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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

**FORM 8-K**

**CURRENT REPORT**

**PURSUANT TO SECTION 13 OR 15(D) OF  
THE SECURITIES EXCHANGE ACT OF 1934**

**Date of Report (Date of earliest event reported): February 11, 2019**

**Stem Holdings, Inc.**

(Exact Name of Registrant as Specified in its Charter)

Nevada <hr/> (State or Other Jurisdiction of Incorporation)	000-55751 <hr/> (Commission File No.)	61-1794883 <hr/> (I.R.S. Employer Identification No.)
7777 Glades Road, Suite 203, Boca Raton, FL <hr/> (Address of Principal Executive Offices)		33434 <hr/> (Zip Code)

Registrant's telephone number, including area code: (561) 237-2931

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 1.01 Entry Into a Material Definitive Agreement.**

On October 8, 2018, Stem Holdings Oregon, Inc., a wholly-owned subsidiary of Stem Holdings, Inc., a Nevada corporation ("Stem") and Yerba Oregon, LLC, an Oregon limited liability company ("Yerba") entered into an Asset Purchase Agreement (the "Agreement") which provided for Stem to purchase certain assets and assume certain liabilities of Yerba for a total purchase price comprising (a) the greater of \$1,930,581 and 90% of Yerba's 2018 EBITDA multiplied by 5; plus (b) the greater of \$2,862,431 and 75% of Yerba's 2019 EBITDA multiplied by 2.5. Yerba is a wholesale producer of recreational marijuana flower, by-product and pre-roll product in the state of Oregon.

The transaction is subject to a number of conditions, including approval of the transfer of Yerba's license by the Oregon Liquor Control

Commission, which have yet to be satisfied. Notwithstanding, Stem believes that the consummation of the transaction is probable as defined in Regulation S-X Rule 3-05 and is treating the transaction accordingly. Financial Statements of Yerba and Pro Forma Financial Information related to the transaction are included under Item 9.01, below. A copy of the Asset Purchase Agreement is attached as Exhibit 2.1 hereto.

**Item 9.01. Financial Statements and Exhibits.**

(a) Financial Statements of Business Acquired

The financial statements required by this Item are attached to this Report as Exhibit 99.1

(b) Pro Forma Financial Information.

The pro forma financial information required by this Item is attached to this Report as Exhibit 99.2.

(d) Exhibits.

<b>Exhibit No.</b>	<b>Description</b>
2.1	<a href="#">Asset Purchase Agreement dated as of October 8, 2018 by and between Stem Holdings Oregon, Inc. and Yerba Oregon, LLC, an Oregon limited liability company</a>
99.1	<a href="#">Audited financial statements of Yerba Oregon, LLC for the years ended December 31, 2017 and 2016</a>
99.2	<a href="#">Unaudited pro forma condensed combined financials statements of Yerba Oregon, LLC and Stem Holdings, Inc. as of September 30, 2018 and September 30, 2017</a>

**SIGNATURES**

Pursuant to the requirements of the Securities and Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Stem Holdings, Inc.

By: /s/ Adam Berk  
Name: Adam Berk  
Title: President

Dated: February 12, 2019

## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (“**Agreement**”) is dated effective October 8, 2018 among Stem Holdings Oregon, Inc., an Oregon corporation (“**Buyer**”), Stem Holdings, Inc., a Nevada corporation (“**Stem**”), Yerba Oregon, LLC, an Oregon limited liability company d/b/a Yerba Buena (“**Seller**”), and Preston Clarence Greene, Glenn R. McClish, Michael McClish, and Larry Heitman (collectively, “**Seller's Members**”).

### SECTION 1 DEFINITIONS

Unless defined elsewhere in this Agreement, capitalized terms used in this Agreement will have the meanings ascribed to them in the attached Appendix A.

### SECTION 2 ASSETS AND LIABILITIES

- 2.1 Assets.** At the Closing, and except for the Excluded Assets, Seller will sell, assign, transfer, convey, and deliver to Buyer, and Buyer will buy from Seller, all of Seller's assets of every kind and nature, whether tangible or intangible, wherever located, including but not limited to:
- (a) Seller's tangible personal property assets, including but not limited to furniture, fixtures, equipment, machinery, tools, vehicles, office equipment, supplies, computers, and telephones;
  - (b) Seller's inventories, including but not limited to finished goods, work-in-process, raw materials, packaging, supplies, and parts;
  - (c) Seller's trademarks, copyrights, trade secrets, software, and other intellectual property assets, including but not limited to the intellectual property assets listed on Schedule 4.12;
  - (d) subject to Section 3.5, Seller's rights to prepaid expenses, deposits, refunds, and offsets, to the extent related to any other Assets;
  - (e) Seller's rights under any and all Contracts to which Seller is a party;
  - (f) to the extent assignable and transferable, and except for the OLCC License, Seller's licenses, permits, registrations, and other governmental authorizations, including but not limited to the governmental authorizations listed on Schedule 4.22, together with all applications for governmental authorizations;
  - (g) Seller's data and records containing information related to Seller or its business, including but not limited to all books of account and records, business models, customer and supplier lists, marketing plans, financial and technical information, trade secrets, know-how, ideas, designs, drawings, specifications, techniques, programs, systems, processes, and computer software;
  - (h) Seller's goodwill, tradenames, Internet domain names, telephone numbers, e-mail addresses, and other similar items, together with associated listings and registrations; and

- (i) all rights, claims, actions, proceedings, damages, liabilities, and expenses of every kind that Seller may have against or be able to recover from any person, whether known or unknown, including but not limited to all insurance benefits, rights, and proceeds.

**2.2 Excluded Assets.** Seller will not sell the following assets to Buyer:

- (a) Seller's cash, cash equivalents, and bank accounts;
- (b) insurance policies of Seller and all rights to applicable claims and proceeds thereunder;
- (c) all tax assets (including tax refunds and prepayments);
- (d) all rights to any action, suit, or claim set forth on Schedule 2.2(c);
- (e) Seller's minute books, stock records, organizational documents, tax returns, and records having to do with the organization of Seller;
- (f) Seller's personnel and other records that Seller is required by law to retain;
- (g) Seller's rights under any Employee Plan, together with the assets of any Employee Plan; and
- (h) Seller's rights under the Transaction Documents.

**2.3 Assumed Liabilities.** At the Closing, Buyer will assume the following liabilities and obligations of Seller:

- (a) Seller's liabilities and obligations to customers incurred in the ordinary course of Seller's business for the delivery of orders that are outstanding and not delinquent as of the Closing Date;
- (b) Seller's liabilities and obligations, measured as of the Closing, to pay accrued balances of paid time off for employees of Seller who are hired by Buyer at the Closing to the extent such employees and accrued balances are set forth on Schedule 4.25; *provided however*, that the assumption will occur by Buyer crediting such employees with all such accrued balances in accordance with ORS 652.140(6)(a); and
- (c) Seller's liabilities and obligations under the contracts included in the Assets, but not including Seller's liabilities and obligations arising out of or resulting from:
  - (1) Seller's breach of a Contract if the Contract or the breach should have been – but was not – listed on Schedule 4.18;
  - (2) a Contract included in the Assets to which Seller became a party in breach of Section 7.2(a); or
  - (3) any employment, severance, or termination agreement with any current or former employee of Seller arising before the Closing.

**2.4 Excluded Liabilities.** Except for the Assumed Liabilities, Buyer will not assume any of Seller's liabilities and obligations of any kind to any person, whether known or unknown, including but not limited to:

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- (a) Seller's trade account payables;
- (b) Seller's liabilities and obligations arising out of or resulting from the ownership of the

- Assets before the Closing;
- (c) Seller's liabilities and obligations for taxes;
  - (d) Seller's liabilities and obligations arising out of or resulting from any failure by Seller to comply with any applicable Law;
  - (e) Seller's liabilities and obligations arising out of or resulting from any legal proceeding;
  - (f) Seller's liabilities and obligations to any employee of Seller arising out of or resulting from the employee's service as an employee of Seller through the close of business on the Closing Date, whether the employee is hired by Buyer;
  - (g) Seller's liabilities and obligations under any Employee Plan;
  - (h) Seller's liabilities and obligations to any current or former shareholder, director, or officer of Seller or of any affiliate of Seller;
  - (i) Seller's liabilities and obligations under the Transaction Documents; and
  - (j) Seller's liabilities and obligations arising out of or resulting from any act or omission of Seller after the Closing.

### SECTION 3 PURCHASE PRICE

**3.1 Purchase Price.** Subject to Section 3.3, the purchase price for the Assets is:

- (a) an amount equal to the greater of:
  - (1) \$1,930,581.00;<sup>1</sup> and
  - (2) the 2018 Actual EBITDA Multiple;

*plus*
- (b) an amount equal to the greater of:
  - (1) \$2,682,431.25;<sup>2</sup> and
  - (2) subject to Section 3.3, the 2019 Actual EBITDA Multiple.

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<sup>1</sup> This amount represents the 2018 EBITDA target (\$429,018) *multiplied by* the 2018 EBITDA multiple (5.0) *multiplied by* the 2018 EBITDA advance percentage (90%).

<sup>2</sup> This amount represents the 2019 EBITDA target (\$1,430,630) *multiplied by* the 2019 EBITDA multiple (2.5) *multiplied by* the 2019 EBITDA advance percentage (75%).

**3.2 Payment.** Subject to Section 3.3, the purchase price for the Assets will be paid as follows:

- (a) at the Closing:
  - (1) Buyer will pay Seller \$350,000 in immediately available funds;
  - (2) Buyer will deliver to Seller a Nonnegotiable Promissory Note in the principal amount of \$400,000, in the form attached as Exhibit A; and
  - (3) Stem will issue to Seller shares of Stem having an aggregate value equal to \$1,580,581,<sup>3</sup> where each share will be deemed to have a value equal to the lesser

of: (A) 85% of the average closing price of Stem's publicly-traded shares for the 30 trading days before the Closing Date; and (B) \$2.40;

- (b) within 30 days after the final determination of the 2018 Actual EBITDA under Section 3.4, Stem will issue to Seller shares of Stem having an aggregate value equal to the 2018 EBITDA True-Up Amount, where each share will be deemed to have a value equal to the average closing price of Stem's publicly-traded shares for the 30 trading days before the date of such final determination of the 2018 Actual EBITDA;
- (c) on June 30, 2019, Stem will issue to Seller shares of Stem having an aggregate value equal to \$2,282,431.25,<sup>4</sup> where each share will be deemed to have a value equal to the average closing price of Stem's publicly-traded shares for the 30 trading days before June 30, 2019; and
- (d) subject to Section 3.3, within 30 days after the final determination of the 2019 Actual EBITDA under Section 3.4, Stem will issue to Seller shares of Stem having an aggregate value equal to the 2019 EBITDA True-Up Amount, where each share will be deemed to have a value equal to the average closing price of Stem's publicly-traded shares for the 30 trading days before the date of such final determination of the 2019 Actual EBITDA.

**3.3 Managing Member Employment Event.** If an Employment Event occurs to the Managing Member on or before December 31, 2019, then:

- (a) for purposes of Section 3.1(b)(2), the 2019 Actual EBITDA Multiple will be deemed to be reduced by \$325,000; and
- (b) for purposes of Section 3.2(d), the 2019 EBITDA True-Up Amount will be deemed to be reduced by \$325,000.

**3.4 Determination of EBITDA.**

- (a) Within 60 days after the end of each EBITDA Period, Buyer will deliver to Seller and Seller's Members Buyer's calculation of the EBITDA during the EBITDA Period, together with a copy of Buyer's financial statements as at the last day of the EBITDA Period, including Buyer's general ledger covering the EBITDA Period. The financial statements will:

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<sup>3</sup> This amount represents the 2018 EBITDA advance (\$1,930,581) *minus* \$350,000.

<sup>4</sup> This amount represents the 2019 EBITDA advance (\$2,682,431.25) *minus* \$400,000.

- (1) fairly present Buyer's financial condition (and, to the extent applicable, Seller's financial condition) during the EBITDA Period;
  - (2) will be prepared in accordance with generally accepted accounting principles;
  - (3) will reflect the consistent application of such accounting principles throughout the periods involved, except as disclosed in the notes to the financial statements; and
  - (4) will be prepared in accordance with the books and records of Buyer (and, to the extent applicable, Seller).
- (b) If Seller fails to object in writing to Buyer's calculation of the EBITDA within 30 days after the delivery of Buyer's calculation and the applicable financial statements, Buyer's calculation of the EBITDA will be binding on the parties.
  - (c) If Seller objects in writing to Buyer's calculation of the EBITDA within 30 days after the delivery of Buyer's calculation and the applicable financial statements, and if the parties are unable to agree on the EBITDA within 30 days after the delivery of Seller's

objection:

- (1) the parties will submit the issues remaining in dispute to an independent public accountant;
- (2) each of Seller and Buyer will furnish the independent accountant with any documents and information that the independent accountant may request;
- (3) each of Seller and Buyer may present to the independent accountant any additional documents and information relating to the disputed issues;
- (4) the independent accountant's resolution of the disputed issue will be binding on the parties and used to determine the EBITDA; and
- (5) each of (A) Seller and (B) Buyer and Stem will pay 50% of the independent accountant's fees, costs, and expenses.

**3.5 Prorated Expenses.** Any utilities, rents, real and personal property taxes, wages, and other similar expenses with respect to the Assets or the Assumed Liabilities will be prorated between Seller and Buyer as of the Closing Date. The proration will be made at the Closing to the extent possible. The proration of any remaining expenses will be made as soon as practicable after the Closing Date.

**3.6 Allocation.** The purchase price for the Assets will be allocated as set forth on Schedule 3.6. After the Closing, the parties will use the allocations set forth on Schedule 3.6 on each applicable tax return and report filed with a taxing authority. Each of Seller and Buyer will comply with Section 1060 of the Code and, if applicable, use commercially reasonable efforts to file a consistent Internal Revenue Service Form 8594.

#### SECTION 4 REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Buyer and Stem as follows:

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- 4.1 Organization.** Seller is a limited liability company duly organized and validly existing under the laws of the State of Oregon. Seller is authorized to transact business as a foreign limited liability company in each State in which Seller is required to do so.
- 4.2 Authority.** Seller has full power and authority to sign and deliver the Transaction Documents and to perform all of their obligations under the Transaction Documents. Seller has full corporate power and authority to conduct Seller's business as it is now being conducted, to own and use the Assets, and to perform all of Seller's obligations under all Contracts included in the Assets.
- 4.3 Binding Obligation.** This Agreement is the legal, valid, and binding obligations of Seller, enforceable against Seller in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, or other similar laws of general application or by general principles of equity. Upon signing and delivery, the other Transaction Documents will be the legal, valid, and binding obligations of Seller, enforceable against Seller in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, or other similar laws of general application or by general principles of equity.
- 4.4 No Conflicts.** Except as otherwise provided on Schedule 4.4, the signing and delivery of the Transaction Documents by Seller and the performance by Seller of all of its obligations under the Transaction Documents will not:
  - (a) conflict with Seller's articles of organization or operating agreement;
  - (b) conflict with or result in a violation or breach of any Law or Governmental Order applicable to Seller or the Assets;
  - (c) require the payment, payment or other performance of any tax or other obligation.

- (c) require the consent, approval, or other action by any person under, conflict with, result in a violation or breach of, constitute a default under, result in the termination, modification, or cancellation of, or create in any person the right to accelerate, terminate, modify, or cancel, any Contract to which Seller is a party;
- (d) require the consent, approval, or other action by any Governmental Authority under, conflict with, result in a violation or breach of, constitute a default under, result in the termination, modification, or cancellation of, or create in any Governmental Authority the right to accelerate, terminate, modify, or cancel, any License held by Seller; or
- (e) result in the creation or imposition of any Encumbrance other than a Permitted Closing Encumbrance on the Assets.

**4.5 Capitalization.** Seller's Members are the only members of Seller. Except as otherwise provided on Schedule 4.5, neither Seller nor any Seller's Member is a party to any Contract that requires or may require Seller or any Seller's Member to issue, sell, or buy any membership interest of Seller.

**4.6 Financial Statements.**

- (a) Attached to Schedule 4.6 are complete and accurate copies of:
  - (1) the balance sheets of Seller as of December 31, 2016 and December 31, 2017 and the related statements of income and cash flow for the years then ended; and

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- (2) the balance sheet of Seller as of July 31, 2018 and the related statement of income and cash flow for the seven-month period then ended.
- (b) Except as otherwise provided on Schedule 4.6, the financial statements attached to Schedule 4.6:
  - (1) fairly present the financial condition and the results of operations, changes in shareholders' equity, and cash flow of Seller as at the dates and as of the periods specified;
  - (2) were prepared in accordance with GAAP;
  - (3) reflect the consistent application of such accounting principles throughout the periods involved, except as disclosed in the notes to the financial statements; and
  - (4) were prepared in accordance with the books of account and records of Seller.

**4.7 Books and Records.** Except as otherwise provided on Schedule 4.7, the books of account and records of Seller:

- (a) are complete and accurate in all material respects;
- (b) represent actual, bona fide transactions; and
- (c) have been maintained in accordance with sound business practices, including the maintenance of an adequate system of internal accounting controls.

**4.8 Real Property.** Seller does not own any real property.

**4.9 Condition and Sufficiency of Assets.** Except as otherwise provided on Schedule 4.9:

- (a) each tangible personal property Asset with a value over \$2,500 is in good repair and operating condition, reasonable wear and tear excepted;
- (b) each tangible personal property Asset is located on the OLCC-Licensed Premises; and



- (c) the Assets constitute all of the assets necessary to conduct Seller's business as it is now being conducted.

**4.10 Inventories.** Except as otherwise provided on Schedule 4.10, Seller's inventories – other than items that are obsolete or of below-standard quality, all of which have been written off or written down to fair market value on the Most Recent Balance Sheet – are of a quality usable and, with respect to finished goods, saleable in the ordinary course of Seller's business.

**4.11 Accounts Receivable.** Schedule 4.11 contains a complete list of Seller's accounts receivable as of July 31, 2018, including the aging of each account receivable. Except as otherwise provided on Schedule 4.11:

- (a) each account receivable that is reflected on the Most Recent Balance Sheet represents a valid obligation arising from sales actually made or services actually performed by Seller; and

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- (b) no account receivable reflected on the Most Recent Balance Sheet is subject to any setoff by the applicable account debtor.

**4.12 Intellectual Property.**

(a) Schedule 4.12 contains a complete list of:

- (1) each Intellectual Property Registration;
- (2) each unregistered trademark and tradename that Seller has used since January 1, 2016; and
- (3) each Internet domain name that Seller has used or registered since January 1, 2016.

(b) Except as otherwise provided on Schedule 4.12:

- (1) Seller has not infringed the patent, trademark, copyright, or tradename rights of any person;
- (2) Seller has not misappropriated, misused, or improperly disclosed the trade secrets or confidential or proprietary information of any person;
- (3) neither Seller nor any Seller's Member has received any notice from any person regarding any actual or alleged infringement by Seller of any patent, trademark, copyright, or tradename rights of any person;
- (4) neither Seller nor any Seller's Member has received any notice from any person regarding any actual or alleged misappropriation, misuse, or improper disclosure of the trade secrets or confidential or proprietary information of any person;
- (5) to Seller's Knowledge, no patent, trademark, copyright, tradename, or Internet domain name that is owned or used by any person infringes the patent, trademark, copyright, or tradename rights of Seller; and
- (6) to Seller's Knowledge, no trade secret or confidential or proprietary information of Seller has been appropriated, used, or disclosed for the benefit of any other person or to the detriment of Seller.

(c) Except as otherwise provided on Schedule 4.12:

- (1) Seller has entered into a written Contract with each current and former employee and independent contractor of Seller who is or was involved in, or who contributed to, the invention, creation, or development of any intellectual

property assets of Seller during the course of the employee's employment with Seller or the independent contractor's engagement with Seller (as applicable), pursuant to which the employee or independent contractor assigned any and all rights that the employee or independent contractor had in such intellectual property assets to Seller; and

- (2) Seller has taken all reasonable and necessary steps to maintain and enforce Seller's intellectual property assets and to preserve the confidentiality of Seller's

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trade secrets, including by requiring all persons having access to such trade secrets to execute written nondisclosure agreements.

- 4.13 Title to Assets.** Except as otherwise provided on Schedule 4.13, Seller has good title to the Assets, free and clear from all Encumbrances. Immediately before the Closing, Seller will have good and valid title to the Assets, free and clear from all Encumbrances other than Permitted Closing Encumbrances.
- 4.14 Taxes.** Schedule 4.14 contains a complete list of – and Seller has delivered to Buyer a complete and accurate copy of – each tax return and report filed by Seller for any tax period ending on or after January 1, 2016. Except as otherwise provided on Schedule 4.14:
  - (a) Seller has filed on a timely basis all tax returns and reports required to be filed by applicable Laws;
  - (b) all of Seller's filed tax returns and reports are complete and accurate in all respects;
  - (c) Seller has paid – or made provision for the payment of – all taxes that have become due for all periods;
  - (d) Seller has withheld and paid each tax required to have been withheld and paid on connection with amounts paid or owing to an employee, independent contractor, creditor, or member of Seller, and has complied with all information reporting and backup withholding provisions of applicable Law;
  - (e) no taxing authority has asserted – or informed Seller or any Seller's Member that it intends to assert – any deficiency in the payment of any taxes by Seller;
  - (f) Seller is not the beneficiary of any extension of time within which to file a tax return;
  - (g) no filed tax return of Seller has been or is currently being audited;
  - (h) Seller has not been given or been requested to give a waiver or an extension of any statute of limitations relating to the payment of any taxes;
  - (i) Seller is not a party to any tax sharing agreement, tax allocation agreement, tax indemnity agreement, or similar tax agreement that may require Seller to make any payment of any kind;
  - (j) Seller has not been and is not a member of an "affiliated group" under Section 1504(a) of the Code; and
  - (k) Seller has no liability for any taxes of any other person.
- 4.15 No Undisclosed Liabilities.** Except as otherwise provided on Schedule 4.15, Seller has no liabilities of any kind, whether known or unknown, fixed or contingent, disputed or undisputed, matured or unmatured, liquidated or unliquidated, or secured or unsecured, except for:
  - (a) liabilities reflected or reserved against on the Most Recent Balance Sheet; and

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- (b) liabilities incurred in the ordinary course of Seller's business since the date of the Most Recent Balance Sheet.

**4.16 No Material Adverse Effect.** Since the date of the Most Recent Balance Sheet, there has not been any event, occurrence, or development that has had, or that could reasonably be expected to have, individually or in the aggregate, a materially adverse effect on Seller, Seller's business, results of operations, or condition (financial or otherwise), or the value of the Assets.

**4.17 No Other Changes.** Except as otherwise provided on Schedule 4.17, since the date of the Most Recent Balance Sheet:

- (a) Seller has conducted Seller's business only in the ordinary course of Seller's business;
- (b) Seller has not materially changed its accounting methods or practices;
- (c) Seller has not materially changed its cash management practices and policies, its practices and procedures with respect to the collection of accounts receivable, or its payment of trade account payables;
- (d) no material loss or damage has occurred with respect to any Asset with a value over \$2,500, whether or not the loss or damage is covered by insurance;
- (e) Seller has not sold, leased, transferred, waived any right with respect to, or otherwise disposed of any Asset other than in the ordinary course of Seller's business;
- (f) Seller has not increased the salary, bonus payments, benefits, or other compensation of any employee, other than in the ordinary course of Seller's business; and
- (g) no Employee Plan has been adopted, amended, or terminated by Seller.

**4.18 Contracts.**

- (a) Schedule 4.18 contains a complete list of – and, if written, Seller has delivered to Buyer a complete and accurate copy of – each of the following Contracts to which Seller is a party:
  - (1) each Contract involving the payment of more than \$2,500 by or to Seller;
  - (2) each Contract that may not be terminated by Seller upon 30 or fewer days' notice for any or no reason without any additional liability arising out of or resulting from the termination;
  - (3) each Contract involving the ownership, lease, or use of any real property;
  - (4) each Contract involving the ownership, license, or use of any patent, trademark, copyright, or trade secret of Seller or any person, except for licenses implied by the sale of a product and perpetual fully-paid licenses for software involving the payment of less than \$2,500;
  - (5) except for Contracts relating to trade receivables in the ordinary course of Seller's business, each Contract relating to any indebtedness of Seller or any

other person, including each guaranty of any other person's indebtedness by Seller;

- (6) each Contract with any employee of Seller, any group of employees of Seller, or any agent of any group of employees of Seller;
  - (7) each Contract with any independent contractor of Seller;
  - (8) each Contract with a Related Person of any Seller's Member or Key Employee;
  - (9) each Contract that in any way restricts Seller's ability to engage in any business, compete with any person, or solicit or hire any person to become an employee, independent contractor, or business relation of Seller;
  - (10) each Contract involving the sharing of profits, losses, costs, or liabilities, including each joint venture, partnership, or similar Contract;
  - (11) each Contract involving royalty payments or other similar payments that are based on sales, purchases, profits, or other contingencies other than direct payments for products or services;
  - (12) each power of attorney that Seller has granted to any person; and
  - (13) any other Contract that is material to Seller's business.
- (b) Except as otherwise provided on Schedule 4.18:
- (1) Seller has complied with the terms and conditions of each Contract listed on Schedule 4.18;
  - (2) to Seller's Knowledge, each other person that is a party to a Contract listed on Schedule 4.18 has complied with the terms and conditions of the Contract;
  - (3) to Seller's Knowledge, no Contract described in Section 4.18(a) has become invalid or unenforceable;
  - (4) neither Seller nor any Seller's Member has received any notice from any person regarding any actual, alleged, or potential failure by Seller to comply with the terms and conditions of any Contract listed on Schedule 4.18;
  - (5) each Contract listed on Schedule 4.18 is assignable by Seller to Buyer without the consent, approval, or other action of any person; and
  - (6) Seller is not renegotiating the terms and conditions of any Contract listed on Schedule 4.18 with any person.

#### **4.19 Insurance.**

- (a) Schedule 4.19 contains a complete list of – and Seller has delivered to Buyer a complete and accurate copy of – each insurance policy that has provided coverage to Seller since January 1, 2016.

- (b) Except as otherwise provided on Schedule 4.19:
  - (1) no claims have been made by Seller under any insurance policy that has provided coverage to Seller since January 1, 2016;
  - (2) the insurance policies that provide coverage to Seller are sufficient to comply with all contracts to which Seller is a party, all applicable Laws, and all of Seller's Licenses;
  - (3) Seller has complied with the terms and conditions of each insurance policy listed on Schedule 4.19, including the payment of all premiums; and
  - (4) neither Seller nor any Seller's Member has received any written notice from any person regarding any cancellation of, lapse in coverage of, alteration of under, or premium increase with respect to, any insurance policy listed on Schedule 4.19.

**4.20 Compliance With Laws.** Except as otherwise provided on Schedule 4.20, since January 1, 2016:

- (a) Seller has complied with all applicable Laws; and
- (b) Seller has received not any notice from any Governmental Authority or other person regarding any actual, alleged, or potential failure by Seller to comply with any Law.

**4.21 OLCC License.** Except as otherwise provided on Schedule 4.21:

- (a) Seller has been issued and holds the OLCC License;
- (b) the OLCC License has not lapsed or been suspended, cancelled, or revoked;
- (c) all fees and charges with respect to the OLCC License have been paid in full;
- (d) Seller has complied with all applicable Oregon Marijuana Laws;
- (e) the OLCC has not imposed any civil penalty on Seller;
- (f) neither Seller nor any Seller's Member has received any notice from the OLCC regarding:
  - (1) any actual, alleged, or potential suspension, cancellation, or revocation of the OLCC License;
  - (2) any actual, alleged, or potential failure by Seller to comply with any Oregon Marijuana Laws; or
  - (3) any actual or potential imposition of any civil penalty by the OLCC on Seller;
- (g) to Seller's Knowledge, no event has occurred or circumstances exist that will likely result in:
  - (1) a suspension, cancellation, or revocation of the OLCC License;

- (2) a failure by Seller to comply with any Oregon Marijuana Laws; or

- (3) the imposition of any civil penalty by the OLCC on Seller;
- (h) each person who has a "financial interest" (as defined in OAR Chapter 845, Division 5) in Seller's business has been properly and timely disclosed to the OLCC;
- (i) each person who is an "applicant" (as defined in OAR Chapter 845, Division 5) has been properly and timely disclosed as such to the OLCC;
- (j) each shareholder, director, employee, and independent contractor of Seller who is required to hold a marijuana worker permit under the Oregon Marijuana Laws holds a valid marijuana worker permit that is in full force and effect;
- (k) the OLCC License is the only marijuana-specific license that Seller is required to hold to conduct Seller's business as it is now being conducted; and
- (l) Seller does not produce marijuana at any location other than the OLCC-Licensed Premises or in any manner that is not subject to the OLCC License.

**4.22 Other Licenses.** Schedule 4.22 contains a complete list of each License issued to Seller other than the OLCC License, together with the name of License, the name of the issuing Governmental Authority, the date of issuance, and the expiration date. Except for the OLCC License, and except as otherwise provided on Schedule 4.22:

- (a) the Licenses listed on Schedule 4.22 constitute all of the Licenses that Seller is required to hold to conduct Seller's business as it is now being conducted;
- (b) such Licenses are valid and in full force and effect;
- (c) all fees and charges with respect to such Licenses have been paid in full;
- (d) Seller has complied with the terms and conditions of each such License;
- (e) neither Seller nor any Seller's Member has received any notice from any Governmental Authority or any other person regarding any actual, alleged, or potential suspension, cancellation, or revocation of any such License; and
- (f) each such License is assignable by Seller to Buyer without the consent, approval, or other action of any Governmental Authority or any other person.

**4.23 Legal Proceedings.** Except as otherwise provided on Schedule 4.23:

- (a) there are no Actions pending or, to Seller's Knowledge, threatened against Seller; and
- (b) to Seller's Knowledge, no event has occurred or circumstances exist that will likely result in any Action against Seller.

**4.24 Governmental Orders.** Except as otherwise provided on Schedule 4.24, there are no outstanding Governmental Orders against Seller.

**4.25 Employees.**

- (a) Schedule 4.25 contains a complete list of:
  - (1) each employee of Seller, including the following information for each employee:
    - (A) name;
    - (B) job title;
    - (C) date of hiring;
    - (D) current compensation, including base salary and bonuses;

- (E) any change in compensation since January 1, 2018;
  - (F) unused paid time off; and
  - (G) service credited for purposes of vesting and eligibility to participate in each applicable Employee Plan;
- (2) each employee of Seller whose hours of work have been reduced by more than 50% since January 1, 2018; and
  - (3) each former employee of Seller whose employment relationship with Seller terminated since January 1, 2018.
- (b) Except as otherwise provided on Schedule 4.25, since January 1, 2016, all compensation, including wages, commissions, bonuses, fees, and other compensation, payable to all employees and independent contractors of Seller has been paid in full when due.
  - (c) Seller is not, and has never been, a party to any collective bargaining agreement or other Contract with a union, works council, labor organization, or any group of employees. No application or petition for an election or certification of a collective bargaining agent of any group of employees of Seller is pending.
  - (d) Except as otherwise provided on Schedule 4.25, since January 1, 2016:
    - (1) all employees of Seller classified as exempt under the Fair Labor Standards Act and state and local wage and hour Laws have been properly classified;
    - (2) all individuals characterized and treated by Seller as independent contractors have been properly treated as independent contractors under all applicable Laws; and
    - (3) Seller has complied with all immigration laws, including Form I-9 requirements.

**4.26 Employee Benefits.**

- (a) Schedule 4.26 contains a complete list of each Employee Plan. Seller has delivered to Buyer complete and accurate copies of each Employee Plan that has been reduced to writing, including all amendments. With respect to each Employee Plan that has not

been reduced to writing, Seller has delivered to Buyer a written summary of all of the material terms of the Employee Plan.

- (b) Except as otherwise provided on Schedule 4.26:
  - (1) no Employee Plan is intended to be “qualified” within the meaning of Section 401(a) of the Code;
  - (2) no Employee Plan is a “defined benefit plan” under Section 414(j) of the Code;
  - (3) no Employee Plan is a “multiemployer plan” under Section 3(37) of ERISA; and
  - (4) no Employee Plan is subject to Title IV of ERISA; and
  - (5) Seller does not have any ERISA Affiliates.
- (c) Except as otherwise provided on Schedule 4.26:

- (1) Seller has complied with all applicable Laws relating to each Employee Plan; and
- (2) all contributions that have become due under the terms and conditions of each Employee Plan have been paid;
- (3) all taxes and insurance premiums that have become due as a result of or in connection with any Employee Plan have been paid;
- (4) neither Seller nor any Seller's Member has received any notice from any Governmental Authority or other person regarding any actual, alleged, or potential failure by Seller to comply with any Law relating to any Employee Plan;
- (5) there are no Actions pending or, to Seller's Knowledge, threatened against Seller relating to any Employee Plan;
- (6) to Seller's Knowledge, no event has occurred or circumstances exist that will likely result in any Action against Seller relating to any Employee Plan;
- (7) except for health plan continuation coverage under Section 4980B of the Code and Sections 601 through 608 of ERISA, Seller has no and will have no obligations or liabilities under any Employee Plan to any current or former employee of Seller – or to any family member of any current or former employee of Seller – after the termination of the employee's employment relationship with Seller; and
- (8) Seller has maintained workers' compensation coverage as required by applicable law through the purchase of insurance, and not by self-insurance or otherwise.

**4.27 Environmental.** Seller has delivered to Buyer complete copies of all environmental reports, studies, analyses, tests, and site assessments which are in the possession or control of Seller and which relate to any real property that Seller uses or operates. Except as otherwise provided on Schedule 4.27:

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- (a) Seller has complied with all applicable Environmental Laws;
- (b) neither Seller nor any Seller's Member has received any notice from any Governmental Authority or other person regarding any actual, alleged, or potential failure by Seller to comply with any Environmental Law;
- (c) Seller holds all of the Environmental Permits that Seller is required to hold to conduct Seller's business as its now being conducted;
- (d) Seller has not caused or permitted a Release of any Hazardous Materials in connection with Seller's business;
- (e) to Seller's Knowledge, there has been no Release of any Hazardous Materials on any real property currently leased or operated by Seller;
- (f) neither Seller nor any Seller's Member has received any notice from any Governmental Authority or other person that any real property currently used or operated by Seller has been contaminated with any Hazardous Materials;
- (g) Seller does own or operate any active or abandoned aboveground or underground storage tanks; and
- (h) Seller has not retained or assumed, by contract or operation of Law, any liabilities or obligations of any third party under any Environmental Law.

**4.28 Related Persons.** Except as otherwise provided on Schedule 4.28, no Related Person of any



Seller's Member or Key Employee competes with Seller by manufacturing or selling marijuana in the State of Oregon.

- 4.29 No Brokers or Finders.** Neither Seller nor any Seller's Member has incurred any liability or obligation – whether contingent or otherwise – for a brokerage commission, a finder's fee, or any other similar payment in connection with the Transaction.
- 4.30 Nonforeign Person.** Seller is not a “foreign person” for purposes of Section 1445 of the Internal Revenue Code.
- 4.31 Disclosure.** No representation or warranty made by Seller in this Agreement includes any untrue statement or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.
- 4.32 Investment.**
- (a) Seller understands that the Shares are a speculative investment and involve a high degree of risk of loss of Seller's investment.
  - (b) Seller understands that Seller may be unable to liquidate Seller's investment in the Shares because the Shares are subject to substantial transfer restrictions and because no public market exists for the Shares.
  - (c) Seller has the knowledge and experience in financial and business matters necessary to make them capable of evaluating the merits and risks of an investment in the Shares.

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- (d) Seller acknowledges that Stem files reports with the SEC and that Seller has been provided access to, and has had a reasonable time to review, the publicly-available documents that Stem has filed with the SEC.
- (e) Seller has had the opportunity to ask questions and receive answers concerning Buyer and Stem, and the terms and conditions of the issuance of the Shares, and to obtain any additional information deemed necessary by them to evaluate the merits and risks of an investment in the Shares. Seller has obtained all of the information desired in connection with the Shares.
- (f) Seller is an “accredited investor” as that term is defined under Rule 501(a) of the Securities Act.
- (g) Seller is acquiring the Shares solely for Seller's own account, for investment, and not with a view to or for resale in connection with any distribution of the Shares. Seller has no oral or written agreement or plan to sell, assign, transfer, pledge, or otherwise negotiate or dispose of the Shares. Seller understands that Seller must bear the economic risk of owning the Shares for an indefinite period of time.
- (h) Seller understands that the certificates representing the Shares will be imprinted with the following legend:

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY

A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY.

## SECTION 5 REPRESENTATIONS AND WARRANTIES OF SELLER'S MEMBERS

Seller's Members represent and warrant to Buyer and Stem as follows:

- 5.1 Authority.** Seller's Members have full power and authority to sign and deliver the Transaction Documents and to perform all of their obligations under the Transaction Documents.
- 5.2 Binding Obligation.** This Agreement is the legal, valid, and binding obligations of Seller's Members, enforceable against Seller's Members in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, or other similar laws of general application or by general principles of equity. Upon signing and delivery, the other Transaction Documents will be the legal, valid, and binding obligations of Seller's Members (as applicable), enforceable against Seller's Members (as applicable) in accordance with their

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terms, except as enforceability may be limited by bankruptcy, insolvency, or other similar laws of general application or by general principles of equity.

- 5.3 No Conflicts.** Except as otherwise provided on Schedule 5.3, the signing and delivery of the Transaction Documents by Seller's Members and the performance by Seller's Members of all of their obligations under the Transaction Documents will not:
- (a) conflict with or result in a violation or breach of any Law or Governmental Order applicable to any Seller's Member;
  - (b) require the consent, approval, or other action by any person under, conflict with, result in a violation or breach of, constitute a default under, result in the termination, modification, or cancellation of, or create in any person the right to accelerate, terminate, modify, or cancel, any Contract to which any Seller's Member is a party; or
  - (c) require the consent, approval, or other action by any Governmental Authority under, conflict with, result in a violation or breach of, constitute a default under, result in the termination, modification, or cancellation of, or create in any Governmental Authority the right to accelerate, terminate, modify, or cancel, any License held by Seller.
- 5.4 Capitalization.** Seller's Members are the only members of Seller. Except as otherwise provided on Schedule 5.4, neither Seller nor any Seller's Member is a party to any Contract that requires or may require Seller or any Seller's Member to issue, sell, or buy any membership interest of Seller.

## SECTION 6 REPRESENTATIONS AND WARRANTIES OF BUYER AND STEM

Buyer and Stem jointly and severally represent and warrant to Seller as follows:

- 6.1 Organization.** Buyer is a corporation duly organized and validly existing under the laws of the State of Oregon. Stem is a corporation duly organized and validly existing under the laws of the State of Nevada.
- 6.2 Authority.** Buyer and Stem have full power and authority to sign and deliver the Transaction Documents and to perform all of their obligations under the Transaction Documents.
- 6.3 Binding Obligation.** This Agreement is the legal, valid, and binding obligations of Buyer and Stem, enforceable against Buyer and Stem in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, or other similar laws of general application or by general principles of equity. Upon signing and delivery, the other Transaction Documents will be the legal, valid, and binding obligations of Buyer and Stem (as applicable), enforceable against Buyer and Stem (as applicable) in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, or other similar

terms, except as enforceability may be limited by bankruptcy, insolvency, or other similar laws of general application or by general principles of equity.

**6.4 No Conflicts.** Except as otherwise provided on Schedule 6.4, the signing and delivery of the Transaction Documents by Buyer and Stem and the performance by Buyer and Stem of all of their obligations under the Transaction Documents will not:

(a) conflict with Buyer's or Stem's articles of incorporation or bylaws;

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(b) conflict with or result in a violation or breach of any Law or Governmental Order applicable to Buyer or Stem; or

(c) require the consent, approval, or other action by any person under, conflict with, result in a violation or breach of, constitute a default under, result in the termination, modification, or cancellation of, or create in any person the right to accelerate, terminate, modify, or cancel, any Contract to which Buyer or Stem is a party.

**6.5 Shares.** The Shares, when issued, sold and delivered in accordance with the terms and for the consideration set forth in this Agreement, will be validly issued, fully paid and nonassessable and free of restrictions on transfer other than restrictions on transfer under applicable state and federal securities laws and liens or encumbrances created by or imposed by Seller. Assuming the accuracy of the representations of Seller in Section 4.32, the Shares will be issued in compliance with all applicable federal and state securities laws.

**6.6 No Liabilities.** Except for Buyer's obligations under the Transaction Documents, Buyer has no liabilities of any kind, whether known or unknown, fixed or contingent, disputed or undisputed, matured or unmatured, liquidated or unliquidated, or secured or unsecured.

**6.7 No Assets.** Except for Buyer's rights under the Transaction Documents, Buyer has no assets other than cash, in a balance at least sufficient to pay the amount described in Section 3.2(a)(1).

**6.8 No Brokers or Finders.** Neither Buyer nor Stem has incurred any liability or obligation – whether contingent or otherwise – for a brokerage commission, a finder's fee, or any other similar payment in connection with the Transaction.

## SECTION 7 COVENANTS OF SELLER AND SELLER'S MEMBERS BEFORE CLOSING

Seller and Seller's Members jointly and severally covenant to Buyer and Stem as follows:

**7.1 Buyer's Investigation.** Until the Closing and upon reasonable advance notice from Buyer or Stem, Seller will, during Seller's regular business hours and in a manner that does not unreasonably interfere with the operation of Seller's business:

(a) afford Buyer, Stem, and their respective representatives full and free access to Seller's personnel, properties, Contracts, Licenses, books of account and records, and other data related to the Assets and the Assumed Liabilities;

(b) provide Buyer, Stem, and their respective representatives with copies of all Contracts, Licenses, books of account and records, and other data related to the Assets and the Assumed Liabilities that Buyer may reasonably request;

(c) permit Buyer, Stem, and their respective representatives to inspect Seller's leased premises and tangible personal property Assets; and

(d) otherwise cooperate and assist with Buyer's and Stem's investigation of Seller, the Assets, and the Assumed Liabilities.

**7.2 Seller's Business.** Until the Closing:

- (a) Seller will conduct Seller's business only in the ordinary course of Seller's business;

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- (b) Seller will not change its accounting methods;
- (c) Seller will not adopt, amend, terminate, or withdraw from any Employee Plan without the prior written consent of Buyer, which Buyer may not withhold unreasonably;
- (d) Seller and Seller's Members will use their reasonable best efforts to preserve Seller's business organization and Seller's relations and goodwill with Seller's customers, suppliers, lessors, creditors, employees, agents, and other business relations;
- (e) Seller will keep books of account and records that:
  - (1) are complete and accurate in all material respects;
  - (2) represent actual, bona fide transactions; and
  - (3) are maintained in accordance with sound business practices, including the maintenance of an adequate system of internal accounting methods;
- (f) Seller will keep the tangible Assets in good repair and operating condition, reasonable wear and tear excepted;
- (g) Seller will perform all of Seller's liabilities and obligations under all Contracts to which Seller is a party;
- (h) Seller will maintain the insurance coverage under the policies that provide coverage to Seller as of the date of this Agreement;
- (i) Seller will comply with all applicable Laws;
- (j) Seller will not make any distributions or guaranteed payments to its members without the prior written consent of Buyer, which Buyer may not withhold unreasonably;
- (k) Seller will not make any capital expenditure or series of related capital expenditures – as determined in accordance with generally accepted accounting principles – in excess of \$7,500 without the prior written consent of Buyer, which Buyer may not withhold unreasonably;
- (l) Seller will not increase the compensation of or pay any bonus to any member, manager, or officer other than increases and payments in the ordinary course of Seller's business;
- (m) Seller will not incur or assume any obligation to pay money other than accounts payable, salaries, and similar current liabilities incurred in the ordinary course of Seller's business without the prior written consent of Buyer, which Buyer may not withhold unreasonably;
- (n) Seller will not dissolve, and will not wind up or liquidate its business and affairs; and
- (o) Seller will not enter into any transaction involving the sale of substantially all of Seller's assets, or the reorganization, recapitalization, consolidation, conversion, or merger of Seller.

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- 7.3 Notification.** Until the Closing, Seller and Seller's Members will promptly notify Buyer if Seller obtains Knowledge of:
- (a) the occurrence of any event, occurrence, or development that has had, or that could reasonably be expected to have, individually or in the aggregate, a materially adverse effect on Seller, Seller's business, results of operations, or condition (financial or otherwise), or the value of the Assets;
  - (b) any material adverse change in the financial condition of Seller;
  - (c) any material loss or damage with respect to any Asset with a value over \$7,500, whether or not the loss or damage is covered by insurance;
  - (d) any breach by Seller of any representation or warranty in Section 4 or any breach by a Seller's Member of any representation or warranty in Section 5;
  - (e) the occurrence after the date of this Agreement of any fact or condition that would cause Seller or any Seller's Members to breach any of their respective representations or warranties in Section 4 or Section 5 if the representation or warranty were made as of the date of the occurrence;
  - (f) any breach by Seller and Seller's Members of any covenant in this Section 7; or
  - (g) any event that makes the satisfaction of any condition in Section 9 impossible or unlikely.
- 7.4 Financial Statements.** Until the Closing, Seller will deliver to Buyer within 15 days after the end of each calendar month Seller's financial statements for the calendar month. The financial statements:
- (a) will fairly present the financial condition and the results of operations, changes in shareholders' equity, and cash flow of Seller as at the dates and as of the periods specified;
  - (b) will have been prepared in accordance with GAAP;
  - (c) will reflect the consistent application of such accounting principles throughout the periods involved, except as disclosed in the notes to the financial statements; and
  - (d) will have been prepared in accordance with the books of account and records of Seller.
- 7.5 2016 and 2017 Audited Financials.** Seller consents to Stem including Seller's 2016 and 2017 audited financial statements in the publicly-available documents that Stem is required to file with the SEC.
- 7.6 Removal of Excluded Assets.** Before the Closing, Seller will remove the Excluded Assets from the facilities and other real property that Buyer will occupy after the Closing. Seller will remove the Excluded Assets in a manner that does not:
- (a) damage any Asset or any facility or other real property that Buyer will occupy after the Closing; or

(b) disrupt the operation of Buyer's business after the Closing.

**7.7 Transition of Employees.** Before the Closing, and to be effective as of the close of business on the Closing Date, Seller will cooperate in delivering Buyer's employment offer letters to the employees of Seller who are on the list of employees that Buyer delivers to Seller under Section 8.3.

**7.8 Exclusivity.** Unless this Agreement is terminated:

- (a) Seller and Seller's Members will negotiate exclusively with Buyer concerning the sale of the Assets;
- (b) neither Seller nor any Seller's Member will, through any representative or otherwise:
  - (1) provide any information or make any proposal or request to any other person concerning an acquisition of substantially all of the Assets or shares of Seller, whether by sale, merger, consolidation, or otherwise; or
  - (2) solicit, discuss, consider, or accept any proposal or request from any other person concerning such an acquisition; and
- (c) Seller and Seller's Members will promptly notify Buyer if Seller or any Seller's Member receives any proposal or request from any other person concerning an acquisition of substantially all of the Assets or shares of Seller, whether by sale, merger, consolidation, or otherwise.

**7.9 Consents.** Seller and Seller's Members will use their reasonable best efforts to obtain all consents, authorizations, and approvals that Seller and Seller's Members are required to obtain to close the Transaction. Seller and Seller's Members will cooperate with Buyer with respect to all consents, authorizations, and approvals that Buyer is required to obtain to close the Transaction and to conduct business immediately after the Transaction.

**7.10 Conditions.** Seller and Seller's Members will use their reasonable best efforts to cause the conditions in Section 9 to be satisfied.

## SECTION 8 COVENANTS OF BUYER AND STEM BEFORE CLOSING

Buyer and Stem jointly and severally covenant to Seller and Seller's Members as follows:

**8.1 Consents.** Buyer and Stem will use their reasonable best efforts to obtain all consents, authorizations, and approvals that they are required to obtain to close the Transaction. Buyer and Stem will cooperate with Seller and Seller's Members with respect to all consents, authorizations, and approvals that Seller and Seller's Members are required to obtain to close the Transaction.

**8.2 Conditions.** Buyer and Stem will use their reasonable best efforts to cause the conditions in Section 10 to be satisfied.

**8.3 Seller's Employees.** No later than five business days before the Closing Date, Buyer will deliver to Seller a list of Seller's employees to whom Buyer desires to offer employment effective as of the day after the Closing Date. The employment offers to be delivered to such employees will include: (a) base salary or hourly wages which are no less than the base

retirement and welfare benefits that are no less favorable in the aggregate than those set forth on Schedule 4.25 or Schedule 4.26; and (d) severance benefits that are no less favorable than the respective severance plans and policies set forth on Schedule 4.25 or Schedule 4.26. Subject to Section 2.3(b) and Section 2.4, Buyer will recognize all service of such employees with Seller as if such service were with Buyer for vesting, eligibility, and accrual purposes under all Employee Plans. Seller acknowledges that each employee of Seller that is hired by Buyer the day after the Closing Date will be "at-will," and that Buyer may – subject to applicable Law and any written employment agreement between Buyer and such employee – terminate the relationship at any time for any reason or no reason.

## SECTION 9 CONDITIONS TO BUYER'S CLOSING OBLIGATIONS

Buyer's obligation to close the Transaction is subject to the satisfaction of the following conditions:

### 9.1 Accuracy of Representations and Warranties.

- (a) Subject to Section 9.1(b), each of Seller's and Seller's Members' representations and warranties in Section 4 and Section 5 must have been accurate in all material respects as of the date of this Agreement and must be accurate in all material respects as of the Closing Date.
- (b) Each of Seller's and Seller's Members' representations and warranties (as applicable), in Section 4.1 (Organization), Section 4.2 (Authority), Section 4.3 (Binding Obligation), Section 4.6 (Financial Statements), Section 4.16 (No Material Adverse Change), Section 4.21 (OLCC License), Section 4.29 (No Brokers or Finders), Section 4.30 (Nonforeign Person), Section 4.31 (Disclosure), Section 4.32 (Investment), Section 5.1 (Authority), and Section 5.2 (Binding Obligation) must have been accurate in all respects as of the date of this Agreement and must be accurate in all respects as of the Closing Date.

### 9.2 Performance of Covenants.

Seller and Seller's Members must have performed and complied with each of Seller's and Seller's Members' covenants in Section 7 in all material respects.

### 9.3 Closing Documents.

Seller must have caused the following items to be delivered to Buyer:

- (a) the items set forth in Section 11.2;
- (b) for each lien, mortgage, pledge, security interest, or other encumbrance on an Asset on or after the date of this Agreement that is not a Permitted Closing Encumbrance, a release from the applicable secured party;
- (c) a certificate of existence or good standing from the Secretary of State of Oregon dated not earlier than 5 days before the Closing Date, certifying as to the existence of Seller;
- (d) any other documents that Buyer may reasonably request to evidence:
  - (1) the accuracy of Seller's and Seller's Members' representations and warranties in Section 4;

- (2) Seller's and Seller's Members' performance of and compliance with Seller's and Seller's Members' covenants in Section 7; or
- (3) the satisfaction of any condition in this Section 9.

### 9.4 OLCC License.

The OLCC must have issued to Buyer a Marijuana Producer License (Tier II; Mixed) for the OLCC-Licensed Premises pursuant to OAR 845-025-1160(4) and OAR 845-025-1030.

### 9.5 Consents.

The consents and approvals set forth on Schedule 9.5 must have been obtained.

- 9.6 No Governmental Orders or Legal Proceedings.** There must be no outstanding Governmental Order against Buyer or Seller that has the effect of preventing, prohibiting, delaying, or imposing material limitations or conditions on the Closing. No Action must be pending or have been threatened against Buyer or Seller that:
- (a) involves any challenge to or seeks any damages or other relief in connection with the Transaction; or
  - (b) may have the effect of prohibiting, delaying, or imposing material limitations or conditions on the Closing.
- 9.7 Employees.** Buyer, Stem, or any affiliate or subsidiary of Buyer or Stem must have entered into an employment agreement with each Key Employee, in the forms attached as Exhibit B-1 and Exhibit B-2.
- 9.8 Inventories.** Buyer and Seller must have taken a physical inventory of Seller's inventories on hand at the Closing. Seller's inventories on hand at the Closing must include no less than 50 pounds of usable marijuana.
- 9.9 Securities Laws.** Stem must be reasonably satisfied that the issuance of the Shares to Seller complies with the Securities Act and all other applicable federal and state securities Laws.

## SECTION 10 CONDITIONS TO SELLER'S CLOSING OBLIGATIONS

Seller's obligations to close the Transaction are subject to the satisfaction of the following conditions:

### 10.1 Accuracy of Representations and Warranties.

- (a) Subject to Section 10.1(b), each of Buyer's and Stem's representations and warranties in Section 5 must have been accurate in all material respects as of the date of this Agreement and must be accurate in all material respects as of the Closing Date.
- (b) Each of Buyer's and Stem's representations and warranties in Section 6.1 (Organization), Section 6.2 (Authority), and Section 6.3 (Binding Obligation) must have been accurate in all respects as of the date of this Agreement and must be accurate in all respects as of the Closing Date.

### 10.2 Performance of Covenants.

Buyer and Stem must have performed and complied with each of their covenants in Section 8 in all material respects.

### 10.3 Closing Documents.

Buyer and Stem must have caused the following items to be delivered to Seller:

- (a) the items set forth in Section 11.3;
- (b) any other documents that Seller may reasonably request to evidence:
  - (1) the accuracy of Buyer's and Stem's representations and warranties in Section 5;
  - (2) Buyer's and Stem's performance of and compliance with their covenants in Section 8; or
  - (3) the satisfaction of any condition in this Section 10.

### 10.4 No Governmental Orders or Legal Proceedings.

There must be no outstanding Governmental Order against Buyer, Stem, or Seller that has the effect of preventing, prohibiting, delaying, or imposing material limitations or conditions on the Closing. No Action must be pending or have been threatened against Buyer, Stem, or Seller that:



- (a) involves any challenge to or seeks any damages or other relief in connection with the Transaction; or
- (b) may have the effect of prohibiting, delaying, or imposing material limitations or conditions on the Closing.

## SECTION 11 CLOSING

**11.1 Closing.** The Closing will take place at the offices of Emerge Law Group P.C. after the close of business on the last day of a normal Seller payroll period, after the satisfaction or waiver of all conditions to Closing, and no earlier than January 1, 2019, or at any other place or time that the parties may agree.

**11.2 Obligations of Seller.** Seller will deliver the following items to Buyer at the Closing:

- (a) a bill of sale signed by Seller for the transfer of all of the tangible personal property Assets, in the form attached as Exhibit C;
- (b) certificates of title signed by Seller for the transfer of each tangible personal property Asset, if ownership of the Asset is indicated by a certificate of title;
- (c) an assignment of intellectual property rights agreement signed by Seller for the assignment of all of the intellectual property Assets, together with separate assignments signed by Seller for the assignment of each registered patent, copyright, trademark, tradename, and Internet domain name, in the forms attached as Exhibit D;
- (d) an assignment and assumption agreement signed by Seller for the assignment of rights in connection with the Assumed Liabilities and for the assumption of the Assumed Liabilities, in the form attached as Exhibit E;
- (e) such other deeds, bills of sale, certificates of title, assignments, and other documents that Buyer may reasonably request for the Transaction;

- (f) an accredited investor questionnaire signed by Seller, in the form attached as Exhibit F;
- (g) a nonforeign affidavit signed by Seller for purposes of Section 1445 of the Internal Revenue Code, in the form attached as Exhibit G;
- (h) immediately available funds for prorated expenses with respect to the Assets and the Assumed Liabilities, if applicable, to the extent that the prorations can be made at the Closing;
- (i) a certificate signed by Seller certifying to Buyer that:
  - (1) each of the representations and warranties set forth in Section 4 was accurate in all respects as of the date of this Agreement and is accurate in all respects as of the Closing Date; and
  - (2) Seller has performed and complied with each of the covenants set forth in Section 7 in all respects;
- (j) a certificate signed by a manager of Seller certifying:
  - (1) that the articles of organization and operating agreement of Seller attached to the certificate are complete and accurate as of the Closing Date; and
  - (2) that the resolutions of the managers and members of Seller approving and authorizing the Transaction, copies of which are attached to the certificate, are in full force and effect as of the Closing Date; and

(k) possession of the Assets.

**11.3 Obligations of Buyer and Stem.** Buyer and Stem will deliver the following items to Seller at the Closing:

- (a) immediately available funds in the amount of \$350,000;
- (b) the Promissory Note signed by Buyer and Stem, in the form attached as Exhibit A;
- (c) all share certificates representing the Shares specified in Section 3.2(a)(3);
- (d) an assignment and assumption agreement signed by Buyer for the assignment of rights in connection with the Assumed Liabilities and for the assumption of the Assumed Liabilities, in the form attached as Exhibit E;
- (e) immediately available funds for prorated expenses with respect to the Assets and the Assumed Liabilities, if applicable, to the extent that the prorations can be made at the Closing; and
- (f) a certificate signed by Buyer certifying to Seller that:
  - (1) each of the representations and warranties set forth in Section 5 was accurate in all respects as of the date of this Agreement and is accurate in all respects as of the Closing Date; and

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- (2) Buyer has performed and complied with each of the covenants set forth in Section 8 in all respects.

**SECTION 12 COVENANTS OF SELLER AND SELLER'S MEMBERS AFTER CLOSING**

Seller and Seller's Members jointly and severally covenant to Buyer as follows:

- 12.1 Excluded Liabilities.** Seller will pay and perform the Excluded Liabilities in their entirety, provided that Seller will have the right to contest and compromise any Excluded Liability in Seller's reasonable discretion.
- 12.2 Employees.** Within one business day after the Closing Date, Seller will pay to each employee that Buyer hires under Section 8.3 all of Seller's liabilities and obligations to the employee arising out or resulting from the employee's service as an employee of Seller through the close of business on the Closing Date, including but not limited to:
  - (a) prorated wages;
  - (b) unless the parties agree otherwise, to the extent earned as of the Closing Date, prorated bonuses; and
  - (c) the provision of health plan continuation coverage in accordance with the requirements of Section 4980B of the Code and Sections 601 through 608 of ERISA.

For the avoidance of doubt, Buyer will assume, and Seller will not pay, Seller's liabilities and obligations, measured as of the Closing, to pay accrued balances of paid time off for employees of Seller who are hired by Buyer at the Closing to the extent such employees and accrued balances are set forth on Schedule 4.25; *provided however*, that the assumption will occur by Buyer crediting such employees with all such accrued balances in accordance with ORS 652.140(6)(a).

- 12.3 Business Relations.** For a period of six months after the Closing, Seller and Seller's Members will cooperate with Buyer in Buyer's efforts to preserve Buyer's relations and goodwill with the customers, suppliers, lessors, creditors, employees, agents, and other business relations of Seller that existed before the Closing.

- 12.4 Business Referrals.** For a period of six months after the Closing, Seller and Seller's Members will refer to Buyer all customer and supplier inquiries that Seller or any Seller's Member receive in connection with the business associated with the Assets and the Assumed Liabilities.
- 12.5 No Disparagement.** For a period of three years after the Closing, neither Seller nor any Seller's Member will make any disparaging statements about the Assets, Buyer, Stem or any present or future shareholder, director, officer, or representative of Buyer or Stem.

### SECTION 13 COVENANTS OF BUYER AND STEM AFTER CLOSING

Buyer and Stem jointly and severally covenant to Seller and Seller's Members as follows:

- 13.1 EBITDA.** Buyer and Stem will operate Buyer's business after the Closing Date in a manner substantially similar to the manner in which Seller operated Seller's business before the Closing Date or in accordance with Seller's business plan; *provided however*, that the parties

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acknowledge that various industry and market forces may change and that Buyer may find it necessary or desirable to modify the manner in which Buyer and Stem are operating the business after the Closing Date or adopt changes to Seller's business plan. In any event, however, Buyer and Stem will not implement any business plan, enter into any transaction, or employ any employee for the purpose of minimizing the 2018 Actual EBITDA and 2019 Actual EBITDA.

- 13.2 Share Transfer.** Stem will use reasonable efforts to consent to the transfer of the Shares from Seller to Seller's Members from time to time as may be requested by Seller and upon receipt of all required documents to effect the transfer, including but not limited to an opinion of counsel, without unreasonable or unnecessary expense or delay, and consistent with applicable state and federal securities laws.

### SECTION 14 RESTRICTIVE COVENANTS

- 14.1 Noncompetition.** During the Restrictive Period, the Managing Member will not – except as an employee of Seller before the Closing, and except as an employee or independent contractor of Buyer, Stem, or any affiliate or subsidiary of Buyer or Stem after the Closing – directly or indirectly advise, invest in, own, manage, operate, control, be employed by, provide services to, lend money to, guarantee any obligation of, lend the Managing Member's name to, or otherwise assist any person or business engaged in any Competitive Business anywhere in the United States of America.
- 14.2 Nonsolicitation of Employees.** During the Restrictive Period, the Managing Member will not solicit any employee of Buyer, Stem, or any affiliate or subsidiary of Buyer or Stem to become an employee or independent contractor of Seller, the Managing Member, or any other person.
- 14.3 Reasonableness.** The Managing Member acknowledges and agrees that each Restrictive Covenant is reasonable in scope and that the Restrictive Covenants afford a fair protection to the interests of Buyer and Stem.
- 14.4 Enforceability.** The parties intend that each Restrictive Covenant be enforceable to the fullest extent permitted by law. If a Restrictive Covenant is determined to be unenforceable to any extent, the Restrictive Covenant will automatically be amended to the extent necessary to make it enforceable.
- 14.5 Breach.** If the Managing Member breaches a Restrictive Covenant, the Restricted Period for all Restrictive Covenants will be extended by the duration of the breach.
- 14.6 No Employment Relationship.** The Restrictive Covenant in Section 14.1 is made in the context of a business acquisition and are not made in the context of an employment relationship or contract. The parties acknowledge and intend that ORS 653.295(1) does not

relationship or contact. The parties acknowledge and intend that this Section 14.1 does not apply to Section 14.1.

## SECTION 15 NONDISCLOSURE

**15.1 Buyer's and Stem's Restrictions and Obligations.** During Buyer's Nondisclosure Period:

- (a) Buyer and Stem will not use Confidential Information for any purpose without Seller's specific prior written authorization, except Buyer and Stem may use Confidential Information:

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- (1) to consider and complete the Transaction; and
- (2) to exercise Buyer's and Stem's rights under the Transaction Documents; and
- (b) Buyer and Stem will not disclose Confidential Information to any person without Seller's specific prior written authorization, except Buyer and Stem may disclose Confidential Information:
  - (1) on a need-to-know basis, to Representatives of Buyer and Stem who are informed by Buyer and Stem of the confidential nature of the Confidential Information and the obligations of Buyer and Stem under this Agreement; or
  - (2) in accordance with a judicial or other governmental order, but only if Buyer and Stem promptly notify Seller of the order and comply with any applicable protective or similar order.

**15.2 Seller and Seller's Members' Restrictions and Obligations.** During Seller's Nondisclosure Period:

- (a) neither Seller nor any Seller's Member will use Confidential Information for any purpose without Buyer's or Stem's specific prior written authorization, except Seller and Seller's Members may use Confidential Information:
  - (1) to operate Seller's business in the ordinary course of Seller's business before the Closing Date; or
  - (2) to consider and complete the Transaction; and
  - (3) to exercise Seller's and Seller's Members' rights under the Transaction Documents; and
- (b) neither Seller nor any Seller's Member will disclose Confidential Information to any person without Buyer's or Stem's specific prior written authorization, except Seller and Seller's Members may disclose Confidential Information:
  - (1) on a need-to-know basis, to their respective Representatives who are informed by them of the confidential nature of the Confidential Information and the obligations of Seller and Seller's Members under this Agreement;
  - (2) on a need-to-know basis, to exercise Seller's and Seller's Members' rights under the Transaction Documents; or
  - (3) in accordance with a judicial or other governmental order, but only if Seller promptly notifies Buyer of the order and complies with any applicable protective or similar order.

**15.3 Exceptions.** A party will not breach Section 15.1 or Section 15.2 by using or disclosing Confidential Information if the party demonstrates that the information used or disclosed:

- (a) is generally available to the public other than as a result of a disclosure by the party;

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- (b) was received by the party from another person without any limitations on use or disclosure, but only if the party had no reason to believe that the other person was prohibited from using or disclosing the information by a contractual or fiduciary obligation; or
- (c) was independently developed by the party without using Confidential Information.

#### **SECTION 16 INDEMNIFICATION**

**16.1 Survival.** All representations, warranties, covenants, and other obligations in this Agreement and all other agreements and documents relating to the Transaction will survive the Closing.

**16.2 Seller's Indemnification.** If the Closing occurs, and subject to the provisions of this Section 16, Seller will defend and indemnify Buyer, Stem, and each present and future shareholder, director, officer, and representative of Buyer or Stem for, from, and against any and all claims, actions, proceedings, damages, liabilities, and expenses of every kind, whether known or unknown, including but not limited to reasonable attorney's fees, resulting from or arising out of:

- (a) Seller's breach of any representation, warranty, covenant, or other obligation of Seller in this Agreement or any other agreement or document relating to the Transaction; or
- (b) any Excluded Liability.

**16.3 Seller's Members' Indemnification.** If the Closing occurs, and subject to the provisions of this Section 16, Seller's Members will jointly and severally defend and indemnify Buyer, Stem, and each present and future shareholder, director, officer, and representative of Buyer or Stem for, from, and against any and all claims, actions, proceedings, damages, liabilities, and expenses of every kind, whether known or unknown, including but not limited to reasonable attorney's fees, resulting from or arising out of:

- (a) any Seller's Member's breach of any representation, warranty, covenant, or other obligation of any Seller's Member in this Agreement or any other agreement or document relating to the Transaction;
- (b) Seller's breach of any representation, warranty, covenant, or other obligation of Seller in this Agreement or any other agreement or document relating to the Transaction; *provided however*, that the indemnification obligations of Seller's Members under this Section 16.3(b) will apply only if Seller distributes any of the consideration set forth in Section 3.2(a)(3), Section 3.2(b), Section 3.2(c), or Section 3.2(d) (or the proceeds of such consideration) to any one or more Seller's Members, and then only to the extent of the value of such consideration (or the amount of such proceeds).
- (c) any Excluded Liability.

**16.4 Limitations on Seller's and Seller's Members' Liability.**

- (a) If the Closing occurs, and subject to Section 16.4(b), Seller and Seller's Members will have no liability to Buyer or any other person for indemnification or otherwise with respect to:

- (1) any claim relating to this Transaction, unless Buyer notifies Seller of the claim and specifies in reasonable detail the facts giving rise to the claim within 18 months after the Closing Date;
  - (2) claims relating to this Transaction, unless the aggregate liability for such claims exceeds \$25,000, and then only to the extent that the aggregate liability for such claims exceeds \$25,000; or
  - (3) claims relating to this Transaction, to the extent that Seller's and Seller's Members' aggregate liability for all such claims (excluding liability for an Indemnified Person's attorney's fees and other fees, costs, and expenses under this Section 16 or Section 21.14) exceeds \$1,000,000.
- (b) The limitations on Seller's and Seller's Members' liability in this Section 16.4 will not apply with respect to a claim that arises out of or results from:
- (1) Seller's failure to pay or perform any Excluded Liability;
  - (2) a breach of any representation and warranty in Section 4.1 (Organization), Section 4.2 (Authority), Section 4.3 (Binding Obligation), Section 4.5 (Capitalization); Section 4.13 (Title to Assets), Section 4.14 (Taxes), Section 4.21 (OLCC License), Section 4.26 (Employee Benefits), Section 4.27 (Environmental), Section 4.29 (No Brokers or Finders), Section 4.30 (Nonforeign Person), Section 4.32 (Investment), or Section 5 (Representations and Warranties of Seller's Members);
  - (3) a breach of any representation or warranty in Section 4 or Section 5 if Buyer demonstrates that Seller or any Seller's Member fraudulently breached the representation;
  - (4) a breach of any covenant in Section 7, if Buyer demonstrates that Seller or any Seller's Member breached the covenant intentionally or in bad faith; or
  - (5) a breach of any post-Closing covenant of Seller or any Seller's Member.

**16.5 Buyer's and Stem's Indemnification.** If the Closing occurs, and subject to the provisions of this Section 16, Buyer and Stem will defend and indemnify Seller for, from, and against any and all claims, actions, proceedings, damages, liabilities, and expenses of every kind, whether known or unknown, including but not limited to reasonable attorney's fees, resulting from or arising out of:

- (a) Buyer's or Stem's breach of any representation, warranty, covenant, or other obligation of Buyer or Stem in this Agreement or any other agreement or document relating to the Transaction; or
- (b) any Assumed Liability.

**16.6 Limitations on Buyer's and Stem's Liability.**

- (a) If the Closing occurs, and subject to Section 16.6(b), Buyer and Stem will have no liability to Seller or any other person for indemnification or otherwise with respect to:

- (1) any claim relating to this Transaction, unless Seller notifies Buyer of the claim and specify in reasonable detail the facts giving rise to the claim within 18 months after the Closing Date;
  - (2) claims relating to this Transaction, unless the aggregate liability for such claims exceeds \$25,000, and then only to the extent that the aggregate liability for such claims exceeds \$25,000; or
  - (3) claims relating to this Transaction, to the extent that Buyer's and Stem's aggregate liability for all such claims exceeds \$1,000,000.
- (b) The limitations on Buyer's and Stem's liability in this Section 16.6 will not apply with respect to a claim that arises out of or results from:
- (1) a breach of any representation or warranty in Section 6.1 (Organization), Section 6.2 (Authority), and Section 6.3 (Binding Obligation); or
  - (2) a breach of any post-Closing covenant of Buyer or Stem.

**16.7 Direct Claims.** If an Indemnified Person notifies an Indemnifying Party of a direct claim by the Indemnified Person for which the Indemnifying Party has liability under this Section 16, the Indemnifying Party will pay the claim – or cause the claim to be paid – within 30 days after the delivery of the Indemnified Person's notice containing reasonably sufficient information about the claim, the evidence supporting the claim, and the amount of the claim.

**16.8 Third-Party Claims.**

- (a) If an Indemnified Person receives a written claim by a third party that is subject to the indemnification provisions in this Section 16, the Indemnified Person will promptly notify the Indemnifying Party of the claim. The notice will include a copy of all correspondence relating to the claim that the Indemnified Person received from the third party.
- (b) The Indemnifying Party may elect to control the defense of the third-party claim by notifying the Indemnified Person within 10 days after the delivery of the Indemnified Person's notice. The election will conclusively establish that the claim is subject to the indemnification provisions in this Section 16.
- (c) The Indemnified Person may object to the Indemnifying Party's election to control the defense of the third-party claim by notifying the Indemnifying Party within 10 days after the delivery of the Indemnifying Party's notice, but only if:
  - (1) the Indemnified Person reasonably determines that the Indemnifying Party does not have the financial ability to diligently defend the claim;
  - (2) the claim is also made against the Indemnifying Party and the Indemnified Person reasonably determines that joint representation of the Indemnifying Party and the Indemnified Person would be inappropriate; or
  - (3) the Indemnified Person reasonably determines that the claim may result in non-monetary damages that may materially and adversely affect the Indemnified Person.

- (d) If the Indemnifying Party elects to control the defense of the third-party claim and the Indemnified Person does not object to the election:

- (1) the Indemnifying Party will control the defense of the claim and diligently defend the claim, with counsel reasonably satisfactory to the Indemnified Person;
  - (2) the Indemnified Person may participate in the defense of the claim, at the Indemnified Person's own cost and expense; and
  - (3) the Indemnifying Party may settle the claim:
    - (A) with the consent of the Indemnified Person, which the Indemnified Person may not withhold unreasonably; or
    - (B) without the consent of the Indemnified Person, but only if:
      - (i) the settlement does not contain any finding of any violation by the Indemnified Person of any applicable law or any right of any person;
      - (ii) the settlement expressly states that the Indemnified Person is not admitting to any such violation; and
      - (iii) the only relief provided in the settlement is for monetary damages that are – subject to the provisions of this Section 16 – paid in full by the Indemnifying Party.
- (e) If the Indemnifying Party does not elect to control the defense of the third-party claim, or if the Indemnifying Party elects to control the defense of the claim and the Indemnified Person objects to the election under Section 16.8(c):
- (1) the Indemnified Person will control the defense of the claim and diligently defend the claim, with counsel reasonably satisfactory to the Indemnifying Party;
  - (2) the Indemnifying Party may participate in the defense of the claim, at the Indemnifying Party's own cost and expense; and
  - (3) the Indemnified Person may settle the claim:
    - (A) with the consent of the Indemnifying Party, which the Indemnifying Party may not withhold unreasonably; or
    - (B) without the consent of the Indemnifying Party, but only if:
      - (i) the settlement does not contain any finding of any violation by the Indemnifying Party of any applicable law or any right of any person;
      - (ii) the settlement expressly states that the Indemnifying Party is not admitting to any such violation; and
      - (iii) the only relief provided in the settlement is for monetary damages.

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- (f) In any third-party claim that is subject to the indemnification provisions in this Section 16, the Indemnifying Party and the Indemnified Person will:
- (1) keep each other fully informed of the status of the claim;
  - (2) cooperate with each other with respect to the defense of the claim; and
  - (3) attempt to preserve in full any attorney-client and work-product privileges and the confidentiality of any confidential information.



- 16.9 Strict Liability and Negligence.** The indemnification provisions in this Section 16 will be enforceable with respect to a matter even if the Indemnified Person was negligent with respect to the matter, and even if the Indemnified Person is strictly liable with respect to the matter under applicable law.
- 16.10 Limitations on Liability.** In no event shall any Indemnifying Party be liable to any Indemnified Person for any punitive, consequential, special, or indirect damages, except to the extent payable to a third party.
- 16.11 Sole and Exclusive Remedy.** If the Closing occurs, except as otherwise provided in Section 3.4(c), Section 18, or Section 21.14, the indemnification provisions in this Section 16 will be the sole and exclusive remedy available to an Indemnified Person with respect to any claim that relates to this Transaction.
- 16.12 Limitation on Liability if Closing Does Not Occur.** If the Closing does not occur:
- (a) Seller and Selling Members will have no liability to Buyer or Stem with respect to claims relating to this Transaction, to the extent that Seller's and Selling Members' aggregate liability for any and all claims (excluding liability for Buyer's and Stem's attorney's fees and other fees, costs, and expenses under Section 21.14) exceeds \$1,000,000; and
  - (b) Buyer and Stem will have no liability to Seller or any Selling Member with respect to claims relating to this Transaction, to the extent that Buyer's and Stem's aggregate liability for any and all claims (excluding liability for Seller's or any Selling Member's attorney's fees and other fees, costs, and expenses under Section 21.14) exceeds \$1,000,000.

## SECTION 17 TERMINATION

- 17.1 Termination.** This Agreement will terminate upon the earliest to occur of the following:
- (a) upon the written agreement of Buyer and Seller before the Closing;
  - (b) upon notice by Buyer to Seller before the Closing, if:
    - (1) any condition set forth in Section 9 has not been satisfied or waived on or before the date set forth in Section 11.1, unless the satisfaction of the condition did not occur because Buyer or Stem materially breached this Agreement;

- (2) the satisfaction of any condition set forth in Section 9 on or before the date set forth in Section 11.1 becomes impossible or commercially impracticable because Buyer or Stem materially breached this Agreement; or
  - (3) the Closing has not occurred on or before the Drop-Dead Date, unless the Closing has not occurred because Buyer or Stem materially breached this Agreement;
- (c) upon notice by Seller to Buyer before the Closing, if:
- (1) any condition set forth in Section 10 has not been satisfied or waived on or before the date set forth in Section 11.1, unless the satisfaction of the condition did not occur because Seller materially breached this Agreement;
  - (2) the satisfaction of any condition set forth in Section 10 on or before the date set forth in Section 11.1 becomes impossible or commercially impracticable because Seller materially breached this Agreement; or

- (3) the Closing has not occurred on or before the Drop-Dead Date, unless the Closing has not occurred because Seller materially breached this Agreement;
- (d) upon notice by Buyer to Seller before the Closing, if Seller materially breaches this Agreement and fails to cure the breach within 15 days after Buyer notifies Seller of the breach; and
- (e) upon notice by Seller to Buyer before the Closing, if Buyer or Stem materially breaches this Agreement and fails to cure the breach within 15 days after Seller notifies Buyer of the breach.

**17.2 Effect of Termination.** If this Agreement is terminated under Section 17.1:

- (a) the Surviving Provisions will survive the termination of this Agreement; and
- (b) except for the obligations of the parties under the Surviving Provisions, all obligations of the parties under this Agreement will terminate.

**17.3 Sole and Exclusive Remedy.** If this Agreement is terminated under Section 17.1(a), Section 17.1(b), or Section 17.1(c), no party will be liable to any other party for a breach of this Agreement or otherwise, except that the parties will be liable for breaches of the Surviving Provisions, regardless of whether such breaches occur before or after the termination of this Agreement.

## **SECTION 18 EQUITABLE RELIEF**

The parties acknowledge that the remedies available at law for any breach of this Agreement may, by their nature, be inadequate. Accordingly, each party may obtain injunctive relief or other equitable relief to restrain a breach or threatened breach of this Agreement or to specifically enforce this Agreement, without proving that any monetary damages have been sustained.

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## **SECTION 19 ANNOUNCEMENTS**

Seller and Buyer will consult and cooperate with each other concerning the timing and manner of the announcements of the Transaction to Seller's employees, customers, suppliers, and other business relations. Upon Buyer's request, Seller will permit Buyer to be present at any such announcement to groups of Seller's employees other than individual discussions with Key Employees or members of Seller's senior leadership team. Any public announcements with respect to the Transaction or this Agreement will be made, if at all, at such time and in such manner as Buyer determines.

## **SECTION 20 EXPENSES**

Except as otherwise provided in this Agreement, each party will bear the party's own fees, costs, and expenses incurred in connection with the Transaction, including but not limited to the preparation, negotiation, signing, and performance of this Agreement and the other agreements and documents relating to the Transaction. Buyer and Stem, jointly and severally, will be solely responsible for paying all fees charged by the OLCC in connection with obtaining the Marijuana Producer License specified in Section 9.4.

## **SECTION 21 GENERAL**

- 21.1 Guaranty.** Stem absolutely, unconditionally, and irrevocably guarantees, as primary obligor and not merely as surety, the punctual payment and performance, when due, of the liabilities and obligations of Buyer under this Agreement or otherwise relating to the Transaction.
- 21.2 Time of Essence.** Time is of the essence with respect to all dates and time periods in this Agreement.

- 21.3 No Assignment.** No party may assign or delegate any of the party's rights or obligations under this Agreement to any person without the prior written consent of the other parties, which the other parties may withhold in their sole discretion; *provided however*, that Buyer may assign any or all of Buyer's rights under this Agreement to Stem or any Stem Affiliate upon notice to Seller, provided that such assignment does not jeopardize or unreasonably delay the issuance of the Marijuana Producer License in Section 9.4.
- 21.4 Binding Effect.** This Agreement will be binding on the parties and their respective heirs, personal representatives, successors, and permitted assigns, and will inure to their benefit.
- 21.5 Amendment.** This Agreement may be amended only by a written agreement signed by each party.
- 21.6 Notices.** All notices or other communications required or permitted by this Agreement:
- (a) must be in writing;
  - (b) must be delivered to the parties at the addresses set forth below, or any other address that a party may designate by notice to the other parties; and
  - (c) are considered delivered:
    - (1) upon actual receipt if delivered personally or by a nationally recognized overnight delivery service;

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- (2) at the end of the third business day after the date of deposit in the United States mail, postage pre-paid, certified, return receipt requested; or
- (3) if delivered by e-mail or facsimile transmission to the facsimile number as provided set forth below, be deemed given upon receipt.

To Buyer and Stem:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Email: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

With a copy to:

Emerge Law Group P.C.  
805 SW Broadway, Suite 2400  
Portland, OR 97205  
Attn: Dave Kopilak  
Email: dave@emergelawgroup.com  
Facsimile: 503.200.1124

To Seller and Seller's Members:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Email: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

With a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Email: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

- 21.7 Waiver.** No waiver will be binding on a party unless it is in writing and signed by the party making the waiver. A party's waiver of a breach of a provision of this Agreement will not be a waiver of any other provision or a waiver of a subsequent breach of the same provision.
- 21.8 Severability.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable under any present or future Laws, and if the rights or obligations of any party under this Agreement are not be materially and adversely affected thereby: (a) such provision will be fully severable; (b) this Agreement will be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof; and (c) the

remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision or by the provision's severance from this Agreement. Unless modifying or disregarding the unenforceable provision would result in a failure of an essential purpose of this Agreement, by holding the entire Agreement unenforceable, the parties shall negotiate in good faith to modify this Agreement so as to affect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

- 21.9 Further Assurances.** The parties will sign other documents and take other actions reasonably necessary to further effect and evidence this Agreement.
- 21.10 No Third-Party Beneficiaries.** The parties do not intend to confer any right or remedy on any third party.
- 21.11 Attachments.** Any exhibits, schedules, and other attachments referenced in this Agreement are part of this Agreement.

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- 21.12 Governing Law.** This Agreement is governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this Agreement.
- 21.13 Arbitration.**
- (a) Except as otherwise provided in Section 3.4(c) and Section 21.13(e), any dispute, controversy, or claim arising out of the subject matter of this Agreement will be settled by arbitration before a single arbitrator in Portland, Oregon.
  - (b) If the parties agree on an arbitrator, the arbitration will be held before the arbitrator selected by the parties. If the parties do not agree on an arbitrator, each party will designate an arbitrator and the arbitration will be held before a third arbitrator selected by the designated arbitrators. Each arbitrator will be an attorney knowledgeable in the area of business law.
  - (c) The arbitration will be conducted in accordance with the procedures set forth in ORS 36.600 through ORS 36.740.
  - (d) The resolution of any dispute, controversy, or claim as determined by the arbitrator will be binding on the parties. Judgment on the award of the arbitrator may be entered by any party in any court having jurisdiction.
  - (e) A party may seek from a court an order to compel arbitration, or any other interim relief or provisional remedies pending an arbitrator's resolution of any dispute, controversy, or claim. Any such action, suit, or proceeding – or any action, suit, or proceeding to confirm, vacate, modify, or correct the award of the arbitrator – will be litigated in courts located in Multnomah County, Oregon.
  - (f) For the purposes set forth in Section 21.13(e), each party consents and submits to the jurisdiction of any local, state, or federal court located in Multnomah County, Oregon.
- 21.14 Attorney's Fees.** If any arbitration or litigation is instituted to interpret, enforce, or rescind this Agreement, including but not limited to any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorney's fees and other fees, costs, and expenses of every kind, including but not limited to the costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, the litigation, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court.

- 21.15 Entire Agreement.** This Agreement contains the entire understanding of the parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Agreement.
- 21.16 Construction.** Each party acknowledges that this is an important legal document and that each party has had an opportunity to consult legal counsel regarding its effect and the consequences of executing it. Each party covenants that in the interpretation and construction of this Agreement, no inference or interpretation may be drawn against any party that drafted this Agreement or any portion thereof by reason of such draftsmanship.

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- 21.17 Signatures.** This Agreement may be signed in counterparts. An electronic transmission of a signature page will be considered an original signature page. At the request of a party, each other party will confirm an electronically-transmitted signature page by delivering an original signature page to the requesting party.

[signature pages to follow]

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Dated effective as of the date set forth in the preamble.

**Buyer:**

Stem Holdings Oregon, Inc.

*Adam Berk*

By: Adam Berk  
Its: President

**Stem:**

Stem Holdings, Inc.

*Adam Berk*

By: Adam Berk  
Its: President

**Seller:**

Yerba Oregon, LLC

*Preston Greene*

By: Preston Clarence Greene  
Its: Member

**Seller's Members:**

*Preston Greene*

Preston Clarence Greene

*Glenn R. McClish*

Glenn R. McClish

*Michael McClish*

Michael McClish

*Larry D. Heitman*

Larry D. Heitman

## APPENDIX A

### Definitions

“**2018 Actual EBITDA**” means the EBITDA during the period beginning on January 1, 2018 and ending on December 31, 2018, as determined under Section 3.4.

“**2018 Actual EBITDA Multiple**” means the product of: (a) the 2018 Actual EBITDA; *multiplied by* (b) 5.0.

“**2018 EBITDA True-Up Amount**” means the amount, if any, by which: (a) the 2018 Actual EBITDA Multiple; *exceeds* (b) the amount set forth in Section 3.1(a)(1).

“**2019 Actual EBITDA**” means the EBITDA during the period beginning on January 1, 2019 and ending on December 31, 2019, as determined under Section 3.4.

“**2019 Actual EBITDA Multiple**” means the product of: (a) the 2019 Actual EBITDA; *multiplied by* (b) 2.5.

“**2019 EBITDA True-Up Amount**” means the amount, if any, by which: (a) the 2019 Actual EBITDA Multiple; *exceeds* (b) the amount set forth in Section 3.1(b)(1).

“**Action**” means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

“**Assets**” means the assets described in Section 2.1.

“**Assumed Liabilities**” meaning the liabilities described in Section 2.3.

“**Buyer’s Nondisclosure Period**” means the period beginning on the date of this Agreement and ending: (a) on the Closing Date, if the Closing occurs; or (b) two years after the date this Agreement is terminated, if the Closing does not occur.

“**Cause**” has the meaning ascribed to it in the form of employment agreement attached as Exhibit B-1 (regardless of whether such employment agreement is amended or terminated after the Closing).

“**Closing**” means the closing of the Transaction.

“**Closing Date**” means the date on which the Closing takes place.

“**Closing Date Balance Sheet**” means an unaudited balance sheet of Seller as at the Closing Date.

“**Code**” means the Internal Revenue Code of 1986.

“**Competitive Business**” means: (a) any business that produces, processes, or sells marijuana, marijuana edibles, marijuana concentrates, marijuana extracts, or any other marijuana product anywhere in the United States of America; and (b) any business that consults or otherwise assists any business described in clause (a).

**“Confidential Information”** means all information that is known to be, or reasonably should have been known to be treated as confidential related to: (a) Seller or Seller’s business, including but not limited to business models, customer and supplier lists, marketing plans, financial and technical information, trade secrets, know-how, ideas, designs, drawings, specifications, techniques, programs, systems, processes, and computer software; or (b) the Transaction, including but not limited to the terms and conditions of the Transaction Documents.

**“Contract”** means any contract, lease, deed, mortgage, license, instrument, note, commitment, undertaking, indenture, joint venture, and any other agreement, commitment, and legally binding arrangement, whether written or oral.

**“Drop-Dead Date”** means March 31, 2019.

**“EBITDA”** means, with respect to Seller’s business (before the Closing) and Buyer’s business (after the Closing), as applicable, earnings from operations before interest, taxes, depreciation, and amortization, as determined from financial statements prepared in accordance with generally accepted accounting principles as consistently applied by Stem, and in accordance with the following: (a) extraordinary items of gain or loss will not be included; (b) gains, losses, or profits from the sale of any assets other than in the ordinary course of the business will not be included; (c) no deduction will be made for any management fees or general overhead expenses charged by Buyer to the Assets and the Assumed Liabilities; (d) no deduction will be made for fees, costs, and expenses incurred in connection with the Transaction, including but not limited to the preparation, negotiation, signing, and performance of this Agreement and the other agreements and documents relating to the Transaction; and (e) any transactions between Seller (before the Closing) or Buyer (after the Closing) and their respective affiliates will be adjusted to reflect the amount that would have been realized or paid in an arm’s-length commercial transaction.

**“EBITDA Period”** means each of: (a) calendar year 2018; and (b) calendar year 2019.

**“Employee Plan”** means any pension, benefit, retirement, compensation, employment, consulting, profit-sharing, deferred compensation, incentive, bonus, performance award, phantom equity, stock or stock-based, change in control, retention, severance, vacation, paid time off, medical, vision, dental, disability, welfare, Code Section 125 cafeteria, fringe-benefit and other similar agreement, plan, policy, program or arrangement (and any amendments thereto), in each case whether or not reduced to writing and whether funded or unfunded, including each “employee benefit plan” within the meaning of Section 3(3) of ERISA, whether or not tax-qualified and whether or not subject to ERISA, which is or has been maintained, sponsored, contributed to, or required to be contributed to by Seller for the benefit of any current or former employee, officer, manager, retiree, independent contractor or consultant of Seller or any spouse or dependent of such individual, or under which Seller has or may have any Liability, or with respect to which Buyer or any of its affiliates would reasonably be expected to have any liability, contingent or otherwise.

**“Employment Event”** means, with respect to the Managing Member’s employment relationship with Stem or any Stem Affiliate after the Closing Date: (a) the Managing Member voluntarily terminates the Managing Member’s employment with Stem or the Stem Affiliate without Good Reason; or (b) Stem or the Stem Affiliate terminates the Managing Member’s employment for Cause.

**“Encumbrance”** means any charge, claim, community property interest, pledge, condition, equitable interest, lien (statutory or other), option, security interest, mortgage, easement, encroachment, right of way, right of first refusal, or restriction of any kind, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership.

**“Environmental Law”** means any applicable Law, and any Governmental Order or binding



agreement with any Governmental Authority: (a) relating to pollution (or the cleanup of pollution) or the protection of natural resources, endangered or threatened species, human health or safety, or the environment (including ambient air, soil, surface water, or groundwater, or subsurface strata); or (b) concerning the presence of, exposure to, or the management, manufacture, use, containment, storage, recycling, reclamation, reuse, treatment, generation, discharge, transportation, processing, production, disposal, or remediation of any Hazardous Material.

**“Environmental Permit”** means any license, permit, franchise, approval, authorization, registration, certificate, variance, letter, clearance, consent, waiver, closure, exemption, decision or other action required under or issued, granted, given, authorized by, or made by any Governmental Authority pursuant to any Environmental Law.

**“ERISA”** means the Employee Retirement Income Security Act of 1974, as amended.

**“ERISA Affiliate”** means any employer (whether or not incorporated) that would be treated together with Seller or any of Seller’s affiliates as a “single employer” within the meaning of Section 414 of the Code or Section 4001 of ERISA.

**“Excluded Assets”** means the assets described in Section 2.2.

**“Excluded Liabilities”** means the liabilities described in Section 2.4.

**“GAAP”** means United States generally accepted accounting principles in effect from time to time.

**“Good Reason”** means, with respect to the Managing Member’s employment relationship with Stem after the Closing Date, (a) if Stem materially breaches an employment agreement between the Managing Member and Stem and fails to cure the breach within 30 days after the Managing Member notifies Stem of the breach; (b) a material adverse change in the Managing Member’s title, authority, duties, responsibilities, or work location; or (c) a material adverse change in the reporting structure applicable to the Managing Member.

**“Governmental Authority”** means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or tribunal of competent jurisdiction.

**“Governmental Order”** means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

**“Hazardous Material”** means: (a) any material, substance, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral, or gas, in each case, whether naturally occurring or manmade, that is hazardous, acutely hazardous, toxic, or words of similar import or regulatory effect under Environmental Laws; and (b) any petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing materials, urea formaldehyde foam insulation, and polychlorinated biphenyls.

**“Indemnified Person”** means a person entitled to indemnity from an Indemnifying Party under Section 16.

**“Indemnifying Party”** means a party obligated to indemnify an Indemnified Person under Section 16.

**“Intellectual Property Registration”** means an intellectual property asset of Seller that is subject to any issuance, registration, or application by or with any Governmental Authority or authorized private registrar in any jurisdiction, including issued patents, registered trademarks, domain names and copyrights, and pending applications for any of the foregoing.

**“Key Employees”** means: (a) Preston Clarence Greene; and (b) Laura Rivero.

**“Knowledge”** means, with respect to Seller: (a) the actual knowledge of any Seller’s Member or any Key Employee; and (b) any knowledge that any of them would have obtained if each of them had conducted a reasonably comprehensive investigation of the relevant matter.

**“Law”** means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any Governmental Authority; *provided however*, that for purposes of whether a party has complied with applicable Laws, the term **“Law”** does not include any provision of the federal Controlled Substances Act (or any other federal statute the violation of which would not have occurred but for the fact that marijuana is a controlled substance under the federal Controlled Substances Act) to the extent that the applicable act or omission by the party does not violate Oregon law.

**“License”** means any license, permit, franchise, approval, authorization, registration, certificate, variance, or similar right obtained, or required to be obtained, from any Governmental Authority, including but not limited to the OLCC License and any Environmental Permit.

**“Managing Member”** means Preston Clarence Greene.

**“Most Recent Balance Sheet”** means the most recent balance sheet of Seller that Seller delivers to Buyer under this Agreement.

**“OLCC”** means the Oregon Liquor Control Commission, or any renamed or successor agency.

**“OLCC License”** means the Marijuana Producer License (RECORD ID # 020 10000662000) issued to Seller by the OLCC for the OLCC-Licensed Premises.

**“OLCC-Licensed Premises”** means 30300 SW Laurel Road, Hillsboro, OR 97123.

**“Oregon Marijuana Laws”** means: (a) ORS Chapter 475B; (b) OAR Chapter 845 Division 25; and (c) OAR Chapter 333, Division 7.

**“Permitted Closing Encumbrance”** means: (a) any lien, mortgage, pledge, security interest, or other encumbrance arising by operation of law for Taxes, assessments, or government charges not yet due; (b) any statutory lien or encumbrance for services or materials arising in the ordinary course of Seller’s business for which payment is not yet due; and (c) any nonconsensual lien or encumbrance incurred or deposits made in the ordinary course of Seller’s business for workers’ compensation and unemployment insurance and other types of social security.

**“Promissory Note”** means the promissory note described in [Section 3.2\(a\)\(2\)](#).

**“Related Person”** means, with respect to an individual: (a) the individual’s spouse or domestic partner; (b) the individual’s parent, sibling, or child; (c) any person that is directly or indirectly

controlled by the individual or one of the other individuals in clause (a) or (b); and (d) any person in which the individual or one of the other individuals in clause (a) or (b) holds – individually or in the aggregate – 10% or more of the shares or other ownership interests.

**“Representatives”** means directors, officers, managers, employees, subcontractors, agents, consultants, advisors, and authorized representatives.

**“Restrictive Covenant”** means the restrictions set forth in [Section 14.1](#) and [Section 14.2](#).

**“Restrictive Period”** means the period beginning on the date of this Agreement and ending on: (a) three years after the Closing Date, if the Closing occurs; and (b) on the date this Agreement is terminated, if the Closing does not occur.

**“SEC”** means the United States Securities and Exchange Commission.

**“Securities Act”** means the Securities Act of 1933, as amended.

**“Seller’s Nondisclosure Period”** means the period beginning on the date of this Agreement and

ending: (a) two years after the Closing Date, if the Closing occurs; or (b) on the date this Agreement is terminated, if the Closing does not occur.

“**Shares**” means any shares of Stem that Seller receives under Section 3.2.

“**Stem Affiliate**” means any present or future entity that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, Stem.

“**Surviving Provisions**” means Section 1, Section 15, Section 17, Section 18, Section 20, and Section 21.

“**Transaction**” means the purchase and sale of the Assets and the assignment and assumption of the Assumed Liabilities provided for in this Agreement.

“**Transaction Documents**” means this Agreement and the other agreements, instruments and documents required by this Agreement to be delivered at or before the Closing.

“**Year-End Balance Sheet**” means the balance sheet of Seller dated as at December 31, 2017.

**YERBA OREGON, LLC**  
**Financial Statements and**  
**Independent Accountants' Report**  
**December 31, 2017 and 2016**

**YERBA OREGON, LLC**  
**December 31, 2017 and 2016**

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**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Members of Yerba Oregon, LLC

**Opinion on the Financial Statements**

We have audited the accompanying balance sheets of Yerba Oregon, LLC (the Company) as of December 31, 2017 and 2016, and the related statements of operations, statement of changes in member's equity, and cash flows for the years ended 2017 and 2016, and the related notes (collectively referred to as the financial statements). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2017 and 2016, and the results of its operations and its cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

**Explanatory Paragraph – Going Concern**

The accompanying financial statements have been prepared assuming that the Company will continue as a going concern. As more fully explained in Note 1, the Company engages in the production and sale of cannabis and related products, an activity that is illegal under United States Federal law for any purpose, by way of Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, otherwise known as the Controlled Substances Act of 1970 (the "ACT"). This fact raises substantial doubt as to the Company's ability to continue as a going concern. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

**Basis for Opinion**

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits, we are required to obtain an understanding of internal control over financial reporting, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

L. J SOLDINGER ASSOCIATES, LLC

/s/ L J SOLDINGER ASSOCIATES, LLC

Deer Park, Illinois

December 10, 2018

We have served as the Company's auditor since 2018.

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**YERBA OREGON, LLC**  
**Balance Sheets**  
**December 31, 2017 and 2016**

	<b>2017</b>	<b>2016</b>
<b><u>ASSETS</u></b>		
<b>CURRENT ASSETS:</b>		
Cash	\$ 338,857	\$ 64,518
Receivables	171,153	4,905
Prepaid expenses	30,770	65,757
Inventory	747,012	555,900
<b>Total current assets</b>	<b>1,287,792</b>	<b>691,080</b>
Property, plant and equipment, net	1,272,708	1,298,605
Intangible assets, net	35,000	35,000
Other assets	22,500	28,947
<b>TOTAL ASSETS</b>	<b>\$ 2,618,000</b>	<b>\$ 2,053,632</b>
<b>LIABILITIES AND MEMBERS' EQUITY</b>		
<b>CURRENT LIABILITIES:</b>		
Accounts payable and accrued liabilities	\$ 109,845	\$ 107,076
Accrued interest – related party	117,020	63,118
Short term notes payable – related party	515,585	804,155
Deferred revenue	9,600	-
Current portion of notes payable	5,299	-
<b>Total current liabilities</b>	<b>757,349</b>	<b>974,349</b>
Long term liabilities		
Notes payable, less current portion	20,716	-
<b>TOTAL LIABILITIES</b>	<b>778,065</b>	<b>974,349</b>
Commitments and contingencies	-	-
<b>Members' equity</b>		
Total members' equity	1,839,935	1,079,283
<b>TOTAL LIABILITIES AND MEMBERS' EQUITY</b>	<b>\$ 2,618,000</b>	<b>\$ 2,053,632</b>

The accompanying notes are an integral part of these audited financial statements.

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	<u>2017</u>	<u>2016</u>
<b>Revenues</b>	\$ 3,888,012	\$ 687,857
<b>Cost of revenues</b>	1,999,175	479,593
<b>Gross profit</b>	<u>1,888,837</u>	<u>208,264</u>
<b>Operating expenses</b>		
General and administrative	643,441	502,329
Sales and marketing	97,756	71,556
Professional fees	50,851	51,049
Depreciation, amortization and impairment	281,137	159,258
Total operating expenses	<u>1,073,185</u>	<u>784,192</u>
Income (Loss) from operations	815,652	(575,928)
Interest expense – related party	<u>(53,902)</u>	<u>(53,495)</u>
Income (loss) before income tax	761,750	(629,423)
Income tax	(1,098)	-
Net income (loss)	<u>\$ 760,652</u>	<u>\$ (629,423)</u>

The accompanying notes are an integral part of these audited financial statements.

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**YERBA OREGON, LLC**  
**Statements of Changes in Members' Equity**  
**Years ended December 31, 2017 and 2016**

	<b>Members' Equity(Deficit)</b>
Balance, December 31, 2015	\$ (171,294)
Capital contributions	1,880,000
Net income (loss)	<u>(629,423)</u>
Balance, December 31, 2016	1,079,283
Net income (loss)	<u>760,652</u>
Balance, December 31, 2017	<u>\$ 1,839,935</u>

The accompanying notes are an integral part of these audited financial statements.

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**YERBA OREGON, LLC**  
**Statements of Cash Flows**  
**Years ended December 31, 2017 and 2016**

	<u>2017</u>	<u>2016</u>
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
Net income (loss)	\$ 760,652	\$ (629,423)
Adjustments to reconcile net income (loss) to net cash used in operating activities:		
Depreciation and amortization	281,137	159,258
Changes in operating assets and liabilities:		
Receivables	(166,248)	(4,905)
Prepaid expenses	43,108	(63,257)
Inventory	(191,112)	(555,900)
Other assets	(1,675)	(6,447)
Accounts payable and accrued liabilities	2,770	92,736
Accrued interest, related party	53,902	53,495
Deferred revenue	9,600	-
Net cash provided by (used in) operating activities	<u>792,134</u>	<u>(954,443)</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>		
Purchase of property, plant, and equipment	<u>(226,335)</u>	<u>(556,891)</u>

Net cash used in investing activities	(226,335)	(556,891)
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>		
Repayment of notes payable – related party	(303,570)	-
Proceeds from short term notes payable, related party	15,000	555,646
Payments on notes payable	(2,890)	-
Proceeds from capital contributions	-	880,000
Net cash (used in) provided by financing activities	(291,460)	1,435,646
Net increase (decrease) in cash	274,339	(75,688)
Cash at beginning of period	64,518	140,206
<b>Cash at the end of the period</b>	<b>\$ 338,857</b>	<b>\$ 64,518</b>
<b>Supplemental Disclosure of Cash Flows Information:</b>		
Cash paid for interest	\$ -	\$ -
Cash paid for income taxes	\$ -	\$ -
<b>Non-cash Investing and Financing Activities:</b>		
Advances from related party reclassified to capital contribution	\$ -	\$ 1,000,000
Financed equipment purchase	\$ 28,905	-

The accompanying notes are an integral part of these audited financial statements.

**YERBA OREGON, LLC  
NOTES TO FINANCIAL STATEMENTS**

**Note 1 – Nature of Business**

Yerba Oregon, LLC (the Company) was formed in the state of Oregon on February 13, 2015 with a perpetual existence. The Company’s initial principal business to supply marijuana product to the medical market. When Oregon legalized recreational marijuana, the Company applied for and was granted a marijuana producer license in April 2016 and its license to supply medical marijuana was returned to the state per state regulations. The Company is a wholesale producer of recreational marijuana flower, by-product and pre-roll product in the state of Oregon.

The Company operates using the name “Yerba Buena a Fine Cannabis Company” and registered the name as an Assumed Name in the state of Oregon in January 2016.

*Going Concern*

These audited financial statements have been prepared on a going concern basis, which assumes that the Company will be able to realize its assets and discharge its liabilities in the normal course of business. While the recreational use of cannabis is legal under the laws of the state of Oregon, where the Company is both domiciled and operates from, the use and possession of cannabis is illegal under United States Federal law for any purpose, by way of Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, otherwise known as the Controlled Substances Act of 1970 (the “ACT”). Cannabis is currently included under Schedule 1 of the Act, making it illegal to cultivate, sell or otherwise possess in the United States.

On January 4, 2018 the office of the Attorney General published a memo regarding cannabis enforcement that rescinds directives promulgated under former President Obama that eased federal enforcement. In a January 8, 2018 memo, Jefferson B. Sessions, then Attorney General of the United States, indicated enforcement decisions will be left up to the U.S. Attorney’s in their respective states, clearly indicating that the burden is with “federal prosecutors deciding which cases to prosecute by weighing all relevant considerations, including federal law enforcement priorities set by the Attorney General, the seriousness of the crime, the deterrent effect of federal prosecution, and the cumulative impact of particular crimes on the community.” Subsequently, in April 2018, President Trump promised to support congressional efforts to protect states that have legalized the cultivation, sale and possession of cannabis, however, a bill has not yet been finalized in order to implement legislation that would, in effect, make clear the federal government cannot interfere with states that have voted to legalize cannabis.

These conditions raise substantial doubt as to the Company’s ability to continue as a going concern. Should the United States Federal Government choose to begin enforcement of the provisions under the Act, the Company and its owners could be prosecuted under the Act and the Company may have to immediately cease operations and/or be liquidated.

The financial statements do not include any adjustments relating to the recoverability and classification of recorded asset amounts, or amount and classification of liabilities that might result from this uncertainty.

**Note 2 – Summary of Significant Accounting Policies**

*Basis of Presentation*

The audited financial statements of the Company have been prepared in accordance with United States generally accepted accounting principles ("GAAP").

**YERBA OREGON, LLC**  
**NOTES TO FINANCIAL STATEMENTS**

**Note 2 – Summary of Significant Accounting Policies (continued)**

*Use of Estimates:*

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

The significant estimates include, but are not limited to, assumptions used in inventory valuation and useful life of fixed assets.

*Cash and Cash Equivalents*

For financial accounting purposes, cash and cash equivalents are considered to be all highly liquid investments with a maturity of three (3) months or less at the time of purchase.

*Accounts Receivables and Concentration of Credit Risk*

Receivables consist primarily of amounts due to the Company from its normal business activities. An allowance for doubtful accounts is to reflect the expected collectability of receivable based on past collection history, evaluation of economic conditions as they may impact our customers, and specific risks identified in the portfolio. The Company determines the past due status of trade receivables based on our terms with each customer. Account balances are charged off against the allowance for doubtful accounts when collection efforts have been exhausted and the account receivable is deemed worthless. Any subsequent recoveries of charged off account balances are recorded as income in the period received. As of December 31, 2017, and 2016, the Company has determined that an allowance for doubtful accounts was not warranted.

As of December 31, 2017, we had 2 customers who comprised 10% or more of our accounts receivable and their combined accounts receivable totaled approximately \$100,600. For December 31, 2016 we had one customer who comprised 99% of our accounts receivable.

For the year ended December 31, 2017 we had no customers with sales in excess of 10% of our revenue. For the year ended December 31, 2016 we had one customer with sales in excess of 10% of our revenue who represented approximately 13% of total revenue.

For the year ended December 31, 2017 and 2016 the Company had cash deposits in excess of the National Credit Union Share Insurance Fund (NCUSIF) insured limits of \$90,204 and \$0 respectively.

*Fair Value of Financial Instruments*

The carrying amounts of our financial instruments, including accounts receivable and accounts payable are carried at cost, which approximates their fair value due to their short-term maturities.

The Company follows the fair value measurement rules, which provides guidance on the use of fair value in accounting and disclosure for assets and liabilities when such accounting and disclosure is called for by other accounting literature. These rules establish a fair value hierarchy for inputs to be used to measure fair value of financial assets and liabilities. This hierarchy prioritizes the inputs to valuation techniques used to measure fair value into three levels: Level 1 (highest priority), Level 2, and Level 3 (lowest priority).

**YERBA OREGON, LLC**  
**NOTES TO FINANCIAL STATEMENTS**

**Note 2 – Summary of Significant Accounting Policies (continued)**

*Fair Value of Financial Instruments (cont'd):*

Level 1— Quoted prices in active markets for identical assets or liabilities that the Company has the ability to access at the balance sheet date.

Level 2— Observable inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly. Level 2 inputs include quoted prices for similar assets and liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active, inputs other than quoted prices that are observable for the asset or liability (i.e., interest rates, yield curves,



etc.), and inputs that are derived principally from or corroborated by observable market data.

Level 3— Inputs are unobservable and reflect the Company’s assumptions as to what market participants would use in pricing the asset or liability. The Company develops these inputs based on the best available information.

#### *Inventory*

Inventories consisted of finished goods and work-in-progress. Finished goods consists of flower product, by-product from the flower product and pre-roll product ready for sale. Work-in-process consists of live plant in various stages of development, harvested product waiting for processing and product being processed to products for sales, finished goods. Inventory is valued using the specific identification method at the lower of cost consisting of direct costs, overhead and estimated shrinkage occurring during the inventory process of finished goods or net realizable value of inventory categories.

#### *Vendor Concentration*

The Company does not have any purchases from any one vendor comprising more than 10% of total purchases for 2017 and 2016. The Company does not believe it is substantially dependent upon nor exposed to any significant concentration risk related to purchases from any single vendor.

#### *Concentration risk*

The recreational use of cannabis is legal under the laws of the state of Oregon as well as 9 other states in the U.S. Licenses for the sale of recreational cannabis limits sales to within the state in which the license is issued. The use and possession of cannabis continues to be illegal under United States Federal law for any purpose, by way of Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, otherwise known as the Controlled Substances Act of 1970 (the “ACT”). As a result of these and other limitations imposed on the Company’s business operations relative to its licensed area of operations, the Company may be substantially exposed to additional operational risks which may occur in the event there are adverse changes to State policy, Federal policy, tax laws, or over expansion of the cannabis market within the State, resulting in an inability to effectively monetize products and carry out profitable operations.

#### *Property and Equipment*

Property and equipment are recorded at cost less accumulated depreciation. Expenditures that materially extend the useful life of an asset are capitalized. Repairs and maintenance are expensed as incurred. Depreciation is calculated using the straight-line method over the estimated useful lives of assets of generally seven years. Assets are depreciated starting at the time they are placed into service.

Leasehold improvements are amortized over the shorter of the lease term (including reasonably assured renewal periods) which range from three to six years or their estimated useful life.

## **YERBA OREGON, LLC NOTES TO FINANCIAL STATEMENTS**

### **Note 2 – Summary of Significant Accounting Policies (continued)**

#### *Intangible assets*

Intangible assets are evaluated to determine their estimated useful life or if an indefinite life asset is present. For assets with an estimated useful life are amortized using a straight-line method over their useful life. Intangibles are evaluated annually for impairment each December 31 of each year. The Company has evaluated its intangibles for impairment and determined that no impairment was necessary as of December 31, 2017.

Intangible asset is comprised of the Company’s domain name – “www.yerbabuena.com”.

#### *Impairment of long-lived assets*

The Company evaluates the carry value of its long-lived assets and infinite-lived intangibles for events or changes in circumstances indicate the carrying amounts may not be recoverable. If such indicators are present, the Company assesses the recoverability of affected assets by determining whether the carrying value of such assets is less than the sum of the undiscounted future cash flows of the assets. If such assets are found not to be recoverable, the Company measures the amount of such impairment by comparing the carrying value of the assets to the fair value of the assets, with the fair value generally determined based on the present value of the expected future cash flows associated with the assets. No impairment has been recorded for the periods ended December 31, 2017 and 2016.

#### *Revenue Recognition*

The Company recognizes revenue in accordance with ASC 605, *Revenue Recognition*. Revenue is recognized when all the following criteria have been met:

- i) persuasive evidence of an arrangement exists;
- ii) delivery has occurred, or services have been rendered;

- iii) the sales price is fixed or determinable; and
- iv) collectability is reasonably assured.

#### *Sales Discounts*

The Company classifies discounts given to customers for product purchased as a reduction to sales revenues.

#### *Advertising Costs*

Advertising costs are expensed as incurred. Advertising expense was \$35,493 and \$33,416 for the fiscal years ended December 31, 2017 and 2016, respectively.

#### *Research and Development*

Research and development (“R&D”) costs are charged to expense as incurred and are included in general and administrative costs in the accompanying statement of operations. R&D expenses were \$27,512 and \$43,350 for the years ended December 31, 2017 and 2016 respectively.

#### *Recent accounting pronouncements*

In May 2014, the FASB issued “*Revenue from Contracts with Customers*, as amended.” The standard is a comprehensive new revenue recognition model that requires revenue to be recognized in a manner to depict the transfer of goods or services to a customer at an amount that reflects the consideration expected to be received in exchange for those goods or services. The accounting guidance also requires additional disclosure about the nature, amount, timing and uncertainty of revenue and cash flows arising from customer contracts, including significant judgements and changes in judgements and assets recognized from costs incurred to obtain or fulfill a contract. In July 2015, the FASB approved a one-year delay in the effective date. The adoption of this guidance is not expected to have a significant impact on the Company’s financial statements.

## YERBA OREGON, LLC NOTES TO FINANCIAL STATEMENTS

### **Note 2 – Summary of Significant Accounting Policies (continued)**

#### *Recent accounting pronouncements (cont’d)*

In August 2016, the FASB issued ASU No. 2016-15, “Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments”. This standard clarifies the presentation of certain specific cash flow issues in the Statement of cash flows. The standard is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2017, with early adoption permitted. The adoption of this guidance is not expected to have a significant impact on the Company’s financial statements. As an emerging growth company, the Company expects to adopt this standard in fiscal 2019.

In November 2016, the FASB issued ASU No. 2016-18, “Statement of Cash Flows (Topic 230): Restricted Cash”. This standard requires entities to show the changes in the total of cash, cash equivalents, restricted cash and restricted cash equivalents in the statement of cash flows and no longer present transfers between cash and cash equivalents and restricted cash and restricted cash equivalents in the statement of cash flows. This standard is effective for companies who are SEC filers for fiscal years beginning after December 15, 2017, including interim periods within those years, with early adoption permitted. The adoption of this guidance is not expected to have a significant impact on the Company’s financial statements. As an emerging growth company, the Company expects to adopt this standard in fiscal 2019.

In January 2017, the FASB issued ASU No. 2017-01, “Business Combinations (Topic 805): Clarifying the Definition of a Business”. This standard changed the definition of a business to help entities determine whether a set of transferred assets and activities is a business. This standard is effective for companies for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years, with early adoption permitted. The adoption of this guidance is not expected to have a significant impact on the Company’s financial statements. As an emerging growth company, the Company expects to adopt this standard in fiscal 2019.

In January 2017, the FASB issued Accounting Standards Update No. 2017-04, *Simplifying the Test for Goodwill Impairment (“ASU 2017-04”)*. This standard eliminates Step 2 from the goodwill impairment test. Instead, an entity should perform its annual or interim goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount and recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit’s fair value, not to exceed the total amount of goodwill allocated to the reporting unit. ASU 2017-04 is effective for the Company beginning January 1, 2020. The adoption is not expected to have a material impact on the consolidated financial statements.

In May 2017, the FASB issued ASU No. 2017-09, “Stock Compensation (Topic 718): Scope of Modification Accounting”. This standard clarifies when changes to the terms or conditions of a share-based payment award must be accounted for as a modification, with entities applying the modification accounting guidance if the value, vesting conditions or classification of the award changes. In addition to all disclosures about modifications that are required under the current guidance, entities will be also required to disclose that compensation expense has not changed if applicable. This standard is effective for companies who are SEC filers for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2017, with early adoption permitted, including any interim period for which financial statements have not yet been issued or made available for issuance. The adoption of this guidance is not expected to have a significant impact on the Company’s financial statements. As an emerging growth company, the Company expects to adopt this standard in fiscal 2019.

**YERBA OREGON, LLC**  
**NOTES TO FINANCIAL STATEMENTS**

**Note 2 – Summary of Significant Accounting Policies (continued)**

*Recent accounting pronouncements (cont'd)*

ASC Topic 606, *Revenue from Contracts with Customers* (“Topic 606”), is mandatorily effective for the Company in the first quarter of its next fiscal year, which begins on January 1, 2019. This ASC topic outlines a single comprehensive model for entities to use in accounting for revenue arising from contracts with customers and supersedes most existing revenue recognition guidance under U.S. GAAP. The core principle of the guidance is that an entity should recognize revenue when it transfers promised goods or services to customers in an amount that reflects the consideration to which the company expects to be entitled in exchange for those goods or services. Topic 606 also requires enhanced disclosures about the nature, amount, timing, and uncertainty of revenues and cash flows arising from contracts with customers. The Company has the option of adopting Topic 606 using either 1) a full retrospective approach, in which comparative periods presented would be adjusted to reflect the provisions of Topic 606, or 2) a modified retrospective approach, in which the cumulative effect of applying the new standards to open contracts as of January 1, 2019 would be recognized as a cumulative effect adjustment. The Company is currently reviewing the impact of Topic 606 and this guidance is not expected to have a significant impact on the Company’s consolidated financial statements.

*Income taxes*

The Company is a Limited Liability Company taxed as a Partnership under the Internal Revenue Code of the United States. Accordingly, for all periods presented, all earnings and loss passes through to the members’ personal income tax returns.

We record state level excise taxes as “income taxes” for financial statement reporting purposes. For the years ended December 31, 2017 and 2016 the company recorded \$1,098 and \$0 respectively.

**Note 3 – Inventory**

The following is a breakdown of inventory as at December 31, 2017 and 2016:

	<b>As of December 31,</b>	
	<b>2017</b>	<b>2016</b>
Finished goods	543,983	183,098
Work-in-progress	203,029	372,802
	<u>\$ 747,012</u>	<u>\$ 555,900</u>

**Note 4 – Property and Equipment, Net**

Property and equipment consisted of the following as of December 31, 2017 and 2016:

	<b>December 31,</b>	
	<b>2017</b>	<b>2016</b>
Vehicle or transport equipment	85,134	42,429
Machinery and equipment	1,026,226	911,297
Office equipment and tools	27,118	27,118
Leaseholder improvement	596,720	499,114
	<u>1,735,198</u>	<u>1,479,958</u>
Less accumulated depreciation and amortization	(462,490)	(181,353)
Property and equipment, net	<u>\$ 1,272,708</u>	<u>\$ 1,298,605</u>

Depreciation and amortization expense amounted to \$281,137 and \$159,258 for the years ended December 31, 2017 and 2016, respectively.

**YERBA OREGON, LLC**  
**NOTES TO FINANCIAL STATEMENTS**

**Note 5 – Accounts Payable and Accrued Liabilities**

Accounts payable and accrued liabilities at December 31, 2017 and 2016 consist of the following:

**December 31,**

	<u>2017</u>	<u>2016</u>
Customer deposits	\$ -	\$ 7,250
Accrued compensation and related taxes	60,261	12,526
Accrued expenses	49,584	87,300
	<u>\$ 109,845</u>	<u>\$ 107,076</u>

#### Note 6 – Note Payable

Notes payable consisted of the following as of December 31, 2017 and 2016:

	<u>December 31,</u>	
	<u>2017</u>	<u>2016</u>
Notes payable	\$ 26,015	\$ -
Less: current portion	(5,299)	-
Debt, long term	<u>\$ 20,716</u>	<u>\$ -</u>

In 2017, the Company financed the purchase of a tractor valued at \$28,905. The financing provided by the vendor was 0% interest for 60 months with monthly payments under the note of \$481. The Company chose not to record a discount when applying a fair value interest rate as the amount is immaterial.

Debt maturities as of December 31, 2017 are as follows:

2018	\$ 5,299
2019	5,781
2020	5,781
2012	5,781
2022	3,373
Total	<u>\$ 26,015</u>

#### Note 7 – Related Party Transactions

During the year ended December 31, 2015 the Company entered into various note agreements for total of \$254,155 with a Member of the Company. The loans bear interest at a rate of 8% per annum and are due two years from the date of execution. In the event of default, the unpaid principal balance will become immediately due and payable at the option of the holder, and the amount shall accrue interest at the rate of twelve (12) percent per annum or the highest rate permitted by law, whichever is less.

During the year ended December 31, 2016 the Company entered into various additional note agreements for a total of \$550,000 with the same Member of the Company. The loans bear interest at a rate of 8% per annum are due one year from the date of execution. In the event of default, the unpaid principal balance will become immediately due and payable at the option of the holder, and the amount shall accrue interest at the rate of twelve (12) percent per annum or the highest rate permitted by law, whichever is less.

### YERBA OREGON, LLC NOTES TO FINANCIAL STATEMENTS

#### Note 7 – Related Party Transactions (continued)

During the year ended December 31, 2017 the Company entered into an additional note agreement for total of \$15,000 from the same Member of the Company. The loans bear interest at a rate of 8% per annum are due one year from the date of execution. In the event of default, the unpaid principal balance will become immediately due and payable at the option of the holder, and the amount shall accrue interest at the rate of twelve (12) percent per annum or the highest rate permitted by law, whichever is less.

In the year ended December 31, 2017, the Company made repayments of \$303,570 on these notes. As of December 31, 2017, and 2016 the Company had a balance of short-term notes payable to a Member totaling \$515,585 and \$804,155 respectively.

#### Note 8– Commitments and Contingencies

On January 1, 2016, the Company entered into a sublease with Laurel Road Properties LLC, which is owned by two members of the Company. The initial term of the lease was 18 months, commencing on January 1, 2016. The initial base rent was \$5,000/month, increasing to \$7,000/month from February 1, 2016 to June 30, 2016, and thereafter increasing to \$7,500/month for the remaining term of the lease. In addition to this rent, there is a \$7,500 security deposit and prepaid rents of \$15,000 which were to be applied to the final two month's rent in the final year of the lease. The lease provides for an option to renew for three (3) additional 1-year terms on three months prior written notice, with the first extension year rent at \$8,000/month, the second-year extension rent at \$8,240/month, and the third extension year rent at \$8,488/month. The Company has exercised its right to renew for the first one-year term during fiscal 2017.

The Company has no future commitments under non-cancellable operating leases with terms longer than one year.

As noted earlier in Note 1, the Company engages in a business that constitutes an illegal act under the laws of the United States Federal Government. This raises several possible issues which may impact the Company's overall operations, not the least of which are related to traditional banking and other key operational risks. Since cannabis remains illegal on the federal level, and most traditional banks are federally insured, those financial institutions will not service cannabis businesses. In states where medical or recreational marijuana is legal, dispensary owners, manufacturers, and anybody who "touches the plant", continue to face a host of operational hurdles, including a reluctance by traditional banks to do business with them. Aside from a huge inconvenience and the need to find creative ways to manage financial flow, payroll logistics, and payment of taxes, this also poses tremendous risks to controls as a result of operating a lucrative business in cash. This lack of access to traditional banking may inhibit industry growth.

Despite the uncertainties surrounding the Federal government's position on legalized marijuana, the Company does not believe these risks will have a substantive impact on its planned operations in the near term.

#### **Note 9 – Membership Interest**

One of the Company's members contributed \$430,431 in July 2015, the Company also received a total of \$1,000,000 of advances in 2015 from two members, which were reclassified to Capital contributions in 2016. In 2016 the Company received \$880,000 in cash contributions from several members.

Each member can vote based on their membership interest as a percentage of the total membership interest. A member can voluntarily withdraw from the Company; however, they can be held liable for breach of the Company's operating agreement and for any damages arising from the withdrawal and will not be entitled to any distributions from the Company as a result of the withdrawal. Each member is subject to future capital contributions, which are determined by the managers of the Company, and if the member does not meet the capital call they will be considered in default until the contribution is made in the future. The defaulting member will not be allowed to vote on any issues or participate in any membership meetings until the default is cured.

### **YERBA OREGON, LLC NOTES TO FINANCIAL STATEMENTS**

#### **Note 9 – Membership Interest (continued)**

Profits are allocated to each member in an amount up to, but not exceeding, the aggregate amount of losses previously allocated to that member, with any additional profit and losses allocated to the members based on their ownership as a percentage of total ownership.

#### **Note 10 – Subsequent events**

During 2018 a member has made various loans to the Company totaling \$219,000 bearing annual interest of 8%.

As discussed more fully above in Note 8, the Company has exercised an option for a one-year renewal for its facility lease that expires in June 2019. Another option to renewal for one additional year through June 2020 is available under its lease. The Company has not yet decided if it will exercise its final option to renew its lease for one additional year.

On October 8, 2018 the Company entered into an Asset Purchase Agreement with Stem Holdings Inc. ("Stem"). Under the terms of the agreement, Stem will acquire from the Company all the assets comprising the Company's business and assume the related liabilities. The consideration to be paid by Stem includes: (i) \$350,000 in cash payable on closing; (ii) a \$400,000 non-negotiable promissory note (iii) \$3.86 million in common shares of Stem to be issued in two tranches, with \$1.58 million to be issued on closing at the then prevailing market price and \$2.28 million to be issued in June 2019 at the then prevailing market price. Closing of the transaction is expected to occur in January 2019 and is subject to regulatory approvals.

Stem Holdings, Inc.  
Pro Forma Balance Sheet  
See Accompanying Notes

	Historical September 30, 2018 Stem Holdings, Inc. <u>(Audited)</u>	Historical December 31, 2017 Yerba Oregon, LLC <u>(Audited)</u>	Proforma Adjustments <u></u>	Pro Forma Stem Holdings, Inc. <u></u>
<b>ASSETS</b>				
<b>Current Assets</b>				
Cash and cash equivalents	\$ 761,351	338,857	(338,857)(a)	\$ 411,351
			(350,000)(b)	
Prepaid expenses and other current assets	993,618	171,153	(171,153)(a)	993,618
Notes payable subscriptions receivable	150,000	30,770	(30,770)(a)	150,000
Inventory	-	747,012	-	747,012
<b>Total current assets</b>	<u>1,904,970</u>	<u>1,287,792</u>	<u>(890,780)</u>	<u>2,301,982</u>
<b>Property and equipment, net</b>	<u>9,108,799</u>	<u>1,307,708</u>	<u>200,000(b)</u>	<u>10,616,507</u>
<b>Other assets</b>				
Investment in equity method investees	1,301,166	-	-	1,301,166
Investment in affiliates	2,076,119	-	-	2,076,119
Goodwill	-	-	3,767,014(b)	3,767,014
Deposits and other assets	165,663	22,500	-	188,163
Deferred rent	1,442,335	-	-	1,442,335
<b>Total other assets</b>	<u>4,985,283</u>	<u>22,500</u>	<u>3,767,014</u>	<u>8,774,797</u>
<b>Total Assets</b>	<u>15,999,052</u>	<u>2,618,000</u>	<u>3,076,234</u>	<u>21,693,286</u>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>				
<b>Current liabilities</b>				
Accounts payable and accrued expenses	\$ 511,007	226,865	(109,845)(a)	628,027
Due to related parties	33,600	-	-	33,600
Convertible notes, net of debt discount	2,194,790	-	-	2,194,790
Short term notes and advances	1,268,073	515,585	-	1,783,658
Deferred revenue	-	9,600	(9,600)(a)	-
Current portion of long-term notes	169,988	5,299	-	175,287
<b>Total Current Liabilities</b>	<u>4,177,458</u>	<u>757,349</u>	<u>(119,445)</u>	<u>4,815,362</u>
<b>Long-term debt, net of long term portion</b>	<u>1,912,543</u>	<u>20,716</u>	<u>400,000(b)</u>	<u>2,333,259</u>
<b>Total Liabilities</b>	<u>6,090,001</u>	<u>778,065</u>	<u>280,555</u>	<u>7,148,621</u>
<b>Shareholders' Equity</b>				
Preferred stock, Series A; \$0.001 par value; 50,000,000 shares authorized, none outstanding as of September 30, 2018	-	-	-	-
Preferred stock, Series B; \$0.001 par value; 50,000,000 shares authorized, none outstanding as of September 30, 2018	-	-	-	-
Common stock; \$0.001 par value; 300,000,000 shares authorized; 10,177,496 and 6,354,860 shares issued, issuable and outstanding as of September 30, 2018 and September 30, 2017 respectively	10,582	-	1,931(b)	12,513
Members' equity	-	1,839,935	(1,839,935)(a)	-
Additional paid-in capital	19,809,215	-	1,418,600(a)	21,227,815
			3,215,083(b)	24,442,898
Accumulated deficit	(9,910,746)	-	-	(9,910,746)
<b>Total equity</b>	<u>9,909,051</u>	<u>-</u>	<u>-</u>	<u>9,909,051</u>
<b>Total Liabilities and Shareholders' Equity</b>	<u>\$ 15,999,052</u>	<u>2,618,000</u>	<u>3,076,234</u>	<u>\$ 17,057,672</u>

**Stem Holdings, Inc.**  
**Pro Forma Statement of Operations**  
 See Accompanying Notes

	<b>Stem Holdings, Inc. For the Year Ended 9/30/18 (Historical)</b>	<b>Yerba Oregon, LLC For the Year Ended 12/31/17</b>	<b>Pro Forma Adjustments</b>	<b>Pro Forma Stem Holdings Inc.</b>
<b>Revenues</b>	\$ 1,295,694	3,888,012		\$ 5,183,706
Cost of revenues		1,999,175		1,999,175
Consulting fee's	215,849	-		215,849
Professional fee's	778,992	50,851		829,843
General and administration	2,236,915	1,022,334	20,000(c)	3,279,249
General and administration-related party	-	-		-
Impairment of advance-related party	-	-		-
Stock based compensation	4,839,504	-		4,839,504
<b>Total expenses</b>	<b>8,071,260</b>	<b>3,072,360</b>	<b>20,000</b>	<b>11,163,620</b>
<b>Operating loss</b>	<b>\$ (6,775,566)</b>	<b>815,652</b>	<b>(20,000)</b>	<b>(5,979,914)</b>
<b>Other income and expenses</b>				-
Interest expense	(345,657)	(53,902)	(32,000)(c)	(431,559)
Interest income	440	-		440
Other income	44,388	-		44,388
Total other income	(300,829)	(53,902)	(32,000)	(386,731)
Income (Loss) from equity method investees	-	-		-
Net loss before income taxes	(7,076,395)	761,750	(52,000)	(6,366,645)
Provision for income taxes	-	(1,098)	-	(1,098)
<b>Net loss for the period</b>	<b>\$ (7,076,395)</b>	<b>760,652</b>	<b>(52,000)</b>	<b>(6,367,743)</b>
<b>Basic and diluted loss per common share</b>	<b>\$ (0.85)</b>	<b>-</b>	<b>-</b>	<b>(0.62)</b>
<b>Basic and diluted weighted average common shares outstanding</b>	<b>8,305,383</b>	<b>-</b>	<b>1,931,000</b>	<b>10,236,383</b>

**STEM HOLDINGS, INC.**  
**UNAUDITED PRO FORMA FINANCIAL STATEMENTS**

The pro forma financial statements reflect preliminary estimates and assumptions based on the information available at the time of preparation, including, but not limited to, the preliminary estimates of the fair value of the assets acquired. The pro forma financial statements should be read in conjunction with:

- The audited financial statements of Stem Holdings, Inc. included in our Form 10-K on January 14, 2019 and the audited financial statements of Yerba Oregon, LLC included herein in this Form 8-K.
- The pro forma financial statements include the impact of the following transactions as if they occurred at the inception of the Company:
- Purchase of certain assets, the assumption of certain liabilities and the acquisition of the operations of Yerba Oregon, LLC as if they had occurred on October 1, 2017.

The unaudited pro forma consolidated financial data is presented for comparative purposes only and is not necessarily indicative of what would have been our actual consolidated financial position or results on the date and for the periods presented and does not purport to represent our future consolidated financial position or results. The unaudited pro forma consolidated financial data should be read in conjunction with and is qualified in its entirety by our historical consolidated financial statements and related notes and the historical consolidated financial statements

and related notes of the acquired farm included in this filing.

## **1. BASIS OF PRO FORMA PRESENTATION**

The unaudited pro forma financial statements have been derived from the historical financial statements of Stem Holdings, Inc. after giving effect to the probable acquisition of certain assets, the assumption of certain liabilities and the operations of Yerba Oregon LLC. The unaudited pro forma balance sheet includes the accounts of Stem Holdings, Inc. as of September 30, 2018 and those of Yerba Oregon, LLC as of December 31, 2017 with adjustments to reflect the negotiated purchase price in accordance with the requirements of US GAAP. The pro forma statements of operations include the year ended September 30, 2018 for Stem Holdings, Inc. and the year ended December 31, 2017 for Yerba Oregon, LLC and have been adjusted to show the results for those periods as if the acquisition occurred on October 1, 2017.

Historical financial information has been adjusted in the pro forma balance sheet and statements of operations to give effect to pro forma events that are: (1) directly attributable to the Acquisition; (2) factually supportable; and (3) expected to have a continuing impact on the Company's balance sheet and results of operations.

## **2. PRO FORMA ADJUSTMENTS**

The adjustments included in the pro forma balance sheet are as follows:

- (A) To adjust the historical balance sheet of Yerba Oregon, LLC to reflect assets not acquired and liabilities not assumed as part of the acquisition agreement for Yerba Oregon, LLC
- (B) To adjust the historical balance sheet of Stem Holdings, Inc. for the purchase price paid to acquire certain assets, assume certain liabilities and acquire the operations of Yerba Oregon, LLC. The adjustments also include a preliminary allocation of the purchase price in accordance with US GAAP.

The adjustments included in the pro forma statement of operations for the year ended September 30, 2018 are as follows:

- (C) Depreciation expense for the adjusted assets acquired or expected to be acquired have been calculated on the straight line basis over their expected useful life as if the assets were acquired on the date of the Company's inception. In addition, interest expense has been included as if the acquisition had been completed on October 1, 2017.