

OPERATING AGREEMENT OF
_____, **LLC**
A _____ LIMITED LIABILITY COMPANY

THE LIMITED LIABILITY COMPANY INTERESTS EVIDENCED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION, BUT HAVE BEEN ISSUED PURSUANT TO EXEMPTION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE HOLDER OF SAID LIMITED LIABILITY COMPANY INTERESTS HAS EXECUTED AN INVESTMENT REPRESENTATION WITH RESPECT THERETO. ACCORDINGLY, THE SALE, TRANSFER, PLEDGE, HYPOTHECATION, OR OTHER DISPOSITION OF ANY OF SAID LIMITED LIABILITY COMPANY INTERESTS IS RESTRICTED AND MAY NOT BE ACCOMPLISHED EXCEPT IN ACCORDANCE WITH SUCH INVESTMENT REPRESENTATION, THIS AGREEMENT, AND/OR APPLICABLE REGISTRATION STATEMENT OR AN OPINION OF COUNSEL FOR THE LIMITED LIABILITY COMPANY THAT A REGISTRATION STATEMENT IS UNNECESSARY.

THE OFFERING OF THESE UNITS HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF ANY STATE SECURITIES ACT. THE UNITS ARE BEING OFFERED AND SOLD ONLY TO PURCHASER(S) WHO MEET(S) CERTAIN REQUIREMENTS AND WHO PURCHASE(S) UNITS WITHOUT A VIEW TO DISTRIBUTION OR RESALE.

In accordance with the _____ Law and subject to the Articles of Organization, which were filed on _____, with the Secretary of State of _____, _____, the members of _____ ("Company"), adopt the following operating agreement regarding the conduct of the business and affairs of Company:

ARTICLE I. ORGANIZATIONAL MATTERS

1. **Definition of Terms.** When used in this agreement, the following terms have the meanings set forth here:

"Act" means the regulations pursuant to _____ State Law.

"Agreement" means this operating agreement, as originally executed and as amended from time to time.

"Article" means an article of this Agreement.

"Articles of Organization" means the Articles of Organization for the Company filed under the Act, including all amendments thereto or restatements thereof.

"Available cash" of the Company means all cash funds of the Company on hand from time to time (other than cash funds obtained as contributions to the capital of the Company by the members and cash funds obtained from loans to the Company), after (1) payment of all operating expenses of the Company as of such time, (2) provision for payment of all outstanding and unpaid current obligations of the Company as of such time, and (3) provision for a working capital reserve.

"Bankrupt" or "Bankruptcy" means, with respect to any person, being the subject of any order for relief under Title 11 of the United States Code, or any successor statute.

"Capital Account" means the individual account or accounts established and maintained pursuant to Article II, Paragraph 3 ("Capital and Capital Accounts").

“Capital Contribution” means the total value of cash and agreed fair market value of property contributed and agreed to be contributed to the Company by each member, as set forth in Article II, Paragraph 1 (“Identities and Initial Capital Contributions of Members”), as the same may be amended from time to time.

“Company” means Company, a _____ limited liability company.

“Entity” means any association, corporation, general partnership, limited partnership, limited liability company, joint stock association, joint venture, firm, trust, business trust, cooperative, and foreign association of like structure.

“Interest” in the Company means the entire ownership interest of a Member in the Company at any particular time, including the right of the member to any and all benefits to which a Member may be entitled as provided in this Agreement and under the Act, together with the obligations of the member to comply with all of the terms and provisions of this Agreement.

“Manager” means the person or persons elected by the Members of the Company to manage it. The initial Manager(s) shall be _____.

“Member” means a person who: (1) has been admitted to the Company as a Member in accordance with the Articles of Organization or Operating Agreement, or an assignee of an interest in the Company who has become a Member and (2) has not withdrawn, or been expelled as a Member or, if other than an individual, been dissolved.

“Paragraph” means a paragraph of this Agreement.

“Principal Office” means any office designated by the managers in the United States and as may be changed from time to time by the Manager.

“Substitute Member” means any individual or entity that is admitted into membership on the written consent of all Members in accordance with Article IV, Paragraph 3 (“Substitute Members”).

“Tax Matters Member” means the member chosen pursuant to Internal Revenue Code section 6231(a)(7) to deal with the Internal Revenue Service on tax matters.

2. **Formation of Company.** The Member has formed a limited liability company under the Act by properly executing and filing the Articles and executing this Agreement. The rights, duties, and liabilities of the Member and the Manager are determined pursuant to the Act, the Articles of Organization, and this Agreement.

3. **Company Name.** The name of the Company is _____. The Company will transact business under that name.

4. **Company Purpose.** The purpose of the Company is to provide services and conduct such related business as is necessary to accomplish the Company purpose.

5. **Duration of Company and Agreement.** The duration of the Company and this Agreement is until the Company is dissolved pursuant to this Agreement.

ARTICLE II. MEMBERS AND CAPITAL CONTRIBUTIONS

1. **Identity and Initial Capital Contribution of Member.** The name of the initial Member, his initial Capital Contribution to the Company, and his respective Percentage Interest in the Company are as follows:

| Member | Capital Contribution | Percentage Interest | Membership Units |
|--------|----------------------|---------------------|------------------|
| _____ | | | |
| _____ | | | |

The Member agrees to make the initial contribution set forth above within 10 days of execution of this agreement.

2. **Future Contributions.** Each Member is required to make additional contributions based on their proportionate interest in the Company. The minimum capital contribution per annum (in total) shall be \$10.00. The annual capital contribution may be made in the form of cash or assets. Upon a unanimous vote of all the Members, the annual capital contribution may be increased, but never decreased less than \$10.00.

3. **Dilution.** Notwithstanding any provision that may be contrary in this Agreement, all Members acknowledge that the admission of additional capital or contribution by Members may result in dilution of a Members percentage interest in the Company if a Member fails to contribute the amount required by his or hers percentage interest in the Company. Dilution may be reversed if the Member in question contributes the proper amount based on his or hers percentage interest in the Company.

4. **Capital and Capital Accounts.** (a) The initial Capital Contribution of each Member is as set forth in Article II, Paragraph 1 (“Identities and Initial Capital Contributions of Members”). No interest may be paid on any Capital Contribution.

(b) The Company will establish and maintain individual Capital Accounts on behalf of each Member, including any additional or Substituted Member who shall subsequently receive any interest in the Company. The capital account of each Member consists of (1) the amount of cash the Member has contributed to the Company, plus (2) the agreed fair market value of any property the Member has contributed to the Company, less any liabilities assumed by the Company or to which the property is subject, plus (3) the amount of profits or income (including tax-exempt income) allocated to the Member, less (4) the amount of losses and deductions allocated to the member, less (5) the amount of all cash distributed to the Member, less (6) the fair market value of any property distributed to the Member, net of any liability assumed by the Member or to which they property is subject, less (7) the Member’s share of any other expenditures that are not deductible by the Company for federal income tax purposes or that are not allowable as additions to the basis of Company property, and (8) subject to any other adjustments that may be required under the Internal Revenue Code. The Capital Account of a member is not affected by any adjustments to basis made pursuant to section 743 of the Internal Revenue Code, but must be adjusted with respect to adjustments to basis made pursuant to section 734 of the Internal Revenue Code.

(c) No Member has the right to withdraw his or her Capital Contribution or to demand and receive property of the Company or any distribution in return for his or her Capital Contribution, except as may be specifically provided in this Agreement or required by law. No Member may receive out of Company property any part of his, her, or its capital contribution until (1) all liabilities of the Company, except liabilities to Members on account of their loans, have been paid or sufficient Company property remains to pay them, and (2) all Members consent, unless the return of the contribution to capital is rightfully demanded as provided in the Act.

(d) Subject to the provisions of subparagraph (c) of this paragraph, a Member may rightfully demand the return of his or her or its Capital Contribution (1) on the dissolution of the Company, or (2) as may otherwise be provided in the Act. A member may demand and receive only cash in return for the Member's Capital Contribution.

(e) Notwithstanding any other provision in this Agreement, to the extent a Member's interest is subject to a charging order, or has been foreclosed upon by a creditor holding a charging order, then the Manager of the Company may withhold any distributions from that Member.

5. **Admission of Additional Capital.** Except as set forth in Section 2, additional capital may be contributed to the Company, but only on the written consent or vote of a Majority of the Interests eligible to vote at a properly called meeting of the members.

6. **Transactions with the Company.** Subject to any limitations set forth in this Agreement, and with the prior approval of the Manager after full disclosure of the Member's involvement, a Member may lend money to and transact other business with the Company. Subject to other applicable law, such Member has the same rights and obligations with respect to such transactions as a person or entity who is not a Member. Loans or services by any Member to the Company may not be considered to be contribution to the capital of the Company.

7. **Remuneration to Members.** Except as otherwise authorized in, or pursuant to, this Agreement, no Member is entitled to remuneration for acting in the Company business, subject to the entitlement of the Manager or Members winding up the affairs of the Company to reasonable compensation therefor.

8. **Limitation on Liability.** No Member is liable under a judgment, decree, or order of the court, or in any other manner, for a debt, obligation, or liability of the Company, except as provided by law. No Member is required to loan any funds to the Company.

9. **No Individual Authority.** Unless expressly provided in this Agreement, no Member, acting alone, has any authority to act for, or to undertake or assume, any obligation, debt, or responsibility on behalf of, any other Member of the Company.

10. **No Member Responsible for Other Member's Commitment.** In the event that a Member has incurred any indebtedness or obligation before the date of this Agreement that relates to or otherwise affects the Company, neither the Company nor any other Member has any liability or responsibility with respect to the indebtedness or obligation unless the indebtedness or obligation is assumed by the Company pursuant to a written instrument signed by all Members. Furthermore, neither the Company nor any Member is responsible or liable for any indebtedness or obligation that is subsequently incurred by any other Member. In the event that a Member (called the "liable Member"), whether before or after the date of this Agreement, incurs (or has incurred) any debt or obligation that neither the Company nor any of the other Members is to have any responsibility or liability for, the liable Member must indemnify and hold harmless the Company and the other Members from any liability or obligation they may incur in respect of the debt or obligation.

11. **Admission of Additional Members.** The Members may admit to the Company additional members to participate in the profits, losses, available cash flow, and ownership of the assets of the Company on such terms as are determined by all of the Members. Admission of any additional Member under this paragraph requires the written consent of a _____% of the Members and consent of the Manager. Any additional Members are allocated gain, loss, income, or expense by the method provided in this Agreement.

ARTICLE III. VOTING RIGHTS AND MEETINGS OF MEMBERS

1. **Voting Rights of Members.** Except as expressly provided in this Agreement or in the Articles of Organization, Members shall have no voting, approval, or consent rights.

2. **Majority Vote Required.** The following matters shall require the affirmative vote of _____% of the Interests eligible to vote at a properly called meeting of the Members:

(a) The reorganization or merger of the Company or the sale, exchange, pledge or other transfer of all or a substantial part of the assets of the Company other than in the ordinary course of business;

(b) A fundamental change in the nature of the Company's business;

(c) Any amendment of this Agreement or the Articles of Organization;

(d) Dissolution of the Company;

(e) A decision to continue the business of the Company after the occurrence of a Dissolution Event;

(f) The transfer of a Member's Interest and admission of the transferee as a Substitute Member of the Company;

(g) Any decision to compromise the obligation of a Member to make a Capital Contribution or to return money or property paid or distributed in violation of this Agreement or the Act.

(h) Election and removal of the Manager;

(i) Admission of a new Member other than pursuant to a transfer of an existing Member's Interest;

(j) Any changes in the limitations on the Manager's authority;

(k) Transactions between the Company and the Manager or any affiliate of the Manager, or transactions in which any Manager has an actual or potential conflict of interest with the Company;

(l) A setting of or change in the management fee paid to the Manager;

(m) Hiring or discharging employees or independent contractors;

(n) Executing appropriate financing documentation, including, without limitations, in connection with promissory notes, debt securities, mortgages, guarantees, and other debt instruments, whether unsecured or secured by all or any portion of the properties, in connection with the properties, investment opportunities, or for any other purpose.

3. **Date, Time, and Place of Meetings; Secretary.** Meetings of the Members may be held at any place, either within or without this state, selected by the Manager or the person or persons calling the meeting. If no other place is stated or so fixed, all meetings shall be held at the principal executive office of the Company. No annual or regular meetings of Members are required. At any Members' meeting, the Manager shall appoint a person to preside and shall appoint a person to act as secretary. The secretary shall prepare minutes of the meeting and shall place them in the minute book of the Company.

4. **Power to Call Meetings.** Unless otherwise prescribed by the Act, any Member holding more than five percent of the outstanding shares of the Company may call a meeting of the Members. Meetings may be called for the purpose of addressing any matters upon which the Members may vote.

5. **Notice.** Whenever Members are required or permitted to take any action at a meeting, a written notice of the meeting shall be given not less than ten (10) days, nor more than sixty (60) days, before the day of the meeting to each Member entitled to vote at the meeting. The notice shall state the place, date and hour of the meeting and the general nature of the business to be transacted. No other business may be transacted at this meeting.

6. **Notice Upon Request.** Upon written request to the Manager by any person or persons entitled to call a meeting of Members, the Manager shall immediately cause notice to be given to the Members entitled to vote that a meeting will be held at the time requested by the person calling the meeting, not less than ten (10) days or more than sixty (60) days after the receipt of the request. If the notice is not given within two (2) days of receipt of the request, the person entitled to call the meeting may give the notice.

7. **Quorum.** Members holding a supermajority of the shares eligible to vote at a meeting of the Members, in person or by proxy, shall constitute a quorum at a meeting of Members. In the absence of a quorum, any meeting of Members may be adjourned from time to time by a vote of majority of the shares represented either in person or by proxy, but no other business may be transacted except as provided in this paragraph.

8. **Adjournment.** When a meeting of the Members is adjourned to another place or time, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Company may transact any business that may have been transacted at the original meeting. If the adjournment is for more than 45 days, or if after the adjournment a new record date is fixed for the adjourned meeting, notice of the adjourned meeting shall be given to each Member of record entitled to vote at the meeting.

9. **Waiver of Notice.** Actions taken at any meeting of Members, however called and noticed, and wherever held, have the same validity as if taken at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the Members entitled to vote, not present in person or by proxy, signs a written waiver of notice or consents to the holding of the meeting or approves the minutes of the meeting. All waivers, consents, and approval shall be filed with the Company records or made a part of the minutes of the meeting. Attendance of a person at a meeting shall constitute a waiver of notice of the meeting, except when the person objects at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened. Attendance at a meeting is not a waiver of any right or objection to the consideration of the matters required by this Article to be included in the notice, but not so included, if the objection is expressly made at the meeting.

10. **Telephonic Conference.** Members may participate in a meeting of the Company through the use of conference telephones or similar communications equipment, as long as all Members participating in the meeting can hear one another. Participating in a meeting pursuant to this provision constitutes presence in person at that meeting.

11. **Action by Written Consent Without Meeting.** Any action that may be taken at any meeting of the Members may be taken without a meeting, if a consent in writing, setting forth the action so taken, is signed and delivered to the Company within sixty days of the record date for that action by Members having not less than the minimum number of votes that would be necessary to authorize or take that action at a meeting at which all Members entitled to vote thereon were present and voted. All such consents shall be filed with the Company and kept in the minute book of the Company. Unless the

consents of all Members entitled to vote have been solicited in writing, notice of any Member approval of an amendment to the Articles of Organization or this Operating Agreement, a dissolution of the Company, or a merger of the Company, without a meeting, by less than unanimous written consent, shall be given at least ten days before the consummation of the action authorized by such approval; and prompt notice shall be given of the taking of any other action approved by the Members without a meeting by less than unanimous written consent, to those Members entitled to vote who have not consented in writing. Any Member giving a written consent, or the Member's proxy holder, may revoke the consent by a writing received by a Manager prior to the time the written consents of the Members having the minimum number of votes that would be required to authorize the proposed action have been filed with the Company, but may not do so thereafter. This revocation is effective upon its receipt by the Manager at the principal executive office of the Company.

12. **Proxies.** Every Member entitled to vote for a Manager or on any other matters shall have the right to do so either in person or by one or more agent authorized by a written proxy signed by the person and filed with the Manager of the Company. A proxy may be transmitted by an oral telephonic transmission if it is submitted with information from which it may be determined the proxy was authorized by the Member or the Member's attorney-in-fact. A validly executed proxy which does not state that it is irrevocable shall continue in full force and effect unless (i) it is revoked by the person executing it, before the vote pursuant to that proxy, by a writing delivered to the Manager of the Company stating that the proxy is revoked, or by a subsequent proxy executed by or attendance at the meeting and voting in person by the person executing the proxy; or (ii) written notice of the death or incapacity of the maker of that proxy is received by the Company before the vote pursuant to that proxy is counted; provided, however, that no proxy shall be valid after the expiration of eleven months from the date of the proxy, unless provided in the proxy.

13. **Record Date.** In order that the Company may determine the Members of record entitled to notices of any meeting or to vote, or entitled to receive any distribution or to exercise any rights in respect of any other lawful action, the Manager may fix, in advance, a record date that is not more than sixty (60) days or less than ten (10) days prior to the day of the meeting and not more than sixty (60) days prior to any other action.

ARTICLE IV. TRANSFER AND ASSIGNMENT OF INTERESTS

1. **Transfer and Assignment of Membership Interests.** Except as provided in this Agreement, no Member may assign, convey, sell, encumber, or in any way alienate all or any part of his or her Interest in the Company as a Member without the prior written consent of all the other Members, which consent may be given or withheld, conditioned or delayed (as allowed by this Agreement or the Act), as the remaining Members may determine in their sole discretion. Transfers in violation of this section are effective only to the extent set forth in Article IV, Paragraph 6 ("Effect of Invalid Transfer"), below.

2. **Further Restrictions on Membership Transfers.** No Member may assign, convey, sell, encumber, or in any way alienate all or any part of his or her interest in the Company (1) without registration under applicable federal and state securities laws, or unless such registration is not required; or (2) if the interest to be sold or exchanged, when added to the total of all other sold or exchanged in the preceding twelve consecutive months prior to that time, would result in the termination of the Company under section 708 of the Internal Revenue Code.

3. **Permitted Transfers.** Notwithstanding the provisions of Paragraph 1, any Member may transfer all or part of his or her Membership interest by gift, bequest or devise, to a parent, brother, sister, descendant or any trust or corporation in which he or her such parent, brother, sister or descendant is the majority beneficial owner, if the transferee agrees in writing delivered to the Manager to assume all the obligations and undertakings of the transferor under this Agreement.

4. **Substitute Members.** A transferee may become a Substitute Member if (1) the requirements of Paragraph 1 of this Article, are met; (2) the person executes an instrument satisfactory to the remaining Members accepting and adopting the terms and provisions of this Agreement; and (3) the person pays all reasonable expenses in connection with his or her admission as a remaining Member.

5. **Effect of Valid Transfer.** Any permitted transfer of all or any portion of a Member's interest in the company takes effect on the first day of the month following receipt by the Members of written notice of transfer. Any transferee of an interest in the company takes subject to the restrictions on transfer imposed by this Agreement.

6. **Effect of Invalid Transfer.** On a transfer of a Member's interest in the Company in violation of this Agreement, the transferee has no right to participate in the management of the business and affairs of the Company or to become a Member, but the transferee is entitled only to receive the share of profits or other compensation by way of income and the return of contributions to which the transferor of the interest in the Company would otherwise be entitled. Notwithstanding the any other provision in this Agreement, in the event the transfer of the Members Interest was in connection with the foreclosure of a charging order, then the Manager may withhold any and all distributions from such transferee while making distributions to all the other Members.

ARTICLE V. MANAGEMENT

1. **Manager's Exclusive Right to Manage.** The business, property and affairs of the Company shall be managed exclusively by the Manager. Except for situations in which the approval of the Members is expressly required by the Articles of Organization, or this Agreement, the Manager shall have full, complete and exclusive authority, power and discretion to manage and control the business, property and affairs of the Company, to make all decisions regarding those matters and to perform any and all acts or activities customary or incident to the management of the Company's business, property and affairs, including, but not limited to, the power and authority to:

(a) Establish and manage an administrative office for the conduct of the business and affairs of the Company in such place as the Manager may deem convenient or necessary from time to time;

(b) Enter into contracts for services, work and supplies as may be required for the normal administration of the administrative office and for the ordinary conduct of the business and affairs of the Company;

(c) Establish and maintain one or more checking, savings and other banking relationships (the "Accounts") in the name of the Company;

(d) Receive and pay from the Accounts all bills for services, work and supplies incurred in connection with the normal administration of the administrative office and with the ordinary conduct of the business and affairs of the Company;

(e) Execute and cause to be filed when due all forms, reports and returns required by law relating to the business and affairs of the Company, and to record or not record transfers of real property in accordance with the best interests of the Company;

(f) Collect all rentals, utility charges, common area charges, insurance charges, real estate and personal property tax, assessments, and any and all other sums, charges, and/or income due to the Company with respect to real property owned in whole or in part by the Company, and collect all dividends, interest, distributions of principal, and other sums, charges and/or income due to the Company

with respect to non-real estate assets or other investments of every description owned in whole or part by the Company;

(g) Hold, manage, operate, acquire, and dispose of personal property or other assets or investments of every description, and approve any and all decisions regarding the preservation, management, operation, acquisition, disposition and financing of real property, personal property and securities, or other assets or investments of every description, by the Company;

(h) Perform all duties of the landlord under all leases for which the Company is the landlord, insofar as such duties relate to operation, maintenance, repair and day-to-day management;

(i) Vote stock, give proxies, pay calls for assessments, sell or exercise stock subscription or conversion rights, participate in foreclosures, reorganizations, consolidations, mergers, liquidations, pooling agreements and voting trusts, assent to sales and other acts and, in connection therewith, to deposit securities with and transfer title to any protective or other committee under such terms as may be deemed advisable;

(j) At any time, in connection with the holding, management, operation, acquisition, disposition or financing of the properties, or the collection of any monies due or payable to the Company, institute, compromise, settle or abandon any claims existing in favor of or against the Company, and represent the Company in any litigation involving the Company; and

(k) All the foregoing powers can be exercised by the Manager on behalf of a limited partnership of which the Company is general partner.

2. **Number and Term.** The Company shall initially have one Manager. The number of Managers shall be fixed from time to time by affirmative vote or written consent of the Members holding a Majority of Interests eligible to vote at a meeting of the Members; provided that, if the number of Manager is changed, the Articles of Organization shall be amended to so state. Unless the Manager resigns or is removed, the Manager shall hold office until a successor shall have been elected and qualified. The Manager shall be elected by Members holding a Majority of Interests eligible to vote at a meeting of the Members. Any Manager need not be a Member, an individual, or a resident of the State of California.

3. **Resignation.** The Manager may resign at any time upon written notice to the Members without prejudice to the rights, if any, of the Company under any contract to which the Manager is a party. The resignation of the Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of such Member.

4. **Removal.** The Manager may be removed at any time, with or without cause, by an affirmative vote of Members holding a Majority of Interests at a meeting expressly called for that purpose, or by written consent of Members holding a Majority of Interests eligible to vote at a meeting of the Members. A Manager may not be removed by a Substitute Member or a transferee of any Membership Interests received in connection with a foreclosure of interests subject to a charging order. Any removal shall be without prejudice to the rights, if any, of the Manager under any employment contract, and if the removed Manager is also a Member, shall not affect the Manager's rights as a Member or constitute a withdrawal of such Member.

5. **Vacancies.** Any vacancy occurring for any reason in the number of Manager may be filled by the affirmative vote or written consent of Members holding a Majority of Interests eligible to vote at a meeting of the Members.

6. **Members Have No Managerial Authority.** The Members shall have no power to participate in the management of the Company except as expressly authorized by this Agreement or the Articles of

Organization and except as expressly required by the Act. Unless expressly or duly authorized in writing to do so by the Manager, no Member shall have any power or authority to bind or act on behalf of the Company in any way, to pledge its credit, or to render it liable for any purpose.

7. **Liability of the Manager.** A Manager shall not be liable to the Company or to any Member for any loss or damage sustained by the Company or any Member, unless the loss or damage shall have been the result of fraud, deceit, gross negligence, reckless or intentional misconduct, or a knowing violation of law by such Manager. The Manager shall perform their managerial duties in good faith, in a manner it reasonably believes to be in the best interest of the Company and its Members, and with such care, including reasonable inquiries, as an ordinarily prudent person in a like position would use under similar circumstances. A Manager who so performs the duties of Manager shall not have any liability by reason of being or having been a Manager of the Company.

8. **Performance of Duties.** In performing its duties, the Manager shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, of the following persons or groups unless it has knowledge concerning the matter in question that would cause such reliance to be unwarranted and provided that the Manager acts in good faith and after reasonable inquiry when the need therefore is indicated by the circumstances: (1) one or more officers, employees or other agents of the Company whom the Manager reasonably believe to be reliable and competent in the matters presented; (2) any attorney, independent accountant, or other person as to matters which the Manager reasonably believe to be in such person's professional or expert competence.

9. **Devotion of Time.** The Manager is obligated to devote sufficient time to the business and affairs of the Company to adequately fulfill their managerial duties as set forth hereunder.

10. **Competing Activities.** Except with the expressed written consent of Members holding a Majority of Interest eligible to vote at a meeting of the Members, no Manager, or any officer, director, shareholder, partner, member, Manager, agent, employee and/or affiliate of any Manager, may engage or invest in, independently or with others, any business activities of any type or description, including without limitation those that might be the same as or similar to the company's business and that might be in direct or indirect competition with the Company.

11. **Transactions Between the Company and The Manager.** Notwithstanding that it may constitute a conflict of interest, the Manager may, and may cause their affiliates to, engage in any transaction with the Company so long as such transaction is not expressly prohibited by this Agreement and so long as the terms and conditions of such transactions, on a overall basis, are fair and reasonable to the Company and are at least as favorable to the Company as those that are generally available from persons capable of similarly performing them and in similar transactions between parties operating at arms length, and provided that a Majority of Interests eligible to vote at a meeting of the Members that have no interest in such transaction (other than their interest as Members) affirmatively vote or consent in writing to approve the transaction.

12. **Payments to Manager.** Except as specified in this Agreement or in any contract of employment between a Manager and the Company, no Manager or affiliate of a Manager is entitled to remuneration for services rendered or goods provided to the Company. Absent an employment contract between a Manager and the Company, the Manager and his affiliates shall receive only the following payments:

(a) The Company shall pay the Manager a monthly fee for services in connection with the management of the Company as shall be determined by an affirmative vote of Members holding a Majority of Interests eligible to vote at a meeting of the Members. Such fee may be changed from time to time only by an affirmative vote of Members holding a Majority of Interests to vote at a meeting of the Members, and no Manager shall be prevented from receiving any fees because the Manager is also a

Member of the Company. In the absence of a contract or affirmative vote by Members holding a Majority of Interests eligible to vote at a meeting of the Members, the Manager shall receive no management fee.

(b) The Company shall reimburse the Manager for the actual costs of goods and materials furnish by the Manager and used for or by the Company.

13. **Officers.** The Manager, at his discretion, may appoint officers of the Company at any time. In the absence of such an appointment, the Company shall have no officers. Any officer appointed by the Manager shall serve at the pleasure of the Manager, subject to all rights, if any, of an officer under a contract of employment. Any individual may hold any number of offices. No officer need be a resident of the State of California or a citizen of the United States. The officers shall exercise such powers and perform such duties as shall be determined from time to time by the Manager. Subject to the rights, if any, of an officer under a contract of employment, the Manager may remove any officer, either with or without cause, at any time. Any officer may resign at any time by giving written notice to the Manager. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Company under any contract to which the officer is a party. Subject to Article V, Paragraphs 10 (“Competing Activities”) and Article V, Paragraph 11 (“Transactions Between the Company and the Manager”) of this Article, the salaries of any officers and agents of the company shall be fixed by the Manager.

14. **Limited Liability.** No person or entity who is a Manager or officer, or both a Manager and officer, of the Company shall be personally liable under any judgment of a court, or in any other manner, for any debt, obligation, or liability of the Company, whether that liability or obligation arises in contract, tort, or otherwise, solely by reason of being a Manager or officer, or both a Manager and officer, of the Company.

15. **Company Books and Records.** The Members may employ competent persons to be responsible for authenticating the records of the Company, including keeping correct and complete books of account that show accurately at all times the financial condition of the Company; safeguarding all funds, notes, securities, and other valuables that may from time to time come into possession of the Company; and depositing all funds of the Company with such depositories as the Members designate. The employee may have other duties that the Members from time to time jointly prescribe, but under no circumstances does the employee have any of the rights, powers, responsibilities, or duties of a Member of the Company. Any person responsible for the above-described duties may be terminated at any time by the Members, and the Members may restrict the duties and/or authority of the person responsible for these duties at any time.

16. **Execution of Documents.** The Manager has the authority to execute documents and instruments for the acquisition or disposal of property on behalf of the Company.

17. **Title to Company Property.** Legal title to all property of the Company must be held and conveyed in the name of the Company.

ARTICLE VII. DISTRIBUTIONS AND ALLOCATION OF PROFITS AND LOSSES

1. **Allocation of Net Income, Net Loss, or Capital Gains.** Except as may be expressly provided otherwise in this Agreement, and subject to the provisions of section 704(c) of the Internal Revenue Code, the net income, net loss, or capital gains of the Company for each fiscal year of the Company is allocated to the Members, pro rata in accordance with the number of shares held by each Member.

2. **Distribution of Available Cash.** Periodically, the available cash of the Company, if any, must be distributed to the Members, pro rata in accordance with the number of shares held by each Member,

except that the Manager, in its sole discretion, may elect not to distribute cash to any Members whose interest are subject to a charging order or have been foreclosed upon. For any calendar quarter, available cash need not be distributed to the extent that the cash is required for a reasonable working capital reserve for the Company. The amount of the reasonable working capital reserve is to be determined by the Members. The Members acknowledge that during the initial growth phase of the company and until an affirmative vote of a supermajority of the shares of the Company, there will be no distributions of cash.

3. Allocation of Income, Loss, and Distributions in Respect of Interests Transferred. (a) If any interest in the company is transferred, or is increased or decreased, during any fiscal year of the Company, each item of income, gain, loss, deduction, or credit of the Company for the fiscal year must be assigned pro rata to each day in the particular period of the fiscal year to which the item is attributable (that is, the day on or during which it is accrued or otherwise incurred) and the amount of each item so assigned to any day shall be allocated to the Member based on his or her number of shares in the Company at the close of the day. For the purpose of accounting convenience and simplicity, the Company may treat a transfer of, or an increase or decrease in, an interest in the Company that occurs at any time during a semimonthly period (commencing with the semimonthly period including the date of this Agreement) as having been consummated on the first day of the following semimonthly period, regardless of when during the semimonthly period the transfer, increase, or decrease actually occurs (that is, sales and dispositions made during the first 15 days of any month are deemed to have been made on the 16th day of the month).

(b) Distributions of the Company assets in respect of any interest in the Company shall be made only to the Members who, according to the books and records of the Company, are holders of record of the interests in respect of which the distributions are made on the actual date of distribution. Neither the Company nor any Member incurs any liability for making distributions in accordance with the provisions of the preceding sentence, whether or not the Company or Member has knowledge or notice of any transfer or purported transfer of ownership of interest in the Company that has not been approved by all of the Members. Notwithstanding any provision above to the contrary, gain or loss of the Company realized in connection with a sale or other disposition of any of the assets of the Company must be allocated solely to the parties owning interests in the Company as of the date the sale or other disposition occurs.

ARTICLE VIII. DISSOLUTION

1. Causes of Dissolution. The Company shall be dissolved, its assets disposed of, and its affairs wound up upon the first to occur of any of the following events:

- (a) A Majority vote of the Interests eligible to vote at a meeting of the Members;
- (b) The sale of all or substantially all of the Company's assets.

As soon as possible after the occurrence of any of the events specified in Article VIII, Paragraph 1 ("Causes of Dissolution"), the Manager, or if none, the Members, shall execute a Certificate of Dissolution in such form as shall be prescribed by the California Secretary of State and file the certificate as required by the Act.

2. Winding Up. Upon the occurrence of any events specified in Article VIII, Paragraph 1 ("Causes of Dissolution"), the Company shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets and satisfying the claims of its creditors. The Manager, or if none, the Members, shall be responsible for overseeing the winding up and liquidation of the Company, shall take full account of the liabilities of the Company and its assets, shall either cause its assets to be sold or distributed, and, if sold, as promptly and as consistent with obtaining the fair market value thereof, and

shall cause the proceeds therefrom, to the extent sufficient, to be applied and distributed as provided in Article VIII, Paragraph 6 ("Payment of Liabilities and Distribution of Assets"). The persons winding up the affairs of the Company shall give written notice of the commencement of winding up by mail to all known creditors and claimants whose addresses appear on the records of the Company. The Manager or Members winding up the affairs of the Company shall be entitled reasonable compensation for such services.

3. **Distribution in Kind.** Any non-cash assets distributed to one or more Members shall first be valued at its fair market value to determine the net profit or net loss that would have resulted if such assets were sold for such value, such net profit or net loss shall then be allocated pursuant to Paragraphs 1 through 3 of Article VII, and the Members' capital accounts shall be adjusted to reflect such allocations. The amount distributed and charged to the capital account of each Member receiving an interest in such distributed assets shall be the fair market value of such interest (net of any liability secured by such assets that such Member assumes or takes subject to). The fair market value of such asset shall be determined by the Manager or by the Members or, if any Member objects, by an independent appraiser selected by the Manager or liquidating trustee and approved by the Members.

4. **Payment of Liabilities And Distribution of Assets.** After determining that all known debts and liabilities of the Company in the process of winding up, including, without limitation, debts and liabilities to Members who are creditors of the company, have been paid or adequately provided for, the remaining assets shall be distributed to the Members in accordance with their positive balances in the capital accounts, after taking into account income and loss allocations for the Company's taxable year during which the liquidation occurs. Any remaining assets in excess of the positive account balances shall be distributed to the Member's in proportion to the Membership shares held by the Member.

5. **Limitations on Payments Made.** Except as otherwise specifically provided in this Agreement, each Member shall only be entitled to look solely to the assets of the Company for the return of his or her positive capital account balance and shall have no recourse for his or her capital contribution and/or share of net profits (upon dissolution or otherwise) against the Manager or any other Member except as otherwise specifically herein provided.

6. **Certificate of Cancellation.** The Manager or Members who filed the Certificate of Dissolution shall cause to be filed in the office of, and on a form prescribed by, the California Secretary of State, a Certificate of Cancellation of the Articles of Organization upon the completion of the winding up of the affairs of the Company.

ARTICLE IX. INDEMNIFICATION AND INSURANCE

1. **Indemnification of Agents.** The Company shall have the power to indemnify and hold harmless any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding by reason of the fact that he or she is or was a Manager, Member, officer, employee or other agent of the Company or that, being or having been such a Member, Manager, officer or employee or agent, he or she is or was serving at the request of the Company as a manager, director, officer, employee or other agent of another entity, to the fullest extent permitted by applicable law in effect on the date of this Agreement and to such greater extent as applicable law may hereafter permit. The Company shall advance the expenses reasonably expected to be incurred by such person in defending any such proceeding. The Manager shall be authorized, on behalf of the Company, to enter into indemnity agreements with any person entitled to be indemnified by the Company, upon such terms and conditions as the Manager deems appropriate.

2. **Insurance.** The Company shall have the power to purchase and maintain insurance on behalf of any Manager, Member, officer, employee or agent of the Company against any liability asserted against or incurred by the person in that capacity or arising out of the person or entity's status as a

Manager, Member, officer, employee, or agent of the Company, whether or not the Company would have the power to indemnify such person against such liability under applicable law or under Article IX, Paragraph 1 (“Indemnification of Agents”).

ARTICLE X. BOOKS, RECORDS, AND TAX MATTERS

1. **Records and Accounting.** The books and records of the Company must be kept, and the financial position and the results of its operations recorded, in accordance with the accounting methods elected to be followed by the Company for federal and state income tax purposes. The books and records of the Company must reflect all Company transactions and must be appropriate and adequate for the Company’s business.

2. **Fiscal Year.** The fiscal year of the Company for financial reporting and for federal income tax purposes is the calendar year.

3. **Access to Accounting Records.** All books and records of the Company must be maintained at any office of the Company or at the Company’s principal place of business, and each Member, and his or her duly authorized representative, must have access to them at the office of the Company and the right to inspect and copy them at reasonable times. The Manager shall prepare monthly financial reports and deliver such reports and copies of bank statements to each Member each month.

4. **Annual and Tax Information.** The Manager must use his best efforts to cause the Company to deliver to each Member, within three and one-half months after the end of each fiscal year, all information necessary for the preparation of each Member’s federal income tax return. The Manager must also use his best efforts to cause the Company to prepare, within 90 days after the end of each fiscal year, a financial report of the Company for the fiscal year, which must contain a balance sheet as of the last day of the year then ended, an income statement for the year then ended, a statement of sources and applications of funds, and a statement of reconciliation of the capital accounts of the Members.

5. **Actions of Tax Matters Member.** The Manager may appoint a Tax Matters Member for purposes of filing tax returns and handling all tax matters on behalf of the Company and its Members.

6. **Tax Consequences.** Members acknowledge that the tax consequence of each Member’s investment in the Company is dependent on each Member’s particular financial circumstances. Each Member will rely solely on the Member’s financial advisors and not the Company. The Company makes no warranties as to the tax benefits that the Members receive or will receive as a result of the Member’s investment in the Company.

ARTICLE XI. MISCELLANEOUS

1. **Continuing Obligation of Members.** It is the intent that this Agreement be deemed an “executory contract”. As such, the Members have the continuing obligation to contribute additional capital as set forth in Article II, Section 2. Further, the Members are obligated to attend a general meeting of the Members at least quarterly, and vote on all matters presented at the meeting.

2. **Complete Agreement.** This Agreement and the Articles of Organization of this Company constitute the complete and exclusive statement of agreement among the members with respect to the subject matter described. This Agreement and the Articles of Organization replace and supersede all prior agreements by and among any of the Members. This Agreement and the Articles of Organization supersede all prior written and oral statements; no representation, statement, or condition or warranty not contained in this Agreement or the Articles of Organization is binding on the members or has any force or effect.

3. **Power to Amend Agreement.** The power to adopt, alter, amend, or repeal this Agreement is vested entirely in the Members of the Company.

4. **Amendments in Writing.** All amendments to this Agreement must be in writing and signed by a Majority of Interests eligible to vote at a meeting of the Members, except for amendments to those sections of this Agreement that would require unanimous a vote of ____% of the Member interests (the "Supermajority Sections"). Those Supermajority sections will require ____% Member approval to amend.

5. **Governing Law.** This Agreement and the rights of the parties under this Agreement will be governed by, interpreted, and enforced in accordance with the laws of the State of _____.

6. **Attorneys' Fees.** If any legal action or proceeding arising out of or relating to this Agreement is brought by either party to this Agreement, the prevailing party will be entitled to receive from the other party, in addition to any other relief that may be granted, the reasonable attorneys' fees, costs, and expenses incurred in the action or proceeding by the prevailing party.

7. **Binding Effect.** Subject to the provisions of this Agreement relating to transferability, this Agreement is binding on and inures to the benefit of the Members, and their respective distributees, successors, and assigns.

8. **Severability.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable under the present or future laws effective during the term of this Agreement, the provision is fully severable; this Agreement is construed and enforced as if the illegal, invalid, or unenforceable provision had never comprised a part of this agreement; and 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; and there will be added automatically as a part of this Agreement a provision as similar in terms to the illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

9. **Multiple Counterparts.** This Agreement may be executed in several counterparts, each of which is deemed an original but all of which constitute one and the same instrument. However, in making proof only one copy signed by the party to be charged is required.

10. **Additional Documents and Acts.** Each Member agrees to execute and deliver additional documents and instruments and to perform all additional acts necessary or appropriate to effectuate, carry out, and perform all of the terms, provisions, and conditions of this Agreement and the transactions contemplated by it.

11. **No Third Party Beneficiary.** This Agreement is made solely and specifically among and for the benefit of the parties to it, and their respective successors and assigns, subject to the express provisions of the agreement relating to successors and assigns, and no other person has or will have any rights, interest, or claims under this Agreement as a third-party beneficiary or otherwise.

12. **Notices.** Any notice to be given or to be served on the Company or any party to this Agreement in connection with this Agreement must be in writing. Notices must be given to each Member at their address as recorded on the books of the Company on the date of the giving of the Notice. Any Member or the Company may, at any time, designate any other address in substitution of the foregoing address to which notice will be given by giving written notice to the Company five days before the date of delivery of the notice. Notice will be deemed to have been given at the time delivered to the party or the party's attorney.

IN WITNESS WHEREOF, the undersigned have executed this Agreement, to be effective as of the date of the Articles of Organization of the Company are accepting for filing by the Secretary of State.

Executed this _____, at _____, _____.

_____, Member

_____, Member