinance.

The Tribe is hereby also authorized to engage in the Marijuana Business and Industry with non-Tribal persons, entities and business, provided that the Tribe owns more than 50 percent of the business in which the Tribe is engaged with the non-Tribal person, entity, or business. The non-Tribal person, business or entity engaged in the Marijuana Business and Industry with the Tribe

must be licensed pursuant to this Ordinance to be engaged with the Tribe in the Marijuana Business and Industry on Tribal land.

Except for a testing laboratory, a non-Tribal person, entity or business may not be engaged in the Marijuana Business or Industry as a marijuana establishment unless participating with the Tribe wherein the Tribe owns more than 50 percent of the marijuana establishment or marijuana business or industry within which the Tribe and non-Tribal person, entity or business are engaged.

SECTION 4A.010 Definitions. As used in this Title, unless the context otherwise requires, the words and terms defined in Section 4A.020 to Section 4A.170, inclusive, have the meanings ascribed to them in those sections.

SECTION 4A.020 “Administer” defined. “Administer,” in relation to drugs, means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

1. A practitioner or, in the practitioner’s presence, by the practitioner’s authorized agent;
or
2. The patient or research subject at the direction and in the presence of the practitioner.

SECTION 4A.030 “Attending physician” defined. “Attending physician” means a physician who:

1. Is licensed to practice:
 - (a) Medicine pursuant to the provisions of Chapter 630 of NRS; or
 - (b) Osteopathic medicine pursuant to the provisions of Chapter 633 of NRS; and
2. Has responsibility for the care and treatment of a person diagnosed with a chronic or debilitating medical condition.

SECTION 4A.035 “Board” defined. “Board” means the Timbisha Community Development Authority created by the Timbisha Shoshone Tribal Council with responsibilities as stated in this Ordinance.

SECTION 4A.040 “Cachexia” defined. “Cachexia” means general physical wasting and malnutrition associated with chronic disease.

SECTION 4A.050 “Chronic or debilitating medical condition” defined. “Chronic or debilitating medical condition” means:

1. Acquired immune deficiency syndrome;
2. Cancer;
3. Any end of life condition;

4. Glaucoma;

5. A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:

- (a) Cachexia;
- (b) Persistent muscle spasms, including, without limitation, spasms caused by multiple sclerosis;
- (c) Seizures, including, without limitation, seizures caused by epilepsy;
- (d) Severe nausea;
- (e) Severe pain;
- (f) Post traumatic stress disorder; or
- (g) Symptoms associated with end of life or long-term hospice care, which may include physical, mental, or emotional symptoms; or

6. Any other medical condition or treatment for a medical condition that is:

- (a) Classified as a chronic or debilitating medical condition by regulation of the Board; or
- (b) Approved as a chronic or debilitating medical condition pursuant to a petition submitted in accordance with Section 4A.710.

7. Treatment for addiction of one or more of the following;

- (a) Opioid
- (b) Methamphetamine
- (c) Cocaine in any form
- (d) Alcohol
- (e) Mental and personality addictions.

SECTION 4A.051 “Commission” defined. “Commission” means the Inter-Tribal Marijuana Commission.

SECTION 4A.053 “Crime of violence” defined. [Effective through June 30, 2020.] “Crime of violence” means any felony:

- 1. Involving the use or threatened use of force or violence against the person or property of another; or
- 2. For which there is a substantial risk that force or violence may be used against the person or property of another in the commission of the felony.

SECTION 4A.056 “Cultivation facility” defined. “Cultivation facility” means a business that:

- 1. Is registered with the Division pursuant to Section 4A.322; and
- 2. Acquires, possesses, cultivates, delivers, transfers, transports, supplies or sells marijuana and related supplies to:
 - (a) Medical marijuana dispensaries;
 - (b) Facilities for the production of edible marijuana products or marijuana-infused products; or
 - (c) Other cultivation facilities.

SECTION 4A.060 “Deliver” and “delivery” defined. “Deliver” or “delivery” means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

SECTION 4A.080 “Designated primary caregiver” defined.

1. “Designated primary caregiver” means a person who:
 - (a) Is 18 years of age or older;
 - (b) Has significant responsibility for managing the well-being of a person diagnosed with a chronic or debilitating medical condition; and
 - (c) Is designated as such in the manner required pursuant to Section 4A.250.

2. The term does not include the attending physician of a person diagnosed with a chronic or debilitating medical condition.

SECTION 4A.090 “Division” defined. “Division” means the Tribal Marijuana Enforcement Division responsible for the oversight and enforcement of the rules that govern the marijuana programs as adopted by the Timbisha Shoshone Tribe and/or the Board.

SECTION 4A.100 “Drug paraphernalia” defined. See Section 4A.125.

SECTION 4A.101 “Edible marijuana products” defined. “Edible marijuana products” means products that:

1. Contain marijuana or an extract thereof;
2. Are intended for human or animal consumption by oral ingestion; and
3. Are presented in the form of foodstuffs, extracts, oils, tinctures and other similar products.

SECTION 4A.102 “Electronic verification system” defined. “Electronic verification system” means an electronic database that:

1. Keeps track of data in real time; and
2. Is accessible by the Division and by registered medical marijuana establishments.

SECTION 4A.103 “Enclosed, locked facility” defined. “Enclosed, locked facility” means a closet, display case, room, greenhouse, fenced area, or other enclosed area that meets the requirements of Section 4A.362 and is equipped with locks or other security devices that allow access only by a medical marijuana establishment agent and the holder of a valid registry identification card.

SECTION 4A.104 “Excluded felony offense” defined.

1. “Excluded felony offense” means:

- (a) A crime of violence; or
- (b) A violation of a state or federal law pertaining to controlled substances, if the law was punishable as a felony in the jurisdiction where the person was convicted.

2. The term does not include:

- (a) A criminal offense for which the sentence, including any term of probation, incarceration or supervised release, was completed more than 10 years before; or
- (b) An offense involving conduct that would be immune from arrest, prosecution or penalty pursuant to the Tribe's laws.

SECTION 4A.105 “Facility for the production of edible marijuana products or marijuana-infused products” defined. “Facility for the production of edible marijuana products or marijuana-infused products” means a business that:

- 1. Is registered with the Division pursuant to Section 4A.322; and
- 2. Acquires, possesses, manufactures, delivers, transfers, transports, supplies or sells edible marijuana products or marijuana-infused products to medical marijuana dispensaries.

SECTION 4A.108 “Inventory control system” defined. “Inventory control system” means a process, device or other contrivance that may be used to monitor the chain of custody of marijuana used for medical purposes from the point of cultivation to the end consumer.

SECTION 4A.110 “Marijuana” defined.

- 1. “Marijuana” means:
 - (a) All parts of any plant of the genus Cannabis, whether growing or not;
 - (b) The seeds thereof;
 - (c) The resin extracted from any part of the plant, including concentrated cannabis;and
 - (d) Every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.

- 2. “Marijuana” does not include:
 - (a) Industrial hemp, as defined in NRS 557.040, which is grown or cultivated pursuant to the provisions of Chapter 557 of NRS; or
 - (b) The mature stems of the plant, fiber produced from the stems, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stems (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

SECTION 4A.112 “Marijuana-infused products” defined.

- 1. “Marijuana-infused products” means products that:
 - (a) Are infused with marijuana or an extract thereof; and
 - (b) Are intended for use or consumption by humans or animals through means other than inhalation or oral ingestion.

2. The term includes, without limitation, topical products, ointments, oils and tinctures.

SECTION 4A.115 “Medical marijuana dispensary” defined. “Medical marijuana dispensary” means a business that:

1. Is registered with the Division pursuant to Section 4A.322; and
2. Acquires, possesses, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to the holder of a valid registry identification card.

SECTION 4A.116 “Medical marijuana establishment” defined. “Medical marijuana establishment” means an entity owned by the Tribe including:

1. A testing laboratory;
2. A cultivation facility;
3. A facility for the production of edible marijuana products or marijuana-infused products;
4. A medical marijuana dispensary; or
5. A business that has registered with the Division and paid the requisite fees to act as more than one of the types of businesses listed in subsections 1, 2, 3 and 4.

SECTION 4A.117 “Medical marijuana establishment agent” defined. “Medical marijuana establishment agent” means an owner, officer, board member, employee or volunteer of a medical marijuana establishment, an independent contractor who provides labor relating to the cultivation or processing of marijuana or the production of usable marijuana, edible marijuana products or marijuana-infused products for a medical marijuana establishment or an employee of such an independent contractor.

SECTION 4A.118 “Medical marijuana establishment agent registration card” defined. “Medical marijuana establishment agent registration card” means a registration card that is issued by the Division pursuant to Section 4A.332 to authorize a person to volunteer or work at a medical marijuana establishment.

SECTION 4A.119 “Medical marijuana establishment registration certificate” defined. “Medical marijuana establishment registration certificate” means a registration certificate that is issued by the Division pursuant to Section 4A.332 to authorize the operation of a medical marijuana establishment.

SECTION 4A.120 “Medical use of marijuana” defined. “Medical use of marijuana” means:

1. The possession, delivery, production or use of marijuana;
2. The possession, delivery or use of paraphernalia used to administer marijuana; or

3. Any combination of the acts described in subsections 1 and 2, as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of his or her chronic or debilitating medical condition.

SECTION 4A.123 “NRS” defined. “NRS” means the Nevada Revised Statutes.

SECTION 4A.124 “Ordinance” defined. “Ordinance” means the Timbisha Shoshone Tribe’s Ordinances.

SECTION 4A.125 “Paraphernalia” defined. “Paraphernalia” or “drug paraphernalia” means accessories, devices and other equipment that is necessary or useful for a person to engage in the medical use of marijuana.

SECTION 4A.130 “Production” defined. “Production” or “produce” includes the manufacturing of a controlled substance and the planting, cultivation, growing or harvesting of a plant from which a controlled substance is derived.

SECTION 4A.140 “Registry identification card” defined. “Registry identification card” means a document issued by the Division or its designee that identifies:

1. A person who is exempt from Tribal, State or Federal prosecution for engaging in the medical use of marijuana; or
2. The designated primary caregiver, if any, of a person described in Subsection 1.

SECTION 4A.141 “Remote medical care” defined. “Remote medical care” means that an attending physician may employ nontraditional means of reaching patients in need of medical care. “Remote medical care” is limited to conducting house calls or telemedicine care.

SECTION 4A.142 “Telemedicine care” defined. “Telemedicine care” means that an attending physician may employ electronic methods such as, but not limited to: interactive video, store and forward, smartphone interfaces, and voice calling, along with associated devices, to reach patients in need of medical care, in lieu of face to face encounters.

SECTION 4A.144 “Testing laboratory” defined. “Testing laboratory” means a facility described in Section 4A.368.

SECTION 4A.146 “Tribe” defined. “Tribe” means the Timbisha Shoshone Tribe, a federally recognized Indian tribe.

SECTION 4A.147 “Tribal Court” defined. “Tribal Court” means the court system created and administered by the Tribe through its Ordinances.

SECTION 4A.148 “Tribal Lands” defined. “Tribal Lands” means the Timbisha Shoshone Tribe lands, and any lands added thereto whether held in trust by the United States for the benefit of the Tribe or owned by the tribe and not in trust.

SECTION 4A.149 “Tribal Police Department” defined. “Tribal Police Department” means the Timbisha Shoshone Police Department.

SECTION 4A.150 “Tribal, State or Federal prosecution” defined. “Tribal, State or Federal prosecution” means prosecution initiated or maintained by the Tribe or an agency or political subdivision of the Tribe.

SECTION 4A.155 “THC” defined. “THC” means:

1. Delta-9-tetrahydrocannabinol;
2. Delta-8-tetrahydrocannabinol; and
3. The optical isomers of such substances.

SECTION 4A.160 “Usable marijuana” defined. “Usable marijuana” means the dried leaves and flowers of a plant of the genus Cannabis, and any mixture or preparation thereof, that are appropriate for the medical use of marijuana; and

SECTION 4A.170 “Written documentation” defined. “Written documentation” means:

1. A statement signed by the attending physician of a person diagnosed with a chronic or debilitating medical condition; or
2. Copies of the relevant medical records of a person diagnosed with a chronic or debilitating medical condition.

LIMITED EXEMPTION FROM TRIBAL, STATE OR FEDERAL PROSECUTION; REGISTRY IDENTIFICATION CARDS

SECTION 4A.200 Holder of valid registry identification card or medical marijuana establishment registration certificate exempt from Tribal, State or Federal prosecution for certain acts involving marijuana and paraphernalia; no crime for mere presence in vicinity of medical use of marijuana; limitation on exemption from Tribal, State or Federal prosecution; affirmative defense; holder of patient registry registration card prohibited from cultivating, growing, or producing marijuana on Tribal lands.

1. Except as otherwise provided in this Section and Section 4A.300, a person who holds a valid registry identification card issued to the person pursuant to Section 4A.220 or 4A.250 is exempt from Tribal, State or Federal prosecution for:

- (a) Possession or delivery of marijuana;
- (b) Possession or delivery of paraphernalia;
- (c) Aiding and abetting another in the possession or delivery of marijuana;
- (d) Aiding and abetting another in the possession or delivery of paraphernalia;
- (e) Any combination of the acts described in paragraphs (a) to (d), inclusive; and

(f) Any other criminal offense in which the possession or delivery of marijuana or the possession or delivery of paraphernalia is an element.

2. In addition to the provisions of Subsections 1 and 5, no person may be subject to Tribal, State or Federal prosecution for constructive possession, conspiracy or any other criminal offense solely for being in the presence or vicinity of the medical use of marijuana in accordance with the provisions of this Title.

3. The exemption from Tribal, State or Federal prosecution set forth in Subsection 1 applies only to the extent that a person who holds a registry identification card issued to the person pursuant to Section 4A.220 and the designated primary caregiver, if any, of such a person:

(a) Engage in or assist in, as applicable, the medical use of marijuana in accordance with the provisions of this Title as justified to mitigate the symptoms or effects of the person's chronic or debilitating medical condition; and

(b) Do not, at any one time, collectively possess or deliver more than:

(1) Two and one-half ounces of usable marijuana; and

(2) A maximum allowable quantity of edible marijuana products and marijuana-infused products as established by regulation of the Board.

The persons described in this Subsection must ensure that the usable marijuana described in this Subsection is safeguarded in an enclosed, secure location.

4. If the persons described in Subsection 3 possess or delivers marijuana in an amount that exceeds the amount described in paragraph (b) of that Subsection, those persons:

(a) Are not exempt from Tribal, State or Federal prosecution for possession, delivery or production of marijuana.

(b) May establish an affirmative defense to charges of possession, delivery or production of marijuana, or any combination of those acts, in the manner set forth in Section 4A.310.

5. A person who holds a valid medical marijuana establishment registration certificate issued to the person pursuant to Section 4A.322 or a valid medical marijuana establishment agent registration card issued to the person pursuant to Section 4A.332, and who confines his or her activities to those authorized by Sections 4A.320 to 4A.370, inclusive, and the regulations adopted by the Board pursuant thereto, is exempt from Tribal, State or Federal prosecution for:

(a) Possession, delivery or production of marijuana;

(b) Possession or delivery of paraphernalia;

(c) Aiding and abetting another in the possession, delivery or production of marijuana;

(d) Aiding and abetting another in the possession or delivery of paraphernalia;

(e) Any combination of the acts described in paragraphs (a) to (d), inclusive; and

(f) Any other criminal offense in which the possession, delivery or production of marijuana or the possession or delivery of paraphernalia is an element.

6. As used in this Section, "marijuana" includes, without limitation, edible marijuana products and marijuana-infused products.

7. A person who holds a valid registry identification card issued to the person pursuant to Section 4A.220 or 4A.250, or pursuant to NRS 453A.220 or 453A.250, and any designated primary caregiver, are prohibited from, and not authorized to cultivate or grow marijuana on Tribal lands for any reason.

SECTION 4A.210 Registry identification cards: Program for issuance; application; required accompanying information; distribution of copies of application; verification of information contained in application; permissible grounds for denial of application; judicial review of decision to deny application; reapplication; applicant and caregiver deemed to hold card pending approval or denial of application.

1. The Division shall establish and maintain a program for the issuance of registry identification cards to persons who meet the requirements of this Section.

2. Except as otherwise provided in Subsections 3 and 5 and Section 4A.225, the Division or its designee shall issue a registry identification card to Native Americans who are members of a federally recognized Indian Tribe and who submit an application on a form prescribed by the Division accompanied by the following:

(a) Valid, written documentation from the person's attending physician after a qualified medical examination, which may be conducted in person or through remote medical care, stating that:

(1) The person has been diagnosed with a chronic or debilitating medical condition;

(2) The medical use of marijuana may mitigate the symptoms or effects of that condition; and

(3) The attending physician has explained the possible risks and benefits of the medical use of marijuana;

(b) The name, address, telephone number, and date of birth of the person;

(c) Proof satisfactory to the Division of that person's residency;

(d) The name, address and telephone number of the person's attending physician;

(e) If the person elects to designate a primary caregiver at the time of application:

(1) The name, address, telephone number and of the designated primary caregiver; and

(2) A written, signed statement from the person's attending physician in which the attending physician approves of the designation of the primary caregiver; and

(f) If the person elects to designate a medical marijuana dispensary at the time of application, the name of the medical marijuana dispensary.

3. The Division or its designee shall issue a registry identification card to a person who is under 18 years of age if:

(a) The person submits the materials required pursuant to Subsection 2; and

(b) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age signs a written statement setting forth that:

(1) The attending physician of the person under 18 years of age has explained to that person and to the custodial parent or legal guardian with responsibility for health

care decisions for the person under 18 years of age the possible risks and benefits of the medical use of marijuana;

(2) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age consents to the use of marijuana by the person under 18 years of age for medical purposes;

(3) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to serve as the designated primary caregiver for the person under 18 years of age; and

(4) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to control the acquisition of marijuana and the dosage and frequency of use by the person under 18 years of age.

4. Upon receipt of an application on the form prescribed by the Division that is completed and submitted pursuant to this Section, the Division shall:

(a) Record on the application the date on which it was received; and

(b) Retain the form of the application for the records of the Division.

5. The Division shall verify the information contained in an application submitted pursuant to this Section and shall approve or deny an application within 30 days after receiving the application. The Division may contact an applicant, the applicant's attending physician and designated primary caregiver, if any, by telephone to determine that the information provided on or accompanying the application is accurate. The Division may deny an application only on the following grounds:

(a) The applicant failed to provide the information required pursuant to Subsections 2 and 3 to:

(1) Establish the applicant's chronic or debilitating medical condition; or

(2) Document the applicant's consultation with an attending physician regarding the medical use of marijuana in connection with that condition;

(b) The applicant failed to comply with regulations adopted by the Board, including, without limitation, the regulations adopted by the Administrator pursuant to Section 4A.720;

(c) The Division determines that the information provided by the applicant was falsified;

(d) The Division determines that the attending physician of the applicant is not licensed to practice medicine or osteopathic medicine or is not in good standing, as reported by the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable;

(e) The Division has prohibited the applicant from obtaining or using a registry identification card pursuant to Subsection 4A.300.2;

(f) The Division determines that the applicant, or the applicant's designated primary caregiver, if applicable, has had a registry identification card revoked pursuant to Section 4A.225; or

(g) In the case of a person under 18 years of age, the custodial parent or legal guardian with responsibility for health care decisions for the person has not signed the written statement required pursuant to paragraph (b) of Subsection 3.

6. The decision of the Division to deny an application for a registry identification card is a final decision for the purposes of judicial review. Only the person whose application has been denied or, in the case of a person under 18 years of age whose application has been denied, the person's parent or legal guardian, has standing to contest the determination of the Division. A judicial review authorized pursuant to this Subsection must be limited to a determination of whether the denial was arbitrary, capricious or otherwise characterized by an abuse of discretion and must be conducted in accordance with the procedures set forth in the Tribe's Ordinance for reviewing a final decision of an agency, or if no such provisions are provided, as any other civil case.

7. A person whose application has been denied may not reapply for 6 months after the date of the denial, unless the Division or the Tribal Court authorizes reapplication in a shorter time.

8. Except as otherwise provided in this Subsection, if a person has applied for a registry identification card pursuant to this Section and the Division has not yet approved or denied the application, the person, and the person's designated primary caregiver, if any, shall be deemed to hold a registry identification card upon the presentation to a law enforcement officer of the copy of the application.

9. An attending provider of health care who signs an application pursuant to subsection 2 for a patient shall maintain valid, written documentation in the file the attending provider of health care maintains for the patient and make such written documentation available to the Division upon request.

SECTION 4A.220 Registry identification cards: Issuance to applicant; issuance to primary caregiver if primary caregiver has been designated at time of application; required contents; duration; renewal.

1. If the Division approves an application pursuant to Section 4A.220, the Division or its designee shall, as soon as practicable after the Division approves the application, issue a serially numbered registry identification card to the applicant; and

2. A registry identification card issued pursuant to Subsection 1(a) must set forth:

- (a) The name, address, photograph and date of birth of the applicant;
- (b) The date of issuance and date of expiration of the registry identification card;
- (c) The name, address, and date of birth of the primary caregiver, if any;
- (d) The name of the applicant's designated medical marijuana dispensary, if any;
- (e) Any other information prescribed by regulation of the Board.

3. A registry identification card issued pursuant to Subsection 1(b) must set forth:

- (a) The name, address and photograph of the designated primary caregiver;
- (b) The date of issuance and date of expiration of the registry identification card;
- (c) The name and address of the applicant for whom the person is the designated primary caregiver; and
- (d) Any other information prescribed by regulation of the Board.

4. Except as otherwise provided in Section 4A.225, and Subsection 4A.300(2), a registry identification card issued pursuant to Section 4A.220 is valid for a period of 1 year and may be renewed in accordance with regulations adopted by the Board.

SECTION 4A.225 Registry identification cards: Revocation; duties; judicial review; reapplication prohibited for 12 months.

1. If, at any time after the Division or its designee has issued a registry identification card to a person pursuant to Subsection 4A.220 or pursuant to Section 4A.250, the Division determines, on the basis of official documents or records or other credible evidence, that the person provided falsified information on his or her application to the Division or its designee, as described in Subsection 4A.210(5)(c), the Division shall immediately revoke the registry identification card issued to that person and shall immediately revoke the registry identification card issued to that person's designated primary caregiver, if any.

2. Upon the revocation of a registry identification card or letter of approval pursuant to this Section:

(a) The Division shall send, by certified mail, return receipt requested, notice to the person whose registry identification card or letter of approval has been revoked, advising the person of the requirements of paragraph (b); and

(b) The person shall return his or her registry identification card or letter of approval to the Division within 7 days after receiving the notice sent pursuant to paragraph (a).

3. The decision of the Board to revoke a registry identification card pursuant to this Section is a final decision for the purposes of judicial review.

4. A person whose registry identification card has been revoked pursuant to this Section may not reapply for a registry identification card pursuant to Section 4A.210 for 12 months after the date of the revocation, unless the Division or the Tribal Court authorizes reapplication in a shorter time.

SECTION 4A.230 Registry identification card: Holder to notify Division of certain changes in information; required annual update of documentation from attending physician; designation of primary caregiver after initial issuance of card; deemed expiration of card.

1. A person to whom the Division or its designee has issued a registry identification card pursuant to Section 4A.220 shall, in accordance with regulations adopted by the Board:

(a) Notify the Division of any change in the person's name, address, telephone number, designated medical marijuana dispensary, attending physician or designated primary caregiver, if any; and

(b) Submit annually to the Division:

(1) Updated written documentation from the person's attending physician in which the attending physician sets forth that:

(I) The person continues to suffer from a chronic or debilitating medical condition;

(II) The medical use of marijuana may mitigate the symptoms or effects of that condition; and

(III) The attending physician has explained to the person the possible risks and benefits of the medical use of marijuana; and

(2) If the person elects to designate a primary caregiver for the subsequent year and the primary caregiver so designated was not the person's designated primary caregiver during the previous year, the name, address, telephone number and social security number of the designated primary caregiver.

2. If a person fails to comply with the provisions of Subsection 1, the registry identification card issued to the person shall be deemed expired. If the registry identification card of a person to whom the Division or its designee issued the card pursuant to Subsection 4A.220 is deemed expired pursuant to this Subsection, a registry identification card issued to the person's designated primary caregiver, if any, shall also be deemed expired.

3. If a person fails to comply with the provisions of subsection 1 or 2, the registry identification card issued to the person shall be deemed expired. If the registry identification card of a person to whom the Division or its designee issued the card or letter pursuant to paragraph (a) of subsection 1 of Section 4A.220 is deemed expired pursuant to this subsection, a registry identification card issued to the person's designated primary caregiver, if any, shall also be deemed expired. Upon the deemed expiration of a registry identification card or letter of approval pursuant to this subsection:

(a) The Division shall send, by certified mail, return receipt requested, notice to the person whose registry identification card or letter of approval has been deemed expired, advising the person of the requirements of paragraph (b); and

(b) The person shall return his or her registry identification card or letter of approval to the Division within 7 days after receiving the notice sent pursuant to paragraph (a).

SECTION 4A.240 Registry identification cards: Card to be returned to Division following diagnosis of absence of chronic or debilitating medical condition. If a person to whom the Division or its designee has issued a registry identification card pursuant to Section 4A.220 is diagnosed by the person's attending physician as no longer having a chronic or debilitating medical condition, the person and his or her designated primary caregiver, if any, shall return their registry identification cards to the Division within 7 days after notification of the diagnosis.

SECTION 4A.250 Registry identification cards: General requirements concerning designation of primary caregiver; user of medical marijuana not to have more than one designated primary caregiver; timing of issuance of card to caregiver if caregiver designated after initial issuance of card to patient.

1. If a person who applies to the Division for a registry identification card or to whom the Division or its designee has issued a registry identification card pursuant to Section 4A.220 desires to designate a primary caregiver, the person must:

(a) To designate a primary caregiver at the time of application, submit to the Division the information required pursuant to Subsection 4A.210(2)(e); or

(b) To designate a primary caregiver after the Division or its designee has issued a registry identification card to the person, submit to the Division the information required pursuant to Subsection 4A.230(1)(b)(2).

2. A person may have only one designated primary caregiver at any one time.

3. If a person designates a primary caregiver after the time that the person initially applies for a registry identification card, the Division or its designee shall, except as otherwise provided in Subsection 4A.210(5), issue a registry identification card to the designated primary caregiver as soon as practicable after receiving the information submitted pursuant to Subsection 4A.250(1)(b).

PROHIBITED ACTS; AFFIRMATIVE DEFENSES

SECTION 4A.300 Acts for which registry identification cardholder is not exempt from Tribal, State or Federal prosecution and may not raise affirmative defense; additional penalty.

1. A person who holds a registry identification card issued to him or her pursuant to Section 4A.220 or 4A.250 is not exempt from Tribal, State or Federal prosecution for, nor may the person establish an affirmative defense to charges arising from, any of the following acts:

(a) Driving, operating or being in actual physical control of a vehicle, vessel or aircraft under power or sail while at the same instant, in the actual act of using marijuana, or while under the influence of marijuana determined by an accepted and recognized testing method.

(b) Engaging in any other conduct prohibited by Ordinance Section 3.04.304.

(c) Possessing a firearm while under the influence of alcohol or a controlled substance.

(d) Possessing marijuana or possessing paraphernalia in violation of any section of the Ordinance, if the possession of the marijuana or paraphernalia is discovered because the person engaged or assisted in the medical use of marijuana in:

(1) Any place exposed to public view not so authorized by or registered with the Board; or

(2) Any local detention facility, county jail, state prison, reformatory or other correctional facility, including, without limitation, any facility for the detention of juvenile offenders.

(e) Delivering marijuana to another person who he or she knows does not lawfully hold a registry identification card issued by the Division or its designee pursuant to Sections 4A.220 or 4A.250.

(f) Delivering marijuana for consideration to any person, regardless of whether the recipient lawfully holds a registry identification card issued by the Division or its designee pursuant to Section 4A.220 or 4A.250.

2. Except as otherwise provided in Section 4A.225 and in addition to any other penalty provided by law, if the Division determines that a person has willfully violated a provision of this Title or any regulation adopted by the Division to carry out the provisions of this Title, the Division may, at its own discretion, prohibit the person from obtaining or using a registry identification card for a period of up to 6 months.

SECTION 4A.310 Affirmative defenses.

1. Except as otherwise provided in this Section and Section 4A.300, it is an affirmative defense to a criminal charge of possession, delivery or production of marijuana, or any other

criminal offense in which possession, delivery or production of marijuana is an element, that the person charged with the offense:

(a) Is a person who:

(1) Has been diagnosed with a chronic or debilitating medical condition within the 12-month period preceding his or her arrest and has been advised by his or her attending physician that the medical use of marijuana may mitigate the symptoms or effects of that chronic or debilitating medical condition;

(2) Is engaged in the medical use of marijuana; and

(3) Possesses, delivers or produces marijuana only in the amount described in Subsection 4A.200(3)(b) or in excess of that amount if the person proves by a preponderance of the evidence that the greater amount is medically necessary as determined by the person's attending physician to mitigate the symptoms or effects of the person's chronic or debilitating medical condition; or

(b) Is a person who:

(1) Is assisting a person described in paragraph (a) in the medical use of marijuana; and

(2) Possesses, delivers or produces marijuana only in the amount described in Subsection 4A.200(3)(b) or in excess of that amount if the person proves by a preponderance of the evidence that the greater amount is medically necessary as determined by the assisted person's attending physician to mitigate the symptoms or effects of the assisted person's chronic or debilitating medical condition.

2. A person need not hold a registry identification card issued to the person by the Division or its designee pursuant to Section 4A.220 or 4A.250 to assert an affirmative defense described in this Section.

3. Except as otherwise provided in this Section and in addition to the affirmative defense described in Subsection 1, a person engaged or assisting in the medical use of marijuana who is charged with a crime pertaining to the medical use of marijuana is not precluded from:

(a) Asserting a defense of medical necessity; or

(b) Presenting evidence supporting the necessity of marijuana for treatment of a specific disease or medical condition, if the amount of marijuana at issue is not greater than the amount described in Subsection 4A.200(3)(b) and the person has taken steps to comply substantially with the provisions of this Ordinance Section.

4. A defendant who intends to offer an affirmative defense described in this Section shall, not less than 5 days before trial or at such other time as the court directs, file and serve upon the prosecutor a written notice of the defendant's intent to claim the affirmative defense. The written notice must:

(a) State specifically why the defendant believes he or she is entitled to assert the affirmative defense; and

(b) Set forth the factual basis for the affirmative defense.

A defendant who fails to provide notice of his or her intent to claim an affirmative defense as required pursuant to this Subsection may not assert the affirmative defense at trial unless the court, for good cause shown, orders otherwise.

PRODUCTION AND DISTRIBUTION OF MEDICAL MARIJUANA

Registration of Medical Marijuana Establishments and Medical Marijuana Establishment Agents

SECTION 4A.320 Purpose of registration; no vested right acquired by holder of registration certificate or registration card. The purpose for registering medical marijuana establishments and medical marijuana establishment agents is to protect the public health and safety and the general welfare of the members of the Tribe, and the people in adjoining jurisdictions. Any medical marijuana establishment registration certificate issued pursuant to Section 4A.322 and any medical marijuana establishment agent registration card issued pursuant to Section 4A.332 is a revocable privilege and the holder of such a certificate or card, as applicable, does not acquire thereby any vested right.

SECTION 4A.322 Registration of establishments: Requirements; expiration and renewal.

1. Each medical marijuana establishment must register with the Division.
2. An entity that wishes to operate a medical marijuana establishment must submit to the Division an application on a form prescribed by the Division. Only an entity wholly owned by the Tribe may apply for and obtain registration as a medical marijuana establishment.
3. Except as otherwise provided in Section 4A.324, 4A.326, 4A.328 and 4A.340, not later than 90 days after receiving an application to operate a medical marijuana establishment, the Division shall register the medical marijuana establishment and issue a medical marijuana establishment registration certificate identification number if:
 - (a) The entity that wishes to operate the proposed medical marijuana establishment has submitted to the Division all of the following:
 - (1) The application fee, as set forth in Section 4A.344;
 - (2) An application, which must include:
 - (I) The legal name of the proposed medical marijuana establishment;
 - (II) The physical address where the proposed medical marijuana dispensary establishment will be located, and the physical address of any co-owned additional or otherwise associated medical marijuana dispensary establishments, the locations of a medical marijuana dispensary may not be within 1,000 feet of a public school with-in the boundaries of the Tribe's jurisdiction, that provides formal education traditionally associated with preschool or kindergarten through grade 12 and that existed on the date on which the application for the proposed medical marijuana dispensary was submitted to the Division, or within 300 feet of a community facility that existed on the date on which the application for the proposed medical marijuana dispensary establishment was submitted to the Division. The 1000 feet is measured from the wall of the unit housing the dispensary to the wall of the public school;
 - a. There is no separation buffers for non-dispensary marijuana establishments.

(III) Evidence that the applicant owns or controls the property on which the proposed medical marijuana establishment will be located or has the written permission of the property owner to operate the proposed medical marijuana establishment on that property;

(IV) For the applicant and each person who is proposed to be an officer or board member of the proposed medical marijuana establishment, a complete set of the person's fingerprints and written permission of the person authorizing the Division to forward the fingerprints to the Tribal Police Department.

(VI) The name, address and date of birth of each person who is proposed to be a board member of the proposed medical marijuana establishment; and

(VII) The name, address and date of birth of each person who is proposed to be employed by or otherwise provide on-sight labor at the proposed medical marijuana establishment as a medical marijuana establishment agent;

(3) Operating procedures consistent with rules of the Division for oversight of the proposed medical marijuana establishment, including, without limitation:

(I) Procedures to ensure the use of adequate security measures; and

(II) The use of an electronic verification system and an inventory control system, pursuant to Sections 4A.354 and 4A.356;

(4) If the proposed medical marijuana establishment will sell or deliver edible marijuana products or marijuana-infused products, proposed operating procedures for handling such products which must be preapproved by the Division;

(5) Such other information as the Division may require by regulation;

(b) None of the persons who are proposed to be officers or board members of the proposed medical marijuana establishment have:

(1) Served as an owner, officer or board member for a medical marijuana establishment that has had its medical marijuana establishment registration certificate revoked; or

(2) Previously had a medical marijuana establishment agent registration card revoked;

(3) have been convicted of an excluded felony offense; and

(c) None of the persons who are proposed to be officers or board members of the proposed medical marijuana establishment are under 21 years of age.

4. For each person who is proposed to be an officer or board member of a proposed medical marijuana establishment, the Division shall submit the fingerprints of the person to the Tribal Police Division for submission to determine the criminal history of that person.

5. Except as otherwise provided in Subsection 6, if an application for registration as a medical marijuana establishment satisfies the requirements of this Section and the establishment is not disqualified from being registered as a medical marijuana establishment pursuant to this Section or other applicable law, the Division shall issue to the establishment a medical marijuana establishment registration certificate. A medical marijuana establishment registration certificate expires 1 year after the date of issuance and may be renewed upon:

(a) Resubmission of the information set forth in this Section; and

(b) Payment of the renewal fee set forth in Section 4A.344.

6. In determining whether to issue a medical marijuana establishment registration certificate pursuant to this Section, the Division shall consider the criteria of merit set forth in Section 4A.328.

7. As used in this Section, “community facility” means:

- (a) A public park.
- (b) A playground.
- (c) A public swimming pools.
- (d) A center or facility, the primary purpose of which is to provide recreational opportunities or services to children or adolescents.
- (e) A church, synagogue or other building, structure or place used for religious worship or other religious purpose.
- (f) A facility that provides day care to children.

8. All facilities must be with-in the jurisdiction of the Timbisha Shoshone Tribe, in “Indian Country.” At no time will the Ordinances of the Timbisha Shoshone Tribe see beyond tribal lands.

SECTION 4A.324 Registration of establishments: Limitation on total number of certificates that can be issued.

1. Except as otherwise provided in this Section, the Division shall issue the appropriate number of medical marijuana establishment registration certificates for medical marijuana dispensaries as are necessary to serve and supply the needs of the medical marijuana patients.

2. With respect to medical marijuana establishments that are not medical marijuana dispensaries, the Division shall determine the appropriate number of such establishments as are necessary to serve and supply the medical marijuana dispensaries to which the Division has granted a medical marijuana establishment registration certificate.

SECTION 4A.326 Registration of establishments: Certificates deemed provisional pending compliance with requirements and issuance of business license. All licenses and registration certificates are provisional until finalized and a business license has been issued.

SECTION 4A.328 Registration of establishments: Considerations in determining whether to issue registration certificate. In determining whether to issue a medical marijuana establishment registration certificate pursuant to Section 4A.322, the Division shall, in addition to the factors set forth in that Section, consider the following criteria of merit:

1. Whether the proposed location of the proposed medical marijuana establishment would be convenient to serve the needs of persons who are authorized to engage in the medical use of marijuana;

2. The likely impact of the proposed medical marijuana establishment on the community in which it is proposed to be located;

3. The adequacy of the size of the proposed medical marijuana establishment to serve the needs of persons who are authorized to engage in the medical use of marijuana;

4. Whether the applicant has an integrated plan for the care, quality and safekeeping of medical marijuana from seed to sale;

5. The amount of taxes paid to, or other beneficial financial contributions made to, the Timbisha Shoshone Tribe or its political subdivisions by the applicant or the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment;

6. Whether there is an integrated plan to avoid diversion to surrounding communities; and

7. Any other criteria of merit that the Division determines to be relevant.

SECTION 4A.332 Agents required to register with Division; requirements for registration; establishment required to notify Division if agent ceases to be employed by or volunteer at establishment; expiration and renewal of registration.

1. Except as otherwise provided in this Section, a person shall not volunteer or work at, contract to provide labor to or be employed by an independent contractor to provide labor to a medical marijuana establishment as a medical marijuana establishment agent unless the person is registered with the Division pursuant to this Section.

2. A medical marijuana establishment that wishes to employ a medical marijuana establishment agent shall submit to the Division an application on a form prescribed by the Division. The application must be accompanied by:

(a) The name, address and date of birth of the prospective medical marijuana establishment agent;

(b) A statement signed by the prospective medical marijuana establishment agent pledging not to dispense or otherwise divert marijuana to any person who is not authorized to possess marijuana in accordance with the provisions of this Title;

(c) A statement signed by the prospective medical marijuana establishment agent asserting that he or she has not previously had a medical marijuana establishment agent registration card revoked;

(d) A complete set of the fingerprints and written permission of the prospective medical marijuana establishment agent authorizing the Division to forward the fingerprints to the Tribal Police Division to determine the Criminal History of the applicant;

(e) The application fee, as set forth in Section 4A.344; and

(f) Such other information as the Division may require by regulation.

3. A medical marijuana establishment shall notify the Division within 10 days after a medical marijuana establishment agent ceases to be employed by or volunteer at the medical marijuana establishment.

4. A person who:

(a) Has been convicted of a felony offense for which the sentence, including any term of probation, incarceration or supervised release, was completed less than 10 years before; or

(b) Is less than 21 years of age shall not serve as a medical marijuana establishment agent.

5. The Division shall submit the fingerprints of an applicant for registration as a medical marijuana establishment agent to the Tribal Police Division, or appointed designee, to determine the criminal history of the applicant.

6. The provisions of this Section do not require a person who is an owner, officer or board member of a medical marijuana establishment to resubmit information already furnished to the Division at the time the establishment was registered with the Division.

7. If an applicant for registration as a medical marijuana establishment agent satisfies the requirements of this Section and is not disqualified from serving as such an agent pursuant to this Section or any other applicable law, the Division shall issue to the person a medical marijuana establishment agent registration card. If the Division does not act upon an application for a medical marijuana establishment agent registration card within 30 days after the date on which the application is received, the application shall be deemed conditionally approved until such time as the Division acts upon the application. A medical marijuana establishment agent registration card expires 1 year after the date of issuance and may be renewed upon:

- (a) Resubmission of the information set forth in this Section; and
- (b) Payment of the renewal fee set forth in Section 4A.344.

SECTION 4A.334 Registration cards and registration certificates nontransferable. The following are nontransferable:

- 1. A medical marijuana establishment agent registration card.
- 2. A medical marijuana establishment registration certificate.

SECTION 4A.336 Payment of child support: Statement by applicant for registration card or registration certificate; grounds for denial; duties of Division. [Effective until the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. In addition to any other requirements set forth in this Title, an applicant for the issuance or renewal of a medical marijuana establishment agent registration card or medical marijuana establishment registration certificate shall:

(a) Include the social security number of the applicant in the application submitted to the Division.

(b) Submit to the Division a statement completed and signed by the applicant that:

- (1) The applicant is not subject to a court order for the support of a child;
- (2) The applicant is subject to a court order for the support of one or more children and is in compliance with the order or is in compliance with a plan approved by the Tribal Court, Tribal prosecutor, district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order; or

(3) The applicant is subject to a court order for the support of one or more children and is not in compliance with the order or a plan approved by the Tribal Court, Tribal prosecutor, district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

2. The Division shall include the statement required pursuant to Subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the medical marijuana establishment agent registration card or medical marijuana establishment registration certificate; or

(b) A separate form prescribed by the Division.

3. A medical marijuana establishment agent registration card or medical marijuana establishment registration certificate may not be issued or renewed by the Division if the applicant:

(a) Fails to submit the statement required pursuant to Subsection 1; or

(b) Indicates on the statement submitted pursuant to Subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the Tribal Court, Tribal prosecutor, district attorney, or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to Subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the Tribal Court, Tribal prosecutor, district attorney, or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the entity enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

SECTION 4A.338 Suspension of registration card or registration certificate for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of registration card or registration certificate. [Effective until the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. If the Division receives a copy of a court order that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a medical marijuana establishment agent registration card or medical marijuana establishment registration certificate because the person failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish, modify or enforce an obligation for the support of a child; or is in arrears in the payment for the support of one or more children, then the Division shall deem the card or certificate issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Division receives a letter issued to the holder of the card or certificate by the Tribal Court, Tribal prosecutor, district attorney or other public agency stating that the holder of the card or certificate has complied with the subpoena or warrant or has satisfied the arrearage.

2. The Division shall reinstate a medical marijuana establishment agent registration card or medical marijuana establishment registration certificate that has been suspended by a court if the Division receives a letter issued by the Tribal Court, Tribal prosecutor, district attorney or other public agency to the person whose card or certificate was suspended stating that the person whose card or certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage.

SECTION 4A.340 Grounds for immediate revocation of registration certificate. The following acts constitute grounds for immediate revocation of a medical marijuana establishment registration certificate:

1. Dispensing, delivering or otherwise transferring marijuana to a person other than a medical marijuana establishment agent, another medical marijuana establishment, a patient who holds a valid registry identification card or the designated primary caregiver of such a patient.

2. Acquiring usable marijuana or mature marijuana plants from any person other than a medical marijuana establishment agent, another medical marijuana establishment, a patient who holds a valid registry identification card or the designated primary caregiver of such a patient.

3. Violating a regulations of the Commission, Division or Board, the violation of which is stated to be grounds for immediate revocation of a medical marijuana establishment registration certificate.

SECTION 4A.342 Grounds for immediate revocation of registration card. The following acts constitute grounds for the immediate revocation of the medical marijuana establishment agent registration card of a medical marijuana establishment agent:

1. Having been newly convicted of any felony offense.

2. Dispensing, delivering or otherwise transferring marijuana to a person other than a medical marijuana establishment agent, another medical marijuana establishment, a patient who holds a valid registry identification card or the designated primary caregiver of such a patient.

3. Having been electronically recorded by a video monitoring system stealing marijuana, edible marijuana products or marijuana-infused products.

4. Having been convicted of any crime involving the theft of marijuana, edible marijuana products or marijuana-infused products.

5. Having been electronically recorded by a video monitoring system smoking or otherwise consuming marijuana on the premises of a medical marijuana establishment.

6. Intentionally submitting to the Department or a local government any document required under the provisions of this chapter which is false or contains any material misstatement of fact. 7. Violating a regulation of the Division or Board, the violation of which is stated to be grounds for immediate revocation of a medical marijuana establishment agent registration card.

SECTION 4A.344 Fees.

1. Except as otherwise provided in Subsection 2, the Division shall collect not more than the following maximum fees:

For the initial issuance of a medical marijuana establishment registration certificate for a Medical marijuana dispensary.....	\$1,000.00
For the renewal of a medical marijuana establishment registration certificate for a medical marijuana dispensary.....	\$500.00
For the initial issuance of a medical marijuana establishment registration certificate for a cultivation facility	\$300.00
For the renewal of a medical marijuana establishment registration certificate for a cultivation facility.....	\$300.00
For the initial issuance of a medical marijuana establishment registration certificate for a facility for the production of edible marijuana products or marijuana-infused products.....	\$300.00
For the renewal of a medical marijuana establishment registration certificate for a facility for the production of edible marijuana products or marijuana-infused products	\$300.00
For the initial issuance of a medical marijuana establishment agent registration card	\$75.00
For the renewal of a medical marijuana establishment agent registration card	\$75.00
For the initial issuance of a medical marijuana establishment registration certificate for an independent Testing laboratory.....	\$500.00
For the renewal of a medical marijuana establishment registration certificate for an independent testing laboratory.....	\$300.00

2. In addition to the fees described in Subsection 1, each applicant for a medical marijuana establishment registration certificate must pay to the Division:

- (a) A one-time, nonrefundable application fee of \$100.00; and
- (b) The actual costs incurred by the Division in processing the application, including, without limitation, conducting background checks.

3. Any revenue generated from the fees imposed pursuant to this Section:

- (a) Must be expended first to pay the costs of the Division in carrying out the provisions of Section 4A.320 to 4A.370, inclusive; and
- (b) If any excess revenue remains after paying the costs described in paragraph (a), such excess revenue must be paid over to the Tribal Finance Division.

Requirements Concerning Operation of Medical Marijuana Establishments

SECTION 4A.350 Location, land use, appearance and signage. Each medical marijuana establishment must:

- 1. Be located in a commercial or industrial zone or overlay; or have received a variance from the Division. A cultivation facility can be located in an agriculture or rural zone.

2. Comply with all Tribal ordinances and rules pertaining to zoning, land use and signage;
3. Have an appearance, both as to the interior and exterior, that is professional, orderly and dignified.
4. Have discreet and professional signage.

SECTION 4A.352 Operating documents; security measures; actions of establishment with respect to marijuana required to be for certain purpose; requirements for cultivation; dispensary and cultivation facility authorized to acquire marijuana from patient; allowing consumption on premises prohibited; inspection.

1. The operating documents of a medical marijuana establishment must include procedures:

- (a) For the oversight of the medical marijuana establishment; and
- (b) To ensure accurate recordkeeping, including, without limitation, the provisions of Section 4A.354 and 4A.356.

2. Except as otherwise provided in this Subsection, a medical marijuana establishment:

- (a) That is a medical marijuana dispensary must have a single entrance for patrons, which must be secure, and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

- (b) That is not a medical marijuana dispensary must have a single secure entrance and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

The provisions of this Subsection do not supersede any state or local requirements relating to minimum numbers of points of entry or exit, or any state or local requirements relating to fire safety.

3. A medical marijuana establishment is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to:

- (a) Directly or indirectly assist patients who possess valid registry identification cards; and

- (b) Assist patients who possess valid registry identification cards by way of those patients designated primary caregivers.

For the purposes of this Subsection, a person shall be deemed to be a patient who possesses a valid registry identification card if he or she qualifies for nonresident reciprocity pursuant to Section 4A.364.

4. All cultivation or production of marijuana that a cultivation facility carries out or causes to be carried out must take place in a locked facility at the physical address provided to the Division during the registration process for the cultivation facility. Such a locked facility must be accessible only by medical marijuana establishment agents who are lawfully associated with the cultivation facility, except that limited access by persons necessary to perform construction or repairs or

provide other labor is permissible if such persons are supervised by a medical marijuana establishment agent.

5. Each cultivation facility must have an adequate security plan and a resource plan approved by the Division.

6. A medical marijuana dispensary and a cultivation facility may acquire usable marijuana or marijuana plants from a patient who holds a valid registry identification card, or the designated primary caregiver of such a patient. Except as otherwise provided in this Subsection, the patient or caregiver, as applicable, must receive no compensation for the marijuana. A patient who holds a valid registry identification card, and the designated primary caregiver of such a patient, may sell usable marijuana to a medical marijuana dispensary one time and may sell marijuana plants to a cultivation facility one time.

7. A medical marijuana establishment shall not allow a person to consume marijuana on the property or premises of the establishment.

8. Medical marijuana establishments are subject to reasonable inspection by the Division at any time, and a person who holds a medical marijuana establishment registration certificate must make himself or herself, or a designee thereof, available and present for any inspection by the Division of the establishment.

SECTION 4A.354 Electronic verification system.

1. Each medical marijuana establishment, in consultation with the Division, shall maintain an electronic verification system.

2. The electronic verification system required pursuant to Subsection 1 must be able to monitor and report information, including, without limitation:

(a) In the case of a medical marijuana dispensary, for each person who holds a valid registry identification card and who purchased marijuana from the dispensary in the immediately preceding 14-day period:

- (1) The number of the card;
- (2) The date on which the card was issued; and
- (3) The date on which the card will expire.

(b) For each medical marijuana establishment agent who is employed by or volunteers at the medical marijuana establishment, the number of the person's medical marijuana establishment agent registration card.

(c) In the case of a medical marijuana dispensary, such information as may be required by the Division by regulation regarding persons who are not residents of the Timbisha Shoshone Tribe or the State of Nevada, and who have purchased marijuana from the dispensary.

(d) Verification of the identity of a person to whom marijuana, edible marijuana products or marijuana-infused products are sold or otherwise distributed.

(e) Such other information as the Division may require.

3. Nothing in this Section prohibits more than one medical marijuana establishment from co-owning an electronic verification system in cooperation with other medical marijuana establishments, or sharing the information obtained therefrom.

4. A medical marijuana establishment must exercise reasonable care to ensure that the personal identifying information of persons who hold registry identification cards which is contained in an electronic verification system is protected and not divulged for any purpose not specifically authorized by law.

SECTION 4A.356 Inventory control system.

1. Each medical marijuana establishment, in consultation with the Division, shall maintain an inventory control system.

2. The inventory control system required pursuant to Subsection 1 must be able to monitor and report information, including, without limitation:

(a) Insofar as is practicable, the chain of custody and current whereabouts, in real time, of medical marijuana from the point that it is harvested at a cultivation facility until it is sold at a medical marijuana dispensary and, if applicable, if it is processed at a facility for the production of edible marijuana products or marijuana-infused products;

(b) The name of each person or other medical marijuana establishment, or both, to which the establishment sold marijuana;

(c) In the case of a medical marijuana dispensary, the date on which it sold marijuana to a person who holds a registry identification card and, if any, the quantity of edible marijuana products or marijuana-infused products sold; and

(d) Such other information as the Division may require.

3. Nothing in this Section prohibits more than one medical marijuana establishment from co-owning an inventory control system in cooperation with other medical marijuana establishments, or sharing the information obtained therefrom.

4. A medical marijuana establishment must exercise reasonable care to ensure that the personal identifying information of persons who hold registry identification cards that is contained in an inventory control system is protected and not divulged for any purpose not specifically authorized by law.

SECTION 4A.358 Duties of medical marijuana dispensaries relating to sale of medical marijuana and related products and relating to notice of legal limits on possession of medical marijuana. Each medical marijuana dispensary shall ensure all of the following:

1. The weight of all marijuana, edible marijuana products and marijuana-infused products that the dispensary sells are clearly and accurately stated on the product sold.

2. That the dispensary does not sell to a person an amount of marijuana for medical purposes that exceeds the limits set forth in Section 4A.200(3)(b) of this Ordinance.

3. That, posted clearly and conspicuously within the dispensary, are the legal limits on the possession of marijuana for medical purposes, as set forth in Section 4A.200(3)(b) of this Ordinance.

4. That, posted clearly and conspicuously within the dispensary, is a sign stating unambiguously the Timbisha Shoshone's legal limits on the possession of marijuana for medical purposes, as set forth in the Section 4A.200(3)(b) of this Ordinance.

5. That only persons who are at least 21 years of age or hold a registry identification card are allowed to enter the premises of the medical marijuana dispensary.

SECTION 4A.360 Requirements concerning edible marijuana products and marijuana-infused products.

1. Each medical marijuana dispensary and facility for the production of edible marijuana products or marijuana-infused products shall, in consultation with the Division, cooperate to ensure that all edible marijuana products and marijuana-infused products offered for sale:

(a) Are labeled clearly and unambiguously:

(1) As medical marijuana with the words "THIS IS A MEDICAL MARIJUANA PRODUCT" in bold type; and

(2) As required by the Tribe's laws, inclusive, and any regulations adopted pursuant thereto.

(b) Are not presented in packaging that contains an image of a cartoon character, mascot, action figure, balloon or toy, except that such an item may appear in the logo of the facility for the production of edible marijuana products or marijuana-infused products which produced the product.

(c) Are regulated and sold on the basis of the concentration of THC in the products and not by weight.

(d) Are packaged and labeled in such a manner as to allow tracking by way of an inventory control system.

(e) Are not packaged and labeled in a manner which is modeled after a brand of products primarily consumed by or marketed to children.

(f) Are labeled in a manner which indicates the amount of THC in the product, measured in milligrams, and includes a statement that the product contains marijuana and its potency was tested with an allowable variance of the amount determined by the Division by regulation.

(g) Are not labeled or marketed as candy.

2. A facility for the production of edible marijuana products or marijuana-infused products shall not produce edible marijuana products in any form that:

(a) Is or appears to be a lollipop.

(b) Bears the likeness or contains characteristics of a real or fictional person, animal or fruit, including, without limitation, a caricature, cartoon or artistic rendering.

(c) Is modeled after a brand of products primarily consumed by or marketed to children.

(d) Is made by applying concentrated cannabis, as defined in the Tribe's laws, to a commercially available candy or snack food item other than dried fruit, nuts or granola.

3. A facility for the production of edible marijuana products or marijuana-infused products shall:

(a) Seal any edible marijuana product that consists of cookies or brownies in a bag or other container which is not transparent.

(b) Affix a label to each edible marijuana product which includes without limitation, in a manner which must not mislead consumers, the following information:

(1) The words "Keep out of reach of children";

(2) A list of all ingredients used in the edible marijuana product;

(3) A list of all allergens in the edible marijuana product; and

(4) The total weight of marijuana contained in the edible marijuana product or an equivalent measure of THC concentration.

(c) Maintain a washing area with hot water, soap and a hand dryer or disposable towels which is located away from any area in which edible marijuana products are cooked or otherwise prepared.

(d) Require each person who handles edible marijuana products to wear a hair net and clean clothing and keep his or her fingernails neatly trimmed.

(e) Package all edible marijuana products or marijuana-infused products produced by the facility for the production of edible marijuana products or marijuana-infused products on the premises of the facility for the production of edible marijuana products or marijuana-infused products.

4. A medical marijuana dispensary or facility for the production of edible marijuana products or marijuana-infused products shall not engage in advertising that in any way makes marijuana, edible marijuana products or marijuana-infused products appeal to children, including without limitation, advertising which uses an image of a cartoon character, mascot, action figure, balloon, fruit or toy.

5. Each medical marijuana dispensary shall offer for sale containers for the storage of marijuana, edible marijuana products and marijuana-infused products which lock and are designed to prohibit children from unlocking and opening the container.

6. A medical marijuana dispensary shall:

(a) Include a written notification with each sale of marijuana, edible marijuana products or marijuana-infused products which advises the purchaser:

(1) To keep marijuana, edible marijuana products and marijuana-infused products out of the reach of children;

(2) That edible marijuana products can cause severe illness in children;

(3) That allowing children to ingest marijuana or edible marijuana products or storing marijuana or edible marijuana products in a location which is accessible to children may result in an investigation by an agency which provides child welfare services or criminal prosecution for child abuse or neglect;

(4) That the intoxicating effects of edible marijuana products may be delayed by 2 hours or more and users of edible marijuana products should initially ingest a small amount of the product, then wait at least 120 minutes before ingesting any additional amount of the product;

(5) That pregnant women should consult with a physician before ingesting marijuana or edible marijuana products;

(6) That ingesting marijuana or edible marijuana products with alcohol or other drugs, including prescription medication, may result in unpredictable levels of impairment and that a person should consult with a physician before doing so;

(7) That marijuana or edible marijuana products can impair concentration, coordination and judgment and a person should not operate a motor vehicle while under the influence of marijuana or edible marijuana products; and

(8) That ingestion of any amount of marijuana or edible marijuana products before driving may result in criminal prosecution for driving under the influence.

(b) Enclose all marijuana, edible marijuana products and marijuana-infused products in opaque, child-resistant packaging upon sale.

7. A medical marijuana dispensary shall allow any person who is at least 21 years of age to enter the premises of the medical marijuana dispensary, regardless of whether such a person holds a valid registry identification card or letter of approval.

SECTION 4A.362 Requirements concerning storage and removal of medical marijuana.

1. At each medical marijuana establishment, medical marijuana must be stored only in an enclosed, locked facility.

2. Except as otherwise provided in Subsection 3, at each medical marijuana dispensary, medical marijuana must be stored in a secure, locked device, display case, cabinet or room within the enclosed, locked facility. The secure, locked device, display case, cabinet or room must be protected by a lock or locking mechanism that meets at least the security rating established by Underwriters Laboratories for key locks.

3. At a medical marijuana dispensary, medical marijuana may be removed from the secure setting described in Subsection 2:

(a) Only for the purpose of dispensing the marijuana;

(b) Only immediately before the marijuana is dispensed; and

(c) Only by a medical marijuana establishment agent who is employed by or volunteers at the dispensary.

Miscellaneous Provisions

SECTION 4A.364 Recognition of nonresident cards.

1. The Timbisha Shoshone Tribe and the medical marijuana dispensaries located on Tribal lands that hold valid medical marijuana establishment registration certificates will recognize a nonresident card only under the following circumstances:

(a) The state or jurisdiction from which the holder or bearer obtained the nonresident card grants an exemption from criminal prosecution for the medical use of marijuana;

(b) The state or jurisdiction from which the holder or bearer obtained the nonresident card requires, as a prerequisite to the issuance of such a card, that a physician advise the person that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition;

(c) The nonresident card has an expiration date and has not yet expired;

(d) The holder or bearer of the nonresident card signs an affidavit in a form prescribed by the Division which sets forth that the holder or bearer is entitled to engage in the medical use of marijuana in the state or jurisdiction of the holder or bearer's residence; and authorizes release of this information to the Division and Tribal Police Division;

(e) The state or jurisdiction where the nonresident card was obtained maintains a database that preserves such information as may be necessary to verify the authenticity or validity of the nonresident card;

(f) The Division determines that the database described in paragraph (e) is capable of providing to the Division or the Tribal Police Division, information that is sufficiently accurate, current and specific as to allow those dispensaries to verify that a person who holds or bears a nonresident card is entitled to lawfully do so; and

(g) The holder or bearer of the nonresident card agrees to abide by, and does abide by, the legal limits on the possession of marijuana for medical purposes on the Tribal lands of the Timbisha Shoshone Tribe, as set forth in Section 4A.200(3)(b) of this Ordinance, and in the State of Nevada, as set forth in NRS 453A.200(3)(b).

2. For the purposes of the reciprocity described in this Section:

(a) The amount of medical marijuana that the holder or bearer of a nonresident card is entitled to possess in his or her state or jurisdiction of residence is not relevant; and

(b) Under no circumstances, while on Tribal lands, may the holder or bearer of a nonresident card possess marijuana for medical purposes in excess of the limits set forth in Subsection 4A.200(3)(b).

3. As used in this Section, "nonresident card" means a card or other identification that:

(a) Is issued by a state or jurisdiction other than the Timbisha Shoshone Tribe; and

(b) Is the functional equivalent of a registry identification card, as determined by the Division.

SECTION 4A.367 Petition to determine if criminal history will disqualify person from obtaining registration card or certificate; fee; posting of requirements for card or certificate and list of disqualifying crimes on Internet; report.

1. The Division shall develop and implement a process by which a person with a criminal history may petition the Division to review the criminal history of the person to determine if the person's criminal history will disqualify the person from obtaining a medical marijuana establishment agent registration card or medical marijuana establishment registration certificate pursuant to this chapter.

2. Not later than 90 days after a petition is submitted to the Division pursuant to subsection 1, the Division shall inform the person of the determination of the Division of whether the person's criminal history will disqualify the person from obtaining a medical marijuana establishment agent

registration card or medical marijuana establishment registration certificate. The Division is not bound by its determination of disqualification or qualification and may rescind such a determination at any time.

3. The Division may provide instructions to a person who receives a determination of disqualification to remedy the determination of disqualification. A person may resubmit a petition pursuant to subsection 1 not earlier than 6 months after receiving instructions pursuant to this subsection if the person remedies the determination of disqualification.

4. A person with a criminal history may petition the Division at any time, including, without limitation, before obtaining any education or paying any fee required to obtain a medical marijuana establishment agent registration card or medical marijuana establishment registration certificate from the Division.

5. A person may submit a new petition to the Division not earlier than 2 years after the final determination of the initial petition submitted to the Division.

6. The Division may impose a fee of up to \$50 upon the person to fund the administrative costs in complying with the provisions of this section. The Division may waive such fees or allow such fees to be covered by funds from a scholarship or grant.

7. The Division may post on its Internet website:

(a) The requirements to obtain a medical marijuana establishment agent registration card and a medical marijuana establishment registration certificate from the Division; and

(b) A list of crimes, if any, that would disqualify a person from obtaining a medical marijuana establishment agent registration card or a medical marijuana establishment registration certificate from the Division.

8. The Division may request the criminal history record of a person who petitions the Division for a determination pursuant to subsection 1. To the extent consistent with tribal and federal law, if the Division makes such a request of a person, the Division shall require the person to submit his or her criminal history record to the Division who will conduct a background investigation..

9. A person who petitions the Division for a determination pursuant to subsection 1 shall not submit false or misleading information to the Division.

SECTION 4A.368 Testing laboratories.

1. The Division shall establish standards for one or more private testing laboratories to test marijuana, edible marijuana products and marijuana-infused products that are to be sold.

2. Such a testing laboratory must be able to determine accurately, with respect to marijuana, edible marijuana products and marijuana-infused products that are sold or will be sold at medical marijuana dispensaries on Tribal lands:

(a) The concentration therein of THC and cannabidiol.

(b) Whether the tested material is organic or inorganic

(c) The presence of molds and fungus.

3. To obtain certification by the Division on behalf of a testing laboratory, an applicant must:

- (a) Apply successfully as required pursuant to Section 4A.322.
- (b) Pay the fees required pursuant to Section 4A.344.

4. The Timbisha Shoshone Tribe cannot test marijuana from the Tribe's own cultivation or production facility, unless no other testing facility is available.

SECTION 4A.370 Regulations. The Division shall adopt such regulations as it determines to be necessary or advisable to carry out the provisions of Section 4A.320 to 4A.370, inclusive. Such regulations are in addition to any requirements set forth in statute and must, without limitation:

1. Prescribe the form and any additional required content of registration and renewal applications submitted pursuant to Section 4A.322 and 4A.332.

2. Set forth rules pertaining to the safe and healthful operation of medical marijuana establishments, including, without limitation:

(a) The manner of protecting against diversion and theft without imposing an undue burden on medical marijuana establishments or compromising the confidentiality of the holders of registry identification cards.

(b) Minimum requirements for the oversight of medical marijuana establishments.

(c) Minimum requirements for the keeping of records by medical marijuana establishments.

(d) Provisions for the security of medical marijuana establishments, including, without limitation, requirements for the protection by a fully operational security alarm system of each medical marijuana establishment.

(e) Procedures pursuant to which medical marijuana dispensaries must use the services of an independent testing laboratory to ensure that any marijuana, edible marijuana products and marijuana-infused products sold by the dispensaries to end users are tested for content, quality and potency in accordance with standards established by the Division.

3. Set forth the amount of usable marijuana that a medical marijuana dispensary may dispense to a person who holds a valid registry identification card, or the designated primary caregiver of such a person. Such an amount must not exceed the limits set forth in Section 4A.200(3)(b).

4. As far as possible while maintaining accountability, protect the identity and personal identifying information of each person who receives, facilitates or delivers services in accordance with this Title.

5. Establish different categories of medical marijuana establishment agent registration cards, including, without limitation, criteria for training and certification, for each of the different types of medical marijuana establishments at which such an agent may be employed or volunteer.

6. [Reserved]

7. Address such other matters as may assist in implementing the program of dispensation contemplated by Section 4A.320 to 4A.370, inclusive.

SEARCH AND SEIZURE

SECTION 4A.400 Possession of registry identification card, registration certificate or registration card not permissible grounds for search or inspection; care and return of seized property; determination that person is engaged in, facilitating or assisting in medical use of marijuana in accordance with provisions of chapter.

1. The fact that a person possesses a registry identification card issued to the person by the Division or its designee pursuant to Section 4A.220 or 4A.250, a medical marijuana establishment registration certificate issued to the person by the Division or its designee pursuant to Section 4A.322 or a medical marijuana establishment agent registration card issued to the person by the Division or its designee pursuant to Section 4A.332 does not, alone:

(a) Constitute probable cause to search the person or the person's property; or
(b) Subject the person or the person's property to inspection by any governmental agency.

2. Except as otherwise provided in this Subsection, if Tribal law enforcement officers, or State or local law enforcement officers seize marijuana, paraphernalia or other related property from a person engaged in, facilitating or assisting in the medical use of marijuana:

(a) The Tribal Police Division, or State or local law enforcement agency shall ensure that the marijuana, paraphernalia or other related property is not destroyed while in the possession of the Tribal Police Division.

(b) Any property interest of the person from whom the marijuana, paraphernalia or other related property was seized must not be forfeited pursuant to any provision of law providing for the forfeiture of property, except as part of a sentence imposed after conviction of a criminal offense.

(c) Upon a determination by the Tribal prosecutor or district attorney of the county in which the marijuana, paraphernalia or other related property was seized, or their designee, that the person from whom the marijuana, paraphernalia or other related property was seized is engaging in or assisting in the medical use of marijuana in accordance with the provisions of this Title, the law enforcement agency shall immediately return to that person any usable marijuana, marijuana plants, paraphernalia or other related property that was seized.

(d) Upon a determination by the Tribal prosecutor or district attorney of the county in which the marijuana, paraphernalia or other related property was seized, or their designee, that the person from whom the marijuana, paraphernalia or other related property was seized is not lawfully engaging in or assisting in the medical use of marijuana in accordance with the provisions of this Title, the law enforcement agency shall, once the evidence is no longer needed, immediately destroy or donate to the lawful tribal dispensary any usable marijuana, marijuana plants, paraphernalia or other related property that was seized.

The provisions of this Subsection do not require any law enforcement agency to care for live marijuana plants.

3. For the purposes of Subsection 2(c), the determination of the Tribal prosecutor or a district attorney or their designee, that a person is engaging in or assisting in the medical use of marijuana in accordance with the provisions of this Title shall be deemed to be evidenced by:

- (a) A decision not to prosecute;
- (b) The dismissal of charges; or
- (c) Acquittal.

SECTION 4A.410 Forfeiture of assets seized.

1. If a law enforcement agency legally and justly seizes evidence from a medical marijuana establishment on a basis that, in consideration of due process and viewed in the manner most favorable to the establishment, would lead a reasonable person to believe that a crime has been committed, the relevant provisions of any Tribal law allowing for the forfeiture of property, inclusive, apply insofar as they do not conflict with the provisions of this Title.

2. As used in this Section, “law enforcement agency” means the Tribal Police Division or a state entity as described in NRS 239C.065.

ACTIONS OF PROFESSIONAL LICENSING BOARDS

SECTION 4A.500 Board of Medical Examiners and State Board of Osteopathic Medicine prohibited from taking disciplinary action against attending physician on basis of physician’s participation in certain activities in accordance with chapter. The Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, shall not take any disciplinary action against an attending physician on the basis that the attending physician:

1. Advised a person whom the attending physician has diagnosed as having a chronic or debilitating medical condition, or a person whom the attending physician knows has been so diagnosed by another physician licensed to practice medicine pursuant to the provisions of chapter 630 of NRS or licensed to practice osteopathic medicine pursuant to the provisions of chapter 633 of NRS:

- (a) About the possible risks and benefits of the medical use of marijuana; or
- (b) That the medical use of marijuana may mitigate the symptoms or effects of the person’s chronic or debilitating medical condition, if the advice is based on the attending physician’s personal assessment of the person’s medical history and current medical condition.

2. Provided the written documentation required pursuant to Subsection 4A.210(2)(a) for the issuance of a registry identification card or pursuant to Subsection 4A.230(1)(b) for the renewal of a registry identification card, if:

- (a) Such documentation is based on the attending physician’s personal assessment of the person’s medical history and current medical condition; and
- (b) The physician has advised the person about the possible risks and benefits of the medical use of marijuana.

SECTION 4A.510 Professional licensing board prohibited from taking disciplinary action against licensee on basis of licensee's participation in certain activities in accordance with chapter. A professional licensing board shall not take any disciplinary action against a person licensed by the board on the basis that:

1. The person engages in or has engaged in the medical use of marijuana in accordance with the provisions of this Title; or
2. The person acts as or has acted as the designated primary caregiver of a person who holds a registry identification card issued to him or her pursuant to Subsection 4A.250(1)(a).

RESEARCH; APPROVAL OF FEDERAL GOVERNMENT

Section 4A.600 Program for evaluation and research of medical use of marijuana: Establishment by the Division; federal approval; participants and subjects; annual report to the Board.

1. The Division shall establish a program, and may contract with a private company, for the evaluation and research of the medical use of marijuana in the care and treatment of persons or animals, who have been diagnosed with a chronic or debilitating medical condition, or other condition that marijuana may be used for care and treatment.
2. Before the Division establishes a program pursuant to Subsection 1, the Division, or its appointed designee, or its contracted designee, shall aggressively seek and must receive approval and funding of the program by the Federal Government pursuant to 21 U.S.C. § 823 or other applicable provisions of federal law, to allow the creation of a federally approved research program for the use and distribution of marijuana for medical purposes.
3. A research program established pursuant to this Section must include residents who volunteer to act as participants and subjects, as determined by the Division or its appointed designee, or contracted designee.
4. A resident who wishes to serve as a participant and subject in a research program established pursuant to this Section may notify the Division, or its appointed designee, or its contracted designee, and may apply to participate by submitting an application on a form prescribed by the Division.
5. The Division shall, on an annual basis, report to the Board with respect to:
 - (a) The progress made in obtaining federal approval for the research program; and
 - (b) If the research program receives federal approval, the status of, activities of and information received from the research program.

SECTION 4A.610 Program for evaluation and research of medical use of marijuana: Duties of the Division, or its appointed designee, or its contracted designee, concerning confidentiality; certain items of information not subject to subpoena, discovery or inspection.

1. Except as otherwise provided in this Section and NRS 239.0115, the Division shall maintain the confidentiality of and shall not disclose:

(a) The contents of any applications, records or other written materials that the Division creates or receives pursuant to the research program described in Section 4A.600; or

(b) The name or any other identifying information of a person who has applied to or who participates in the research program described in Section 4A.600.

Except as otherwise provided in NRS 239.0115, the items of information described in this Subsection are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

2. Notwithstanding the provisions of Subsection 1, the Division may release the name and other identifying information of a person who has applied to or who participates in the research program described in Section 4A.600 to:

(a) Authorized employees of the Timbisha Shoshone Tribe, or its contracted designee, as necessary to perform official duties related to the research program; and

(b) Authorized employees of state and local law enforcement agencies, only as necessary to verify that a person is a lawful participant in the research program.

SECTION 4A.620 Program for evaluation and research of medical use of marijuana: Authority of the Division and The Board concerning gifts, grants, donations and contributions; deposit of money in Tribal Finance Division.

1. The Division, its appointed designee, or its contracted designee may apply for or accept any gifts, grants, donations or contributions from any source to carry out the provisions of Section 4A.600.

2. Any money received pursuant to Subsection 1 must be deposited with the Tribe's Finance Division pursuant to Section 4A.630.

SECTION 4A.630 Program for evaluation and research of medical use of marijuana: Deposit, use and disposition of money; Division of Tribal Finance to administer account.

1. Any money the Division receives pursuant to Section 4A.620 or that is appropriated to carry out the provisions of Section 4A.600:

(a) Must be deposited in and accounted for separately by the Tribe's Finance Division;

(b) May only be used to carry out the provisions of Section 4A.600, including the dissemination of information concerning the provisions of that Section and such other information as is determined appropriate by the Division.

2. The Tribe's Finance Division shall administer the account. Any interest or income earned on the money in the account must be credited to the account. Any claims against the account must be paid as other claims against the Tribe are paid.

MISCELLANEOUS PROVISIONS

SECTION 4A.700 Duties of Division concerning confidentiality; certain items of information not subject to subpoena, discovery or inspection.

1. Except as otherwise provided in this Section and Subsection 4A.210(5), the Division and any designee of the Division shall maintain the confidentiality of and shall not disclose:

(a) The contents of any applications, records or other written documentation that the Division or its designee creates or receives pursuant to the provisions of this Title; or

(b) The name or any other identifying information of:

(1) An attending physician; or

(2) A person who has applied for or to whom the Division or its designee has issued a registry identification card.

The items of information described in this Subsection are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

2. Notwithstanding the provisions of Subsection 1, the Division or its designee may release the name and other identifying information of a person to whom the Division or its designee has issued a registry identification card to:

(a) Authorized employees of the Division or its designee as necessary to perform official duties of the Division, and

(b) Authorized employees of state and local law enforcement agencies, only as necessary to verify that a person is the lawful holder of a registry identification card issued to him or her pursuant to Sections 4A.220 or 4A.250.

SECTION 4A.710 Addition of diseases and conditions to list of qualifying chronic or debilitating medical conditions: Petition; regulations.

1. A person may submit to the Division a petition requesting that a particular disease or condition be included among the diseases and conditions that qualify as chronic or debilitating medical conditions pursuant to Section 4A.050.

2. The Division shall adopt regulations setting forth the manner in which the Board will accept and evaluate petitions submitted pursuant to this Section. The regulations must provide, without limitation, that:

(a) The Board will approve or deny a petition within 180 days after the Board receives the petition; and

(b) The decision of the Board to deny a petition is a final decision for the purposes of judicial review.

SECTION 4A.720 Authority of the Administrator of the Division concerning gifts, grants, donations and contributions; deposit of money in Tribal Finance Division.

1. The Division may apply for or accept any gifts, grants, donations or contributions from any source to carry out the provisions of this Title.

2. Any money the division receives pursuant to Subsection 1 must be deposited with the Tribe's Finance Division pursuant to Section 4A.730.

SECTION 4A.730 Deposit, use and disposition of money; administration of account.

1. Any money the Division receives pursuant to Section 4A.720 or that is appropriated to carry out the provisions of this Title:

(a) Must be deposited with the Tribe's Finance Division;

(b) May only be used to carry out:

(1) The provisions of this Title, including the dissemination of information concerning the provisions of this Title and such other information as determined appropriate by the Administrator; and

(2) Alcohol and drug abuse programs approved by the Tribal Council; and

(c) Does not revert to the Tribal General Fund at the end of any fiscal year.

2. The Tribe's Finance Division shall administer the account. Any interest or income earned on the money in the account must be credited to the account. Any claims against the account must be paid as other claims against the Tribe are paid.

SECTION 4A.740 Regulations. The Board shall adopt such regulations as the Board determines are necessary to carry out the provisions of this Title.

SECTION 4A.750 Tax on sale of marijuana and marijuana products: Imposition; rates; distribution of revenue collected; duty of Tribal Council or its Designee to regularly review rates. The Tribe may impose and maintain a Tribal Tax that is equal to at least 100 percent of the State tax on all sales of marijuana on the Timbisha Shoshone Tribe's reservation and tribal lands.

SECTION 4A.800 Costs associated with medical use of marijuana not required to be paid or reimbursed; medical use of marijuana not required to be allowed in workplace; medical needs of employee who engages in medical use of marijuana to be accommodated by employer in certain circumstances. The provisions of this Title do not:

1. Require an insurer, organization for managed care or any person or entity who provides coverage for a medical or health care service to pay for or reimburse a person for costs associated with the medical use of marijuana.

2. Require any employer to allow the medical use of marijuana in the workplace.

3. Require an employer to modify the job or working conditions of a person who engages in the medical use of marijuana that are based upon the reasonable business purposes of the employer but the employer must attempt to make reasonable accommodations for the medical needs of an employee who engages in the medical use of marijuana if the employee holds a valid registry identification card, provided that such reasonable accommodation would not:

(a) Pose a threat of harm or danger to persons or property or impose an undue hardship on the employer; or

(b) Prohibit the employee from fulfilling any and all of his or her job responsibilities.

4. Require any employer to modify policies applying to employees related to compliance with Federal laws that may prohibit the use of marijuana by employees of an entity that receives Federal funds, even if an employee who engages in the medical use of marijuana holds a valid registry identification card.

SECTION 4A.810 Tribe not responsible for deleterious outcomes; no waiver of sovereign immunity. The Tribe will not be held responsible for any deleterious outcomes from the medical use of marijuana by any person. Nothing contained in this Title shall be construed for any reason as a waiver of the Tribe's sovereign immunity.

SECTION 4A.812 Agreements with State of Nevada. The Tribe, with the approval of the Tribal Council, may enter into one or more agreements with the State of Nevada to efficiently coordinate the cross-jurisdictional administration of the Tribe's laws and the laws of the State of Nevada relating to the use of marijuana.

EXHIBIT B

EXHIBIT B

**TIMBISHA SHOSHONE TRIBE
REGULATION AND TAXATION OF MARIJUANA
ORDINANCE NO. 4B
Adopted March 15, 2021**

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ORDINANCE 4B SECTIONS

SECTION 4B.001 Short title. This Ordinance No. 4B may be cited as the Ordinance for the Regulation and Taxation of Marijuana, or Ordinance 4B.

SECTION 4B.002 Findings and declarations.

1. In the interest of public health and public safety, and in order to better focus tribal, state and local law enforcement resources on crimes involving violence and personal property, the People of the Timbisha Shoshone Tribe find and declare that the use of marijuana should be legal for persons 21 years of age or older, and its cultivation and sale should be regulated similar to other legal businesses.

2. The People of the Timbisha Shoshone Tribe find and declare that the cultivation and sale of marijuana should be taken from the domain of criminals and be regulated under a controlled system, where businesses will be taxed and the revenue will be dedicated to public education and the enforcement of the regulations of this Ordinance.

3. The People of the Timbisha Shoshone Tribe proclaim that marijuana should be regulated in a manner similar to alcohol so that:

(a) Marijuana may only be purchased from a business that is licensed by the Timbisha Shoshone Tribe;

(b) Business owners are subject to a review by the Timbisha Shoshone Tribe to confirm that the business owners and the business location are suitable to produce or sell marijuana;

(c) Cultivating, manufacturing, testing, transporting and selling marijuana will be strictly controlled through Tribal licensing and regulation;

(d) Selling or giving marijuana to persons under 21 years of age shall remain illegal;

(e) Individuals will have to be 21 years of age or older to purchase marijuana;

(f) Driving under the influence of marijuana will remain illegal; and

(g) Marijuana sold in the tribal lands will be tested and labeled.

SECTION 4B.003 Definitions. As used in this Ordinance, unless the context otherwise requires:

1. “Community facility” means a facility licensed to provide day care to children, a public park, a public playground, a public swimming pool, a center or facility the primary purpose of which is to provide recreational opportunities or services to children or adolescents, or a church, synagogue, or other building, structure, or place used for religious worship or other religious purpose.

2. “Concentrated marijuana” means the separated resin, whether crude or purified, obtained from marijuana.

3. “Consumer” means a person who is 21 years of age or older who purchases marijuana or marijuana products for use by persons 21 years of age or older, but not for resale to others.

4. “Division” means the Tribal Marijuana Enforcement Division.

5. “Dual licensee” means a person or group of persons who possess a current, valid registration certificate to operate a medical marijuana establishment pursuant to the Timbisha Shoshone Tribe Medical Marijuana Ordinance and a license to operate a retail marijuana establishment under this Ordinance.

6. “Excluded felony offense” means a crime of distribution of a controlled substance. “Excluded felony offense” does not include:

(a) A criminal offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed more than 10 years ago; or

(b) An offense involving conduct that would be immune from arrest, prosecution, or penalty pursuant to Section 4B.004 through Section 4B.007 of this Ordinance, except that the conduct occurred before March 1, 2011, or was prosecuted by an authority other than the State of Nevada.

7. “Locality” means a city or town, or, in reference to a location outside the boundaries of a city or town.

8. “Marijuana” means all parts of any plant of the genus *Cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Marijuana” does not include:

(a) The mature stems of the plant, fiber produced from the stems, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stems (except the resin extracted therefrom), fiber, oil, or cake, the sterilized seed of the plant which is incapable of germination; or

(b) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

9. “Marijuana cultivation facility” means an entity licensed to cultivate, process, and package marijuana, to have marijuana tested by a marijuana testing facility, and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

10. “Marijuana establishment” means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, a marijuana distributor, or a retail marijuana store.

11. “Marijuana product manufacturing facility” means an entity licensed to purchase marijuana, manufacture, process, and package marijuana and marijuana products, and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

12. “Marijuana products” means products comprised of marijuana or concentrated marijuana and other ingredients that are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

13. “Marijuana paraphernalia” means any equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repackaging, storing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

14. “Marijuana testing facility” means an entity licensed to test marijuana and marijuana products, including for potency and contaminants.

15. “Process” means to harvest, dry, cure, trim, and separate parts of the marijuana plant by manual or mechanical means, such as sieving or ice water separation, but not by chemical extraction or chemical synthesis.

16. “Public place” means an area to which the public is invited or in which the public is permitted regardless of age. “Public place” does not include a retail marijuana store.

17. “Retail marijuana store” means an entity licensed to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities and retail marijuana stores, and to sell marijuana and marijuana products to consumers.

18. “Tribe” means the Timbisha Shoshone Tribe, a federally recognized Indian tribe.

19. “Unreasonably impracticable” means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

SECTION 4B.004 Effect of Ordinance.

1. The provisions of this Ordinance do not permit any person to engage in and do not prevent the imposition of any civil, criminal, or other penalty for:

(a) Driving, operating, or being in actual physical control of a vehicle, aircraft, or vessel under power or sail while under the influence of marijuana or while impaired by marijuana;

(b) Knowingly delivering, giving, selling, administering, or offering to sell, administer, give, or deliver marijuana to a person under 21 years of age, unless:

(1) The recipient is permitted to possess marijuana pursuant to this Ordinance; or

(2) The person demanded and was shown bona fide documentary evidence of the majority and identity of the recipient issued by a Tribal, federal, state, county, or municipal government, or subdivision or agency thereof;

(c) Possession or use of marijuana or marijuana paraphernalia on the grounds of, or within, any correctional facility or correctional institution.

(d) Possession or use of marijuana on the grounds of, or within, a public-school providing instruction in preschool, kindergarten, or any grades 1 through 12; or

2. The provisions of this Ordinance do not prohibit:

(a) A public or private employer from maintaining, enacting, and enforcing a workplace policy prohibiting or restricting actions or conduct otherwise permitted under this Ordinance;

(b) A tribal, state or local government agency that occupies, owns, or controls a building from prohibiting or otherwise restricting the consumption, cultivation, processing, manufacture, sale, delivery, or transfer of marijuana in that building;

(c) A person who occupies, owns, or controls a privately-owned property from prohibiting or otherwise restricting the smoking, cultivation, processing, manufacture, sale, delivery, or transfer of marijuana on that property; or

(d) A locality from adopting and enforcing local marijuana control measures pertaining to zoning and land use for marijuana establishments.

3. Nothing in the provisions of this Ordinance shall be construed as in any manner affecting the provisions of the Timbisha Shoshone Tribe's Ordinance 4A relating to the medical use of marijuana.

SECTION 4B.005 Exemption from tribal, federal, state or local prosecution for certain acts involving marijuana and marijuana paraphernalia. Notwithstanding any other provision of Tribal law, except as otherwise provided in this Ordinance, it is lawful, in these Tribal lands, and must not be used as the basis for prosecution or penalty by this Tribal, Federal, State or a political subdivision of this Tribal, Federal, State, and must not, in these tribal lands, be a basis for seizure or forfeiture of assets for persons 21 years of age or older to:

1. Possess, use, consume, purchase, obtain, process, or transport marijuana paraphernalia, one ounce or less of marijuana, other than concentrated marijuana, or one-eighth of an ounce or less of concentrated marijuana;

2. Give or otherwise deliver one ounce or less of marijuana, other than concentrated marijuana, or one-eighth of an ounce or less of concentrated marijuana without remuneration to a person provided that the transaction is not advertised or promoted to the public; or

3. Assist another person who is 21 years of age or older in any of the acts described in this section.

SECTION 4B.006 Additional exemptions from tribal, federal, or state for certain acts involving marijuana and marijuana products. Notwithstanding any other provision of Tribal law, except as otherwise provided in this Ordinance or the regulations adopted pursuant to this Ordinance it is lawful and must not, in these Tribal lands, be used as the basis for prosecution or penalty by this Tribe, or a political subdivision of this Tribe, and must not, in these Tribal lands, be a basis for seizure or forfeiture of assets for persons 21 years of age or older to:

1. Possess marijuana and marijuana products, purchase marijuana from a marijuana cultivation facility, purchase marijuana and marijuana products from a marijuana product manufacturing facility, return marijuana or marijuana products to a facility from which they were purchased, transport marijuana and marijuana products to or from a marijuana testing facility, use the services of a marijuana distributor to transport marijuana or marijuana products to or from marijuana establishments, or sell marijuana and marijuana products to consumers, if the person conducting the activities described in this subsection has a current, valid license to operate a retail marijuana store or is acting in the person's capacity as an agent of a retail marijuana store.

2. Cultivate, harvest, process, package, or possess marijuana, sell marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility, or a retail marijuana store, transport marijuana to or from a marijuana cultivation facility, a marijuana product manufacturing facility, or a marijuana testing facility, use the services of a marijuana distributor to transport marijuana to or from marijuana establishments, or purchase marijuana from a marijuana cultivation facility, if the person conducting the activities described in this subsection has a current, valid license to operate a marijuana cultivation facility or is acting in his or her capacity as an agent of a marijuana cultivation facility.

3. Package, process, manufacture, or possess marijuana and marijuana products, transport marijuana and marijuana products to or from a marijuana testing facility, a marijuana cultivation facility, or a marijuana product manufacturing facility, use the services of a marijuana distributor to transport marijuana or marijuana products to or from marijuana establishments, sell marijuana and marijuana products to a retail marijuana store or a marijuana product manufacturing facility, purchase marijuana from a marijuana cultivation facility, or purchase marijuana and marijuana products from a marijuana product manufacturing facility, if the person conducting the activities described in this subsection has a current, valid license to operate a marijuana product manufacturing facility or is acting in his or her capacity as an agent of a marijuana product manufacturing facility.

4. Possess marijuana and marijuana products and transfer and transport marijuana and marijuana products between marijuana establishments, if the person transporting the marijuana and marijuana products has a current, valid license to agent badge or is acting in his or her capacity as an agent of a marijuana establishment.

5. Possess, process, repackage, transport, or test marijuana and marijuana products if the person has a current, valid license to operate a marijuana testing facility or is acting in his or her capacity as an agent of a marijuana testing facility.

6. Lease or otherwise allow property owned, occupied, or controlled by any person, corporation, or other entity to be used for any of the activities conducted lawfully in accordance with this section.

SECTION 4B.007 No crime for certain acts involving marijuana paraphernalia. Notwithstanding any other provision of Tribal law and the law of any political subdivision of the Tribe, it is not unlawful and shall not be an offense or be a basis for seizure or forfeiture of assets for persons 21 years of age or older to manufacture, possess, use, transport, or purchase marijuana

paraphernalia, or to distribute or sell marijuana paraphernalia to a person who is 21 years of age or older.

SECTION 4B.008 Enforcement of contracts. It is the policy of the People of the Timbisha Shoshone Tribe that contracts related to the operation of marijuana establishments under this Ordinance should be enforceable, and no contract entered into by a licensee, its employees, or its agents as permitted pursuant to a valid license issued by the Division, or by those who allow property to be used by a licensee, its employees, or its agents as permitted pursuant to a valid license issued by the Division, shall be deemed unenforceable on the basis that the actions or conduct permitted pursuant to the license are prohibited by federal law.

SECTION 4B.009 Duties of Division relating to regulation and licensing of marijuana establishments; information about consumers.

1. The Division shall adopt all regulations necessary or convenient to carry out the provisions of this Ordinance. The regulations must not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. The regulations shall include:

(a) Procedures for the issuance, renewal, suspension, and revocation of a license to operate a marijuana establishment;

(b) Qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment;

(c) Requirements for the security of marijuana establishments;

(d) Requirements to prevent the sale or diversion of marijuana and marijuana products to persons under 21 years of age;

(e) Requirements for the packaging of marijuana and marijuana products, including requirements for child-resistant packaging;

(f) Requirements for the testing and labeling of marijuana and marijuana products sold by marijuana establishments including a numerical indication of potency based on the ratio of THC to the weight of a product intended for oral consumption;

(g) Requirements for record keeping by marijuana establishments;

(h) Reasonable restrictions on signage, marketing, display, and advertising;

(i) Procedures for the collection of taxes, fees, and penalties imposed by this Ordinance;

(j) Procedures and requirements to enable the transfer of a license for a marijuana establishment to another qualified person and to enable a licensee to move the location of its establishment to another suitable location;

(k) Procedures and requirements to enable a dual licensee to operate medical marijuana establishments and marijuana establishments at the same location;

(l) Procedures to establish the fair market value at wholesale of marijuana; and

(m) Penalties for the failure to comply with any regulation adopted pursuant to this section or for any violation of the provisions of Section 4B.014.

2. The Division shall approve or deny applications for licenses pursuant to Section 4B.010.

3. The Division may by motion or on complaint, after investigation, notice of the specific violation, and an opportunity for a hearing, suspend, revoke, or fine a licensee for the violation of this Ordinance or for a violation of a regulation adopted by the Division pursuant to this section.

4. The Division may immediately suspend the license of any marijuana establishment if the marijuana establishment knowingly sells, delivers, or otherwise transfers marijuana in violation of this Ordinance or knowingly purchases marijuana from any person not licensed pursuant to this Ordinance or the Timbisha Shoshone Tribe's Ordinance 4A. The Division must provide an opportunity for a hearing within a reasonable time from a suspension pursuant to this subsection.

5. To ensure that individual privacy is protected:

(a) The Division shall not require a consumer to provide a retail marijuana store with identifying information other than government-issued identification to determine the consumer's age; and

(b) A retail marijuana store must not be required to acquire and record personal information about consumers other than information typically acquired in a financial transaction conducted at a retail liquor store.

6. The Division shall conduct a background check of each prospective owner, officer, and board member of a marijuana establishment license applicant.

7. The Division shall inspect marijuana establishments as necessary to enforce this Ordinance or the regulations adopted pursuant to this section.

SECTION 4B.010 Acceptance of applications for licensing; priority in licensing; conditions for approval of application; limitations on issuance of licenses to retail marijuana stores; competing applications.

1. The Division shall begin receiving applications for tribal marijuana establishments.

2. When the Division begins to receive applications for marijuana establishments, the Division shall only accept applications for licenses for retail marijuana stores, marijuana product manufacturing facilities, and marijuana cultivation facilities pursuant to this Ordinance and the Timbisha Shoshone Tribe's Ordinance 4A.

3. Upon receipt of a complete marijuana establishment license application, the Division shall, within 90 days:

(a) Issue the appropriate license if the license application is approved; or

(b) Send a notice of rejection setting forth the reasons why the Division did not approve the license application.

4. The Division shall approve a license application if:

(a) The prospective marijuana establishment has submitted an application in compliance with regulations adopted by the Division and the application fee required pursuant to Section 4B.011;

(b) The physical address where the proposed marijuana establishment will operate is in “Indian Country”, or the applicant has the written permission of the property owner to operate the proposed marijuana establishment on that property;

(c) The property is not located within:

(1) One thousand feet of a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade 12 and that existed on the date on which the application for the proposed marijuana Dispensary establishment was submitted to the Division; or

(2) Three hundred feet of a community facility that existed on the date on which the application for the proposed marijuana dispensary establishment was submitted to the Division;

(d) The proposed marijuana establishment is a proposed retail marijuana store and there are not more than what the Tribal Council has allowed;

(e) The locality in which the proposed marijuana establishment will be located does not affirm to the Division that the proposed marijuana establishment will be in violation of zoning or land use rules adopted by the locality; and

(f) The persons who are proposed to be owners, officers, or board members of the proposed marijuana establishment:

(1) Has passed the required background requirements; and

(2) Have not served as an owner, officer, or board member for a medical marijuana establishment or a marijuana establishment that has had its registration certificate or license revoked.

SECTION 4B.011 Expiration and renewal of licenses.

1. All licenses expire one year after the date of issue.

2. The Division shall issue a renewal license within 10 days of receipt of the prescribed renewal application and renewal fee from a marijuana establishment if its license is not under suspension or has not been revoked.

SECTION 4B.012 Fees.

1. The Division shall require each applicant for a marijuana establishment license to pay a one-time application fee of \$500.

2. The Division may require payment of an annual licensing fee not to exceed:

For the initial issuance of a license for a retail marijuana store.....	\$200
For a renewal license for a retail marijuana store.....	\$600
For the initial issuance of a license for a marijuana cultivation facility.....	\$300
For a renewal license for a marijuana cultivation facility.....	\$100
For the initial issuance of a license for a marijuana product manufacturing facility.....	\$100
For a renewal license for a marijuana product manufacturing facility.....	\$300
For the initial issuance of a license for a marijuana distributor.....	\$100
For a renewal license for a marijuana distributor.....	\$500
For the initial issuance of a license for a marijuana testing facility.....	\$100
For a renewal license for a marijuana testing facility.....	\$ 50

SECTION 4B.013 Requirements for operation of marijuana establishment; inspection of establishment. In addition to requirements established by rule pursuant to Section 4B.009:

1. Marijuana establishments shall:
 - (a) Secure every entrance to the establishment so that access to areas containing marijuana is restricted to persons authorized to possess marijuana;
 - (b) Secure the inventory and equipment of the marijuana establishment during and after operating hours to deter and prevent theft of marijuana;
 - (c) Determine the criminal history of any person before the person works or volunteers at the operational marijuana establishment and prevent any person who has been convicted of a felony offense within the adjudication period, or who is not 21 years of age or older from working or volunteering for the operational marijuana establishment.
2. All cultivation, processing, and manufacture of marijuana must take place at a physical address approved by the Division and within an area that is enclosed and locked in a manner that restricts access only to persons authorized to access the area. The area may be uncovered only if it is enclosed with security fencing that is designed to prevent unauthorized entry and that is at least 6 feet high.
3. All cultivation, processing, and manufacture of marijuana must not be visible from a public place by normal unaided vision.
4. All cultivation, processing, and manufacture of marijuana must take place on property in the marijuana establishment's lawful possession or with the consent of the person in lawful physical possession of the property.
5. A marijuana establishment is subject to reasonable inspection by the Division, and a person who holds a marijuana establishment license must make himself or herself, or an agent thereof, available and present for any inspection required by the Division. The Division shall make reasonable accommodations so that ordinary business is not interrupted, and safety and security procedures are not compromised by the inspection.

SECTION 4B.014 Violations and penalties.

1. Restrictions on personal cultivation.
 - (a) No personal cultivation is allowed.
2. A person who smokes or otherwise consumes marijuana in a non-approved public place, in a retail marijuana store, or in a moving vehicle is guilty of a class B offense, punished by a fine of not more than \$100.
3. A person under 21 years of age who falsely represents himself or herself to be 21 years of age or older to obtain marijuana is guilty of a category B offense.
4. A person under 21 years of age who knowingly enters, loiters, or remains on the premises of a marijuana establishment shall be punished by a fine of not more than \$100 unless the person

is authorized to possess marijuana pursuant to Section 4A.220 of the Timbisha Shoshone Tribe's Ordinance 4A, and the marijuana establishment is a dual licensee.

5. A person who manufactures marijuana by chemical extraction or chemical synthesis, unless done pursuant to a marijuana product manufacturing license issued by the Division or authorized by Section 4A.332 of the Timbisha Shoshone Tribe's Ordinance 4A is guilty of a category A offense.

6. A person who knowingly gives marijuana to any person under 21 years of age, or who knowingly leaves or deposits any marijuana in any place with the intent that it will be procured by any person under 21 years of age is guilty of a category B offense.

7. A person who knowingly gives marijuana to any person under 18 years of age, or who knowingly leaves or deposits any marijuana in any place with the intent that it will be procured by any person under 18 years of age is guilty of a category B offense.

8. Notwithstanding the provisions of this Ordinance, after January 1, 2017, the Board may amend provisions of this Ordinance to provide for the conditions in which marijuana may be consumed in a retail marijuana store.

SECTION 4B.015 Imposition of tax on wholesale sales of marijuana by marijuana cultivation facility. The Tribe shall impose and maintain a tribal excise tax of 15% of fair market value on all sales of marijuana on the Timbisha Shoshone Tribe's reservation, or any land in "Indian Country."

SECTION 4B.016 Use of proceeds of tax, fees and penalties. Any tax revenues, fees, or penalties collected pursuant to this Ordinance first must be expended to pay the costs of the Division and Tribe in carrying out this Ordinance and the regulations adopted pursuant thereto. The Division shall remit any remaining money to the Tribal Treasurer to be deposited to be placed into the General Fund.

SECTION 4B.017 Severability. If any provision of this Ordinance, or the application thereof to any person, thing or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of this Ordinance as a whole or any provision or application of this Ordinance which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are declared to be severable.