

**Execution Copy**

# Marijuana Compact

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Between

The Tulalip Tribes of Washington

and

The State of Washington

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## Table of Contents

I. INTRODUCTION.....	2
II. PARTIES.....	2
III. PURPOSE AND INTENT .....	2
IV. DEFINITIONS .....	4
V. GENERAL MATTERS.....	7
VI. RETAIL SALES.....	10
VII. PRODUCING AND PROCESSING.....	11
VIII. RESEARCH AND TESTING OF MARIJUANA PRODUCTS .....	12
IX. NOTICE TO LOCAL JURISDICTIONS .....	13
X. TAXATION AND RECORD-KEEPING.....	16
XI. SAFETY AND ENFORCEMENT .....	17
XII. DISPUTE RESOLUTION .....	19
XIII. COMMUNICATION AND NOTICE.....	20
XIV. EFFECT, DURATION, AND AMENDMENT .....	22

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## **I. INTRODUCTION**

This compact is entered into pursuant to House Bill 2000, Chapter 207, Laws of 2015 (the “Compacting legislation”). This document will be cited as the “Marijuana Compact Between The Tulalip Tribes of Washington and the State of Washington, hereinafter referred to as the “Compact.”

## **II. PARTIES**

The Parties to this Compact are The Tulalip Tribes of Washington (“Tribe”) and the State of Washington (“State”) (collectively, “Parties”).

The Tribe is located on the Tulalip Reservation, which is in the state of Washington, and the Tribe is a federally-recognized sovereign Indian tribal government. The Tribe’s governing body, the Tulalip Board of Directors, has authority to enter into this compact pursuant to Article VI, Section 1.A of the Tulalip Constitution.

The State of Washington is a state within the United States of America, possessed of the full powers of a state government. The Washington State Liquor and Cannabis Board (“Board”) is an executive department of the State government with statutory authority with respect of marijuana under chapters 69.50 and 69.51A RCW. The Compacting legislation allows the Governor to enter into an agreement with any federally recognized Indian tribe located within the geographical boundaries of the State regarding marijuana and to delegate the power to negotiate such agreement to the Board.

## **III. PURPOSE AND INTENT**

Historically, the production, possession, delivery, distribution and sale of marijuana have been illegal across the United States and in Indian Country. In 2012, Washington voters passed Initiative 502 (“I-502”) which sets forth a tightly regulated, state-licensed system allowing for the production, processing, and retail sale of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products for recreational purposes within the State of Washington.

While the federal Controlled Substances Act continues to designate marijuana as a Schedule 1 substance, the United States Department of Justice on August 29, 2013, issued a memorandum to all United States Attorneys setting forth guidance regarding marijuana enforcement. In that memo, James M. Cole, Deputy Attorney General, set forth eight enforcement priorities of particular importance to the federal government, including: preventing the distribution of marijuana to minors; preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels; preventing the diversion of marijuana from states where it is legal under state law in some form to other states; preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity; preventing violence and the use of firearms in the cultivation and distribution of marijuana; preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use; preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and preventing marijuana possession or use on federal property. The memo further states 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 providing a policy statement regarding marijuana issues in Indian Country. In that memo, Monty Wilkinson, Director, Executive Office for United States Attorneys, acknowledged that “the 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.” That memo effectively treats tribal governments the same as state governments in the decision to legalize marijuana.

Through State law and the Board’s implementing rules, the State has legalized possession of limited amounts of marijuana and the production, processing, and sale of marijuana by licensed businesses and has set forth a civil regulatory system that accomplishes the federal priorities set forth above and keeps marijuana production, processing, and sale in the State regulated and safe for the public.

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After serious deliberation, the Tribe, as a sovereign nation, has also determined that present day circumstances make a complete ban of marijuana 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 production, possession, delivery, distribution, sale, and use of marijuana in Indian Country.

The State and the Tribe have recognized the need for cooperation and collaboration with regard to marijuana in Indian Country. The State has authorized the entry of this Compact by the Compacting legislation, enacted by the 2015 Regular Session of the Legislature on April 24, 2015, signed by the Governor on May 8, 2015, and effective on July 24, 2015. Laws of 2015, Chapter 207. Through Section 2 of this legislation, codified at RCW 43.06.490, the State authorized the Governor to enter Compacts concerning the regulation of marijuana and to delegate the authority to negotiate the Compacts to the Board.

The Parties share a strong interest in ensuring that marijuana 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 Compact does not protect the sales or regulation of marijuana in Indian Country from federal law; however, the Parties have entered into this Compact 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.

The Parties agree that it is in the best interests of the Tribe and the State that they further implement the government-to-government relationship between them, as recognized in the Centennial Accord of August 4, 1989, by entering into a compact to protect public health and safety, ensure a lawful and well-regulated marijuana market, encourage economic development in Indian Country, and provide fiscal benefits to both the Tribe and the State including development of medical marijuana.

The Parties anticipate that they will later amend this Compact to add other elements of the broader subject area of marijuana to the agreement, in order to ensure a lawful and well-regulated marijuana market, encourage economic

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development in Indian Country, and provide fiscal benefits to both the Tribe and the State.

#### IV. DEFINITIONS

- A. “Auditor” means a certified public accountant licensed and in good standing in the State of Washington.
- B. “Board” means the Washington State Liquor and Cannabis Board and its staff.
- C. “Compact” means this Marijuana Compact Between the State of Washington and The Tulalip Tribes of Washington, as it may be amended.
- D. “Indian Country,” means: (i) the lands of The Tulalip Tribes of Washington as defined by 18 U.S.C. 1151, including the Tulalip Reservation; and, (ii) all lands held in trust or restricted fee status by the United States for the Tribe or its Tribal Members.
- E. “Marijuana,” marijuana concentrates,” “marijuana-infused products,” and “useable marijuana” as used in this Compact shall have the same meanings as in RCW 69.50.101 or any amendments thereto. Together, these terms shall be referred to as “marijuana product” or “marijuana products.”
- F. “Parties” means the Tribe and the State.
- G. “Processor” means any marijuana processor licensed to process, package, and label useable marijuana, marijuana concentrates, and marijuana-infused products for sale at wholesale to processors and retailers by the Board pursuant to RCW 69.50.325 and any marijuana processor in Indian Country licensed or otherwise allowed by the Tribe or any other tribe with a marijuana compact with the Board.
- H. “Producer” means any marijuana producer licensed to produce and sell marijuana at wholesale to processors and other producers by the Board pursuant to RCW 69.50.325 and any marijuana producer in Indian Country

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licensed or otherwise allowed by the Tribe or any other tribe with a marijuana compact with the Board.

- I. “Research and Testing Facility” means any business owned by the Tribe or Tribal Enterprise that conducts research and testing of marijuana products for quality control, potency and safety compliance for medical and other uses.
- J. “Retailer” means any marijuana retailer licensed to sell useable marijuana, marijuana concentrates, and marijuana-infused products in a retail outlet by the Board pursuant to RCW 69.50.325 and any marijuana retailer in Indian Country licensed or otherwise allowed by the Tribe or any other tribe with a marijuana compact with the Board.
- K. “State” means the State of Washington.
- L. “State Licensee” means any marijuana producer, marijuana processor, or marijuana retailer licensed by the Board pursuant to chapter 69.50 RCW, chapter 314-55 WAC, or any other regulations promulgated there under.
- M. “State Tax” means the marijuana excise tax as stated in RCW 69.50.535 and the State and local sales and use tax on sales of marijuana as stated in chapters 82.08 and 82.12 RCW, all as may be amended from time to time.
- N. “TBC” means Traditional Biologics Company, a company chartered under Tulalip Tribal law and wholly owned by the Tribe which may operate using a “doing business as” name (d/b/a name).
- O. “Tribal Police” if applicable means the Tulalip Tribal Police.
- P. “Tribal Code” means The Tulalip Tribe of Washington’s Marijuana Code.
- Q. “Tribal Enterprise” means the TBC or other business owned in whole or in part by the Tribe and authorized to grow, process, research, test or sell marijuana products under the Tribal Code.
- R. “Tribe” means The Tulalip Tribes of Washington.

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- S. “Tribal Member Business” means a business owned by an enrolled member of the Tribe.
- T. “Tribal Tax” means a tax imposed by the Tribe on marijuana activities.
- U. “Tulalip Reservation” means the reservation as established under Executive Order of December 23, 1873, the original boundaries of which have never been changed or diminished. Both Parties agree, strictly for limited purposes of providing notification pursuant to Section IX. Notice to Local Jurisdictions sub-Section 2. and for no other purposes, the Parties shall use the area designated on the map attached as **Exhibit A** as the Tulalip Reservation.
- V. “WAC” means the Washington Administrative Code.

## **V. GENERAL MATTERS**

- A. Sovereign Immunity. Except for the limited purpose of resolving disputes in accordance with the Section XII below, the Parties agree that the signing of this Compact by the Tribe: (i) does not imply or grant a waiver of sovereign immunity by the Tribe or any of its subdivision or enterprises; and, (ii) is not intended as a waiver of sovereign immunity by the Tribe or any of its subdivisions or enterprises. The Parties agree that any action by the State in regard to marijuana regulation by the Tribe shall be in accord with this Compact.
- B. Tribe Does Not Submit to State Jurisdiction. By entering into this Compact, the Tribe does not concede that either: (i) the laws of the State apply to the Tribe, its businesses, agents, or members regarding activities and conduct within Indian country; or (ii) the Tribe does not have immunity from the State’s tax and collection provisions.
- C. State Does Not Concede Tribal Immunity. By entering into this Compact, the State does not concede that the Tribe has any immunity from the State’s tax and collection provisions.



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- D. This Compact Does Not Create any Third Party Beneficiaries. No third party shall: (i) have rights or obligations under this Compact; or, (ii) be considered a beneficiary of this Compact.
- E. Jurisdiction. This Compact does not increase or reduce the jurisdiction of either the Tribe or the State.
- F. No Limitation. The Parties agree that the signing of this Compact 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 Compact.
- G. Applicability. Consistent with RCW 43.06.490, this Compact applies to the production, processing, and sale of marijuana products in Indian Country where the Tribe or Tribal Enterprise: (i) delivers or causes delivery to be made to or receives delivery of marijuana products from a State Licensee; or, (ii) physically transfers possession of marijuana products from the seller to the buyer within Indian Country.

Except as otherwise provided herein, the production, processing, sale, and possession of marijuana products in Indian Country pursuant to the Tribal Code and in accordance with this Compact are not subject to the terms of chapter 69.50RCW and chapter 314-55 WAC, or any other regulations promulgated under that RCW Chapter, and any such activities will not be a criminal or civil offense under Washington state law.

H. State Licensees.

1. The Tribe or Tribal Enterprise may purchase marijuana products from or sell marijuana products to State Licensees or any other entity operating under a valid Compact authorized by the Compacting legislation, including any amendments thereto, with or otherwise authorized by the State. All transactions between the Tribe or Tribal Enterprise and State Licensees must be executed through the State traceability system, and marijuana products purchased from or sold to State Licensees must be fully compliant with state marijuana laws and rules, including packaging, testing, and labelling.

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2. The State will not cite, fine, or otherwise take any other adverse licensing or other action against any State Licensee for the mere fact that it bought or sold marijuana products from or to the Tribe or a Tribal Enterprise in accordance with the terms of this Compact and the Tribal Code.
  3. To the extent necessary, the State will work with the Tribe and with any State Licensees or otherwise authorized producers, processors, or retailers to assure such entities that the Tribe and Tribal Enterprises are legally authorized to purchase and sell marijuana products pursuant to the terms of this Compact.
  4. The current Tribal Law does not permit Tribal Member Businesses to conduct retail sales, producing, processing, research or testing of marijuana products in Indian Country. However, if the Tribal Law is revised to allow it, then the Tribal Member Business may not purchase from or sell to a State Licensee, or conduct research or testing for transactions with a State Licensee, until such time as this Compact is amended to allow it.
- I. References to Laws, Rules and Policies. References herein to Tribal ordinances, Tribal and State laws, and to Tribal, State, and Board rules and policies, include ordinances, laws, rules, and policies in existence as of the effective date of this Compact, together with any amendments that may be adopted during the term of the Compact. References herein to specific titles, chapters, or sections of the Tribal Code, the Revised Code of Washington, or the Washington Administrative Code, include the cited titles, chapters, and sections as they exist on the effective date of this Compact, together with any amendments or renumbering that may be adopted during the term of this Compact.
  - J. Buffer Zone Requirements. To maintain community safety, marijuana businesses in the Tulalip Reservation must follow buffer zone requirements outlined in RCW 69.50.331 (8)(a); provided, however, that those requirements shall apply only in cases of facilities identified in section 331 that were located and opened before the Tribe opened the marijuana business in question; and provided further, that it shall not be deemed a violation of this section for the Tribe to permit the same types of exceptions to those requirements that subsections (b) and (c) of section 331 allow

cities, counties, and towns to adopt.

## VI. RETAIL SALES

- A. Retail Sales. The Tribe and/or its Tribal Enterprise may sell marijuana products in Indian Country pursuant to the Tribal Code and this Compact. This compact does not permit Tribal Member Businesses to conduct retail sales of marijuana products in Indian Country.
- B. Initial Location. The retail location will be operated by a Tribal Enterprise and will be located at 9226 34th Avenue Northeast, Quil Ceda Village, Washington 98271.
- C. Other sales by the Tribe or a Tribal Enterprise. The Tribe shall notify the State at least 30 days prior to the opening of any other Retailer owned by the Tribe or Tribal Enterprise. Only new retail locations and not the location set forth in the Initial Location Section above shall be subject to this Section. Such notifications shall include:
1. The identity of the entity which is operating the retail location;
  2. Location of the premises; and
  3. Certification that the premises are located in Indian Country.
- D. Conditions on Retail Sales.
1. Retail sales of marijuana products by the Tribe and any Tribal Enterprise must be conducted in accordance with the Tribal Code and the internal policies and controls of the Tribe or Tribal Enterprise. The Tribal Code as it exists on the date of this Compact is attached as **Exhibit B**. Current copies of the Tribal Code and marijuana internal policies and controls of the Tribe and any Tribal Enterprise will be made available for review by the Board upon request. The Tribe agrees to notify the Board of any changes to the Tribal Code that may affect marijuana products within ten days of the date of adoption by the Tribe.

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2. All marijuana products purchased by the Tribe or a Tribal Enterprise from a State-licensed producer or State-licensed processor will be verified upon delivery in Indian Country, and confirmation of receipt will be made by executing the delivery invoice. The Tribe or Tribal Enterprise will input or cause to be input all delivered purchases into the State's tracking system within 24 hours of receiving any such delivery (unless the corresponding State, and Board rules and policies, include ordinances, laws, rules, and policies currently in existence, or as later amended to, allow for later input).
3. All marijuana 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 the state of Washington, or sold by the Tribe or a Tribal Enterprise to a tribal government, Tribal Enterprise, or member of another federally recognized Indian Tribe with a reservation located within the state of Washington, will be recorded in either the Tribe's or the State's tracking system within 24 hours of any such receipt or delivery (unless the corresponding State, and Board rules and policies, include ordinances, laws, rules, and policies currently in existence, or as later amended to, allow for later input). The Tribe and any Tribal Enterprise will make such records available for review by the Board upon request.

## VII. PRODUCING AND PROCESSING

- A. Producing and Processing of Marijuana Products. The Tribe may allow the production and processing of marijuana products in Indian Country pursuant to the following terms:
  1. Producing and/or Processing Location. The Producing and/or Processing location will be operated by the Tribe and located at located at 9226 34th Avenue Northeast, Quil Ceda Village, Washington 98271.
  2. Production and/or Processing by the Tribe or a Tribal Enterprise. The Tribe shall notify the State at least 90 days prior to (i) the start of operations of any Producer or Processor owned by the Tribe or a Tribal Enterprise or (ii) the

formation of another Tribal Enterprise that is a Producer or Processor. Only new Producing and/or Processing locations and not the location set forth in the Producer and/or Processing Location Section above shall be subject to this Section. Such notifications shall include:

- a. The identity of the entity which is operating the Producer or Processor location;
- b. Location of the premises; and
- c. Certification that the premises are located in Indian Country.

3. Conditions on Producers and Processors.

- a. Production and processing of marijuana products by the Tribe and any Tribal Enterprise must be conducted in accordance with the Tribal Code and the internal policies and controls of the Tribe or Tribal Enterprise. The Tribal Code as it exists on the date of this Compact is attached as **Exhibit B**. Current copies of the Tribal Code and any internal marijuana policies and controls of the Tribe and any Tribal Enterprise will be made available for review by the Board upon request. The Tribe agrees to notify the Board of any changes to the Tribal Code that may affect marijuana products within ten days of the date of adoption by the Tribe.
- b. The State requires that marijuana products sold by Producers or Processors to State Licensees be packaged, tested, and labeled in compliance with State marijuana laws. With respect to “edibles” this must 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 or Tribal Enterprises and State Licensees will be executed through the state traceability system following the same rules as State Licensees. All marijuana products sold to State Licensees will be fully traceable in the state’s traceability system.

For all marijuana products sold to State Licensees, marijuana products will trace back to the plant(s) they were derived from and include

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results for all required quality assurance testing. For all marijuana products sold to State Licensees, all required test results must be entered into the traceability system by a Board-certified testing laboratory.

## VIII. RESEARCH AND TESTING OF MARIJUANA PRODUCTS

- A. The Tribe may allow the opening of a Research and Testing Facility pursuant to the following terms:
1. The Tribe shall notify the State at least 90 days prior to the start of operations of any Research and Testing Facility owned by the Tribe or a Tribal Enterprise. Such notifications shall include:
    - a. The identity of the entity which is operating the Research and Testing Facility.
    - b. Location of the premises.
- B. Research and Testing Operations. Subject to the notification provisions contained herein, the Tribe may authorize the operation of a research and testing lab (“Testing Lab”) that will for a fee conduct scientific and safety testing services for substances including cannabis.
- C. Certification. The Tribe will obtain and maintain certification consistent with Board rules including any amendments thereto, from the Board or the Board's vendor before conducting testing for State Licensees, and will conduct no testing for State Licensees during any period in which the Tribe's Testing Lab is not certified. The Tribe must pay all vendor fees for certification, recertification, and ongoing monitoring directly to the vendor. The Tribe agrees that the Tribe's Testing Lab will meet the Board's certification criteria to be certified as a lab that meets the standards in state law for conducting quality assurance testing consistent with Board rules.
- D. Testing Standards. The Tribe's Testing Lab will perform the tests described in the Board rules when conducting testing for State Licensees.

- E. Federal Standards. The Tribe will conduct operations of the Testing Lab in a manner consistent and in compliance with the standards set forth by the United States Department of Justice in the Cole Memorandum and in other documents relevant to the enforcement of laws dealing with marijuana.
  
- F. Clientele. The Parties recognize that the Tribe's Testing Lab may offer its services to, among others, State-licensed producers, processors and retailers of marijuana, marijuana concentrates, and marijuana-infused products. The Tribe will obtain certification from the Board or the Board's vendor before conducting testing for State Licensees, and will conduct no testing for State Licensees during any period in which the Tribe's Testing Lab is not certified. When conducting testing for State Licensees, the Tribe's Testing Lab will report all required quality assurance test results directly into the Board's seed-to-sale traceability system within twenty-four hours of completion and record in the Board's seed-to-sale traceability system an acknowledgment of the receipt of samples from state- licensed producers or processors and verify if any unused portion of the sample was destroyed.
  
- G. The Tribe's Testing Lab may conduct quality assurance testing on marijuana product(s) produced or processed by the Tribe or Tribal Enterprise, as provided for herein.
  - 1. In accordance with Chapter 314-55 WAC, for marijuana products produced by the Tribe or Tribal Enterprise for sale to a State Licensee, the Tribe shall ensure that the products are tested by a certified third-party testing lab in which the Tribe has no financial interest, and that the products comply with all legal and regulatory testing and product requirements. At its option, the Tribe's Testing Lab may also test such products, but no label or statement of testing results shall appear on a marijuana product that differs from the results determined by the certified third-party testing lab in which the Tribe has no financial interest.
  
  - 2. The Tribe's Testing Lab may perform the tests described in the Board rules when conducting testing of marijuana products produced by the Tribe or Tribal Enterprise (1) for sale by the Tribe

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or Tribal Enterprise at a retail location within Indian Country, or (2) for use at a medical facility operated by the Tribe or by a corporation wholly-owned by the Tribe in Indian Country.

## **IX. NOTICE TO LOCAL JURISDICTIONS**

- A. The Parties agree that it is in the best interests of both Parties that notice be provided to neighboring jurisdictions prior to the commencement of operations of a Producer, Processor, Retailer, or Research or Testing Facility.
1. When the Tribe or any other Tribal enterprise proposes to open a new Producer, Processor, Retailer, or Research or Testing Facility, the Tribe will provide, at least 30 days prior to the commencement of operations, written notice to the county and to the cities in and adjacent to which the activity will occur. The Parties agree that the purpose of the notice is to facilitate an exchange of information that may be helpful to all parties concerned in addressing unanticipated impacts with the understanding that such notice related to Indian country is a matter of intergovernmental courtesy and not required by state law.
  2. In accordance with the direction of the Legislature in RCW 43.06.490(3)(c) and 69.50.331 to address problems arising out of cross-border commerce, when any business that is not a Tribal business applies to the Board for a Producer, Processor, Retailer or Research and Testing Facility license for a location in the Tulalip Reservation, the Board agrees that such license will not be granted by the Board without the Board: (i) in writing first expressly requesting from the Board of Directors of the Tribe that the Board may issue such license (pursuant to Section XIII Communication and Notice herein); and (ii) receiving written consent issued by the Board of Directors of the Tribe that the Board may issue such license. Provided however, if the Board of Directors of the Tribe does not respond within thirty (30) days with such express written consent request to the issuance of the specific license, the Board shall assume non-concurrence by the Tribe to the Board's granting of the license and the Board agrees that the Board shall not grant or issue such license.



## X. TAXATION AND RECORD-KEEPING

The Parties recognize that RCW 43.06.490(2)(a) provides that “Each marijuana agreement adopted under this section must provide for a tribal marijuana tax that is at least one hundred percent of the state marijuana excise tax imposed under RCW 69.50.535 and state and local sales and use taxes on sales of marijuana.” The Parties further recognize that Sections 3, 4, and 5 of the Compacting legislation, codified at RCW 69.50.555, 82.08.9997, and 82.12.9998, provide exemptions from certain state taxes under the circumstances described in those sections.

### A. State Tax.

1. Pursuant to RCW 69.50.555 no State Tax or fee, assessment, or other charge imposed by Chapters 69.50 or 69.51A RCW may be assessed against or collected from the Tribe, Tribal Enterprise, or retail customer purchasing from the Tribe or Tribal Enterprises covered under the provisions of this Compact.

### B. Tribal Tax.

1. Sales of marijuana products. 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 marijuana products in Indian country, except that, consistent with RCW 43.06.490(2), the tribe may allow an exemption from tax for sales to the Tribe, Tribal Enterprise, Tribal Member Business, or an enrolled member of the Tribe [,] on marijuana grown, produced, or processed within Indian Country, or for transactions otherwise exempt from state marijuana taxation under state or federal law. Medical marijuana products used in the course of medical treatment by a clinic, hospital, or similar facility owned and operated by the Tribe within Indian Country are exempted from tax. The Tribe may choose to levy a Tribal Tax on any transaction that may otherwise be exempt.

- C. At the State’s request, the Tribe will retain, at its own expense, an Auditor to test the Tribe’s compliance with this Taxation and Record-Keeping Section of the

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Compact. The Auditor will review a sample of records to verify the requirements of this section 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 section.

## **XI. SAFETY AND ENFORCEMENT**

A. The Tribe shall address safety and enforcement issues in accordance with the Tribal Code, this Compact, and internal policies and controls of the Tribe or Tribal Enterprise. The Tribal Police is the primary law enforcement agency and there is no expectation by the Parties that other non-tribal local law enforcement agencies will need to expend additional resources to address safety and enforcement issues.

### **1. Premises Checks**

- a. Premise Checks by the Tribe. The Tribal Police or other authorized agency may conduct its own premises checks in Indian Country to observe compliance with Tribal Code and this Compact 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 will share the results of the premises checks with the Board.
- b. Premise Checks by the Board. The Board, through its staff, may also conduct premises checks. Prior to conducting any such check, the Board will contact the Tribal Police to provide reasonable notice of such premises check. Except as provided in the Cooperation Section below, the Tribal Police may observe and participate in all premises checks. The Board will share the results of such premises checks with the Tribe.
- c. Cooperation. Both Parties will cooperate in good faith to undertake all Board requested checks jointly. The Tribal Police will make reasonable efforts to arrange and conduct all Board requested premises checks within 24 hours of being provided written notice of such request by the Board. All such written notice shall be sent to the Chief of the Tribal Police and the Chairman of the Tribe. However, if the Tribal Police are

unable or unwilling to arrange and conduct such requested premises checks 48 hours after receiving the original written notice, the Board may then perform the premises check on its own without the Tribal Police. 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 for the premises checks themselves or for marijuana sales by the Tribe or Tribal Enterprise that were checked.

2. Compliance Checks - Minors

- a. Compliance Checks by the Tribe. The Tribe may conduct its own compliance checks in Indian Country using minors ages 18, 19, or 20 through the Tribal Police 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 will provide the results of the checks to the Board. No criminal action may be taken against any minor who purchases marijuana as part of such a compliance check.
- b. Compliance Checks by the Board. Board staff may also conduct compliance checks using minors ages 18, 19, or 20. Prior to conducting any such check, the Board will contact the Tribal Police to provide reasonable notice of such compliance check. Except as provided in the Cooperation Section below, the Tribal Police may observe and participate in all compliance checks. The Board will share the results of such compliance checks with the Tribe. No criminal action may be taken against any minor who purchases marijuana as part of such a compliance check.
- c. Cooperation. Both Parties will cooperate in good faith to undertake all Board requested checks jointly. The Tribal Police will make reasonable efforts to arrange and conduct all Board requested compliance checks within 24 hours of being provided written notice of such request by the Board. All such written notices shall be sent to the Chief of Police and the Chairman of the Tribe. However, if the Tribal Police are unable or unwilling to arrange and conduct such requested compliance check 48 hours after receiving the original written notice, the Board may then

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perform the compliance check on its own without the Tribal Police. 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 for the compliance checks themselves or for marijuana sales by the Tribe or Tribal Enterprise that were checked.

3. Transportation Outside Indian Country. Transportation of marijuana products outside the boundaries of Indian Country shall be conducted in compliance with state law and Board rules.

## **XII. DISPUTE RESOLUTION**

- A. Process Required. Neither Party, nor any officer or official acting on behalf of a Party, may petition any court to enforce this Compact unless it is to ensure that: (a) the dispute resolution process described in this Dispute Resolution Section has been followed in good faith; or (b) the other Party enters into dispute resolution pursuant to this section. Should a dispute arise between the Parties regarding compliance with this Compact by either Party, 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 the sub-section XII.A.1. above. The representatives of each Party will come to the meeting with authority to settle the dispute. If the dispute is resolved, the resolution will be memorialized in a writing signed by the Parties.
  3. Mediation. The second stage of the process will be that if the Parties are unable to resolve the dispute within sixty (60) days after receipt of the

initial written notice, 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 divided equally by the Parties. The Parties will pursue the mediation process in good faith until the dispute is resolved or until ninety (90) days after the date of the mediation demand, whichever occurs first. The Parties may continue mediation after the ninety (90) day period by mutual agreement. If the Parties cannot agree on a format for the mediation process, the format will be determined by the mediator. If the dispute is resolved, the resolution will be memorialized in a writing signed by the Parties, which will bind the Parties.

4. Procedure if the Dispute Remains Unresolved. Either Party may terminate this Compact upon thirty (30) days' written notice sent to the persons listed in the Section XIII Communication and Notice, subsection Designated Contacts after whichever of the following occurs first: (i) completion of the process described in the Dispute Resolution, Process Required Section above; or, (ii) one hundred eighty (180) days after the written notice described in Dispute Resolution, Notice Section above.

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

C. Traceability. Should either Party have any concerns arising out of operation of the traceability system or the results thereof, the Parties will meet in good faith to discuss any issues. If parties fail to come to a resolution, either Party may invoke the Dispute Resolution Process of this Compact.

### **XIII. COMMUNICATION AND NOTICE**

A. Designated Contacts. The Parties agree to maintain regular and open communication regarding the administration and implementation of this Compact.

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The Parties agree that the following individuals will be designated primary contacts regarding administration of this Compact:

For the State: Agency Director  
Liquor and Cannabis Board  
3000 Pacific Ave SE  
PO Box 43080  
Olympia WA 98504 3080  
360-664-1650

For the Tribe: Office of the Reservation Attorney  
The Tulalip Tribes of Washington  
6406 Marine Drive  
Tulalip, WA 98271  
Managing Attorney  
(360) 716-4529

- B. The Parties agree that if either Party believes that the goals and objectives of this Compact are not being met, that they will meet promptly to discuss any issues and concerns.
- C. Notice. Any notice that may be or is required to be sent under this Compact shall be sent in writing via both certified mail, return receipt requested and email (if email address is provided) as follows:

If to the State: Office of the Governor  
PO Box 40002  
Olympia WA 98504 0002

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With a copy to: Agency Director  
Liquor and Cannabis Board  
3000 Pacific Ave SE  
PO Box 43080  
Olympia WA 98504 3080  
360-664-1650

If to the Tribe: Chairwoman  
The Tulalip Tribes of Washington  
6406 Marine Drive  
Tulalip, WA 98271  
(360) 716-4000

With a copy to: Office of Reservation Attorney  
The Tulalip Tribes of Washington  
6406 Marine Drive  
Tulalip, WA 98271

Timothy Brewer, Reservation Attorney  
[tbrewer@tulaliptribes-nsn.gov](mailto:tbrewer@tulaliptribes-nsn.gov)  
(360) 716-4529

Lee Shannon, Reservation Attorney  
[lshannon@tulaliptribes-nsn.gov](mailto:lshannon@tulaliptribes-nsn.gov)  
(360) 716-4527

Anthony Jones, Reservation Attorney  
[ajones@tulaliptribes-nsn.gov](mailto:ajones@tulaliptribes-nsn.gov)  
(360) 716-4533

#### **XIV. EFFECT, DURATION, AND AMENDMENT**

- A. Term. This Compact shall remain in effect for a term of one (1) year unless the Parties mutually agree in writing that the Compact should be vacated or terminated and superseded by a new compact between the Parties within that time frame, or unless the Compact is terminated pursuant to the Dispute Resolution, Procedure if the Dispute Remains Unresolved Section above. The Compact shall be automatically renewed for successive periods of one (1) year,

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unless a Party provides written notice to the other, no later than one hundred twenty (120) days before the expiration of the then current one (1) year period, that it wishes to modify the terms of the Compact, or notice that declines to renew the Compact.

- B. Amendment. No amendment or alteration of this Compact shall arise by implication or course of conduct. This Compact may be altered only by a subsequent written document, approved by the Parties, expressly stating the Parties' intention to amend this Compact.
- C. Severability. If any provision of this Compact or its application to any person or circumstance is held invalid, the remainder of the Compact shall not be affected.
- D. Change in Classification. If the classification of marijuana as a Schedule I drug is altered in any way or federal marijuana enforcement policy (as described above) changes, the Parties agree to meet and discuss the need to modify this Compact. If such modifications cannot be agreed upon, then either Party may terminate this Compact upon sixty (60) days written notice.
- E. Most Favored Nation Provision in Another Compact. If, at any time, the State enters into an agreement, compact, or consent decree with any other federally recognized Indian tribe or governmental agency thereof, of or relating to the regulation of marijuana in Indian country which includes a "most favored nation" provision, then, upon the Tribe's written request, this Compact will be amended to include such provision. A "most favored nation" provision is defined as language by which the State agrees to accord a tribe or tribal government agency the same favorable terms that are offered in other agreements with any other tribe or tribal government agency. This will not be construed to require that the State offer the Tribe the option to receive the same terms offered to every tribe or tribal government agency, in the absence of a most favored nation provision in the Compact.
- F. State Tax Treatment under other Tribal Compacts with other Tribes in Washington. The parties recognize that terms regarding taxation may fall within the scope of this paragraph. However, notwithstanding any other provision in



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this Compact, should it be determined that any other tribe is entitled to a refund or payment of any State tax, fee, assessment or other charge imposed on such other tribe’s marijuana product sold off such other tribe’s reservation or such other tribe’s Indian country, then the Parties agree that such more favorable terms shall be added to this Compact under this provision upon the Tribe’s written request to the Board.

This Compact is hereby made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

STATE OF WASHINGTON

THE TULALIP TRIBES OF  
WASHINGTON

\_\_\_\_\_  
Jay Inslee, Governor

\_\_\_\_\_  
Marie Zackuse, Chairwoman

WASHINGTON STATE LIQUOR AND  
CANNABIS BOARD

\_\_\_\_\_  
Jane Rushford, Board Chair

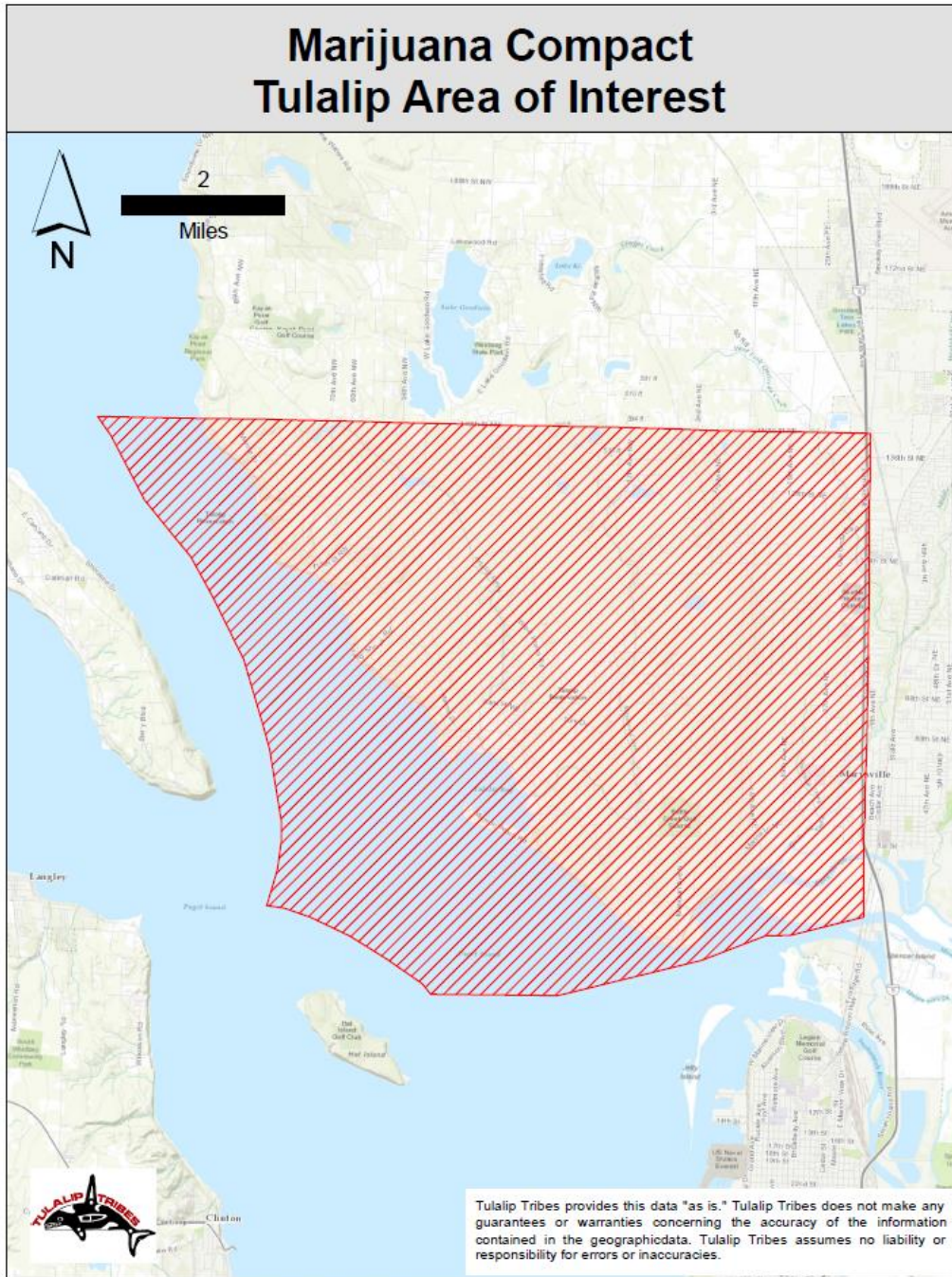
\_\_\_\_\_  
Ollie Garrett, Board Member

\_\_\_\_\_  
Russ Hauge, Board Member

\_\_\_\_\_  
Rick Garza, Agency Director

## EXHIBIT A

### Tulip Reservation



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## **EXHIBIT B**

### **Tribal Code**

#### Chapter 15.40 – Government Cannabis Code

##### Sections:

15.40.010	Purpose
15.40.020	Definitions.
15.40.030	Tribal Cannabis Agency.
15.40.040	Licensing.
15.40.050	Authorized entities.
15.40.060	Cannabis Sales
15.40.070	Cannabis Taxation.
15.40.080	Cannabis Production
15.40.090	Cannabis Processing
15.40.100	Cannabis Labelling.
15.40.110	Tracking.
15.40.120	Quality assurance tests.
15.40.130	Personnel.
15.40.140	Prohibited sales—Locations.
15.40.150	Security.
15.40.160	Civil Enforcement.
15.40.170	Criminal Enforcement.
15.40.180	Exclusions and Variances.
15.40.190	Indemnification.
15.40.200	Public Safety and Interstate Ban.
15.40.210	Preemption.
15.40.220	Savings Clause and Impairment.
15.40.230	Effective Date.

15.40.010 – Purpose.

This chapter is hereby adopted for the purpose of regulating the producing, manufacturing, processing, packaging, delivering, distributing, or selling, or possessing of marijuana in Tulalip Tribes’ Indian Country (as that term is defined in 15.40.040 herein). Marijuana and all related products will be cultivated, produced, processed and sold only by the Tulalip Tribal government. The marijuana operations will be wholly owned and operated solely by the Tulalip Tribes. The revenue generated from marijuana sales will be used to enhance Tribal education, health care, social services, research, and substance abuse prevention. This chapter does not authorize private operation of marijuana cultivation, production, processing or sales businesses. Recreational and medical marijuana use or possession in accordance with this Chapter will not be treated as a crime.

This Chapter is designed to address the eight enforcement priorities of particular importance to the federal government included in the memorandum issued by the United States Department of Justice on August 29, 2013, to all United States Attorneys setting forth guidance regarding marijuana enforcement. On October 28, 2014, the United States Department of Justice issued another memorandum to all United States Attorneys providing a policy statement regarding marijuana issues in Indian Country which acknowledged that “the eight priorities in the Cole Memorandum will guide United States Attorneys’ marijuana enforcement efforts in Indian Country...”.

Those eight enforcement priorities set forth include: (i) preventing the distribution of marijuana to minors; (ii) preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels; (iii) preventing the diversion of marijuana from states where it is legal under state law in some form to other states; (iv) preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity; (v) preventing violence and the use of firearms in the cultivation and distribution of marijuana; (vi) preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use; (vii) preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and (viii) preventing marijuana possession or use on federal property.

This Tribal Government Cannabis Code is to designed to provide a sufficiently robust regulatory and enforcement systems to protect against those harms stated above. (Res. No. 2017-\_\_\_ )

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15.40.020 - Definitions.

A. When used in this chapter, unless the context clearly requires otherwise:

B. “Board of Directors” means the Tulalip Tribal Board of Directors.

C. “Indian Country” means the lands of the Tulalip Tribes of Washington as defined by 18 U.S.C. § 1151, including: (i) the Tribe’s Reservation; (ii) all lands held in trust by the United States for the Tulalip Tribes or its Tribal Members; or (iii) all lands held in restricted fee status by the Tulalip Tribes or its Tribal Members.

D. "Marijuana" or "marihuana" means all parts of the plant cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; 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. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. (See RCW 69.50.101(v), see also 21 U.S.C. Section 802(16))<sup>1</sup>

E. "Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant cannabis and having a THC concentration greater than sixty (60) percent.

F. "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in this section, and have a THC concentration no greater than ten percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates. (See RCW 69.50.101(cc))

G. “Processor” means any marijuana processor in Indian Country licensed or otherwise allowed by the Tulalip Tribes pursuant to this Chapter (or its successor) to process marijuana into useable marijuana, marijuana concentrates, and marijuana-infused products, package and

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<sup>1</sup> References contained herein to RCW and U.S.C. are for illustrative cross-reference purposes only and are not citations as the basis of legal authority.

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label useable marijuana and marijuana-infused products for sale to retailers, and sell useable marijuana and marijuana and marijuana-infused products at wholesale to retailers.

“Producer” means any marijuana producer in Indian Country licensed or otherwise allowed by the Tulalip Tribes pursuant to this Chapter (or its successor) to produce and sell marijuana at wholesale to processors and other producers.

“Retailer” means any marijuana retailer in Indian Country licensed or otherwise allowed by the Tulalip Tribes pursuant to pursuant to this Chapter (or its successor) to sell useable marijuana, marijuana concentrates, and marijuana-infused products in a retail outlet.

H. "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content. (See RCW 69.50.101(rr))

I. “Tulalip Tribes” means the Tulalip Tribes of Washington.

J. "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products. (See RCW 69.50.101(tt)) (Res. No. 2017-\_\_\_ )

#### 15.40.030 – Tribal Cannabis Agency (TCA).

(1) TCA Establishment. The TCA is established by the Tulalip Tribes to be the agency responsible for regulation of cannabis cultivation, processing, production, and research and testing and shall exercise the responsibilities to guide the on-site regulation, control and security of the cannabis operation authorized by this chapter, and for the enforcement of this chapter within Tulalip Tribal lands.

(a) Role. The role of the TCA is Cannabis regulation; and the TCA shall not have authority to engage in internal management or personnel matters of operations of cannabis cultivation, processing, production, and research and testing facilities.

(b) Duties. As part of its structure, the TCA shall perform the following functions:

(i) The enforcement in the cannabis operations, including the facilities, of all applicable cannabis regulatory laws;

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- (ii) The physical safeguarding of assets transported to and from the cannabis facilities and cashier's cage department;
  - (iii) The protection of the patrons and the cannabis facilities from illegal activity; the detention of persons who may be involved in illegal acts for the purpose of notifying the law enforcement authorities; and
  - (iv) The recording of any and all unusual occurrences within the cannabis facilities.
- (2) TCA Director. The Director shall be the chief administrator and lead enforcement official in carrying out the powers and duties of this chapter.
- (a) Director Appointment, Vacancies, and Eligibility. The Director shall be appointed by the Board of Directors in its sole discretion. If the Director is removed, resigns or retires, the Board of Directors shall appoint an alternate to take his/her place. A candidate for Director must have no criminal convictions for any drug/controlled substances violations (excluding cannabis convictions) in the past seven years.
  - (b) Director Duties. The Director may propose rules and regulations governing cannabis activities and operations licensed by the Tulalip Tribes for review, revision, and/or approval by the Board of Directors. The Director shall supervise other TCA employees in carrying out the purposes and provisions of this chapter. Any authority expressly reserved to the Director may be delegated by the Director to TCA personnel under the Director's authority. The Director shall be supervised by the Tulalip Tribes General Manager in accordance with a TCA organizational chart as approved by the General Manager and the Board of Directors, and shall, in addition to the specific requirements of this chapter, be subject to the requirements of the Tulalip Tribes Government Employee Handbook, with the exception of applicable variances adopted by the Board of Directors.
- (3) TCA Inspectors. The TCA shall employ qualified inspectors. Said inspectors shall be independent of any of the cannabis operations, and shall be supervised by the Director.
- (a) Reporting of Violations. A TCA inspector may be present in the cannabis facilities during all hours of operation, and shall have immediate access to any and all areas of the cannabis operation for the purpose of (i) physically safeguarding the assets of the cannabis operation, and (ii) ensuring compliance with the cannabis regulatory provisions of this chapter. Any violation(s) of the provisions of this chapter by the cannabis operations, a cannabis operations employee, cannabis operations entity, or any person on

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the premises whether or not associated with the cannabis operations shall be reported immediately to the TCA.

(4) TCA Investigation/Enforcement.

- (a) The TCA shall investigate any observed or reported cannabis regulatory violations of this chapter or cannabis regulations promulgated hereunder and diligently, efficiently, and reasonably enforce the same as provided for herein in a professional manner.
- (b) If a cannabis regulation violation by the cannabis operations is found, the Director is authorized to issue a corrective action order requiring the cannabis operations to correct the violation. Except in cases where immediate enforcement action is deemed necessary by the Director, the TCA shall first seek informal, voluntary correction by the cannabis operations. Where a cannabis operations violation is not remedied informally after a documented compliance meeting, or immediate enforcement action is deemed necessary by the Director, the TCA may proceed with formal enforcement through issuance of a corrective action order.
- (c) Corrective Action Order. A corrective action order shall be in writing and directed at the highest level management official in the cannabis operations facility to which it applies. The corrective action order shall clearly state the nature of the cannabis regulatory violations, and the specific actions required to correct the cannabis regulatory violations. The order shall specify a reasonable time for compliance, taking into account all relevant facts and the nature of the actions required.
- (d) Responsibility for Compliance. The highest level management official in the cannabis operations facility to which the order was directed shall be responsible for either complying with or appealing the corrective action order.
- (e) Cannabis Operations Sanctions. No adverse licensing action shall be taken against any cannabis operations management official or employee where the cannabis operations facility has, in a timely manner, (A) taken the specific compliance actions required by the order, (B) demonstrated substantial good faith efforts toward compliance, or (C) filed a timely appeal of the order. In cases where the cannabis operations has failed to either comply or appeal the order within the required time frames, the cannabis operations facility management official responsible for compliance may be sanctioned through license suspension not exceeding 30 days.
- (f) Criminal Law Enforcement. All matters involving suspected criminal activity shall be referred by the cannabis operations and/or TCA to the appropriate Tribal law enforcement agency, Federal or local law enforcement agencies. The cannabis operations and TCA shall cooperate and coordinate with the Tribal law enforcement agency and



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Federal or local law enforcement agencies in all matters involving suspected criminal activities occurring within or in relation to Tribal cannabis operations facilities licensed under this chapter. The cannabis operations shall also notify TCA of any person suspected of criminal trespass. (Res. No. 2017-\_\_\_ )

15.40.040 – Licensing.

(1) Licenses.

(a) Licensing Program Overview. The Tulalip Tribes’ marijuana licensing program shall be administered through the TCA. The program shall be an investigative licensing process under which all applicants for Marijuana licenses are evaluated against the standards set forth in, and subject to the requirements of, this chapter, all any regulations promulgated hereunder, compact requirements, and any other applicable Tribal, Federal, or State laws.

(b) Licensing Requirements. An annual Tribal Marijuana License is required for:

(i) Each Processor operating a facility located on Tulalip Tribal lands;

(ii) Each Producer operating a facility located on Tulalip Tribal lands;

(iii) Each Retailer operating a facility located on Tulalip Tribal lands;

(iv) Each Research and Testing Facility located on Tulalip Tribal lands; and

(v) Each employee of a Processor, Producer, Retailer, or Research and Testing Facility.

(vi) Burden on Applicant. The burden of proving an applicant’s qualifications to receive a license hereunder is at all times on the applicant. Applicants must accept any risk of adverse public notice, embarrassment or other action that may result from the application process and expressly waive any claim for damages as a result thereof.

(vii) Applicant Claim of Privileges. An applicant may claim any privilege afforded by law in connection with a marijuana license application or investigation, but a claim of privilege with respect to any testimony or evidence pertaining thereto may constitute sufficient grounds for denial, suspension or revocation.

(viii) Release of Information. Any persons applying for a license shall agree to release all information necessary in order for the TCA to complete their suitability

determination. Applicants must update all such information promptly on an ongoing basis.

(viii) Marijuana License Confers No Property Right. A Tribal Marijuana License is a revocable privilege, and no licensee shall have any vested or property right in a Tribal Marijuana License. A Tribal Marijuana License is personal to the licensee, and may not be assigned or transferred.

(ix) Types of Licenses:

(A) Facility License: Processor, Producer, Retailer Operation, or Research and Testing Facility License. A single license for each Processor, Producer, Retailer, or Research and Testing Facility operating in Tulalip Indian Country.

A. (B) Category A License. Any management, consultant, key employee, or closely associated independent contractor with influence over the management of the marijuana operation shall obtain a Category A license. The TCA shall conduct or cause to be conducted a background investigation to determine if such person has:

1. Any criminal record or any reputation, prior activities, habits or associations which might pose a threat to the public interest or to the effective regulation of marijuana processing, producing or retail business operations.

2. Anything else in his/her background that might create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of marijuana processing, producing or retail business operations.

Additional procedures for Category A licensing application and background investigations shall be set forth by regulation. Those who do not meet the required qualifications shall be denied a Category A license, or the license if issued may be revoked.

B. (C) Category B License. Persons who are not among those identified in subsection (1)(c)(ix)(B) of this section, but are to be employed at a marijuana facility in Tulalip Indian Country in another capacity, shall be required to obtain a

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Category B license from the TCA. Such persons shall complete a short form Category B application. A Category B license may be denied if the TCA finds that the applicant has been convicted of a felony or crimes involving dishonesty, or is engaged in any activity which the TCA deems would render such person a danger to the safety and security of the Tulalip Tribes, property of the Tulalip Tribes, any employee or patron, or the public.

Those who do not meet the required qualifications shall be denied a Category B license, or the license, if issued, may subsequently be revoked.

(x) License Suspension or Revocation:

Any facility operating as a Processor, Producer, Retailer or Research and Testing Facility in Tulalip Indian Country whose Facility License has been revoked or suspended must immediately cease operations and may not resume operations until and unless such Facility License has been re-instated.

Any person whose license has been revoked or suspended must immediately cease working in the cannabis industry in Tulalip Indian Country and may not continue in the management, consulting, employment or independent contractor role until and unless such Category A or Category B license has been re-instated.

(2) Additional regulations shall be developed to implement Chapter 15.40.040 – Licensing, including but not limited to License Revocation and License Suspension as a Sanction. (Res. No. 2017-\_\_\_ )

15.40.050 - Authorized entities.

(1) Wholly owned enterprises of the Tulalip Tribes of Washington are the only persons or entities authorized to manufacture, process, package, deliver, distribute, or sell, or possess marijuana in quantities in excess of the quantities identified under Section 15.40.060 of this chapter and solely to the extent provided under this chapter. (Res. No. 2017-\_\_\_ )

15.40.060 - Cannabis Sales.

Sales and other forms of dispensing recreational or medical grade marijuana shall be conducted only by businesses owned and operated by: the Tulalip Tribes, by a corporation or limited liability company wholly-owned by the Tulalip Tribes, or by another entity of Tribal government whose governing documents authorize such activity.

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K. The following acts, when performed by a wholly owned enterprise of the Tulalip Tribes or its employee in compliance with the Tulalip Tribal Codes, shall not constitute criminal or civil offenses under the Tulalip Tribal Codes:

- (1) Purchase and receipt of useable marijuana, marijuana concentrates, or marijuana-infused products that have been properly packaged and labeled from a wholly owned enterprise of the Tribe, another federally recognized Indian Tribe (as permitted under an agreement between the State of Washington and that other federally recognized Indian Tribe), or a state-licensed producer or processor;
- (2) Possession of useable marijuana, marijuana concentrates, or marijuana-infused products;
- (3) Delivery, distribution, and sale of any combination of the following amounts of useable marijuana, marijuana concentrates, or marijuana-infused product to any person twenty-one (21) years of age or older:
  - (a). One ounce of useable marijuana;
  - (b). Sixteen (16) ounces of marijuana-infused product in solid form;
  - (c). Seven grams of marijuana concentrates; or
  - (d). Seventy-two (72) ounces of marijuana-infused product in liquid form meant to be eaten or swallowed.

(See WAC 314-55-095)<sup>2</sup>

- (4) Effective July 1, 2016, delivery, distribution, and sale of any combination of the following amounts of useable marijuana, marijuana concentrates, or marijuana-infused product to a qualifying patient or his or her designated provider, as those terms are defined under chapter 69.51A RCW, if the patient or provider is in possession of a valid authorization and recognition card, as defined under RCW 69.51A.010, and the patient is recorded in that database established under Section 21 of Chapter 70, Laws of 2015, Washington State (2SSB 5052):
  - (a). Forty-eight (48) ounces of marijuana-infused product in solid form;
  - (b). Three ounces of useable marijuana;

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<sup>2</sup> References contained herein to WAC are for illustrative cross-reference purposes only and are not citations as the basis of legal authority

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- (c). Two hundred sixteen (216) ounces of marijuana-infused product in liquid form; or
- (d). Twenty-one (21) grams of marijuana concentrates.

(See RCW 69.51A.210(1))

- (5). Producing, processing, packaging, and labeling marijuana, useable marijuana, and marijuana-infused products; and
- (6). Delivery, distribution, and sale of useable marijuana or marijuana-infused products to wholly owned enterprises of the Tribe, another federally recognized Indian Tribe (as permitted under an agreement between the State of Washington and that other federally recognized Indian Tribe), or to state licensed producers, processors, or retailers. (Res. No. 2017-\_\_\_ )

#### 15.40.070 – Cannabis Taxation.

- (1) There is imposed and shall be collected a Tribal marijuana tax at the rate of 46.9 percent of the selling price on each retail sale of marijuana concentrates, usable marijuana, and marijuana-infused products.
- (2) Sales of marijuana concentrates, useable marijuana, and marijuana-infused products that are grown, produced or processed in Tulalip Tribes’ Indian Country are exempt from the tax levied under this section. (Res. No. 2017-\_\_\_ )

#### 15.40.080 - Cannabis Production. [Reserved] (Res. No. 2017-\_\_\_ )

#### 15.40.090 – Cannabis Processing. [Reserved] (Res. No. 2017-\_\_\_ )

#### 15.40.100 – Cannabis Labelling.

- (1) All transactions between the Tribe or Tribal Enterprise and State Licensees must be executed through the State traceability system, and marijuana products purchased from or sold to State Licensees must be fully compliant with state marijuana laws and rules, including packaging, testing, and labelling.
- (2) Useable marijuana when sold at retail must include accompanying material that contains the appropriate warnings.
- (3) All marijuana concentrates and marijuana-infused products sold at retail must include accompanying material that contains the appropriate warnings.

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- (4) Labels affixed to the container or package containing useable marijuana sold at retail must include the appropriate information.
  - (4) Labels affixed to the container or package containing marijuana-infused products sold at retail must include the appropriate information.
  - (5) Labels affixed to the container or package containing marijuana concentrates sold at retail must include the appropriate information. (Res. No. 2017-\_\_\_ )

#### 15.40.110 - Tracking.

L. All wholly owned enterprises of the Tulalip Tribes of Washington shall employ reasonable and effective inventory methods that allow marijuana to be tracked from seed to sale. (Res. No. 2017-\_\_\_ )

#### 15.40.120 - Quality assurance tests.

M. All wholly owned enterprises of the Tulalip Tribes of Washington engaged in the production or processing of marijuana shall employ third party laboratories to conduct quality assurance tests consistent with those specified under WAC 314-55-102 or successor regulations. (Res. No. 2017-\_\_\_ )

#### 15.40.130 – Personnel.

The Tulalip Tribes reserve the right to deny employment based upon prior criminal convictions. Only persons 21 years of age or older may be employed in any cannabis-related operations.

- (a) Background Investigation and licensing. No employee shall be hired if he/she has a felony criminal record. All prospective employees are subject to a criminal background investigation and must past applicable licensing requirements and obtain to maintain their licenses as a condition to prospective employment.
- (b) Training.
  - (1) All employees of any cannabis-related business must have the education, training, or experience, or any combination thereof, to perform all assigned functions.
  - (2) Cultivation and processing operations must maintain records of any training provided to employees for the performance of all assigned functions, including but not limited to application of pesticides.

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(3) Cultivation and processing operations should provide all employees with training that includes:

(A) Instructions regarding regulatory inspection preparedness and law-enforcement interactions; and

(B) Information on applicable Tribal, state, and U.S. federal laws, regulations, and policies relating to individuals employed in these operations, and the implications of these for such employees.

(4) Employees who have assigned functions that involve providing qualified individuals with cannabis or cannabis-derived product must complete training that includes:

(A) Specific uses of cannabis or a specific cannabis-derived product;

(B) Clinical application of the specific constituents of cannabis;

(C) The laws, regulations, and policies relevant to providing cannabis or cannabis-derived product to qualifying individuals.

(c) Hygiene.

(1) Employees showing signs of illness, open wounds, sores or skin infections will be prohibited from handling cannabis in the cultivation and processing operation.

(2) Employees handling cannabis shall receive training with specific attention to preventing microbial contamination.

(3) Employees must strictly adhere to all hand washing requirements including washing hands with soap and hot water before beginning work, and after using the bathroom and after meal breaks.

(4) Instructive hand washing signage will be placed in appropriate areas such as bathrooms, kitchens, and lunch areas, and in multiple languages as needed.

(5) Washington State Food Handler's Permit. All employees must obtain a Washington State Food Handler's Permit before working in cannabis cultivation, production, processing and distribution sites.

(d) Safety.

(1) Employees will be required to strictly comply with all safety protocols, and will be required to attend all employer sponsored safety training relevant to their specific job functions, which may include:

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- (A) Emergency action response planning as necessary;
  - (B) Employee accident reporting and investigation policies;
  - (C) Fire prevention;
  - (D) Hazard communication policies, including maintenance of material safety data sheets (“MSDS”);
  - (E) Materials handling, spills, and disposal policies;
  - (F) Job hazard analyses; and
  - (G) Personal protective equipment policies, including respiratory protection.
- (e) The cultivation operations must provide and maintain at least one emergency eye flushing station readily accessible to all employees and access to adequate eye flushing water for each employee working in field operations.
- (f) The cultivation and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
- (1) Operation manager contacts;
  - (2) Emergency responder contacts;
  - (3) Poison control contacts;
  - (4) Fire department contacts; and
  - (5) Spill response team contacts. (Res. No. 2017-\_\_\_ )

15.40.140 - Prohibited sales—Locations.

- (1) Marijuana products may not be sold or advertised within in or on, or within one thousand (1,000) feet of elementary school; secondary school; or a playground, all located in Tulalip Tribes’ Indian Country. Additionally, Marijuana products may not be sold or advertised within in or on, or within one hundred (100) feet of recreation center or facility; child care center; public park; public transit center; library; or game arcade, all located in Tulalip Tribes’ Indian Country.
- (2) For the purposes of this section:
  - (a) "Child care center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours owned and licensed by the Tulalip Tribes.



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- (b) "Game arcade" means an entertainment venue featuring primarily video games and/or other pinball machines where persons under eighteen (18) years of age are not restricted, intended primarily for the use of pinball and video machines for amusement containing a minimum of ten (10) pinball and/or video machines owned and/or managed by the Tulalip Tribes.
- (c) "Library" means an organized collection of written resources made accessible to the public for reference or borrowing supported with money derived from taxation by the Tulalip Tribes and owned and/or managed by the Tulalip Tribes.
- (d) "Playground" means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards owned and/or managed by the Tulalip Tribes.
- (e) "Public park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by the Tulalip Tribes. Public park does not include trails.
- (f) "Public transit center" means a facility located outside of the public right of way that is owned and managed by the Tulalip Tribes for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.
- (g) "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under eighteen (18) years of age, owned and/or managed by the Tulalip Tribes. (Res. No. 2017-\_\_\_ )

#### 15.40.150 – Security.

(1) Theft and Diversion. All wholly owned enterprises of the Tulalip Tribes of Washington shall employ reasonable and effective security procedures and systems that safeguard marijuana from theft and diversion, including marijuana intended for destruction as waste.

#### (2) Production and Processing.

- (a) Outdoor and greenhouse cultivation operations should be enclosed by a secure perimeter fence at least six (6) feet in height. The fence should include a lockable gate that is locked when a qualified employee is not in the immediate area. The fence must not violate any

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other ordinance, code section or provision of law regarding height and location restrictions.

- (b) Indoor cultivation facilities and processing facilities must implement facility security measures sufficient to deter the risk of unauthorized access while allowing for emergency ingress and egress in accordance with applicable regulations.
- (c) Cultivation operations and processing operations must implement and communicate security protocols to all personnel and on-site contractors.
- (d) Visitors must be accompanied by an employee at all times.
- (e) Cultivation and processing operations should have a system for review of relevant records as a means of preventing diversion.

(3) Retail.

- (a) Distribution and retail operations must have additional security as needed and should include:
  - (i) Security personnel in sufficient number to ensure safety of staff and patrons;
  - (ii) Sufficient security camera coverage; and
  - (iii) Monitoring of dedicated parking, if any, with either security personnel or with security cameras.

(4) Deliveries. There must be:

- (a) Security personnel at the facility where the product is stored, or processed in sufficient number to ensure the safety of all staff and of all cannabis and cannabis-derived products.
- (b) Training for delivery staff to ensure awareness of how to maintain personal and product safety and to provide contact information to police or other emergency personnel;
- (c) Security personnel at the retail facility where the product is delivered subject to full compliance with all applicable legal requirements; and
- (d) Provide training to make all other staff aware of the operations security procedures, and each individual employee's security role and responsibilities. (Res. No. 2017-\_\_\_ )

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15.40.160 – Civil Enforcement.

(i) The Board of Directors may authorize or delegate civil enforcement of this Chapter 15.40 Government Cannabis Code.

(ii) The general rules of the Tulalip Tribal Court shall govern any action filed under this chapter. Enforcement of this chapter does not foreclose civil enforcement. (Res. No. 2017-\_\_\_ )

15.40.170 – Criminal Enforcement.

(i) All offenses connected to cannabis use, consumption, manufacturing, processing, or distribution are set forth in the Tribal Criminal Code.

(ii) actions of any person who violates Tulalip Tribal Code Chapter 15.40 Government Cannabis Code and Tulalip Tribal Code Chapter 3.55 – Offenses Involving Dangerous Drugs may be referred to the proper authorities (Tribal, Federal, and/or State) for prosecution. (Res. No. 2017-\_\_\_ )

15.40.180 Exclusions and Variances.

The following acts when performed by employees or contractors of the Tulalip Tribes in conformance with this chapter shall not constitute criminal or civil offenses under Tribal law:

(a) Production or possession of marijuana pursuant to employment duties.

(b) Possession, processing, packaging and labeling of quantities of marijuana, useable marijuana, and marijuana-infused products in preparation for sales.

(c) Delivery, distribution and sale of marijuana pursuant to employment duties at the retail outlet.

(d) No Liability for Health Care Professionals. A health care professional may not be arrested, searched, prosecuted, disciplined, or subject to other criminal sanctions or civil consequences or liability under Tribal law, or have real or personal property searched, seized, or forfeited pursuant to Tribal law, if he/she is:

(1) Advising a patient about the risks and benefits of medical use of marijuana or that the patient may benefit from the medical use of marijuana; or

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- (2) Providing a patient with valid documentation, based upon the health care professional's assessment of the patient's medical history and current medical condition that valid documentation is necessary in the individual health care professional's medical judgment.
- (e) No Liability for Qualified Patients. The medical use of marijuana in accordance with the terms and conditions of this chapter does not constitute a crime and a qualifying patient in compliance with the terms and conditions of this chapter may not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, marijuana under Tribal law, or have real or personal property seized or forfeited for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, marijuana under Tribal law.
- (f) No Liability Based on Constructive Possession by the Tulalip Tribes.
- (1) No person shall be prosecuted for constructive possession, conspiracy, or any other criminal offense solely for being in the presence or vicinity of medical marijuana or its use as authorized by this chapter.
  - (2) The Tulalip Tribes shall not be held vicariously liable for any deleterious or ineffective outcomes from the medical use of marijuana by any qualifying patient.
- (g) Variances to Tulalip Tribal Code.
- (1) Title 9: Employment and Contracting - Chapter 9.35: Drug and Alcohol Free Workplace: Pursuant to 9.35.020, variances to the Drug and Alcohol Free Workplace Chapter 9.35 are approved by the Board of Directors and thus the Board of Directors approves the following variances such that the following sections, or violations thereof, shall not apply to an employee of an enterprise or entity of the Tulalip Tribes of Washington which is authorized to manufacture, process, package, deliver, distribute, or sell, or possess marijuana in compliance with this chapter:
- (a) Violations of 9.35.040 (2)(a); 9.35.040 (2)(b); 9.35.040 (2)(d); and 9.35.040 (3)(c) (including as they may be later amended or replaced);
  - (b) Violations of 9.35.100 (2); and 9.35.100 (3) (including as they may be later amended or replaced).
- (2) The Tulalip Tribes Government Employee Handbook, as applicable, shall apply to an enterprise or entity of the Tulalip Tribes which is authorized to manufacture, process, package, deliver, distribute, or sell, or possess marijuana in compliance with the Tulalip Tribal Codes provided that such enforcement of the Tulalip Tribes Government Employee Handbook shall be modified be modified pursuant to the changes set forth in 14.08.200 (g) (1) above.

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(3) Title 3: Criminal Offenses and Infractions - Chapter 3.55: Offenses Involving Dangerous Drugs: A variance to Chapter 3.55: Offenses Involving Dangerous Drugs is hereby approved by the Board of Directors and thus such that Chapter 3.55, or violations thereof, shall not apply to an employee of an enterprise or entity of the Tulalip Tribes (growers/processors/retailers) which is authorized to grow, manufacture, process, package, deliver, distribute, or sell, or possess marijuana in compliance with the Tulalip Tribal Codes. (Res. No. 2017-\_\_\_\_ )

15.40.190 – Indemnification.

(1) The Tulalip Tribes shall indemnify, defend, and hold harmless any elected official, officer, or employee of the Tulalip Tribes or its enterprises from civil or criminal prosecution arising from his or her good faith implementation of his or her responsibilities arising out of or relating to the implementation of this chapter. (Res. No. 2017-\_\_\_\_ )

15.40.200 –Public Safety and Interstate Ban.

(1) Public Safety. The Tulalip Tribes may contract for the inspection of its marijuana production and methods and products to assure their conformance with scientific and safety standards to assure protection of the public.

(2) Interstate Ban. Marijuana is prohibited from being diverted in any form from the Tulalip Tribes' Indian Country to any other state where marijuana is illegal. (Res. No. 2017-\_\_\_\_ )

15.40.210 - Preemption.

Nothing contained in this chapter shall be construed to supersede federal law or contradict federal policies regarding the acquisition, possession, manufacture, sale, or use of marijuana contained within the Tulalip Reservation and the state of Washington. (Res. No. 2017-\_\_\_\_ )

15.40.220 –Savings Clause and Impairment.

(1) If any section, paragraph, clause or word of this chapter shall for any reason be adjudged invalid, such shall not invalidate the remainder thereof but shall be confined in its operation to said section, paragraph, clause or word.

(2) It is the intent of Tulalip Tribes that the enactment of this Resolution shall not impair the Tribe's right to receive any grant funding, preferred lending or similar third party payments. This Resolution shall be liberally construed to avoid any such impairment. (Res. No. 2017-\_\_\_\_ )

15.40.230 – Effective Date.

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(1) Effective Date. This chapter shall become effective forthwith upon adoption by the Tribal Board of Directors. (Res. No. 2017-\_\_\_\_ )