**LLC Operating Agreement Examples**

An operating agreement should be adopted at the time you file your LLC Articles of Organization with the State. Here are two examples of such agreements, one being very brief and the other, more comprehensive. You absolutely should not adopt one of these or any other example agreements as is but instead, consider them as possible starting points for your own needs. You should tailor your agreement to your own circumstances and do so in consultation with your attorney and financial advisors. This is important because the legal and tax issues associated with the LLCs can be quite complex and you will want your operating agreement to help, not harm, you as you get underway with your business.

Please note that we do not provide these forms as legal advice and they should not be relied upon as such.

These examples have been provided by Pete Long, Of Counsel with the Mitzel Law Group PLC.

Example – Short Version

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ LLC**

 **OPERATING AGREEMENT**

 THIS OPERATING AGREEMENT is made as of \_\_\_\_\_\_\_\_\_\_\_, 201\_ between the persons executing this Operating Agreement as members of the Company, and all of those who shall later be admitted as members (individually, a "Member," and collectively, the "Members") who agree as follows:

 **ARTICLE I**

 **ORGANIZATION**

 1.1 Formation. The Company has been organized as a Michigan limited liability company pursuant to the Michigan Limited Liability Company Act, as amended (the "Act") by the filing of Articles of Organization ("Articles") with the Department of Licensing and Regulatory Affairs of the State of Michigan as required by the Act.

 1.2 Name. The name of the Company is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ LLC**.** The Company may also conduct its business under one or more assumed names.

 1.3 Purposes. The purpose of the Company is to engage in any activity for which limited liability companies may be formed under the Act, including without limitation the provision of investment advisory and consulting services. The Company shall have all the powers necessary or convenient to carry out any purpose for which it is formed, including all powers granted by the Act.

 1.4 Duration. The Company shall continue in existence for the period fixed in the Articles for the duration of the Company or until the Company dissolves and its affairs are wound up in accordance with the Act or this Operating Agreement.

 1.5 Registered Office and Resident Agent. The registered office and resident agent of the Company shall be as designated in the initial or amended Articles. The registered office and/or resident agent may be changed from time to time. Any such change shall be made in accordance with the Act. If the Resident Agent resigns, the Company shall promptly appoint a successor.

 1.6 Intention for Company. The Members have formed the Company as a limited liability company under the Act. The Members specifically intend and agree that the Company not be a partnership or joint venture, but a limited liability company under and pursuant to the Act. No Member shall be construed to be a partner in the Company or a partner of any other Member or person, and the Articles, this Operating Agreement, and the relationships created by and arising from them shall not be construed to suggest otherwise. The Members likewise specifically intend and agree that for purposes of Federal and State taxation, the Company shall be treated as a "pass-through" entity and shall not be subject to entity-level taxation of any kind.

 **ARTICLE II**

 **BOOKS, RECORDS AND ACCOUNTING**

 2.1 Books and Records. The Company shall maintain complete and accurate books and records of the Company's business and affairs as required by the Act. Such books and records shall be kept at the Company's registered office.

 2.2 Fiscal Year; Accounting. The Company's fiscal year shall be the calendar year. The accounting methods and principles to be followed by the Company shall be as selected by the Members from time to time.

 2.3 Reports. The Members shall cause to be provided to all of the Members, in the time, manner, and form that the Members determine, reports concerning the financial condition and results of operation of the Company and the Members' capital accounts. Such reports shall be provided at least annually, as soon as practicable after the end of each calendar year, and shall include a statement of each Member's share of profits and other items of income, gain, loss, deduction, and credit.

 2.4 Members' Accounts. The Company shall maintain separate capital accounts for each Member. Each Member's capital account shall reflect the Member's capital contributions and increases for the Member's share of any net income or gain of the Company. Each Member's capital account shall also reflect decreases for distributions made to the Member and the Member's share of any of the Company's losses and deductions.

 **ARTICLE III**

 **CAPITAL CONTRIBUTIONS**

 3.1 Initial Commitments and Contributions. By executing this Operating Agreement, the initial Member agrees to make the capital contributions set forth in accordance with the attached Exhibit A. The Members' interests in the total capital of the Company (the Members' "Contribution Ratios," as adjusted from time to time to reflect changes in the capital accounts of the Members and the total capital in the Company) is also set forth in Exhibit A. Any additional Member (other than an assignee of a membership interest from a Member already admitted) shall make the capital contribution set forth in an admission agreement. No Member shall have any right to withdraw or to be repaid any capital contribution except as provided in this Operating Agreement.

 3.2 Additional Contributions. In addition to the initial capital contributions obligations, the Members may determine from time to time that additional capital contributions are needed to enable the Company to conduct its business and affairs. After making such a determination, notice of the determination shall be given to all Members in writing at least ten (10) business days before the date on which the additional contributions are due. The notice shall describe in reasonable detail the purposes and uses of the additional capital, the amounts of additional capital required, and the date by which payment of the additional capital is due. Each Member shall be requested to make additional capital contributions to the extent of such Member's pro rata portion of the additional required capital based upon the Member's Contribution Ratio.

 **ARTICLE IV**

 **ALLOCATIONS AND DISTRIBUTIONS**

 4.1 Allocations. Except as may be required by the Internal Revenue Code of 1986, as amended ("Code"), or by this Operating Agreement, the Company's net profits, net losses, and other items of income, gain, loss, deduction, and credit shall be allocated among the Members in accordance with each Member's Contribution Ratio.

 4.2 Distributions. The Members may make distributions to the Members from time to time. Distributions may be made only after the Members determine, in their reasonable judgment, that the Company has cash on hand exceeding the Company's current and anticipated needs (including operating expenses, debt service, acquisitions, reserves, and mandatory distributions, if any). Distributions shall be made to the Members in accordance with each Member's Contribution Ratio except as may be otherwise noted in the distribution schedule. Distributions shall be in cash or property, or both, as the Members determine. No distribution shall be declared or made if, after giving it effect, (a) the Company would not be able to pay its debts as they became due in the usual course of business, or (b) the Company's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the Company were to be dissolved at the time of the distribution, to satisfy on dissolution the preferential rights of other Members that are superior to the rights of the Members receiving the distribution.

 **ARTICLE V**

 **DISPOSITION OF MEMBERSHIP INTERESTS**

 5.1 General. Every sale, assignment, transfer, exchange, mortgage, pledge, grant, hypothecation, or other disposition of any membership interest shall be made only in compliance with this Article. No membership interest shall be disposed of if (a) the disposition would cause a termination of the Company under the Code; (b) the disposition would not comply with all applicable state and federal securities laws and regulations; or (c) the assignee of the membership interest fails to provide the Company with the information and agreements that the Members may require in connection with such a disposition. Any attempted disposition of a membership interest in violation of this Article is void.

 5.2 Permitted Dispositions. Subject to the provisions of this Article, a Member may assign the Member's membership interest in the Company in whole or in part. The assignment of a membership interest does not itself entitle the assignee to participate in the management and affairs of the Company or to become a Member. Such assignee is only entitled to receive, to the extent assigned, the distributions to which the assigning Member would otherwise be entitled.

 5.3 Admission of Substitute Members. An assignee of a membership interest shall be admitted as a substitute Member and shall be entitled to all the rights and powers of the assignor only if the other Members unanimously consent. If admitted, the substitute Member has, to the extent assigned, all of the rights, powers, restrictions, and liabilities of a Member.

 **ARTICLE VI**

 **MEETINGS OF MEMBERS**

 6.1 Voting. All Members shall be entitled to vote on any matter submitted to a vote of the Members. The Members shall have the right to vote on all of the following: (a) the dissolution of the Company pursuant to Section 9.1(c) of this Operating Agreement; (b) the merger of the Company; (c) a transaction involving an actual or potential conflict of interest between a Member and the Company; (d) an amendment to the Articles; and (e) the sale, exchange, lease, or other transfer of all or substantially all of the Company's assets other than in the ordinary course of business.

 6.2 Required Vote. Unless a greater vote is required by the Act or the Articles, the affirmative vote or consent of a majority of all the Members entitled to vote or consent on a matter is required.

 6.3 Meetings. An annual meeting of Members for the transaction of such business as may properly come before the meeting shall be held at the time, date, and place that the Members shall determine. Special meetings of Members for any proper purpose or purposes may be called at any time by the holders of at least ten percent (10%) of the Contribution Ratios of all Members. The Company shall deliver or mail written notice stating the date, time, place, and purpose(s) of any meeting to each Member entitled to vote at the meeting. The notice shall be given not less than ten (10) or more than sixty (60) days before the meeting date. All meetings of Members shall be presided over by a Chairperson, designated by the Members.

 6.4 Consent. Any action required or permitted to be taken at an annual or special meeting of the Members may be taken by consent without a meeting, prior notice, or a vote. The consent must be in writing, set forth the action taken, and be signed by the Members having at least the minimum number of votes necessary to authorize or take such an action at a meeting at which all membership interests entitled to vote on the action are present and voting. Every written consent shall also bear the date signifying when each Member signed the consent. Prompt notice of the taking of action without a meeting by less than unanimous written consent shall be given to all Members who did not consent in writing to the action.

 **ARTICLE VII**

 **MANAGEMENT**

 7.1 Management of Business. The Company shall be managed by one or more Managers. Except as otherwise provided in this Operating Agreement, the ordinary and usual decisions concerning the business and affairs of the Company shall be made by the Manager. The Manager has the power, on behalf of the Company, to do all things necessary or convenient to carry out the Company's business and affairs, including the power to (a) purchase, lease, or otherwise acquire any real or personal property; (b) sell, convey, mortgage, grant a security interest in, pledge, lease, exchange or otherwise dispose of or encumber any real or personal property; (c) open one or more depository accounts and make deposits into, write checks against, and make withdrawals against such accounts; (d) borrow money and incur liabilities and other obligations; (e) enter into any and all agreements and execute any and all contracts, documents, and instruments, (f) engage employees and agents and define their respective duties and compensation; (g) establish pension plans, trusts, profit-sharing plans, and other benefit and incentive plans for Members, employees, and agents or the Company; (h) obtain insurance covering the business and affairs of the Company and its property, and the lives and well-being of its Member employees and agents; (i) begin, prosecute, or defend any proceeding in the Company's name, and (j) participate with others in partnerships, joint ventures and other associations and strategic alliances. That Member acting as resident agent shall act as the tax management representative of the Company. The initial Manager shall be **\_\_\_\_\_\_\_\_\_**, \_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_.

 **ARTICLE VIII**

 **EXCULPATION OF LIABILITY; INDEMNIFICATION**

 8.1 Exculpation of Liability. Unless otherwise provided by law or expressly assumed, a person who is a Member shall not be liable for the acts, debts, or liabilities of the Company.

 8.2 Indemnification. Except as otherwise provided in this Article, the Company shall indemnify a Member and may indemnify any employee or agent of the Company who was or is a party, or is threatened to be made a party, to a threatened, pending, or completed action, suit, or proceeding (whether civil, criminal, administrative, or investigative and whether formal or informal), other than an action by or in the right of the Company, where such person is a party because the person is or was a Member, employee, or agent of the Company. The Company shall indemnify such Member, employee, or agent against expenses, including attorney fees, judgments, penalties, fines, and amounts paid in settlement, actually and reasonably incurred by such person in connection with the action, suit, or proceeding. The Company shall indemnify the Member, employee, or agent if the person acted in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner that the person reasonably believed to be in the best interests of the Company. With respect to a criminal action or proceeding, the person must have had no reasonable cause to believe that his or her conduct was unlawful. To the extent that a Member, employee, or agent of the Company has been successful on the merits or otherwise in defense of an action, suit, or proceeding, or in defense of any claim, issue, or other matter in the action, suit, or proceeding, such person shall be indemnified against actual and reasonable expenses, including attorney fees, incurred by him or her in connection with the action, suit, or proceeding and any action, suit, or proceeding brought to enforce this mandatory indemnification. Unless ordered by a court, any indemnification permitted under this Article shall be made by the Company only as the Company authorizes in the specific case after (a) determining that the indemnification is proper under the circumstances because the person to be indemnified has met the applicable standard of conduct and (b) evaluating the reasonableness of the expenses and of the amounts paid in settlement. This determination and evaluation shall be made by a majority vote of the Members who are not parties or threatened to be made parties to the action, suit, or proceeding. However, no indemnification shall be provided to a Member, employee, or agent of the Company for or in connection with (a) the receipt of a financial benefit to which the person is not entitled; (b) voting for or assenting to a distribution to Members in violation of this Operating Agreement or the Act; (c) a knowing violation of the law; or (d) an action brought by or in the name of the Company.

**ARTICLE IX**

 **DISSOLUTION AND WINDING UP**

 9.1 Dissolution. The Company shall dissolve and its affairs shall be wound up on the first to occur of the following events: (a) at any time specified in the Articles or this Operating Agreement; (b) on the happening of any event specified in the Articles or this Operating Agreement; (c) by the unanimous consent of all the Members; (d) on the death, withdrawal, expulsion, bankruptcy, or dissolution of a Member or the occurrence of any other event that terminates the continued membership of a Member in the Company unless within eighty nine (89) days after the dissociation of membership as so provided in subsection (d), a majority of the remaining Members consent to continue the business of the Company and to the admission of one or more Members as necessary.

 9.2 Winding Up. On dissolution, the Company shall cease carrying on its business and affairs and shall begin to wind them up. The Company shall complete the winding up as soon as may be practical under then-existing circumstances. On the winding up of the Company, its assets shall be distributed first to creditors, to the extent permitted by law, in order to satisfy Company debts, liabilities, and obligations, and then to Members and former Members. Distributions to Members and former Members shall be made first to satisfy liabilities for distributions and then in accordance with the Members' Contribution Ratios. The proceeds shall be paid to the Members within eighty nine (89) days after the date of the winding up.

 **ARTICLE X**

 **MISCELLANEOUS PROVISIONS**

 10.1 Terms. Nouns and pronouns will be deemed to refer to the masculine, feminine, neuter, singular, and plural, as the identity of the person or persons, firm, or corporation may in the context require.

 10.2 Article Headings. The article headings contained in this Operating Agreement have been inserted only as a matter of convenience and for reference and in no way shall be construed to define, limit, or describe the scope or intent of any provision of this Operating Agreement.

 10.3 Counterparts. This Operating Agreement may be executed in several counterparts, each of which will be deemed an original, but all of which will constitute one and the same.

 10.4 Entire Agreement. This Operating Agreement and its exhibits constitutes the entire agreement among the parties and contains all of the agreements between the parties with respect to the subject matter. This Operating Agreement supersedes any and all other agreements, either oral or written, between the parties with respect to the subject matter.

 10.5 Severability. The invalidity or unenforceability of any particular provision of this Operating Agreement shall not affect the other provisions, and this Operating Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

 10.6 Amendment. This Operating Agreement may be amended or revoked at any time by a written agreement executed by all of the parties to this Operating Agreement. No change or modification to this Operating Agreement shall be valid unless made in writing and signed by all parties.

 10.7 Notices. Any notice permitted or required under this Operating Agreement shall be conveyed to the party at the address reflected herein and will be deemed to have been given when deposited in the United States mail, postage paid, or when delivered in person, by courier, or by facsimile transmission.

 10.8 Binding Effect. Subject to the provisions of this Operating Agreement relating to transferability, this Operating Agreement shall be binding on and shall inure to the benefit of the parties and their respective distributees, heirs, successors, and assigns.

 10.9 Governing Law. This Operating Agreement has been executed and delivered in the State of Michigan and shall be governed by, construed, and enforced in accordance with the laws of the State of Michigan. .

The parties have executed this Operating Agreement to be effective on the date set forth on page one above.

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ LLC**

 ("Company")

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Member and Co-Manager

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Member and Co-Manager

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Member and Co-Manager

**EXHIBIT A**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, LLC**

**Operating Agreement**

Name/Address of Initial Capital Interest in

 Member Signature Contribution Capital

\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_ $\_\_\_\_.00 \_\_\_\_%

\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_ $\_\_\_\_.00 \_\_\_\_%

\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_ $\_\_\_\_.00 \_\_\_\_%

Total $\_\_\_\_.00 100.0%

**Example – Full Version**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ LLC**

**OPERATING AGREEMENT**

THIS OPERATING AGREEMENT of **­­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ LLC** (“Company”) is entered into and shall be effective as of \_\_\_\_\_\_\_\_\_\_, 201\_, by \_\_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_, Michigan (“Original Member”) and those individuals and entities subsequently admitted as set forth in Exhibit A **(c**ollectively, “Members”), pursuant to the provisions of the Michigan Limited Liability Company Act, as amended, upon the following terms and conditions:

**ARTICLE I**

**THE COMPANY**

 **SECTION 1.1. Formation.** The Company has been formed as a limited liability company under and pursuant to the provisions of the Act by filing of Articles of Organization with the Department of Licensing and Regulatory Affairs of the State of Michigan on \_\_\_\_\_\_\_, \_\_, 201\_. The Members hereby agree to operate the Company as a limited liability company pursuant to the provisions of the Act and upon the terms and conditions set forth in this Agreement. The rights and liabilities of the Members and Manager shall be as provided under the Act, the Articles and this Operating Agreement.

**SECTION 1.2. Name.** The name of the Company shall be **\_\_\_\_\_\_\_\_\_\_\_\_\_ LLC** and all business of the Company shall be conducted in such name or under any other name that may be selected by the Manager.

**SCTION 1.3. Purpose; Powers.**

**(a)** The purpose of the Company is to engage in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_and in any and all activities related or incidental thereto.

**(b)** The Company has the power to do any and all acts necessary, appropriate, proper, advisable, incidental or convenient to and in furtherance of the purposes of the Company set forth in this Section 1.3 and has, without limitation, any and all powers that may be exercised on behalf of the Company by the Manager pursuant to Article V.

**SECTION 1.4. Principal Place of Business.** The initial principal place of business of the Company shall be at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_, Michigan. The Manager may change the principal place of business of the Company to any other place within or without the State of Michigan with the consent of a majority of the Members. The registered office of the Company in the State of Michigan is located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**SECTION 1.5. Term.** The term of the Company commenced \_\_\_\_\_\_\_\_ \_, 201\_, the date the Articles of Organization were accepted for filing in the offices of the Department of Licensing and Regulatory Affairs of the State of Michigan in accordance with the Act and shall continue until the dissolution and the completion of the winding up of the Company following a Liquidating Event, as provided in Article XII.

**SECTION 1.6. Filings; Agent for Service of Process.**

**(a)** The Manager shall take any and all other actions reasonably necessary to perfect and maintain the status of the Company as a limited liability company under the laws of the State of Michigan, including the preparation, execution, and filing of such amendments to and restatements of the Articles of Organization and such other assumed name certificates, documents, instruments, and publications as may be required by law, including action to reflect:

**(i)** A change in the Company name;

**(ii)** A correction of false or erroneous statements in the Articles or the desire of the Members to make a change in any statement therein in order that it shall accurately represent the agreement among the Members; or

**(iii)**  A change in the time for dissolution of the Company as stated in the Articles and in this Operating Agreement.

**(b)** The Manager shall execute and cause to be filed original, amended or restated articles and certificates and shall take any and all other actions as may be reasonably necessary to perfect and maintain the status of the Company as a limited liability company or similar type of entity under the laws of any other jurisdictions in which the Company engages in business.

**(c)** The registered agent for service of process on the Company in the State of Michigan shall be \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or any successor as appointed by the Members in accordance with the Act.

**(d)** Upon the dissolution and completion of the winding up of the Company in accordance with Article XIII, the Liquidator, as an authorized person within the meaning of the Act, shall promptly execute and cause to be filed a Certificate of Dissolution in accordance with the Act and the laws of any other jurisdictions in which the Liquidator deems such filing or any similar filing to be necessary or advisable.

**SECTION 1.7. Title to Property.** All Property owned by the Company shall be owned by the Company as an entity and no Member shall have any ownership interest in such Property in its individual name, and each Member's Interest in the Company shall be personal property for all purposes. The Company shall hold title to all of its Property in the name of the Company and not in the name of any Member.

**SECTION 1.8. Payments of Individual Obligations.** The Company's credit and assets shall be used solely for the benefit of the Company, and no asset of the Company shall be transferred in satisfaction of or encumbered for, or in payment of, any individual obligation of any Member.

**SECTION 1.9. Independent Activities; Transactions with Affiliates**

**(a)** The Manager shall be required to devote such time to the affairs of the Company as may be necessary to manage and operate the Company, and shall be free to serve any other Person or enterprise in any capacity that he may deem appropriate in his discretion.

**(b)** Insofar as permitted by applicable law, neither Member nor its Affiliates may engage in any activities which are or may be competitive with the Company. This Operating Agreement shall not prevent a Member from undertaking any other non-competitive activity it chooses and any such activities may be undertaken without having or incurring any obligation to offer any interest in such activities to the Company or any other Member.

**(c)** To the extent permitted by applicable law and subject to the provisions of this Operating Agreement, in furtherance of the purposes of the Company set forth in Section 1.3, the Manager is hereby authorized to cause the Company to purchase property (whether real, personal, or mixed) from, sell property to or otherwise deal with any Member, acting on its own behalf, or any Affiliate of any Member; provided, that any such purchase, sale, or other trans-action shall be made on terms and conditions that are no less favorable to the Company than if the sale, purchase, or other transaction had been made with an independent third party.

**(d)** Notwithstanding Section 1.9(c), the Manager, on behalf of the Company, is hereby authorized to cause the Company to enter into the transactions evidenced by, and perform its obligations under, Transaction Documents to which the Company is or shall be a party, all without any further action, consent, or approval of any Person.

**SECTION 1.10. Definitions.** Capitalized terms used in this Operating Agreement shall have the following meanings:

"Act" means the Michigan Limited Liability Company Act, as amended, being Act 23, Public Acts of 1993, as amended, or any corresponding provisions of succeeding law.

"Adjusted Capital Account Deficit" means, with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant Allocation Year, after giving effect to the following adjustments:

**(i)** Credit to such Capital Account any amounts that such Member is deemed obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

**(ii)** Debit to such Capital Account the items described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.704-1(b)(2)(ii)(d)(6).

The foregoing definition of “Adjusted Capital Account Deficit” is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"Affiliate" means, with respect to any Person (i) any Person directly or indirectly controlling, controlled by or under common control with such Person, (ii) any Person owning or controlling two percent (2%) or more of the outstanding voting interests of such Person, (iii) any officer, director, general partner, member or trustee of, or Person serving in a similar capacity with respect to, such Person, or (iv) any Person who is an officer, director, general partner, member, trustee, or holder of two percent (2%) or more of the voting interests of any Person described in clauses (i), (ii), or (iii) of this sentence. For purposes of this definition, the terms "controlling," "controlled by," or "under common control with" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person or entity, whether through the ownership of voting securities, by contract or otherwise.

"Allocation Year" means (i) the period commencing on the Effective Date and ending on December 31, (ii) any subsequent period commencing on January 1 or (iii) any portion of the period described in clause (ii) for which the Company is required to allocate Profits, Losses, and other items of Partnership income, gain, loss, or deduction pursuant to Article III.

"Applicable Day Count Fraction" means, with respect to any Distribution Period (or portion thereof), the actual number of days in such Distribution Period (or portion thereof) divided by 360.

“Articles" means the Articles of Organization filed with the Department of Licensing and Regulatory Affairs of the State of Michigan pursuant to the Act to form the Company, as originally executed and as amended, modified, supplemented or restated from time to time, as the context requires.

"Bankruptcy" means, with respect to any Person, a "Voluntary Bankruptcy" or an "Involuntary Bankruptcy." A "Voluntary Bankruptcy" means, with respect to any Person (i) the inability of such Person generally to pay its debts as such debts become due, or an admission in writing by such Person of its inability to pay its debts generally or a general assignment by such Person for the benefit of creditors, (ii) the filing of any petition or answer by such Person seeking to adjudicate itself as bankrupt or insolvent, or seeking for itself any liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of such Person or its debts under any law relating to bankruptcy, insolvency, or reorganization or relief of debtors, or seeking, consenting to, or acquiescing in the entry of an order for relief or the appointment of a receiver, trustee, custodian, or other similar official for such Person or for any substantial part of its property, or (iii) corporate action taken by such Person to authorize any of the actions set forth above. An "Involuntary Bankruptcy" means, with respect to any Person, without the consent or acquiescence of such Person, the entering of an order for relief or approving a petition for relief or reorganization or any other petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or other similar relief under any present or future bankruptcy, insolvency, or similar statute, law, or regulation, or the filing of any such petition against such Person, which petition shall not be dismissed within ninety (90) days, or without the consent or acquiescence of such Person, the entering of an order appointing a trustee, custodian, receiver, or liquidator of such Person or of all or any substantial part of the property of such Person, which order shall not be dismissed within ninety (90) days.

"Business Day" means a day of the year on which banks are not required or authorized to close in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Michigan.

"Capital Account" means, with respect to any Member of the Company, the Capital Account maintained for such Member in accordance with the following provisions:

**(i)** To each Member's Capital Account there shall be credited (A) such Member's Capital Contributions and (B) such Member's distributive share of Profits and any items in the nature of income or gain that are specially allocated to such Interest pursuant to Section 3.3 or Section 3.4 hereof;

**(ii)** To each Member's Capital Account there shall be debited (A) the amount of money and the Gross Asset Value of any Property distributed to such Member pursuant to any provision of this Operating Agreement and (B) such Member's distributive share of Losses and any items in the nature of expenses or losses that are specially allocated to such Interest pursuant to Section 3.3 or Section 3.4 hereof; and

**(iii)** In the event an Interest is Transferred in accordance with the terms of this Operating Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the Transferred Interest.

The foregoing provisions and the other provisions of this Operating Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Regulations. In the event the Manager shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto are computed in order to comply with such Regulations, the Manager may make such modification. The Manager also may (i) make any adjustments that the Manager deems in necessary or appropriate to maintain equality between the aggregate Capital Accounts of the Members and the amount of capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(q) and (ii) make any appropriate modifications in the event unanticipated events might otherwise cause this Operating Agreement not to comply with Regulations Section 1.704-1(b).

"Capital Contributions" means, with respect to any Member of the Company, the amount of money and the initial Gross Asset Value of any Property (other than money) contrib.-uted to the Company by such Member.

"Cash Available for Distribution" means the gross cash proceeds of the Company less portions deemed reasonably necessary as working capital or used to pay or establish reasonable reserves for all Company expenses (including taxes), all as determined by and in the sole judgment of the Manager.

"Cash Equivalents" shall mean cash in U.S. dollars and any of the following: (i) readily marketable direct obligations of the Government of the United States or any agency or instrumentality thereof or obligations unconditionally guaranteed by the full faith and credit of the Government of the United States or (ii) insured certificates of deposit of or time or demand deposits with any commercial bank that is a member of the Federal Reserve System; provided, however, that all Property described in this definition other than cash shall have a maturity of not longer than ninety (90) days.

"Code" means the United States Internal Revenue Code of 1986, as amended.

"Company" means \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ LLC.

"Contributed Capital" with respect to any Member the cash and the initial Gross Asset Value of any Property contributed to the capital of the Company by such Member.

"Damages" means, without duplication, claims, demands, damages, costs and expenses (including reasonable fees and disbursements of counsel), Liabilities, liens, losses, fines, penalties, charges and administrative, judicial and arbitration awards, judgments, settlement payments and deficiencies or other charges.

"Debt" means, with respect to any Person, (i) any indebtedness for borrowed money or the deferred purchase price of property as evidenced by a note, bonds, or other instruments, (ii) obligations as lessee under capital leases, (iii) obligations secured by any mortgage, pledge, security interest, encumbrance, lien, or charge of any kind existing on any asset owned or held by such Person whether or not such Person has assumed or become liable for the obligations secured thereby, (iv) any obligation under any interest rate swap agreement, (v) accounts payable, and (vi) obligations under direct or indirect guarantees of (including obligations (contingent or otherwise) to assure a creditor against loss in respect of) indebtedness or obligations of the kinds referred to in clauses (i), (ii), (iii), (iv), and (v) above; provided, that Debt shall not include obligations in respect of any accounts payable that are incurred in the ordinary course of such Person's business and are not delinquent or are being contested in good faith by appropriate proceedings.

"Depreciation" means, for each Allocation Year, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable with respect to an asset for such Allocation Year for federal income tax purposes, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such Allocation Year, Depreciation shall be an amount that bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such Allocation Year bears to such beginning adjusted tax basis; provided, however, that if the adjusted basis for federal income tax purposes of an asset at the beginning of such Allocation Year is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Manager with the consent of the Members.

"Distribution Date" has the meaning set forth in Section 4.1 hereof.

"Distribution Period" means the applicable period from (and including) the Effective Date to (but excluding) the first Distribution Date occurring thereafter or from (and including) a Distribution Date to (but excluding) the next subsequent Distribution Date.

"Effective Date" means the date first written above.

"Expenses" means any and all costs, Liabilities, obligations, losses, damages, penalties, interest, Taxes, claims (including, but not limited to negligence, strict or absolute liability, Liability in tort and Liabilities arising out of violation of laws or regulatory requirements of any kind), actions, suits, costs, expenses, and disbursements (including, without duplication, reasonable legal fees and expenses).

"Fiscal Quarter" means (i) the period commencing on the Effective Date and ending on last day of the next fiscal quarter ending after the Effective Date, (ii) any subsequent three (3) month period commencing on each of first day of the first fiscal quarter beginning after the Effective Date and the first day of each of the next three fiscal quarters and ending on the next of last day of the first fiscal quarter beginning after the Effective Date and the last day of each of the next three fiscal quarters, provided that the last Fiscal Quarter shall end on the date on which all Company Property is distributed pursuant to Article XII.

"Fiscal Year" means (i) the period commencing on the Effective Date and ending on December 31 and (ii) any subsequent twelve (12) month period commencing on January 1 and ending on the earlier to occur of (A) the following December 31 or (B) the date on which all Company Property is distributed pursuant to Article XI.

"Gross Asset Value" means with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

**(i)** The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset provided, that the initial Gross Asset Value of the Property contributed to the Company on the Effective Date shall be set forth in Section 2.1 hereof;

**(ii)** The Gross Asset Values of all items of Company Property shall be adjusted to equal their respective gross fair market values (taking Code Section 7701(g) into account) as of the following times: (A) the acquisition of an additional interest in the Company by any new or existing Member in exchange for more than a de minimus Capital Contribution, (B) the distribution by the Company to a Member of more than a de minimus amount of Company Property as consideration for an interest in the Company, and (C) the liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g); provided, that an adjustment described in clauses (A) and (B) of this paragraph shall be made only if the Manager reasonably determines that such adjustment is necessary to reflect the relative economic interests of the Members in the Company;

**(iii)** The Gross Asset Value of any item of Company Property distributed to any Member shall be adjusted to equal the gross fair market value (taking Code Section 7701(g) into account) of such item on the date of distribution; and

**(iv)** The Gross Asset Values of each item of Company Property shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)- (iv)(m) and subparagraph (vi) of the definition of "Profits" and "Losses" or Section 3.3(c) hereof; provided, however, that Gross Asset Values shall not be adjusted pursuant to this subparagraph (iv) to the extent that an adjustment pursuant to subparagraph (ii) is required in connection with a transaction that would otherwise result in an adjustment pursuant to this subparagraph (iv).

If the Gross Asset Value of an asset has been determined or adjusted pursuant to subparagraph (i), (ii), or (iv), such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset, for purposes of computing Profits and Losses.

"Interest" means any interest in the Company representing the Capital Contributions made by a Member or its predecessors in interest, including any and all benefits to which the holder of such an interest may be entitled as provided in the Operating Agreement, together with all obligations of such Person to comply with the terms and provisions of the Operating Agreement.

"Involuntary Bankruptcy" has the meaning set forth in the definition of "Bankruptcy."

"Issuance Items" has the meaning set forth in Section 3.3(d) hereof.

"Liabilities" means any liabilities or obligations of any nature, whether accrued, contingent or otherwise.

"Liquidating Event" has the meaning set forth in Section 12.1(a) hereof.

"Liquidation Notice" has the meaning set forth in Section 12.2.

"Liquidator" has the meaning set forth in Section 12.8(a) hereof.

"Manager" means \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and shall also refer to any Person that is appointed as a successor Manager of the Company in accordance with the Operating Agreement.

"Material Adverse Effect" means any change in or effect on the business of the relevant party or any of its Affiliates that is materially adverse to the business, operations, properties or financial condition of such party and its Subsidiaries taken as a whole, except for such changes or effects resulting from general economic conditions.

"Member" means any Person (i) who is referred to as such in the first paragraph of the Operating Agreement, or who has become a substituted or additional Member pursuant to the terms of the Operating Agreement and (ii) who has not ceased to be a Member.

"Notice Events" has the meaning set forth in Section 12.1 hereof.

"Operating Agreement" means this Operating Agreement of \_\_\_\_\_\_\_\_\_\_ LLC as amended or restated from time to time, which shall constitute the limited liability company agreement of the Company for all purposes of the Act.

"Percentage Interest" means, with respect to any Member, the ratio (expressed as a percentage) of the balance in such Member's Capital Account to the aggregate balances in the Capital Accounts of all Members.

"Permitted Assets" means:

**(i)** All real and personal property of every kind including that situated in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Michigan;

 **(ii)** Obligations of the United States government or any agency or instrumentality thereof or obligations unconditionally guaranteed by the full faith and credit of the United States government;

**(iii)** Cash Equivalents;

**(iv)** Any leasehold interest related to acquiring office space for the Company, office equipment, and office supplies; and

**(v)** Any other assets as approved by all of the Members.

"Permitted Transfer" has the meaning set forth in Section 10.2 hereof.

"Person" means any individual, partnership (whether general or limited), limited liability company, corporation, trust, estate, association, nominee, or other entity.

"Profits" and "Losses" mean, for each Allocation Year, an amount equal to the Company's taxable income or loss for such Allocation Year, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments (without duplication):

**(i)** Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this definition of "Profits" and "Losses" shall be added to such taxable income or loss;

**(ii)** Any expenditures of the Company described in Code Section 705(a) (2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this definition of "Profits" and "Losses" shall be subtracted from such taxable income or loss;

**(iii)** In the event the Gross Asset Value of any items of Company Property is adjusted pursuant to subparagraphs (ii) or (iii) of the definition of Gross Asset Value, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the Gross Asset Value of the item of Property) or an item of loss (if the adjustment decreases the Gross Asset Value of the item of Property) from the disposition of such item of Property and shall be taken into account for purposes of computing Profits or Losses;

**(iv)** Gain or loss resulting from any disposition of Property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the Property disposed of, notwithstanding that the adjusted tax basis of such Property differs from its Gross Asset Value;

**(v)** In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Allocation Year, computed in accordance with the definition of "Depreciation";

**(vi)** To the extent an adjustment to the adjusted tax basis of any item of Company Property pursuant to Code Section 734(b) is required, pursuant to Regulations Section 1.704-(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Member's Interest, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the item of Property) or loss (if the adjustment decreases such basis) from the disposition of such item of Property and shall be taken into account for purposes of computing Profits or Losses; and

**(vii)** Notwithstanding any other provision of this definition, any items that are specially allocated pursuant to Section 3.3 or Section 3.4 hereof shall not be taken into account in computing Profits or Losses. The amounts of the items of Company income, gain, loss, or deduction available to be specially allocated pursuant to Sections 3.3 and 3.4 hereof shall be determined by applying rules analogous to those set forth in subparagraphs (i) through (vi) above.

"Property" means all real and personal property acquired by the Company, including cash, and any improvements thereto, and shall include both tangible and intangible property.

"Reconstitution Period" has the meaning set forth in Section 12.1(b) hereof.

"Regulations" means the Income Tax Regulations, including Temporary Regulations, promulgated under the Code, as such regulations are amended from time to time.

"Regulatory Allocations" has the meaning set forth in Section 3.4 hereof.

"Responsible Officers" has the meaning set forth in Section 5.2(d) hereof.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Subsidiary" with respect to any Person, means any other Person as to which more than fifty percent (50%) of the voting power or value is owned, whether directly or indirectly through one or more Subsidiaries, by such Person.

"Taxes" means any and all taxes (including net income, gross income, franchise, ad valorem, gross receipts, sales, use, property and stamp taxes), levies, imposts, duties, charges, assessments, or withholdings of any nature whatsoever, general or special, ordinary or extraordinary, now existing or hereafter created or adopted, together with any and all penalties, fines, additions to tax, and interest thereon.

"Tax Matters Member" has the meaning set forth in Section 8.3(a) hereof.

“Transaction Documents” means all documents and instruments deemed necessary or desirable by the Manager to acquire, develop, sell, lease or otherwise use or dispose of the assets of or in the Company including without limitation development agreements, promissory notes, licenses, disclosure documents and leases.

"Transfer" means, as a noun, any voluntary or involuntary transfer, sale, or other disposition and, as a verb, voluntarily or involuntarily to transfer, sell, or otherwise dispose of.

 "Voluntary Bankruptcy" has the meaning set forth in the definition of "Bankruptcy."

"Wholly-Owned Affiliate" of any Person means an Affiliate of such Person (i) one hundred percent (100%) of the voting stock or beneficial ownership of which is owned directly by such Person, or by any Person who, directly or indirectly, owns one hundred percent (100%) of the voting stock or beneficial ownership of such Person, (ii) an Affiliate to such Person who, directly or indirectly, owns one hundred percent (100%) of the voting stock or beneficial ownership of such Person, and (iii) any Wholly-Owned Affiliate of any Affiliate described in clause (i) or clause (ii).

**SECTION 1.11. Other Terms.** Unless the content shall require otherwise:

**(a)** Words importing the singular number or plural number shall include the plural number and singular number respectively;

**(b)** Words importing the masculine gender shall include the feminine and neuter genders and vice versa;

**(c)** Reference to "include," "includes," and "including" shall be deemed to be followed by the phrase "without limitation"; and

**(d)** Reference in this Operating Agreement to "herein," "hereby," "hereof," or "hereunder," or any similar formulation, shall be deemed to refer to this Operating Agreement, provided that such reference shall be deemed to include exhibits, schedules, annexes, or appendices only as provided in Section 13.7 hereof.

**ARTICLE II**

**MEMBERS' CAPITAL CONTRIBUTIONS**

The name, address, and aggregate initial Contributed Capital of each Member and the designation of such Member’s membership interests shall be as set forth in Exhibit A. Any Capital Contribution in the form of cash shall be made by wire transfer of immediately available funds.

**ARTICLE III**

**ALLOCATIONS**

**SECTION 3.1. Profits.** After giving effect to the special allocations set forth in Sections 3.3 and 3.4, Profits for any Allocation Year shall be allocated to the Members in proportion to their Percentage Interests.

**SECTION 3.2. Losses.** After giving effect to the special allocations set forth in Sections 3.3 and 3.4, Losses for any Allocation Year shall be allocated to the Members shall be allocated to the Members in proportion to their Percentage Interests.

**SECTION 3.3. Special Allocations.** The following special allocations shall be made in the following order:

**(a) Qualified Income Offset.** In the event that any Member unexpectedly receives any adjustments, allocations, or distributions described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), Section 1.704-1(b)(2)(ii)(d)(5), or Section 1.704-1(b)(2)(ii)(d)(6), items of Company income and gain shall be allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of such Member as quickly as possible; provided that an allocation pursuant to this Section 3.3(a) shall be made only if and to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article III have been tentatively made as if this Section 3.3(a) were not in this Operating Agreement.

**(b) Gross Income Allocation.** In the event that any Member has an Adjusted Capital Account Deficit at the end of any Allocation Year, each such Member shall be allocated items of Company income and gain in the amount of such deficit as quickly as possible; provided that an allocation pursuant to this Section 3.3(b) shall be made only if and to the extent that such Member would have an Adjusted Capital Account Deficit in excess of such sum after all other allocations provided for in this Article III have been tentatively made as if Section 3.3(a) and this Section 3.3(b) were not in this Operating Agreement.

**(c) Section 754 Adjustments.** To the extent an adjustment to the adjusted tax basis of any Company asset, pursuant to Code Section 734(b) or Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of such Member's Interest in the Company, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in accordance with their Interests in the Company in the event Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Member to whom such distribution was made in the event Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

**(d) Allocations Relating to Taxable Issuance of Interests.** Any income, gain, loss, or deduction realized as a direct or indirect result of the issuance of an Interest by the Company to a Member (the "Issuance Items") shall be allocated among the Members so that, to the extent possible, the net amount of such Issuance Items, together with all other allocations under this Operating Agreement to each Member shall be equal to the net amount that would have been allocated to each such Member if the Issuance Items had not been realized.

**SECTION 3.4. Curative Allocations.** The allocations set forth in Sections 3.3(a), 3.3(b), and 3.3(c) (the "Regulatory Allocations") are intended to comply with certain requirements of the Regulations. It is the intent of the Members that, to the extent possible, the Regulatory Allocations shall be offset either with special allocations of other items of Company income, gain, loss, or deduction pursuant to this Section 3.4. Therefore, notwithstanding any other provision of this Article III (other than the Regulatory Allocations), the Manager Member shall make such offsetting special allocations of Company income, gain, loss, or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Member's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of the Operating Agreement and all Company items were allocated pursuant to Sections 3.1, 3.2, and 3.3(d).

**SECTION 3.5. Other Allocation Rules.**

**(a)** Profits, Losses, and any other items of income, gain, loss, or deduction shall be allocated to the Members pursuant to this Article III as of the last day of each Fiscal Year, provided that Profits, Losses, and such other items shall also be allocated at such times as the Gross Asset Values of Property are adjusted pursuant to subparagraph (ii) of "Gross Asset Value" as defined in Section 1.10.

**(b)** For purposes of determining the Profits, Losses, or any other items allocable to any period, Profits, Losses, and any such other items shall be determined on a daily, monthly, or other basis, as determined by the Manager (except to the extent otherwise provided in Section 10.7) using any permissible method under Code Section 706 and the Regulations thereunder.

**(c)** The Members are aware of the income tax consequences of the allocations made by this Article III and hereby agree to be bound by the provisions of this Article III in reporting their shares of Company income and loss for income tax purposes, except as otherwise required by law.

**SECTION 3.6. Tax Allocations; Code Section 704(c).** In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss, and deduction with respect to any Property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such Property to the Company for federal income tax purposes and its initial Gross Asset Value (computed in accordance with the definition of "Gross Asset Value" in Section 1.10). In the event the Gross Asset Value of any Company asset is adjusted pursuant to subparagraph (ii) of the definition of Gross Asset Value, subsequent allocations of income, gain, loss, and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder. Any elections or other decisions relating to such allocations shall be made by the Manager in any manner that reasonably reflects the purpose and intention of this Operating Agreement; provided, that the Company shall elect to apply the allocation method permitted by the Regulations under Code Section 704(c). Allocations pursuant to this Section 3.6 are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses, other items, or distributions pursuant to any provision of this Operating Agreement.

**SECTION 3.7. Manager Discretion.** Notwithstanding any other provision herein, the Manager shall not be obligated to restore any deficit or negative balance in a Member’s capital account upon liquidation of the Company or the Member’s interest in the Company and such negative balance shall not be considered a debt of the Company to the Member or an obligation to the other members or the creditors of the Company

**ARTICLE IV**

**DISTRIBUTIONS**

**SECTION 4.1. Amounts Distributed.** Except as otherwise provided in Article XII, Cash Available for Distribution shall be distributed on the last Business Day of each Fiscal Quarter, or if such day is not a Business Day on the next succeeding Business Day (each such date, a "Distribution Date") to the Members in proportion to their Percentage Interests.

The Manager shall cause any remaining Cash Available for Distribution to be invested in Permitted Assets.

**SECTION 4.2. Amounts Withheld.** All amounts withheld pursuant to the Code or any provision of any state, local, or foreign tax law with respect to any payment, distribution, or allocation to the Company or the Members shall be treated as amounts paid or distributed, as the case may be, to the Members with respect to which such amount was withheld pursuant to this Section 4.2 for all purposes under this Operating Agreement. The Company is authorized to withhold from payments and distributions, or with respect to allocations, to the Members, and to pay over to any federal, state, and local government or any foreign government, any amounts required to be so withheld pursuant to the Code or any provisions of any other federal, state, or local law or any foreign law, and shall allocate any such amounts to the Members with respect to which such amount was withheld.

**SECTION 4.3. Limitations on Distributions.** The Company shall make no distributions to the Members except (i) as provided in this Article IV and in Article XII with regard to liquidating distributions or (ii) as agreed to by all of the Members.

**SECTION 4.4. Distributions and Payments to Members.** It is the intent of the Members and the Manager that no distribution or payment to any Member (including distributions under Sections 4.1 and 12.2) shall be deemed a return of money or other property in violation of the Act. The payment or distribution of any such money or property to a Member shall be deemed to be a compromise within the meaning of the Act, and the Member receiving any such money or property shall not be required to return any such money or property to the Company, any creditor of the Company or any other Person. However, if any court of competent jurisdiction holds that, notwithstanding the provisions of this Operating Agreement, any Member is obligated to return such money or property, such obligation shall be the obligation of such Member and not of the Company, any other Member or the Manager. Any amounts required to be paid under such obligation shall be treated as a permitted additional Capital Contributions pursuant to Article II.

**ARTICLE V**

**MANAGEMENT**

**SECTION 5.1. Authority of the Manager.** The Members intend that the Company be managed by the Manager in accordance with the Act and subject to any restrictions set forth in the Articles or this Operating Agreement. All powers to control and manage the business and affairs of the Company and to bind the Company shall be exclusively vested in the Manager, and the Manager may exercise all powers of the Company and do all such lawful acts as are not by statute, the Articles or this Operating Agreement directed or required to be exercised or done by the Members and in so doing shall have the right and authority to take all actions that the Manager deems necessary, useful, or appropriate for the management and conduct of the Company's business and affairs and in the pursuit of the purposes of the Company, including delegating the right and authority to take such actions to employees of the Manager as are designated by the Manager. The Manager and each such employee shall be an "authorized person" on behalf of the Company, as such term is used in the Act.

**SECTION 5.2. Duties and Obligations of the Manager.**

**(a)** The Manager shall take all actions that may be necessary or appropriate for the (i) continuation of the Company's valid existence as a limited liability company under the laws of the State of Michigan and of each other jurisdiction in which such existence is necessary to protect the limited liability of the Members or to enable the Company to conduct the business in which it is engaged and (ii) accomplishment of the Company's purposes, including the acquisition, development, maintenance, preservation, and operation of Property in accordance with the provisions of this Operating Agreement and applicable laws and regulations.

**(b)** Except as provided in Section 1.9, the Manager shall be under a fiduciary duty to conduct the affairs of the Company in the best interests of the Company and of the Members, including the safekeeping and use of all of the Property and the use thereof for the exclusive benefit of the Company.

**(c)** The Manager shall cause the Company to conduct its business and operations separate and apart from that of any Member or any of its Affiliates, including (i) segregating Company assets and not allowing funds or other assets of the Company to be commingled with the funds or other assets of, held by, or registered in the name of, any Member or any of its Affiliates, (ii) except as necessary to facilitate the inclusion of the financial results of the Company's operations in the consolidated financial statements ofand its Affiliates, maintaining books and financial records of the Company separate from the books and financial records of any Member and its Affiliates, and observing all Company procedures and formalities, including maintaining minutes of Company meetings and acting on behalf of the Company only pursuant to due authorization of the Members, (iii) causing the Company to pay its liabilities from assets of the Company, and (iv) causing the Company to conduct its dealings with third parties in its own name and as a separate and independent entity.

**(d)** The Manager has provided to the Company a certificate of an officer or authorized representative naming those officers or authorized representatives ("Responsible Officers") of the Manager that will be responsible for the management and operations of the Company in accordance with this Article V until such time as the Manager has provided to the Company another certificate naming others of its officers or authorized representatives to be Responsible Officers, and the Manager hereby covenants and agrees that such Responsible Officers shall maintain the separateness of the Company's operations and otherwise comply with all of the terms of this Operating Agreement.

**(e)** Notwithstanding any other provision of this Operating Agreement, the Manager shall not, without the written consent of all of the Members, take any of the following actions:

**(i)** Any act that would be in contravention of the Operating Agreement or, if on behalf of the Company, inconsistent with the purposes of the Company;

**(ii)** Any act that would, to the Manager’s knowledge, as the case may be, make it impossible to carry on the normal business of the Company;

**(iii)** Possess or assign rights in the Company's Property for other than a Company purpose;

**(iv)** Perform any act that would subject any Member to liability for the Debts or obligations of the Company;

**(v)** Cause or permit the Company to incur, assume, guarantee, or otherwise become liable for any Debt;

**(vi)** Cause or permit the Company, or any direct or indirect Company subsidiary, to directly or indirectly acquire any assets other than Permitted Assets;

 **(vii)** File on behalf of the Company or consent to the filing on behalf of any direct or indirect Company subsidiary any voluntary petition in Bankruptcy;

**(viii)** Cause the Company to distribute any asset other than as provided in this Operating Agreement and in the course of the liquidation of the Company;

**(ix)** Cause or permit the Company or any direct or indirect Company Subsidiary to merge or consolidate with any Person; or

**(x)** Cause or permit the admission of any Member other than in accordance with Section 10.6 hereof.

**SECTION 5.3. Compensation; Expenses.**

**(a) In General.** Except as otherwise provided in this Section 5.3, Section 5.4, and Section 6.7, no Member shall receive any salary, fee, or draw for services rendered to or on behalf of the Company or otherwise in its capacity as the Manager or a Member, nor shall any Member be reimbursed for any expenses incurred by such Member on behalf of the Company or otherwise in its capacity as the Manager or a Member; provided, that the Manager or a Member may be compensated for bona fide services provided to the Project in amounts customary for such services.

**(b) Expenses.** The Manager may charge the Company, and shall be reimbursed, for reasonable expenses incurred in connection with the Company's business. Such reimbursement shall be treated as expenses of the Company and shall not be deemed to constitute distributions to any Member of profit, loss, or capital of the Company.

**SECTION 5.4. Indemnification of the Manager.**

**(a)** Unless otherwise provided in Section 5.4(b), the Company shall indemnify, save harmless, and pay all Expenses of the Manager if, for the benefit of the Company and in accordance with this Operating Agreement, the Manager makes any deposit, acquires any option, or makes any other similar payment or assumes any obligation in connection with any property proposed to be acquired by the Company and suffers any financial loss as the result of such action.

**(b)** Section 5.4(a) shall be enforced only to the maximum extent permitted by law and the Manager shall not be indemnified from any liability for fraud, bad faith, intentional misconduct, negligence, or a failure to perform in accordance with this Operating Agreement.

**(c)** Notwithstanding anything to the contrary in this Operating Agreement, in no event will any indemnification obligation of the Company or a receiver or trustee to indemnify, save harmless, or pay all Expenses set forth in this Section 5.4 subject any Member to personal liability.

 **ARTICLE VI**

**ROLE OF MEMBERS**

**SECTION 6.1. Rights or Powers.** The Members shall not have any right or power to take part in the management or control of the Company or its business and affairs or to act for or bind the Company in any way. Notwithstanding the foregoing, the Members have all the rights and powers specifically set forth in this Agreement and, to the extent not inconsistent with this Agreement, in the Act.

 **SECTION 6.2. Voting Rights.** No Member has any voting right except with respect to those matters specifically reserved for a Member vote that are set forth in this Operating Agreement and as required in the Act.

**SECTION 6.3. Meetings and Consents of the Members.**

**(a)** Meetings of the Members may be called by the Manager and shall be called upon the written request of any Member. The call shall state the nature of the business to be transacted. Notice of any such meeting shall be given to all Members not less than ten (10) Business Days nor more than thirty (30) days prior to the date of such meeting, provided that the Members may agree in writing to a shorter notice period than ten (10) Business Days. Members may vote in person, by proxy or by telephone at such meeting and may waive advance notice of such meeting. Whenever the vote or consent of Members is permitted or required under this Operating Agreement, such vote or consent may be given at a meeting of the Members or may be given in accordance with the procedure prescribed in Section 6.4. Except as otherwise expressly provided in this Operating Agreement, the vote or consent of the Members holding in excess of fifty percent of the Membership Interests shall be required to constitute the act of the Members or the consent of the Members.

**(b)** For the purpose of determining the Members entitled to vote on, or to vote at, any meeting of the Members or any adjournment thereof, the Manager or the Member requesting such meeting may fix, in advance, a date as the record date for any such determination. Such date shall not be more than thirty (30) days nor less than ten (10) Business Days before any such meeting.

**(c)** Each Member may authorize any Person or Persons to act for it by proxy on all matters in which a Member is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Every proxy must be signed by the Member or its attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the Member executing it.

**(d)** Each meeting of Members shall be conducted by the Manager or such other individual Person as the Manager deems appropriate pursuant to such rules for the conduct of the meeting as the Manager or such other Person deems appropriate.

**SECTION 6.4. Procedure for Consent.** In any circumstances requiring the agreement, approval, or consent of the Members specified in this Operating Agreement, such agreement, approval, or consent may, except where a standard for such agreement, approval, or consent is provided for expressly in this Operating Agreement, be given or withheld in the sole and absolute discretion of the Members, and each Member shall be entitled to consider only such factors and interests as it desires, including its own interests, and shall have no duty or obligation to give any consideration to any interest of or factors affecting the Company or any other Person. If the Manager receives the necessary agreement, approval, or consent of the Members to such action, the Manager shall be authorized and empowered to implement such action without further authorization by the Members. Such agreement, approval, or consent must be obtained in writing or by telephone or facsimile, if such telephone conversation or facsimile is followed by a written summary of the telephone conversation or facsimile communication sent by overnight courier, registered or certified mail, postage and charges prepaid, addressed as described in Section 13.1, or to such other address as such Person may from time to time specify by notice to the Members and the Manager.

**SECTION 6.5. Withdrawal/Resignation.** Except as otherwise provided in Articles IV and XI hereof, no Member shall demand or receive a return on or of its Capital Contributions or withdraw or resign as a Member from the Company without the consent of all Members. If any Member resigns or withdraws from the Company in breach of this Section 6.5, such resigning or withdrawing Member shall not be entitled to receive any distribution under this Operating Agreement. Under circumstances requiring a return of any Capital Contribution, no Member has the right to receive Property other than cash except as may be specifically provided herein.

**SECTION 6.6. Member Compensation.** No Member shall receive any interest, salary, or drawing with respect to its Capital Contributions or its Capital Account or for services rendered on behalf of the Company, or otherwise, in its capacity as a Member, except as otherwise provided in this Operating Agreement.

**SECTION 6.7. Indemnification of Members.**

**(a)** Unless otherwise provided in Section 6.7(b), the Company, its receiver, or its trustee (in the case of its receiver or trustee, to the extent of Company Property) shall indemnify, save harmless, and pay all Expenses of the Members or any officers or directors of Members relating to any liability or damage incurred by reason of any act performed or omitted to be performed by such Investor Member, officer, or director in connection with the business of the Company, including attorneys' fees incurred by such Member, officer, or director in connection with the defense of any action based on any such act or omission, which attorneys' fees may be paid as incurred, including all such liabilities under federal and state securities laws (including the Securities Act) as permitted by law.

**(b)** Section 6.7(a) shall be enforced only to the maximum extent permitted by law and the Members shall not be indemnified from any liability for fraud, bad faith, intentional misconduct, gross negligence, or a failure to perform in accordance with this Operating Agreement.

**SECTION 6.8. Members Liability.** No Member shall be liable under a judgment, decree, or order of a court, or in any other manner for the Debts or any other obligations or Liabilities of the Company. A Member shall be liable only to make its Capital Contribution pursuant to Article II and shall not be required to restore a deficit balance in its Capital Account or to lend any funds to the Company or, after its Capital Contribution has been made pursuant to Article II, to make any additional contributions, assessments or payments to the Company; provided, that a Member may be required to repay distributions made to it as provided under the Act subject to Section 4.4.

**SECTION 6.9. Partition.** While the Company remains in effect or is continued, each Member agrees not to have any Property partitioned or file a complaint or institute any suit, action or proceeding at law or in equity to have any Property partitioned, and each Member, on behalf of itself, its successors, and its assigns hereby waives any such right.

**SECTION 6.10. Transactions Between a Member or Manager and the Company.** Except as otherwise provided by applicable law, any Member or Manager may, but shall not be obligated to, enter into the transactions described in Sections 1.9(c) and 1.9(d) and transact other business with the Company and has the same rights and obligations when transacting such business with the Company as a Person or entity who is not a Member. A Member, any Affiliate thereof or an employee, stockholder, agent, director, or officer of a Member or any Affiliate thereof, may also be an employee or be retained as an agent of the Company.

**SECTION 6.11. Other Instruments.** Each Member hereby agrees to execute and deliver to the Company within five (5) Business Days after receipt of a written request therefore, such other and further documents and instruments, statements of interest and holdings, designations, powers of attorney, and other instruments and to take such other action as the Manager reasonably deems necessary, useful, or appropriate to comply with any laws, rules, or regulations as may be necessary to enable the Company to fulfill its responsibilities under this Operating Agreement.

**ARTICLE VII**

**REPRESENTATIONS AND WARRANTIES**

**SECTION 7.1. In General.** As of the Effective Date hereof, each of the Members makes each of the representations and warranties applicable to such Member as set forth in Section 7.2 hereof, and such warranties and representations shall survive the execution of this Operating Agreement.

**SECTION 7.2. Representations and Warranties.** Each Member hereby represents and warrants that:

**(a) Due Incorporation or Formation; Authorization of Agreement.** In the event not an individual, such Member is a corporation duly organized or a partnership or limited liability company duly formed, validly existing, and in good standing under the laws of the jurisdiction of its incorporation or formation and has the corporate, partnership, or company power and authority to own its property and carry on its business as owned and carried on at the date hereof and as contemplated hereby. Such Member is duly licensed or qualified to do business and in good standing in each of the jurisdictions in which the failure to be so licensed or qualified would have a Material Adverse Effect on its financial condition or its ability to perform its obligations hereunder. Such Member has the corporate, partnership, or company power and authority to execute and deliver this Operating Agreement and to perform its obligations hereunder and the execution, delivery, and performance of this Operating Agreement has been duly authorized by all necessary corporate, partnership, or company action. This Operating Agreement constitutes the legal, valid, binding, and enforceable obligation of such Member.

**(b) No Conflict with Restrictions; No Default.** Neither the execution, delivery, and performance of this Operating Agreement nor the consummation by such Member of the transactions contemplated hereby (i) will conflict with, violate, or result in a breach of any of the terms, conditions, or provisions of any law, regulation, order, writ, injunction, decree, determination, or award of any court, any governmental department, board, agency, or instrumentality, domestic or foreign, or any arbitrator, applicable to such Member or any of its Wholly-Owned Affiliates, (ii) will conflict with, violate, result in a breach of, or constitute a default under any of the terms, conditions, or provisions of the articles of incorporation, bylaws, partnership agreement, or operating agreement of such Member or any of its Wholly-Owned Affiliates or of any material agreement or instrument to which such Member or any of its Wholly-Owned Affiliates is a party or by which such Member or any of its Wholly-Owned Affiliates is or may be bound or to which any of its material properties or assets is subject, (iii) will conflict with, violate, result in a breach of, constitute a default under (whether with notice or lapse of time or both), accelerate or permit the acceleration of the performance required by, give to others any material interests or rights, or require any consent, authorization, or approval under any indenture, mortgage, lease agreement, or instrument to which such Member or any of its Wholly-Owned Affiliates is a party or by which such Member or any of its Wholly-Owned Affiliates is or may be bound, or (iv) will result in the creation or imposition of any lien, claim, or encumbrance upon any of the material properties or assets of such Member or any of its Wholly-Owned Affiliates.

**(c) Governmental Authorizations.** Any registration, declaration, or filing with, or consent, approval, license, permit, or other authorization or order by, any governmental or regulatory authority, domestic or foreign, that is required in connection with the valid execution, delivery, acceptance, and performance by such Member under this Operating Agreement or the consummation by such Member of any transaction contemplated hereby has been completed, made, or obtained on or before the Effective Date.

**(d) Litigation.** There are no actions, suits, proceedings, or investigations pending or, to the knowledge of such Member or any of its Wholly-Owned Affiliates, threatened against or affecting such Member or any of its Wholly-Owned Affiliates or any of their properties, assets, or businesses in any court or before or by any governmental department, board, agency, or instrumentality, domestic or foreign, or any arbitrator which, based on the good faith evaluation of management of such Member or Wholly-Owned Affiliate, are deemed to have merit and could, if adversely determined (or, in the case of an investigation could lead to any action, suit, or proceeding, which, based on the good faith evaluation of management of such Member or Wholly-Owned Affiliates, would have merit and if adversely determined could) reasonably be expected to materially impair such Member's ability to perform its obligations under this Operating Agreement; and such Member or any of its Wholly-Owned Affiliates has not received any currently effective notice of any default, and such Member or any of its Wholly-Owned Affiliates is not in default, under any applicable order, writ, injunction, decree, permit, determination, or award of any court, any governmental department, board, agency, or instrumentality, domestic or foreign, or any arbitrator which could reasonably be expected to materially impair such Member's ability to perform its obligations under this Operating Agreement.

**(e) Investment Company Act; Public Utility Holding Company Act.** Neither such Member nor any of its Affiliates is, nor will the Company as a result of such Member holding an interest in the Company be, an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended. Neither such Member nor any of its Affiliates is, nor will the Company as result of such Member holding an interest in the Company be, a "holding company," "an affiliate of a holding company," or a "subsidiary of a holding company" as defined in, or subject to regulation under, the Public Utility Holding Company Act of 1935, as amended.

**(f) Investigation.** Such Member is acquiring its Interest based upon its own investigation, and the exercise by such Member of its rights and the performance of its obligations under this Operating Agreement will be based upon its own investigation, analysis, and expertise. Such Member's acquisition of its Interest is being made for its own account for investment, and not with a view to the sale or distribution thereof.

**ARTICLE VIII**

**ACCOUNTING, BOOKS AND RECORDS**

**SECTION 8.1. Accounting, Books, and Records**

**(a)** The Company shall keep on site at its principal place of business each of the following:

**(i)** Separate books of account for the Company that shall show a true and accurate record in United States dollars of all costs and expenses incurred, all charges made, all credits made and received, and all income derived in connection with the conduct of the Company and the operation of its business ;

**(ii)** Separate books of account that reflect the Capital Accounts of the Members as maintained pursuant to the provisions of this Operating Agreement;

**(iii)** A current list of the full name and last known business, residence, or mailing address of each Member, both past and present;

**(iv)** A copy of the Articles of Organization and all amendments thereto and restatements thereof, together with executed copies of any powers of attorney pursuant to which any amendment has been executed;

**(v)** A copy of the Company's federal, state, and local income tax returns and reports, if any, for the two most recent years;

**(vi)** A copy of this Operating Agreement as amended or restated;

**(vii)** A copy of any writings permitted or required under the Act regarding the obligation of a Member to perform any enforceable promise to contribute cash or property or to perform services as consideration for such Member's Interest; and

**(viii)** Any written consents obtained from Members pursuant to the Act regarding action taken by Members without a meeting.

**(b)** The Company shall use the accrual method of accounting in preparation of its financial reports and for tax purposes and shall keep its books and records accordingly.

**(c)** Any Member or its designated representative has the right at its own cost and expense, upon reasonable notice, to have access to and inspect and copy the contents of the books or records of the Company. The Company shall be reimbursed by such Member for reasonable costs incurred as a result of such inspection.

**SECTION 8.2. Reports.**

**(a) In General.** The Manager shall be responsible for causing the preparation of financial reports of the Company and the coordination of financial matters of the Company with the Company's accountants. Each report delivered by the Company to the Members pursuant to this Article VIII shall be accompanied by a representation of an officer of the Manager familiar with the affairs of the Company that (x) such report has been prepared and fairly stated in all material respects in accordance with this Operating Agreement, and (y) with respect to the reports described in Sections 8.2(b) and (c), no Liquidating Event or Notice Event or event that with notice or lapse of time or both would constitute a Liquidating Event or Notice Event (other than the Liquidating Event described in Section 11.1(a)(i)) has occurred and is continuing or, if any such event has occurred and is continuing, the action that the Manager has taken or proposes to take with respect thereto.

**(b) Annual Reports.** Within 120 days after the end of each Fiscal Year, the Manager shall cause to be prepared and each Member to be furnished with the following:

**(i)** A balance sheet as of the last day of such Fiscal Year and an income statement and statement of cash flows for the Company for such Fiscal Year and notes associated with each; and

**(ii)** A statement of the Members' Capital Accounts and changes therein for such Fiscal Year.

**(c) Semi-Annual Reports.** Within sixty (60) days after the close of each semi-annual period of each Fiscal Year the Manager shall cause to be prepared and each Member shall be furnished with a balance sheet as of the last day of such semi-annual period and an income statement and a statement of cash flows for the Company for such semi-annual period and the notes associated with each.

**(d) Liquidation Date Reports.** On the date on which final distributions are made to the Members pursuant to Section 11.2, the Liquidator shall cause to be prepared and each Member furnished with each of the following statements:

**(i)** A balance sheet as of the date of such distribution setting forth as individual line items the aggregate Mark-to-Market Values for each Permitted Asset held by the Company and described in paragraphs (i), (ii), (iii), (iv), and (v) of the definition of Permitted Assets (a "Mark-to-Market Balance Sheet"); and

**(ii)** A statement of the Members' Capital Accounts as adjusted immediately prior to such distribution pursuant to Section 3.5(b).

**SECTION 8.3. Tax Matters**

**(a) Tax Matters Member.** The Manager is specifically authorized to act as the "Tax Matters Member" under the Code and in any similar capacity under state or local law. The Tax Matters Member shall have the authority without any further consent of the Members being required (except as specifically required herein) to make any and all elections for federal, state, local, and foreign tax purposes including any election, if permitted by applicable law: (i) to make the election provided for in Code Section 6231(a)(1)(B)(ii), (ii) to adjust the basis of Property pursuant to Code Sections 754, 734(b), and 743(b), or comparable provisions of state, local, or foreign law, in connection with Transfers of Interests and Company distributions; (iii) to extend the statute of limitations for assessment of tax deficiencies against the Members with respect to adjustments to the Company's federal, state, local, or foreign tax returns; and (iv) to the extent provided in Code Sections 6221 through 6231 and similar provisions of federal, state, local, or foreign law, to represent the Company and the Members before taxing authorities or courts of competent jurisdiction in tax matters affecting the Company or the Members in their capacities as Members and to file any tax returns and execute any agreements or other documents relating to or affecting such tax matters, including agreements or other documents that bind the Members with respect to such tax matters or otherwise affect the rights of the Company and the Members.

**(b) Tax Information.** Necessary tax information shall be delivered to each Member as soon as practicable after the end of each Fiscal Year of the Company but not later than five (5) months after the end of each Fiscal Year.

**ARTICLE IX**

**AMENDMENTS**

Any Member may propose amendments to this Operating Agreement. The Manager shall submit to the Members a verbatim statement of any such proposed amendment, providing that counsel for the Company shall have approved of the same in writing as to form, and the Manager shall include in any such submission a recommendation as to the proposed amendment. The Manager shall seek the written vote of the Members on the proposed amendment or shall call a meeting to vote thereon and to transact any other business that it may deem appropriate. A proposed amendment shall be adopted and be effective as an amendment hereto if it receives the affirmative vote of all of the Members. However, no amendment shall be made if the effect of the amendment would be to increase the duties or liabilities of any Member, increase or decrease the interest of any Member in the assets, profits or losses of the Company, or adversely affect the income tax status of the Company.

**ARTICLE X**

**TRANSFERS**

**SECTION 10.1. Restrictions on Transfers.** Except as otherwise permitted by this Operating Agreement, no Member shall Transfer all or any portion of its Interest. In the event that any Member pledges or otherwise encumbers all or any portion of its Interest as security for the payment of a Debt, any such pledge or hypothecation shall be made pursuant to a pledge or hypothecation agreement that requires the pledgee or secured party to be bound by all of the terms and conditions of this Article X.

***Each Member represents and warrants to the Company that Member has acquired the Member’s Membership Interest for the Member’s own account for investment and not with a view to the transfer, resale or distribution thereof. In addition, no Member shall sell or dispose of the Member’s Membership Interest in a manner which violates any Federal or state securities laws. Each Member shall indemnify and hold the Company harmless from and against all liability, costs and expenses, including reasonable attorneys’ fees, incurred by the Company, as a result of a breach of these or other representations and warranties made by such Member herein.***

**SECTION 10.2. Permitted Transfers.** Subject to the conditions and restrictions set forth in Section 10.3, a Member may at any time Transfer all or any portion of its Interest to (a) any other Member or Affiliate of another Member, (b) any Affiliate of the transferor, or (c) any Person pursuant to the exercise of the Purchase Option ("Permitted Transfer").

**SECTION 10.3. Conditions to Permitted Transfers.** A Transfer shall not be treated as a Permitted Transfer under Section 10.2 hereof unless and until approved by the Manager and the following conditions are satisfied:

**(a)** The transferor and transferee shall execute and deliver to the Company such documents and instruments of conveyance as may be necessary or appropriate to effect such Transfer and to confirm the agreement of the transferee to be bound by the provisions of this Article X.

**(b)** The Transfer will not cause the Company to terminate for federal income tax purposes, and the transferor shall provide the Company an opinion of counsel to such effect. Such counsel and opinion shall be found satisfactory to the Manager in Manager’s sole judgment.

**(c)** The transferor and transferee shall furnish the Company with the transferee's taxpayer identification number, sufficient information to determine the transferee's initial tax basis in the Interest Transferred, and any other information reasonably necessary to permit the Company to file all required federal and state tax returns and other legally required information statements or returns. Without limiting the generality of the foregoing, the Company shall not be required to make any distribution otherwise provided for in this Operating Agreement with respect to any Transferred Interest until it has received such information.

**(d)** Such Transfer will be exempt from all applicable registration requirements and will not violate any applicable laws regulating the Transfer of securities, and, except in the case of a Transfer of an Interest to another Member or to a Wholly-Owned Affiliate of any Member, including the transferor, the transferor shall provide an opinion of counsel to such effect. Such counsel and opinion shall be found satisfactory to the Manager in Manager’s sole judgment.

**(e)** Such Transfer will not cause the Company to be deemed to be an "investment company" under the Investment Company Act of 1940, as amended and the transferor shall provide an opinion of counsel to such effect. Such counsel and opinion shall be found satisfactory to the Manager in Manager’s sole judgment.

**SECTION 10.4. Prohibited Transfers.** Any purported Transfer of an Interest that is not a Permitted Transfer shall be null and void and of no force or effect whatever; provided that, if the Company is required to recognize a Transfer that is not a Permitted Transfer, the rights with respect to the Transferred Interest shall be strictly limited to the transferor's rights to allocations and distributions as provided by this Operating Agreement with respect to the Transferred Interest, which allocations and distributions may be applied (without limiting any other legal or equitable rights of the Company) to satisfy any debts, obligations, or liabilities for damages that the transferor or transferee of such Interest may have to the Company. In the case of a Transfer or attempted Transfer of an Interest that is not a Permitted Transfer, the parties engaging or attempting to engage in such Transfer shall be liable to indemnify and hold harmless the Company and the other Members from all Expenses that the Company or any of such indemnified Members may incur (including incremental tax liabilities, lawyers' fees and expenses) as a result of such Transfer or attempted Transfer and efforts to enforce the indemnity granted hereby.

**SECTION 10.5. Rights of Unadmitted Assignees.** A Person who acquires an Interest but who is not admitted as a substituted Member pursuant to Section 10.6 shall be entitled only to allocations and distributions with respect to such Interest in accordance with this Operating Agreement, and shall have no right to any information or accounting of the affairs of the Company, shall not be entitled to inspect the books or records of the Company, and shall not have any of the rights of a Member under the Act or this Operating Agreement.

**SECTION 10.6. Admission of Substituted Members.** Subject to the other provisions of this Article X, a transferee of an Interest may be admitted to the Company as a substituted Member only upon the approval of the Manager and satisfaction of the conditions set forth in this Section 10.6:

**(a)** The Interest with respect to which the transferee is being admitted was acquired by means of a Permitted Transfer;

**(b)** The transferee of an Interest (other than, with respect to clauses (i) and (ii) below, a transferee that was a Member prior to the Transfer) shall, by written instrument in form and substance reasonably satisfactory to the Manager (and, in the case of clause (iii) below, the transferor Member), (i) make representations and warranties to each non-transferring Member equivalent to those set forth in Article VII for the transferring Member, (ii) accept and adopt the terms and provisions of this Operating Agreement, including this Article X, and (iii) assume the obligations of the transferor Member under this Operating Agreement with respect to the Transferred Interest. The transferor Member shall be released from all such assumed obligations except (x) those obligations or liabilities of the transferor Member arising out of a breach of this Operating Agreement by the transferor Member and (y) in the case of a Transfer to any Person other than a Member, those obligations or liabilities of the transferor Member based on events occurring, arising, or maturing prior to the date of Transfer; and

**(c)** The transferee and transferor shall each execute and deliver such other instruments as the Manager reasonably deems necessary or appropriate to effect, and as a condition to, such Transfer, including amendments to the Certificate or any other instrument filed with the State of Michigan or any other state or governmental authority.

**SECTION 10.7. Distributions and Allocations in Respect of Transferred Member Interests.** If any Interest is Transferred during any Allocation Year in compliance with the provisions of this Article X, Profits, Losses, each item thereof, and all other items attributable to the Transferred Interest for such Allocation Year shall be divided and allocated between the transferor and the transferee by taking into account their varying Interests during the Fiscal Year in accordance with Code Section 706(d), using any conventions permitted by law and agreed to by the transferor and transferee. All distributions on or before the date of such Transfer shall be made to the transferor, and all distributions thereafter shall be made to the transferee. Solely for purposes of making such allocations and distributions, the Company shall recognize such Transfer not later than the end of the calendar month during which it is given notice of such Transfer, provided that, if the Company is given notice of a Transfer at least ten (10) Business Days prior to the Transfer, the Company shall recognize such Transfer as of the date of such Transfer, and provided further that if the Company does not receive a notice stating the date such Interest was Transferred and such other information as the Manager may reasonably require within thirty (30) days after the end of the Allocation Year during which the Transfer occurs, then all such items shall be allocated, and all distributions shall be made, to the Person who, according to the books and records of the Company, was the owner of the Interest on the last day of such Allocation Year. Neither the Company nor the Manager shall incur any liability for making allocations and distributions in accordance with the provisions of this Section 10.7, whether or not the Manager or the Company has knowledge of any Transfer of ownership of any Interest.

**ARTICLE XI**

**POWER OF ATTORNEY**

**SECTION 11.1. Manager as Attorney-In-Fact.** Each Member hereby makes, constitutes, and appoints the Manager, each successor Manager and the Liquidator, severally, with full power of substitution and re-substitution, its true and lawful attorney-in-fact for it and in its name, place, and stead and for its use and benefit, to sign, execute, certify, acknowledge, swear to, file, publish, and record (i) all articles of organization, amended name or similar certificates, and other certificates and instruments (including counterparts of this Operating Agreement) that the Manager or Liquidator may deem necessary to be filed by the Company under the laws of the State of Michigan or any other jurisdiction in which the Company is doing or intends to do business; (ii) any and all amendments, restatements, or changes to this Operating Agreement (provided the terms of Article IX hereof are complied with) and the instruments described in clause (i), as now or hereafter amended, which the Manager may deem necessary to effect a change or modification of the Company in accordance with the terms of this Operating Agreement, including amendments, restatements, or changes to reflect (A) the exercise by the Manager of any power granted to it under this Operating Agreement, (B) the admission of any additional or substituted Member, and (C) the disposition by any Member of its Interest; (iii) all articles of dissolution and certificates of cancellation and other instruments that the Liquidator deems necessary or appropriate to effect the dissolution and termination of the Company pursuant to the terms of this Operating Agreement, and (iv) any other instrument that is now or may hereafter be required by law to be filed on behalf of the Company or is deemed necessary by the Manager or Liquidator to carry out fully the provisions of this Operating Agreement in accordance with its terms. Each Member authorizes each such attorney-in-fact to take any further action that such attorney-in-fact shall consider necessary in connection with any of the foregoing, hereby giving each such attorney-in-fact full power and authority to do and perform each and every act or thing whatsoever requisite to be done in connection with the foregoing as fully as such Member might or could do personally, and hereby ratify and confirm all that any such attorney-in-fact shall lawfully do, or cause to be done, by virtue thereof or hereof.

**SECTION 11.2. Nature of Special Power.** The power of attorney granted to the Manager pursuant to this Article XI:

**(a)** Is a special power of attorney coupled with an interest and is irrevocable; provided, however, that, the power of attorney granted to the Manager shall terminate upon the appointment of the Liquidator;

**(b)** May be exercised by such attorney-in-fact by listing the Members executing any agreement, certificate, instrument, or other document with the single signature of any such attorney-in-fact acting as attorney-in-fact for such Members; and

**(c)** Shall survive and not be affected by the subsequent Bankruptcy, insolvency, dissolution, or cessation of existence of a Member and shall survive the delivery of an assignment by a Member of the whole or a portion of its Interest (except that where the assignment is of such Member's entire Interest and the assignee, with the consent of the other Members, is admitted as a substituted Member, the power of attorney shall survive the delivery of such assignment for the sole purpose of enabling any such attorney-in-fact to effect such substitution) and shall extend to such Member's or assignee's successors and assigns.

**ARTICLE XII**

**DISSOLUTION AND WINDING UP**

**SECTION 12.1. Liquidating Events.**

**(a) Liquidation.** The Company shall dissolve and shall commence winding up and liquidating upon the first to occur of either of the following (each a "Liquidating Event"):

**(i)** The occurrence of the termination of the Company;

**(ii)** The unanimous vote of the Members to liquidate the Company;

**(iii)** The date upon which a Liquidation Notice becomes effective to cause a Notice Event (as defined below) to become a Liquidating Event;

**(iv)** The Bankruptcy of any of the Company, the Manager; or

**(v)** The happening of any other event that makes it unlawful, impossible, or impractical to carry on the business of the Company.

The Members hereby agree that, notwithstanding any provision of the Act, the Company shall not dissolve prior to the occurrence of a Liquidating Event.

**(b) Reconstitution.** If it is determined, by a court of competent jurisdiction, that the Company has dissolved prior to the occurrence of a Liquidating Event, then within an additional ninety (90) days after such determination (the "Reconstitution Period"), all of the Members may elect to reconstitute the Company and continue its business on the same terms and conditions set forth in this Operating Agreement by forming a new limited liability company on terms identical to those set forth in this Operating Agreement. Unless such an election is made within the Reconstitution Period, the Company shall dissolve and wind up its affairs in accordance with Section 12.2. If such an election is made within the Reconstitution Period, then:

**(i)** The reconstituted limited liability company shall continue until the occurrence of a Liquidating Event as provided in Section 12.1(a);

**(ii)** Unless otherwise agreed to by all of the Members, the Articles and this Operating Agreement shall, subject to any requirement under the Act to file new articles of organization, automatically constitute the Articles and Operating Agreement of such new Company. All of the assets and liabilities of the dissolved Company shall be deemed to have been automatically assigned, assumed, conveyed, and transferred to the new Company. No bond, collateral, assumption, or release of any Member's or the Company's liabilities shall be required; provided, that the right of the Members to select successor managers and to reconstitute and continue the business of the Company shall not exist and may not be exercised unless the Company has received an opinion of counsel that the exercise of the right would not result in the loss of limited liability of any Member and neither the Company nor the reconstituted limited liability company would cease to be treated as a partnership for federal income tax purposes upon the exercise of such right to continue.

**SECTION 12.2. Winding Up.** Upon the occurrence of (i) a Liquidating Event or (ii) the determination by a court of competent jurisdiction that the Company has dissolved prior to the occurrence of a Liquidating Event (unless the Company is reconstituted pursuant to Section 12.1(b) hereof), the Company shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets, and satisfying the claims of its creditors and Members, and no Member shall take any action that is inconsistent with, or not necessary to or appropriate for, the winding up of the Company's business and affairs, provided that, to the extent not inconsistent with the foregoing, all covenants contained in this Operating Agreement and obligations provided for in this Operating Agreement shall continue to be fully binding upon the Members until such time as the Property has been distributed pursuant to this Section 12.2 and the Certificate has been canceled pursuant to the Act. The Liquidator shall be responsible for overseeing the winding up and dissolution of the Company, which winding up and dissolution shall be completed within ninety (90) days of the occurrence of the Liquidating Event and within eighty-nine (89) days after the last day on which the Company may be reconstituted pursuant to Section 12.1(b) hereof. The Liquidator shall take full account of the Company's liabilities and Property and shall cause the Property or the proceeds from the sale thereof (as determined pursuant to Section 12.9 hereof), to the extent sufficient therefore, to be applied and distributed, to the maximum extent permitted by law, in the following order:

**(a)** First, to creditors in satisfaction of all of the Company's Debts and other Liabilities (whether by payment or the making of reasonable provision for payment thereof to the extent required by the Act), other than liabilities for distribution to Members under the Act;

**(b)** Second, to Members and former Members of the Company in satisfaction of liabilities for distribution under the Act; and

**(c)** The balance, if any, to the Members in accordance with the positive balance in their Capital Accounts, after giving effect to all contributions, distributions, and allocations for all periods.

No Member shall receive additional compensation for any services performed pursuant to this Article XII.

**SECTION 12.3. Compliance With Certain Requirements of Regulations; Deficit Capital Accounts.** In the event the Company is "liquidated" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), distributions shall be made pursuant to this Article XII to the Members who have positive Capital Accounts in compliance with Regulations Section 1.704-1(b)(2)(ii)(b)(2). If any Member has a deficit balance in its Capital Account (after giving effect to all contributions, distributions, and allocations for all Allocation Years, including the Allocation Year during which such liquidation occurs), such Member shall have no obligation to make any contribution to the capital of the Company with respect to such deficit, and such deficit shall not be considered a debt owed to the Company or to any other Person for any purpose whatsoever. In the discretion of the Liquidator, a pro rata portion of the distributions that would otherwise be made to the Members pursuant to this Article XII may be:

**(a)** Distributed to a trust established for the benefit of the Members for the purposes of liquidating Company assets, collecting amounts owed to the Company, and paying any contingent or unforeseen liabilities or obligations of the Company. The assets of any such trust shall be distributed to the Members from time to time, in the reasonable discretion of the Liquidator, in the same proportions as the amount distributed to such trust by the Company would otherwise have been distributed to the Members pursuant to Section 12.2; or

**(b)** Withheld to provide a reasonable reserve for Company liabilities (contingent or otherwise) and to reflect the unrealized portion of any installment obligations owed to the Company, provided that such withheld amounts shall be distributed to the Members as soon as practicable.

**SECTION 12.4. Deemed Distribution and Re-Contribution.** Notwithstanding any other provision of this Article XII, in the event the Company is liquidated within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g) but no Liquidating Event has occurred, the Property shall not be liquidated, the Company's Debts and other Liabilities shall not be paid or discharged, and the Company's affairs shall not be wound up. Instead, just for federal income tax purposes, the Company shall be deemed to have contributed all its Property and liabilities to a new limited liability company in exchange for an interest in such new company and, immediately thereafter, the Company will be deemed to liquidate by distributing interests in the new company to the Members.

**SECTION 12.5. Rights of Members.** Except as otherwise provided in this Operating Agreement, each Member shall look solely to the Property of the Company for the return of its Capital Contributions and has no right or power to demand or receive Property other than cash from the Company. If the assets of the Company remaining after payment or discharge of the debts or liabilities of the Company are insufficient to return such Capital Contributions, the Members shall have no recourse against the Company, the Manager, or any other Member.

**SECTION 12.6. Allocations and Distributions During Period of Liquidation.** During the period commencing on the first day of the Fiscal Year during which a Liquidating Event occurs and ending on the date on which all of the assets of the Company have been distributed to the Members pursuant to Section 12.2 hereof, the Members shall continue to share Profits, Losses, gain, loss, and other items of Company income, gain, loss, or deduction in the manner provided in Article III but no distributions shall be made pursuant to Article IV.

**SECTION 12.7. Character of Liquidating Distributions.** All payments made in liquidation of the Interest of a Member in the Company shall be made in exchange for the Interest of such Member in Property pursuant to Code Section 736(b)(1), including the interest of such Member in Company goodwill.

**SECTION 12.8. Liquidator.**

**(a) Definition.** The "Liquidator" shall be appointed by the Manager and shall have the power of attorney granted to the Manager pursuant to Article XI.

**(b) Compensation.** The Company is authorized to pay such reasonable compensation to the Liquidator for its services performed pursuant to this Article XII as shall be agreed upon by the Liquidator and the Manager and to reimburse the Liquidator for its reasonable costs and expenses incurred in performing those services.

**(c) Indemnification.** The Company shall indemnify, save harmless, and pay all judgments and claims against the Liquidator or any officers, directors, stockholders, agents, or employees of the Liquidator relating to any liability or damage incurred by reason of any act performed or omitted to be performed by the Liquidator, or any officers, directors, agents, or employees of the Liquidator in connection with the winding up of the Company, including reasonable attorneys' fees incurred by the Liquidator, officer, director, agent, or employee in connection with the defense of any action based on any such act or omission, which attorneys' fees may be paid as incurred, except to the extent such liability or damage is caused by the fraud, intentional misconduct of, or a knowing violation of the laws by the Liquidator that was material to the cause of action.

**SECTION 12.9. Form of Liquidating Distributions.**

**(a) In General.** Except as provided in this Section 12.9, for purposes of making distributions required by Section 12.2, the Liquidator may determine whether to distribute all or any portion of the Company Property in-kind or to sell all or any portion of the Company Property and distribute the proceeds therefrom, provided that the Liquidator shall not distribute Company Property other than cash to a Member without its consent, and the Liquidator shall be required to reduce the Company Property to cash to the extent necessary to make distributions to the Member pursuant to Section 12.2 in cash.

**(b) Member's In-Kind Election.** At the election of a Member, the Liquidator may be required to distribute all of the Company Property in-kind. In such event, the Company Property to be distributed to each Member shall be determined by the Liquidator.

**ARTICLE XIII**

**MISCELLANEOUS**

**SECTION 13.1. Notices.** Any notice, payment, demand, or communication required or permitted to be given by any provision of this Operating Agreement shall be in writing and shall be deemed to have been delivered, given, and received for all purposes (i) as of the date so delivered, if delivered personally to the Person or to an officer of the Person to whom the same is directed, or (ii) when the same is actually received, if sent either by overnight courier, registered or certified mail, postage and charges prepaid, or by facsimile or e-mail, if answerback confirmation of such facsimile or e-mail is received, provided such notice is addressed as follows, or to such other address as such Person may from time to time specify by notice to the Members:

**(a)** If to the Company, to the principal place of business address set forth in Section 1.4 hereof;

**(b)** If to a Member, to the address set forth in Exhibit A hereof.

**SECTION 13.2. Binding Effect.** Except as otherwise provided in this Operating Agreement, every covenant, term, and provision of this Operating Agreement shall be binding upon and inure to the benefit of the Members and their respective successors, transferees, and assigns.

**SECTION 13.3. Construction.** Every covenant, term, and provision of this Operating Agreement shall be construed simply according to its fair meaning and not strictly for or against any Member. The terms of this Operating Agreement are intended to embody the economic relationship among the Members and shall not be subject to modification by, or be conformed with, any actions by the Internal Revenue Service except as this Operating Agreement may be explicitly so amended and except as may relate specifically to the filing of tax returns.

**SECTION 13.4. Time.** In computing any period of time pursuant to this Operating Agreement, the day of the act, event, or default from which the designated period of time begins to run shall be included, unless it is not a Business Day, in which event the period shall begin on the next day that is a Business Day, and the last day of the period so computed shall not be included.

**SECTION 13.5. Headings.** Section and other headings contained in this Operating Agreement are for reference purposes only and are not intended to describe, interpret, define, or limit the scope, extent, or intent of this Operating Agreement or any provision hereof.

**SECTION 13.6. Severability.** Except as otherwise provided in the succeeding sentence, every provision of this Operating Agreement is intended to be severable, and, if any term or provision of this Operating Agreement is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Operating Agreement. The preceding sentence of this Section 13.6 shall be of no force or effect if the consequence of enforcing the remainder of this Operating Agreement without such illegal or invalid term or provision would be to cause any Member to lose the material benefit of its economic bargain.

**SECTION 13.7. Incorporation by Reference.** No exhibit, schedule or other appendix attached to this Operating Agreement and referred to herein is incorporated in this Operating Agreement by reference unless this Operating Agreement expressly otherwise provides.

**SECTION 13.8. Governing Law.** The laws of the State of Michigan shall govern the validity of this Operating Agreement, the construction of its terms, and the interpretation of the rights and duties arising hereunder.

**SECTION 13.9. Consent to Jurisdiction.** Each Member (i) irrevocably submits to the non-exclusive jurisdiction of any Michigan State court or Federal court sitting in the Eastern District of Michigan, in any action arising out of this Operating Agreement, (ii) agrees that all claims in such action may be decided in such court, (iii) waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum, and (iv) consents to the service of process by mail in accordance with Section 13.1 hereof. A final judgment in any such action shall be conclusive and may be enforced in other jurisdictions. Nothing herein shall affect the right of any party to serve legal process in any manner permitted by law or affect its right to bring any action in any other court.

**SECTION 13.10. Waiver of Jury Trial.** EACH OF THE MEMBERS IRREVOCABLY WAIVES, TO THE EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY AND ALL RIGHTS TO IMMUNITY BY SOVEREIGNTY OR OTHERWISE IN ANY ACTION, PROCEEDING, OR COUNTER-CLAIM ARISING OUT OF OR RELATING TO THIS OPERATING AGREEMENT.

**SECTION 13.11. Counterpart Execution.** This Operating Agreement may be executed in any number of counterparts with the same effect as if all of the Members had signed the same document. All counterparts shall be construed together and shall constitute one agreement.

**SECTION 13.12. Sole and Absolute Discretion.** Except as otherwise provided in this Operating Agreement (including Article V), all actions that the Manager may take and all determinations that the Manager may make pursuant to this Operating Agreement may be taken and made at the sole and absolute discretion of the Manager.

**SECTION 13.13. Specific Performance.** Each Member agrees with the other Members that the other Members would be irreparably damaged if any of the provisions of this Operating Agreement are not performed in accordance with their specific terms and that monetary damages would not provide an adequate remedy in such event. Accordingly, it is agreed that, in addition to any other remedy to which the non-breaching Members may be entitled, at law or in equity, the non-breaching Members shall be entitled to injunctive relief to prevent breaches of the provisions of this Operating Agreement and specifically to enforce the terms and provisions hereof in any action instituted in any court of the United States or any state thereof having subject matter jurisdiction thereof.

**SECTION 13.14. No Material Impairment.** No Member shall take any action that could impair materially such Member's ability to perform its duties and obligations under this Operating Agreement.

**SECTION 13.15. Entire Agreement.** This Operating Agreement and any Transaction Documents and the Exhibits and Schedules hereto and thereto constitute the entire agreement among the parties hereto and their respective Affiliates and contain all of the agreements among such parties with respect to the subject matter hereof and thereof. This Operating Agreement and any Transaction Documents and the Exhibits and Schedules hereto and thereto supersede any and all other agreements, either oral or written, between such parties with respect to the subject matter hereof and thereof.

**SECTION 13.16. No Third Party Beneficiaries.** Except as otherwise provided herein, no person other than a party hereto shall have any rights or remedies under this Operating Agreement. Without limiting the foregoing, any obligations of the Members to satisfy their respective obligations to make Capital Contributions under this Operating Agreement is an agreement only among the Members and no other Person shall have any rights to enforce such obligations.

**SECTION 13.17. Waiver.** Any term or provision of this Operating Agreement may be waived, or the time for its performance may be extended, by the party or parties entitled to the benefit thereof. Any such waiver shall be validly and sufficiently authorized for the purposes of this Operating Agreement if, as to any party, it is authorized in writing by an authorized representative of such party. The failure of any party hereto to enforce at any time any provision of this Operating Agreement shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Operating Agreement or any part hereof or the right of any party thereafter to enforce each and every such provision. No waiver of any breach of this Operating Agreement shall be held to constitute a waiver of any other or subsequent breach.

**IN WITNESS WHEREOF**, the parties have executed this Operating Agreement as of the day and year first written above.

 The Members, as set forth in the

 attached signature pages

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ LLC**

**MEMBER SIGNATURE PAGE**

 The undersigned executes this Operating Agreement (“Agreement”) of \_\_\_\_\_\_\_\_\_\_\_\_\_ LLC (“Company”), and agrees to all of the terms and provisions thereof. The undersigned appoints the Manager as its true and lawful attorney-in-fact, with all the powers and authorizations as set forth in such Agreement including without limitation, in its name, place and stead, to make, execute, sign, acknowledge, swear to, deliver and file the Agreement and any certificates, any amendments thereto or restatements thereof, for the purpose of admitting the undersigned as a Member in the Company. The undersigned joins and executes this Agreement and authorizes the Manager to attach this signature page to the Agreement and to add the name(s) of the undersigned to Exhibit “A” to reflect the admission of the undersigned as a Member of the Company. The power of attorney granted hereby shall be deemed to be coupled with an interest and shall be irrevocable and shall survive the dissolution or death of the undersigned.

Dated as of \_\_\_\_\_\_\_, 201\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ LLC**

**MEMBER SIGNATURE PAGE**

 The undersigned executes this Operating Agreement (“Agreement”) of \_\_\_\_\_\_\_\_\_\_\_\_\_ LLC (“Company”), and agrees to all of the terms and provisions thereof. The undersigned appoints the Manager as its true and lawful attorney-in-fact, with all the powers and authorizations as set forth in such Agreement including without limitation, in its name, place and stead, to make, execute, sign, acknowledge, swear to, deliver and file the Agreement and any certificates, any amendments thereto or restatements thereof, for the purpose of admitting the undersigned as a Member in the Company. The undersigned joins and executes this Agreement and authorizes the Manager to attach this signature page to the Agreement and to add the name(s) of the undersigned to Exhibit “A” to reflect the admission of the undersigned as a Member of the Company. The power of attorney granted hereby shall be deemed to be coupled with an interest and shall be irrevocable and shall survive the dissolution or death of the undersigned.

Dated as of \_\_\_\_\_\_\_, 201\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**EXHIBIT A**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ LLC**

Name and Address Contribution Membership Interests

 of Member

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_ \_\_\_\_\_%

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_ \_\_\_\_\_%

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_ \_\_\_\_\_%