

# Alcohol & Marijuana Control Office

Initiating License Application

5/19/2021 10:17:02 AM

**License Number:** 12770**License Status:** Active-Operating**License Type:** Standard Marijuana Cultivation Facility**Doing Business As:** SECRET GARDEN CANNABIS**Business License Number:** 1052541**Designated Licensee:** James M.P. Thornton**Email Address:** james@secretgardenak.com**Local Government:** Anchorage (Municipality of)**Local Government 2:****Community Council:** Fairview**Latitude, Longitude:** 61.122661, -149.529840**Physical Address:** 726 E. 15th AVE  
Suite 3  
Anchorage, AK 99501  
UNITED STATES**Licensee #1****Type:** Entity**Alaska Entity Number:** 10047615**Alaska Entity Name:** Axion Enterprises, LLC**Phone Number:** 907-952-7070**Email Address:** james@secretgardenak.com**Mailing Address:** P.O. Box 200011  
Anchorage, AK 99520  
UNITED STATES**Entity Official #1****Type:** Individual**Name:** James M.P. Thornton**SSN:** [REDACTED]**Date of Birth:** [REDACTED]**Phone Number:** 907-952-7070**Email Address:** james@secretgardenak.com**Mailing Address:** P.O. Box 200011  
Anchorage, AK 99520  
UNITED STATES**Entity Official #2****Type:** Individual**Name:** Nicholas Bryant**SSN:** [REDACTED]**Date of Birth:** [REDACTED]**Phone Number:** 626-695-9334**Email Address:** jrthornton@live.com**Mailing Address:** 6020 Maximilian Dr.  
Anchorage, AK 99507  
UNITED STATES**Note:** No affiliates entered for this license.



## Alaska Marijuana Control Board

**Form MJ-20: Renewal Application Certifications****What is this form?**

This renewal application certifications form is required for all marijuana establishment license renewal applications. Each person signing an application for a marijuana establishment license must declare that he/she has read and is familiar with AS 17.38 and 3 AAC 306. A person other than a licensee may not have direct or indirect financial interest (as defined in 3 AAC 306.015(e)(1)) in the business for which a marijuana establishment license is issued, per 3 AAC 306.015(a).

This form must be completed and submitted to AMCO's main office by each licensee (as defined in 3 AAC 306.020(b)(2)) before any license renewal application will be considered complete.

**Section 1 – Establishment Information**

Enter information for the licensed establishment, as identified on the license application.

Licensee:	Axion Enterprises, LLC	License Number:	12770		
License Type:	Standard Marijuana Cultivation Facility				
Doing Business As:	Secret Garden Cannabis				
Premises Address:	726 E. 15th Avenue, Suite 3				
City:	Anchorage	State:	Alaska	ZIP:	99501

**Section 2 – Individual Information**

Enter information for the individual licensee who is completing this form.

Name:	James M.P Thornton
Title:	Manager, Member

**Section 3 – Violations & Charges**

Read each line below, and then sign your initials in the box to the right of any applicable statements:

Initials

I certify that I have **not** been convicted of any criminal charge in the previous two calendar years.

JT
----

I certify that I have **not** committed any civil violation of AS 04, AS 17.38, or 3 AAC 306 in the previous two calendar years.

JT
----

I certify that a notice of violation has **not** been issued to this license between July 1, 2020 and June 30, 2021.

JT
----

Sign your initials to the following statement only if you are unable to certify one or more of the above statements:

Initials

I have attached a written explanation for why I cannot certify one or more of the above statements, which includes the type of violation or offense, as required under 3 AAC 306.035(b).

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**Form MJ-20: Renewal Application Certifications****Section 4 – Certifications & Waiver**

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that no person other than a licensee listed on my marijuana establishment license renewal application has a direct or indirect financial interest, as defined in 3 AAC 306.015(e)(1), in the business for which the marijuana establishment license has been issued.

JT

I certify that I meet the residency requirement under AS 43.23 or I have submitted a residency exception affidavit (MJ-20a) along with this application.

JT

I certify that this establishment complies with any applicable health, fire, safety, or tax statute, ordinance, regulation, or other law in the state.

JT

I certify that the license is operated in accordance with the operating plan currently approved by the Marijuana Control Board.

JT

I certify that I am operating in compliance with the Alaska Department of Labor and Workforce Development's laws and requirements pertaining to employees.

JT

I certify that I have not violated any restrictions pertaining to this particular license type, and that this license has not been operated in violation of a condition or restriction imposed by the Marijuana Control Board.

JT

I certify that I understand that providing a false statement on this form, the online application, or any other form provided by or to AMCO is grounds for rejection or denial of this application or revocation of any license issued.

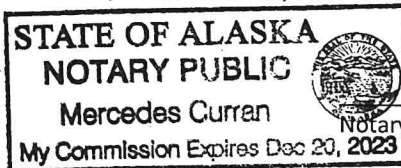
JT

I, James M.P. Thornton, hereby waive my confidentiality rights under AS 43.05.230(a) and authorize the State of Alaska, Department of Revenue to disclose any and all tax information regarding this marijuana license to the Alcohol and Marijuana Control Office (AMCO) upon formal request as part of any official investigation as long as I hold, solely, or together with other parties, this marijuana license.

JT

As an applicant for a marijuana establishment license renewal, I declare under penalty of unsworn falsification that I have read and am familiar with AS 17.38 and 3 AAC 306, and that this application, including all accompanying schedules and statements, is true, correct, and complete. I agree to provide all information required by the Marijuana Control Board in support of this application and understand that failure to do so by any deadline given to me by AMCO staff may result in additional fees or expiration of this license.

James M.P. Thornton  
Signature of licensee



Mercedes Curran  
Notary Public in and for the State of Alaska

James M.P. Thornton  
Printed name of licensee

My commission expires: 12/20/2023

Subscribed and sworn to before me this 14<sup>th</sup> day of May, 2021.





Alaska Marijuana Control Board

## Form MJ-20: Renewal Application Certifications

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This form must be completed and submitted to AMCO's main office by each licensee (as defined in 3 AAC 306.020(b)(2)) before any license renewal application will be considered complete.

### Section 1 – Establishment Information

Enter information for the licensed establishment, as identified on the license application.

Licensee:	Axion Enterprises, LLC	License Number:	12770		
License Type:	Standard Marijuana Cultivation Facility				
Doing Business As:	Secret Garden Cannabis				
Premises Address:	726 E. 15th Avenue, Suite 3				
City:	Anchorage	State:	Alaska	ZIP:	99501

### Section 2 – Individual Information

Enter information for the individual licensee who is completing this form.

Name:	Nicholas Bryant
Title:	Member

### Section 3 – Violations & Charges

Read each line below, and then sign your initials in the box to the right of any applicable statements:

Initials

I certify that I have **not** been convicted of any criminal charge in the previous two calendar years.

I certify that I have **not** committed any civil violation of AS 04, AS 17.38, or 3 AAC 306 in the previous two calendar years.

I certify that a notice of violation has **not** been issued to this license between July 1, 2020 and June 30, 2021.

Sign your initials to the following statement only if you are unable to certify one or more of the above statements:

Initials

I have attached a written explanation for why I cannot certify one or more of the above statements, which includes the type of violation or offense, as required under 3 AAC 306.035(b).



# Form MJ-20: Renewal Application Certifications

## Section 4 – Certifications & Waiver

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that no person other than a licensee listed on my marijuana establishment license renewal application has a direct or indirect financial interest, as defined in 3 AAC 306.015(e)(1), in the business for which the marijuana establishment license has been issued.

NS

I certify that I meet the residency requirement under AS 43.23 or I have submitted a residency exception affidavit (MJ-20a) along with this application.

NS

I certify that this establishment complies with any applicable health, fire, safety, or tax statute, ordinance, regulation, or other law in the state.

NS

I certify that the license is operated in accordance with the operating plan currently approved by the Marijuana Control Board.

NS

I certify that I am operating in compliance with the Alaska Department of Labor and Workforce Development's laws and requirements pertaining to employees.

NS

I certify that I have not violated any restrictions pertaining to this particular license type, and that this license has not been operated in violation of a condition or restriction imposed by the Marijuana Control Board.

NS

I certify that I understand that providing a false statement on this form, the online application, or any other form provided by or to AMCO is grounds for rejection or denial of this application or revocation of any license issued.

NS

I, Nicholas Bryant, hereby waive my confidentiality rights under AS 43.05.230(a) and authorize the State of Alaska, Department of Revenue to disclose any and all tax information regarding this marijuana license to the Alcohol and Marijuana Control Office (AMCO) upon formal request as part of any official investigation as long as I hold, solely, or together with other parties, this marijuana license.

NS

As an applicant for a marijuana establishment license renewal, I declare under penalty of unsworn falsification that I have read and am familiar with AS 17.38 and 3 AAC 306, and that this application, including all accompanying schedules and statements, is true, correct, and complete. I agree to provide all information required by the Marijuana Control Board in support of this application and understand that failure to do so by any deadline given to me by AMCO staff may result in additional fees or expiration of this license.

Signature of licensee

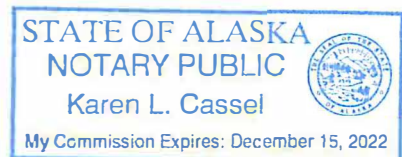
Nicholas Bryant

Printed name of licensee

Notary Public in and for the State of Alaska

My commission expires: 12/15/2022

Subscribed and sworn to before me this 12 day of May, 2021.



## **COMMERCIAL LEASE**

THIS COMMERCIAL LEASE AGREEMENT ("Lease", or "Agreement") sets forth the current terms and conditions of the Lease as follows:

The parties to this Lease are **AK RED, LLC**, whose address is 6020 Maximilian Drive, Anchorage, AK 99507 (hereinafter referred to as "Landlord"), and **Axion Enterprises, LLC**, whose address is 726 E. 15th Avenue, Suite 3, Anchorage, Alaska 99501 (hereinafter referred to as "Tenant").

### **WITNESSETH:**

1. **PREMISES AND TERM.** In consideration of the obligation of Tenant to make payment as herein provided, and in consideration of the other terms, provisions and covenants hereof, Landlord hereby demises and leases to Tenant, and Tenant hereby takes from Landlord certain Premises situated at 726 E. 15th Avenue, within Anchorage, Alaska (the "Premises"), with the Premises identified on the attached map. The Premises include appurtenances such as the parking area, roadways, means of ingress and egress and service areas.

TO HAVE AND TO HOLD the same for a term commencing on 10th day of May, 2017 and ending on December 31, 2018.

2. **RENT.** Tenant agrees to pay Landlord rent, without deduction or set off, in monthly installments of Thirty Thousand and No/100 Dollars (\$30,000.00), plus such add-ons as noted below, commencing on December 1, 2017 and on the first day of each succeeding calendar month through December 1, 2018.

3. USE. The demised Premises shall be used by Tenant only for the purpose of growing, processing (including what is referred to as "manufacturing"), and selling commercially produced marijuana.

Tenant agrees to maintain the Premises and adjacent parking area and driveways in a clean and orderly condition and to store any garbage or trash in covered metal containers inside the Premises, or, if permitted by Landlord, in metal containers outside the Premises at a location designated by Landlord. At the termination of this Agreement, Tenant shall leave the Premises in a "broom clean" condition and in the same condition as at the commencement of this Lease, reasonable wear and tear excepted. Absent written consent by Landlord, Tenant agrees not to store in or about the Premises any gasoline, distillates, or other petroleum products or any other substance or material of an explosive, inflammable or radiological nature which may endanger any part of the Premises or its occupants, business patrons or invitees, or present any unusual fire, explosion or other damaging or dangerous hazard, nor use acetylene torches on, in or about the Premises. Tenant agrees to refrain from causing any objectionable odors or sounds; from causing any public or private nuisance or act or thing which may disturb the quiet enjoyment of any other tenants or adjacent landowners; from causing any obstructions of any type on the driveway and parking areas other than when in the process of loading or unloading and in the parking of vehicles in the locations designated by Landlord.

Tenant will not at any time, during the term of this Lease, carry any stock of goods or do anything in or about the Premises which will in any way tend to increase the insurance rates upon the building of which the premise are a part nor shall any use be made or permitted of the Premises or any part thereof, nor do any acts which will violate, make inoperative, or increase the existing rate of any insurance policy at any time held by or in any way for the benefit of Landlord pursuant to any provisions of this Lease. Tenant agrees to pay to the Landlord forthwith upon demand the amount of any increase in premiums for insurance that may be charged during the term of this Lease in the amount of insurance to be carried by Landlord on the Premises resulting from the foregoing or from Tenant doing any act in or about said Premises which does so increase the insurance rates, whether or not the Landlord shall have consented to such act on the part of Tenant. If Tenant installs upon the Premises any electrical equipment which constitutes an overload on the electrical lines of the Premises, Tenant shall at its own expense make whatever charges are necessary to comply with the requirements of the insurance underwriters, any governmental authority having jurisdiction thereover and the Landlord, but nothing herein contained shall be deemed to constitute Landlord's consent to such overloading.

Tenant shall at its own cost and expense obtain any and all licenses and permits necessary for any such use. Tenant shall comply with all governmental laws, ordinances

and regulations applicable to the Use of the Premises, including, but not limited to, local fire codes, zoning regulations, and occupancy codes; provided, however, that federal laws and regulations prohibiting the production of marijuana and industrial hemp are expressly excluded from the legal requirements with which Tenant is required to comply herein. Tenant will promptly provide to Landlord copies of all communications to or from any government entity that relate to the Use or Tenant's noncompliance or alleged noncompliance with any laws or other government requirements (including federal laws) impacting the Premises. Tenant shall promptly comply with all governmental orders and directives for the correction, prevention, and abatement of nuisances in, upon, or connected with the Premises, all at Tenant's sole expense.

#### 4. TAXES AND ASSESSMENTS.

(A) Landlord agrees to pay before they become delinquent all taxes (both general and special), assessments or governmental charges (hereinafter collectively referred to as "taxes") lawfully levied or assessed against the Premises or any part thereof for the taxable year in which this Lease commences hereinafter referred to as the "commencement year", and a like sum towards the payment of said taxes and assessments levied each and every year thereafter during the term of this Lease; provided, however, Landlord may, at its sole cost and expense (in its own name or in the name of both, as it may deem appropriate) dispute and contest the same, and in such case, such disputed item need not be paid until finally adjudged to be valid. At the conclusion of such contest, Landlord shall pay the items contested to the extent that they are held valid together with all items, court costs, interest and penalties relating thereto. As additional rent, Tenant shall pay to Landlord a sum equal to fifty percent (50%) of the difference in the amount paid by Landlord and the total amount of said taxes thereafter levied against the leased Premises or any part thereof for each and every taxable year during the Term, which payment shall be made by Tenant on the due date of the next rental payment required under the terms hereof following presentation by Landlord to Tenant of an authenticated statement setting forth the computation of said additional payment necessitated by any increase in taxes or assessments for all taxable years after the commencement year of this Lease.

(B) Tenant shall pay all taxes, assessments, license fees and public charges levied upon its business operation, trade fixtures, leasehold improvements, merchandise and other personal property in or about the Premises. In the event any such items of property are assessed with property of the Landlord, such assessment shall be equitably divided between Landlord and Tenant to the end that Tenant shall pay only its equitable proportion of such assessment.



(C) If at any time during the term of this Lease, the present method of taxation shall change so that in lieu of the whole or any part of any taxes, assessments, levies or charges levied, assessed or imposed on real estate or the improvements thereon there shall be levied, assessed or imposed on Landlord a capital levy or other tax directly on the rents received therefrom and/or a franchise tax, assessment, levy or charge measured by or based in whole or in part upon such rents for the present or any future building or buildings on the Premises, then all such taxes, assessments, levies or charges, or the part hereof so measured or based, shall be deemed to be included within the term "taxes" for the purposes hereof.

5. LANDLORD'S REPAIRS. Landlord agrees to maintain at its expense only

the roof, foundation and exterior walls (to the extent related to foundation and support) of the building in good repair, reasonable wear and tear excepted. Tenant understands that, effective upon execution of this Lease, it will be responsible for maintaining the heating equipment for the Premises, the exterior walls to the extent that the maintenance does not include issues related to the foundation or support of the building, and the portion of the parking lot which serves Tenant's Premises.

For any foundation or exterior work that needs to be addressed by Landlord, and which is not caused by tortuous conduct of Tenant or Tenant's customers, guests or invitees, Tenant shall immediately give Landlord written notice of defect or need for repairs, after which Landlord shall have reasonable opportunity to repair same or cure such defect. Landlord's liability hereunder shall be limited to the cost of such repairs or curing such defects.

(A) Snow Removal. Tenant shall be responsible for parking lot snow removal, sanding and spring lot sweeping.

6. TENANT'S REPAIRS. Tenant shall at its own cost and expense maintain and repair or replace all of the leased Premises, including but not limited to windows, glass and plate glass, all window sash, casement or frames, doors, pedestrian and overhead, door frames, locks and closing devices, any special store front, interior walls, finish work and insulation, floors and floor covering and lighting fixtures. Any exterior or interior graffiti on or to the leased Premises shall be immediately removed, or painted over, by Tenant. In addition, Tenant will be responsible for such other non-foundation related repairs that may be required to the exterior walls of the building to the extent they are encompassed by Tenant's leased Premises.

(A) Additional Maintenance. Tenant is responsible for the following additional maintenance during the term of this Lease:

(i) Maintenance of the heating system. The performance of any warranty work on the furnace is assigned to Tenant during the term of this Lease;

(ii) All interior and exterior maintenance on the building and Premises covered by this Lease to the extent not covered by Landlord's insurance for claims thereunder.

To the extent that work needs to be done under the foregoing, Tenant will advise Landlord to inquire as to whether the maintenance would be covered by insurance. Landlord agrees to reasonably cooperate with Tenant with respect to tender of any such claim, but ultimate responsibility for insuring that the leased Premises does not suffer any loss shall be the burden of Tenant.

7. ALTERATIONS. Tenant shall not make any alterations, additions, or improvements to the Premises without the prior written consent of Landlord. In no event shall Tenant make or cause to be made any penetration through the roof of the Premises, erect or increase the size of any mezzanine, or make any changes to the water, sewer, electrical, or gas systems without the written consent of the Landlord. At the termination of this Lease, Tenant shall, if Landlord so elects, remove all alterations, additions and partitions erected by Tenant and restore the Premises to their original condition; otherwise such improvements shall be delivered up to the Landlord with the Premises. All shelves, blinds, machinery and trade fixtures installed by Tenant may be removed by Tenant at the termination of this Lease if Tenant so elects, and shall be removed if required by Landlord. All such removals and restoration shall be accomplished in a good and workmanlike manner so as not to damage the primary structure or Premises.

8. SIGNS. Tenant shall have the right to install signs upon the exterior of said building only when first approved in writing by Landlord and subject to any applicable governmental laws, ordinance, regulations and other requirements. Tenant shall not place graphics or paint on the exterior of the building, nor place awnings, marquees, or other structures without the written consent of the Landlord. Tenant shall remove all such signs at the termination of this Lease. Such installations and removals shall be made in such manner as to avoid injury or defacement of the building and other improvements.

9. INSPECTION. Landlord and Landlord's agents and representatives shall have the right to enter and inspect the Premises at any time during reasonable business hours, for the purpose of ascertaining the condition of the Premises or in order to make such repairs as may be required to be made by the building owners under the terms of this Lease. All inspections shall be noticed to Tenant with reasonable notice and all agents, representatives of landlord shall be over the age of 21 and shall strictly adhere with the Tenant's state of Alaska marijuana regulation required visitor policy. During the period that is three (3) months prior to the end of the term hereof, Landlord and Landlord's agents and representative shall have the right to enter the Premises at any time during reasonable business hours for the purpose of showing the Premises and shall have the right to erect on the Premises a suitable sign indicating the Premises are available.

10. UTILITIES. Tenant agrees to pay Landlord all of any sums billed to Landlord for gas heating expenses. Landlord shall make this information available to

Commercial Lease-Page 5

Tenant on a monthly basis, with payment due within thirty (30) days.

Tenant is responsible for all other utilities including electric, water and wastewater, phone and refuse service.

Landlord shall not be liable in damages or otherwise for any failure or interruption of any utility service being furnished the Premises, unless Landlord fails to pay Landlord's costs for such service which is not separately metered and no such failure or interruption shall entitle Tenant to terminate this Lease. In the event Landlord elects to discontinue furnishing any such utility service to the Premises for reasons other than the nonpayment by Tenant of any utility charge or other rental payment required hereunder, Tenant shall have the right to use all existing conduits and facilities situated in the Premises.

11. ASSIGNMENT AND SUBLETTING. Tenant shall not have the right to assign this Lease or to sublet the whole or any part of the Premises without the prior written consent of Landlord; notwithstanding any permitted assignment or subletting, Tenant shall at all times remain fully responsible and liable for the payment of the rent herein specified and for compliance with all of its other obligations under the terms, provisions and covenants of this Lease. Upon the occurrence of an "event of default" as hereinafter defined, if the Premises or any part thereof are then assigned or sublet, Landlord, in addition to any other remedies herein provided, or provided by law, may at its option collect directly from such assignee or subtenant all rents becoming due to Tenant under such assignment or sublease and apply such rent against any sums due to it by Tenant hereunder, and so such collection shall not be construed to constitute a novation or a release of Tenant from the further performance of its obligations hereunder. Landlord shall have the right to assign any of its rights under this Lease.

12. FIRE AND CASUALTY DAMAGE.

(A) If the buildings situated on the Premises should be damaged or destroyed by fire or other casualty, Tenant shall give immediate written notice thereof to Landlord.

(B) If the buildings situated on the Premises should be totally destroyed by fire or other casualty, or if they should be so damaged that rebuilding or repairs cannot be completed within thirty (30) days after the date upon which Landlord is notified by Tenant of such damage, this Lease shall terminate and the rent shall be abated during the unexpired portion of this Lease, effective upon the date of the occurrence of such damage.

(C) If the buildings situated on the Premises should be damaged by fire or other casualty, but only to such extent that rebuilding or repairs can be completed within thirty (30) days after the date upon which Landlord is notified by Tenant of such damage, this Lease shall not terminate, but Landlord shall at its sole cost and expense proceed with reasonable diligence to rebuild and repair such buildings, to substantially the condition in which they existed prior to such damage, except that Landlord shall not be required to rebuild, repair or replace any part of the partitions, fixtures and other improvements which may have been placed on the Premises by Tenant. If the Premises are untenable in whole or in part following such damage, the rent payable hereunder during the period in which they are untenable shall be reduced to such extent as may be fair and reasonable under all of the circumstances. In the event that Landlord should fail to complete such repairs and rebuilding within thirty (30) days after the date upon which Landlord is notified by Tenant of such damage, Tenant may at its option terminate this Lease by delivering written notice of termination to Landlord as Tenant's exclusive remedy, whereupon all rights and obligations hereunder shall cease and determine.

(D) Notwithstanding anything herein to the contrary, in the event the holder of any indebtedness secured by a mortgage or deed of trust covering the Premises requires that the insurance proceeds be applied to such indebtedness, then Landlord shall have the right to terminate this Lease by delivering written notice of termination to Tenant, whereupon all rights and obligations hereunder shall cease and determine.

(E) Any insurance which may be carried by Landlord or Tenant against loss or damage to the buildings and other improvements situated on the Premises shall be for the sole benefit of the party carrying such insurance and under its sole control.

(F) Landlord and Tenant hereby release the other from any and all liability or responsibility to the other or anyone claiming through or under them by any of subrogation or otherwise for any loss or damage to property caused by fire or any of the extended coverage casualties covered by the insurance maintained hereunder, even if such fire or other casualty shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible; provided, however, that this release shall be applicable and in force and effect only with respect to loss or damage occurring during such time as the releasor's policies shall contain a clause or endorsement to the effect that any release shall not adversely affect or impair such policies or prejudice the right of the releasor to recover thereunder. Each of Landlord and Tenant agrees that it will request its insurance carriers to include in its policies such a clause or endorsement. If extra cost shall be charged therefore, each party shall advise the other thereof and of the amount of the extra cost, and the other party, at its election, may pay the same, but shall not be obligated to do so.

(G) Landlord covenants and agrees to maintain standard fire and extended coverage insurance covering the building on the Premises in an amount not less than



eighty per cent (80%) of the replacement cost thereof. Lessee agrees to pay fifty percent (50%) of any increase in the cost of said insurance after the date this Lease is commenced, within twenty (20) days after demand therefor. Landlord shall furnish Tenant a statement showing the computation of the amount due. The failure to pay such excess shall be treated in the same manner as a default in the payment of rent hereunder when due.

(H) Tenant shall maintain in full force on all of its fixtures and equipment in the leased Premises, a policy or policies of fire and extended coverage insurance to the extent of at least eighty percent (80%) of their insurable value. During the lease term, the proceeds from any such policy or policies of insurance shall be used for the repair and replacement of fixtures and equipment so insured. Landlord shall have no interest in the insurance upon Tenant's equipment and fixture and will sign all documents necessary or proper in connection with the settlement of any claim or loss by Tenant.

(I) Landlord may procure earthquake insurance effective as of the effective date of this Lease. If such insurance is procured, Tenant shall be responsible for one-half of any premium increase for this insurance, in subsequent years, as additional rent. Tenant shall be responsible for payment of this premium increase after Lease inception within thirty (30) days of invoicing. Failure to timely reimburse Landlord shall be considered a breach of this Lease Agreement pursuant to Section 17 below.

13. LIABILITY. Landlord shall not be liable to Tenant or Tenant's employees, agents, patrons, or visitors, or to any other person whomever, for any injury to person or damage to property on or about the Premises, caused by the negligence or misconduct of Tenant, its agents, servants or employees, or of any other person entering upon the Premises under express or implied invitation of Tenant, or caused by the building and improvements located on the Premises becoming out of repair, or due to any cause whatsoever, and Tenant agrees to indemnify Landlord and hold it harmless from any loss, expense or claims, including attorneys' fees, arising out of any such damage or injury, except that any injury to person or damage to property caused by the negligence of Landlord or by the failure of Landlord to repair and maintain that part of the Premises which Landlord is obligated to repair and maintain after the receipt of written notice from Tenant of needed repairs or of defects shall be the liability of Landlord and not of Tenant, and Landlord agrees to indemnify Tenant and hold it harmless from any and all loss, expense or claims, including attorneys' fees, arising out of such damage or injury. Tenant shall procure and maintain throughout the term of this Lease a policy or policies of insurance at its sole cost and expense, insuring both Landlord and Tenant against all claims, demands or actions arising out of or in connection with Tenant's use or occupancy of the Premises, or by the condition of the Premises, the limits of such policy or policies to be in an amount not less than \$1,000,000.00 in respect of injuries to or death of any one person, and in an amount not less than \$1,000,000.00 in respect of any one accident or disaster, and in an amount not less than \$100,000.00 in respect of property damaged or destroyed, and to be written by insurance companies qualified to do business in the state

in which the Premises are located. Tenant shall furnish Landlord with a certificate of such policy and whenever required, shall satisfy Landlord that such policy is in full force and effect. Such policy shall name Landlord as an additional insured and shall be primary and non-contributing with and not in excess of any insurance carried by Landlord. The policy shall further provide that it shall not be cancelled or altered without thirty (30) days prior written notice to Landlord and renewals thereof as required shall be delivered to Landlord at least ten (10) days prior to the expiration of the respective policy terms.

14. CONDEMNATION.

(A) If the whole or any substantial part of the Premises should be taken for any public or quasi-public use under governmental law, ordinance or regulation, or by right of eminent domain, or by private purchase in lieu thereof, this lease shall terminate and the rent shall be abated during the unexpired portion of this Lease, effective when the physical taking of said Premises shall occur.

(B) If less than a substantial part of the Premises shall be taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or by private purchase in lieu thereof, this Lease shall not terminate, but the rent payable hereunder during the unexpired portion of this Lease shall be reduced to such extent as may be fair and reasonable under all of the circumstances.

(C) In the event of any such taking or private purchase in lieu thereof, Landlord and Tenant shall each be entitled to receive and retain such separate awards and/or portion of lump sum awards as may be allocated to their respective interests in any condemnation proceedings.

15. HOLDING OVER. Should Tenant, or any of its successors in interest, hold over the Premises or any part thereof, after the expiration of the term of this Lease, unless otherwise agreed in writing, such holding over shall constitute and be construed as tenancy from month to month only, at a rental equal to the rental payable for the last month of the term of this lease plus twenty per cent (20%) of such amount. The inclusion of the preceding sentence shall not be construed as Landlord's permission for Tenant to hold over.

16. QUIET ENJOYMENT. Landlord represents and warrants that it has full right and authority to enter into this Lease and that Tenant, upon paying the rental herein set forth and performing its other covenants and agreements herein set forth, shall peaceably and quietly have, hold and enjoy the Premises for the term hereof without hindrance or molestation from Landlord, subject to terms and provisions of this Lease.

17. EVENTS OF DEFAULT. The following events shall be deemed to be events of default by Tenant under this Lease.

(A) Tenant shall fail to pay any installment of the rent or the security deposit (if any) hereby reserved when due, and such failure shall continue for a period of ten (10) days from the date such installment was due.

(B) Tenant shall become insolvent, or shall make a transfer in fraud to creditors, or shall make an assignment for the benefit of creditors.

(C) Tenant shall file a petition under any section or chapter of the National Bankruptcy Act, as amended, or under any similar law or statute of the United States or any State thereof; or Tenant shall be adjudged bankrupt or insolvent in proceedings filed against Tenant thereunder.

(D) A receiver or trustee shall be appointed for all or substantially all of the assets of Tenant.

(E) Tenant shall desert or vacate any substantial portion of the Premises.

(F) Tenant shall fail to comply with any term, provision or covenant of this Lease, and shall not cure such failure within twenty (20) days after written notice thereof to Tenant.

18. REMEDIES. Upon the occurrence of any of such events of default described above, Landlord shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:

(A) Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying such Premises or any part thereof, by force, if necessary, without being liable for prosecution or any claim of damages therefore and Tenant agrees to pay to Landlord on demand the amount of all loss and damage which Landlord may suffer by reason of such termination, whether through inability to relet the Premises on satisfactory terms or otherwise.

(B) Enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying such Premises or any part thereof, by force if necessary, without being liable for prosecution or any claim for damages therefore and relet the Premises and receive the rent therefore and Tenant agrees to pay to the Landlord on demand any deficiency that may arise by reason of such reletting.

(C) Enter upon the Premises by force if necessary without being liable for prosecution of any claim for damages therefore and do whatever Tenant is obligated to do under the terms of this Lease; and Tenant agrees to reimburse Landlord on demand for any expenses which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease, and Tenant further agrees that Landlord shall not be liable for any damages resulting to the Tenant from such action, whether caused by negligence of Landlord or otherwise.

In the event of any entry in, or taking possession of, the leased Premises as aforesaid, the Landlord shall have the right, but not the obligation, to remove from the leased Premises all personal property located therein, and may store the same in any place selected by Landlord, including but not limited to a public warehouse, at the expense and risk of the owners thereof, and with the right to sell such stored property, without notice to Tenant. After it has been stored for a period of thirty (30) days or more, the proceeds of such sale to be applied first to the cost of such sale, second to the payment of the charges for storage, if any, and third to the payment of any other sums of money which may then be due from Tenant to Landlord under any of the terms hereof, the balance, if any, to be paid to Tenant. Tenant hereby expresses consent for Landlord to re-enter in the event of default without resorting to the remedies provided in the unlawful detainer statutes.

In the event Tenant fails to pay any installment of rent hereunder as and when such installment is due, Tenant shall pay to Landlord on demand a late charge in an amount of Thirty and No/100 Dollars (\$30.00) per day; and the failure to pay such amount within ten (10) days after demand therefore shall be an event of default hereunder. The provision for such late charge shall be in addition to all of Landlord's other rights and remedies hereunder or at Law and shall not be construed as liquidated damages or as limiting Landlord's remedies in any manner.

Pursuit to any of the foregoing remedies shall not preclude pursuit of any other remedies herein provided or any other remedies provided by law, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due to Landlord hereunder or of any damages occurring to Landlord by reason of the violation of any of the terms, provisions and covenants herein contained. No waiver by Landlord or any violation or breach of any of the terms, provisions and covenants herein contained shall be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions and covenants herein contained. Landlord's acceptance of the payment of rental or other payments hereunder after the occurrence of an event of default shall not be construed as a waiver of such default, unless Landlord so notified Tenant in writing. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default. If, on account of any breach or default by Tenant in Tenant's obligation



under the terms and conditions of this Lease, it shall become necessary or appropriate for Landlord to employ or consult with an attorney concerning or to enforce or defend any of Landlord's rights or remedies hereunder, Tenant agrees to pay any reasonable attorney's fees. No act or thing done by the Landlord or its agents during the term hereby granted shall be deemed an acceptance of the surrender of the Premises, and no agreement to accept a surrender of said Premises shall be valid unless in writing signed by Landlord. The receipt by Landlord of rent with knowledge of the breach of any covenant or other provision contained in this Lease shall not be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions and covenants contained herein.

Landlord shall not take into its possession any marijuana or marijuana product and shall contact the State of Alaska AMCO prior to any access into or around the license premises if Tenant cannot be reached, abandons the property, or similar type of event. Additionally, Landlord will ensure that it and any of its employees or agents, will respect and adhere to the Tenant's visitor policy, provide government issued ID ensuring that any agent or employee of Landlord is over the age of 21, sign in and out of the visitor log provided by Tenant, wear the Tenant's visitor badge, and remain in direct eye sight of designated Tenant agent.

19. LANDLORD'S LIEN. In addition to any statutory lien for rent in Landlord's favor, Landlord shall have and Tenant hereby grants to Landlord a continuing security interest for all rentals and other sums of money becoming due hereunder from Tenant upon all goods, wares, equipment, fixtures, furniture, inventory, accounts, contract right, chattel paper and other personal property of Tenant situated on the Premises, and such property shall not be removed therefrom without the consent of Landlord until arrearages in rent as well as any and all other sums of money then due to Landlord hereunder shall first have been paid and discharged. In the event of a default under this Lease, Landlord shall have, in addition to any other remedies herein or by law, all rights and remedies under the Uniform Commercial Code, including without limitation the right to sell the property described in this paragraph 19 at public or private sale without notice to Tenant. Tenant hereby agrees to execute such financing statements and other instruments necessary or desirable in Landlord's discretion to perfect the security interest hereby created. Any statutory lien for rent is not hereby waived, the express contractual lien herein granted being in addition and supplementary thereto. Landlord understands that the lien provided by this paragraph may be subordinate to Tenant's business inventory and/or fixture financing.

20. MORTGAGES. Tenant accepts this Lease subject and subordinate to any mortgage(s) and/or deed(s) of trust now or at any time hereafter constituting a lien or charge upon the Premises or the improvements situated thereon. Tenant shall at any time hereafter on demand execute any instruments releases or other documents which may be

required by any mortgagee for the purpose of subjecting and subordinating this Lease to the lien of any such mortgage. With respect to any mortgage(s) and/or deed(s) of trust at any time hereafter created which constitute a lien or charge upon the leased Premises or the improvements situated thereon, Landlord at its sole option shall have the right to waive the applicability of this paragraph so that this Lease would not be subject and subordinate to such mortgage(s) or the deed(s) of trust.

21. LANDLORD'S DEFAULT. In the event Landlord should become in default in any payments due on any such mortgage described in Paragraph 20 hereof or in the payment of taxes or any other items which might become a lien upon the Premises, and which Tenant is not obligated to pay under the term and provisions of this Lease, Tenant is authorized and empowered after giving Landlord five (5) days' prior written notice of such default and Landlord fails to cure such default, to pay any such items for and on behalf of Landlord, and the amount of any item so paid by Tenant for or on behalf of Landlord, together with any interest on penalty required to be paid in connection therewith, shall be payable on demand by Landlord to Tenant; provided, however that Tenant shall not be authorized and empowered to make any payment under the terms of this Paragraph 21, unless the item paid shall be superior to Tenant's interest hereunder. In the event Tenant pays any mortgage debt in full, in accordance with this paragraph, it shall, at its election, be entitled to the mortgage security by assignment or subrogation.

22. MECHANIC'S LIENS. Tenant shall have no authority, express or implied, to create or place any lien or encumbrance of any kind or nature whatsoever upon, or in any manner to bind, the interest of Landlord in the Premises or to charge the rentals payable hereunder for any claim in favor of any person dealing with Tenant, including those who may furnish materials or perform labor for any construction or repairs, and each such claim shall affect and each such lien shall attach to, if at all, only the leasehold interest granted to Tenant by this instrument. Tenant covenants and agrees that it will pay or cause to be paid all sums legally due and payable by it on account of any labor performed or materials furnished in connection with any work performed on the Premises on which any lien is or can be validly and legally asserted against its leasehold interest in the Premises or the improvements thereon and that it will save and hold Landlord harmless from any and all loss, cost or expense based on or arising out of asserted claims or liens against the leasehold estate or against the rights, titles and interest of the Landlord in the Premises or under the terms of this Lease.

23. NOTICES. Each provision of this instrument or of any applicable governmental laws, ordinances, regulations and other requirements with reference to the sending, mailing or delivery of any notice or the making of any payment by Landlord to Tenant or with reference to the sending, mailing or delivery of any notice or the making of any payment by Tenant to Landlord shall be deemed to be complied with when and if the following steps are taken:

(A) All rents and other payments required to be made by Tenant to Landlord hereunder shall be payable to Landlord at the address hereinbelow set forth or at such other address as Landlord may specify from time to time by written notice delivered in accordance herewith.

(B) All payments required to be made by Landlord to Tenant hereunder shall be payable to Tenant at the address hereinbelow set forth or at such other address as Tenant may specify from time to time by written notice delivered in accordance herewith.

(C) Any notice or document required or permitted to be delivered hereunder may be hand delivered, which will be effective upon receipt or shall be deemed to be delivered whether actually received or not, 72 hours after deposited in the United States Mail, postage prepaid, Certified or Registered Mail, addressed to the parties hereto at the respective addressee set forth below, or at such other address as they have theretofore specified by written notice delivered in accordance herewith:

LANDLORD:  
AK RED, LLC  
6020 Maximilian Drive  
Anchorage, AK 99507  
E-Mail: [jrthornton@live.com](mailto:jrthornton@live.com)

TENANT:  
Axion Enterprises, LLC  
726 E. 15th Avenue  
Anchorage, Alaska 99501  
E-Mail: [james@secretgardenak.com](mailto:james@secretgardenak.com)

As a matter of convenience, the parties may also communicate by e-mail, at the addresses set forth herein, however, hard copies of any formal notice are still required as set forth herein.

If and when included within the term "Landlord", as used in this instrument, there are more than one person, firm or corporation, all shall jointly arrange among themselves for their joint execution of such notice specifying some individual at some specific address for the receipt of notices and payments to Landlord; if and when included within the term "Tenant", as used in this instrument, there are more than one person, firm or corporation, all shall jointly arrange among themselves for their joint execution of such notice specifying some individual at some specific address within the continental United States for the receipt of notices and payments to Tenant. All parties included within the terms "Landlord" and "Tenant", respectively, shall be bound by notices given in accordance with the provisions of this paragraph to the same effect as if each had received such notice.

24. CONSTRUCTION. Tenant accepts the Premises in an "AS IS" condition.

25. MISCELLANEOUS.

(A) Time is of the essence of this Lease and all of the terms, provisions, covenants and conditions hereof.

(B) It is understood that there are no oral agreements between the parties hereto affecting this Lease, and this Lease supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the parties hereto or displayed by Landlord to Tenant with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Lease.



(C) Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

(D) The terms, provisions and covenants and conditions contained in this Lease shall apply to, inure to the benefit of, and be binding upon, the parties hereto and upon their respective heirs, legal representatives, successors and permitted assigns, except as otherwise herein expressly provide

(E) The captions are inserted in this Lease for convenience only and in no way define, limit or describe the scope or intent of this Lease, or any provisions thereof, nor in any way affect the interpretation of this Lease.

(F) Tenant agrees within ten (10) days after request by Landlord to deliver to Landlord, or Landlord's designee, an estoppel certificate stating that this Lease is in full force and effect, the date to which rent has been paid, the unexpired term of this Lease and such other matters pertaining to this Lease as may be reasonably requested by Landlord.

(G) This Lease may not be altered, changed or amended except by an instrument in writing signed by Landlord and Tenant.

(H) Tenant and Landlord agree that during the term of this lease they shall have the heat in the leased Premises turned on and set at a minimum temperature of 55° during any cold weather where temperatures may drop below freezing.

If Tenant or Landlord fail to have the heat turned on in the leased Premises, and because of this failure there is any damage whatsoever caused by the freezing of water pipes and/or equipment, then Tenant or Landlord shall be responsible to the other for any damage done.

26. RENEWAL OPTION. No less than ninety (90) days before the expiration of the rental term, Tenant may give Landlord notice of its desire to extend the lease. Extension of the lease will be subject to the same terms and conditions set forth herein except that the term, rent and insurance requirements may be renegotiated and are subject to mutual approval. If agreement cannot be reached, this lease will terminate according to its existing terms.

EXECUTED the 10th of May 2017.

**LANDLORD:**

**AK RED, LLC**

By:

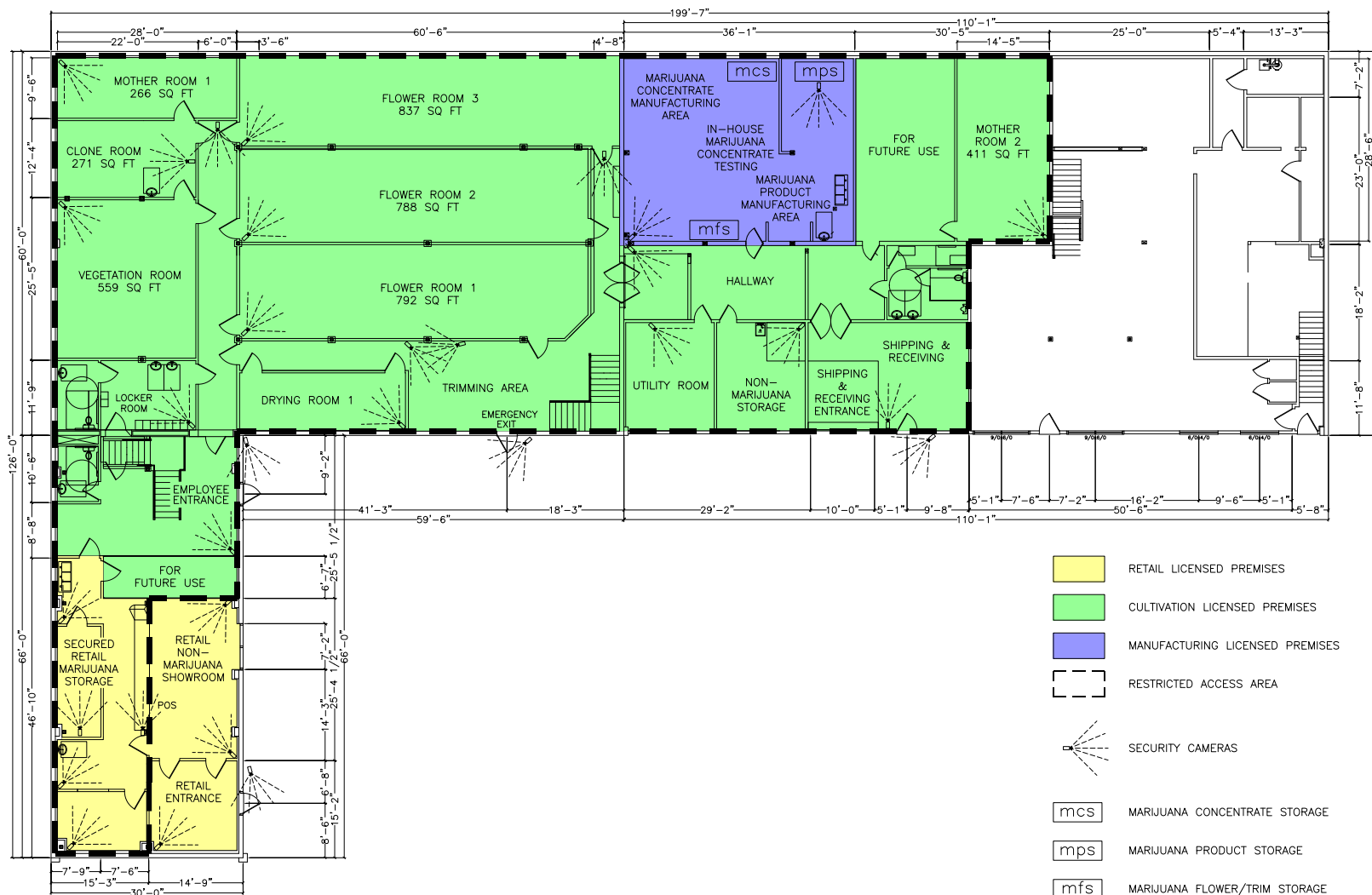
  
James R. Thornton

**TENANT:**

**Axion Enterprises, LLC**

By:

  
James M. Thornton

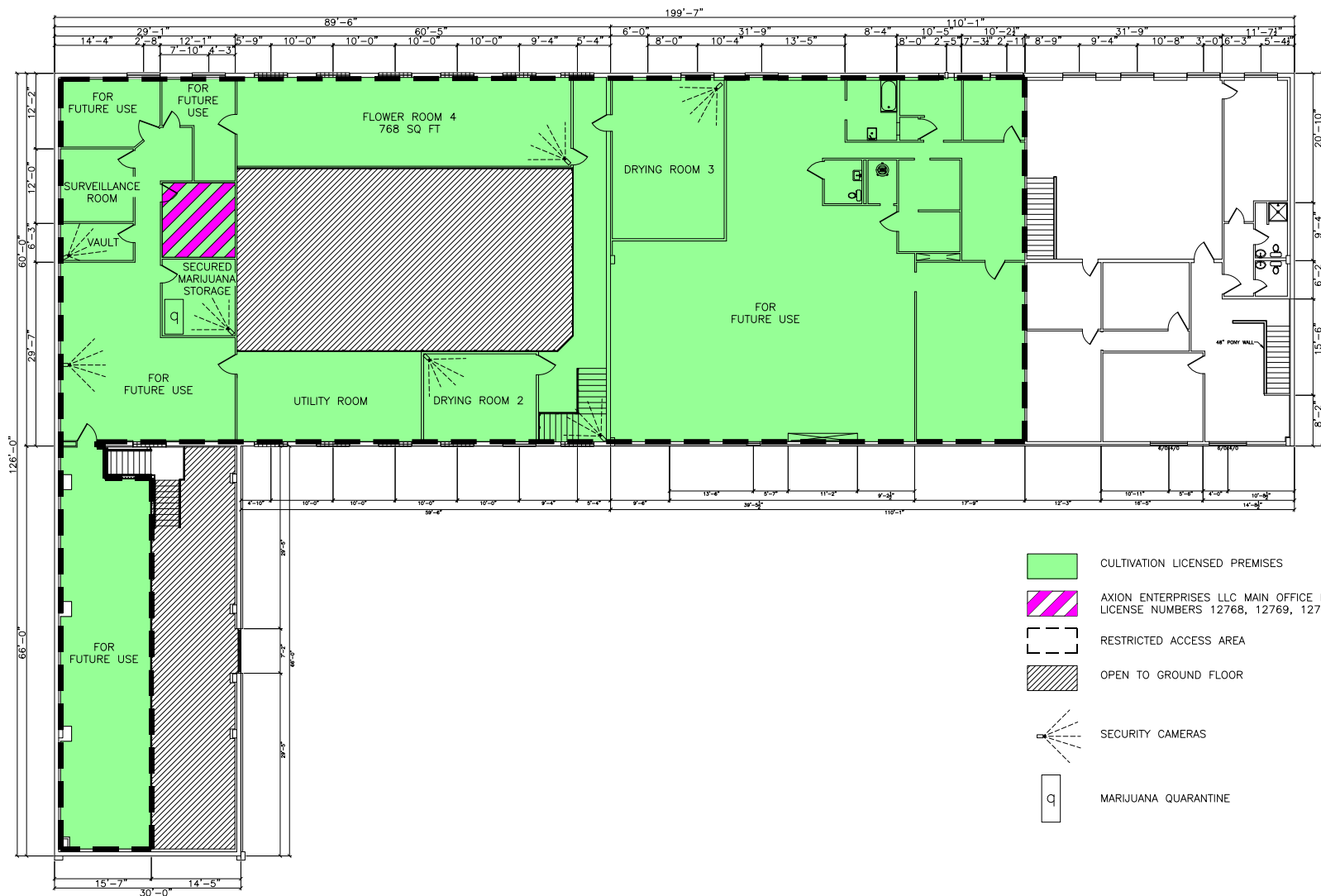


SECRET GARDEN CANNABIS  
726 EAST 15TH AVENUE  
MCB GROUND FLOOR LAYOUT

NO.	REVISION	DATE
	REVISION 4	1/7/2011

726 E. 15TH AVENUE  
ANCHORAGE, AK 99501  
14952/09.9W

DRAWN BY: ALF THORNTON	DATE: 1/7/2011
FILE NAME:	SCALE: NOT TO SCALE
SHEET: 1/3	



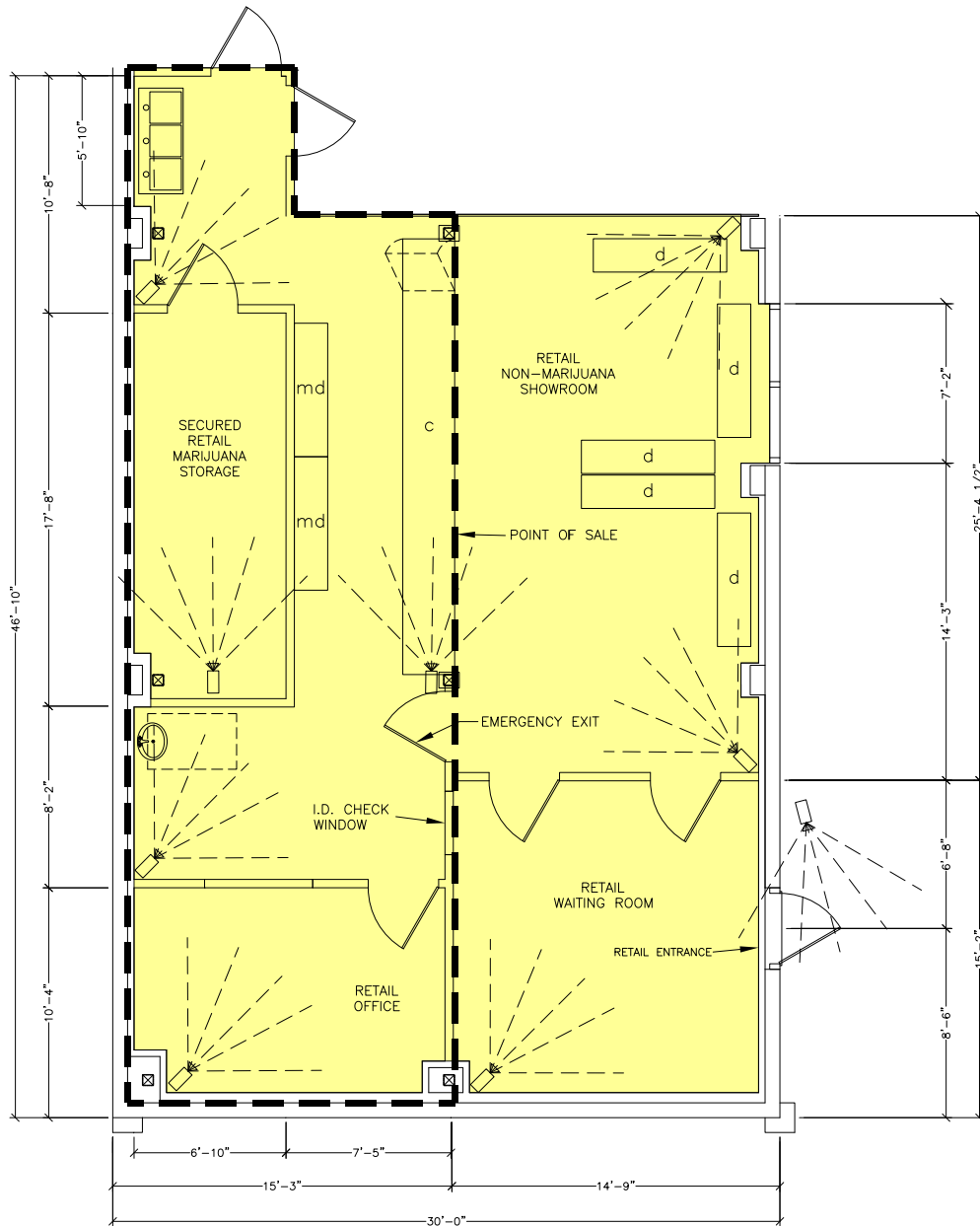
SECRET GARDEN CANNABIS  
726 EAST 15TH AVENUE  
MCB FLOOR 2 LAYOUT

NO.	REVISION	DATE
	REVISION 4	170511

726 E 15TH AVENUE  
ANCHORAGE, AK 99501  
61°12'26.9"N  
149°52'09.9"W

DRAWN BY: ALF THORNTON	FILE NAME:	SCALE:	SHEET:
DATE: 170509		NOT TO SCALE	2/3





- RETAIL LICENSED PREMISES
- RESTRICTED ACCESS AREA
- SECURITY CAMERAS
- c RETAIL COUNTER
- d NON-MARIJUANA DISPLAY CASE
- md MARIJUANA DISPLAY CASE

SECRET GARDEN CANNABIS  
726 EAST 15TH AVENUE  
MCB RETAIL LAYOUT

NO.	REVISION	DATE
	REVISION 4	1/7/2011

726 E. 15TH AVENUE  
ANCHORAGE, AK 99501  
149°52'09.9"W

DRAWN BY: ALF THORNTON	FILE NAME:	SCALE: NOT TO SCALE	SHEET: 3/3
DATE: 1/7/2011			

## First Amendment to Commercial Lease

This First Amendment to the Commercial Lease dated May 10, 2017, between AK RED, LLC, whose address is 6020 Maximilian Drive, Anchorage AK 99507 (hereinafter referred to as "Landlord"), and Axion Enterprises, LLC, whose address is 726 E. 15<sup>th</sup> Avenue, Anchorage, Alaska 99501 (hereinafter referred to as "Tenant"), (the "Lease") sets forth a change in the Term of the Lease as provided for in Section 2 of the Lease.

Section 2 of the Lease is deleted in its entirety and replaced with the following:

"2. RENT. Tenant agrees to pay Landlord rent, without deduction or set off, in monthly installments of Thirty Thousand and No/100 Dollars (\$30,000.00), plus such add-ons as noted below, commencing on December 1, 2017 and on the first day of each succeeding calendar month through December 1, 2018. Thereafter the Lease shall automatically renew annually for a one-year period beginning on December 2 of each year, and ending on December 1 of the following year, unless either party gives the other party notice of non-renewal at least 90 days prior to the December 2nd renewal date."

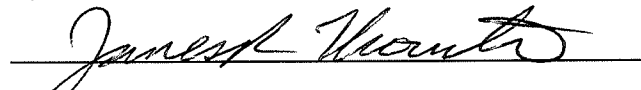
All other provisions of the Lease shall remain unchanged.

EXECUTED the 2<sup>nd</sup> of December, 2018.

LANDLORD:

AK RED, LLC

By:

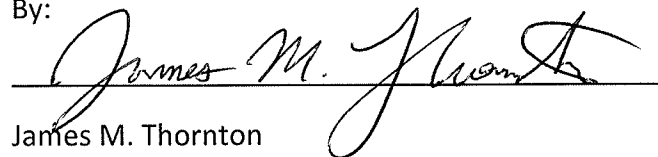


James R. Thornton

TENANT:

Axion Enterprises, LLC

By:



James M. Thornton

**State of Alaska**  
**Department of Commerce, Community, and Economic Development**  
**Corporations, Business, and Professional Licensing**

## Certificate of Organization

The undersigned, as Commissioner of Commerce, Community, and Economic Development of the State of Alaska, hereby certifies that a duly signed and verified filing pursuant to the provisions of Alaska Statutes has been received in this office and has been found to conform to law.

ACCORDINGLY, the undersigned, as Commissioner of Commerce, Community, and Economic Development, and by virtue of the authority vested in me by law, hereby issues this certificate to

**Axion Enterprises, LLC**



IN TESTIMONY WHEREOF, I execute the certificate  
and affix the Great Seal of the State of Alaska  
effective **December 27, 2016**.

Chris Hladick  
Commissioner



THE STATE

of

**ALASKA**

Department of Commerce, Community, and Economic Development  
Division of Corporations, Business, and Professional Licensing  
PO Box 110806, Juneau, AK 99811-0806  
(907) 465-2550 • Email: [corporations@alaska.gov](mailto:corporations@alaska.gov)  
Website: [Corporations.Alaska.gov](http://Corporations.Alaska.gov)

AK Entity #: 10047615  
Date Filed: 12/27/2016  
State of Alaska, DCCED

FOR DIVISION USE ONLY

## Articles of Organization

Domestic Limited Liability Company

Web-12/27/2016 1:48:38 PM

### 1 - Entity Name

**Legal Name:** Axion Enterprises, LLC

### 2 - Purpose

Purpose is to be licensed cultivator and processor of crops and any other lawful purpose.

### 3 - NAICS Code

111998 - ALL OTHER MISCELLANEOUS CROP FARMING

### 4 - Registered Agent

**Name:** Jana Weltzin

**Mailing Address:** 3003 Minnesota drive, suite 201, Anchorage, AK 99503

**Physical Address:** 3003 Minnesota drive, suite 201, Anchorage, AK 99503

### 5 - Entity Addresses

**Mailing Address:** PO Box 1611, Girdwood, AK 99587

**Physical Address:** 10330 Old Seward Hwy, Anchorage, AK 99515

### 6 - Management

The limited liability company is managed by a manager.

## 7 - Officials

Name	Address	% Owned	Titles
Jana Weltzin			Organizer

### Name of person completing this online application

I certify under penalty of perjury under the Uniform Electronic Transaction Act and the laws of the State of Alaska that the information provided in this application is true and correct, and further certify that by submitting this electronic filing I am contractually authorized by the Official(s) listed above to act on behalf of this entity.

**Name:** Jana Weltzin





THE STATE  
of ALASKA

Department of Commerce, Community, and Economic Development  
Division of Corporations, Business, and Professional Licensing  
PO Box 110806, Juneau, AK 99811-0806  
(907) 465-2550 • Email: corporations@alaska.gov  
Website: corporations.alaska.gov

AK Entity #: 10047615  
Date Filed: 12/19/2019  
State of Alaska, DCCED

FOR DIVISION USE ONLY

## Domestic Limited Liability Company

### 2020 Biennial Report

For the period ending December 31, 2019

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**Due Date:** This report along with its fees are due by January 2, 2020

**Fees:** If postmarked before February 2, 2020, the fee is \$100.00.

If postmarked on or after February 2, 2020 then this report is delinquent and the fee is \$137.50.

**Entity Name:** Axion Enterprises, LLC

**Entity Number:** 10047615

**Home Country:** UNITED STATES

**Home State/Prov.:** ALASKA

**Physical Address:** 726 E 15TH AVE, ANCHORAGE, AK 99501

**Mailing Address:** BOX 1611, GIRDWOOD, AK 99587

**Registered Agent** information cannot be changed on this form. Per Alaska Statutes, to update or change the Registered Agent information this entity must submit the Statement of Change form for this entity type along with its filing fee.

**Name:** Jana Weltzin

**Physical Address:** 901 PHOTO AVE, ANCHORAGE, AK 99503

**Mailing Address:** 901 PHOTO AVE, ANCHORAGE, AK 99503

**Officials:** The following is a complete list of officials who will be on record as a result of this filing.

- **Provide all officials and required information. Use only the titles provided.**
- **Mandatory Members:** this entity must have at least one (1) Member. A Member must own a %. In addition, this entity must provide all Members who own 5% or more of the entity. A Member may be an individual or another entity.
- **Manager:** If the entity is manager managed (per its articles or amendment) then there must be at least (1) Manager provided. A Manager may be a Member if the Manager also owns a % of the entity.

Full Legal Name	Complete Mailing Address	% Owned	Manager	Member
James M.P. Thornton	BOX 1611, GIRDWOOD, AK 99587	99.00	X	X
James R. Thornton	6020 MAXIMILIAN DR, ANCHORAGE, AK 99507	1.00	X	X

If necessary, attach a list of additional officers on a separate 8.5 X 11 sheet of paper.

**Purpose:** Purpose is to be licensed cultivator and processor of crops and any other lawful purpose.

**NAICS Code:** 111998 - ALL OTHER MISCELLANEOUS CROP FARMING

**New NAICS Code (optional):**

This form is for use by the named entity only. Only persons who are authorized by the above Official(s) of the named entity may make changes to it. If you proceed to make changes to this form or any information on it, you will be certifying under penalty of perjury that you

are authorized to make those changes, and that everything on the form is true and correct. In addition, persons who file documents with the commissioner that are known to the person to be false in material respects are guilty of a class A misdemeanor. Continuation means you have read this and understand it.

**Name:** Jana Weltzin

**LIMITED LIABILITY COMPANY OPERATING AGREEMENT  
OF  
AXION ENTERPRISES, LLC,  
an Alaskan limited liability company**

This Limited Liability Company Operating Agreement is adopted effective as of January 1, 2017, by James M.P. Thornton, an individual (the “**Member**”), the sole initial member of Axion Enterprises, LLC, an Alaskan limited liability company (the “**Company**”). Certain capitalized words used herein have the meanings set forth in Section 2 hereof.

**1. ORGANIZATION**

**1.1 General.** The Company was formed as an Alaska limited liability company by the execution and filing of the Articles of Organization (the “**Articles**”) with the State of Alaska Division of Corporations, Business and Professional Licensing (the “**Division**”) in accordance with the Act, and the rights and liabilities of the Member shall be as provided in such Act as may be modified in this Agreement. In the event of a conflict between the provisions of the Act and the provisions of this Agreement, the provisions of this Agreement shall prevail unless the Act specifically provides that an operating agreement may not change the provision in question.

**1.2 Business Purpose.** The Company may engage in any lawful business activity in which an Alaskan limited liability company may engage, as determined from time to time by the Member, except that the Company shall not engage in the trust company business or in the business of banking or insurance.

**1.3 Name and Address of Company.** The business of the Company shall be conducted under the name “Secret Garden Cannabis” and its principal executive office shall be located at such address as determined from time to time by the Member.

**1.4 Term.** The term of this Agreement shall be coterminous with the period of duration of the Company as provided in the Articles, which is perpetual, unless sooner terminated as provided in this Agreement.

**1.5 Required Filings.** The Member shall cause to be executed, filed, recorded and/or published, such certificates and documents as may be required by this Agreement or by law in connection with the formation and operation of the Company.

**1.6 Registered Agent.** The Company’s initial registered agent shall be as provided in the Articles. The registered agent may be changed from time to time by the Member by causing the filing of the name of the new registered agent in accordance with the Act.

**1.7 Tax Status.** The Company shall be treated as disregarded for Federal income tax purposes for so long as it has only one Member.



## 2. DEFINITIONS

For purposes of this Agreement, the terms defined herein below shall have the following meaning unless the context clearly requires a different interpretation:

**2.1 “Act”** shall mean the Alaska Revised Limited Liability Company Act, as may be amended from time to time.

**2.2 “Affiliate”** shall mean with respect to any person or entity: (a) any person or entity directly or indirectly controlling, controlled by, or under common control with such person or entity; (b) any person or entity owning or controlling 10% or more of the outstanding voting securities or beneficial interests of such person or entity; (c) any officer, director, general partner, manager, trustee, or anyone acting in a substantially similar capacity as to such person or entity; (d) any person or entity who is an officer, director, general partner, manager, trustee, or holder of 10% or more of the voting securities or beneficial interests of any of the foregoing; and (e) any person or entity related to such person or entity within the meaning of Code Section 267(b).

**2.3 “Agreement”** shall mean this Limited Liability Company Operating Agreement of the Company, as the same may be amended and/or amended and restated from time to time.

**2.4 “Capital Contribution”** shall mean the contribution to the capital of the Company by the Member, as provided in Section 3.1 hereof.

**2.5 “Company”** shall refer to the limited liability company created pursuant to the Articles as governed by this Agreement.

**2.6 “Distributions”** shall mean any cash (or property to the extent applicable) distributed to the Member arising from the ownership of an interest in the Company.

**2.7 “Manager”** shall mean the manager of the limited liability company, and shall be James M.P. Thornton, its sole Member.

**2.8 “Member”** shall mean James M.P. Thornton.

**2.9 “Net Income” and “Net Losses”** shall mean the net income and net losses, respectively, of the Company as determined for federal income tax purposes.

## 3. CAPITAL

**3.1 Capital Contributions.** The Member may make contributions from time to time at his or her own discretion, which contributions shall be reflected in the books and records of the Company.

**3.2 Interest.** The Member shall not receive interest on his contributions to the capital of the Company.

#### **4. FINANCIAL**

**4.1 Fiscal Year.** The fiscal year of the Company shall end on December 31, unless the Member determines that some other fiscal year would be more appropriate and obtains the consent of the Internal Revenue Service to use that other fiscal year.

**4.2 Expenses of the Company.** The Company shall pay or reimburse to the Member any expenses incurred by the Member on behalf of the Company.

#### **4.3 Net Income, Net Losses and Distributions.**

**(a) Distributions.** Cash shall be distributed at such times and in such amounts as determined by the Member and when distributed shall be distributed to the Member.

**(b) Allocations of Net Income and Net Losses.** Net Income and Net Losses shall be allocated to the Member.

#### **5. MANAGEMENT**

**5.1 Management of the Company.** The operations and affairs of the Company shall be administered by the Manager. The Manager shall have all authority, rights, and powers conferred by law and those necessary or appropriate to carry out the purposes of the Company as set forth in Section 1.2.

#### **6. LIABILITY, RIGHTS AND AUTHORITY OF THE MEMBER.**

**6.1 Liability of Member.** Except as specifically provided in this Agreement or the Act, the Member shall not be liable for the debts, liabilities, contracts, or any other obligations of the Company.

#### **7. DISSOLUTION AND TERMINATION OF THE COMPANY**

**7.1 Events Causing Dissolution.** Notwithstanding any provisions of the Act, the Company shall be dissolved and its affairs shall be wound up only upon the earliest to occur of the following events:

- (a)** The determination of the Member; or
- (b)** Entry of a decree of judicial dissolution pursuant to the Act.

**7.2 Articles of Dissolution.** As soon as possible following the occurrence of any of the events specified in Section 7.1, the Member shall execute Articles of Dissolution in such form as shall be prescribed by the Division and file such Articles as required by the Act.

**7.3 Distribution on Dissolution.** In the event of dissolution, the Member shall take full account of the Company's assets and liabilities, shall liquidate the assets as promptly as is consistent with obtaining their fair value, or, if the assets cannot be sold, they shall



be valued and distributed in kind, and shall apply and distribute the proceeds or assets in the following order:

- (a) To the payment of creditors of the Company;
- (b) To the creation of any reserves which the Member deems reasonably necessary for any contingent or unforeseen liabilities or obligations of the Company;
- (c) To the repayment of any outstanding loans made by the Member to the Company; and
- (d) To the Member.

## 8. INDEMNIFICATION

**8.1 General.** The Company, its receiver or its trustee, shall indemnify, defend and save harmless the Manager, Member and the Member or any of their Affiliates (each an, “**Indemnatee**”) to the fullest extent permitted by applicable law, as the same exists or may hereafter be amended, against all expenses, liabilities and loss (including attorneys’ fees, judgments, fines, and amounts paid or to be paid in any settlement approved in advance by the Company, such approval not to be unreasonably withheld) (collectively, “**Indemnifiable Expenses**”) actually reasonably incurred or suffered by Indemnatee in connection with any present or future threatened, pending or contemplated investigation, claim, action, suit or proceeding, whether civil, criminal, administrative or investigative (collectively, “**Indemnifiable Litigation**”) (i) to which Indemnatee is or was a party or is threatened to be made a party by reason of any action or inaction in Indemnatee’s capacity as a manager, director, officer or employee of the Company, or (ii) with respect to which Indemnatee is otherwise involved by reason of the fact that Indemnatee is or was serving as a manager, director, officer, employee or agent of the Company, or of any subsidiary or division, or is or was serving at the request of the Company as a manager, director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise.

**8.2 Interim Expenses.** The Company agrees to pay Indemnifiable Expenses incurred by Indemnatee in connection with any Indemnifiable Litigation in advance of the final disposition thereof, provided, however, the Indemnatee shall repay such amounts advanced only if, and to the extent that, it shall ultimately be determined that the Indemnatee is not entitled to be indemnified by the Company as authorized hereby or otherwise. The advances to be made hereunder shall be paid by the Company to the Indemnatee within ten (10) days following delivery of a written request therefor by the Indemnatee to the Company.

## 9. MISCELLANEOUS

**9.1 Binding on Successors.** This Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the Member.

**9.2 Severability.** If any provision of this Agreement is declared by a court of competent jurisdiction to be void or unenforceable, such provision shall be deemed severed from the remainder of this Agreement and the balance of this Agreement shall remain in effect.

**9.3 Notices.** All notices under this Agreement shall be in writing and shall be given to the person entitled thereto, by personal service, or by mail, first class postage prepaid and addressed to the address maintained by the Company for that person or at any other address that he or she specifies in writing.

**9.4 Captions.** Paragraph titles or captions contained in this Agreement are inserted only as a matter of convenient reference. The titles and captions in no way define, limit, extend, or describe the scope of this Agreement nor the intent of any provision hereof.

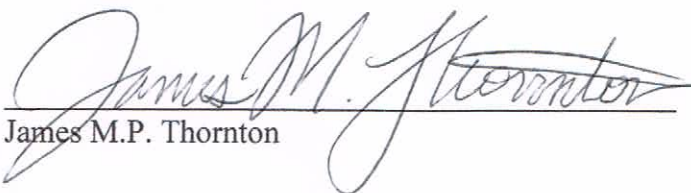
**9.5 Choice of Law.** This Agreement shall be construed under the laws of the State of Alaska, without giving effect to any choice or conflict of law provision or rule that would cause the application of laws of any other jurisdiction.

**9.6 Amendment.** This Agreement and the Articles may only be amended in writing by the Member.

**[Signature Page Follows]**

IN WITNESS WHEREOF, the Member has signed this Agreement on the date first above written.

SOLE MEMBER:

  
James M.P. Thornton

## **SECOND AMENDED AND RESTATED OPERATING AGREEMENT OF AXION ENTERPRISES, LLC**

THIS SECOND AMENDED AND RESTATED OPERATING AGREEMENT OF AXION ENTERPRISES, LLC (this "Agreement") is made effective as of December 1, 2020, among Axion Enterprises, LLC, an Alaska limited liability company (the "LLC") and its undersigned Members.

### **RECITALS**

- A. The initial Operating Agreement of the LLC was dated January 1, 2017;
- B. The First Amended and Restated Operating Agreement was dated August 1, 2018; and
- C. The Members desire to enter into this Agreement to reflect in a single document the current ownership of the LLC by the Members and the current understanding of the Members surrounding the operation and management of the LLC.

### **Article One**

#### **FORMATION OF LIMITED LIABILITY COMPANY**

**Section 1.01. Prior Operating Agreement.** This Agreement amends, restates and supersedes in its entirety the First Amended and Restated Operating Agreement.

**Section 1.02. Formation.** The members formed the LLC pursuant to the Alaska Revised Limited Liability Act (the "Act") by causing Articles of Organization conforming to the requirements of the Act to be filed with the Corporations Section of the Department of Commerce, Community, and Economic Development for the State of Alaska.

**Section 1.03. Name and Principal Place of Business.** Unless and until amended in accordance with this Agreement and the Act, the name of the LLC will be Axion Enterprises, LLC. The principal place of business of the LLC shall be 726 E. 15<sup>th</sup> Ave, Anchorage, Alaska, 99501, or in such other place or places as the Managers from time to time determine.

**Section 1.04. Registered Agent.** Until such time as the Managers have appointed a different person to act in the State of Alaska as the registered agent of the LLC for service of process, the LLC's registered agent in the State of Alaska shall be Jana Weltzin, 901 Photo Ave., Anchorage, Alaska 99503.

**Section 1.05. Agreement.** This Agreement shall be the sole statement of agreement among the Members as to matters related to the ownership, operation and management of the LLC, except to the extent a provision of this Agreement expressly incorporates federal



income tax rules by reference to sections of the Code or Treasury Regulations. To the extent any provision of this Agreement is prohibited or ineffective under the Act, this Agreement shall be considered amended to the extent necessary to be consistent with the Act. In the event the Act is subsequently amended or interpreted in such a way to make valid any provision of this Agreement that was formerly invalid, such provision shall be considered to be a part of this Agreement from and after the date of such interpretation or amendment.

**Section 1.06. Business Purpose.** The purpose of the LLC is to engage in the operation of horticultural related businesses in accordance with the laws of the State of Alaska and Municipality of Anchorage. The LLC may exercise all powers and acts allowed by law, which is necessary or convenient to promote and effect all of the purposes for which the LLC is organized. The LLC will not conduct or promote any other business unless amended by this Operating Agreement.

**Section 1.07. Definitions.** Terms not otherwise defined in this Agreement shall have the meanings set forth in Article Fifteen.

**Section 1.08. Term.** The term of the LLC began upon the filing of the Articles of Organization and shall continue for perpetuity, unless sooner terminated pursuant to the terms of this Agreement.

## Article Two MEMBERSHIP

**Section 2.01. Members.** The Members of the LLC are as follows:

MEMBERS	UNITS	PERCENTAGE
James M. Thornton	990	99%
James R. Thornton	10	1%

**Section 2.02. Representations and Warranties.** Each Member represents and warrants to the LLC and each other Member as follows:

(a) **Compliance with Other Instruments.** The Member's authorization, execution, delivery, and performance of this Agreement do not conflict with any other agreement or arrangement to which such Member is a party or by which the Member is bound;

(b) **Own Account.** The Member acquired the Units in the LLC for the Member's own account for investment purposes only and not with a view for the resale or distribution of the Units and has no understanding, agreement, or arrangement of any kind with any Person to sell, transfer, or pledge to any Person any of the Member's Units nor does such Member have any plans to enter into any such agreement;



(c) Investment Experience. By reason of the Member's business or financial experience, the Member has the capacity to protect the Member's own interests in connection with the investment in the LLC, is able to bear the risks of an investment in the LLC, and at the present time could afford a complete loss of such investment;

(d) Disclosure of Information. The Member is aware of the LLC's business affairs and financial condition and acquired sufficient information about the LLC to reach an informed and knowledgeable decision to acquire Units in the LLC; and

(e) Federal and State Securities Laws. The Member acknowledges that the Units have not been registered under the Securities Act of 1933, the Alaska Securities Act of 1959, or any other state securities laws, inasmuch as they have been acquired in a transaction not involving a public offering, and, under such laws, may not be resold or transferred by the Member without appropriate registration or the availability of an exemption from such requirements.

Section 2.03. Units. Ownership of the LLC has been divided into and represented by units of the LLC (the "Units"). The LLC has issued a single class of Units. The number of Units currently held by each Member is set forth in Section 2.01. The Managers of the LLC are authorized to issue to such Persons and for such consideration as the Managers shall determine as necessary for a maximum of 10,000 Units.

Section 2.04. Resignation or Withdrawal of a Member. No Member shall have the right to resign or withdraw from membership in the LLC or to withdraw the Member's capital interest in the LLC unless agreed to by affirmative vote of the Members holding more than 50% of the issued Units.

### Article Three

## CAPITAL CONTRIBUTIONS

Section 3.01. Capital Contribution. Each Member has fully satisfied whatever capital contribution was required of the Member in exchange for the issuance of the number of Units issued to the Member as reflected on in Section 2.01.

Section 3.02. Additional Capital Contributions. If the Managers determine that the LLC lacks sufficient capital for the continued conduct of its business, the Managers may request that the Members contribute additional capital to the LLC. The Members shall contribute additional capital proportionate to the number of Units held by each Member. Contributions shall be made within ninety (90) days after written notice of capital call from the Managers.

Section 3.03. Failure to Contribute Additional Capital. If one or more Members fails to make additional capital contributions following a capital call by the Managers, a contributing Member who contributes in excess of the Member's proportionate share of the capital call shall be issued additional Units to compensate the contributing Member for the excess capital contribution. The number of Units issued to such a contributing Member shall be determined based upon a comparison of the LLC's aggregate capital accounts prior to the capital contribution adjusted to fair market value as determined by the Managers and the extent to which the capital

contribution by the contributing Member exceeded the Member's proportionate share of the capital call.

**Section 3.04. Interest.** No Member shall be entitled to interest with respect to any capital contribution by the Member or capital account of the Member.

## **Article Four**

### **CAPITAL ACCOUNTS**

**Section 4.01. Capital Accounts.** A separate capital account shall be maintained for each Member in accordance with Internal Revenue Code Sections 704(b), 704(c) and the regulations issued thereunder.

**Section 4.02. Increases to Capital Account.** Each Member's capital account shall be increased by (1) the amount of money actually contributed by the Member to the capital of the LLC, (2) the fair market value of any property contributed, as determined by the LLC and the contributing Member at arm's length at the time of contribution (net of liabilities assumed by the LLC or subject to which the LLC takes such property, within the meaning of Section 752 of the Code), and (3) the Member's share of Net Income and of any separately allocated items of income or gain.

**Section 4.03. Decreases to Capital Account.** Each Member's capital account shall be decreased by (1) the amount of money distributed to the Member by the LLC, (2) the fair market value of any property distributed to the Member, as determined by the LLC and the distributing Member at arm's length at the time of distribution (net of liabilities of the LLC assumed by the Member or subject to which the Member takes such property within the meaning of Section 752 of the Code), and (3) the Member's share of Net Loss and of any separately allocated items of deduction or loss.

**Section 4.04. Substantial Economic Effect.** The provisions of this Article as they relate to the maintenance of capital accounts are intended, and shall be construed, and, if necessary, modified to cause the allocations of profits, losses, income, gain and credit to have substantial economic effect under the Regulations promulgated under Section 704(b) of the Code.

**Section 4.05. No Deficit Restoration Obligation.** Notwithstanding anything in this Agreement to the contrary, this Agreement shall not be construed to create a deficit restoration obligation.

## **Article Five**

### **MANAGEMENT AND RESTRICTIONS**

**Section 5.01. Management by Board of Managers.** A "Board of Managers" shall have the responsibility and authority to manage the business and affairs of the LLC and to

make all decisions other than those reserved to the Members under Article Eight, including, without limitation, (a) approving annual operating and capital budgets; (b) making tax elections on behalf of the LLC, including elections under Section 754 and other applicable sections of Subchapter K of the Internal Revenue Code; and (c) issuing authorized but unissued Units as provided in Section 2.03.

**Section 5.02. Board of Managers.** The Board of Managers shall have a maximum of two seats; however, one Manager must be appointed at any given time. James M. Thornton has the authority to appoint two individuals to serve on the Board of Managers. An individual serving on the Board of Managers shall be referred to as a "Manager." Any Manager must be a Member, except as provided for below in Section 5.05. Each Manager shall have one vote on each matter coming before the Board of Managers. The affirmative vote of the majority of the Managers present at a duly convened meeting at which a quorum is present shall be the authorized act of the Board of Managers. Each Manager shall serve on the Board of Managers until such Manager resigns, dies or is removed as provided in Section 5.04. The Board of Managers shall be as follows:

Manager	Appointing Member
James M. Thornton	James M. Thornton

**Section 5.03. Chairman of the Board.** The Managers may elect, from among the Managers, a chairman (the "Chairman") to preside over the meetings of the Board of Managers. In the event the Board of Managers is deadlocked on any matter, the decision of the Chairman shall be the decisive vote on such matter. In the event no Chairman has been elected or the Chairman is unable to vote on a matter before the Board of Managers on which the Board of Managers is deadlocked, the appointed CEO (whether or not a Manager) may cast the deciding vote on the matter, and if no CEO has been appointed then the President may cast the deciding vote on the matter.

**Section 5.04. Removal.** A Manager serves at the pleasure of the Member that appointed the respective Manager. A Manager may be removed by the appointing Member at any time, with or without cause, upon written notice delivered to the Managers.

**Section 5.05. Replacement.** Following the resignation, death, or removal of a Manager, the Member that appointed the Manager by written notice to the Managers shall appoint an individual to fill the vacant seat on the Board of Managers. If James M. Thornton is a Manager serving at the time of his death, James R. Thornton will automatically be appointed Manager, even if James R. Thornton is not a Member.

**Section 5.06. Meetings.** Meetings of the Board of Managers shall be held at least quarterly and at such other times as the Chairman or a majority of the Managers shall establish. The Chairman shall establish the agenda for each meeting of the Board of Managers, but each Manager shall have the right to add matters to the agenda. If there is only one (1) Manager, no meeting is required to be held.

**Section 5.07. Notice of Meetings.** Written notice of at least five (5), but not more than thirty (30), calendar days shall be delivered by the Secretary to each Manager before any meeting of the Board of Managers. The notice shall specify the time and place of such meeting and include a proposed agenda for the meeting. Notice may be delivered personally or transmitted by mail, fax or email, to address, fax number or email address, or such other address, fax number or email as specified by the Manager by written notice to the Secretary and other Managers. If a meeting is adjourned to another place or time, notice need not be given of the adjourned meeting if the time and place of the adjourned meeting are announced at the meeting at which the adjournment is taken. If the adjournment is for more than thirty (30) days, a notice of the adjourned meeting shall be given to each Manager.

**Section 5.08. Quorum; Manner of Action.** A majority of the Managers shall constitute a quorum. Managers may participate in such meetings by means of conference telephone and similar communications equipment by means of which all Managers participating in the meeting can hear each other. Participation in a meeting shall constitute presence in person at such meeting, except where a Manager participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

**Section 5.09. No Proxy.** A Manager may not delegate the Manager's authority or vote by proxy or power of attorney, with the exception of James M. Thornton who shall have the ability to appoint James R. Thornton as his attorney in fact.

**Section 5.10. Action without Meeting.** Action by the Board of Managers required or permitted to be taken at a meeting may be taken without a meeting if the action is evidenced by one or more written consents describing the action taken and signed by each Manager. Such consent(s) shall have the same force and effect as a unanimous vote of the Managers and may be stated as such in any document. Action taken under this Section 5.10 is effective when all Managers have signed the consent, unless the consent specifies a different effective date. All consents signed pursuant to this Section shall be delivered to the Secretary for filing with the LLC's records.

**Section 5.11. Waiver of Notice.** A Manager may waive any required meeting notice, provided that the waiver shall be in writing. By attending a meeting, a Manager waives objection to lack of notice or defective notice of such meeting unless the Manager, at the beginning of the meeting, objects to the holding of the meeting or the transaction of business at the meeting. If all of the Managers of the Board of Managers shall meet at any time and place, either within or outside of the State of Alaska, and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice, and any action taken at such meeting shall be lawful.

**Section 5.12. Compensation of Managers.** The LLC shall reimburse the Managers for the reasonable and necessary costs that they incur on behalf of the LLC. The Managers shall not be entitled to any compensation for their service to the LLC, except as otherwise expressly provided under this Agreement or to the extent that services are provided as an employee or independent contractor.

## **Article Six**

### **OFFICERS**

**Section 6.01. Required Officers.** The officers of the LLC shall be elected by the Board of Managers and shall include a President and a Secretary. The Members may also elect a Chief Executive Officer, Treasurer and/or one or more Vice Presidents, Assistant Secretaries, and Assistant Treasurers. Any number of offices may be held by the same person.

**Section 6.02. Compensation of Officers.** The salaries of all officers and agents of the LLC shall be determined by the Board of Managers.

**Section 6.03. Term of Office.** An officer elected by the Board of Managers may be removed at any time by the affirmative vote of the Board of Managers. Any vacancy occurring in any required office of the LLC shall be filled by the Board of Managers.

**Section 6.04. Chief Executive Officer.** The Chief Executive Officer ("CEO") shall implement the strategic goals and objectives of the LLC. The CEO shall generally supervise and control the business and affairs of the LLC, including, as appropriate, establishing the policies and making the highest level of business decisions surrounding the LLC. The CEO shall generally supervise the implementation of the policies and decisions by the President, other officers and employees. The CEO shall have the non-exclusive authority to sign deeds, mortgages, bonds, contracts, or other instruments which have been authorized to be executed on behalf of the LLC. The CEO shall perform the duties and have the authority generally incident to the office of a Chief Executive Officer.

**Section 6.05. President.** Excluding the duties of a CEO, if appointed, and subject to the control and supervision of any CEO that may be appointed, the President shall have general and active management of the day-to-day business and affairs of the LLC, and shall see that all orders and resolutions of the Managers are carried into effect. The President shall execute bonds, mortgages, and other contracts except where required or permitted by law to be otherwise signed and executed and except where the signing and execution shall be expressly delegated by the Managers to some other officer or agent of the LLC.

**Section 6.06. Vice President.** In the absence of the President or in the event of his inability or refusal to act, the Vice President, if any, shall perform the duties of the President and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice Presidents shall perform such other duties and have such other powers as the Managers may from time to time prescribe.

**Section 6.07. Secretary.** The Secretary shall attend all meetings of the Managers and record all the proceedings of the meetings of the Managers in a book to be kept for that purpose. He shall give, or cause to be given, notice of all meetings of the Managers and special meetings of the Managers, and shall perform such other duties as may be prescribed by the Managers, CEO or President.



**Section 6.08. Treasurer.** The Treasurer shall have the custody of the LLC funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the LLC and shall deposit all moneys and other valuable effects in the name and to the credit of the LLC in such depositories as may be designated by the Managers. The Treasurer shall disburse the funds of the LLC as may be ordered by the Managers, taking proper vouchers for such disbursements and shall render to the CEO, President and the Managers, when the Managers so require, an account of all his or her transactions as Treasurer and of the financial condition of the LLC.

## **Article Seven**

### **AUTHORITY TO BIND LLC**

Only the officers shall have the authority to bind the LLC. No person who is not an officer, unless expressly authorized by the Board of Managers, shall take any action to bind the LLC, and such person shall defend and indemnify the LLC, the officers, and Managers and hold the LLC, the officers, and Managers harmless from and against any costs or damages as a result of an unauthorized act of such person. No officer acting without the authority of the Board of Managers shall take any action to bind the LLC and each officer shall defend and indemnify the LLC, the other officers and the Managers and the Members and hold the LLC, the other officers, the Managers and the Members harmless from and against any costs or damages incurred as a result of an unauthorized act of such officer.

## **Article Eight**

### **AUTHORITY OF MEMBERS**

**Section 8.01. Voting.** Each Member shall be entitled to vote its respective Units on any matter coming before the Members for decision, including a Member who has, or may have, a separate interest in the transaction or matter, notwithstanding a potential or actual conflict of interest. Each and every decision or matter to be determined by the Members under the terms of this Agreement or the Act shall be the authorized act of the LLC if affirmatively approved by the Members collectively or individually holding more than 50% of the issued Units as set forth under this Article.

**Section 8.02. Member Authority.** Notwithstanding the authority of the Managers under Article Five, in the specific instances set forth in this Article, the consent of the Members holding the requisite percentage of Units shall be required for the act to be the authorized act of the LLC.

**Section 8.03. Reserved Member Authority.** In each of the following specific instances, the affirmative vote of Members holding more than 50% of the issued Units (a "majority of the Members' Interest") shall be required to be the authorized act of the LLC.

- (a) Engaging in a new or different business activity;



- (b) Amending the Articles of Organization;
- (c) Amending this Agreement;
- (d) Dissolving the LLC;
- (e) Merging the LLC with another limited liability company; and
- (f) Issuing Units in excess of 10,000 units authorized to be issued by the Managers under Section 2.03 whether to existing or new Members bound.

**Section 8.04. Consent of Members.** The affirmative vote of Majority of the Members' Interest may be obtained in any reasonable manner, including: (a) in a written form delivered to the Members by hand, U.S. mail, courier, e-mail, facsimile or other means; or (b) verbally, in person or by teleconference, during a meeting of the Members; provided, however, that the verbal consent of Members shall be documented with copies in the minutes of the meeting retained in the LLC records and given to all Members.

## **Article Nine**

### **ACCOUNTING AND RECORDS**

**Section 9.01. Financial and Tax Reporting.** The LLC shall prepare its financial statements in accordance with accepted accounting principles within the LLC's industry as from time to time in effect and shall prepare its income tax returns using such methods of accounting and tax year as the Managers deem appropriate under the Code and Treasury Regulations.

**Section 9.02. Supervision; Inspection of Books.** Proper and complete books of account and records of the business of the LLC shall be kept under the supervision of the President at the LLC's principal office and at such other place as designated by the Managers. The books and records shall be open to inspection, audit and copying by any Member with more than 5% interest, or the Member's designated representative (subject to a commercially standard non-disclosure agreement), at the Member's sole expense, upon reasonable notice at any time during business hours for any purpose reasonably related to the Member's Interest in the LLC. Any information so obtained or copied shall be kept and maintained in strictest confidence except as required by law.

**Section 9.03. Reliance on Records and Books of Account.** Any Manager shall be fully protected in relying in good faith upon the records and books of account of the LLC and upon such information, opinions, reports, or statements presented to the LLC by any of its officers, employees, or committees, or by any other person, as to matters the Manager reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the LLC, including information, opinions, reports, or statements as to the value and amount of the assets, liabilities, profits, or losses of the LLC or any other facts pertinent to the existence and amount of assets from which distributions to Members might properly be paid.

**Section 9.04. Annual Reports.** The LLC shall prepare annual financial statements following the end of each year. The Managers may determine to have the annual financial statements reviewed or audited by a qualified, independent certified public accountant selected by the Managers. A copy of the annual financial statements shall be transmitted to the Members within ninety (90) days after the end of each year.

**Section 9.05. Tax Returns.** The President shall timely file a federal income tax return (including a timely filed extension) and transmit to each Member a schedule K-1 showing such Member's allocable share of the LLC's income, deductions and credits, and all other information necessary for the Members to file timely their federal income tax returns. The President similarly shall file and provide information to the Members regarding all appropriate state, local and foreign tax returns.

## **Article Ten**

### **ALLOCATIONS**

At the end of each year the Net Income or Net Loss of the LLC shall be allocated to the Members in proportion to their Units; provided that in the event of any transfer of Units during the course of the year, or of the issuance or redemption of any Units during the year, the Managers may determine whether to allocate the Net Income or Net Loss for the year on a per day, per Unit basis or upon the basis of an accounting cut-off as of the date of the transfer, issuance or redemption of Units.

## **Article Eleven**

### **DISTRIBUTIONS**

**Section 11.01. Distribution.** The Managers shall have discretion and authority to declare distributions payable to the Members from time to time taking into consideration the LLC's current and anticipated needs, including, without limitation, needs for operating expenses, debt service, acquisitions, and reserves. All distributions from the LLC to its Members shall be in proportion to the number of Units held by each Member on the date that the Managers declare the distribution.

**Section 11.02. Right to Interim Distribution.** Notwithstanding the provisions of Section 11.01 above, Members are entitled to receive distributions from the LLC quarterly during the taxable Calendar year, or on or before March 31 of each Calendar year to pay their individual income tax liability associated with their interest in the LLC for the previous Calendar year (at the maximum federal tax rate applicable).

**Section 11.03. Distributions in Kind.** All distributions shall be made in cash or cash equivalents unless the Managers shall have approved a distribution of assets in kind.

**Section 11.04. Restriction on Distributions.** At the Board of Managers discretion, the LLC may not make any distribution to the Members unless immediately after giving

effect to the distribution, all liabilities of the LLC, other than liabilities to Members on account of their interest in the LLC and liabilities as to which recourse of creditors is limited to specified property of the LLC, do not exceed the fair market value of the LLC assets, provided that the fair market value of any property that is subject to a liability as to which recourse of creditors is so limited shall be included in the LLC assets only to the extent that the fair market value of the property exceeds such liability.

## Article Twelve

### TRANSFER OF MEMBERSHIP

**Section 12.01. Transfer.** Except as otherwise permitted under this Article, a Member may transfer, sell, encumber, mortgage, assign or otherwise dispose of any portion of its Units only if (i) the transfer is to an existing Member who holds a majority interest in the LLC or a transfer is made by an existing member who holds the majority of Units issued, (ii) the Assignee shall have agreed in writing to assume all of the obligations of the assignor with respect to the Units assigned (including the obligations imposed under this Agreement as a condition to the transfer), and (iii) the Member shall have concluded (which conclusion may be based upon an opinion of counsel satisfactory to it) that such assignment or disposition would not (A) result in a violation of the Securities Act of 1933 as amended, the Alaska Securities Act of 1959 as amended, or any other applicable securities law statute of any jurisdiction, (B) result in a termination of the LLC for federal or state income tax purposes or result in the LLC being taxed as a corporation for federal income tax purposes, or (C) result in a violation of any law, rule, or regulation by the Member, the Assignee, the LLC or the Members.

**Section 12.02. Transfer Void.** Any purported transfer, sale, encumbrance, mortgage, assignment, or disposition of Units in contravention of this Article shall be void and of no effect to, on, or against the LLC, any Member, any creditor of the LLC, or any claimant against the LLC.

**Section 12.03. Involuntary Transfer.** Any Member who has information that would reasonably lead the Member to believe that its Units are imminently subject to being involuntarily transferred (as defined in Section 12.04) to a person or entity (an "Involuntary Transfer") shall promptly send written notice to the LLC and the other Members. Any Involuntary Transfer will automatically cause a Call Option Triggering Event. The LLC shall have the option to purchase such Units for the price and terms determined by operation of this Article 12 at the time such notice is provided by the transferring Member. If the Member whose Units are subject to Involuntary Transfer does not provide the notice required by this Agreement, the LLC and the other Members shall be deemed to have received such notice at the time they become aware the Units are subject to an Involuntary Transfer.

**Section 12.04. Involuntary Transfer is defined as follows:**

(a) a transfer made on account of a court order or otherwise by operation of law, including, but not limited to, bankruptcy, a transfer incident to a divorce or marital property settlement or a transfer pursuant to applicable community property, quasi-community property or similar law;

- (b) an entry of a judgment by a court that the Member is incompetent;
- (c) Member materially breaches this Agreement and fails to cure the breach within 30 days after the Member has been notified in writing of the breach;
- (d) Member transfers Units to someone in which this Agreement expressly prohibits;
- (e) Member becomes ineligible to be a marijuana establishment licensee, or becomes ineligible to hold a valid and current marijuana handler permit under the laws and regulations of the State of Alaska or under the Code of the Municipality of Anchorage; or
- (f) death of a Member.

**Section 12.05. Option to Purchase.** Units subject to an option to purchase under this Article shall be offered for sale, at a price determined by the following Sections:

(a) **Purchase.** The LLC shall have the option to purchase part or all of the Units subject to the option to purchase (the "Subject Units") during a period of six (6) months after the date of the termination of Employment or six (6) months after the date the LLC becomes aware of an Involuntary Transfer, or the date the LLC becomes aware of another Call Option Triggering Event, as the case may be. If the LLC fails to exercise the option or purchases less than all of the Subject Units, the Member with the highest ownership of Units shall have the option to purchase all of the remaining Subject Units (and not less than all of the remaining Subject Units) during an additional period of thirty (30) days following the expiration of the LLC's option. If the Member with the highest ownership of Units fails to exercise the option or purchases less than all of the Subject Units, then the Member with the second highest ownership of Units shall have the first right of refusal and with the same terms as above and so on.

(b) **Payment Terms.** The purchase price shall be paid in equal monthly installments over a period of sixty (60) months pursuant to the terms of one or more promissory notes, together with simple interest at the prime rate published in the *Wall Street Journal* (or its successor in interest) on the day of closing. The makers of the promissory notes shall have the right to prepay the principal balance of the promissory note at any time. The promissory notes shall be secured by a first priority pledge of the Subject Units.

(c) **Closing.** Closing on the purchase and sale of the Subject Units shall be at a place and time mutually agreed by the parties; provided that closing shall be no later than sixty (60) days following exercise of the option.

**Section 12.06. Call Option Triggering Event for Member James M. Thornton.**

Notwithstanding any other provisions of this Agreement, if a Call Option Triggering Event occurs to James M. Thornton, then James R. Thornton, even if he is not a current Member, has the right to cause the LLC to assign the Call Option to James R. Thornton with respect to some or all the Subject Units. If a Call Option Triggering Event occurs to James M. Thornton and James R. Thornton is deceased, then the Call Option will be assigned to the estate of James M. Thornton with respect to some or all of the Subject Units. The price of the Subject Units to James R. Thornton or the estate of James M. Thornton shall be the lesser of either (i) the price at which James M. Thornton acquired the Units or (ii) the book value of the Units as shown on the LLC's most recent Balance Sheet. For any purchaser of the Subject Units other than James R. Thornton or the estate of James M. Thornton, the purchase price shall be the Fair Market Value without any discounts.

**Section 12.07. Call Option Triggering Event: Employment Termination or Death for any Member besides James M. Thornton.**

**(a) Voluntary Termination, Involuntary Termination Without Cause, or Death.**

If the Call Option Triggering Event is associated with voluntary termination of the Employee's Employment, involuntary termination of an Employee's employment without cause, or death of an Employee, the purchase price of the Employee's Units shall be (a) the lesser of (i) the price at which they acquired their Units if within seven (7) years from the commencement of their Employment, or (ii) the book value of their Units as shown on the LLC's most recent balance sheet if within seven (7) years from the commencement of their Employment, or (b) if after seven (7) years but within twelve (12) years from the commencement of their Employment at a purchase price equal to fifty percent (50%) of the Fair Market Value (with a 35% marketability discount and 35% minority discount) of the Units, or (c) if after twelve (12) years from the commencement of their Employment at a purchase price equal to Fair Market Value (without any discounts for marketability or minority interest) of the Units.

**(b) For Cause Termination.** If the Termination of the Employee's Employment is for cause, the purchase price of the Employee's Units shall be (a) the lesser of (i) the price at which they acquired their Units if within seven (7) years from the commencement of their Employment, or (ii) the book value of their Units as shown on the LLC's most recent balance sheet if within seven (7) years from the commencement of their Employment, or (b) if after seven (7) years but within twelve (12) years from the commencement of their Employment at a purchase price equal to twenty-five percent (25%) of the Fair Market Value (with a 35% marketability discount and 35% minority discount) of the Units, or (c) if after twelve (12) years from the commencement of their Employment at a purchase price equal to fifty percent (50%) of Fair Market Value (without any discounts for marketability or minority interest) of the Units.

**(c) Death of any Non-Employee Member except for James R. Thornton.** Upon the Death of any non-employee Member except for James R. Thornton, the purchase price of the Member's Units shall be (a) the lesser of (i) the price at which they acquired their Units if within seven (7) years from the date the Subject Units were acquired, or (ii) the book value of their Units as shown on the LLC's most recent balance sheet if within seven (7) years from the date the Subject Units were acquired, or (b) if after seven (7) years but within twelve (12) years from the date the Subject Units were acquired at a purchase price equal to twenty-five percent (25%) of the Fair Market Value (with a 35% marketability discount and 35% minority discount) of the Units, or (c)



if after twelve (12) years from the date the Subject Units were acquired at a purchase price equal to fifty percent (50%) of Fair Market Value (without any discounts for marketability or minority interest) of the Units.

**Section 12.08. Call Option Triggering Event Other than Termination or Death for any Member besides James M. Thornton.** If the Call Option Triggering Event occurs for anything other than termination or death, the purchase price of the Subject Units shall be the lesser of (i) the price at which they acquired their Units or (ii) the book value of their Units as shown on the LLC's most recent balance sheet.

**Section 12.09. Transfer by Majority.** In a situation in which Members holding a majority of the Units (the "Selling Members") desire to sell all, but not less than all, of their Units to an unrelated person ("Purchaser") for such price and under such terms as shall be agreed upon between the Selling Members and the Purchaser, the sale shall be subject to the rights and obligations under the "Pull Along Right" and "Tag Along Right" described below.

(a) **Pull Along Right.** The Selling Members collectively shall have the right (the "Pull Along Right") to require the Members who are not parties to the sale transaction (individually, "Other Member", and collectively, "Other Members") to sell their Units to the Purchaser for the same per Unit price and under the same payment terms as shall control the purchase and sale of the Units of the Selling Members. The Selling Members may exercise the Pull Along Right by delivery of written notice to each such Other Member, in which case the purchase and sale of the Units of each such Other Member shall close simultaneously with the purchase and sale of the Units of the Selling Members.

(b) **Tag Along Right.** Each of the Other Members shall have the right (the "Tag Along Right") to require that the Selling Members obtain the commitment of the Purchaser to purchase the Units of the Other Members for the same per Unit price and under the same payment terms as shall control the purchase and sale of the Units of the Selling Members. The Other Members may exercise the Tag Along Right by delivery of written notice to the Selling Members, in which case the purchase and sale of the Units of the Other Members shall close simultaneously with the purchase and sale of the Units of the Selling Members.

## **Article Thirteen**

### **INDEMNIFICATION AND LIMITATION OF LIABILITY**

#### **Section 13.01. Indemnification.**

(a) To the fullest extent permitted by the Act and by law, the Managers and Members shall be indemnified and held harmless by the LLC from and against any and all loss, claims, damages, liabilities joint and several, expenses, judgments, fines, settlements, and other amounts arising from any and all claims (including reasonable legal expenses), demands, actions, suits, or proceedings (civil, criminal, administrative, or investigative) in which they may be involved, as a party or otherwise, by reason of their management of, or involvement in, the affairs of the LLC or which relate to the LLC, its properties, business, or affairs, if such Indemnitee acted in good faith and in a manner such Indemnitee reasonably believed to be in, or not opposed to, the

best interests of the LLC, and, with respect to any criminal proceeding, had no reasonable cause to believe the conduct of such Indemnitee was unlawful. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere, or its equivalent, shall not, of itself, create a presumption that the Indemnitee did not act in good faith and in a manner which the Indemnitee reasonably believed to be in, or not opposed to, the best interests of the LLC or that the Indemnitee had reasonable cause to believe that the Indemnitee's conduct was unlawful (unless there has been a final adjudication in the proceeding that the Indemnitee did not act in good faith and in a manner which the Indemnitee reasonably believed to be in or not opposed to the best interests of the LLC or that the Indemnitee did have reasonable cause to believe that the Indemnitee's conduct was unlawful).

(b) The LLC may also indemnify any Person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action by or in the right of the LLC to procure a judgment in its favor by reason of the fact that such Person is or was an officer, employee, or agent of the LLC, against expenses actually or reasonably incurred by such Person in connection with the defense or settlement of such action, if such Person acted in good faith and in a manner such Person reasonably believed to be in, or not opposed to, the best interests of the LLC, except that indemnification shall be made in respect of any claim, issue, or matter as to which such Person shall have been adjudged to be liable for misconduct in the performance of the Person's duty to the LLC only to the extent that the court in which such action or suit was brought or another court of appropriate jurisdiction determines upon application that, despite the adjudication of liability, but in view of all circumstances of the case, such Person is fairly and reasonably entitled to such expenses which such court shall deem proper. To the extent that the Person has been successful on the merits or otherwise in defense of any proceeding or in defense of any claim, or issue, the Person shall be indemnified by the LLC against expenses actually and reasonably incurred by the Person. Notwithstanding the foregoing, no Person shall be entitled to indemnification for any conduct arising from the gross negligence or willful misconduct of such Person or reckless disregard in the performance of its duties.

(c) Expenses (including attorneys' fees) incurred in defending any proceeding may be paid by the LLC in advance of the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the Indemnitee or Person to repay such amount if it shall ultimately be determined that the Indemnitee or Person is not entitled to be indemnified by the LLC.

(d) The indemnification provided by this Section shall not be deemed to be exclusive of any other rights to which any Person may be entitled under any agreement or as a matter of law or otherwise, both as to action in a Person's official capacity and to action in another capacity.

(e) The Managers shall be authorized to purchase and maintain insurance on behalf of the LLC, the Managers, officers, employees, or agents of the LLC and any other Indemnitees at the expense of the LLC, against any liability asserted against or incurred by them in any such capacity whether or not the LLC would have the power to indemnify such Persons against such liability under the provisions of this Agreement.

**Section 13.02. Limitation of Liability.** Notwithstanding anything to the contrary contained in this Agreement, the debts, obligations, and liabilities of the LLC shall be solely the



debts, obligations, and liabilities of the LLC; and no Member shall be obligated personally for any such debt, obligation, or liability of the LLC solely by reason of being a Member of the LLC.

## **Article Fourteen**

### **DISSOLUTION**

**Section 14.01. Dissolution.** The LLC shall be dissolved, its assets disposed of, and its affairs wound up upon the first to occur of the following:

- (a) the expiration of its stated term;
- (b) the written consent of a majority of the Units; or
- (c) the entry of a decree of judicial dissolution under the Act.

**Section 14.02. Authority to Wind Up.** The Managers shall have all necessary power and authority required to marshal the assets of the LLC, to pay its creditors, to distribute assets, and otherwise wind up the business and affairs of the LLC. In particular, the Managers shall have the authority to continue to conduct the business and affairs of the LLC insofar as such continued operation remains consistent in the judgment of the Managers with the orderly winding up of the LLC.

**Section 14.03. Winding Up and Certificate of Dissolution.** The winding up of the LLC shall be completed when all debts, liabilities, and obligations of the LLC have been paid and discharged or reasonably adequate provision has been made and all of the remaining property and assets of the LLC have been distributed to the Members. Upon the completion of winding up of the LLC, Articles of Dissolution shall be filed in accordance with the Act in order for the State to issue a Certificate of Dissolution.

**Section 14.04. Distribution of Assets.** After winding up the affairs of the LLC, the Managers shall direct that the assets of the LLC be paid or distributed as follows in accordance with the Act:

- (a) to creditors of the LLC in the order of priority provided by law;
- (b) to Members for any amounts the LLC owes them, other than in respect of the net credit balance of their capital accounts;
- (c) to the Members and Assignees to the extent of the net positive balance of their capital account; and
- (d) thereafter to the Members and Assignees in proportion to their ownership of Units.

Any property distributed in kind in the liquidation shall be valued and treated as though the property was sold and the cash proceeds distributed. The difference between the value of property

distributed in kind and its book value shall be treated as a gain or loss on sale of the property and shall be credited or charged to the Members in proportion to their Unit ownership.

## **Article Fifteen**

### **DEFINITIONS**

**Section 15.01. Definitions.** The following terms shall have the following meanings for the purposes of this Agreement:

(a) Agreement shall mean this Second Amended and Restated Operating Agreement as the same shall be amended from time to time.

(b) Appraisal. If the value of the net assets of the Company is to be determined by appraisal, the appraised value of the net assets of the Company will be determined in accordance with the following provisions:

(1) if the seller and the buyer agree on and retain an appraiser within 30 days after the expiration of the period specified in Section (i)(1) below, the appraised value of the net assets of the Company will be determined by the appraiser; or

(2) if the seller and the buyer cannot agree on and retain an appraiser within 30 days after the expiration of the period specified in Section (i)(1) below:

(a) each of the seller and the buyer will retain an appraiser within an additional 30 days; and

(b) within an additional 30 days the appraisers will designate a third appraiser and the seller and the buyer will retain the third appraiser; and

(c) the appraised value of the net assets of the Company will be determined by the third appraiser within 60 days after being retained; and

(d) each of the seller and the buyer will pay all of the fees, costs, and expenses of any appraiser retained solely by them; and 50% of the fees, costs and expenses of any appraiser retained by both of them.

(c) Assignee shall mean a transferee of Units who has not been admitted as a Substitute Member.

(d) Bankruptcy shall mean with respect to any Person that a petition shall have been filed by or against such Person as a debtor and the adjudication of such Person as a bankrupt under the provisions of the bankruptcy laws of the United States of America shall have commenced or that such Person shall have made an assignment for the benefit of its creditors generally or a receiver shall have been appointed for substantially all of the property and assets of such Person.

(e) Capital Contribution of a Member shall mean that amount of capital actually contributed by the Member to the LLC pursuant to Article 3.

(f) Code shall mean the Internal Revenue Code of 1986, as amended.

(g) Dissolution of a Member which is not a natural person shall mean that such Member has terminated its existence, whether partnership or corporate, wound up its affairs and dissolved, provided, however, that a change in the membership of any Member that is a general partnership shall not constitute Dissolution, whether or not the Member is deemed technically dissolved for partnership law purposes so long as the business of the Member is continued.

(h) Employment of Member is referred to employment with Axion Enterprises, LLC or employment with AK Red, LLC.

(i) Fair Market Value shall mean:

(1) Agreed Value. If the seller and the buyers agree on a price of the Units within 30 days after the determination of the parties buying the Units and the number of Units being bought by each party, the Fair Market Value of the Units will be as agreed; or

(2) If the seller and the buyers cannot agree on the price of the Units within 30 days after the determination of the parties buying the Units and the number of Units being bought by each party, then the Fair Market Value of the Units will be determined by the value of the Seller's Capital Account associated with such Units after adjustments to reflect the Profits and Losses that would have been allocated after satisfying the Company's liabilities and selling the net assets for their appraised value. Unless otherwise stated in this Agreement, Fair Market Value will include a 35% discount for marketability and a 35% discounts for minority interest.

(j) Members shall mean all Members, including Substitute Members, but does not include Assignees.

(k) Net Income or Net Loss shall mean for any year the amount of the net income or loss of the LLC as determined under accepted accounting principles within the LLC's industry.

(l) Person shall mean a natural person, partnership (whether general or limited and whether domestic or foreign), LLC, foreign limited liability company, trust, estate, association, corporation, custodian, nominee, or any other individual or entity in its own or representative capacity.

(m) Substitute Member shall mean an Assignee who has been admitted to all the rights of membership pursuant to this Agreement.

(n) Treasury Regulations means regulations issued pursuant to the Code.

## Article Sixteen

### MISCELLANEOUS

**Section 16.01. Amendment.** This Agreement may be amended with the consent of Members holding more than 50% of the issued units.

**Section 16.02. Power of Attorney.** By signing this Agreement, each Member designates and appoints the Secretary as the Member's true and lawful attorney-in-fact in the Member's name, place, and stead, to make, execute, sign, and file such instruments, documents, or certificates which may from time to time be required by the laws of the United States of America, the State of Alaska, any political subdivision of the State of Alaska, or any other governmental jurisdiction in which the LLC shall do business to carry out the purposes of this Agreement. Such attorney-in-fact also is granted authority on behalf of the undersigned Members to sign an amendment to this Agreement and to the LLC's Articles of Organization as may be required to give effect to the (a) extensions of the term of the LLC; (b) transfer of a Member's Units in accordance with this Agreement; and (c) redemption or issuance of Units in accordance with this Agreement.

**Section 16.03. Withholding Taxes.** In the event that the LLC is obligated to withhold and pay any taxes with respect to any Member, any tax required to be withheld may be withheld from any distribution otherwise payable to such Member, or upon remittance to the appropriate tax authority may be charged to that Member's Capital Account as if the amount of such tax had been distributed to such Member.

**Section 16.04. Further Assurances.** The parties agree to execute and deliver any further instruments or documents and perform any additional acts which are or may become necessary to effectuate and carry on the LLC created by this Agreement.

**Section 16.05. Binding Effect.** Subject to the restrictions on transfer set forth in Article Twelve, this agreement shall be binding on and inure to the benefit of the Members and their respective transferee, successors, assigns, and legal representatives.

**Section 16.06. Governing Law.** This Agreement shall be governed by and construed under the laws of the State of Alaska as applied to agreements among Alaska residents entered into and to be performed entirely within Alaska.

**Section 16.07. Entire Agreement.** This Agreement constitutes the entire agreement among the parties with respect to the subject matter reflected in this Agreement.

**Section 16.08. Notices.** Any notice or other communication which a Manager, officer or one or more Members may desire to give to another Member shall be in writing and shall be deemed effectively given upon personal delivery or upon deposit in any United States mail box, by registered or certified mail, return receipt requested, upon confirmed facsimile transmission, or email for delivery to such other Member at the address or facsimile number shown in the records of the LLC or at such other address or facsimile number as such Member may designate by fifteen (15) days' advance written notice to the Secretary and all other Members, provided that for notices


reflecting an address outside the United States and a telex address, a copy of such notice shall also be sent by telex.

**Section 16.09. Counterparts.** This Agreement may be executed in one or more counterparts with the same force and effect as if each of the signatories had executed the same instrument.

**Section 16.10. Legal Representation.** This Agreement was prepared by Law Office of Christy Lee, P.C. on behalf of the LLC. Each Member acknowledges that the Member has consulted with his own legal counsel or has knowingly waived the right to do so.

IN WITNESS WHEREOF, the undersigned Members have executed this Agreement effective as of the 1<sup>st</sup> day of December, 2020.

  
James M. Thornton

  
James R. Thornton