

OPERATING AGREEMENT OF TRADERS 01 LLC

THIS OPERATING AGREEMENT is entered into effective as of the _____ day of _____, 2024 (“Effective Date”), by and between the Person(s) identified in the signature section of this Agreement or a counterpart hereof. The parties hereto, intending to be legally bound, agree as follows:

Recitals

A. This Company was or will be organized as a limited liability company pursuant to the North Dakota Uniform Limited Liability Company Act.

B. The Members desire to set forth their agreements regarding the formation, ownership, and operation of the Company pursuant to the terms and provisions set forth herein.

In consideration of the mutual covenants and agreements set forth below, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, and the parties, hereby agree as follows:

Article I Definitions

As used in this Agreement, the following terms shall have the meaning set forth in this Article I (unless the context otherwise requires).

(a) “Act” shall mean the North Dakota Uniform Limited Liability Company Act at 10-32.1, et seq., as amended from time to time (or any corresponding provision of succeeding law).

(b) “Affiliate” shall mean any entity controlled, controlled by, or under common control with such applicable entity or individual. For this purpose, “control” shall mean possession of the exclusive authority to direct or cause the direction of the management and policies of the specified entity, through ownership of equity interests therein, by contract or otherwise.

(c) “Agreement” means this Operating Agreement, as amended from time to time. References to “Articles,” “Sections” and subdivisions thereof refer to this Agreement.

(d) “Articles of Organization” shall mean the Articles of Organization of Traders 01 LLC, as filed with the Secretary of State of North Dakota, as amended from time to time and in form substantially as attached hereto as Exhibit A.

(e) “Bankruptcy” shall mean, with respect to any Member, the occurrence of any one or more of the following: (i) the making by the Member of an assignment for the benefit of creditors; (ii) the filing of an involuntary petition seeking an adjudication of bankruptcy under Chapter 7 of the Bankruptcy Code, which filing is not dismissed within sixty (60) days of the filing; (iii) the filing of a voluntary petition by the Member under Chapter 7 of the Bankruptcy Code; (iv) the filing of a voluntary or involuntary petition under Chapters 11 or 13 of the Bankruptcy Code which is not

dismissed within sixty (60) days of the filing, but only if the Member is not the debtor-in-possession of his or her assets; (v) the entry of an order, judgment or decree by a court of competent jurisdiction providing for the liquidation of the assets of the Member or appointing a receiver, trustee or other administrator of the Member's assets which continues in effect and unstayed for a period of sixty (60) days; (vi) the confirmation of any plan of reorganization under either Chapter 11 or 13 of the Bankruptcy Code providing for the liquidation of substantially all of the Member's assets. For purposes of (iv) above, a Member shall not be considered a debtor-in-possession of his or her assets if a trustee, receiver or other person or entity is appointed to, or in fact does, control or operate the assets of the Member.

(f) "Bankruptcy Code" shall mean Title 11 of the United States Code, as now in effect or as hereafter amended.

(g) "Capital Account" as of any given date shall mean with respect to any Member or Economic Interest Owner, the capital account established and maintained for such Member or Economic Interest Owner in accordance with the provisions of the Code and Treasury Regulations Section 1.704-1.

(h) "Capital Contribution" shall mean any contribution to the capital of the Company in cash or property by a Member whenever made, but excluding proceeds of loans from the Member. Where the context so requires, the Capital Contribution of a Member shall include the Capital Contribution of the Member's predecessor in interest.

(i) "Capital Transaction" shall, to the extent applicable, mean the occurrence of any of the following: (i) the condemnation, casualty, loss or other disposition (whether voluntary or involuntary), of or with respect to all or substantially all of the Property of the Company, excluding property dispositions in the ordinary course of business; and (ii) the refinancing of any existing loan or the placement of any new loan made by the Company, excluding Member loans.

(j) "Code" shall mean the Internal Revenue Code of 1986, as now in effect or as hereafter amended.

(k) "Company" shall mean Traders 01 LLC, the limited liability company governed by this Agreement, a limited liability company formed under the laws of the State of North Dakota, and any successor limited liability company.

(l) "Compensation Plan" shall mean the compensation plan determined by the Manager in its sole and absolute discretion which dictates the amount and terms of any compensation of the Members, Managers, officers or employees of the Company.

(m) "Deficit Capital Account" shall mean the deficit balance, if any, in the Capital Account of a Member as of the end of the taxable year, after giving effect to the following adjustments:

(i) credit to such Capital Account any amount which such Member or Economic Interest Owner is obligated to restore under Section 1.704-1(b)(2)(ii)(c) of the Treasury Regulations, as well as any addition thereto pursuant to the next to last sentence of Sections 1.704-2(g)(1) and (i)(5) of the Treasury Regulations, after taking into account

thereunder any changes during such year in partnership minimum gain (as determined in accordance with Section 1.704-2(d) of the Treasury Regulations) and in the minimum gain attributable to any partner for nonrecourse debt (as determined under Section 1.704-2(i)(3) of the Treasury Regulations); and

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

This definition of Deficit Capital Account is intended to comply with the provisions of Treasury Regulation Sections 1.704-(b)(2)(ii)(d) and 1.704-2, and will be interpreted consistently with those provisions.

(n) “Dilution Factor” means 2.0, for any Capital Contributions made in response to a Capital Call.

(o) “Distributable Cash” shall mean all cash, revenues and funds received by the Company from Company operations other than from a Capital Transaction, less the sum of the following to the extent paid or set aside by the Company (but excluding any such items to the extent paid from the proceeds of a Capital Transaction): (i) all principal and interest payments on indebtedness of the Company and all other sums paid to lenders, including without limitation, any participation interest and reserves required to be paid to or retained by lenders pursuant to the loan documents; (ii) all cash expenditures incurred in the normal operation of the Company's business; and (iii) such Reserves as the Manager deems reasonably necessary for the proper operation of the Company's business.

(p) “Economic Interest” shall mean a Member's or Economic Interest Owner's share of one or more of the Company's Net Profits, Net Losses and distributions of the Company's assets pursuant to this Agreement and the Act, including without limitation, distributions of Distributable Cash and Net Cash Proceeds, but shall not include any right to participate in the management or affairs of the Company, including the right to call for a meeting of the Members or Manager and the right to vote on, consent to, or otherwise participate in, any decision of the Members or Manager.

(q) “Economic Interest Owner” shall mean the owner of an Economic Interest who is not a Member.

(r) “Entity” shall mean any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative, association, foreign trust, foreign business organization, or other business entity.

(s) “Interest” means a Member's entire interest in the Company and is equivalent to the “Membership Interest” defined under the Act. Interest includes the right to participate in the profits, losses and distributions of the Company pursuant to this Agreement and the Act and any rights the Member has to participate in the management of the Company under the terms of this Agreement. All of a Member's Interests, including without limitation any Economic Interest held by an Economic Interest Owner, shall be subject to purchase by the Company on the terms set forth in Article X.

(t) “Majority Interest” shall mean the Membership Interests of Members which in the aggregate exceeds 50% of all Percentage Interests of Members.

(u) “Manager” or “Managers” shall mean one or more managers of the Company as set forth in Exhibit B and any person admitted as an additional or substitute Manager in accordance with this Agreement. References to the Manager in the singular or as him, her, it, itself, or other like references shall also, where the context so requires, be deemed to include the plural or the masculine or feminine reference, as the case may be.

(v) “Member” and “Members” shall mean the Person(s) set forth on Exhibit B attached hereto, and any person admitted as an additional or substitute Member in accordance with Article X hereto and the Articles of Organization.

(w) “Membership Interest” shall mean a Member's entire interest in the Company, including but not limited to the Member's Economic Interest, the Member's Capital Account, the Member's right to receive distributions of Distributable Cash, the Members right to receive Net Cash Proceeds, Net Profits and Net Losses, and the Member's right to participate in the management of the business and affairs of the Company, including the right to call for a meeting of the Members and the right to vote on, consent to, or otherwise participate in any decision or action of or by the Members granted pursuant to this Agreement or the Act.

(x) “Net Cash Proceeds” shall mean the net cash proceeds received by the Company, after payment of all accrued expenses, retirement of applicable debt, or any portion thereof, and after establishment of Reserves, upon occurrence of any Capital Transaction, less expenses incurred in connection with a Capital Transaction and less the costs of the repair, restoration or improvement of the Property of the Company.

(y) “Net Profits” and “Net Losses” shall mean, for each fiscal year or other period, an amount equal to the Company's taxable income or loss for such year or period, 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:

(i) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Net Profit or Net Loss pursuant to this Agreement 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 under Section 704(b) of the Code and not otherwise taken into account in computing Net Profit or Net Loss, shall be subtracted from such taxable income or loss;

(iii) Gain or loss resulting from any disposition of Company property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the book value of such property rather than its adjusted tax basis; and

(iv) In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing taxable income or loss, there shall be taken into account

depreciation on the assets' respective book values for such fiscal year or other period determined in accordance with Treasury Regulation §1.704-1(b)(2)(iv)(g).

Net Profits or Net Losses from Capital Transactions shall mean for each fiscal year or other period, the Net Profit or Net Loss for such year or other period calculated solely by reference to gains and losses from Capital Transactions.

Net Profit or Net Loss from Operations shall mean for each fiscal year or other period, the Net Profit or Net Loss for such year or other period calculated without regard to Net Profits and Net Losses from Capital Transactions.

(z) "Partnership Representative" is defined in the Code Section 6223 and as in effect following the effective date of its amendment by Section 1101 of H.R. 1314, the "Revised Partnership Audit Provisions."

(aa) "Percentage Interest" shall mean, for any Member, the percentage interest in the Company as set forth in Exhibit B, as may be changed, determined, or adjusted from time to time by the Super Majority Interest vote or consent as permitted by this Agreement.

(bb) "Permitted Transferee" shall mean (i) any Member or (ii) a spouse, estate, brother, sister, ancestor, lineal descendant of a Member or a partnership or corporation or limited liability company owned entirely by himself and/or one or more of the person or entities named in this subsection (ii) or a trust for the benefit of himself and/or one or more of the persons or entities named in this subsection (ii).

(cc) "Person" shall mean any individual or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such "Person," where the context so permits.

(dd) "Property" shall mean, at any time, all property, whether real or personal, interests, assets or rights owned or held by or on behalf of the Company.

(ee) "Prime Rate" shall mean the prime rate as published from time to time in The Wall Street Journal or similar publication designated by the Manager. If for any reason The Wall Street Journal is not available or does not publish a prime rate, then, in the Manager's discretion, the Prime Rate shall be the prime rate as published in a similar publication as designated by the Manager.

(ff) "Reserves" shall mean funds set aside or amounts allocated to reserves which shall be maintained in amounts deemed sufficient by the Manager for working capital and to pay taxes, insurance, debt service or other costs or expenses incident to the ownership or operation of the Company's business.

(gg) "Selling Member" shall mean any Member or Economic Interest Owner which sells, assigns, pledges, hypothecates or otherwise transfers for consideration all or any portion of its Membership Interest or Economic Interest.

(hh) “Standards of Conduct” shall mean the standards of conduct policy attached hereto as Exhibit C, and any new policy or policy amendment adopted by the consent or vote of the Manager which pertains to and governs the conduct of the Members, Managers and officers of the Company.

(ii) “Super Majority Interest” shall mean the Membership Interests of Members which in the aggregate exceeds ninety percent (90%) of all Percentage Interest of Members.

(jj) “Transfer” and forms of the word shall mean, with respect to an Interest or Economic Interest, any sale, gift, assignment, distribution, conveyance, pledge, hypothecation, encumbrance or other transfer of title or beneficial interest therein, voluntary or involuntary, whether by operation of law or otherwise, and whether or not for value. The designation of a proxy or granting of a power of attorney for the purpose of voting or the change of a trustee of a trust shall not constitute a Transfer.

(kk) “Transferee” shall mean any person or entity to which any portion of an Interest or an Economic Interest is transferred.

(ll) “Transferor” shall mean any Member who Transfers any portion of such Member’s Interest or an Economic Interest to a Transferee.

(mm) “Treasury Regulations” shall include proposed, temporary and final regulations promulgated under the Code from time to time, including but not limited to corresponding provisions of succeeding regulations.

(nn) “Willful Misconduct” shall mean any of the following acts or omissions: (i) any act or omission that constitutes fraud, reckless conduct, intentional misconduct or a knowing violation of law which results or shall have resulted in material loss or injury to the Property or operations of the Company; (ii) dishonesty, misappropriation, theft or embezzlement of money or Property of the Company; (iii) conviction of a crime, the commission of which results or shall have resulted in loss or injury to the Property or operations of the Company or conviction of a felony; (iv) willfully and without authorization disclosing proprietary information of the Company or its clients; (v) in carrying out his or her duties hereunder, willful failure to comply with the directives of the Manager hereunder after notice of noncompliance by the Manager; or (vi) a knowing, intentional or repeated violation of the Standards of Conduct.

Article II Organization

2.01 Formation. The Company has been organized as an North Dakota Limited Liability Company by executing and delivering Articles of Organization to the North Dakota Secretary of State in accordance with and pursuant to the Act. In the event of a conflict between the terms of this Agreement and the terms of the Articles of Organization, the terms of the Articles of Organization shall prevail.

2.02 Name. The name of the Company and the name under which its business shall be conducted shall be Traders 01 LLC. All business of the Company shall be conducted under those names or any other name adopted as an assumed name, but in any case, only to the extent permitted under applicable law.

2.03 Principal Place of Business. The initial principal place of business of the Company within the State of North Dakota shall be at 6225 7th Ave., Apt. 101, Kenosha, WI 53143. The Company may locate its principal or other places of business at any other place or places as the Manager deems advisable.

2.04 Registered Office and Registered Agent. The Company's registered office shall be at the office of its registered agent at 3003 32nd Ave S., Suite 240, Fargo, ND 58108 and the name of its registered agent is Registered Agents Inc. The registered office and registered agent may be changed by filing the address of the new registered office and/or the name of the new registered agent with the North Dakota Secretary of State pursuant to the Act.

2.05 Term. The term of the Company shall be perpetual, unless the Company is earlier dissolved in accordance with either the provisions of this Agreement or the Act.

Article III Business Of Company

3.01 Business. To engage in and do any lawful act concerning any and all lawful business for which Limited Liability Companies may be organized under the Act. Without limiting the foregoing, the initial purpose of the Company will be to generate profits from utilizing licensed ("License") software ("Software") developed and owned by Larry Kohl/NDGG for effectuating remote systematic betting on horseraces ("trading platform").

3.02 Authority of the Company. In order to carry out its purpose, the Company is authorized in furtherance of the Company business and subject to the other provisions of this Agreement and the Act to do any and all acts or take any actions necessary to carry out the purposes of the Company.

3.03 Title to Company Property. By decision of the Manager, legal title to the Property or any portion thereof may be held in nominee form, in trust, in the name of another entity of which the Company is a member, partner or shareholder as the case may be, or in one or more land trusts, the beneficial interests in which shall be vested in the Company.

3.04 Specific Authorization. The Members hereby authorize the Manager to execute and deliver any documents or instruments and to take any such further action as may be deemed necessary or appropriate: (1) to accept a loan(s) from a financial institution and/or Member(s) designated by Super Majority Interest consent or any other entity or individual in such amounts deemed sufficient by Super Majority Interest consent, the proceeds of said loans shall be used, together with other funds of the Company, to acquire Property or inventory and to fund operations of the Company, and to execute and deliver all documents required in connection with any such loans, including without limitation, promissory notes, mortgages, security agreements and other certificates, indemnities, and other agreements; and (2) to take such other actions as may be necessary or desirable in the opinion of Manager of the Company, in connection with such loans.

In addition to the foregoing, the Company shall be authorized to enter into a license agreement for the License and Software hereinabove defined with Larry Kohl/NDGG for effectuating remote systematic betting on horseraces ("trading platform"). Such agreement shall be on terms

acceptable to the Manager in its sole and exclusive discretion. Notwithstanding the foregoing, it is anticipated that the license agreement will provide as follows:

- **License Fee.** There will be no cash payment initially due for the License. The initial payment shall be deemed satisfied by the recognition of time spent by the participants in support of these projects. The initial term of the License shall be three (3) years after which the License will be renegotiated.
- **Enhancements/Costs.** The parties shall share any and all enhancements or improvements to the Software. NDGG shall, to the extent necessary, provide access to all algorithms and software codes for the purpose of developing or implementing enhancements. The Software shall at all times remain the property of Larry Kohl/NDGG and the Company shall only use the Software strictly in accordance with the License. The Company will be solely responsible for all fees, costs, and expenses of operating the trading platform and utilizing the Software.
- **Profit Sharing.** All profits generated by the trading platform and utilizing the Licensed Software, shall be split 51% to NDGG, and 49% to the Company. In the event, over any period of time, the trading platform generates a net loss greater than 4%, NDGG will reimburse the Company for such losses. Licensee's profits and losses shall be determined based upon the "costs" of bets placed together, with ordinary and necessary expenses relating solely and directly to the trading platform. The Company's books and records shall be made available for the purpose of auditing such accountings.
- **Limitations.** NDGG shall maintain the right to limit access to tracks, countries, or venues for using the License Software. Licensee will be solely responsible for complying with all gaming laws in connection with the use of the Licensed Software and the trading platform. Each system entered into the Software will have a maximum account balance of \$20.00.

Article IV Members

4.01 **Names of Members.** The names of the Members are set forth on Exhibit B.

4.02 **Additional Members.** From and after the date of this Agreement, any Person or Entity acceptable to the Manager may become a Member in this Company either by the issuance by the Company of a Membership Interest for such consideration and with the allocation of such Percentage Interest as the Manager shall determine, or as a transferee of a Member's Membership Interest or any portion thereof, subject to the terms and conditions of this Agreement. No new Members shall be entitled to any retroactive allocation of losses, income or expense deductions incurred by the Company. The Manager may, at his option, at the time a Member is admitted, close the Company books (as though the Company's tax year has ended) or make pro rata allocations of loss, income and expense deductions to a new Member for that portion of the Company's tax year in which a Member was admitted in accordance with the provisions of Code Section 706(d) and the Treasury Regulations promulgated thereunder. The names and addresses of the Members and their Percentage Interests are set forth in Exhibit B and Exhibit B shall be adjusted by the Manager as needed to accurately reflect current Members and their Percentage Interests. In addition the Manager in its sole and absolute discretion shall have the right to designate certain Members as "active Members" which active Members shall be entitled to receipt of compensation pursuant to the Compensation Plan.

Article V Management

5.01 Management. The business and affairs of the Company shall be managed by its Manager. The Manager shall direct, manage and control the business of the Company. Except for situations in which the approval of the Members is expressly required by this Agreement or by nonwaivable provisions of the Act, the Manager shall have full and complete authority, power and discretion to manage and control the business, affairs and properties of the Company, to make all decisions regarding those matters and to perform any and all other acts or activities customary or incident to the management of the Company's business. Any action so taken by the Manager shall constitute the act of and shall serve to bind the Company.

5.02 Number, Tenure and Qualifications. The Company shall have one (1) Manager who shall be the Manager as set forth in Exhibit B. Except as hereinafter provided in Sections 5.08 and 5.09, the Manager shall continue to act as the Manager of the Company unless and until removed and replaced by the Super Majority Interest consent or vote. The Manager need not be a Member of the Company. The number of Managers of the Company may be amended from time to time by the Super Majority Interest consent or vote, but in no instance shall there be less than one (1) Manager.

5.03 Certain Powers of Manager. Without limiting the generality of Section 5.01, the Manager shall have power and authority on behalf of the Company:

- (a) Subject to the provisions hereinafter set forth, to acquire property from any Person as the Manager may determine, whether or not such Person is directly or indirectly affiliated or connected with any Manager or Member provided, in the event of an expenditure in excess of \$50,000.00, Super Majority Interest consent or vote shall be required;
- (b) Upon the Super Majority Interest consent or vote of the Members, to borrow money for the Company from banks, other lending institutions, the Manager, Members, or Affiliates of the Manager or Members, on such terms as the Members by Super Majority Interest consent or vote deem appropriate, and in connection therewith, to hypothecate, encumber and grant security interests in the assets of the Company to secure repayment of the borrowed sums. No debt shall be contracted or liability incurred by or on behalf of the Company except by the Manager, or to the extent permitted under the Act, by agents or employees of the Company expressly authorized to contract such debt or incur such liability by the Manager;
- (c) To determine or amend the Compensation Plan and operating budget;
- (d) To purchase liability and other insurance to protect the Company's Property and business;
- (e) To hold and own Company real and personal properties in the name of the Company or as provided in Section 3.03 hereof;
- (f) To invest Company funds in time deposits, short-term governmental obligations, commercial paper or other prudent investments determined by Manager;

(g) Lease, sublease, assign or otherwise dispose of part or all of the Property of the Company as part of a single transaction or plan, or as part of multiple transactions;

(h) To execute on behalf of the Company all instruments and documents, including, without limitation, checks, drafts, notes and other negotiable instruments, mortgages or deeds of trusts, security agreements, financing statements, documents providing for the acquisition, mortgage or disposition of the Company's Property, assignments, bills of sale, leases, consents to foreclosure, deeds-in-lieu of foreclosure and any other instruments or documents necessary to the business of the Company;

(i) To employ accountants, legal counsel, managing agents or other experts to perform services for the Company;

(j) Upon the Super Majority Interest consent or vote of the Members, to merge or consolidate the Company with another Person, or to incorporate or otherwise change the nature of the Company from a limited liability company formed under North Dakota law;

(k) To redeem or repurchase by the Company an interest in the Company except as provided in this Agreement;

(l) To admit any new Member to the Company;

(m) Upon the Super Majority Interest consent or vote of the Members, to dissolve the Company as set forth in Article XI herein;

(n) Upon the Super Majority Interest consent or vote of the Members, to amend this Agreement as set forth in Section 13.04 herein;

(o) To enter into any and all other agreements on behalf of the Company, in such form as the Manager may approve, including agreements with the Manager and Affiliates of the Manager; and

(p) To do and perform all other acts as may be necessary or appropriate to the conduct of the Company's business.

Unless authorized to do so by this Agreement or by the Manager, no attorney-in-fact, employee or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable for any purpose. No Member shall have any power or authority to bind the Company unless the Member has been authorized by the Manager to act as an agent of the Company in accordance with the previous sentence.

5.04 Authorization for Necessary Acts. If more than one Manager, the Managers may, by resolution, designate one of the Managers to execute on behalf of the Company, and without the signature of the other Managers, all instruments and documents, including, without limitation, checks, drafts, notes and other negotiable instruments, mortgages or deeds of trusts, security agreements, financing statements, documents providing for the acquisition, mortgage or disposition of the Company's property (including with-

out limitation, the Property), assignments, bills of sale, leases, consents to foreclosure, deeds-in-lieu of foreclosure and any other instruments or documents necessary to the business of the Company.

5.05 Liability for Certain Acts. The Manager shall perform its duties as manager in good faith, in a manner the Manager reasonably believes to be in the best interests of the Company, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. The Manager shall not be liable to the Company or to any Member for any loss or damage sustained by the Company or any Member, unless the loss or damage shall have been the result of Willful Misconduct by such Manager.

5.06 Manager Has No Exclusive Duty to Company. The Manager shall not be required to manage the Company as its sole and exclusive function and may have other business interests and engage in activities in addition to those relating to the Company, excluding activities which may compete with the Company without first obtaining the Super Majority Interest consent or vote . Neither the Company nor any Member shall have any right, by virtue of this Agreement, to share or participate in such other investments or activities of the Manager, or to the income or proceeds derived therefrom.

5.07 Bank Accounts. The Manager may from time open bank accounts in the name of Company, and the Manager shall be the sole signatory thereon, unless the Manager shall designate other permitted signatories.

5.08 Resignation, Death or Inability to Serve. A Manager may resign at any time by giving written notice to the Members of the Company. The resignation of the Manager shall take effect upon receipt of notice thereof or at such later date specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The resignation of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of a Member.

5.09 Removal. At a meeting of the Members called expressly for that purpose, the Manager may be removed at any time, with or without cause, by the Super Majority Interest consent or vote. The removal of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of a Member.

5.10 Vacancies. Any vacancy occurring by reason of an increase in the number of Managers, or for any other reason, shall be filled by the consent or vote of the Super Majority Interest. A Manager elected to fill a vacancy, or to fill a position resulting from an increase in the number of Managers shall hold office until its successor shall be elected and qualified, or until the earlier of the Manager's death, resignation or removal.

5.11 Compensation. The compensation of the Manager for acting as manager shall be as determined pursuant to the Compensation Plan and as may be amended or revised from time to time and no Manager shall be prevented from receiving such compensation because the Manager is also a Member of the Company. Nothing herein contained shall preclude the payment of other compensation to the Manager for services rendered to the Company as an employee of the Company pursuant to the Compensation Plan or arrangement as effectuated pursuant to this Agreement.

5.12 Books of Account. The Manager shall maintain or cause to be maintained full and accurate books and records of the Company at the Company's principal place of business, showing all receipts and expenditures, assets and liabilities, profits and losses, and all other matters required by the Act. The books and records of the Company shall be open to the reasonable inspection and examination of each Member in person or by its duly authorized representative at any time during regular business hours for any purpose reasonably related to such Member's interest as a Member.

5.13 Information. Any Member may obtain from the Company from time to time, upon reasonable demand for any purpose reasonably related to such Member's Interest as a Member, (a) true and full information regarding the state of the business and financial condition of the Company and any other information regarding the affairs of the Company, and (b) promptly after becoming available, a copy of the Company's federal, state and local income tax returns for each Fiscal Year.

5.14 Tax Elections. The Manager may make any and all elections for federal, state and local tax purposes for the Company, including, without limitation, any election if permitted by applicable law to adjust the basis of Property of the Company pursuant to Sections 754, 734(b) and 743(b) of the Code, or comparable provisions of state or local law in connection with transfers of Membership Interests and distributions of assets of the Company.

5.15 No Management Rights. Except as specifically set forth in this Article V hereof, no Member shall take part in the management or control of the business of the Company or transact any business in the name of the Company. No Member shall have the power or authority to bind the Company or to sign any agreement or document in the name of the Company. No Member shall have any power or authority with respect to the operation of the Company, except insofar as the consent of the Member shall be expressly required by this Agreement or by the Act.

5.16 Officers. The Manager may establish any one or more officer positions for the Company at any time and such officer will have the usual and customary duties of that role. Notwithstanding the above, unless expressly permitted by the Manager, such officer will not have any actual authority to bind the Company. The Manager may appoint any one or more individuals to any established officer position and may remove any officer at any time, for any reason.

Article VI

Rights And Obligations Of Members

6.01 Limitation of Liability. Each Member's liability shall be limited as set forth in this Agreement, the Act and other applicable law. No Member shall be liable under a judgment, decree or order of any court, or in any other manner, for a debt, obligation or liability of the Company, except as provided by law.

6.02 Company Debt Liability. A Member will not be personally liable for any debts or losses of the Company beyond his respective Capital Contributions, except as otherwise required by law.

6.03 List of Members. Upon the written request of any Member, the Manager shall provide a list showing the names, addresses and Membership Interests of all Members.

6.04 Approval of Sale of Assets. The Members shall have the right, by the Super Majority Interest consent or vote, to approve the sale, exchange or other disposition of all, or substantially all, of the Company's assets which is to occur as part of a single transaction or plan.

6.05 Company Books. Upon reasonable written request, each Member shall have the right, at a time during ordinary business hours to inspect and copy, at the requesting Member's expense, the Company documents identified in Section 140 of the Act, and such other documents relating to the business of the Company.

6.06. Priority and Return of Capital. Except as may be expressly provided in Article VIII, no Member shall have priority over any other Member either as to the return of Capital Contributions or as to Net Cash Proceeds, Net Profits, Net Losses or Distributable Cash; provided that this Section 6.06 shall not apply to the repayment of loans which a Member has made to the Company.

6.07 Liability of a Member to the Company. A Member who receives a distribution, or the return in whole or in part of its contribution, is liable to the Company only to the extent provided by the Act. No Member shall be required to loan funds to the Company. Except as may be expressly provided otherwise herein, no Member shall be required to make any contribution to the Company by reason of any negative balance in his or her Capital Account, nor shall any negative balance in a Member's Capital Account create any liability on the part of a Member to any third party.

6.08 Meetings. Meetings of the Members, for any purpose or purposes, may be called by any Member or by the Manager.

6.09 Place of Meetings. The Members may designate any place, either within or outside the State of North Dakota, as the place of meeting for any meeting of the Members. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal place of business of the Company in the State of North Dakota.

6.10 Notice of Meetings. Except as provided in Section 6.11, written notice stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called shall be delivered as set forth in Section 13.01 not less than five (5) nor more than thirty (30) days before the date of the meeting.

6.11 Meeting of All Members. If all of the Members shall meet at any time and place, either within or outside of the State of North Dakota, and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice, and at such meeting lawful action may be taken.

6.12 Record Date. For the purpose of determining Members entitled to notice of, or to vote at, any meeting of Members or any adjournment thereof, or Members entitled to receive payment of any distribution, or in order to make a determination of Members for any other purpose, the date on which notice of the meeting is mailed or the date on which the resolution declaring such distribution is adopted, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section 6.12, such determination shall apply to any adjournment thereof.

6.13 Quorum. Members holding a Super Majority Interest represented in person or by proxy, shall constitute a quorum at any meeting of Members. In the absence of a quorum at any such meeting, a majority of the Percentage Interests so represented may adjourn the meeting from time to time for a period not to exceed sixty (60) days without further notice. At such adjourned meeting, at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal during such meeting of that number of Membership Interests whose absence would cause less than a quorum.

6.14 Manner of Acting. If a quorum is present, the affirmative consent or vote of Members holding a Super Majority Interest shall be the act of the Members, unless the vote of a greater or lesser proportion or number is otherwise required by the Act, by the Articles of Organization, or by this Operating Agreement. Unless otherwise expressly provided herein or required under applicable law, only Members who have a Membership Interest may vote or consent upon any matter, and their vote or consent, as the case may be, shall be counted in the determination of whether the matter was approved by the Members

6.15 Proxies. At all meetings of Members, a Member may vote in person or by proxy executed in writing by the Member or by a duly authorized attorney-in-fact. Such proxy shall be filed with the Manager of the Company before, or at the time of, the meeting. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

6.16 Action by Members Without a Meeting. Action required or permitted to be taken at a meeting of Members may be taken without a meeting if the action is evidenced by one or more written consents describing the action taken, signed by each voting Member and delivered to the Manager of the Company for inclusion in the minutes or for filing with the Company records. Action taken under this Section 6.16 is effective when the requisite Members have signed the consent, unless the consent specified a different effective date.

6.17 Waiver of Notice. When any notice is required to be given to any Member, a waiver thereof in writing signed by the Person entitled to such notice, whether before, at, or after the time stated therein, shall be equivalent to the giving of such notice.

6.18 Other Activities. The Members may have other business interests and may engage in other activities that compete, directly or indirectly with the Company, subject to the terms of the Standards of Conduct.

6.19 Withdrawal. A Member's attempted withdrawal or disassociation from the Company, without a Manager's consent, shall constitute a breach of this Agreement. In the case of such a wrongful dissociation, the Company hereby elects, pursuant to Section 15-5(b)(5) of the Act, to eliminate the Company's obligation to purchase such disassociating Member's Membership Interest which would otherwise be required under Section 35-60 of the Act.

Article VII

Contributions To The Company And Capital Accounts

7.01 Capital Contributions. The Members hereby agree to and do make the Capital Contributions to the Company in amounts and to the extent provided on Exhibit B, and to provide the commitments and undertakings in set forth in the Standards of Conduct policy. In consideration of the foregoing Capital Contributions and commitments and undertakings, the Members shall receive Percentage Interests as provided on Exhibit B.

7.02 Initial and Future Contributions.

(a) The Members shall initially contribute such capital and in the percentages as indicated in Exhibit B. Thereafter, the Manager may, at any time or times, request all Members make additional cash capital contributions to the Company that the Manager determines are necessary, in its sole discretion, to fund any required expenditure, or otherwise to conduct the business of the Company as the Manager deems necessary or appropriate. The Manager shall notify all of the Members of such Capital calls. Any Capital call must be in writing to all of the Members, must provide for at least 10 days' advance notice before the contributions are payable, and must be apportioned among the Members pro rata according to each Member's Percentage Interest. Each Member shall, within 10 days after receipt of a Capital call, contribute cash to the capital of the Company in an amount equal to that Member's pro rata portion of the Capital call based on that Member's Percentage Interest. The Manager's decision to make a Capital call shall be determinative absent a vote of the Super Majority Interest against the specific Capital call.

(b) Failure to Fund Capital Contributions. If any Member fails to make a capital contribution required of it under a Capital call in the amount and within the time periods specified therein (that Member is hereinafter referred to as a "Non-Contributing Member"), all Members who are not Non-Contributing Members may fund all or part of the amount of the capital contribution not funded by the Non-Contributing Member (that amount is hereinafter referred to as the "Failed Contribution", and each such Member who funds any part of a Failed Contribution is hereinafter referred to as a "Contributing Member"). Each Contributing Member will have the right to fund a portion of the Failed Contribution pro rata in proportion to the relative Percentage Interests of all Contributing Members (but the Contributing Members may agree among themselves to some other manner to fund the Failed Contribution). Upon the funding by a Contributing Member of all or part of a Failed Contribution, the Contributing Member(s) may elect either of the following provisions set forth under paragraph (d), (e), or (f) below (and if there is more than one Contributing Member, each may separately make its own election).

(c) A Contributing Member may at any time (even after first electing to proceed under subparagraph (d) or (e) below) elect to treat the portion (the "Funded Portion") of the Failed Contribution funded by that Contributing Member as a capital contribution by that Contributing Member, with the corresponding dilution of the Non-Contributing Member as provided for in subparagraph (f) below.

(d) A Contributing Member may at any time (even after first electing to proceed under subparagraph (e) below) elect to treat the Funded Portion as a loan (a "Contributing Member Loan") by that Contributing Member to the Non-Contributing Member (bearing interest at the Prime Rate plus three percent (3%), which Contributing Member Loan will be treated as a

demand loan made by the Contributing Member to the Non-Contributing Member, followed by a Capital Contribution in the amount of the Contributing Member Loan by the Non-Contributing Member. In determining the amount of interest payable upon a Contributing Member Loan, interest shall be adjusted on the date the changes to the Prime Rate are published in The Wall Street Journal or similar publication determined by the Manager if The Wall Street Journal is not available. Any Contributing Member Loan will be recourse only to the Non-Contributing Member's Interest and must be repaid directly by the Company on behalf of the Non-Contributing Member. Funds used to repay a Contributing Member Loan must be applied first to interest and then to principal. At any time before full repayment of any Contributing Member Loan, the Lender Member may elect, in its sole discretion, to terminate that Contributing Member Loan and have the Non-Contributing Member's Percentage Interest diluted as set forth in paragraph (f) below, with the entire outstanding principal and accrued and unpaid interest (as of the date of termination) treated as the amount of the Funded Portion and the Capital Accounts of the Contributing and Non-Contributing Members adjusted accordingly to the extent permissible under Section 514(c)(9) of the Code. Each Contributing Member Loan may, at the election of the Lender Member, be evidenced by a promissory note in the form reasonably satisfactory to the parties, and that Lender Member is hereby granted an irrevocable power of attorney, coupled with an interest, to execute and deliver that promissory note on behalf and in the name of the Debtor Member. The failure of a Lender Member or Debtor Member to execute the promissory note will not invalidate or otherwise affect the enforceability of, or amounts owing under, any Contributing Member Loan.

(e) If a Contributing Member does not make an affirmative election under subparagraphs (c) and (d) above, the Contributing Member will be deemed to have elected to make a loan to the Company (a "Company Loan") in the amount equal to that Member's contribution, unless the existence of a Company Loan would violate the terms of any third party loan documents, in which case the Contributing Member will be deemed to have made a Contributing Member Loan. A Company Loan shall bear interest at a rate of interest equal to three percent (3%) over and above the Prime Rate. In determining the amount of interest payable upon a Company Loan, interest shall be adjusted on the date the changes to the Prime Rate are published in The Wall Street Journal or similar publication determined by the Manager if The Wall Street Journal is not available. Company Loans shall be repaid to the Contributing Member from available cash otherwise distributable to the Members before any other distributions of available cash are made to any Member. A Company Loan may be terminated at any time, in which case the Lender Member may treat as a Funded Portion subject to the election in paragraphs (c) or (d) an amount equal to (i) the outstanding principal amount, plus accrued and unpaid interest, times (ii) a fraction, the numerator of which is the original Funded Portion arising from the Failed Contribution in question and the denominator of which is the total amount of the original Capital Contributions of all Members giving rise to the Funded Portion.

(f) If any Contributing Member elects to make a capital contribution for a Non-Contributing Member, pursuant to a Capital call, including as a result of terminating a Contributing Member Loan or Company Loan previously made by the Contributing Member, pursuant to a Capital call, the Percentage Interest of each Contributing Member will be increased by a percentage equal to the quotient (rounded up to the nearest one hundredth of one percent) obtained when (x) the Dilution Factor times the Funded Portion funded by that Contributing Member is divided by (y) the sum of all Members' Capital Contributions as of that

date (including the Funded Portion or Portions). The Percentage Interest of the Non-Contributing Member will be decreased by a percentage equal to the aggregate sum of the increase in the Percentage Interests of all Contributing Members as a result of the failure of the Non-Contributing Member to fund the capital calls in question, such that the adjusted Percentage Interests of the Members will at all times add up to 100%. After determining the adjusted Percentage Interests, each Member will be deemed, as of any date, to have made Capital Contributions equal to that Member's adjusted Percentage Interest multiplied by the total Capital Contributions made by all Members as of that date.

(g) None of the terms, covenants, obligations or rights contained in this Section 7.02 or elsewhere in this Agreement is or shall be deemed to be for the benefit of any person or entity other than the Members and the Company, and no such third person shall, under any circumstance, have any right to compel any actions or payments by the Members.

(h) Except as provided in this Article VII, no Member shall be required to make any further or additional contributions to the capital of the Company or to lend or advance funds to the Company for any purpose.

7.03 Capital Accounts.

(a) A separate Capital Account will be maintained for each Member or Economic Interest Owner. Each such Capital Account will be increased by (1) the amount of money contributed by such Member or Economic Interest Owner to the Company; (2) the fair market value of property contributed by such Member or Economic Interest Owner to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take subject to under Code Section 752) as determined by Members owning a Majority Interest; (3) allocations to such Member or Economic Interest Owner of Net Profits and Net Losses; and (4) allocations to such Member or Economic Interest Owner of income described in Code Section 705(a)(1)(B). Each such Capital Account will be decreased by (1) the amount of money distributed to such Member or Economic Interest Owner by the Company; (2) the fair market value of property distributed to such Member or Economic Interest Owner by the Company (net of liabilities secured by such distributed property that such Member or Economic Interest Owner is considered to assume or take subject to under Code Section 752) as determined by Members owning a Majority Interest; (3) allocations to such Member or Economic Interest Owner of expenditures described in Code Section 705(a)(2)(B); and (4) allocations to the account of such Member or Economic Interest Owner of Company loss and deduction as set forth in the Treasury Regulations, taking into account adjustments to reflect book value.

(b) In the event of a permitted sale or exchange of a Membership Interest or an Economic Interest in the Company, the Capital Account of the transferor shall become the Capital Account of the transferee to the extent it relates to the transferred Membership Interest or Economic Interest in accordance with Section 1.704-1(b)(2)(iv) of the Treasury Regulations.

(c) The manner in which Capital Accounts are to be maintained pursuant to this Section 7.03 is intended to comply with the requirements of Code Section 704(b) and the Treasury Regulations promulgated thereunder. If the Company determines that the manner in which Capital Accounts are to be maintained pursuant to the preceding provisions of this Section 7.03 should

be modified in order to comply with Code Section 704(b) and the Treasury Regulations, then notwithstanding anything to the contrary contained in the preceding provisions of this Section 7.03, the method in which Capital Accounts are maintained shall be so modified; provided, however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members and Economic Interest Owners as set forth in this Agreement.

(d) Upon liquidation of the Company (or any Member's Membership Interest), liquidating distributions will be made in accordance with the positive Capital Account balances of the Members and Economic Interest Owners, as determined after taking into account all Capital Account adjustments for the Company's taxable year during which the liquidation occurs. Liquidation proceeds will be paid within sixty (60) days of the end of the taxable year (or, if later, within one hundred twenty (120) days after the date of the liquidation). The Company may offset damages for breach of this Agreement by a Member whose interest is liquidated (either upon the withdrawal of the Member or the liquidation of the Company) against the amount otherwise distributable to such Member.

(e) Except as otherwise required in the Act (and subject to Sections 7.02 and 7.03), no Member or Economic Interest Owner shall have any liability to restore all or any portion of a Member's or Economic Interest Owner's Deficit Capital Account.

7.04 Withdrawal or Reduction of Members' or Economic Interest Owners' Contributions to Capital.

(a) A Member or Economic Interest Owner shall not receive out of the Company's Property any part of his Capital Contribution until all liabilities of the Company, except liabilities to Members and Economic Interest Owners on account of their Capital Contributions, have been paid or there remains property of the Company sufficient to pay them.

(b) A Member, or Economic Interest Owner, irrespective of the nature of his Capital Contribution, has only the right to demand and receive cash in return for his Capital Contribution.

7.05 Member Loan. Separate and apart from contributions to the capital of the Company, a Member may make loans to the Company, approved by Super Majority Interest consent, at any time and from time to time on the terms determined by such Member and the Manager. Loans by a Member to the Company shall not be considered Capital Contributions and the making of such loans shall not result in any increase in the amount of the Capital Account of such Member, nor shall it increase such Member's Percentage Interest in the Company. The amounts of any such loan shall be deemed a debt of the Company to such Member and, except as herein otherwise specifically provided, shall be payable or collectible out of the Company assets in accordance with the terms and conditions upon which such loans are made. In the event a Member makes a loan to the Company, the Member shall be paid a reasonable rate of interest, to be determined by the Member and the Manager. The repayment of loans from Member to the Company upon liquidation shall be subject to the order of priority set forth in Article XI hereof.

7.06 Guarantees by Members.

(a) From time to time a Member or Members of the Company may execute guarantees of obligations of the Company and/or pledge Member Assets as security of obligations of the Company. Such undertakings shall be on terms as determined by the Member and by the Manager. Such Member guarantees or pledges shall not be deemed a Capital Contribution and shall not result in any increase in the amount of the Capital Account of such Member, nor shall it increase such Members' Percentage Interest in the Company.

(b) Notwithstanding any other provision of this Agreement to the contrary, including without limitation the provisions of Articles VIII and XI hereof, all accrued and currently due amounts under such Member loans and/or pledges, and any and all amounts paid by any Member, or realized by any obligee, pursuant to any Member guarantee or pledge effectuated pursuant to this Section 7.06, shall be satisfied, prior to any distribution or return of capital to any Member. Each Member hereby agrees to indemnify and contribute, to the extent of each Members' Percentage Interest, to such Member for the amount of any such Member loans unpaid and the amount paid by any Member, or realized by any obligee pursuant to any Member guarantee or pledge effectuated pursuant to this Section 7.06. Such indemnification and contribution obligations shall be satisfied prior to any distribution or return of capital to any Member. Each Member's obligation pursuant to this Section 7.06(b) shall not be limited by the amount of any Capital Contributions made by a Member, or by the amount of any distributions made to, or due to, any Member.

Article VIII

Allocations, Income Tax, Distributions, Elections And Reports

8.01 Allocations of Profits and Losses from Operations. The Net Profits and Net Losses of the Company for each fiscal year will be allocated in the same manner as the Percentage Interest and as otherwise provided in this Article VIII.

8.02 Special Allocations to Capital Accounts. Notwithstanding anything to the contrary herein contained:

(a) No allocation of loss, deduction and/or expenditures described in Code Section 705(a)(B) shall be charged to the Capital Account of any Member or Economic Interest Owner if and to the extent such allocation would cause such Member or Economic Interest Owner to have a Deficit Capital Account. The amount of the loss, deduction and/or Code Section 705(a)(2)(B) expenditure which would have caused such Member or Economic Interest Owner to have a Deficit Capital Account shall instead be charged to the Capital Account of any Members or Economic Interest Owners which would not have a Deficit Capital Account as a result of the allocation, in proportion to their respective Capital Contributions, or, if no such Members and Economic Interest Owners exist, then to the Members and Economic Interest Owners in accordance with their Percentage Interests in profits of the Company pursuant to Section 8.01 hereof.

(b) In the event any Member or Economic Interest Owner unexpectedly receives any adjustments, allocations, or distributions described in Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6) of the Treasury Regulations, which create or increase a Deficit Capital Account of such

Member, then items of Company income and gain (consisting of a pro rata portion of each item of Company income, including gross income, and gain for such year and, if necessary, for subsequent years) shall be specially credited to the Capital Account of such Member or Economic Interest Owner in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, the Deficit Capital Account so created as quickly as possible. It is the intent that this Section 8.02(b) be interpreted to comply with the alternate test for economic effect set forth in Section 1.704-1(b)(ii)(d) of the Treasury Regulations.

(c) In the event any Member or Economic Interest Owner would have a Deficit Capital Account at the end of any Company taxable year which is in excess of the sum of any amount that such Member or Economic Interest Owner is obligated to restore to the Company under Treasury Regulations Section 1.704-1(b)(2)(ii)(c) and such Member's or Economic Interest Owner's share of minimum gain as defined in Section 1.704-2(g)(1) of the Treasury Regulations (which is also treated as an obligation to restore in accordance with Section 1.704-1(b)(2)(ii)(d) of the Treasury Regulations), and such Member's or Economic Interest Owner's share of partner nonrecourse debt minimum gain as defined in Treasury Regulations Section 1.704-2(i)(5), the Capital Account of such Member or Economic Interest Owner shall be specially credited with such items of Membership income (including gross income) and gain in the amount of such excess as quickly as possible.

(d) Notwithstanding any other provision of Section 8.02, if there is a net decrease in the Company's minimum gain as defined in Treasury Regulation Section 1.704-2(d) during a taxable year of the Company, then the Capital Account of each Member or Economic Interest Owner shall be allocated items of income (including gross income) and gain for such year (and if necessary for subsequent years) equal to that Member's or Economic Interest Owner's share of the net decrease in Company minimum gain. This Section 8.02(d) is intended to comply with the minimum gain chargeback requirement of Section 1.704-2 of the Treasury Regulations and shall be interpreted consistently therewith. If in any taxable year that the Company has a net decrease in the Company's minimum gain and the minimum gain chargeback requirement would cause a distortion in the economic arrangement among the Members and Economic Interest Owners and it is not expected that the Company will have sufficient other income to correct that distortion, then the Manager in its discretion may seek to have the Internal Revenue Service waive the minimum gain chargeback requirement in accordance with Treasury Regulation Section 1.704-2(f)(4).

(e) Items of Company loss, deduction and expenditures described in Code Section 705(a)(2)(B) which are attributable to any nonrecourse debt of the Company and are characterized as partner (Member) nonrecourse deductions under Section 1.704-2(i) of the Treasury Regulations shall be allocated to the Member's and Economic Interest Owner's Capital Accounts in accordance with Section 1.704-2(i) of the Treasury Regulations.

(f) Beginning in the first taxable year in which there are allocations of "nonrecourse deductions" (as described in Section 1.704-2(b) of the Treasury Regulations) such deductions shall be allocated to the Members and Economic Interest Owners in accordance with, and as a part of, the allocations of Company Net Profit or Net Loss for such period.

(g) In accordance with Code Section 704(c)(1)(A) and Section 1.704-3 of the Treasury Regulations, if a Member or Economic Interest Owner contributes property with a fair market value that differs from its adjusted basis at the time of contribution, income, gain, loss and deductions with respect to the property shall, solely for federal income tax purposes, be allocated among the Members and Economic Interest Owners so as to take account of any variation between the adjusted basis of such property to the Company and its fair market value at the time of contribution.

(h) Pursuant to Code Section 704(c)(1)(B), if any contributed property is distributed by the Company other than to the contributing Member or Economic Interest Owner within five (5) years of being contributed, then, except as provided in Code Section 704(c)(2), the contributing Member or Economic Interest Owner shall be treated as recognizing gain or loss from the sale of such property in an amount equal to the gain or loss that would have been allocated to such Member or Economic Interest Owner under Code Section 704(c)(1)(A) if the property had been sold at its fair market value at the time of the distribution.

(i) In the case of any distribution by the Company to a Member or Economic Interest Owner, such Member or Economic Interest Owner shall be treated as recognizing gain in an amount equal to the lesser of:

(1) the excess (if any) of (A) the fair market value of the property (other than money) received in the distribution over (B) the adjusted basis of such Member's Membership Interest or Economic Interest Owner's Economic Interest in the Company immediately before the distribution reduced (but not below zero) by the amount of money received in the distribution, or

(2) the Net Precontribution Gain (as defined in Code Section 737(b)) of the Member or Economic Interest Owner. The Net Precontribution Gain means the net gain (if any) which would have been recognized by the distributed Member or Economic Interest Owner under Code Section 704(c)(1)(B) of all property which (1) had been contributed to the Company within five (5) years of the distribution, and (2) is held by the Company immediately before the distribution, if such property had been distributed by the Company to another Member or Economic Interest Owner. If any portion of the property distributed consists of property which had been contributed by the distributed Member or Economic Interest Owner to the Company, then such property shall not be taken into account under this Section 8.02(i) and shall not be taken into account in determining the amount of the Net Precontribution Gain. If the property distributed consists of an interest in an Entity, the preceding sentence shall not apply to the extent that the value of such interest is attributable to the property contributed to such Entity after such interest had been contributed to the Company.

(j) In connection with a Capital Contribution of money or other property (other than a de minimis amount) by a new or existing Member or Economic Interest Owner as consideration for an Economic Interest or Membership Interest, or in connection with the liquidation of the Company or a distribution of money or other property (other than a de minimis amount) by the

Company to a retiring Member or Economic Interest Owner (as consideration for an Economic Interest or Membership Interest), the Capital Accounts of the Members shall be adjusted to reflect a revaluation of Company property (including intangible assets) in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(f). If, under Section 1.704-1(b)(2)(iv)(f) of the Treasury Regulations, Company property that has been revalued is properly reflected in the Capital Accounts and on the books of the Company at a book value that differs from the adjusted tax basis of such property, then depreciation, depletion, amortization and gain or loss with respect to such property shall be shared among the Members and Economic Interest Owners in a manner that takes account of the variation between the adjusted tax basis of such property and its book value, in the same manner as variations between the adjusted tax basis and fair market value of property contributed to the Company are taken into account in determining the Members' and Economic Interest Owners' shares of tax items under Code Section 704(c).

(k) All recapture of income tax deductions resulting from the sale or disposition of Company property shall be allocated to the Member or Economic Interest Owner to whom the deduction that gave rise to such recapture was allocated hereunder to the extent that such Member is allocated any gain from the sale or other disposition of such property.

(l) Any credit or charge to the Capital Accounts pursuant to Sections 8.02(b), (c), and/or (d), hereof shall be taken into account in computing subsequent allocations of Net Profits and Net Losses pursuant to Section 8.01, so that the net amount of any items charged or credited to Capital Accounts pursuant to Sections 8.01 and 8.02 shall, to the extent possible, be equal to the net amount that would have been allocated to the Capital Account of each Member or Economic Interest Owner pursuant to the provisions of this Article VIII if the special allocations required by Sections 8.02(b), (c), and/or (d), had not occurred.

8.03 Distributions. Except as provided herein, a Member or Economic Interest Owner has no right to demand and receive any distribution in a form other than cash. All Distributable Cash and Net Cash Proceeds shall be distributed pro rata in proportion to the respective Percentage Interests of the Members and Economic Interest Owners on the record date of such distribution. All such distributions shall be made at such times and in such amounts as determined by the Manager. No Member has any right to demand and receive any distribution in a form other than cash. All amounts withheld pursuant to the Code or any provisions of state or local tax law with respect to any payment or distribution to the Members and Economic Interest Owners from the Company shall be treated as amounts distributed to the relevant Member or Economic Interest Owner pursuant to this Section 8.03.

8.04 Tax Distributions. Any provision of this Agreement to the contrary notwithstanding, the Company shall distribute cash (to the extent not prohibited pursuant to an agreement entered into by the Company or otherwise prohibited by law) to the Members and Economic Interest Owners sufficient for the Members and Economic Interest Owners to pay federal and state income taxes attributable to income allocated to them pursuant to this Article VIII, assuming each Member and Economic Interest Owner is subject to the highest marginal federal and state income tax rates applicable to individuals resident in the State of North Dakota and giving effect to the character of the income and the deductibility of state income taxes for federal income tax purposes. All amounts distributed pursuant to this Section 8.04 shall be treated as amounts distributed to the relevant Member or Economic Interest Owner pursuant to Section 8.03 and all amounts withheld pursuant to the Code or any provisions of state or local tax law with respect

to any payments or distributions to the Members or Economic Interest Owners in the Company shall be treated as amounts distributed to the relevant Members or Economic Interest Owners pursuant to Section 8.03 or this Section 8.04, as applicable, provided further, no distribution shall be made if the distribution would cause the Member or Economic Interest Owner to have a deficit balance in the Member or Economic Interest Owner's Capital Account.

8.05 Limitation upon Distributions.

(a) No distributions or return of contributions shall be made and paid if, after the distribution or return of distribution is made, either:

(1) the Company would not be able to pay its debts as they become due in the ordinary course of business; or

(2) 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, wound up, and termination of Members whose preferential rights are superior to those receiving the distribution.

(b) The Manager may base a determination that a distribution or return of contribution may be made under Section 8.05(a) in good faith reliance upon a balance sheet and profit and loss statement of the Company represented to be correct by the Person having charge of its books of account or certified by an independent public or certified public accountant or firm of accountants to fairly reflect the financial condition of the Company.

8.06 Accounting Principles. The Manager shall determine the method of accounting of the Company which shall be consistent with the relevant provisions of the Code and the Treasury Regulations with respect thereto.

8.07 Interest on and Return of Capital Contributions. No Member or Economic Interest Owner shall be entitled to interest on his Capital Contribution or to return of his Capital Contribution.

8.08 Loans to Company. Nothing in this Agreement shall prevent any Member or Economic Interest Owner from making, or require any Member or Economic Interest Owner to make, secured or unsecured loans to the Company by agreement with the Company.

8.09 Accounting Period. The Company's accounting period and fiscal year shall be the calendar year ("Fiscal Year").

8.10 Records, Audits and Reports. At the expense of the Company, the Manager shall maintain records and accounts of the operations and expenditures of the Company. At a minimum, the Company shall keep at its principal place of business the following records:

(a) A current list of the full name and last known address of each Member and Economic Interest Owner setting forth the amount of cash each Member and Economic Interest Owner has contributed, a description and statement of the agreed value of the other property or services each Member or Economic Interest Owner has contributed, the allocation of each

Member's or Economic Interest Owner's Percentage Interest, and the date on which each became a Member or Economic Interest Owner.

- (b) A copy of the Articles of Organization of the Company and all amendments thereto, together with executed copies of any powers of attorney pursuant to which any amendment has been executed;
- (c) Copies of the Company's federal, state and local income tax returns and reports, if any, for the three (3) most recent years;
- (d) Copies of the Company's currently effective written Operating Agreement and copies of any financial statements of the Company for the three (3) most recent years;
- (e) Minutes of every meeting of the Manager or Members; and
- (f) Any written consents obtained from Members for actions taken by Members without a meeting.

8.11 Returns and Other Elections. The Manager shall cause the preparation and timely filing of all tax returns required to be filed by the Company pursuant to the Code and all other tax returns deemed necessary and required in each jurisdiction in which the Company does business. Copies of such returns, or pertinent information therefrom, shall be furnished to the Members within a reasonable time after the end of the Company's fiscal year. All elections permitted to be made by the Company under federal or state laws shall be made by the Manager in his sole discretion.

8.12 Partnership Representative. The Manager is designated the "Partnership Representative" (as defined in the Code Section 6223 and as in effect following the effective date of its amendment by Section 1101 of H.R. 1314, the "Revised Partnership Audit Provisions") and is authorized and required to represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by tax authorities, including, without limitation, administrative and judicial proceedings, and to expend Company funds for professional services and costs associated therewith. If at any time there is more than one Manager, the Managers may identify a single Manager as the "Partnership Representative." The Unit Holders agree to cooperate with each other and to do, or refrain from doing, any and all things reasonably required to conduct such proceedings.

- (a) The Partnership Representative in its sole discretion shall make all applicable elections, determinations and other decisions with respect to the Company and each Company subsidiary ("Subsidiary") under the Code, including, without limitation, the election described in Code Section 6226(a)(1), the deductibility of a particular item of expense, and the positions to be taken on the Company's tax return. The Partnership Representative, at the expense
- (b) of the Company or the applicable Subsidiary, shall direct the pre-determined accredited accounting firm to file all federal, state and local income and other tax returns to be timely filed by the Company and each applicable Subsidiary.
- (c) The Partnership Representative shall be permitted to take any and all actions under the applicable partnership audit rules, and shall have any powers

necessary to perform fully in such capacity. In this regard, the Partnership Representative's authority shall include the authority to represent the Company before taxing authorities and courts in tax matters affecting the Company and the Unit Holders in their individual capacity as such. In addition, the Partnership Representative shall be authorized to make any election under the Revised Partnership Audit Provisions, including the election available under Section 6226 of the Revised Partnership Audit Provisions; provided, however, that, to the extent the Partnership Representative does not make an election available under Section 6226 of the Revised Partnership Audit Provisions, the Partnership Representative shall use commercially reasonable efforts to ensure that to the extent it is feasible no Unit Holder will be required to bear any resulting tax liability allocable solely to another Unit Holder. Each Unit Holder shall reasonably cooperate with the Partnership Representative and provide the Partnership Representative any tax information reasonably requested so that the Partnership Representative can implement the provisions of this subparagraph (b) (including by making any election permitted hereunder), and can conduct any tax audit or similar proceeding with respect to the Company.

- (d) Any Unit Holder or former Unit Holder that is in dispute with any tax authority in relation to a matter relating to the Company shall notify the Partnership Representative within ten (10) days of the date such Unit Holder or former Unit Holder first learns of such dispute, and if the Partnership Representative reasonably determines that the matter is of material relevance to the tax position of the Company, such Unit Holder shall consult with the Partnership Representative (or any advisor appointed by the Partnership Representative for the purpose) as to how the dispute is to be handled. Any Unit Holder or former Unit Holder that enters into a settlement agreement with respect to any Company tax item shall notify the Partnership Representative in writing of such settlement agreement and its terms within ten (10) days after the date of the settlement.
- (e) If the Company is subject to any tax, interest, or penalties under Section 6225 of the Revised Partnership Audit Provisions (collectively, the "Tax Liabilities"), the Partnership Representative shall allocate among the Unit Holders any such Tax Liabilities in a manner it determines to be fair and equitable by deducting amounts from Capital Accounts or reducing amounts otherwise distributable to the Unit Holders, taking into account any modifications attributable to a Unit Holder pursuant to Section 6225(c) of the Revised Partnership Audit Provisions (if applicable). To the extent that the Partnership Representative cannot allocate such Tax Liabilities through adjustments to Capital Accounts or distributions to the Unit Holders and to the extent that a portion of the Tax Liabilities imposed under Section 5225 of the Revised Partnership Audit Provisions for a prior year relates to a former Unit Holder, the Unit Holders and former Unit Holders shall indemnify and hold harmless the Company for their respective share of such amounts as determined by the Partnership Representative in accordance with the foregoing. Each Unit Holder acknowledges that, notwithstanding the transfer or withdrawal of any or any portion of its Membership Interest in the Company, it

shall remain liable for Tax Liabilities with respect to its allocable share of income and gain of the Company for the Company's tax years (or portions thereof) prior to such transfer or withdrawal, as applicable, under Section 6225 of the Revised Partnership Audit Provisions.

- (f) The Partnership Representative shall be entitled to be reimbursed by the Company for all costs and expenses incurred by it in connection with any proceeding affecting tax matters of the Company and the Unit Holders, and the Partnership Representative shall be indemnified by the Company with respect to any proceeding brought against it in connection with any judgment in or settlement of any such proceeding or in connection with any other proceeding, action, judgment, cost, expense, loss, damage or other liability incurred by the Partnership Representative in its capacity as such.
- (g) Each Unit Holder shall provide the Company with any information that may be reasonably requested by the Manager or the Partnership Representative in connection with the compliance by the Company and each Subsidiary with applicable tax laws, the filing of any tax return with respect to the Company and each Subsidiary, or any tax election with respect to the Company and each Subsidiary, including in connection with any election under Section 754 of the Code or to facilitate compliance by the Company with Section 743 of the Code.
- (h) The provisions and obligations imposed on the Unit Holders pursuant to this Section 8.10 shall survive any termination of this Agreement, dissolution of the Company, or any removal, withdrawal, or transfer by a Unit Holder of any part of its Membership Interest.

8.13 Compensation/Expenses/Fees.

- (a) The Company shall pay the compensation of any Person, whether a Member, Manager and/or employee of the Company in accordance with (i) the Company's Compensation Plan as amended from time to time and (ii) the operating budget approved by the Manager.
- (b) The Manager and the Members shall be entitled to reimbursement for reasonable out of pocket expenses, including travel and entertainment expenses, incurred in connection with the business operations of the Company, provided that the expenses (i) fall within policy guidelines which are adopted by the Manager, or (ii) are pre-approved by the Majority Interest of the Members, and (iii) are within the operating budget approved by the Super Majority Interest consent or vote of the Members.
- (c) The Company shall pay all of its own expenses, including legal, accounting and other outside fees and expenses.

Article IX Indemnification

9.01 Indemnification.

(a) The Company shall indemnify any Person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Company) by reason of the fact that the Person is or was a Member or Manager of the Company, who is or was serving on behalf of the Company, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the Person in connection with the action, suit or proceeding, if the Person acted in good faith and in a manner the Person reasonably believed to be in, or not opposed to the best interests of the Company and, with respect to any criminal action or proceeding, had no reasonable cause to believe the Person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the Person did not act in good faith and in a manner that the Person reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal action or proceeding, that the Person had reasonable cause to believe that the Person's conduct was unlawful. The Company shall additionally indemnify any Person acting as a guarantor (if authorized, or reasonably believing he is or was authorized, to do so by the Company) of or for the Company.

(b) The Company may, upon Super Majority Interest consent, indemnify any Person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action or suit, by or in the right of the Company to procure a judgment in its favor by reason of the fact that the Person is or was an officer, director, employee or agent of the Company, or is or was serving at the request of the Company or of a Manager as a director, officer, manager, employee or agent of another organization or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by the Person in connection with the defense or settlement of the action or suit, if the Person acted in good faith and in a manner the Person reasonably believed to be in, or not opposed to the best interests of the Company, provided that no indemnification shall be made in respect of any claim, issue or matter as to which the Person shall have been adjudged to be liable for gross negligence or misconduct in the performance of the Person's duty to the Company, unless, and only to the extent that, the court in which the action or suit was brought shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, the Person is fairly and reasonably entitled to indemnity for those expenses as the court shall deem proper.

(c) To the extent that a member, manager, officer, director, employee or agent of the Company or of a Manager has been successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to in subsection (a) or (b), or in defense of any claim, issue or matter therein, the Person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by the Person in connection therewith.

(d) Any indemnification under subsection (a) or (b) (unless ordered by a court) shall be made by the Company only as authorized in the specific case, upon a determination that the indemnification of the member, manager, officer, director, employee or agent is proper in the circumstances because the Person has met the applicable standard of conduct set forth in subsection (a) or (b). The determination shall be made by the Super Majority Interest consent or vote.

(e) Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Company in advance of the final disposition of the action, suit or proceeding, as authorized by Super Majority Interest vote or consent of the Members in the specific case, upon receipt of an undertaking by or on behalf of the director, officer, manager, employee or agent to repay that amount if the Person was not entitled to indemnification under subsection (a) or (b).

(f) The indemnification provided by this Section 9.01 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the Articles of Organization or this Agreement, or any other agreement, both as to action in the Person's official capacity and as to action in another capacity while holding office, and shall continue as to a Person who has ceased to be a member, director, officer, manager, employee or agent, and shall inure to the benefit of the heirs, executors and administrators of the Person.

(g) The Company may purchase and maintain insurance on behalf of any Person who is or was a member, manager, officer, employee or agent of the Company, or who is or was serving at the request of the Company as a director, member, officer, manager, employee or agent of another Organization or other enterprise, against any liability asserted against the Person and incurred by the Person in any capacity, or arising out of the Person's status as such, whether or not the Company would have the power to indemnify the Person against the liability under the provisions of this Section 9.01.

(h) If the Company has paid indemnity or has advanced expenses to a member, director, officer, manager, employee or agent, the Company shall report the indemnification or advance in writing to the Members with or before the notice of the next Members' meeting.

(i) For purposes of this Section 9.01, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a Person with respect to an employee benefit plan; and references to "serving at the request of the Company" shall include any service as a member, director, officer, manager, employee or agent of the Company or of a Manager that imposes duties on, or involves services, by a member, director, officer, manager, employee or agent with respect to an employee benefit plan, its participants or beneficiaries. A Person who acted in good faith and in a manner the Person reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Company" as referred to in this Article IX.

9.02 Partnership Representative Indemnification. The Company shall indemnify the Partnership Representative who was, is or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, any appeal therein, or any inquiry or investigation preliminary thereto, by reason of the fact that it is or was a Partnership Representative and was acting within the scope of its duties or authority under this Agreement. Each Unit Holder shall indemnify the Company and the Partnership Representative from and against any claims, actions or proceedings arising out of, or any other costs, expenses, losses or other liabilities incurred or suffered by the Company or the Partnership Representative due in whole or in part any tax liability incurred by any Unit Holder in its capacity as such, including without limitation any tax liability assessed against the Company as a result of a Unit Holder's (or any of

its constituent partner's or member's) failure to pay any taxes owing on any Company income allocated to such Unit Holder.

9.03 Expansion of Indemnification. Notwithstanding any provision in this Article IX to the contrary, in the event the Act is either amended to provide, or interpreted by judicial or other binding legal decisions to provide, broader indemnification rights than those contained herein, the broader indemnification rights shall be provided to any Persons entitled to be indemnified pursuant to the Act, the intent of this provision being to permit and requiring the Company to indemnify, to the full extent permitted by the Act, Persons whom it may indemnify thereunder subject to the standards set forth in this Article IX.

Article X

Transferability

10.01 Transfer Generally.

(a) No Member may Transfer all or any portion of his or its Interest without the prior written consent of the Manager, except that a Member may Transfer an Economic Interest to a Permitted Transferee without the consent of the other Members by specifying the percentage of the Transferor's Economic Interest being Transferred thereby. The Transferee shall have no right to participate in the management of the business and affairs of the Company or to become a Member, without the express written consent of the Manager. Unless admitted as a Member by the Manager, the Transferee shall be merely an Economic Interest Owner. Any person admitted to the Company as an additional Member and any Transferee of an Economic Interest who does not become a Member ("Economic Interest Holder") under this Article X shall be subject to and bound by all the provisions of this Agreement as if originally a party to this Agreement. The Transferor and Transferee will execute all reasonable documents of Transfer prepared by the Manager. If a Member Transfers an Economic Interest to an assignee in accordance with the provisions of this Agreement, profits, losses, distributions, the Capital Account (but not voting rights or other rights to participate in the management of the Company) otherwise allocable to the interests of the Transferor will be divided between the Transferor and the Economic Interest Holder in accordance with the percentage specified by the Transferor in the transfer documents.

(b) Lifetime Transfers and Options to Purchase.

(i) In the event that any Member shall, during his or her lifetime desire to sell or Transfer for any reason, other than for reasons hereinafter specifically set forth in this Agreement, any of the Interest held by such Member, then such Member shall give notice to the Company and other Members setting forth:

- (A) The desire or intention to sell the Member's Interest ("Option Interest");
- (B) The full terms of any bona fide offer to purchase received or other nature of the transaction involving the Option Interest; and
- (C) The number and description of the Option Interest.

The Option Interest shall then be subject to successive options to purchase, exercisable during a period of sixty (60) days following the date of the notice of sale, at the price which is the lower of (a) the price contained in the offer to sell the Option Interest, if any, or (b) the purchase price calculated by the following formula:

Subject to the Price Adjustment hereinafter set forth, the greater of:

(1) the amount of the Member's Capital Account;

or

(2) three times that certain fraction, the numerator of which shall be one and one-half (1.5) times the Annual Net Income (as hereinafter defined) of the previous calendar year, plus the Annual Net Income of the year prior to the previous calendar year, and the denominator of which is two and one-half (2.5). "Annual Net Income" for purposes of this Agreement shall mean annual net income of the Company as determined by the accountants regularly employed by the Company in accordance with generally accepted accounting principles applied on a basis consistent with the preparation of the Company's year-end financial statements, after payment of all salaries and compensation to Members plus (if and to the extent not included in the computation of the annual net income and as determined by the Manager as herein provided) the following (i) all accrued non-cash expenses including, but not limited to, depreciation and amortization expenses, (ii) any non-reoccurring extraordinary expenses, (iii) any distributions to Members or former Members, and (iv) any payments to Members or former Members for such Members' Interest, regardless of the form or designation of such payments, multiplied by the Member's Interest.

The first option shall be in favor of the other Members who shall have the right to acquire all or any part of the Option Interest; the second option shall be in favor of the Company which shall have the right to acquire all of the Option Interest which the selling Member's group members do not elect to purchase.

- (ii) Notice of Meeting to Consider Options. Immediately after the receipt of any notice under Section 10.01(b)(i), the Company shall call a meeting of its Members, which meeting shall be held not more than thirty (30) nor less than ten (10) days after the date of such notice. Such meeting shall be held for the stated purposes of authorizing or not authorizing the sale or transfer of the Option Interest and considering and exercising or waiving the options granted herein. The notice of such meeting shall state the purpose thereof and set forth all of the information contained in the notice of sale given pursuant to this section.

- (iii) Exercise of Option by Other Members. Any of the non-selling Members may exercise an option with respect to all or any portion of the Option Interest by signing an election at the meeting called pursuant to Section 10.01(b)(ii), stating the portion of such Option Interest he or she agrees to purchase. In the event more than one Member elects to purchase a portion of the Option Interest, each such electing Member shall have the right to purchase a proportionate portion of the Option Interest as each such electing Member's proportionate Interest in the Company bears to the total Interest in the Company of the Members electing to purchase Option Interest.
- (iv) Exercise of Option by Company. Any option of the Company to purchase all or any portion of the Option Interest not purchased by the non-selling Member shall be exercised by the Company, if at all, by a resolution adopted by the Manager, specifying the portion of Option Interest the Company elects to purchase. For purposes of voting on such resolution, a Member whose Interest is the subject of such option shall, if present at the meeting, be counted for purposes of determining the existence of a quorum, but agrees to abstain from voting on any matter concerning the exercise of the Company's option.
- (v) Consummation of Purchase. If all of the Option Interest is elected to be purchased as hereinabove provided, the purchase shall be consummated as provided in Section 10.01(b)(viii). A signed election to exercise an option for a specified portion of Option Interest shall constitute a binding and legally enforceable obligation to purchase the designated portion of such Option Interest on the terms and conditions provided herein, but no election to exercise any option granted hereunder to the Members shall be effective unless all of the Option Interest available for purchase by them shall be purchased pursuant to the options granted to them hereunder.
- (vi) Non-Exercise of Options. In the event of the non-exercise or expiration of all options to which the Option Interest is subject pursuant to this Section 10.01(b) or in the event that elections are not exercised as to all of such Option Interest, and the Member owning or offering such Option Interest has been authorized to sell or transfer such Option Interest as required under this Section 10.01 of this Agreement, such Member may thereafter proceed to sell and dispose of such Option Interest to the offeree specified in the notice given pursuant to this section provided that the Member shall otherwise comply with the provisions of this Agreement, but only in the manner and upon the terms set forth in the notice required by this Section 10.01(b) and provided that such sale is consummated within forty-five (45) days from the expiration or declination of exercise of all such options. In the event of a sale of Option Interest to a person other than a Member made after the non-exercise of the options, such Option Interest shall remain subject to all of the terms and provisions of this Agreement and such person shall become bound by the terms of this Agreement with the same force and effect as any signatory hereto. Nothing herein shall require any subsequent purchaser or Transferee to be admitted as a Member, or elected as a Manager, or

to be hired by the Company in any capacity. In the event of the non-exercise or expiration of any options to which Option Interest are subject, or in the event that elections are not exercised as to all of such Option Interest, such interest shall remain subject to all of the terms and provisions of this Agreement.

- (vii) Payment for Option Interest. Payment of the purchase price for such Option Interest purchased pursuant to exercise of an option arising under this Section 10.01(b) shall be at the purchase price set forth in Section 10.01(b)(i), and payment for the Member's Option Interest purchased by the Company pursuant to this Section 10.01(b) shall be as follows: (a) five percent (5%) of the purchase price shall be paid by the Company to the Transferor at the Closing, as defined herein below, and (b) the balance of the purchase price, if any, shall be paid to the Transferor in twenty-four equal monthly installments, plus interest at the monthly midterm Applicable Federal Rate as prescribed by Code Section 7872 on the date of Closing. The payments to be made pursuant to clause (b) shall be evidenced by a promissory note, which shall be executed and delivered by the Company to such Transferor at the time of Closing. The consummation of any purchase of a Member's Option Interest under this Section 10.01(b) (hereinafter referred to as a "Closing") shall take place at the time and place designated by the Company but in no event later than sixty (60) days after all existing options to purchase Option Interest have been exercised. At the Closing, the selling Member shall cause to be transferred to the Transferee an assignment representing the Member's Option Interest being sold, duly endorsed for transfer, free and clear of all liens, claims and encumbrances.

10.03 Transfers upon Death or Disability of a Member.

- (a) Death or Disability of a Member. In the event of the death or disability, as such term is hereinafter defined, of any Member (such Member or the estate of such Member being hereinafter referred to as a "10.03 Member"), the Company shall purchase all, and not less than all, of the Interest owned by the 10.03 Member, and said 10.03 Member shall have the obligation to sell all, and not less than all, of his or her Interest to the Company at the purchase price determined pursuant to Section 10.03(b) hereof and upon the terms set forth in this Section 10.03.
- (b) Purchase Price. In the event that a Member's Interest is purchased under the provisions of this Section 10.03, the purchase price for the 10.03 Member's Interest being purchased shall be in an amount equal to the purchase price, as calculated in this Section 10.03, as of the date of such 10.03 Member's death or disability. The purchase price for such 10.03 Member's Interest shall be determined by the following formula:

The greater of:

- (i) the amount of the 10.03 Member's Capital Account;
- or
- (ii) three times that certain fraction, the numerator of which shall be one and one-half (1.5) times the Annual Net Income (as hereinafter defined) of the previous

calendar year, plus the Annual Net Income of the year prior to the previous calendar year, and the denominator of which is two and one-half (2.5).

In addition to the foregoing formula for the determination of any value for a Member's Interest purchased or required to be purchased, any accrued and unpaid salary and compensation due the 10.03 Member as of the date of death or disability paid to such 10.03 Member (or 10.03 Member's representative) as of the date of 10.03 Closing, as defined in Section 10.03(f) hereof, on the sale of such 10.03 Member's Interest.

(c) Disability. The term "disability", when used herein, shall mean the inability of any Member, by reason of any medically determinable physical or mental impairment for a period of three (3) consecutive months to carry out and perform the duties and obligations ordinarily required of such Member by the Company and to actively participate in the management of the business of the Company. The existence of a disability shall be determined upon the first to occur of:

- (i) by agreement between all of the Members in writing;
- (ii) the receipt by the Company of written certificates from each of two (2) physicians on the staffs of any hospitals affiliated with an accredited medical school, stating that such Member either: (i) is and will be substantially unable to perform his or her customary duties for the Company, or (ii) would seriously impair his or her physical or mental health to perform such duties; or
- (iii) the adjudication of such Member as an incompetent or a disabled person and the appointment of a conservator for his or her person or property by a court of competent jurisdiction.

(d) Payment. Payment for the 10.03 Member's Interest purchased by the Company pursuant to this Section 10.03 shall be as follows: (a) the greater of: (i) five percent (5%) of the purchase price, or (ii) the insurance proceeds received by the Company pursuant to Section 10.03(e) hereof, shall be paid by the Company to the 10.03 Member at the 10.03 Closing, as defined in Section 10.03(f) hereof, and (b) the balance of the purchase price, if any, shall be paid to the 10.03 Member in twenty-four equal monthly installments, plus interest at the monthly midterm Applicable Federal Rate as prescribed by Code Section 7872 on the date of 10.03 Closing, as defined in Section 10.03(f) hereof. The payments to be made pursuant to clause (b) shall be evidenced by a promissory note substantially, which shall be executed and delivered by the Company to such 10.03 Member at the time of 10.03 Closing, as defined in Section 10.03(f) hereof.

(e) Insurance. The Company may, at its option, cause an insurance company approved by the Manager to issue an insurance policy on the lives of any one or more of the Members in order to fund the purchase of a deceased 10.03 Member's Interest under this Section 10.03. The Company may also, at its option, cause an insurance company approved by the Manager to issue a disability buy-out policy of insurance upon, and in the name of the Company (as owner) to fund the purchase of a disabled 10.03 Member's Interest under this Section 10.03. Any proceeds received by the Company from any such policy shall be first applied toward payment of

the purchase price payable to such 10.03 Member and the remainder may be payable to the Company.

(f) 10.03 Closing. The consummation of any purchase of a 10.03 Member's Interest under this Section 10.03 (hereinafter referred to as a "10.03 Closing") shall take place at the office of the Company, or such other place as the parties thereto agree. In the event of death, the date of 10.03 Closing shall be a date designated by the Company within ten (10) days after the appointment of a personal representative (including a trustee of the decedent), but not more than one hundred and twenty (120) days after the date of death. In the event of disability, the date of 10.03 Closing shall be a date designated by the Company within one hundred and twenty (120) days after the determination of disability. At the 10.03 Closing, the 10.03 Member shall cause to be transferred to the Company an assignment representing the 10.03 Member's Interest being sold, duly endorsed for transfer, free and clear of all liens, claims and encumbrances, and concurrently deliver to the Company, if applicable, resignations of all positions held by such 10.03 Member in the Company.

10.04 Involuntary Transfer. An Involuntary Transfer to a person other than the Company or another Member will be effective only after the applicable provisions of this Section 10.04 have been complied with. The creditor, receiver, trust or trustee, estate, beneficiary, or other person to whom an Interest is Transferred by Involuntary Transfer (the "Involuntary Transferee") will have only the rights provided in this Section 10.04. "Involuntary Transfer" means any Transfer of Interest by operation of law or in any proceeding, including a Transfer resulting from the dissociation of a Member, by or in which a Member would, but for the provisions of this Section 10.04, be involuntarily deprived of any interest in or to the Member's Interest, including, without limitation, (a) a Transfer on bankruptcy, (b) any foreclosure of a security interest in the Interest (it being understood that the grant of such security interest is subject to Section 10.01), (c) any seizure under levy of attachment or execution, or (d) any Transfer to a state or to a public office or agency pursuant to any statute pertaining to escheat, abandoned property, or forfeiture. This Section 10.04 shall not apply to any transfers made pursuant to Section 10.03 herein.

(a) Notice to Company. The Transferor and the Involuntary Transferee shall each immediately deliver a written notice to the Company and the other Members describing the event giving rise to the Involuntary Transfer; the date on which the event occurred; the reason or reasons for the Involuntary Transfer; the name, address, and capacity of the Involuntary Transferee; and the Interest involved (a "Notice of Involuntary Transfer").

(b) Effect of Involuntary Transfer. Upon the receipt of the Notice of Involuntary Transfer, the Involuntary Transferee shall have the rights of an Economic Interest Holder of the Transferor's Interest. Unless and until the Involuntary Transferee is admitted as a Member by Super Majority Interest consent or vote, the Interest held by the Involuntary Transferee shall have no voting rights for all purposes.

(c) Option to Purchase. In the event of an Involuntary Transfer by any Member (hereinafter referred to as a "10.04 Member"), the Company and the other Members shall have the option, to be exercised within one hundred and twenty (120) days after the Involuntary Transfer by such 10.04 Member, to vote or consent of the Manager to purchase the Interest owned by the 10.04 Member, and said 10.04 Member shall have the obligation to sell all, and not less than

all, of such 10.04 Member's Interest to the Company or other Members as are determined by the Company or other Members to be purchased at the purchase price determined pursuant to Section 10.04(d) hereof.

(d) Purchase Price. In the event that a Member's Interest is purchased under the provisions of this Section 10.04, the Purchase Price for the Member's Interest shall be in an amount equal to the greater of (a) one-half of the amount of such Member's Capital Account or (b) one half of the Book Value as defined herein, subject, if applicable, to the Price Adjustment as set forth in Section 10.01(b) hereof. The Book Value shall be determined by the non-Transferring Members and shall be computed as follows: the amount of the Company's assets, less the amount of its liabilities, determined as of the last day of the most recent Fiscal Year, as disclosed by the Company's books of account regularly maintained but adjusted as follows: (a) reserves for contingent liabilities shall not be treated as liabilities; (b) insurance, if any owned by the Company on the life of a Member, shall be valued at its cash value and not its face value, and (c) no amount shall be included for goodwill.

(e) Payment. Payment for the Member's Interest purchased by the Company or the other Members pursuant to this Section 10.04 shall be as follows: (a) five percent (5%) of the purchase price shall be paid by the purchaser to the 10.04 Member at the Closing, as defined in Section 10.04(f) hereof, and (b) the balance of the purchase price shall be paid to the 10.04 Member in twenty-four (24) equal monthly installments, plus interest at the monthly midterm Applicable Federal Rate as proscribed by Code Section 7872 on the date of Closing as defined in Section 10.04(e) hereof. The payments to be made pursuant to clause (b) shall be evidenced by a promissory note, which shall be executed and delivered by the Company to such 10.04 Member at the time of Closing, as defined in Section 10.04(f) hereof.

(f) Closing. The consummation of any purchase of the Member's Interest under this Section 10.03 shall take place at the office of the Company, or such other place as the parties thereto agree. The Closing date shall be a date designated by the Company within one hundred and twenty (120) days after the election by the Company or other Members to purchase the Member's Interest made under Section 10.04 hereof. At the Closing, the selling Member shall cause to be transferred to the Company or other Members an assignment representing the Member's Interest being sold, duly endorsed for transfer, free and clear of all liens, claims and encumbrances, and resignations of all positions held by such Member in the Company.

10.05 Marital or Community Property and Divorce.

(a) Marital or Community Property Rights. For purposes of this Agreement, any reference to Interest shall include all rights in the Interest now or hereafter acquired by the spouse of a Member or the spouse of a Transferee as a result of (1) community or marital property laws including community or marital property, deferred marital property, or augmented marital property, or (2) a property division or other award or Transfer upon dissolution of marriage. The creation of a right in an Interest by operation of any applicable community or marital property law shall not be deemed a Transfer so long as the Interest in which rights are created continue to satisfy the following two conditions:

(i) The Interest is registered in the name of the Member or Transferee; and

- (ii) The Interest is controlled by the Member or Transferee.
- (b) Involuntary Transfer. If the conditions set forth in either Section 10.05(a)(i) or Section 10.05(a)(ii), above, cease to be satisfied for any reason (including without limitation the death of the spouse of a Member or the spouse of a Transferee or the dissolution of the marriage), the resulting Transfer shall be considered an Involuntary Transfer subject to the provisions of Section 10.04, above.
- (c) Member to Vote. Each Member shall vote with respect to all matters that come before the Members until the Transfer, if any, of the Interest to the Member's spouse pursuant to Section 10.05(b), above.

10.06 Termination of Employment.

- (a) Termination. Upon the consent or vote of a Supermajority Interest, any Member's employment with the Company, if a Member is employed with the Company, may be terminated with or without cause. If such Member is a party to an employment agreement with the Company at the time of such termination, the definition of "cause" in such agreement shall govern this Section 10.06. In the absence of such an employment agreement, a termination "with cause" shall mean a termination for Willful Misconduct. Unless otherwise set forth in an employment agreement, a Member who is employed by the Company may voluntarily terminate such Member's employment with the Company at any time.
- (b) Purchase of Member's Interest.
 - (i) In the event of the termination of a Member's employment with the Company pursuant to Section 10.06(a) hereof either with cause, or voluntarily by the Member, such Member shall be considered to be a 10.06 Member and the Company and other Members shall have the option, to be exercised within sixty (60) days after the termination of such 10.06 Member to vote, to purchase the Member's Membership Interest owned by the 10.06 Member, and said 10.06 Member shall have the obligation to sell all, and not less than all, of his or her Interest to the Company at the purchase price determined pursuant to Section 10.06(b)(ii) or Section 10.06(b)(iii) hereof whichever shall be applicable. In the event of the termination of a Member's employment with the Company other than with cause or as a result of the Member's voluntary termination, such Member shall be considered to be a 10.06 Member and the Company shall purchase all, and not less than all, of the Interest owned by the 10.06 Member and said 10.06 Member shall have the obligation to sell all, and not less than all, of his or her Interest to the Company at the purchase price determined pursuant to Section 10.06(b)(ii) or Section 10.06(b)(iii) hereof whichever shall be applicable.
 - (ii) In the event of a termination of a Member's employment for any reason other than for cause, the purchase price payable in accordance with this Section 10.06 shall be equal to the amount computed pursuant to Section 10.03(b) computed as of the date of such Member's termination.

- (iii) In the event a Member's employment with the Company is terminated for cause (as defined in such Member's employment agreement or in Section 10.06(a)), the purchase price due and payable for the Member's Interest purchased shall be the purchase price computed pursuant to Section 10.04(d) hereof and shall be payable without waiver or limiting in any way the Company's remedies at law or in equity with respect to such Member's actions including the right to recover any damages sustained by the Company and any overpayment made to the Member shall be promptly repaid.

(c) Payment. Payment for the Member's Interest purchased by the Company pursuant to this Section 10.06 shall be as follows: (a) five percent (5%) of the purchase price shall be paid by the Company to the 10.06 Member at the Closing, as defined in Section 10.06(d) hereof, and (b) the balance of the purchase price shall be paid to the 10.06 Member in thirty-six (36) equal monthly installments, plus interest at the monthly midterm Applicable Federal Rate as prescribed by Section 7872 of the Internal Revenue Code of 1986, as said section may be amended from time to time, on the date of Closing, as defined in Section 10.06(d) hereof. The payments to be made pursuant to clause (b) shall be evidenced by a promissory note substantially in the form of Exhibit D attached hereto and by this reference incorporated herein, which shall be executed and delivered by the Company to such 10.06 Member at the time of Closing, as defined in Section 10.06(d) hereof.

(d) Closing. The consummation of any purchase of a Member's Interest under this Section 10.06 shall take place at the office of the Company, or such other place as the parties thereto agree. The date of Closing shall be a date determined by the Company within sixty (60) days after termination of the 10.06 Member. At the Closing, the selling Member shall cause to be transferred to the Company an assignment representing the Member's Interest being sold, duly endorsed for transfer, free and clear of all liens, claims and encumbrances, and resignations of all positions held by such Member in the Company.

Article XI

Dissolution And Termination

11.01 Dissolution.

- (a) The Company shall be dissolved upon the occurrence of any of the following events:
 - (i) by Super Majority Interest vote or consent; or
 - (ii) upon the sale or other disposition of all or substantially all of the Company's assets.
- (b) If a Member who is an individual dies or a court of competent jurisdiction adjudges him to be incompetent to manage his person or his property, such Member's executor, administrator, guardian, conservator, or other legal representative may exercise all of his rights for the purpose of settling his estate or administering his property.

(c) Unless otherwise approved by the Super Majority Interest, a Member who resigns as a Member (a “Resigning Member”) or whose Interest is otherwise terminated, regardless of whether such termination was the result of a voluntary act by such Member, shall not be entitled to receive any distributions in excess of those distributions to which such Member would have been entitled had such Member remained a Member. Except as otherwise expressly provided herein, a Resigning Member shall immediately become an Economic Interest Owner. The remedy for breach of this Section 11.01(c) shall be monetary damages only (and not specific performance), and such damages may be offset against distributions by the Company to which the Resigning Member would otherwise be entitled.

11.02 Winding Up, Liquidation and Distribution of Assets.

(a) Upon dissolution, an accounting shall be made by the Company’s independent accountants of the accounts of the Company and of the Company’s assets, liabilities and operations, from the date of the last previous accounting until the date of dissolution. The Members shall immediately proceed to wind up the affairs of the Company.

(b) If the Company is dissolved and its affairs are to be wound up, the Manager shall:

(1) sell or otherwise liquidate all of the Company’s assets as promptly as practicable (except to the extent the Manager may determine to distribute any assets to the Member or Economic Interest Owners in kind);

(2) allocate any profit or loss resulting from such sales to the Members’ or Economic Interest Owners’ Capital Accounts in accordance with Article VIII hereof;

(3) discharge all liabilities of the Company, including liabilities to Members and Economic Interest Owners for Member loans, or other loan obligations, to the extent otherwise permitted by law, other than liabilities to Members and Economic Interest Owners for distributions, and establish such Reserves as may be reasonably necessary to provide for contingent liabilities of the Company (for purposes of determining the Capital Accounts of the Members and Economic Interest Owners, the amounts of such Reserves shall be deemed to be an expense of the Company);

(4) distribute the remaining assets in the following order:

(i) if any assets of the Company are to be distributed in kind, the net fair market value of such assets as of the date of dissolution shall be determined by independent appraisal or by Super Majority Interest agreement of the Members. Such assets shall be deemed to have been sold as of the date of dissolution for their fair market value, and the Capital Accounts of the Members shall be adjusted pursuant to the provisions of Article VIII and Section 8.02 of this Agreement to reflect such deemed sale.

(ii) the positive balance (if any) of each Member's or Economic Interest Owner's Capital Account (as determined after taking into account all Capital Account adjustments for the Company's taxable year during which the liquidation occurs) shall be distributed to the Members and Economic Interest Owners, either in cash or in kind, as determined by Super Majority Interest consent or vote, with any assets distributed in kind being valued for this purpose at their fair market value as determined by the Members. Any such distributions to the Members and Economic Interest Owners in respect of their Capital Accounts shall be made in accordance with the time requirements set forth in Section 1.704-1(b)(2)(ii)(b)(2) of the Treasury Regulations.

(c) Notwithstanding anything to the contrary in this Agreement, upon a liquidation within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations, if any Member or Economic Interest Owner has a Deficit Capital Account (after giving effect to all contributions, distributions, allocations and other Capital Account adjustments for all taxable years, including the year during which such liquidation occurs), such Member or Economic Interest Owner shall have no obligation to make any Capital Contribution, and the negative balance of such Member's or Economic Interest Owner's Capital Account shall not be considered a debt owed by such Member or Economic Interest Owner to the Company or to any other Person for any purpose whatsoever.

(d) Upon completion of the winding up, liquidation and distribution of the assets and payment or provision is made for the payment of all liabilities of the Company, the Company shall be deemed terminated.

11.03 Articles of Dissolution. When all debts, liabilities and obligations of the Company have been paid and discharged or adequate provisions have been made therefor and all of the remaining property and assets of the Company have been distributed, articles of dissolution, as required by the Act, shall be executed in duplicate and filed with the North Dakota Secretary of State.

11.04 Effect of Filing of Articles of Dissolution. Upon the filing of articles of dissolution with the North Dakota Secretary of State, the existence of the Company shall cease, except for the purpose of suits, other proceedings and appropriate action as provided in the Act. The Manager shall have authority to distribute any Company property discovered after dissolution, convey real estate and take such other action as may be necessary on behalf of and in the name of the Company.

11.05 Return of Contribution Nonrecourse to Other Members. Except as provided by law or as expressly provided in this Agreement, upon dissolution, each Member or Economic Interest Owner shall look solely to the assets of the Company for the return of its Capital Contribution. If the Company property remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the Capital Contribution of any Member or Economic Interest Owner, such Member or Economic Interest Owner shall have no recourse against any other Member or Economic Interest Owner, except as otherwise provided by law.

11.06 Waiver Upon Dissociation. If a Member or Economic Interest Owner is dissociated from the Company (the “Dissociated Member”), prior to dissolution or termination of the Company, the Company has no obligation to purchase the interest of the Dissociated Member or Economic Interest Owner. It is the intent of this provision that each Member and Economic Interest Owner hereby waives any obligation imposed on the Company under Section 35-55 and Section 35-60 of the Act or otherwise to purchase the Interests of a Dissociated Member or Economic Interest Owner.

Article XII

Securities Registration And Investment Representations

12.01 No Securities Registration. No registration statement relating to the limited company interests in the Company or otherwise, has been or shall be filed with the United States Securities and Exchange Commission under the federal Securities Act of 1933, as amended, or the securities laws of any state.

12.02 Investment Representations. Each Member severally represents and warrants to the Manager and to the Company that:

- (a) Such Member has the power and authority to execute and comply with the terms and provisions hereof.
- (b) Such Member's Membership Interest has been or will be acquired solely by and for the account of such Member for investment purposes only and is not being purchased for, or with a view to, subdivision, fractionalization, resale or distribution; such Member has no contract, undertaking, agreement or arrangement with any person to sell, transfer or pledge to such person or anyone else such Member's Membership Interest (or any part thereof); and such Member has no present plans or intentions to enter into any such contract, undertaking or arrangement; and agrees not to sell, hypothecate, or otherwise dispose of all or any part of his Company interest unless the Company interest has been registered under the Securities Act of 1933, as amended and applicable state securities laws or, in the opinion of counsel for the Company, exemptions from the otherwise applicable registration requirements of the Securities Act of 1933, as amended and such state laws are available.
- (c) Such Member's Membership Interest has not and will not be registered under the federal Securities Act of 1933, as amended, and cannot be sold or transferred without compliance with the registration provisions of said Act or compliance with exemptions, if any, available thereunder. Such Member understands that neither the Company nor its Manager have any obligation or intention to register the Company interests under any federal or state securities act or law, or to file the reports to make public the information required by Rule 144 under the Securities Act of 1933, as amended.
- (d) Such Member (or each member thereof, in the case of a company which is a Member) is an “accredited investor” as that term is defined in Rule 501 of Regulation D of the Securities Act of 1933, as amended, and, accordingly, meets at least one of the following requirements:

(1) is an individual that has a net worth (assets at fair market value less all liabilities) or a joint net worth with his (her) spouse in excess of \$1,000,000; or

(2) is:

(i) an individual that has income from all sources for each of his (her) last two tax years in excess of \$200,000 or joint income with his (her) spouse from all sources in excess of \$300,000 in each of such years, and reasonably expects to achieve or exceed such income level in the current tax year (“income” meaning the Member's adjusted gross income for federal income tax purposes, increased by the amount of any long-term capital gain deductions under Code Section 1202, any depletion deductions under Code Section 611 et seq., any exclusion for interest under Code Section 103, any vested contributions to retirement plans, and all company losses allocated to the Member as a limited member of a company, as reported on Schedule E to IRS Form 1040); or

(ii) an “accredited investor” for another reason set forth in Rule 501 of Regulation D.

(e) Such Member acknowledges that he has received or had access to all material information and documents with respect to the Company and that the Manager have made all documents pertaining to the transaction available and has allowed such Member an opportunity to ask questions and receive answers thereto and to verify and clarify any information contained in the documents.

(f) Such Member has relied solely upon the documents submitted to such Member and independent investigations made by such Member in making the decision to purchase such Member's company interest.

(g) Such Units were not offered to the Unit Holder by any means of general solicitation or general advertising; it has not been the recipient of, and is not relying on, any representations, warranties or commitments with respect to the offering or sale of such Units other than those, if any, set forth in this Agreement; and in making an investment in the Company, the Unit Holder is not relying upon any information other than that contained in the investor information materials, and the results of its own independent investigation;

(g) Such Member expressly acknowledges that: (a) no federal or state agency has reviewed or passed upon the adequacy or accuracy of the information set forth in the documents submitted to such Member or made any finding or determination as to the fairness for investment, or any recommendation or endorsement of an investment in the Company; (b) there are restrictions on the transferability of the Member interests; (c) there will be no public market for the Company interests, and, accordingly, it may not be possible for such Member to liquidate such Member's investment in the Company; and (d) any anticipated federal or state income tax benefits applicable to such Member's Company interests may be lost through changes in, or adverse interpretations of, existing laws and regulations.

Article XIII

Miscellaneous Provisions

13.01 Notices. Any notice, demand, or communication required or permitted to be given by any provision of this Agreement shall be deemed to have been sufficiently given or served for all purposes if delivered personally to the party, or to an officer or partner of a party that is an Entity, or if sent by nationally recognized overnight courier service or it sent by registered or certified mail, postage and charges prepaid, addressed to the party's address, as set forth in this Agreement. Except as otherwise provided herein, any such notice shall be deemed to be given upon delivery or upon the date of attempted delivery if delivery is refused.

13.02 Application of North Dakota Law. Except to the extent that the Company shall be governed by Federal Law, this Agreement, and its interpretation, shall be governed exclusively by its terms and by the laws of the State of North Dakota and specifically the Act, without giving effect to the laws of such state regarding conflicts of laws.

13.03 Waiver of Action for Partition. Each Member and Economic Interest Owner irrevocably waives during the term of the Company any right that it may have to maintain any action for partition with respect to the Property of the Company.

13.04 Amendments. This Agreement may only be amended upon the Super Majority Interest consent or vote of the Members.

13.05 Execution of Additional Instruments. Each Member hereby agrees to execute such other and further statements of interest and holdings, designations and other instruments necessary to comply with any applicable laws, rules or regulations, provided that no such execution shall create any personal liability upon any such Member.

13.06 Construction. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

13.07 Headings. The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Agreement or any provision hereof.

13.08 Waivers. The failure of any party to seek redress for default of or to insist upon the strict performance of any covenant or condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a default, from having the effect of an original default.

13.09 Rights and Remedies Cumulative. The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by any party shall not preclude or waive the right to use any other remedy. Said rights and remedies are given in addition to any other legal rights the parties may have.

13.10 Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this

Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

13.11 Heirs, Successors and Assigns. Each and all of the covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Agreement, their respective heirs, legal representatives, successors and assigns.

13.12 Creditors. None of the provisions of this Agreement shall be for the benefit of or enforceable by any other Person including but not limited to any creditors of the Company and/or any creditor of a Member or Economic Interest Owner.

13.13 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

13.14 Integration. This Agreement embodies the entire agreement and understanding among the Members and supersedes all prior agreements and understandings among and between the Members relating to the subject matter hereof.

***[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK;
SIGNATURE PAGE IMMEDIATELY FOLLOWS]***

IN WITNESS WHEREOF, the parties hereto have caused their signatures, or the signatures of their duly authorized representatives, if applicable, to be set forth below on the day and year first above written.

_____	Address: _____
James Kwasek	_____

_____	Address: _____
Larry Leonardis	_____

_____	Address: _____
Mike Durban	_____

_____	Address: _____
Carrie Herrmann	_____

_____	Address: _____

_____	Address: _____

_____	Address: _____

EXHIBIT A

Articles of Organization

EXHIBIT B

<u>Member</u>	<u>Initial Capital Contribution</u>	<u>Percentage Interest</u>
James Kwasek	\$	%
Larry Leonardis	\$	%
Mike Durban	\$	%
Carrie Herrmann	\$	%
	\$	%
	\$	%
Total	\$ _____	<u>100.00%</u>

Manager: James Kwasek

EXHIBIT C

Standards of Conduct Policy

All Members will be issued proportionate Membership Interests in the Company. This investment will include each Member's active involvement in the business of the Company, including a commitment to adhere to the following minimal protocols.

- All Members will be expected to actively engage in tasks necessary and appropriate to advance the business interests of the group and Company.
- Everyone must attend at least one monthly meeting to discuss pending business issues relating to the Company, and the allocation of responsibilities.
 - Such meetings shall be conducted via Zoom and all shall be recorded.
- All "active" Members will be deemed employees who will be compensated by the Company and who will account for their actual hours of service on a daily basis. Failure to properly account for time spent shall result in a waiver of payment for services provided.
- All Members will be expected to conduct themselves in a courteous and respectful manner, and not take any action, or engage in any conduct, detrimental to the interest of the Company and its Members.