**AMENDED AND RESTATED OPERATING AGREEMENT**
**OF THEE TREASURE CHEST LLC**
**December _____, 2019**

Thee Treasure Chest LLC, an Alaska limited liability company (herein "Company"), Alaska Entity No.10073788, by and through the Members of Company, namely, Kit Kraft and Eric VanVeen, hereby execute and make effective this Amended and Restated Operating Agreement of Thee Treasure Chest LLC (herein, "Agreement") pursuant to the action of its Members named herein, and Alaska Stat. § 10.50.095, this _____ day of December, 2019, and in furtherance thereof and for valuable consideration, the receipt of which is acknowledged, the undersigned do mutually agree, acknowledge, and covenant as to the following:

## RECITALS

A. Company was formed as an Alaska limited liability company by Kit Kraft and John Wright on 12/14/2017, with the filing of Articles of Organization and issuance of a Certificate of Organization by the State of Alaska.

B. In accordance with Section VII of the original Operating Agreement of the Company, John Wright transferred his 50% membership interest in the Company to Eric vanVeen, and Kit Kraft transferred 17% of his ownership interest in the Company to Eric vanVeen, and Eric vanVeen was admitted as a Member of the Company, holding 67% ownership interest in profits, losses, the transfer of which is conditioned upon approval of the Alaska Marijuana Control Office (AMCO).

C. This Agreement amends, modifies, and supersedes the original Operating Agreement of Company.

D. Concurrent with the execution of this this Amended and Restated Operating Agreement, Members will amend Company's Articles of Organization appointing Eric vanVeen the manager of Company to serve in that role under the terms set forth herein, and file such amendment with the State of Alaska.

## SECTION I
## GENERAL PROVISIONS

1.1 **Name**. The name of Company is Thee Treasure Chest LLC. Members will seek to keep the name for at least two (2) years.

1.2 **Principal Place of Business**. The principal place of business of Company shall be 1000 Water Street, Craig, AK 99921. Company may establish other places of business as the Members deem appropriate.

1.3 **Term**. The life of Company shall be perpetual unless it is terminated pursuant to the terms stated herein.

1.4 **Powers**. Company may engage in any lawful business as permitted by Company's Articles of Organization and the Act.



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1.5 **Purpose**. The purpose of Company is to (1) own and operate a marijuana retail business in Craig, Alaska, and (2) engage in any other business allowed under the law.

1.6 **No Partnership Intended for Non-Tax Purposes**. The Members have formed Company under the Act and expressly do not intend hereby to form a partnership under either the Alaska Uniform Partnership Act or the Alaska Uniform Limited Partnership Act or a corporation under the Alaska Business Corporation Act. The Members do not intend to be partners one to another or partners as to any third party. To the extent any Member, by work or action, represents to another person that any other Member is a partner or that Company is a partnership, the Member making such wrongful representation shall be liable to any other member who incurs personal liability by reason of such wrongful representation. By execution of this Amended and Restated Operating Agreement, each Member hereto agrees that each shall represent his or her respective status and capacity with Company as that of "Member," and not as a partner or limited partner.

1.8 **Members**. The Members of Company are:

Eric vanVeen
224 Smith Street, Unit E
Sitka, AK 99835

Kit Kraft
PO Box 446
Craig, AK 99921

## SECTION II
## CAPITAL CONTRIBUTIONS

2.1 **Member Ownership interest and Contribution**. The Ownership Interest of the Members, voting rights, and interest in the profits and losses of the Company is as follows:

| | |
|---|---|
| Eric vanVeen | 67% |
| Kit Kraft | 33% |

The contributions of the Members to the company is $100.00 each.

2.2 **Additional Contributions**. The Members shall make such additional contributions to the Capital of Company if approved by a majority vote of the Members. Any additional capital contribution approved shall be payable by the Members in proportion to their respective Membership Interest in Company as shown in article 2.1 at the time approval is given.

## SECTION III
## OPERATIONS

3.1 **Books and Records**. Company books and records shall be maintained at the location as determined by the Manager, and each Member identified as holding a ten (10)% or greater membership interest shall have access to and may inspect Company's books and records. Such inspection shall be at reasonable times, on a weekday, upon giving not less than twenty-



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four (24) hours' notice to the custodian of the records and books. The Members holding a ten (10)% or greater membership interest shall be entitled to review annual financial statements of Company's operations, which shall be deemed proprietary and subject to conditions of confidentiality that will be implemented by Manager.

3.2 **Accounting**. The accounting period of Company shall be the fiscal year. Company shall keep its accounting records and shall report its income for income tax purposes on the cash method of accounting in accordance with the laws, rules, and regulations applicable to federal taxation of partnerships. The Manager shall select an independent accountant to maintain and potentially audit Company's records.

3.3 **Tax Matters Member**. The Member Eric vanVeen will be named on Company tax return or on a statement filed with the Internal Revenue Service as the "Tax Matters Member" as required by the Internal Revenue Code ("Code").

3.4 **Management**. Company shall be managed by Eric vanVeen (herein, "Manager"). The powers of the Manager shall include all matters not reserved to the Board of Member Representatives. Manager shall include input of Members on graphics design, marketing, t-shirts, logos etc.

3.5 **Meetings.** From time to time, the manager may declare a meeting to be held in Craig, Alaska, or in such other place designated by the manager for the purpose of reviewing the operations of the Company for the next year. Members may attend meetings in person or by telephone. A member may give a proxy to any other Member to vote at a meeting or to execute consent to action in lieu of a meeting. The proxy must be in writing and must specify the matters or the meeting to which it applies and may be limited to a period of time.

3.6 **Voting.** Each member shall have the right to vote in the affairs of the Company, with one vote given to each increment of his or her right to profit & losses as declared in article 2.1.

3.7 **Majority Vote.** A majority vote shall be the affirmative vote of the majority votes of the Company, pursuant to article 3.6. No Member may take any of the following actions without a majority vote of the membership interest:

(a) Borrow or lend money on behalf of the Company;

(b) Execute any mortgage, bond, pledge of assets, lease, sale or transfer of Company property;

(c) Assign, transfer, or pledge any debts due by the Company, or release any such debts except on payment in full thereof;

(d) Compromise any claim due to the Company or submit to arbitration any dispute or controversy involving the Company;

(e) Select an option concerning the portion of a payment to a departing member to be made by cash or by a promissory note;

(f) Purchase real property;

(g) Sell, assign, or pledge a Member's interest;



AMCO Received 12/15/2019

(h) Admit new members;

(i) Amend Operating Agreement;

(j) Amend Articles of Organization;

(k) Merge or consolidate with another business or entity.

**6.2 Conflict of Interest.** No member will engage in any business, venture or transaction, whether directly or indirectly, that might be competitive of the business of the Company or that would be in direct conflict to the Company without the written consent of the Manager. Any and all business, ventures or transactions with any appearance of conflict of interest must be fully disclosed to the Manager. Failure to comply with the terms of this clause will result in the withdrawal and mandatory sale of the member.

**6.3 Non-Compete.** All members agree that he or she will not carry on a similar business to the business of the Company within any established or contemplated market or regions of the Company unless approved in writing by the Manager, and for a period of at least two (2) years after the date of withdrawal of membership in the Company.

## SECTION IV
## PROFITS AND LOSSES

4.1 **Allocation**. Company's profits or losses for each fiscal year shall be allocated among the Members in proportion to the amounts credited to their respective capital accounts. Profit and loss shall be distributed among the Members at the conclusion of each fiscal year immediately following Company's accountant's preparation of the federal (and state) income tax reporting required for Company and the Members. The distribution shall be in the proportion that each Member's capital account percentage bears to the total of all capital accounts in Company. Company, at least annually, shall balance its accounts, and determine the amount of taxable income available for distribution to Members. For purposes of this Agreement the term "taxable income" shall mean the amount of income reported on a partner's Schedule K-1 (Form 1065). Manager may determine to retain such portion of the taxable income in Company to be used for business purposes. In such event, the Members shall receive a distribution of taxable income sufficient to pay their respective income tax obligation on that portion of the Member's taxable income retained by Company. Distributions in liquidation of Company or in liquidation of a Member's interest shall be made in accordance with the positive capital account balances pursuant to Treasury Regulation 1.704-1(b)(2)(ii)(b)(2). To the extent a Member shall have a negative capital account balance, there shall be a qualified income offset, as set forth in Treasury Regulation 1.704-1(b)(2)(ii)(d).

4.2 **Distributions**. The Manager shall review the financial condition of Company from time to time, and may distribute cash to the Members as determined by the Manager. A distribution of cash to the Members shall be made in accordance with the Members' percentage of Membership Interest in Company as set for the article 2.1.

4.3 **Tax Allocation**. Items of Company income, gain, expense, loss, deduction, credit, and other items realized or allowable for federal income tax purposes shall be allocated among the Members in the same manner the Allocation stated in Section 4.1. However, with respect to property contributed by Members, such allocations shall be made in accordance with the principals of Section 704(c) of the Internal Revenue Code (including the applicable Treasury



AMCO Received 12/15/2019

Regulations) as required by that section.

4.4 **Tax Elections/Member**. To the extent required by applicable law, the Members hereby designate Eric vanVeen as the person who will be named on Company tax return or on any statement filed with the IRS as the "Tax Matters Partner" as that term is defined in Section 6231(a)(7)(A) of the Code, or its counterpart in any subsequently adopted Code provision. The Tax Matters Partner will keep all Members informed of all administrative and judicial proceedings for the adjustment of Company tax items, as required by Section 6223(g) of the Code and Regulations thereunder. The Tax Matters Partner will represent Company in all such proceedings with the understanding that other Members may participate in such proceedings to the extent permitted by the Code and corresponding Regulations. Company will pay all ordinary and necessary expenses incurred in connection with any such proceeding. Notwithstanding reference to specific Code sections in other sections of this Agreement, the Tax Matters Member and Manager shall at all times handle tax matters in accordance with the applicable provisions of the Code as amended from time to time.

4.5 **Fiscal Year**. The fiscal year of Company shall be the calendar year.

4.6 **Guaranteed Payments.** A Member shall be entitled to payments from the Company of the agreed upon rate or payment schedule of the Company as determined by a Manager.

## SECTION V
## TRANSFER OF MEMBERSHIP INTERESTS

**5.1 Restrictions on Transfers.** Except as otherwise specifically provided in this Agreement, a Member shall not transfer, including, but not limited to, the sale of, assignment, pledge, or encumbering, all or any portion of his interest in the Company without written consent of the majority of membership interests and any purported transfer not in compliance with the provisions of this Agreement shall be null and void and of no force or effect. Regardless of whether the other members have given their written consent to a proposed transfer, no transfer of a Member's interest shall be permitted if the proposed transfer, when taken together with any other transfer(s) in a given twelve (12) month period ending with the date of the proposed transfer, would cause the termination or dissolution of the Company. Each Member agrees that these provisions are specifically enforceable and agrees to indemnify the Company and each member from all costs, liabilities, attorney's fees or damages resulting from an attempted transfer in violation of this Agreement. A Member's interest in the Company shall not terminate if a court of competent jurisdiction enters an order adjudicating the Member incompetent to manage the Member's person or property.

**5.2 Status of Transferee.** As provided in **Section 5.1** above, a transferee shall be admitted to the Company as a Member only on the majority consent of the membership interests an only if the transferee as assignee becomes a party to this Agreement by signing a counterpart signature page to this Agreement and by executing such other documents as the Company reasonably determines necessary. Consent to admit a new Member may be given or withheld in the sole and absolute discretion of each Member. A transferee who is not admitted as a member shall be entitled only to receive allocations and distributions from the Company with respect to such interest as provided in this Agreement, and shall have no right to participate in the management of the business and affairs of the Company.



AMCO Received 12/15/2019

## ARTICLE VI
## DEATH OR WITHDRAWAL

6.1 **Withdrawal and Mandatory Sale.** Upon occurrence of any of the following events ("Triggering Events"), the interest of a Member shall be sold to the Company by the member or the personal representative of a deceased member, and purchased by the Company;

(a) The institution of any bankruptcy proceeding by the Member, the appointment of a receiver for the administration of the affairs of the Member, the making of an assignment of the assets of the Member for the benefit of creditors, or the institution of any involuntary bankruptcy proceeding against the Member which is not discharged within thirty (30) days after its filing, or upon the occurrence of any event which makes any or all of the membership interest of the Member subject to involuntary sale;

(b) Upon the death of the Member, however this section does not apply to an interest held as tenants by the entirety, whereupon the other spouse will be the sole owner of the interest;

(c) Upon the member's attempted transfer of all or any portion of his interest in the company;

(d) Upon the voluntary sale of the membership interest of the member to the Company;

(e) Upon any member engaged in a business, venture, or transaction, whether directly or indirectly, that is in competition with the Company, without the prior written consent of the Manager of the Company.

6.2 **Terms of Purchase and Sale.** Any membership interest that becomes subject to a mandatory purchase and sale shall be sold by the Member or the Member's estate on the following terms and conditions:

(a) **Purchase Price**. The purchase price of the membership interest shall be equal to the value of the interest based upon the "Estimated Fair Market Value" of the Member's interest as of the Company's fiscal year-end preceding the date of the Triggering Event.

(b) **Estimated Fair Market Value**. The Estimated Fair Market Value of the membership interest shall be based upon an appraisal for real estate of comparable value and an assessment of comparable sales for personal property items. However, in determining the Estimated Fair Market Value, (1) no value shall be attributed to good will or other intangible assets, and (2) liens or other encumbrances against Company assets shall be taken into account in determining the Estimated Fair Market Value of the Company.

(c) **Payment of Purchase Price.** At the option of the Company, and subject to financial institution and/or bank approval, the purchase price for the membership interest shall be paid either;



AMCO Received 12/15/2019

(i) in cash in one lump sum within ninety (90) days following the closing; or

(ii) in sixty (60) equal successive monthly installments of principal and interest of unpaid principal from the date of transfer. The rate of interest shall be the prime rate of interest in effect at Sitka, Alaska, as of the date of the Triggering Event. The first payment shall be due on one (1) month after the closing date. Any deferred payments shall be evidenced by a promissory note of the purchaser, which shall also provide for prepayment of principal at any time without penalty, and the right to acceleration by the holder upon default in any payment.

(d) **Closing.** The membership interest shall be transferred to the Company by the close of business on the day of the Triggering Event ("Transfer Date"). The member and the members' representatives, executors or successors in interest shall use their best efforts to cause the Transfer to occur.

At the closing, the purchasing member shall deliver to the selling member or his representatives a release of all personal liability of the selling member as a guarantor of any indebtedness for borrowed money or other contractual obligation of the company to any person or entity or, if any such release cannot be reasonably obtained, an agreement from a person or entity whose creditworthiness is reasonably acceptable to the selling member that fully indemnifies the selling member for such liabilities and obligations.

(e) **Company Actions.** The Company shall take all reasonable actions necessary to repurchase any membership interest that it is required to purchase from a Member.

(f) **Assignment of Interest.** Upon the transfer of the membership interest to the Company, the Member shall execute and deliver assignments legally sufficient to transfer title to the membership interest free and clear of all liens and encumbrances.

(g) **Additional Assurances.** Upon the transfer of any membership interest, the parties to the transfer shall execute, acknowledge and deliver any further documents and assurances reasonably requested by the other party and the Company consistent with reasonable and prudent business practices, the terms of the Agreement and the terms of any other agreements between the selling Member and the Company or any other Member of the Company.

(h) **Other Payments.** The purchase price to be paid for the membership interest shall be in addition to any other payments due to the Member under any other agreement to which the Company and the Member are parties.

**6.3 Conditions to Transfer.** No sale of other Transfer of any membership interest subject hereto shall be valid until the proposed transferee shall have executed and become a party to this Agreement. The Company shall have the right to withhold the recording of the proposed Transfer of any membership interest on its records until the proposed transferee has become a party to this Agreement.

6.4 **Continuation of the Company.** The remaining members shall have the right to continue the Company business under its present name following the withdrawal or death of a



AMCO Received 12/15/2019

Member provided that they elect to purchase the interest of the withdrawing or deceased member and to cause the Company to make the payments specified above.

6.5 **Winding up.** If the remaining members after withdrawal or death of a member do not elect to liquidate the interest of such Member, the company shall be wound up and all of its properties distributed in liquidation as provided in **Article XI.**

## SECTION VII
## DISSOLUTION AND LIQUIDATION

7.1 **Liquidating Events**. Company shall dissolve and commence winding up and liquidating upon the first to occur of any of the following events ("liquidating events"):

7.1.1 sale of all or substantially all of Company's assets;

7.1.2 majority vote by the Membership to dissolve, wind up, and liquidate Company;

7.1.3 occurrence of an event that makes it impossible or unlawful for Company to carry on its business.

7.1.4 entry of a decree of judicial dissolution of Company under the Act.

7.2 **Liquidation and Termination**. Upon dissolution of Company, the Manager shall act as the liquidator unless otherwise decided by a majority vote of the Membership interests. The liquidator shall proceed diligently to wind up the affairs of Company and make final distributions as provided in the Act. The costs of liquidation shall be borne as a Company expense. Until final distribution, the liquidator shall continue to operate Company properties with all of the power and authority of the Majority Interest. The steps to be accomplished by the liquidator are as follows:

7.2.1 as promptly as possible after dissolution and again after final liquidation, the liquidator shall cause a proper accounting to be made of Company's assets, liabilities, and operations through the last day of the calendar month in which the dissolution occurs or the final liquidation is completed, whichever is applicable; and,

7.2.2 the liquidator shall pay, satisfy, or discharge from Company funds all of the debts, liabilities, and obligations of Company including all expenses incurred from the liquidation, or otherwise make adequate provision for payment and discharge thereof which contemplates that the liquidator be authorized to establish cash escrow fund accounts for contingent liabilities or to otherwise satisfy the contingent liabilities of Company.

## SECTION VIII
## INDEMNIFICATION – LIMITATION OF LIABILITY

8.1 **Limitation of Liability**. Each Member's liability shall be limited as set forth in this Agreement, the Act and other applicable law. Pursuant to Alaska Stat. § 10.50.265, or as otherwise expressly provided herein, a Member of Company will not be personally liable for any debts or liabilities of Company because they are a Member. It is the mutual intent of the Members



AMCO Received 12/15/2019

that Company operate on a stand-alone and fully-independent basis, and on the basis of its own assets and revenues, and that no Member will become personally liable by written guaranty, or otherwise, nor shall there be any recourse against any Member, for any liability of Company, except to the extent of each Membership Interest in the assets of Company and as may otherwise be required by law, or expressly provided in this Agreement.

8.2 **Indemnification of Members and Manager**. Each Member (herein collectively referred to as the "indemnitee") who was or is made a party or is threatened to be made a party to or is otherwise involved (including as a witness) in any actual or threatened claim, action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal (herein collectively referred to as "claim"), by reason of the fact that such indemnitee is or was a Member of Company shall be indemnified and held harmless by Company to the full extent permitted by law then in effect, against all expenses, liability, and loss (including attorneys' fees, judgments, fines, excise taxes, or penalties, and amounts to be paid in settlement) incurred or suffered by such indemnitee in connection therewith, and such indemnification shall continue as to an indemnitee who has ceased to be a Member or an officer, director, or employee of a Member and shall inure to the benefit of the indemnitee's successors in interest. Indemnification will include reimbursement for expenses and attorney's fees actually and reasonably incurred by the indemnitee in connection with the defense or settlement of a claim if the indemnitee acted in good faith and in a manner the person reasonably believed was in or not opposed to the best interest of Company. Indemnification will not be made in respect to any claim to which the indemnitee has been adjudged to be liable for gross negligence, reckless or intentional acts, fraud, misrepresentation, acts of moral turpitude that occur in whole, or in part, in actions that are performed for or on behalf of Company in any capacity. That except as provided in this Section 8.2 with respect to proceedings seeking to enforce rights to indemnification, Company shall indemnify an indemnitee in connection with a claim initiated by an indemnitee if the claim was first authorized by the Board consistent with this Agreement and Alaska Stat. § 10.50.148. The right to indemnification conferred in this Section 8.2 shall be a contract right and shall include the right to be paid by Company the expenses incurred in defending any claim in advance of its final disposition. Company will seek to maintain insurance, at its expense, to protect itself against any expense, liability, or loss asserted against or incurred arising from the Member's status as a Member, and such persons identified herein as an indemnitee, to the fullest extent available that it would be liable for under the provisions of this Section 8.2.

## SECTION IX
## MISCELLANEOUS

9.1 **Notices**. Except as specifically stated otherwise herein, all notices or other communications required or permitted hereunder shall be in writing and shall be deemed received by the party to whom addressed when delivered to such party, or when posted if sent by priority mail, postage prepaid, or by email at the addresses provided for the Member stated in **article 2.1**. In the event that said address is out-of-date the sender shall exercise reasonable diligence to ascertain the correct address.

9.2 **Headings**. Headings of Sections herein are only for convenience or reference and do not define, limit, extend, or necessarily describe the scope or intent of this Agreement.

9.3 **Number and Gender**. Whenever required by the context, the singular number shall include the plural and gender shall include all genders, and the word "person" shall include



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individuals, corporations, company, and other entities.

9.4 **Applicable Law; Venue**. This Agreement shall be governed by and construed in accordance with the laws of the State of Alaska; and, any dispute regarding this Agreement shall be filed in the Superior Court for the State of Alaska in Sitka. The Members hereto, do expressly waive the right to a jury trial in any civil action filed by a Member or Company under this Section 9.5.

9.5 **Execution and Counterparts**. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original and all such counterparts when taken together shall constitute one and the same instrument.

9.6 **Binding Agreement**. This Agreement shall be binding upon all transferees, assignees, new members, heirs, successors, beneficiaries, or any other person or entity that may hereafter obtain or receive an interest in Company, whether or not the same have executed a counterpart of the Agreement.

9.7 **Offset**. Whenever Company is to pay any sum to any Member, any amounts then owed by that Member may deducted by Company from the sum to be paid to the Member before payment.

9.8 **Entire Agreement**. This Agreement sets forth the entire, final, and complete agreement between the Members.

IN WITNESS WHEREOF, Company and Members have signed this Agreement, effective _____ ____ . 2019.

**COMPANY**
Thee Treasure Chest LLC

By: _____
Eric vanVeen, Manager

_____
Eric vanVeen, Individually

_____
Kit KRAFT, Individually

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