

**OPERATING AGREEMENT
OF
LOG CABIN LANE LLC**

AN IDAHO LIMITED LIABILITY COMPANY

EMPLOYER IDENTIFICATION NUMBER

_____ - _____

LAW OFFICES

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**OPERATING AGREEMENT
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LOG CABIN LANE LLC
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**OPERATING AGREEMENT
OF
LOG CABIN LANE LLC**

This Operating Agreement (*Agreement*) of Log Cabin Lane LLC, an Idaho limited liability company (*LLC*), is made by the Members to provide for the governance and operations of the LLC and the rights and obligations of each Member regarding the LLC. This Agreement is effective on the date of the last signature of any party to this Agreement and will apply to any Additional Members admitted in accordance with its terms. In consideration of the mutual promises in this Agreement, the parties to this Agreement agree to be legally bound by its terms.

**ARTICLE ONE
DEFINITIONS AND INTERPRETATION**

Section 1.01 Definitions

For purposes of this Agreement, the following terms have the following meanings.

(a) Act

Act means the Idaho Uniform Limited Liability Company Act, as amended from time to time.

(b) Additional Member

Additional Member means any person not previously a Member who acquires an Interest and is admitted as a Member according to Section 15.06.

(c) Adjusted Capital Account Deficit

Adjusted Capital Account Deficit means the negative balance in a Member's Capital Account at the end of a Taxable Year after:

increasing the Capital Account by the amount, if any, of such negative balance the Member is obligated to restore under this Agreement and the amount of such negative balance the Member is deemed to be obligated to restore under Treasury Regulations sections 1.704-2(g)(1) and 1.704-2(i)(5); and

reducing the Capital Account with the items described in Treasury Regulations sections 1.704-1(b)(2)(ii)(d)(4), (5), and (6).

(d) Adjusted Taxable Income

A Member's *Adjusted Taxable Income* for a Taxable Year (or portion of a Taxable Year) with respect to Interests held by the Member means the federal taxable income the LLC allocates to the Member with respect to the Interests (as adjusted by any final determination in connection with any tax audit or other proceeding) for the Taxable Year (or portion of the Taxable Year). The taxable income must be computed:

minus any excess taxable loss or excess taxable credits of the LLC for any prior period allocable to the Member with respect to the Interests that were not previously taken into account for purposes of determining the Member's Adjusted Taxable Income in a prior Taxable Year to the extent this loss or credit would be available under the Code to offset the Member's income (or, as appropriate, the Member's direct or indirect members) determined as if the income, loss, and credits from the LLC were the Member's only

income, loss, and credits (or, as appropriate, the Member's direct or indirect members) in the Taxable Year and all prior Taxable Years; and
taking into account any special basis adjustment with respect to the Member resulting from an election by the LLC under Code Section 754.

(e) Affiliate

Affiliate means any of the following persons or any person who controls, is controlled by, or is under common control with any of the following persons:

- a Member;
- a Member's Immediate Family member; or
- a Legal Representative, successor, Assignee, or trust for the benefit of a Member or any Member's Immediate Family members.

For purposes of this definition, *control* means the direct or indirect power to direct or cause the direction of the person's management and policies, whether by owning voting securities, partnership, or other ownership interests; by contract; or otherwise.

(f) Agreement

Agreement means this Operating Agreement, as amended from time to time.

(g) Applicable Law

Applicable Law means the Act, the Code, the Securities Act, all pertinent provisions of any agreements with any Governmental Authority and all pertinent provisions of any Governmental Authority's:

- constitutions, treaties, statutes, laws, common law, rules, regulations, decrees, ordinances, codes, proclamations, declarations, or orders;
- consents or approvals; and
- orders, decisions, advisory opinions, interpretative opinions, injunctions, judgments, awards, and decrees.

(h) Assignee

Assignee means the recipient of an Interest by assignment.

(i) Book Value

With respect to any LLC property, *Book Value* means the LLC's adjusted basis for federal income tax purposes, adjusted from time to time to reflect the adjustments required or permitted by Treasury Regulation Section 1.704-1(b)(2)(iv)(d)-(g). The Book Value of each LLC asset must be adjusted as of the date of this Agreement under Treasury Regulation Section 1.704-1(b)(2)(iv)(f) in a manner determined by the Manager so that the aggregate Book Value of the LLC's assets (net of the LLC's liabilities) as of this date is equal to the aggregate Capital Account balances of the Members as of this date.

(j) Budget

Budget means the monthly and annual operating budgets for the LLC for the upcoming Taxable Year. The submission must include capital and operating expense budgets, cash-flow projections, covenant compliance calculations of all outstanding and projected indebtedness, and profit-and-loss projections, all itemized in reasonable detail.

(k) Capital Account

Capital Account means the account established and maintained for each Member under Section 6.01 and under Treasury Regulation Section 1.704-1(b)(2)(iv), as amended from time to time.

(l) Capital Contribution

Capital Contribution means the total cash and other consideration contributed and agreed to be contributed to the LLC by each Member. Each initial *Capital Contribution* is shown in the Schedule A, attached and incorporated into this Agreement. Additional *Capital Contribution* means the total cash and other consideration contributed to the LLC by each Member (including any Additional Member) other than the initial Capital Contribution. Any reference in this Agreement to the Capital Contribution of a current Member includes any Capital Contribution previously made by any prior Member regarding that Member's Interest. The value of a Member's Capital Contribution is the amount of cash plus the Fair Market Value of other property contributed to the LLC.

(m) Cause

Cause, with respect to any particular Service Provider, has the meaning set forth in any effective employment agreement, or other written contract of engagement entered into between the LLC and the Service Provider. If none, *Cause* means any of the following acts by a Service Provider:

- repeatedly failing to substantially perform his or her duties as an employee or other associate of the LLC (unless resulting from his or her disability) that, whether committed willfully or negligently, continues unremedied for more than 30 days after the LLC has provided written notice of the failure (failing to meet financial performance expectations is not, by itself, a failure by the Service Provider to substantially perform his or her duties);
- committing fraud or embezzling;
- being materially dishonest or breaching a fiduciary duty against the LLC;
- committing willful misconduct or gross negligence that injures the LLC;
- being convicted of, or pleading guilty or *nolo contendere* to, a felony (or any state-law equivalent) or willfully or materially violating any federal, state, or foreign securities laws;
- being convicted of any other criminal act or act of material dishonesty, disloyalty, or misconduct that has a material adverse effect on the property, operations, business, or reputation of the LLC;
- using, being under the influence, or possessing illegal drugs on the premises of the LLC while performing any duties or responsibilities with the LLC;
- materially violating any rule or policy of the LLC; or
- materially breaching any covenant undertaken in **Error! Reference source not found.** or a ny employment agreement, or any written nondisclosure, noncompetition, or nonsolicitation agreement with the LLC.

If a court of competent jurisdiction (or an arbitrator in binding arbitration conducted by agreement of the Members) conclusively determines the issue of Cause against the Service Provider, any voting attributes of a Service Provider who is also a Member will be disregarded in the vote to remove the Service Provider.

(n) Code

References to the *Code* or to its provisions are to the Internal Revenue Code of 1986, as amended from time to time, and any corresponding Treasury Regulations. References to the *Treasury Regulations* are to the Treasury Regulations under the Code in effect. If a particular provision of the Code is renumbered or a subsequent federal tax law supersedes the Code, any reference is to the renumbered provision or to the corresponding provision of the subsequent law, unless the result would be clearly contrary to the Members' intent as expressed in this Agreement. The same rule applies to Treasury Regulations references.

(o) Certificate of Organization

Certificate of Organization means the Certificate of Organization filed with the Idaho Secretary of State as required by the Act, or any other similar instrument required to be filed by the laws of any other state in which the LLC intends to conduct business.

(p) Estimated Tax Amount

A Member's *Estimated Tax Amount* for a Taxable Year means the Member's Tax Amount for the Taxable Year as estimated in good faith from time to time by the Manager. In making this estimate, the Manager must take into account amounts shown on federal and state tax returns and other state or local forms filed by the LLC for the preceding Taxable Year and other adjustments the Manager determines with reasonable business judgment are necessary or appropriate to reflect the LLC's estimated operations for the Taxable Year.

(q) Excess Amount

Excess Amount is defined in **Error! Reference source not found.**

(r) Fair Market Value

Fair Market Value is defined in Section 18.13.

(s) Governmental Authority

Governmental Authority means any local, state, federal, or foreign government or its political subdivision; any agency or instrumentality of a government or its political subdivision; or any self-regulated organization or other nongovernmental regulatory authority or quasi-Governmental Authority whose rules, regulations, or orders have the force of law. Governmental Authority also means any arbitrator, court, or tribunal of competent jurisdiction.

(t) Immediate Family

Immediate Family means any Member's spouse (but not a spouse who is legally separated from the person under a decree of divorce or separate maintenance), parents, parents-in-law, descendants (including descendants by adoption), spouses of descendants (but not a spouse who is legally separated from the person under a decree of divorce or separate maintenance), brothers, sisters, sons-in-law, daughters-in-law, brothers-in-law, sisters-in-law, and grandchildren-in-law.

(u) Indemnity Losses

Indemnity Losses is defined in Section 17.04.

(v) Interest

Interest means the ownership interest and rights of a Member in the LLC, including the Member's right to a distributive share of the profits and losses, the distributions, and the property of the LLC and the right to consent or approve LLC actions. All Interests are subject to the restrictions on transfer imposed by this Agreement. Each Member's Interest is personal

property and no Member will acquire any interest in any of the assets of the LLC. Interests may be adjusted from time to time under Article Four.

(w) Legal Representative

With respect to any individual, *Legal Representative* means a person's guardian, conservator, executor, administrator, trustee, or any other person representing a person or the person's estate. With respect to any person, *Legal Representative* means all directors, officers, employees, consultants, financial advisors, counsel, accountants, and other agents of the person.

(x) LLC

LLC means Log Cabin Lane LLC, an Idaho limited liability company.

(y) LLC Minimum Gain

LLC Minimum Gain means the minimum amount of gain that would be realized by the LLC if the LLC disposed of all LLC property subject to the liabilities in full satisfaction of those liabilities, computed strictly under Treasury Regulation Section 1.704-2(b) and (d).

(z) LLC Representative

LLC Representative is defined in Section 3.02.

(aa) Majority Vote

Majority Vote means a ratio of more than 50 votes out of every 100 votes that may be cast will determine the matter subject to the vote.

(bb) Manager

Manager means any individual or legal entity designated in this Agreement as a Manager. A Manager conducts the business of the LLC and is authorized to exercise the powers and duties of Manager detailed in this Agreement.

(cc) Member

Member means any person designated in this Agreement as a Member or any person who becomes a Member under this Agreement.

(dd) Member Joinder

Member Joinder means an agreement to be bound by this Operating Agreement.

(ee) Member Minimum Gain

Regarding a Member Non-Recourse Debt, *Member Minimum Gain* means the least amount of gain that the LLC would realize if the LLC disposed of the encumbered LLC property in full satisfaction of the encumbrance.

(ff) Member Non-Recourse Debt and Member Non-Recourse Deductions

Member Non-Recourse Debt means nonrecourse LLC debt for which one or more Members bear economic risk of loss as defined in Treasury Regulation Section 1.704-2(b)(4).

Member Non-Recourse Deductions means for each Taxable Year, the LLC deductions that are attributable to Member Non-Recourse Debt and are characterized as Member Non-Recourse Deductions under Treasury Regulation Section 1.704-2(b).

(gg) Permitted Transfer; Permitted Transferee

A *Permitted Transfer* is an Interest transfer made under Article Fifteen. A *Permitted Transferee* is the recipient of a Permitted Transfer.

(hh) Protected Person

Protected Person means:

each Member;

each Member's officer, director, shareholder, partner, member, controlling Affiliate, employee, agent, or Legal Representative and each of their controlling Affiliates; and

each of the LLC's Manager, employees, and agents or Legal Representatives.

(ii) Qualified Appraiser and Qualified Appraisal

A *Qualified Appraiser* means an appraiser who is a member of the American Society of Appraisers, Business Valuations Division, and accredited to perform business appraisals or valuations by this organization; or, alternatively, a certified public accountant accredited in business valuation by the American Institute of Certified Public Accountants. A *Qualified Appraisal* means any appraisal performed by a Qualified Appraiser.

(jj) Quarterly Estimated Tax Amount

A Member's *Quarterly Estimated Tax Amount* for any calendar quarter of a Taxable Year means one-quarter of the Member's Estimated Tax Amount for the Taxable Year in the case of the first calendar quarter of the Taxable Year; one-half of the Member's Estimated Tax Amount for the Taxable Year in the case of the second calendar quarter of the Taxable Year; three-quarters of the Member's Estimated Tax Amount for the Taxable Year in the case of the third quarter of the Taxable Year; and all of the Member's Estimated Tax Amount for the Taxable Year in the case of the fourth calendar quarter of the Taxable Year, reduced (but not below zero) by all distributions previously made during the Taxable Year to the Member.

(kk) Securities Act

Securities Act refers to the Securities Act of 1933, as amended, or any successor federal statute, and the rules and regulations under it that are in effect at the time.

(ll) Service Provider

Service Provider means any employee, consultant, or other service provider of the LLC.

(mm) Shortfall Amount

Shortfall Amount is defined in **Error! Reference source not found..**

(nn) Tax Advance

Tax Advance is defined in Section 8.03.

(oo) Tax Amount

A Member's *Tax Amount* for a Taxable Year means the product of the Tax Rate for the Taxable Year and the Adjusted Taxable Income of the Member for the Taxable Year with respect to its Interests.

(pp) Tax Rate

A Member's *Tax Rate* for any period means the highest marginal blended federal, state, and local tax rate applicable to ordinary income, qualified dividend income, or capital gains, as appropriate, for the period for an individual residing in Idaho, taking into account the deductibility of state and local taxes for federal income tax purposes, and any applicable limitations on these deductions.

(qq) Taxable Year

Taxable Year means the calendar year or any other accounting period selected by the Manager. Taxable Year is synonymous with fiscal year for all purposes of this Agreement.

(rr) Third Party

Third Party means any person who:

- is not a Member of the LLC;
- does not directly or indirectly own or have the right to acquire any outstanding Interests;
- is not a Permitted Transferee of any person who directly or indirectly owns or has the right to acquire any Interests; and
- is not an Affiliate.

With respect to any controversy concerning the LLC, *Third Party* means an individual who is not related to or subordinate to a claimant or respondent and has no personal or financial stake in the resolution of the controversy other than fair and reasonable compensation for services provided to resolve the controversy.

(ss) Unprotected Act

Unprotected Act means any act, omission, or forbearance by a Protected Person that:

- with respect to any criminal proceeding, the Protected Person would have reasonable cause to believe was unlawful or
- constitutes fraud or willful misconduct.

Section 1.02 Interpretation

The following general provisions and rules of construction apply to this Agreement.

(a) Singular and Plural; Gender

Unless the context requires otherwise, words denoting the singular may be construed as plural and words of the plural may be construed as denoting the singular. Words of one gender may be construed as denoting another gender as is appropriate within the context. The word *or*, when used in a list of more than two items, may function as both a conjunction and a disjunction as the context requires or permits.

(b) Headings of Articles, Sections, and Subsections

The headings of Articles, Sections, and Subsections used within this Agreement are included solely for the reader's convenience and reference. They have no significance in the interpretation or construction of this Agreement.

(c) Days and Business Days

In this Agreement, *days*, without further qualification, means calendar days and *business days* means any day other than a Saturday, Sunday or a day on which national banks are allowed by the Federal Reserve to be closed.

(d) Delivery

Delivery is taken in its ordinary sense and includes:

- personal delivery to a party;
- mailing by certified United States mail to the last known address of the party to whom delivery is made, with return receipt requested to the party making delivery;

facsimile transmission to a party when receipt is confirmed in writing or by electronic transmission back to the sending party; or

electronic mail transmission to a party when receipt is confirmed in writing or by electronic mail transmission back to the sending party.

The effective date of delivery is the date of personal delivery or the date of the return receipt, if received by the sending party. If no return receipt is provided, the effective date is the date the transmission would have normally been received by certified mail if there is evidence of mailing.

(e) Include, Includes, and Including

In this Agreement, the words *include*, *includes*, and *including* mean include without limitation, includes without limitation, and including without limitation, respectively. *Include*, *includes*, and *including* are words of illustration and enlargement, not words of limitation or exclusivity.

(f) Words of Obligation and Discretion

Unless otherwise specifically provided in this Agreement or by the context in which used, the word *shall* is used to impose a duty, to command, to direct, or to require. Terms such as *may*, *is authorized to*, *is permitted to*, *is allowed to*, *has the right to*, or any variation or other words of discretion are used to allow, to permit, or to provide the discretion to choose what should be done in a particular situation, without any other requirement. Unless the decision of another party is expressly required by this Agreement, words of permission give the decision-maker the sole and absolute discretion to make the decision required in the context.

(g) Assignment

In this Agreement, *assignment* includes any method—direct or indirect, voluntary or involuntary—by which the legal or beneficial ownership of any interest in the LLC is transferred or changed, including:

- any sale, exchange, gift, or any other form of conveyance, assignment, or transfer;
- a change in the beneficial interests of any trust or estate that holds any interest in the LLC and a distribution from any trust or estate;
- a change in the ownership of any Member that is a corporation, partnership, limited liability LLC, or other legal entity, including the dissolution of the entity;
- a change in legal or beneficial ownership or other form of transfer resulting from the death or divorce of any Member or the death of the spouse of any Member;
- any transfer or charge under a charging order issued by any court; and
- any levy, foreclosure, or similar seizure associated with the exercise of a creditor's rights in connection with a mortgage, pledge, encumbrance, or security interest.

Assignment does not include any mortgage, pledge, or similar voluntary encumbrance or grant of a security interest in any Interests in the LLC.

(h) References to Transfer, Transferor, and Transferee

In this Agreement, *transfer* includes any direct or indirect sale, transfer, assignment, pledge, encumbrance, hypothecation, or other disposition or attempted disposition. The term includes any involuntary transfer, such as a transfer that occurs by operation of law. If a person enters into a contract, option, or other arrangement or understanding to make a transfer, that contract, option, or other arrangement or understanding will itself be considered a *transfer*. When used

as a verb, *transfer* has a correlative meaning. A person who makes a transfer may be referred to as a *transferor*, and a person who receives a transfer may be referred to as a *transferee*.

(i) References to Property or Assets

Any reference in this Agreement to *property* or *assets*, without further qualification, must be construed broadly to include, as to any person, all property of any kind—real or personal, tangible or intangible, legal or equitable—whether now owned or subsequently acquired. The following items are each considered *assets* or *property* of a person: money, stock, accounts receivable, contract rights, franchises, value as a going concern, causes of action, undivided fractional ownership interests, intellectual property rights, and anything of any value that can be made available for or appropriated to the payment of debts.

(j) References to Individuals and Entities

Unless further qualified in the context, any reference in this Agreement to a *person*, *party*, or *individual*, or the use of indefinite pronouns like *anyone*, *everyone*, *someone*, or *no one* must be construed broadly to include any individual, trust, estate, partnership, association, company, corporation, or other entity or non-entity capable of having legal rights and duties. *Person*, without further qualification, has the same broad meaning as defined in Code Section 7701(a)(1) and includes any individual, trust, estate, partnership, association, company, or corporation. The LLC and its successors and assigns and each Member or Assignee and their successors, assigns, heirs, and personal representatives are all considered *persons* for purposes of this Agreement. *Natural person* is used to distinguish a human being from a *juridical person*, such as a trust, estate, partnership, association, company, or corporation.

(k) Internal References

Unless the context otherwise requires:

reference to Articles, Sections, and Exhibits mean the Articles and Sections of, and Exhibits attached to, this Agreement;

reference to an agreement, instrument or other document means the agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by its provisions; and

reference to a statute means the statute as amended from time to time and includes any successor legislation to it and any regulations promulgated under it.

The Exhibits referred to in this Agreement must be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim in this Agreement.

(l) No Presumption against Drafting Party

This Agreement is to be construed without giving force to any presumption or rule requiring construction or interpretation against the drafting party. No party may claim that an ambiguity in this Agreement should be construed against any other party or that there was any coercion, duress (economic or otherwise), negligent misrepresentation, or fraud (including fraud in the inducement) affecting the validity or enforcement of this Agreement.

ARTICLE TWO ORGANIZATIONAL MATTERS

Section 2.01 LLC Formation

The LLC became a limited liability company under the laws of the State of Idaho, and specifically under the Idaho Uniform Limited Liability Company Act, upon filing the Certificate of Organization as required by the Idaho Uniform Limited Liability Company Act.

Section 2.02 LLC's Name

The LLC's name is Log Cabin Lane LLC. The Manager may change the name of the LLC, subject to the terms of this Agreement and Applicable Law.

Section 2.03 LLC's Purpose

The LLC's purpose is to engage in any lawful act or activity for which limited liability companies may be formed under the Act and all activities necessary or incidental to that purpose. The LLC has all the powers necessary or convenient to carry out its purposes, including the powers granted by the Act.

Section 2.04 LLC's Principal Office and Location of Records

The street address of the principal office in the United States where the LLC maintains its records is 9371 Foutz Drive, Victor, Idaho 83455.

Section 2.05 Registered Agent and Registered Office

The LLC's initial Registered Agent is Herb Heimerl, and the LLC's initial registered office is located at Heimerl Beard St. Clair, 20 Cedron Rd., Ste. 201, Victor, Idaho 83455. The phone number for the LLC's initial Registered Agent is (208) 523-5171.

Section 2.06 LLC's Term

The LLC's duration is perpetual. The LLC began on the date the Certificate of Organization was filed with the Idaho Secretary of State and will continue until terminated or dissolved as provided in this Agreement.

Section 2.07 No Partnership Intended for Non-Tax Purposes

The Members have formed the LLC as a limited liability company under the Act and do not intend to form a partnership under any partnership or limited partnership act. The Members do not intend to be partners with each other or with any Third Party other than for federal and state income tax purposes. If any Member represents to another person that the Member or any other Member is a partner or that the LLC is a partnership, the Member making the wrongful representation will be liable to any other Member who incurs personal liability because of the erroneous representation.

ARTICLE THREE TAX MATTERS

Section 3.01 Taxation as a Partnership

The Members intend to establish an entity that is subject to federal and state income taxation as a partnership. Unless the Members elect not to be treated as a partnership for federal income tax

purposes, the federal income tax basis of a Member's Interest and all other matters relating to the distributive share and taxation of items of income, gain, loss, deduction, depreciation, and credit will be as established by Code Subchapter K.

Section 3.02 LLC Representative

The LLC must designate a representative with a substantial presence in the United States to serve as the LLC representative within the meaning of Code Section 6223 (*LLC Representative*). The LLC Representative has the sole authority to act on behalf of the LLC in connection with Internal Revenue Service audits and adjustments. Brian Maw is designated to serve as the LLC Representative. If Brian Maw is or becomes unwilling or unable to serve for any reason, the Manager shall promptly appoint a Member to serve as LLC Representative in accordance with Code requirements.

(a) Obligations and Discretion as to Tax Matters

The LLC Representative shall notify all of the Members upon receipt of any notice regarding any examination by any federal, state, or local authority about the LLC's tax compliance. The LLC Representative may:

- determine whether to contest any proceedings, how to pursue any proceedings, and whether and on what terms to settle any dispute with the Internal Revenue Service;
- determine whether to elect out of partnership-level treatment under Code Section 6221(b) and Section 3.03;
- select the forum for any tax disputes involving the LLC; and
- extend the statute of limitations for assessing tax deficiencies against the Members with respect to adjustments to the LLC's federal, state, local, or foreign tax returns.

(b) LLC Representative to Preserve Tax Classification

Unless the Members elect not to be treated as a partnership for federal income tax purposes, the LLC Representative shall take all reasonable steps necessary to classify the LLC as a partnership for tax purposes under the Code and Treasury Regulations. The LLC Representative shall prepare and file any forms necessary or appropriate to classify the LLC as a partnership for tax purposes under the laws of any jurisdiction in which the LLC transacts business.

Section 3.03 Election under Code Section 6221(b)

The LLC may elect for Code Section 6221(b) to apply for any taxable year that the LLC meets the requirements to elect out of LLC-level treatment under Code Section 6221(b). The election must be made with a timely filed return for that taxable year. The election must include the name and taxpayer identification number of each Member. The LLC must notify each Member of the election in the manner prescribed by the Secretary of Treasury.

Section 3.04 Consistent Treatment

Each Member shall, on the Member's income tax return, treat each item of income, gain, loss, deduction, or credit attributable to the LLC in a manner consistent with the treatment of the income, gain, loss, deduction, or credit on the LLC income tax return.

Section 3.05 Adjustment in Future Tax Years

If any tax proceeding results in adjustment in the amount of any item of income, gain, loss, deduction, or credit of the LLC—or any Member’s distributive share thereof—for a prior year, the LLC may take corrective action. If the LLC elects to apply Code Section 6226 within 45 days from the date of the notice of final partnership adjustment, the LLC may issue the statement described in Code Section 6226(a)(2) to the Internal Revenue Service and to each Member that held an interest in the year in question. The statement must describe the Member’s share of any adjustment to income, gain, loss, deduction, or credit (as determined in the notice of final partnership adjustment issued by the Internal Revenue Service). Upon receipt of the statement, each Member must take the adjustments described on the statement into account as provided in Code Section 6226(b).

Alternatively, the LLC may require each Member that held an interest in the LLC during the prior year to file an amended tax return reporting the Member’s distributive share of the tax adjustments and to pay any taxes resulting from the adjustments in accordance with Code Section 6225(c). Each Member must submit the amended returns and pay all related taxes not later than 270 days from the date on which the notice of a proposed partnership adjustment is mailed to the LLC.

This Section and the Member’s obligations under Section 3.04 survive the LLC’s termination, dissolution, liquidation, and winding up and the Member’s withdrawal from the LLC or transfer of its Interest.

Section 3.06 Tax Elections

The Manager has the authority to make all LLC elections for federal, state, and local income tax matters permitted under the Code as provided in Section 11.02. Each Member consents to any election and shall sign any documentation necessary to give effect to any elections.

Section 3.07 Changing Tax Classification

Any decision to change the tax classification of the LLC from partnership to a corporation requires approval in accordance with Section 11.02.

Section 3.08 Legal and Accounting Costs for Tax Matters

The LLC shall pay all legal and accounting costs associated with any Internal Revenue Service proceeding regarding the LLC’s tax returns.

ARTICLE FOUR MEMBERS’ INTERESTS

Section 4.01 Members’ Interests in the LLC

The Members’ interests in the LLC are represented by Interests.

Section 4.02 Schedule of Members

The Manager shall maintain a schedule of all Members and the percentage and type of Interests held by them (*Schedule of Members*). The Manager shall update the Schedule of Members upon the issuance or transfer of any Interests to any new or existing Member. The Schedule of Members as of the execution of this Agreement is attached as Schedule A.

Section 4.03 Interests Certification

The LLC may issue certificates to the Members representing the Interest held by each Member. If the LLC issues certificates representing a Member's Interest in accordance with this Section, then in addition to any other disclosure, legend, or information required by Applicable Law, all certificates representing issued and outstanding Interests must include a Securities Law Disclosure substantially in the following form:

THE INTEREST REPRESENTED BY THIS CERTIFICATE IS SUBJECT TO THE OPERATING AGREEMENT AMONG THE LLC AND ITS MEMBERS, A COPY OF WHICH IS ON FILE AT THE LLC'S PRINCIPAL OFFICE. NO TRANSFER, SALE, ASSIGNMENT, PLEDGE, HYPOTHECATION, OR OTHER DISPOSITION OF THE INTEREST REPRESENTED BY THIS CERTIFICATE MAY BE MADE EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF THE OPERATING AGREEMENT.

THE INTEREST REPRESENTED BY THIS CERTIFICATE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS AND MAY NOT BE TRANSFERRED, SOLD, ASSIGNED, PLEDGED, HYPOTHECATED, OR OTHERWISE DISPOSED OF EXCEPT UNDER A REGISTRATION STATEMENT EFFECTIVE UNDER SUCH ACT AND LAWS OR UNDER AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT.

Section 4.04 Valuing LLC and Interests

For all purposes of this Agreement, the value of the LLC as an entity and of Interests will be their respective Fair Market Values.

Section 4.05 Admitting New Members

Subject to the requirements of Article Fifteen, Additional Members may be admitted when the LLC issues new Interests or a Member transfers its Interest. Upon compliance with Article Fifteen, a person will be admitted as an Additional Member, listed as such on the LLC's books, and issued the Interest. The Manager shall adjust the Capital Accounts of the Members as necessary under Article Six.

The Manager may adopt and revise rules, conventions, and procedures as the Manager determines appropriate regarding the admission of Additional Members to reflect the Interests at the end of the calendar year in accordance with the Members' intentions.

Section 4.06 Transferability of Interest

The transferability of each Member's Interest is restricted by Article Fifteen.

ARTICLE FIVE CAPITALIZATION

Section 5.01 Initial Capital Contributions

As their initial Capital Contributions to the LLC, the Members have contributed all of their right, title, and interest in and to the property described on the Schedule of Members.

Section 5.02 Documenting Additional Capital Contributions

After any Member makes a Capital Contribution other than those described in Section 5.01, the LLC shall promptly file one or more documents in its records showing that the Member has made the Capital Contribution. These documents may include photocopies of cancelled checks, documentary evidence of bank transfers, or photocopies of executed bills of assignment.

Section 5.03 Valuation of Contributions

The Fair Market Value of any property other than cash or publicly-traded securities to be contributed as a Capital Contribution will be as determined by the Manager at the time of the Capital Contribution. If the contributing Member and a Majority Vote of the Members fail to agree, a disinterested Qualified Appraiser selected by the Manager may determine the Fair Market Value of any contributed property.

Section 5.04 Voluntary Additional Capital Contributions

The Members may make voluntary Capital Contributions to the LLC. Any voluntary Capital Contribution must be *pro rata*, based upon the respective Interests of the Members, unless otherwise agreed by a Majority Vote of the Members. Consent to a *non pro rata* Capital Contribution must be in writing.

Section 5.05 Mandatory Additional Capital Contributions Prohibited

The Manager has no authority to require additional Capital Contributions.

Section 5.06 No Mandatory Loans

The Manager has no authority to require any Member to make loans of additional capital to the LLC.

ARTICLE SIX CAPITAL ACCOUNTS

Section 6.01 Establishing and Maintaining Capital Accounts

A Capital Account will be established for each Member and will be maintained at all times during the LLC's existence in compliance with the Code and Treasury Regulations. Each Member's Capital Account will be created with an initial credit equal to the Fair Market Value of the property contributed by the Member in exchange for the Member's interest in the amount described on the Schedule of Members. Each Capital Account will be maintained according to the following provisions.

(a) Credits to Member's Capital Account

Each Member's Capital Account will be credited with the Fair Market Value of the Member's Capital Contribution, the Member's distributive share of profits, and the amount of any LLC liabilities that are assumed by the Member.

(b) Debits to Member's Capital Account

Each Member's Capital Account will be debited the amount of cash and the Fair Market Value of any property distributed to the Member under this Agreement, the Member's share of losses, and the amount of any liabilities of the Member that are secured by any property contributed by the Member to the LLC.

(c) Assumption of Liability

As provided in Treasury Regulation Section 1.704-1(b)(2)(iv)(c): Any unsecured liability the LLC assumes will be treated as a distribution of money to the Member, and the Manager shall adjust the Member's Capital Account accordingly. Any unsecured liability of the LLC a Member assumes will be treated as a cash Capital Contribution to the LLC. The amount of any liability assumed under this provision will be determined according to Code Section 752(c).

(d) Non-Cash Distribution Adjustments

If noncash assets are distributed to a Member, the Manager shall adjust the Capital Accounts of the Members to reflect the hypothetical book gain or loss that would have been realized by the LLC if the distributed assets had been sold at Fair Market Value in a cash sale.

(e) Adjusting the Fair Market Value on Transfer of Interest

If an existing or new Member acquires an Interest from the LLC, the Manager shall adjust the Capital Accounts of the Members to reflect Fair Market Value of all properties held by the LLC.

Section 6.02 Adjustment for LLC's Constructive Termination

If the LLC is constructively terminated under Code Section 708, the Manager shall adjust the Members' Capital Accounts to reflect Fair Market Value of all properties held by the LLC as required by Treasury Regulation Section 1.704-1(b)(2)(iv)(b).

Section 6.03 Revaluation Adjustment

The Manager shall adjust the Members' Capital Accounts to reflect any revaluation of LLC property (including intangible assets such as goodwill) under this Section.

(a) Adjustment Based on Fair Market Value

Any revaluation adjustment to a Member's Capital Account is based on the Fair Market Value of LLC property on the date of the adjustment (taking into account Code Section 7701(g)).

(b) Adjustment for Unrealized Items

The Manager shall adjust the Members' Capital Accounts to reflect the manner in which any unrealized income, gain, loss, or deduction inherent in the LLC's property (to the extent that it has not been previously reflected in the Members' Capital Accounts) would be allocated among all the Members if there were a taxable disposition of this property for Fair Market Value on the adjustment date.

(c) Events Triggering Revaluation Adjustment

Without limiting the events that trigger the application of this Section, this Section will be triggered by the LLC's liquidation, an in-kind distribution LLC property, a Capital Contribution (other than a *de minimis* amount) as consideration for an Interest, or a distribution (other than a *de minimis* amount) by the LLC to a retiring or continuing Member as consideration for an Interest.

Section 6.04 No Interest or Return of Capital

Despite any other provision of this Agreement, no Member is entitled to any interest on its Capital Account or Interest or on the Member's Capital Contribution. No Member may demand or receive the return of all or any portion of the Member's Capital Account, Interest, or Capital Contribution.

Section 6.05 Power to Modify Capital Account Provisions

If, in the Manager's reasonable judgment, the modification is not likely to have a material effect on the amounts distributable to any Member under this Agreement, the Manager may modify the way the Capital Accounts are computed to comply with Treasury Regulation Section 1.704-1(b). The Manager shall make all necessary and appropriate adjustments to maintain equality between the Members' Capital Accounts and the amount of LLC Capital reflected on the LLC's balance sheet as computed for book purposes under Treasury Regulation Section 1.704-1(b)(2)(iv)(g), relating to adjustments to Book Value.

Section 6.06 Negative Capital Accounts

If the LLC or a Member's Interest is liquidated, no Member will be required to restore a deficit in his or her Capital Account.

Section 6.07 Assignment of Capital Account

Except as otherwise required by the Code or Treasury Regulations, if any Interest is assigned or treated as having been assigned under this Agreement, the Assignee will be treated as having made all of the Capital Contributions and as having received all of the distributions of the Assignor. The Assignee will succeed to the Capital Account of the Assignor to the extent that it relates to the assigned Interest.

Section 6.08 Treatment of Loans from Members

Loans by any Member to the LLC are not Capital Contributions and do not affect the maintenance of the Member's Capital Account.

ARTICLE SEVEN ALLOCATIONS

Section 7.01 Allocating Net Profits

After making the allocations set forth in Section 7.03, the LLC shall allocate all net profits as follows:

(a) First Allocation of Net Profits

First, to the Members in proportion and to the extent of the net losses previously allocated under Section 7.02(c) until each Member has been allocated net profits under this Section 7.01(a) equal to the amount of net losses previously allocated to each Member under Section 7.02(c).

(b) Second Allocation of Net Profits

Second, to the Members in proportion and to the extent of the net losses previously allocated under Section 7.02(b) until each Member has been allocated net profits under this Section 7.01(b) equal to the amount of net losses previously allocated to each Member under Section 7.02(b).

(c) Third Allocation of Net Profits

Third, to the Members in proportion and to the extent of the net losses previously allocated under Section 7.02(a) until each Member has been allocated net profits under this Subsection

Section 7.01(c) equal to the amount of net losses previously allocated to each Member under Section 7.02(a).

(d) Residuary Allocation of Net Profits

Thereafter, to the Members in proportion to their Interests.

Section 7.02 Allocating Net Losses

After making the allocations set forth in Section 7.03, the LLC shall allocate all net losses as follows:

(a) First Allocation of Net Losses

First, to the Members in proportion and to the extent that the amount of net profits allocated to the Members under Section 7.01(c) and Section 7.01(d) exceeds the distributions received by the Members under Article Eight plus the net losses previously allocated to the Members under this Section 7.02(a).

(b) Second Allocation of Net Losses

Second, to the Members in accordance with the positive balances in their Capital Accounts until the Capital Account of each Member is reduced to zero.

(c) Residuary Allocation of Net Losses

Thereafter, to the Members in proportion to their Interests.

Section 7.03 Special and Regulatory Allocations

The Manager shall make the following special and regulatory allocations.

(a) Losses

No losses will be allocated to a Member under Section 7.02 that would cause the Member to have an Adjusted Capital Account Deficit at the end of any fiscal year. Any losses not allocated to a Member due to this limitation must be specially allocated to the Members with positive Capital Account balances in proportion to their respective Capital Account balances until all such Capital Account balances have been reduced to zero, and any remainder will be allocated to the Members in proportion to their respective Interests.

(b) Allocations Related to Contributed Property

For any property contributed to the capital of the LLC, the Manager shall allocate income, gain, loss, and deductions among the Members under Code Section 704(c) to account for any variation between the adjusted basis of the property to the LLC for federal income tax purposes and its Fair Market Value on the date of the Capital Contribution. If the Manager adjusts the Fair Market Value of any LLC asset, then in making subsequent allocations of income, gain, loss, and deductions regarding that asset, the Manager shall account for any variation between the adjusted basis of the asset for federal income tax purposes and the asset's Fair Market Value in the same manner provided under Code Section 704(c).

(c) Member Non-Recourse Deduction Allocations

The Manager shall allocate all Member Non-Recourse Deductions for each Taxable Year to the Member or Members who bear the economic risk of loss regarding the Member Non-Recourse Debt to which any Member Non-Recourse Deductions are attributable. The ratio reflects the Member's economic risk of loss and complies with Treasury Regulation Section 1.704-2(i)(1).

(d) LLC Minimum-Gain Chargeback

If the LLC Minimum Gain has a net decrease during any LLC Taxable Year, the Manager shall allocate items of LLC income and gain for the year (and, if necessary, for any subsequent years) in proportion to the respective amounts required to be allocated to each Member under Treasury Regulation Section 1.704-2(f) and (g). This provision is intended to comply with the minimum-gain chargeback requirement of Treasury Regulation Section 1.704-2.

To the extent permitted by Treasury Regulation Section 1.704-2 and for purposes of this provision only, the Manager shall determine any deficit in each Member's Capital Account before any other allocations under this Article with regard to the Taxable Year and without regard to any net decrease in Member Minimum Gain during the Taxable Year.

(e) Member Minimum-Gain Chargeback

If the Member Minimum Gain has a net decrease attributable to Member Non-Recourse Debt during a Taxable Year after the Manager computes and accounts for LLC Minimum-Gain Chargeback above, the Manager shall allocate items of income and gain for that year (and, if necessary, for any subsequent years) to any Member who has a share of the Member Minimum Gain attributable to that Member's Non-Recourse Debt at the beginning of the year. The amount and proportions of the allocations must satisfy Treasury Regulation Section 1.704-2(i).

(f) Qualified Income Offset

If any Member unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d)(4), (5), or (6), the Manager shall allocate items of LLC income and gain to the Member to eliminate any deficit in the affected Members' Capital Accounts to the extent required by Treasury Regulations as quickly as possible. The Manager shall make an allocation under this provision only to the extent that an affected Member would have a remaining Capital Account deficit after all other allocations under this Article have been computed.

This provision is intended to comply with the qualified income offset requirement of Treasury Regulation Section 1.704-1(b)(2)(ii)(d)(3).

(g) Gross Income Allocation to Restore Capital Account Deficit

If any Member has a Capital Account deficit at the end of any LLC Taxable Year that exceeds the sum of the amount the Member is obligated to restore under this Agreement and the amount the Member is obligated to restore under the Treasury Regulations, then the Manager shall allocate items of LLC income and gain in the amount of the excess as quickly as is practicable. The Manager shall make an allocation under this provision only to the extent that an affected Member would have a remaining Capital Account deficit after all other allocations under this Article have been computed.

(h) Allocation from Disposition of Property Not Revalued

If properties of the LLC are not revalued under Treasury Regulation Section 1.704-1(b)(2)(iv)(f) and the Capital Accounts of the Members are not adjusted accordingly upon the admission of a Member or the liquidation of Interest, the Manager shall allocate gain or loss recognized upon the sale or other disposition of LLC property among the Members. This allocation must take into account the variation between the adjusted basis of the property and the property's Fair Market Value on the date the Member was admitted or the Interest was liquidated, as the case may be, under Code Section 704(c).

(i) Allocation Related to Adjustments in Tax Basis

If Code Section 734(b) or 743(b) requires an adjustment to the adjusted tax basis of any LLC asset, Treasury Regulation Section 1.704-1(b)(2)(iv)(m) must be taken into account in determining the Capital Accounts. The amount of the adjustment to the Capital Accounts must be treated as an item of gain (if the adjustment increases the asset's basis) or loss (if the adjustment decreases the asset's basis). The Manager shall allocate this gain or loss to the Members consistent with Treasury Regulation Section 1.704-1.

(j) Allocation Related to Capital-Event Adjustments

If the gross Book Value of any asset of the LLC is increased or decreased for special events, the Manager shall allocate gain or loss as required for Capital Account purposes. The Manager shall take into account any difference between the asset's adjusted basis for federal income tax purposes and the asset's gross Book Value for any later allocations of income, gain, loss, or deductions regarding any adjusted asset.

(k) Allocation Consistent with Distributions

The Manager shall allocate net profits and net losses in a manner consistent with:

- the requirements for distributions of cash described elsewhere in this Agreement;
- the requirements for distribution of assets upon its dissolution and winding up in accordance with Capital Account balances as specified in the procedures described below;
- and
- the requirements of applicable Regulations under Code Section 704(b).

(l) Allocations to Comply with Regulations and Intentions of Members

The allocations of net income, gains, net losses, and deductions set forth in this Agreement are intended to comply with Treasury Regulation Section 1.704-1(b), Treasury Regulation Section 1.704-1(b)(4)(iv), and Treasury Regulation Section 1.704-2, and are intended to have *substantial economic effect* within the meaning of those Regulations.

The allocations could be inconsistent with the Members' intentions. Accordingly, the Manager is authorized to allocate net profits, net losses, and other economic items among the Members to prevent the allocations from distorting the manner in which distributions are intended to be divided among the Members under this Article. In general, the Members anticipate that these allocations will be accomplished by specially allocating other net profits, net losses, and items of income, gain, loss, and deductions among the Members so that the net amount of the allocations and any special allocations to the Member is zero. If, for any reason, the Manager determines that the allocation provisions of this Agreement are unlikely to be recognized for federal income tax purposes, the Manager may amend this Agreement's allocation provisions to the minimum extent necessary to give effect to the plan of allocations and distributions in this Agreement.

Section 7.04 Determining Net Profits and Net Losses

For purposes of this Article, the terms *net profits* and *net losses* mean the amount of the LLC's taxable income or loss for any year or period, determined under Code Section 703(a). All items of income, gain, loss, or deduction required to be stated separately under Section 703(a)(1) will be included in taxable income or loss. This determination of net profits and net losses includes the following items:

any income of the LLC that is exempt from federal income tax and is not otherwise taken into account in computing taxable income or loss under this Article;
any expenditures of the LLC described in Code Section 705(a)(2)(B) relating to nondeductible expenses that are not otherwise taken into account in computing taxable income or loss, and
if any LLC asset's value is adjusted, the amount of the adjustment will be taken into account as gain or loss from the disposition of the asset.

Any other items that are specially allocated under this Article will not be taken into account in computing net profits and net losses.

Section 7.05 Allocation of Gain and Loss on Liquidation

Upon liquidation of the LLC, the Manager shall allocate the LLC's estimated net loss for the year and any loss realized by the LLC on liquidation, including any book adjustment loss, and its estimated net gain for the year and any gain realized upon liquidation, including any book adjustment gain, under Article Six and Article Seven. If any LLC property is distributed to the Members in kind, then, for purposes of reflecting the allocation of gain or loss from liquidation in the Members' Capital Accounts, the LLC shall make a book adjustment with respect to the property distributed in kind as provided in the Treasury Regulations under Code Section 704(b).

Section 7.06 Change for Legal Compliance

The Manager may change the allocation provisions of this Section if the LLC's legal counsel advises the LLC that this change is required under the Code based on the manner in which the Members have agreed to bear losses and to share profits and distributions under this Agreement.

ARTICLE EIGHT DISTRIBUTIONS

Section 8.01 Distributions to Members

Subject to Section 8.02 and Section 8.03, the Manager may determine the amounts and timing of distributions to the Members. Distributions may be made to the Members on a *pro rata* or *non pro rata* basis.

Section 8.02 No Unlawful Distributions

Despite any provision to the contrary in this Agreement, the LLC must not make any distribution that would violate any contract or agreement to which the LLC is then a party or any law, rule, regulation, order or directive of any Governmental Authority then applicable to the Company.

Section 8.03 Distributions for Taxes

The Manager shall use commercially reasonable efforts to distribute cash to each Member in proportion to and to the extent of the Member's Quarterly Estimated Tax Amount for the applicable calendar quarter (*Tax Advance*). The Tax Advance must be distributed at least five days before each date on which the quarterly installments of estimated tax prescribed by the Code for a calendar-year corporation are due. The LLC's obligation to distribute the Tax Advance will be subject to any restrictions in any then applicable debt-financing arrangements of the LLC and subject to the Manager's sole discretion to retain any other amounts necessary to satisfy the LLC's obligations.

Section 8.04 Distributions for Taxes Treated as Advances

For purposes of this Agreement, any distributions made under Section 8.03 are treated as advances on distributions under Section 8.01. These distributions reduce, dollar-for-dollar, the amount otherwise distributable to the Member under Section 8.01 and Article Sixteen.

Section 8.05 In-Kind Distributions

The Manager may make in-kind distributions to the Members (other than distributions under Section 8.03) in the form of securities or other noncash property held by the LLC. In any in-kind distribution, the securities or property will be distributed among the Members in the same proportion and priority as the distribution's Fair Market Value cash equivalent. Before making an in-kind distribution, the Manager must adjust the Members' Interests to account for any difference between the established Fair Market Value and the Book Value of the in-kind property.

Any distribution of securities is subject to the conditions and restrictions the Manager requires to ensure compliance with Applicable Law. The Manager may require the Members to sign and deliver documents the Manager determines are necessary to comply with all federal and state securities laws that apply to the distribution and to any further transfer of the distributed securities. The Manager may appropriately legend the certificates that represent the securities to reflect any restriction on transfer with respect to these laws.

Section 8.06 No Interest or Demand Rights

All distributions will be made under this Article or Section 16.03(c). Except as specifically set forth in this Article, no Member may demand distributions. If a Member does not withdraw all or any portion of the Member's share of any cash distribution, the Member will not receive any interest on the unwithdrawn amount unless all Members agree.

Section 8.07 Proceeds from Capital Transactions

Except as otherwise provided in this Agreement, before making any distribution to Members, proceeds of any capital transaction will be applied to:

- the principal balance at that time of that portion (or any greater portion thereof that the Manager determines should be repaid) of any loans that the Manager determines are attributable to the capital transaction;
- the amount of all costs and expenses paid or to be paid by the LLC in connection with the capital transaction; and
- a reasonable reserve for future payments that may need to be made by the LLC with respect to the capital transaction.

Section 8.08 Return of Distribution

Any distribution made to the Members will be considered to comply with Applicable Law if the distribution is made from available assets of the LLC. If a court of competent jurisdiction finds that a distribution violates Applicable Law and the request for return of the distribution is approved by a Majority Vote of the Members, the Members must return their respective share of that distribution. The LLC's creditors are deemed to have notice of the provisions of this Article and of the fact that Members are not required to return a distribution unless the request for return of the distribution has been approved by a Majority Vote of the Members.

ARTICLE NINE LLC MANAGEMENT

Section 9.01 Management by Manager

The LLC is managed by the Manager appointed under Section 9.02. The Manager shall manage and administer the LLC's property and perform all other duties prescribed for a Manager by the Act. The Manager may take all actions necessary, useful, or appropriate for the ordinary management and conduct of the LLC's business. The Manager has the exclusive authority to manage the operations and affairs of the LLC, subject in all cases to the requirements of Applicable Law.

Section 9.02 Appointing Managers

Any natural person (including a Member) may be appointed as Manager. Brian Maw is appointed as Manager of the LLC. Additional Managers may be appointed at any time by a Majority Vote of the Members. and any then serving Manager or Managers.

Section 9.03 Manager's Voluntary Resignation

Subject to any contract between the LLC and the Manager, any Manager may resign at any time by giving written notice to the Members. A resignation takes effect on the date the notice is received or later if specified in the resignation notice. Unless otherwise specified, the resignation need not be accepted to make the Manager's resignation effective. A Manager's resignation does not prejudice the LLC's rights under any contract to which the Manager is a party on behalf of the LLC.

Section 9.04 Manager's Removal

A Manager may be removed as Manager with or without Cause by a Majority Vote of the Interests, excluding the Manager at issue if the Manager is also a Member of the LLC.

Section 9.05 Bankruptcy Considered an Act of Withdrawal by Manager

A Manager who becomes the subject of an order for relief or who is declared insolvent in any federal or state bankruptcy or insolvency proceeding will be considered to have resigned and withdrawn as Manager of the LLC.

Section 9.06 Vacancy in the Office of Manager

If the Manager withdraws, is removed, or otherwise cannot serve as Manager for any reason, the Members shall designate a Manager to fill the vacancy by a Majority Vote within 90 days after the date the last remaining Manager stops serving. The appointed Manager will automatically have the rights, authorities, duties, and obligations of a Manager under this Agreement.

Section 9.07 Bond, Compensation, and Expenses of Manager

Except to the extent required by Applicable Law, no Manager is required to furnish bond or other security in order to serve as Manager. No Manager may receive a salary or other compensation for services provided. The Manager is entitled to reimbursement for reasonable costs and expenses incurred in conducting the business of the LLC.

Section 9.08 Manager's Responsibility to File Necessary Forms

The Manager shall take all action necessary to assure prompt and timely filing of any amendments to the Certificate of Organization according to this Agreement and all required state and federal tax returns, reports, and forms, including but not limited to the reporting required by the Corporate Transparency Act.

Section 9.09 Manager's Beneficial Ownership Information

A Manager who is not a Member must provide the LLC with all of the beneficial ownership information required for the LLC to fully comply with the reporting requirements of the Corporate Transparency Act, including, at a minimum, the Manager's full legal name, date of birth, primary residential address, government-issued identification number and issuing jurisdiction, and a copy or image of the government-issued identification.

Section 9.10 No Employment Rights Conferred

Nothing in this Agreement confers upon any Manager any right to employment or continuation of employment with the LLC. If a Manager is or becomes an at-will employee of the LLC, nothing in this Agreement interferes in any way with the right of the LLC to terminate the Manager's at-will employment at any time. Nothing in this Agreement creates any employment agreement with any Manager.

Section 9.11 Extent and Scope of Manager's Services

The Manager shall adequately promote the interest of the LLC and the Members and shall commit the necessary time and effort to do so. The Manager is not required to devote full-time hours to LLC business.

Section 9.12 Manager's Fiduciary Duties

This Agreement does not create or impose any fiduciary duty on any Manager. Each of the Members and the LLC waive all fiduciary duties that, absent this waiver, may be implied by Applicable Law. The provisions of this Agreement that restrict the Manager's duties and liabilities replace any duties and liabilities otherwise existing at law or in equity. The Members and the LLC acknowledge and agree that each Manager's duties to the LLC are only as expressly set forth in this Agreement.

Section 9.13 No Personal Liability for Capital Contributions

The Manager is not personally liable for the return of any portion of any Member's Capital Contribution. Any return of capital will only be made from available assets of the LLC.

Section 9.14 Manager's Power to Amend

The Manager may, without the consent of the Members, amend any provision of this Agreement or the Certificate of Organization and prepare and deliver any documents to the extent necessary to reflect:

- a change in the LLC's name or its principal office location;
- the admission, substitution, or termination of Members according to this Agreement;
- a change that the Manager determines necessary or advantageous to qualify or to maintain qualification as a limited liability company or a company in which the Members have limited

liability under the laws of any jurisdiction, or to ensure that the tax treatment of the LLC does not change except as otherwise provided in this Agreement;
a change that does not adversely affect the Members in any material respect or that is required or contemplated by this Agreement; or
any other similar amendments.

Any other amendments must be made in accordance with Section 18.12.

Section 9.15 Delegation to Agents and Others

The Manager may employ agents, employees, accountants, attorneys, consultants, and other persons necessary or appropriate to carry out the business and affairs of the LLC, whether or not the person or persons are Affiliates or are employed by an Affiliate.

The Manager may direct the LLC to pay reasonable expenses such as fees, costs, salaries, wages, and other compensation as the Manager determines to be appropriate as a LLC expense. These expenses may include payment or reimbursement for all fees, costs, and expenses incurred in the LLC's formation and organization.

The Manager may delegate management functions to any corporation, partnership, limited liability company, or other entity qualified to manage the property and to conduct the business activities of the LLC. Delegation of management powers does not relieve a Manager from personal liability for management decisions and operations of the LLC.

Section 9.16 Manager's Agency Authority

The Manager has the authority to bind the LLC in contracts and other dealings with Third Parties in the ordinary course of the LLC's business and any other matter. Except with the vote of the Members in accordance with Article Eleven, no Manager may make any representation about the LLC that is likely to have a material impact on the LLC's business or reputation.

Section 9.17 Third-Party Reliance

Any Third Party dealing with the LLC may rely on a notarized writing signed by a Manager of the LLC stating that the Manager has authority to act for the LLC. No person relying in good faith upon the authority of a Manager will incur any liability to the LLC for acts made in reliance upon the Manager's representations that the Manager's powers are then in effect.

ARTICLE TEN MEMBER RIGHTS AND OBLIGATIONS

Section 10.01 Limited Liability of Members

Except as required by Applicable Law, a Member's status as a Member does not obligate the Member for any debt, obligation, or liability of the LLC or of other Members whether arising in contract, tort, or otherwise.

No Member will be required to contribute capital to the LLC for the payment of any losses or for any other purposes. No Member will be responsible or obligated to any Third Party for any debts or liabilities of the LLC in excess of the amount of:

that Member's unpaid required Capital Contributions;

unrecovered Capital Contributions; and
that Member's share of any undistributed LLC profits.

Section 10.02 No Right to Participate in Management

Except as expressly provided in this Agreement, no Member may participate in the management and operation of the LLC's business and investment activities or bind the LLC to any obligation or liability whatsoever. A Member may exercise any power authorized by the Act that a Member may exercise without being considered to be taking part in the control of the LLC's business.

Section 10.03 Members' Fiduciary Duty

A Member does not have any fiduciary duty to the LLC or to any other Member solely by reason of being a Member. If this Agreement expressly relieves a Manager of a responsibility that the Manager would otherwise have and imposes the responsibility on one or more Members, those Members will be treated as Manager with respect to that responsibility under Section 9.12.

Section 10.04 Member's Agency Authority

No individual Member has the right or authority to bind the LLC in contracts and other dealings with Third Parties—regardless of whether the contracts and other dealings occur in the ordinary course of the LLC's business—without a vote of the Members except as provided in Article Eleven. No individual Member may make any representation concerning the LLC that is likely to have a material impact on the LLC's business or reputation.

Section 10.05 Transfer of LLC Assets

A Member may not transfer legal or beneficial title to LLC property except to the extent permitted by the laws of the State of Idaho relating to the winding up of the LLC in the absence of a qualified Manager. Any Member who acts in that capacity may do so only after first submitting an affidavit of fact stating the conditions under which the Member serves. Any affidavit prepared according to this provision must be kept with the LLC records.

Section 10.06 Restrictions on Withdrawal or Dissociation Rights

A person will remain a Member as long as that person holds any Interest in the LLC. As long as a Member continues to hold any Interest in the LLC, the Member does not have the ability to withdraw, dissociate, or resign as a Member or receive a return of any Capital Contributions before the LLC's dissolution and winding up under this Agreement and Applicable Law. A Member does not dissociate, withdraw, or otherwise cease to be a Member because of the Member's bankruptcy or because of any event specified in the Act. A Member's withdrawal, dissociation, resignation or attempted withdrawal, dissociation, or resignation before the LLC's dissolution or winding up is null and void *ab initio*.

Section 10.07 LLC Continues after a Member's Death

A Member's death will not cause the LLC to dissolve. If a Member dies, the remaining Member or Members will continue the LLC and its business.

Section 10.08 No Partition Rights

Title to the LLC's assets is vested solely in the LLC and not owned by any Member. Each Member, individually and on behalf of the Member's successors and assigns, expressly waives any right to have any LLC property partitioned.

Section 10.09 Member Expulsion

The LLC may not expel a Member under any circumstances.

ARTICLE ELEVEN MEMBER VOTING AND VOTING RIGHTS

Section 11.01 Voting Rights

Each Member has the right to vote the holder's proportionate Interest in the LLC regarding all matters that all Members have a right to vote under this Agreement or by Applicable Law.

Example: A Member that holds 35.5% of all of the Interests entitled to vote on a matter will have 35.5 votes out of 100 votes that may be cast on that matter.

Section 11.02 Matters on Which Members Must Vote

The Manager may not take any of the following actions without approval by the Manager and a Majority Vote (or greater vote if required by this Agreement or Applicable Law) of the Members:

- admitting any substitute or Additional Members into the LLC in accordance with Section 15.06;
- filing or consenting to file a petition for or against the LLC under any federal or state bankruptcy, insolvency, or reorganization act;
- ceasing the LLC's business before the LLC's actual termination or acting in any way that would make it impossible to carry on the LLC's business;
- permitting the LLC's funds to be commingled with the funds of any other person;
- confessing a judgment against the LLC;
- materially altering the LLC's business or deviating from any approved business plan of the LLC;
- selling substantially all of the property in liquidation or dissolving and liquidating the LLC;
- registering any interest in this LLC for an offering under any federal or state securities law;
- changing the tax classification of the LLC;
- appointing a Manager, subject to the provisions of Section 9.02;
- removing a Manager, subject to the provisions of Section 9.04;
- electing a successor Manager, subject to the provisions of Section 9.06;
- amending this Agreement; and
- any matter requiring the vote of the Members under any mandatory provision of Applicable Law.

The Members may call or hold any meeting of the Members, provide notice of the meeting, form a quorum for the meeting, or take any action by vote at a meeting or by written consent without a meeting, in all cases to take any action or conduct any business permitted by this Section.

Assignees may not vote.

Section 11.03 Approval or Consent of Members

Unless provided otherwise by this Agreement or Applicable Law, any action of the Members requires a Majority Vote of the Members in favor of the action.

Section 11.04 Members Who Are under Court Orders

The vote, consent, or participation of any Member under any kind of court order charging, restraining, prohibiting, or in any way preventing any Member from participating in LLC matters is not required in order to obtain the necessary percentage vote or consent or participation for the LLC to act upon any proposed action.

Section 11.05 Voting by Proxy

The Members may appoint a proxy to vote or otherwise act for the Members under a written appointment form signed by the Members or the person's attorney in fact. A proxy appointment is effective when received by the secretary or other officer or agent of the LLC authorized to tabulate votes. A fiduciary's general proxy is given the same effect as the general proxy of any other Members. A proxy appointment is valid for 11 months unless otherwise specifically stated in the appointment form, or unless the authorization is revoked by the Member who issued the proxy.

ARTICLE TWELVE MEMBER MEETINGS AND NOTICE

Section 12.01 Member Meetings

The Members may designate when and where they meet. Member meetings may be held at the LLC's principal office or any other place (either within or outside the State of Idaho) the Members determine from time to time.

Section 12.02 Special Meetings

Special meetings of the Members must be called by Majority Vote of the Members. Special meetings of the Members require notice to be delivered to the Members according to this Agreement. Any shorter notice period must be approved by all the Members. Any Member may waive this notice as to himself or herself.

Section 12.03 Meeting Notice

The Manager shall deliver notice to each Member of record entitled to vote at the meeting at the address in the LLC records at least two but no more than 30 days before the meeting date. The notice must state the date, time, and place of any meeting of the Members and a description of the meeting's purpose.

Section 12.04 Waiving Meeting Notice

A Member may waive notice of any meeting before or after the meeting's date and time stated in the notice by delivering a signed waiver to the LLC to include in the minutes. If a Member attends any meeting in person or by proxy, the Member waives objection to lack of notice or to defective notice of the meeting unless the Member objects to holding the meeting or transacting business at the meeting. The Member waives objection to consideration of a particular matter at the meeting

that is not within the purposes described in the meeting notice unless the Member objects to considering the matter when it is presented.

Section 12.05 Action by Written Consent

Any action required or permitted to be taken at a meeting of the Members may be taken without a meeting if the action is taken by all the Members entitled to vote on the action. The action must be evidenced by one or more written consents describing the action taken. These consents, in the aggregate, must be signed by all of the Members entitled to vote on the action and delivered to the LLC to be included in the minutes. This consent has the same force and effect as a vote at a meeting with a quorum present and may be stated as such in any document or instrument filed with the Idaho Secretary of State.

Section 12.06 Quorum

For any meeting of the Members, a quorum requires the presence of Members holding at least two-thirds of the Interests entitled to vote at the meeting. Any time the Members are conducting business at a meeting of the Members, a quorum of the Members must be present. If a quorum is not present at any meeting of the Members, the Members present at the meeting may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

Section 12.07 Presence

Any Member may participate in any meeting using any means of communication by which all Members participating may simultaneously hear each other during the meeting. Any Member participating in this way is considered present in person at the meeting.

Section 12.08 Conduct of Meetings

At any meeting of the Members, the Members shall appoint a natural person to act as secretary of the meeting. The secretary of the meeting shall prepare minutes of the meeting, to be kept with the LLC records.

ARTICLE THIRTEEN BOOKS, RECORDS, AND BANK ACCOUNTS

Section 13.01 Books and Records

The Manager shall keep books of account regarding the operation of the LLC at the principal office of the LLC or at any other place the Manager determines. The Manager shall keep the following records:

- a current list of the full names and last known addresses of each past and present Manager and Member;

- a copy of the Certificate of Organization (and any amendments) and copies of any powers of attorney under which any certificate has been signed;

- an accurate and up-to-date copy of the reporting information required by the Corporate Transparency Act for all beneficial owners of the LLC;

- copies of the LLC's federal, state, and local income tax returns and any reports for the three most recent Taxable Years, if required;

copies of this Agreement (and any amendments);
copies of any financial statements of the LLC for the three most recent Taxable Years; and
any other documents required by Applicable Law.

Section 13.02 Accounting and Taxable Year

The Manager shall keep books of account consistent with any method authorized or required by the Code and as determined by the Manager. The Manager shall close and balance the books at the end of each Taxable Year. The Members may choose any period authorized or required by the Code for the LLC's Taxable Year.

Section 13.03 Reports

Within a reasonable time after each Taxable Year ends, the Manager shall provide the information required to prepare and file individual tax returns to all Members. The Manager shall prepare these financial statements at the LLC's expense.

Section 13.04 Member Inspection Rights

Upon reasonable notice from each Member, the LLC shall—and shall cause its Manager, officers, and employees to—provide reasonable access to each Member and its Legal Representatives to LLC Information during normal business hours. *LLC Information* is the information accessible to the Member and its Legal Representatives by exercising the inspection right to examine and make copies of the corporate, financial, and similar records, reports, and documents of the LLC, including all books and records, minutes of proceedings, internal management documents, operations reports, reports of adverse developments, management correspondence, and communications with the Manager.

Section 13.05 Other Information

The LLC and each Manager shall provide to each other Manager—without demand—any information concerning the LLC's activities, financial conditions, or other circumstances that the LLC knows is material to the proper exercise of the Manager's rights and duties under the Agreement or the Act. Neither the LLC nor any Manager is responsible for failure to provide this information if the LLC or Manager reasonably believes that the Manager in question already knows the information.

Whenever the Act or this Agreement requires or allows a Member to give or withhold consent to a matter, the LLC shall, without demand, provide the Member with all information that is known to the LLC and is material to the Member's decision before the consent is given or withheld.

Section 13.06 Budget

No later than 30 days before each Taxable Year begins, the LLC may, at the Members' election, prepare and submit a Budget. The LLC shall use commercially reasonable efforts to operate in all material respects in accordance with any Budget set by the LLC.

Section 13.07 Bank Accounts and LLC Funds

The Manager shall deposit all cash receipts in the LLC's depository accounts. All accounts used by or on behalf of the LLC are the LLC's property, and will be received, held, and disbursed by the Manager for the purposes specified in this Agreement. The Manager may not commingle LLC funds with any other funds.

**ARTICLE FOURTEEN
[RESERVED]**

**ARTICLE FIFTEEN
TRANSFER OF INTERESTS**

Section 15.01 Transferability of Interests

No Member may transfer any Interest either voluntarily or involuntarily by any means without the unanimous written consent of the Members and an action of the Manager.

The Members and the Manager are not required to consent to any attempted transfer and will not be subject to any liability for withholding consent. Any attempted transfer of an Interest or the admission of an Additional Member in violation of this Section and Section 15.06 is null and void *ab initio*.

Section 15.02 Restriction to Preserve Code Section 6221(b) Election

Despite the foregoing or anything else in this Agreement, the LLC may not approve—and each Member agrees that it will not directly or indirectly make—any transfer or addition of an Additional Member that would cause the LLC to fail to meet the requirements for eligibility to elect out of partnership-level tax treatment under Code Section 6221(b). Under these requirements, each of the Members of the LLC must be an individual, a C corporation, any foreign entity that would be treated as a C corporation were it domestic, an S corporation, or an estate of a deceased Member. The LLC must not be required to furnish more than 100 statements under Code Section 6031(b) with respect to its Members.

Section 15.03 Securities Restriction

Despite the foregoing or anything else in this Agreement, the LLC may not approve—and each Member agrees that it will not directly or indirectly make—any transfer or addition of an Additional Member except as permitted under the Securities Act and other applicable federal or state securities or blue sky laws. The LLC may condition a transfer of Interest on receipt of an opinion of counsel in form and substance satisfactory to the LLC to the effect that the transfer may be made without registration under the Securities Act.

Section 15.04 Transferee Treated as an Assignee until Admitted as an Additional Member

The transferee of an Interest will hold the interest only as an Assignee until the transferee satisfies all the requirements of Section 15.06 to become an Additional Member. As an Assignee, the transferee will have only those rights in Section 15.05.

Section 15.05 Assignee's Rights, Limitations, and Obligations

An Assignee may receive distributions from the LLC to the same extent that the transferring Member would receive distributions under this Agreement, but otherwise has substantially fewer rights than a Member. An Assignee only holds a right to receive economic benefits when actually distributed by the LLC in respect to the assigned Interest. Other limitations on Assignees' rights include:

access only to the LLC records and information specifically authorized for the Assignees under the Act;

no right to vote in any LLC matters; and
no other legal or economic rights.

Regardless of whether an Assignee is admitted as a Member, an Assignee is subject to all of the obligations of a Member. If an Assignee fails to fulfill any monetary obligation imposed on Members under this Agreement, then despite any other provisions of this Agreement, any amount that otherwise would be paid or distributed to the Assignee under Article Eight or Article Sixteen will not be paid to the Assignee. Instead, the amount will be paid or otherwise applied on the Assignee's behalf to any monetary obligation of the Assignee that has not been paid or deemed paid.

Section 15.06 Requirements to Become an Additional Member

An Assignee or other prospective Additional Member will not become an Additional Member and will not have any rights as a Member until all of the conditions, consents, and procedures in this Section have been fully satisfied.

(a) Approval by Members and the Manager

An Additional Member may only be added with the unanimous written consent of the Members and the Manager.

(b) Certain Legal Assurances

If required by the Manager, the prospective Additional Member must provide evidence satisfactory to the Manager that admission of the prospective Member will not violate any applicable securities law, cause a termination of the LLC under applicable provisions of the Code, or alter the status of any tax election made by the LLC.

(c) Transfer Instruments

If a prospective Additional Member is acquiring an Interest in connection with a Member's transfer of Interest, the assigning Member and the Assignee shall sign, acknowledge, and deliver instruments of transfer and assignments to the LLC, in the form and substance satisfactory to the LLC.

(d) Executing All Other Agreements

The prospective Additional Member must sign all other agreements and instruments requested by the Manager. These instruments include a Member Joinder or other written acceptance and adoption by the Assignee of this Agreement.

(e) Reasonable Transfer Fee

An Assignee may be required to pay any professional fees incurred in obtaining opinions or valuations and a reasonable transfer fee to the LLC. The Manager may establish the transfer fee amount on a case-by-case basis.

Any attempt to admit a Member that violates this Article will be null and void *ab initio*.

Section 15.07 Additional Member's Effective Admission Date

The effective date of an Additional Member's admission is the date on which the Members and the Manager accept the Assignee as an Additional Member under this Agreement and the requirements of Section 15.06 are satisfied.

Section 15.08 Amending Operating Agreement and Certificate of Organization

If required by Applicable Law, upon the admission of an Additional Member, the Manager may amend the Operating Agreement, the Certificate of Organization, or both to reflect any substitution or addition of the Additional Member. The LLC may assess any associated fees, costs, or other expenses associated with that Additional Member.

Section 15.09 Voting Rights of Transferred Interests

A Member who transfers an Interest to an Assignee will continue to hold all voting rights associated with the assigned Interest until the Assignee of the transferred Interest satisfies all of the requirements to become an Additional Member under Section 15.06.

If an Assignee acquires an Interest due to the death of a Member, the voting rights associated with the transferred Interest will be suspended and disregarded for purposes of calculating votes until the Assignee of the transferred Interest satisfies all of the requirements to become an Additional Member under Section 15.06.

Section 15.10 Effect of Improper Transfer

Any attempted transfer of an Interest or the admission of an Additional Member in violation of this Article is null and void *ab initio*. No such transfer or admission may be recorded on the LLC's books and the purported transferee or Member in any such transfer will not be treated (and, in the case of a transfer, the purported transferor will continue to be treated) as the owner of such Interest for all purposes of this Agreement. If the ownership of Interest is in doubt, or if there is reasonable doubt as to who may receive a distribution attributable to an Interest, the Manager may accumulate the amounts to be distributed until this issue is finally determined and resolved. The Manager shall credit any accumulated amounts to the Capital Account associated with the Interests.

Section 15.11 Creditor Rights; Charging Order Sole and Exclusive Remedy

If a creditor obtains a judgment by a court of competent jurisdiction against any Member or Assignee, the court may charge the Member or Assignee's Interest with payment of the unsatisfied amount of the judgment from distributions attributable to the affected Interest, but only to the extent permitted by the Act. To the extent any Interest is charged with satisfaction of a judgment, the judgment creditor will receive no more than the rights of an Assignee under Section 15.05 and will not be admitted as a Member of the LLC.

The charging order is the exclusive remedy by which a judgment creditor of a Member or an Assignee of an Interest may obtain any satisfaction from the LLC toward any judgment against the Member or Assignee. This Section does not deprive any Member or Assignee of rights under any exemption laws available to the Member or Assignee.

Section 15.12 Assignee or Charging Order Holder Assumes Tax Liability

The Assignee of an Interest and any person who acquires a charging order against an Interest shall report income, gains, losses, deductions and credits regarding the interest for the period in which the Assignee interest is held or for the period the charging order is outstanding.

ARTICLE SIXTEEN DISSOLUTION AND LIQUIDATION

Section 16.01 Dissolution Events

The LLC will be dissolved only if an event described in this Section occurs.

(a) Dissolution by the Members and the Manager

The LLC will be dissolved by the Members and the Manager, subject to any special vote required by Article Eleven.

(b) Judicial Dissolution

The LLC will be dissolved upon the entry of a decree of judicial dissolution by a court of competent jurisdiction.

After dissolution, the LLC may only conduct activities necessary to wind up its affairs.

Section 16.02 Effect of Dissolution

Dissolution of the LLC will be effective on the day on which the event described in Section 16.01 occurs, but the LLC will not terminate until the winding up of the LLC has been completed, the assets of the LLC have been distributed as provided in Section 16.03, and the LLC's Certificate of Organization has been cancelled as provided in Section 16.06.

Section 16.03 Liquidation

After dissolving the LLC, the Members will have full authority to sell, assign, and encumber any or all of the LLC's assets and to wind up and liquidate the affairs of the LLC's in an orderly and businesslike manner. The Members shall liquidate the LLC's assets and apply and distribute proceeds from the liquidation of the assets as follows.

(a) Creditor Payment

The proceeds from the liquidated property will first be applied toward or paid to any non-Member creditor of the LLC in the order of payment required by Applicable Law.

(b) Provision for Reserves

After paying liabilities owed to non-Member creditors, the Members shall set up such reserves as the Members determine is reasonably necessary. The Members may, but need not, pay over any reserves for contingent liabilities to a bank to hold in escrow for later payment.

After the Members are reasonably satisfied that any liabilities have been adequately resolved, the Members shall distribute any remaining reserves to the Members or their assigns as provided in Section 16.03(c).

(c) Distributions to Members

After paying liabilities owed to non-Member creditors and establishing reserves, the Members shall satisfy any debts owed to the Members with any remaining net assets of the LLC, and then distribute any remaining assets to the Members in proportion to their positive Capital Account balances until paid to zero and then in proportion to their Interests.

Section 16.04 In-Kind Distributions in Liquidation

Despite the provisions of Section 16.03 that require the liquidation of the LLC's assets but subject to the order of priorities set forth in Section 16.03(c), if upon dissolution of the LLC the Manager

determines that an immediate sale of part or all of the LLC's assets would be impractical or could cause undue loss to the Members, the Members may defer the liquidation of any assets except those necessary to satisfy LLC liabilities and reserves. If the Members determine the assets are not suitable for liquidation, the Members may distribute undivided interests in the LLC's assets to the Members instead of cash. This in-kind distribution must be made to the Members as tenants in common and in accordance with the provisions of Section 16.03(c). Any in-kind distribution will be subject to any conditions relating to the disposition and management of the properties that the Members determine to be reasonable and equitable and to any agreements governing the operating of such properties at that time. If any in-kind assets of the LLC are to be distributed, those assets will be distributed using their Fair Market Value at the distribution date, as determined by the Members.

Section 16.05 LLC Property Sole Source

LLC property is the sole source for the payment of any debts or liabilities owed by the LLC. Any return of Capital Contributions or liquidation amounts to the Members will be satisfied only to the extent that the LLC has adequate assets. If the LLC does not have adequate assets to return the Capital Contributions, the Members will not have any recourse against the LLC or any other Members, except to the extent that other Members may have outstanding debts or obligations owing to the LLC.

Section 16.06 Cancellation of Certificate of Organization

Upon completing the distribution of the LLC's assets as provided in Section 16.03(c), the LLC will be terminated and the Members shall cause the cancellation of the Certificate of Organization in the State of Idaho and of all qualifications and registrations of the LLC as a foreign limited liability company in any other jurisdictions and shall take any other actions necessary to terminate the LLC.

Section 16.07 Survival of Indemnity Rights, Duties, and Obligations

For purposes of Article Seventeen, including any Member's right to indemnification under Section 17.04, the LLC's dissolution, liquidation, winding up, or termination for any reason will not release any party from any loss that, at the time of the dissolution, liquidation, winding up, or termination, had already accrued to any other party or which may accrue because of any act or omission occurring before the dissolution, liquidation, winding up, or termination.

Section 16.08 LLC Asset Sales during Term of the LLC

The sale of LLC assets during the term of the LLC does not constitute liquidation, dissolution, or termination of the LLC as defined under this Article. The Manager may reinvest the sale proceeds in other assets consistent with the business purposes for the LLC. Further, the Manager may participate in any real property exchange as defined in Code Section 1031 if the exchange fulfills the business purposes of the LLC.

ARTICLE SEVENTEEN EXCULPATION AND INDEMNIFICATION

Section 17.01 Exculpation of Protected Persons

No Protected Person is liable to the LLC or any other Protected Person for any loss, damage, or claim incurred because of any action taken or not taken by the Protected Person in good-faith reliance on the provisions of this Agreement. This exculpation is only effective if the action or omission is not an Unprotected Act and does not protect any Member from a court order to purchase the Interest of another Member who successfully contends that the Member committed actionable, oppressive acts against the other Member.

Section 17.02 Good-Faith Reliance

A Protected Person is fully protected if the Protected Person relies in good faith on the LLC's records or on information, opinions, reports, or statements of the following Persons or groups:

- another Manager;
- one or more employees of the LLC;
- any attorney, independent accountant, appraiser, or other expert or professional employed or engaged by or on behalf of the LLC; or
- any other person selected in good faith by or on behalf of the LLC, in each case as to matters that the relying person reasonably believes to be within the other person's area of professional expertise.

The information, opinions, reports, or statements referred to above include financial statements; information, opinions, reports, or statements as to the value or amount of the LLC's assets, liabilities, income, or losses; and any facts pertinent to the existence and amount of assets from which distributions might properly be paid.

In no way does this provision limit any person's right to rely on information as provided in the Act. Any act, omission, or forbearance by a Protected Person on the advice of the LLC's counsel must be conclusively presumed to have been in good faith.

Section 17.03 Decision-Making Standards

When this Agreement permits or requires a Protected Person to make a decision (including discretionary decisions and other grants of similar authority or latitude), the Protected Person is entitled to consider only the interests and factors as the Protected Person chooses, including its own interests, with no obligation to give any consideration to any interest of or factors affecting the LLC or any other person. When this Agreement permits or requires a Protected Person to make a good-faith decision, the Protected Person shall act under this express standard and is not subject to any other standard imposed by this Agreement or any Applicable Law.

Section 17.04 Indemnification

The LLC shall indemnify, hold harmless, defend, pay, and reimburse any Protected Person against all losses, claims, damages, judgments, fines, or liabilities, including reasonable legal fees or other expenses incurred in their investigation or defense, that arise in connection with any actual or alleged act, omission, or forbearance performed or omitted on behalf of the LLC or any Member in connection with the LLC's business. If the act or omission is not an Unprotected Act, the LLC

shall also reimburse any amounts expended in settling any claims (collectively, *Indemnity Losses*) to which the Protected Person may become subject because:

- of any act or omission or alleged act or omission on behalf of the LLC, or any Member;
- the Protected Person is or was acting in connection with the LLC's business as a partner, member, stockholder, controlling Affiliate, manager, director, officer, employee, or agent of the LLC; any Member; or any of their respective controlling Affiliates; or
- the Protected Person is or was serving at the LLC's request as a partner, member, manager, director, officer, employee, or agent of any person including the LLC.

A Protected Person's conduct will be determined under a final, nonappealable order of a court of competent jurisdiction. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or a plea of *nolo contendere* or its equivalent, does not, of itself, create a presumption that the Protected Person did not act in good faith or, with respect to any criminal proceeding, had reasonable cause to believe that the conduct was unlawful or constituted fraud or willful misconduct.

The indemnity provided by this Article extends to the full extent permitted by the Act as it now exists or may later be amended, substituted, or replaced, but only if the amendment, substitution, or replacement permits the LLC to provide broader indemnification rights than those the Act permits.

Section 17.05 Reimbursement

The LLC shall promptly reimburse and may provide advancements to each Protected Person for reasonable legal or other expenses incurred in connection with investigating, preparing to defend, or defending any claim, lawsuit, or other proceeding relating to any Indemnity Losses for which such Protected Person may be indemnified under Section 17.04. If it is finally judicially determined that the Protected Person is not entitled to the indemnification provided by Section 17.04, the Protected Person shall promptly reimburse the LLC for any reimbursed or advanced expenses.

Section 17.06 Entitlement to Indemnity

The indemnification provided by Section 17.04 does not exclude any other indemnification rights under any separate agreement or otherwise. Section 17.04 will continue to protect each Protected Person regardless of whether the Protected Person remains in the position or capacity under which the Protected Person became entitled to indemnification under Section 17.04 and will inure to the benefit of the Protected Person's executors, administrators, legatees, and distributees.

Section 17.07 Insurance

To the extent available on commercially reasonable terms, the Manager may purchase, at the LLC's expense, insurance to cover Indemnity Losses covered by these indemnification provisions and to cover Indemnity Losses for any Protected Person's breach or alleged breach of the Protected Person's duties. The Manager will determine the coverage amounts and the deductibles. A decision not to purchase insurance will not affect a Protected Person's right to indemnification (including the right to be reimbursed, advanced expenses, or indemnified for Indemnity Losses under any other provisions of this Agreement) under this Agreement. A Protected Person that recovers any amount for any Indemnity Losses from any insurance coverage shall reimburse the LLC for any amount previously received from the LLC for those Indemnity Losses.

Section 17.08 Indemnification Obligation Funding

Despite anything in this Agreement to the contrary, any indemnity by the LLC relating to Section 17.04 will be provided out of and to the extent of the LLC's assets. No Member will have any personal liability or will be required to make Capital Contributions to help satisfy the indemnity unless the Member otherwise agrees in writing.

Section 17.09 Securities Indemnity

Each Member agrees to hold the LLC harmless from all expenses, liabilities, and damages (including reasonable attorneys' fees) arising from a disposition of Interest in any manner that violates the Securities Act, any applicable state securities law, or this Agreement. This indemnification includes the LLC's Members, Manager, Member principals, organizers, and controlling persons (as defined in the Securities Act), and any persons affiliated with any of them or with the distribution of the Interest.

Section 17.10 Savings Clause

Article Seventeen survives the LLC's dissolution, liquidation, winding up, and termination. If Article Seventeen or any portion of it is invalidated on any ground by any court of competent jurisdiction, the LLC shall indemnify and hold harmless each Protected Person under any applicable portion of this Article that was not invalidated and to the full extent permitted by Applicable Law. To the extent possible, Article Seventeen supersedes any Idaho law to the contrary.

Section 17.11 Amendment

Article Seventeen is a contract between the LLC and, collectively, each Protected Person who serves in that capacity at any time while Article Seventeen is in effect. The LLC and each Protected Person intend to be legally bound under this contract. No amendment, modification, or repeal of Article Seventeen that adversely affects a Protected Person's indemnification rights for Indemnity Losses incurred or relating to a state of facts existing before the amendment, modification, or repeal will apply without the Protected Person's prior written consent.

ARTICLE EIGHTEEN GENERAL MATTERS

Section 18.01 No Waiver

Any Member's failure to insist upon strict performance of any provision or obligation of this Agreement for any period is not a waiver of that Member's right to demand strict compliance in the future. An express or implied consent to or waiver of any breach or default in the performance of any obligations under this Agreement is not a consent to or waiver of any other breach or default in the performance of the same or of any other obligation.

Section 18.02 Governing Law

The affairs of the LLC and the conduct of its business are governed by the provisions of this Agreement to the extent such provisions are not in conflict with nonwaivable provisions of Applicable Law or the Certificate of Organization. This Agreement is governed, construed, and administered according to the laws of Idaho, as from time to time amended, and any applicable federal law. No effect is given to any choice-of-law or conflict-of-law provision or rule (whether

of the State of Idaho or any other jurisdiction) that would cause the application of the law of any jurisdiction other than those of the State of Idaho.

Section 18.03 Venue; Submission to Jurisdiction

A cause of action arising out of this Agreement includes any cause of action seeking to enforce any provision of or based on any matter arising out of or in connection with this Agreement or the transactions contemplated by it. The parties agree that any suit, action, or proceeding, whether in contract, tort, or otherwise, arising out of this Agreement must be brought in a state or federal court or courts located in State of Idaho and in the county of or nearest to the LLC's principal office if one of these courts has subject-matter jurisdiction over the suit, action, or proceeding. Any cause of action arising out of this Agreement is deemed to have arisen from a transaction of business in the State of Idaho.

Each party irrevocably consents to the jurisdiction of these courts (and their respective appellate courts) in any cause of action arising out of this Agreement. To the fullest extent permitted by Applicable Law, each party irrevocably waives any objection that it may have now or later to the venue of any action arising out of this Agreement in any of these courts, including an inconvenient-forum petition.

Service of process, summons, notice, or other document by registered mail to the address set forth in Section 18.08 is effective service of process for any suit, action, or other proceeding brought in any court.

Section 18.04 Waiver of Jury Trial

Each party to this Agreement acknowledges and agrees that any controversy arising out of this Agreement is likely to involve complicated issues. Therefore, each party irrevocably and unconditionally waives any right it may have to a trial by jury for any cause of action arising out of this Agreement.

Section 18.05 Equitable Remedies

Each party to this Agreement acknowledges that its breach or threatened breach of any of its obligations under this Agreement would give rise to irreparable harm to the other parties and monetary damages would not be an adequate remedy. Therefore, each party to this Agreement agrees that if any party breaches or threatens to breach any of its obligations, each of the other parties to this Agreement will be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance, and any other equitable relief available from a court of competent jurisdiction (without any requirement to post bond). These equitable remedies are in addition to all other rights and remedies that may be available in respect of the breach.

Section 18.06 Attorneys' Fees

If any party to this Agreement institutes any legal cause of action—including arbitration—against another party arising out of or relating to this Agreement, the prevailing party will be entitled to the costs incurred in conducting the cause of action, including reasonable attorneys' fees and expenses and court costs.

Section 18.07 Remedies Cumulative

Except to the extent this Agreement expressly provides otherwise, the rights and remedies under this Agreement are cumulative and are in addition to and not in substitution for any other rights and remedies available at law, in equity, or otherwise.

Section 18.08 Notices

Unless otherwise stated, all notices, requests, consents, claims, demands, waivers, and other communications called for under this Agreement must be in writing and will be deemed to have been given:

- when delivered by hand (with written confirmation of receipt);
- when received by the addressee if sent by a nationally recognized overnight courier (receipt requested);
- on the date sent by facsimile or email as a PDF document (with confirmation of transmission) if sent during recipient's normal business hours, and on the next business day if sent after normal business hours of the recipient; or
- on the fifth day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid.

If notice is required to be given to a minor or incapacitated individual, notice must be given to the minor or incapacitated individual's parent or Legal Representative.

The written notice must be sent to the respective parties at the party's last known address (or at the address a party has specified in a notice given in accordance with this Section). Each Member shall notify the LLC in writing within five days of any change to the Member's address.

Section 18.09 Severability

The invalidity or unenforceability of any provision of this Agreement does not affect the validity or enforceability of any other provision of this Agreement. If a court of competent jurisdiction determines that any provision is invalid, the remaining provisions of this Agreement are to be construed as if the invalid provision had never been included in this Agreement.

Subject to **Error! Reference source not found.**, upon a determination that any provision is invalid, illegal, or unenforceable, the parties to this Agreement shall negotiate in good faith to modify this Agreement to give effect to the original intent of the parties as closely as possible in a mutually acceptable manner so that the transactions contemplated by this Agreement can be consummated as originally contemplated to the greatest extent possible.

Section 18.10 Entire Agreement

This Agreement, together with the Certificate of Organization, and all related Exhibits, Schedules, and other agreements specifically referred to in this Agreement, constitutes the sole and entire agreement of its parties with respect to the Agreement's subject matter. This Agreement supersedes all prior and contemporaneous understandings, agreements, representations, and warranties with respect to the subject matter. As between or among the parties, oral statements or prior written material not specifically incorporated in this Agreement have no force or effect. The parties specifically acknowledge that, in entering into and executing this Agreement, each is relying solely upon the representations and agreements contained in this Agreement and no others.

Section 18.11 No Third Party Beneficiaries

Except as provided in Article Seventeen, which benefits and is enforceable by the Protected Persons it describes, this Agreement is for the sole benefit of its parties and their respective heirs, executors, administrators, successors, and assigns. Nothing in this Agreement, express or implied, confers any legal or equitable right, benefit, or remedy of any nature whatsoever upon any other person, including any creditor of the LLC.

Section 18.12 Amendments

Except as provided in Section 9.14, no provision of this Agreement may be amended or modified except by a written instrument executed by the Members. Despite the foregoing, amendments to the Schedule of Members after any new issuance, redemption, repurchase, or transfer of Interest in accordance with this Agreement may be made by the Manager without the consent of or execution by the Members.

Section 18.13 Determination of Fair Market Value

The *Fair Market Value* of any asset is the purchase price that a willing buyer having reasonable knowledge of relevant facts would pay a willing seller for that asset in an arm’s length transaction on any date, without time constraints and without being under any compulsion to buy or sell. Fair Market Value is a good-faith determination made by the Manager based on factors the Manager, in its reasonable business judgment, considers relevant.

Signed:

MEMBERS:

Brian Maw

Date: _____

Randell Mayers

Date: _____

Section 18.11 No Third Party Beneficiaries

Except as provided in Article Seventeen, which benefits and is enforceable by the Protected Persons it describes, this Agreement is for the sole benefit of its parties and their respective heirs, executors, administrators, successors, and assigns. Nothing in this Agreement, express or implied, confers any legal or equitable right, benefit, or remedy of any nature whatsoever upon any other person, including any creditor of the LLC.

Section 18.12 Amendments

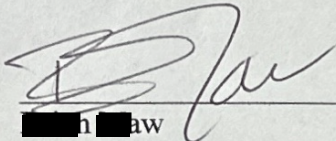
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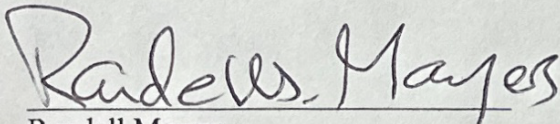
Signed:

MEMBERS:



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Date: 10.23.23



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Date: 10.23.23

SCHEDULE A
SCHEDULE OF MEMBERS

Member	Initial Capital Contribution	Ownership
Brian Maw	A 50% interest in that certain real property described below, which was distributed to Brian Maw by B&R Rental LLC	50% Interest
Randell Mayers	A 50% interest in that certain real property described below, which was distributed to Randell Mayers by B&R Rental LLC	50% Interest

Legal description of real property contributed to the LLC by the Members:
Township 4 North, Range 45 East of the Boise Meridian, Teton County, Idaho,
Section 23: South half of the Northeast quarter of the Southwest quarter