

<<insert name of LLC here>>

OPERATING AGREEMENT

This Operating Agreement is entered entered by and between the undersigned Members.

WHEREAS, the individuals and entities executing this Operating Agreement desire to establish their respective rights and obligations pursuant to the Florida Revised Limited Liability Company Act ("Act") in connection with forming such a limited liability company;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the individuals and entities executing this Operating Agreement below agree as follows:

1. **Definitions-** In this Operating Agreement the following terms shall have the meanings set forth below:
 - A. "**Act**" shall mean the Revised Florida Limited Liability Company Act (Chapter 605, Florida Statutes).
 - B. "**Articles of Organization**" shall mean the Articles of Organization of the Company filed or to be filed with the Florida Secretary of State, as they may from time to time be amended;
 - C. "**Capital Account**" and "**Capital Accounts**" shall have the meaning specified in this Operating Agreement, below.
 - D. "**Capital Contribution**" shall mean any contribution by a Member to the capital of the Company
 - E. "**Code**" shall mean the Internal Revenue Code of 1986, as amended, or any superseding federal revenue statute;
 - F. "**Company**" shall refer to <<insert name of LLC here>>;
 - G. "**Company Cash Flow**" for any period means the excess, if any, of (A) the sum of (i) all gross receipts from any source for such period, other than from Company loans, Capital Transactions, and Capital Contributions, and (ii) any funds released by the Company from previously established reserves, over (B) the sum of (i) all cash expenses paid by the Company for such period, (ii) all amounts paid by the Company in such period on account of the amortization of the principal of any debts or liabilities of the Company (including loans from any Member), (iii) capital expenditures of the Company, and (iv) a reasonable reserve for future expenditures; provided, however, that the amounts referred to in (B) (i), (ii), and (iii) above shall be taken into account only to the extent not funded by Capital Contributions, loans or paid out of previously established reserves. Such term shall also include all other funds deemed available for distribution and designated as Company Cash Flow by the Members.
 - H. "**Company Refinancing Proceeds**" means (i) the cash realized from the financ-

ing or refinancing of all or any portion of real property owned by the Company or other Company assets, less the retirement of any related mortgage loans and the payment of all expenses relating to the transaction and a reasonable reserve for future expenditures, and (ii) the Company's allocable portion of cash realized by an entity in which the Company owns an interest from such entity financing or refinancing all or any portion of such entity's assets, less the retirement of any related mortgage loans and the payment of all expenses relating to such transaction and a reasonable reserve for future expenditures.

- I. **"Company Sales Proceeds"** means (i) the cash realized from the sale, exchange, condemnation, casualty, or other disposition of all or any portion of real property owned by the Company or other Company assets, less the retirement of any related mortgage loans and the payment of all expenses relating to the transaction and a reasonable reserve for future expenditures and (ii) the Company's allocable portion of cash realized by an entity in which the Company owns an interest from the sale, exchange, condemnation, casualty, or other disposition of all or any portion of such entity's assets, less the retirement of any related mortgage loans and the payment of all expenses relating to such transaction and a reasonable reserve for future expenditures.
- J. **"Consent of the Members"** shall mean the written consent of the Members owning one hundred percent (100%) of the Percentage Interests in the Company
- K. **"Distribution"** means any cash and other property paid to a Member by the Company from the operations of the Company other than as compensation for services rendered (as reported to the IRS either as a "guaranteed payment" on Form 1065 or as compensation paid to an independent contractor on Form 1099).
- L. **"Gains from Capital Transactions"** means the gains realized by the Company as a result of or upon any sale, exchange, condemnation, or other disposition of capital assets of the Company or any entity in which the Company shall own an interest (which assets shall include Code Section 1231 assets and all real and personal property) or as a result of or upon the damage to or destruction of such capital assets.
- M. **"Gross Asset Value"** means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:
 - a. The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset, as determined by the contributing Member and the other Members, provided that, if the contributing Member and other Members cannot agree on the fair market value of a contributed asset, such determination shall be made by appraisal;
 - b. The Gross Asset Values of all Company assets shall be adjusted to equal their respective gross fair market values, as determined by the Members, as of the following times: (i) the acquisition of an additional interest in the Company (other than upon the initial formation of the Company) by any new or existing Member in exchange for more than a de minimis Capital Contribution;

- (ii) the distribution by the Company to a Member of more than a de minimis amount of property owned by the Company as consideration for an interest in the Company; and (iii) the liquidation of the Company within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g); provided, however, that the adjustments pursuant to clauses (i) and (ii) above shall be made only if the Members reasonably determine that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company;
- c. The Gross Asset Value of any Company asset distributed to any Member shall be adjusted to equal the gross fair market value of such asset on the date of distribution as determined by the distributee and the other Members, provided that, if the distributee and the other Members cannot agree on the determination of the fair market value of the distributed asset, such determination shall be made by appraisal; and
- d. The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m); provided, however, that Gross Asset Values shall not be adjusted pursuant to this subsection (d) to the extent the Members determine that an adjustment pursuant to subsection (b) hereof is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subsection (d).
- e. If the Gross Asset Value of an asset has been determined or adjusted pursuant to subsection (a), (b), or (d) hereof, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits, Gains from Capital Transactions, or Losses.
- N. "**Fiscal Year**" shall mean the fiscal year of the Company, which shall be the year ending December 31;
- O. "**Member**" or "**Members**" shall mean those individuals or entities listed on "**Exhibit C**" which is attached hereto made a part of this Operating Agreement by this reference and each person or entity who may hereafter become a Member at a later date pursuant to the provisions contained herein.
- P. "**Membership Interest**" shall mean with respect to the percentage of ownership in the Company held by each Member shall the percentage set forth opposite the Member's name on the attached "**Exhibit C**" as may amended from time to time.
- Q. "**Profit**" and "**Loss**" means the net profit or loss of the Company for each fiscal year as determined according to the accounting principles employed in the preparation of the Company's federal income tax information return.
- R. "**Treasury Regulation(s)**" mean regulations promulgated under the Code.

2. Organization

- A. Formation. One or more persons have acted or will act as an organizer or organizers to form a limited liability company by preparing, executing and filing with the Florida Secretary of State the Articles of Organization pursuant to the Act.
- B. Principal Place of Business. The principal place of business of the Company shall be the "Street Address" specified in the Company's Articles of Organization. The Company may establish any other places of business as the managing Members may from time to time deem advisable.
- C. Registered Agent. The Company's registered agent and registered office shall be as designated in the Articles of Organization. The registered agent and registered office may be changed from time to time in accordance with the Act.
- D. Term. The term of the Company shall be perpetual unless the Company is dissolved sooner pursuant to this Operating Agreement or the Act.
- E. Purposes. The Company is authorized to engage in any lawful business activity.
- F. Optional Election to Be Taxed as a Corporation". The Members, by unanimous written consent, may authorize the Company to make an election with the IRS for the Company to be treated as an association taxable as a corporation for federal and state income tax purposes in accordance with 26 CFR 301.7701-3 and, further, if the Members so desire, to cooperate in then making the election for the Company to be taxed as an "S Corporation" as that term is defined in 26 USC 1361 and the Company shall be an "S Corporation" for federal and state tax purposes.

3. Members and Capital Contributions

- A. Members. The identity of the Members, the total Capital Contributions to the Company of each Member and each Member's Membership Interest in the Company are set forth in the attached **Exhibit C**, as may be amended from time to time.
 - a. Capital Contributions and the Vesting of Membership Interests: The Membership Interest a Member shall not vest until such time as the cash or future services (if any) specified in **Exhibit C** have been fully paid or provided.
 - b. Future Capital Contributions. No additional Capital Contributions shall be made to the Company by any Member unless such additional Capital Contributions have first authorized by the unanimous Consent of the Members.
 - c. Capital Contributions in the Form of Services: If Capital Contributions are to be in the form of future services to be provided to the Company by a Member, **there must be an independent contractor agreement** entered into between the Company and the Member specifying in reasonable detail the services that are to be rendered and the time frame in which those services are to be provided along with specific dollar value of those services. Services provided in this manner shall not be considered a Capital Contribution until such time as the Member in question has fully performed his or her obligations under that

independent contractor agreement. If this kind of Capital Contribution is not specified in Exhibit C then any such Capital Contribution of services must first be specifically authorized by the unanimous Consent of the Members.

- B. Additional Members. A Person may be admitted as a Member after the date of this Operating Agreement upon the Consent of the Members. The admission of a new Member is conditioned upon the the new Member signing an agreement with the Company obligating him or her to comply with this Operating Agreement.
 - a. Capital Contributions required of additional Members admitted after the adoption of this Operating Agreement, an their respective Membership Interest, shall be specified in writing at the time of such admission pursuant to an agreement with the Company.
- C. Limitation of Liability. Unless otherwise specifically provided for herein, each Member's liability shall be limited as set forth in this Operating Agreement the Act and other applicable law. A Member shall not be personally liable for any indebtedness, liability or obligation of the Company, except that such Member shall remain personally liable for the payment of his or her Capital Contribution.
- D. Priority and Return of Capital. No Member shall have priority over any other Member, whether for the return of a Capital Contribution or for Net Profits, Net Losses or a Distribution; provided, however, that this Section shall not apply to loan or other indebtedness (as distinguished from a Capital Contribution) made by a Member to the Company.
- E. Liability of a Member to the Company. A Member who rightfully receives the return of any portion of a Capital Contribution is liable to the Company only to the extent now or hereafter provided by the Act. A Member who receives a Distribution made by the Company in violation of this Operating Agreement or made when the Company's liabilities exceed its assets (after giving effect to such Distribution) shall be liable to the Company for the amount of such Distribution.
- F. Financial Adjustments. No Members admitted after the date of this Operating Agreement shall be entitled to any retroactive allocation of losses, income or expense deductions incurred by the Company.
- G. Liability for Return of Capital Contribution. The Members shall not be liable for the return of the Capital Contributions of the Members and upon dissolution the Members shall look solely to the assets of the Company.
- H. Duties of Members. In general the Members shall have the duties outlined for each in the attached "Exhibit B"

4. Management

- A. Management Structure . The Company shall be managed by a manager ("Manager") in accordance with the terms of this Agreement. The Manager shall have general responsibility for managing the business and internal affairs of the Company.
- B. Appointment of Manager. Under the terms and conditions of this Agreement the

Company hereby appoints <<enter name of initial manager>> as its initial Manager; and that person with his or her signature below hereby accepts this appointment.

- C. The Manager shall be a natural person and shall be a Member of the Company. The Members may change these qualifications from time to time by the majority vote of the Members.
- D. The term of office of the Manager shall be indefinite, but shall terminate upon the earliest of the date of the Manager's (a) death; (b) resignation as a Manager; (c) disability (as determined by the other Members or in litigation); or (d) removal as a Manager by a the owners of a majority of the Membership Interest in the Company or the written approval of all of the Members..
- E. After the formation of the Company, each new Manager shall be appointed by the majority vote of the Members.
- F. A Manager may resign upon giving 14 days' written notice of resignation to the other Members. A Manager shall have no personal liability to the Company or to the other Members because of the Manager's resignation. However, the resignation shall not absolve the Manager from any liabilities to the Company or to the other Members arising on or before the effective date of the resignation.
- G. The Members may, without liability, remove a Manager as a Manager at any time with or without cause by majority vote of the other Members.
- H. Manager's Titles: In performing management functions for the Company, the Manager may use the title "Manager" or any other title (including the titles of "president", "CEO" or "chief executive officer") that the Manager may determine from time to time.
- I. **Manager's Exclusive Right to Sign Contracts.** Subject to the limitations contained herein, b) and except to the extent of any delegation of the Manager's management authority under permitted here, the Manager shall have the exclusive right, power and authority to sign contracts on behalf of the Company and otherwise to bind the Company with third parties.
 - a. Except with the written consent of all of the Members **the Manager shall not:**
 - i. Sell, lease, exchange, mortgage, pledge, or otherwise transfer or dispose of all or substantially all of the assets of the company;
 - ii. Merge the Company with any other entity;
 - iii. Amend the Articles Of Organization of the Company or this agreement;
 - iv. Incur indebtedness by the Company other than in the ordinary course of business;
 - v. Authorize a transaction involving an actual or potential conflict of interest between a member and the Company;
 - vi. Change the nature of the Company's business; or

- vii. Commence a voluntary bankruptcy case for the company.
 - viii. In any matter or related series of matters (including contract matters) involving an aggregate financial commitment by the Company exceeding \$10,000.
 - ix. In any matter outside the ordinary course of the Company's business.
- b. Manager's Representations about the Company. Except with the majority vote of the other Members, the Manager shall make no representation concerning the Company that is likely to have a material impact on the Company's business or reputation.
- J. Manager's Access Records. For any purpose reasonably related to the Manager's interests as a Manager (but only for such a purpose), the Manager shall, to the extent necessary or appropriate for the performance of the Manager's duties and responsibilities under this Agreement and subject to the restrictions set forth herein, have the following rights with respect to books and records in the possession or control of the Company ("Company records") and to information relating to or in the possession or control of the Company ("Company information"):
- a. Access to Company Records . The Manager shall have access to all Company records and all Company information.
 - b. Copying and Use of Company Records, Etc. The Manager may copy and use any Company record or Company information.
 - c. Restrictions. The right of the Manager to access, obtain, copy and use Company records and information under Section 16.3(a) shall be subject (i) to the duty of confidentiality imposed by Section 19 of this Agreement; and (ii) to any applicable federal or state laws and regulations, including laws and regulations concerning the privacy of employee medical information.
 - d. Disclosure . Under appropriate terms of confidentiality, the Manager may disclose these records and this information to the other Members and to third parties.
- K. Delegation of Management Authority. With the unanimous vote of the other Members, the Manager may, to the extent permitted by the Company and the Act, delegate the Manager's management rights, power and authority from time to time to one or more officers or agents and may amend or terminate any such delegation.
- L. Before or promptly after the Company begins its business activities, the Manager shall do the following:
- a. Tax Identification Numbers. The Manager shall obtain for the Company a federal tax identification number and any necessary state tax identification numbers
 - b. Bank Accounts. The Manager shall open any necessary bank accounts for the Company.

- c. Insurance. The Manager shall obtain on commercially reasonable terms insurance policies covering all reasonably foreseeable Company insurable risks.
 - d. Miscellaneous. The Manager shall do all other things necessary or appropriate in connection with the commencement of the Company's business.
- M. The Manager shall receive no compensation except as may or may not be provided for in a separate independent contractors agreement entered into between the Manager and Company. If the Manager is a Member he or she shall receive Member distributions as provided for in this Operating Agreement.
- N. The Manager shall perform the duties described in the attached Exhibit B

5. Capital Accounts

- A. A Capital Account shall be established for each Member and shall be credited with each Member's initial and additional Capital Contributions. All contributions of property to the Company by a Member shall be valued and credited to the Member's Capital Account at such property's Gross Asset Value on the date of contribution. All distributions of property to the Member by the Company shall be valued and debited against the Member's Capital Account at such property's Gross Asset Value on the date of distribution. Each Member's Capital Account shall at all times be determined and maintained pursuant to the principles of this Section and Treasury Regulations Section 1.704-1(b)(2)(iv).
- B. Each Member's Capital Account shall be increased in accordance with such Regulations by:
- a. The amount of Profits allocated to the Member pursuant to this Agreement;
 - b. The amount of all Gains from Capital Transactions allocated to the Member pursuant to this Agreement; and
 - c. The amount of any Company liabilities assumed by the Member or which are secured by any Company property distributed to such Member.
- C. Each Member's Capital Account shall be decreased in accordance with such Regulations by:
- a. The amount of Losses allocated to the Member pursuant to this Agreement;
 - b. The amount of Company Cash Flow distributed to the Member pursuant to this Agreement;
 - c. The amount of Company Sales Proceeds and Company Refinancing Proceeds distributed to the Member pursuant to this Agreement; and
 - d. The amount of any liabilities of the Member assumed by the Company or which are secured by any property contributed by such Member to the Company.
- D. In addition, each Member's Capital Account shall be subject to such other adjustments as may be required in order to comply with the Capital Account maintenance

nance requirements of Section 704(b) of the Code.

- E. In the event that the Members shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities that are secured by contributed or distributed property or that are assumed by the Company or the Members), are computed in order to comply with such Treasury Regulations, the Members may make such modification, provided that it is not likely to have a material effect on the amounts distributable to any Member upon dissolution of the Company. The Members also shall (i) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Members and the amount of Company capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g), and (ii) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Treasury Regulations Section 1.704-1(b).
- F. Return of Capital Contributions. Except as otherwise provided in this Agreement, and further subject to any relevant provision of the Act, no holder of a Membership Interest shall have the right to receive any return of any Capital Contribution.

6. Allocations and Distributions

- A. Allocations of Profits and Losses. The Net Profits and the Net Losses for each Fiscal Year shall be allocated to each Member **in accordance with their individual Membership Interest** as shown in **Exhibit C**.
- B. Intent of Allocations. **In the event that the Company has made an election to be taxed as an S Corporation** it is the intent of the Company and the Members that the allocation of Net Income and Net Loss to the Members pursuant to this Agreement shall be consistent with the provisions of **Code section 1366 dealing with the allocation of net income and net loss to S Corporation shareholders**.
- C. Distributions. All disbursements to Members that are not loans or payments for services rendered that are a tax deductible operating expense for the Members (if the Company is taxed as a partnership) or the Company (if the Company has elected to be taxed as a corporation) shall be considered "distributions" and shall be reflected in the Capital Account of the Member that is receiving it. Distributions shall be made only if there will be sufficient cash available after the distribution to meet the anticipated needs of the Company's business. Distributions shall be made at the discretion of all of the Members. When the Members decide to make distributions the cash available for such distribution shall be distributed to and allocated among the Members at such time as the Members shall determine pro rata in proportion to their respective Membership Interests as of the record date set for such distribution.
- D. Offset. The Company may offset all amounts owing to the Company by a Member against any Distribution to be made to such Member.
- E. Limitation Upon Distributions. No Distribution shall be declared and paid unless, after such Distribution is made, the assets of the Company are in excess of all li-

abilities of the Company.

- F. Interest on and Return of Capital Contributions. No Member shall be entitled to interest on his or her Capital Contribution or to a return of his or her Capital Contribution, except as specifically set forth in this Operating Agreement.
- G. Accounting Period. The accounting period of the Company shall be the Fiscal Year.

7. Accounting, Records, and Taxation

- A. Records and Accounting. The books and records of the Company shall be kept, and the financial position and the results of its operations recorded, in accordance with generally accepted accounting principles. The books and records of the Company shall reflect all Company transactions and shall be appropriate and adequate for the Company's business. The fiscal year of the Company for financial reporting and for federal income tax purposes shall be the calendar year.
- B. Access to Accounting Records. All books and records of the Company shall be maintained at any office of the Company or at the Company's principal place of business, and each Member, and his, her, or its duly authorized representative, shall have access to them at such office of the Company and the right to inspect and copy them at reasonable times.
- C. Annual Tax Information. The Company shall use its best efforts to deliver to each Member within 90 days after the end of each fiscal year all information necessary for the preparation of such Member's federal and state income tax returns. The Company shall also use its best efforts to prepare, within 90 days after the end of each fiscal year, a financial report of the Company for such fiscal year containing a balance sheet as of the last day of the year then ended, an income statement for the year then ended, a statement of sources and applications of funds, and a statement of reconciliation of the Capital Accounts of the Members.
- D. Accounting Decisions. All decisions as to accounting matters, except as otherwise specifically set forth in this Agreement, shall be made by the Members. The Members may rely upon the advice of their accountants as to whether such decisions are in accordance with accounting methods followed for federal income tax purposes.
- E. Federal Income Tax Elections. The Company may make, but is not required to make, all elections for federal income tax purposes, including, but not limited to, the following:
 - a. To the extent permitted by applicable law and regulations, elect to use an accelerated depreciation method on any depreciable unit of the assets of the Company; and
 - b. In case of a transfer of all or part of the interest of any Member, the Company may elect, pursuant to Sections 734, 743, and 754 of the Code to adjust the basis of the assets of the Company.
 - c. An election to be taxed as an S Corporation.

8. Transferability

- A. No Member shall gift, sell, assign, pledge, hypothecate, exchange or otherwise transfer to another person any portion of a Membership Interest unless it has been authorized and approved in writing by all of the Members.
- B. Restrictions on Transfer. In the event that the Company has elected to be taxed as an S Corporation no Member (or successor thereto) may transfer, and no person may acquire, the beneficial ownership of any Membership Interest if such transfer would cause the Company's S Election to terminate. Specifically, no transfer may be made to, and no acquisition may be made to any one other than a Qualified Person. The term "Qualified Person" shall mean any person or entity that is NOT.
 - a. nonresident alien
 - b. a person other than an individual, and an estate or type of trust permitted to qualify as a shareholder of an S Corporation; or
 - c. a person otherwise eligible to be a Member who would cause the Company to have more than 100 Members.

9. Events Of Dissociation

- A. Except as provided for in the following in this Section of the Operating Agreement, Membership Interests in the Company may not be transferred, assigned, or pledged as collateral for a debt without the express written consent of all of the Members.
- B. Voluntary Withdrawal of a Member. A Member may withdraw from the Company at any time but must give written notice of withdrawal to the other Members at least 30 days prior to the effective date of the withdrawal. The voluntary withdrawal of a Member will have no effect upon the continuance of the Company. It remains incumbent on the withdrawing Member to exercise this dissociation in good faith and to minimize present or future harm done to the remaining Members as a result of the withdrawal.
- C. Dissociation upon Expulsion
 - a. The holders of a majority of the Member Interests may expel a Member for any of the grounds listed in subsection "c" below. The expulsion become final upon the execution of a written consent to the expulsion signed by holders of a majority of the Membership Interests. The Member being expelled ("Breaching Member") may appeal by initiating mediation and, if necessary, litigation using the procedures outlined in other parts this Agreement.
 - b. A Member not holding a majority of the Member Interests can force the expulsion of a Breaching Member by initiating the dispute resolution mechanisms of mediation and then litigation outlined in other parts of this agreement. In such situations a court of competent jurisdiction, by order, may expel the breaching member on any of the grounds outlined in subsection "c" below.
 - c. Grounds for Expulsion

- i. Breach of Agreement. Upon the request of the Initiating Member, a court of competent jurisdiction determines that:
 - o The Breaching Member has materially breached a material duty of the Member under this Agreement (including any duty to provide personal services to or for the Company);
 - o The Initiating Member has given the Breaching Member written notice of this breach; and
 - o The Breaching Member has failed to cure the breach (if curable) within a reasonable period after receiving this notice.
 - ii. Breach of Trust. A breach of the Agreement by the Breaching Member that has a material adverse effect on the Initiating Member's trust of the Breaching Member shall be deemed to be a noncurable breach.
 - iii. Misconduct Affecting the Company's Reputation. A court of competent jurisdiction may expel a Member if, at the request of the Initiating Member, the Court determines that the Member has engaged in misconduct that has caused or is likely to cause a material adverse impact on the reputation of the Company or on its business or internal affairs.
 - iv. Serious Illegal or Immoral Conduct. A court of competent jurisdiction may expel a Member if, at the request of the Initiating Member, the Court determines that the Member has engaged in serious illegal or immoral conduct.
- d. Termination of Duties. Except for the duty of confidentiality outlined in other parts of this Agreement, a person who has been dissociated from the Company shall have no other duties to the Company.
- e. Liabilities. A person who has been dissociated from the Company shall have no liabilities to the Company except liabilities that accrued to the Member before the Member's dissociation.
- f. Zeroing Out Capital Account. Upon expulsion the Company shall pay to the expelled member the amount of any surplus in that Member's Capital Account as that amount is stated on the next federal partnership tax return filed by the Company following the expulsion. If that tax return of the Company shows that the expelled Member has a deficit in his or her Capital Account the amount of the deficit shall be considered a debt owed to the Company
- D. Death of a Member. As stated in the Dissolution section of this Operating Agreement the death of a Member triggers the dissolution of the Company unless the provisions of this paragraph apply. The purchasing of the deceased Member's interest as provided for in this paragraph will prevent the Company from being dissolved. Upon the death of a Member the court appointed personal representative or executor of the deceased Member may give notice of the death to the other Members. The notice shall include the personal representative's or executor's name and address for correspondence. The Company shall have one (1) year after the Company receives notice of the death of the Member to purchase all of the interest owned by the deceased Member. The Company shall use insurance

proceeds received, if any, on the death of the Member to purchase at least that portion of the Membership Interest in the Company to the extent of the insurance proceeds received. To the extent possible, the Company shall cause any proceeds of insurance on the life of the deceased Member in which the Company is the beneficiary, to be paid directly from the insurance company to the deceased Member's estate or trust upon execution and delivery to the Company of the assignment by the personal representative (or executor) of all rights to the deceased Member's Membership Interest to the Company. The purchase price shall be determined using the procedures outlined in the attached "Exhibit A". The Company shall pay to the deceased Member the balance of the purchase price as follows:

- a. the balance of the purchase price shall then be paid in twenty (20) equal quarterly principal installments plus accrued interest, commencing on the first day of the calendar quarter following the calendar quarter in which the closing occurred.
 - b. The unpaid principal balance shall accrue interest at eight percent (8%) per annum, but the Company and the remaining Member shall have the right to prepay in full or in part at any time without penalty. The obligation to pay the balance due shall be evidenced by a promissory note
- E. Divorce of a Member. No transfer or assignment of a Membership Interest to a spouse of a Member pursuant to a legal separation agreement or a final decree of divorce shall be effectual unless all of the Members have consented in writing. In the event that such consent is granted such a transfer or assignment shall be governed by the section 9(G) of this Operating Agreement ("Substitution of Members").
- F. Option to Purchase Interest in the Event of Notice of Proposed Sale to a third party purchaser ("Third-Party Purchaser"). If a Member desires to sell the Member's interest in the Company to a Third Party Purchaser the Member shall first give notice stating that desire to the other Members ("Notice of Proposed Sale"). The Notice of Proposed Sale shall state the identity of the Third-Party Purchaser, the interests to be sold, and the price in United States dollars and terms for which the Member intends to sell the interest. The following options shall then apply:
- a. The Company. For ninety (90) days after the Company receives the Notice of Proposed Sale, the Company shall have an option to purchase all or part of those interests at the price provided for in Exhibit A of this Operating Agreement or the price stated by the third party purchaser if less.
 - b. Other Members. If the Company does not exercise its option to purchase all of the interest under the previous paragraph for thirty (30) days after expiration of the Company's option or notice of the Company's intention not to exercise the option as to all or part of the interest, whichever occurs earlier, the other Members shall have an option to purchase all of the remaining interest subject to the option at the price provided for in Exhibit A of this Operating Agreement or the price stated by the Third Party Purchaser if less. Those Members electing to purchase the remaining interest shall do so in proportion

to their share ownership, or as they shall otherwise agree.

- c. Calculating Purchase Price. If within sixty (60) days after Notice of Proposed Sale there is no agreement as to the purchase price for the selling Member's interest, the value of the selling Member's interest shall be determined by the procedures outlined in the attached "Exhibit A"
 - d. Exercise of Option. To exercise either of the option provided for in the preceding two paragraphs or notice of the exercise of the option shall be given to the selling Member and the other Members during the term of the option period.
 - i. If the selling Member has guaranteed obligations of the Company, the Company shall use its commercially reasonable efforts to cause the lender to remove the Member from the guarantee obligation. In any event, the person or entity exercising the option (either the Company or one or more of the Members) will indemnify the selling Member from any losses or costs attributable to enforcement on such guarantee;
 - ii. Closing of Purchase of Selling Member's Interest. The closing for the sale of the selling Member's interest pursuant to this Operating Agreement shall be held at 10:00 A.M. at the principal office of the Company no later than nine (9) months after the date of the determination of the purchase price, except that if the closing date falls on a Saturday, Sunday, or Florida legal holiday, then the closing shall be held on the next succeeding business day. At the closing, the selling Member or his or her legal representative shall deliver to the Company or the remaining Members an instrument of transfer (containing warranties of title and no encumbrances) conveying the selling Member's interest. The Company, the remaining Members and the selling Member shall do all things timely and execute and deliver timely all papers as may be necessary to fully consummate such sale and purchase in accordance with the terms and provisions of this Agreement
 - e. Failure to Exercise Options. If the Company or the remaining Members do not exercise the options provided for in the preceding three as to all of the interest offered, then the selling Member may transfer the interest described in the Notice Of Proposed Sale to the Third-Party Purchaser at the price and upon the terms specified therein at any time within ninety (90) days from the date of the Notice Of Proposed Sale subject to the federal and state securities laws governing resale of securities
 - f. Purchase Terms Varied by Agreement. Nothing contained herein is intended to prohibit Members from agreeing upon other terms and conditions for the purchase by the Company or any Member of the Membership Interest of any Member in the Company desiring to retire, withdraw or resign, in whole or in part, as a Member.
- G. Substitution of Members. A transferee of a Membership Interest shall have the right to become a substitute Member **only if (i) the all of the Members have** con-

mented in writing to the transfer (ii) securities and tax requirements hereof are met, (iii) such person executes an instrument satisfactory to the other Members accepting and adopting the terms and provisions of this Operating Agreement, and (iv) such person pays any reasonable expenses in connection with the person's admission as a new Member.

- H. Effective Date of Permitted Transfers. Any permitted transfer of all or any portion of a Membership Interest shall be effective upon the date of the transfer instrument. The relevant Member shall provide the other Members with written notice of such transfer as promptly as possible. Any transferee of a Membership Interest shall take the Membership Interest subject to the restrictions on transfer imposed by this Operating Agreement.
- I. Rights of Legal Representatives. If a Member who is an individual dies or is adjudged by a court of competent jurisdiction to be incompetent to manage the Member's person or property, the Member's executor, administrator, guardian, conservator, or other legal representative may exercise all of the Member's rights for the purpose of settling the Member's estate or administering the Member's property, including any power the Member has under the articles or this Operating Agreement to give an assignee the right to become a Member. If a Member is a corporation, trust, or other entity and is dissolved or terminated, the powers of that Member may be exercised by the Member's legal representative or successor, until the sooner of (i) such Member is dissolved or terminated, or (ii) such Member assigns all of the Member's interest to another.
- J. No Effect to Transfers in Violation of Agreement.
- a. Upon any purported transfer of a Membership Interest in violation of this Operating Agreement the transferee shall not have any right to vote or participate in the management of the business, property and affairs of the Company or to exercise any rights of a Member. The transfer shall be null and void and shall not confer any right or interest in the Company to any purported transferee.
 - b. Any purported transfer of a Membership Interest in violation of this Agreement will not affect the beneficial ownership of the Membership Interests. Thus the Member or successor thereto attempting to make the purported transfer will retain full rights in the Membership Interest, including the right to receive liquidating distributions and distributions of distributable cash. The Member or successor thereto attempting to make the purported transfer will likewise continue to report such Member's share of profit and loss as allocated pursuant to such Member pursuant to the section of this Operating Agreement labeled "Allocations and Distributions" .
 - c. If requested by any Member prior to the voting on any matter required or permitted for a Member to vote, a Member shall represent and warrant to the Company and to all other Members, individually, that the Member is not in breach of this Operating Agreement at the time of voting on any matter as permitted or required in this Agreement or by the Act.

10. Dissolution

- A. Dissolution. The Company shall be dissolved and its affairs shall be wound up upon the first to occur of the following:
- a. The latest date on which the Company is to dissolve, if any, as set forth in the Articles of Organization;
 - b. The vote or written consent of all Members;
 - c. The sale or other disposition of all or substantially all of the assets of the Company;
 - d. **Death of a Member** (unless the provisions of the section of this Operating Agreement labeled "Events Of Dissociation" are applicable)
- B. Winding Up. Upon the dissolution of the Company, the Members may, in the name of and for an on behalf of the Company, prosecute and defend suits, whether civil, criminal or administrative, sell and close the Company's business, dispose of and convey the Company's property, discharge the Company's liabilities and distribute to the Members any remaining assets of the Company, all without affecting the liability of Members.
- C. Upon winding up of the Company, the assets shall be distributed as follows:
- a. **To creditors**, including any Member who is a creditor, to the extent permitted by law, in satisfaction of liabilities of the Company, whether by payment or by establishment of adequate reserves, other than liabilities for distributions to Members under Section 507 or Section 509 of the IRS Code; and
 - b. **To the payment to the Members of the positive balances in their respective Capital Accounts**, pro rata, in proportion to the positive balances in those Capital Accounts after giving effect to all allocations and distributions under specified in this Operating Agreement for all prior periods, including the period during which the process of liquidation occurs.
- D. Articles of Dissolution. Within ninety days following the dissolution and the commencement of winding up of the Company, or at any other time there are no Members, articles of dissolution shall be filed with the Florida of State pursuant to the Act.
- E. **Deficit Capital Account**. Upon a liquidation of the Company within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations, **any Member having a deficit in that Member's Capital Account** (after giving effect to all contributions, distributions, allocations and other adjustments for all Fiscal Years, including the Fiscal Year in which such liquidation occurs), **that Member shall be obligated to restore the deficit to his or her Capital Account**. Upon liquidation the negative balance of any Capital Account shall be considered a debt owed by the Member to the Company.
- F. Termination. Upon completion of the dissolution, winding up, liquidation, and distribution of the assets of the Company, the Company shall be deemed terminated.

11. **Fiduciary Duties of the Members**

A. Members' Fiduciary Duty of Loyalty

- a. Fiduciary Duty of Loyalty. In all matters arising under or relating to this Agreement or relating to the business and internal affairs of the Company, each Member shall, except as expressly provided for herein, owe a fiduciary duty of loyalty to the Company and to the other Members.
- b. Fiduciary Duty of Loyalty—Definition. For purposes of this Agreement, a Member's fiduciary duty of loyalty means the Member's fiduciary duty to act in a manner that the Member reasonably believes to be in or not opposed to the best interest of the Company and of the other Member.

B. Members' Fiduciary Duty Not to Compete against the Company, Etc.

- a. Non-competition. In any geographical area where the Company is engaged in business or has definite plans (as evidenced by Company records) to engage in business, a Member during the period of the Member's tenure as a Member and until the second anniversary of the date on which the Member ceases to be a Member shall not directly or indirectly (whether in person, through an entity that the Member partially or wholly owns or otherwise) do the following:
 - i. Compete against the Company;
 - ii. Induce or seek to induce the other Member or any employee of the Company to work for any other business; or
 - iii. Otherwise interfere or seek to interfere with the Company's business relations.
- b. The Members acknowledge that the purpose, duration, geographical scope and other terms of the restrictions imposed on them under this Section are reasonable.
- c. Competition with Consent of Other Members. A Member may take an action inconsistent with the non compete provisions of this Sections if (i) the Member discloses in advance to the other Member all material facts concerning the action; and (ii) the other Members give advance written consent to the action.

C. Members' Fiduciary Duty with Respect to Company Business Opportunities - If, in performing management responsibilities for the Company, a Member learns of a business opportunity that may be of material value to the Company (whether or not the opportunity may involve competition with the Company), the Member shall promptly disclose the opportunity to the other Member and shall not exploit it for the Member's personal benefit except in the following circumstances:

- a. Within 14 business days after receiving notice of it from the Member, the other Member gives the Member the other Member's advance written consent to exploit the opportunity; or
- b. After the other Member decides that the Company should exploit it:

- i. The Company fails to begin material implementation of this decision within 30 days after it is made; or
- ii. The Company begins this implementation but fails to make meaningful efforts to continue it.

D. Members' Fiduciary Duty in Doing Business with the Company

- a. Duty of Disclosure. The Member shall not engage directly or indirectly in any business transaction with the Company on the Member's own behalf or on behalf of any disclosed or undisclosed third party unless:
 - i. The Member makes full advance disclosure to the other Members about the transaction; and
 - ii. The other Members give advance written consent to the transaction.
- b. Arm's-length Terms. The terms of any business transaction permitted under this Section shall be arm's-length terms.

E. Members' Fiduciary Duty to Avoid Improper Personal Benefits

- a. Duty to Disclose Personal Benefits, Etc. If a Member receives an improper personal benefit (as defined in in this next paragraph) the Member shall promptly disclose this benefit to the other Member and, except as provided in subsection "C" of this Section shall promptly transfer it to the Company.
- b. Improper Personal Benefit – Definition. For purposes of this Agreement, an improper personal benefit shall mean a material amount of cash or anything else of material value:
 - i. That a Member receives from any third party (i) in connection with the Member's performance of the Member's responsibilities under this Agreement; or (ii) by reason of the Member's status as a Member; and
 - ii. That, at the time of its receipt, is not approved as a benefit to the Member under this Agreement.
- c. Conditions for Retention of Personal Benefits. A Member may retain an otherwise improper personal benefit, and the benefit shall not be deemed to be improper, if the Member is authorized to retain it by this Agreement or by advance written consent of the other Members.

F. Members' Fiduciary Duty in Using Company Property, Etc. - Members shall make use of Company property, cash or services (including Company records, information or intellectual property) or of the Member's position as a Member for any purpose except to benefit the Company unless:

- a. The Member first advises the other Member of the Member's intent to do so; and
- b. The other Members gives advance written consent to the use.

G. Members' Fiduciary Duty of Good Faith - In all matters relating to the business and internal affairs of the Company, the Members shall act in good faith.

H. Members' Duty of Confidentiality

- a. General Rule. In the absence of a final order to the contrary by a court or other governmental authority of competent jurisdiction, each Member shall maintain in confidence (i) all information relating to the Company; and (ii) all information in the possession or control of the Company that is reasonably identified as confidential in the Company's records or that the Member knows or reasonably should know requires confidentiality in the Company's best interest.
- b. Exception. However, a Member may copy and use the above information and, under appropriate conditions of confidentiality, may disclose it to the extent necessary or appropriate for the performance of the Member's duties under this Agreement.
- c. Binding Effect of This Section; Termination of Binding Effect - A Member's Duty of Confidentiality shall bind each Member while the Member is a Member and permanently thereafter except with respect to confidential information that becomes publicly known through no fault of the Member.

12. **Fiduciary Duties of the Manager**

- A. **Fiduciary Duty of Competence.** The Manager shall owe a duty of care to the Company and to the other Members. The standard of care shall be competence. The Manager shall be deemed to perform the Manager's duties under this Agreement competently if the Manager performs them with the knowledge, judgment, skill, diligence, initiative and timeliness that an ordinarily competent person in a like position would use under similar circumstances.
- B. **Fiduciary Duty of Loyalty.** In all matters arising under or relating to this Agreement or relating to the business and internal affairs of the Company, the Manager shall, except as expressly provided for herein, owe a fiduciary duty of loyalty to the Company and to the other Members
 - a. **Fiduciary Duty of Loyalty—Definition.** For purposes of this Agreement, the Manager's fiduciary duty of loyalty means the Manager's fiduciary duty to act in a manner that the Manager reasonably believes to be in or not opposed to the best interest of the Company and of the other Members.
- C. **Manager's Duty Not to Compete.** In any geographical area where the Company is engaged in business or has definite plans (as evidenced by Company records) to engage in business, a Manager during the period of the Manager's tenure as a Manager and until the second anniversary of the date on which the Manager ceases to be a Manager shall not directly or indirectly (whether in person, through an entity that the Manager partially or wholly owns or otherwise) do the following:
 - a. Compete against the Company;
 - b. Induce or seek to induce any other Member or any employee of the Company to work for any other business; or

- c. Otherwise interfere or seek to interfere with the Company's business relations
 - d. The Manager acknowledges that the purpose, duration, geographical scope and other terms of the restrictions imposed on the Manager under this Section are reasonable. However, a Manager may take an action inconsistent this section if the Manager (i) discloses in advance to the other Members all material facts concerning the action; and (ii) the other Members approve the action in advance by majority vote of the disinterested Members.
- D. Fiduciary Duties with Regard to Business Opportunities: If, in performing management responsibilities for the Company, a Manager learns of a business opportunity that may be of material value to the Company (whether or not the opportunity may involve competition with the Company), the Manager shall promptly disclose the opportunity to the other Members and shall not exploit it for the Manager's personal benefit except in the following circumstances:
- a. Within 14 business days after receiving notice of it from the Manager, the other Members decide by majority vote of the disinterested Members that the Manager may exploit the opportunity; or
 - b. After the disinterested Members decide that the Company should exploit it:
 - c. The Company fails to begin material implementation of this decision within 14 days after it is made; or
 - d. The Company begins this implementation but fails to make meaningful efforts to continue it.
- E. Manager's Fiduciary Duty Regarding Doing Business with the Company.
- a. Duty of Disclosure . The Manager shall not engage directly or indirectly in any business transaction with the Company on the Manager's own behalf or on behalf of any disclosed or undisclosed third party unless:
 - i. The Manager makes full advance disclosure to the other Members about the transaction; and
 - ii. The other Members approve the transaction by majority vote of the disinterested Members.
 - iii. Arm's-length Terms . The terms of any business transaction permitted under this section shall be arm's-length terms.
- F. Manager's Duty to Avoid Improper Personal Benefit.
- a. Duty to Disclose Personal Benefits, Etc. If a Manager receives an improper personal benefit (as defined in Section 18.5(b)), the Manager shall promptly disclose this benefit to the other Members and, except as provided in Section 18.5(c), shall promptly transfer it to the Company.
 - b. Improper Personal Benefit – Definition. For purposes of this Agreement, an improper personal benefit shall mean a material amount of cash or anything else of material value:

- i. That a Manager receives from any third party (i) in connection with the Manager's performance of the Manager's responsibilities under this Agreement; or (ii) by reason of the Manager's status as a Manager; and
 - ii. That, at the time of its receipt, is not approved as a benefit to the Manager under this Agreement.
 - c. Conditions for Retention of Personal Benefits. A Manager may retain an otherwise improper personal benefit, and the benefit shall not be deemed to be improper, if the Manager is authorized to retain it by this Agreement or by majority vote of the disinterested Members.
- G. Manager's Fiduciary Duty in Using Company Property, Etc. - The Manager shall make no use of Company property, cash or services (including Company records, information or intellectual property) or of the Manager's position as a Manager for any purpose except to benefit the Company unless:
 - a. The Manager first advises the other Members of the Manager's intent to do so; and
 - b. The other Members approve the use by majority vote of the disinterested Members.
- H. Manager's Fiduciary Duty of Good Faith - In all matters relating to the business and internal affairs of the Company, the Manager shall act in good faith.
- I. Manager's Fiduciary Duty of Confidentiality - In the absence of a final order to the contrary by a court or other governmental authority of competent jurisdiction, the Manager shall maintain in confidence all information relating to the Company and all information in the possession or control of the Company that is reasonably identified as confidential in the Company's records or that the Manager knows or reasonably should know requires confidentiality in the Company's best interest. This paragraph shall bind the Manager while the Manager is a Manager and permanently thereafter except with respect to confidential information that becomes publicly known through no fault of the Manager.
- J. Manager's Fiduciary Duty Of Disclosure - In connection with the Company's operation, dissolution and winding-up, the Manager shall, promptly after becoming aware of any information that is objectively material to the business or internal affairs of the Company, affirmatively disclose this information to the other Members. This duty to disclose shall include:
 - a. The disclosure of any relationship that the Manager may have or may come to have with any person that is likely to have a material adverse effect on the Company's business or internal affairs; and
 - b. The disclosure of any direct or indirect interest that the Manager may have or may come to have that is likely to have a material adverse effect on the Company's business or internal affairs.
 - c. For purposes of this section "relationship" shall include family, social, business and professional relationships, and interests shall include economic in-

terests.

- d. A Manager may condition any disclosure made by the Manager under this section upon the other Members' signing a reasonable nondisclosure agreement.
- e. The Manager shall not be required to disclose any information under this section that is confidential under any federal or state law concerning individual privacy.
- f. If the Manager discovers (a) that any disclosure under this section was incomplete or erroneous when made or has become materially incomplete or erroneous or (b) that the Manager has failed to make any required disclosure under this section the Manager shall promptly so advise the other Members, shall correct the error or incompleteness and shall make the disclosure or representation in question.

K. **Manager's Fiduciary Duty of Good Faith and Fair Dealing** - The Manager shall comply promises to act in good faith and to deal fairly with the other Members. The Manager shall be deemed to have breached this covenant if, without reasonable justification, the Manager engages in conduct that defeats the reasonable expectations of the Members under this Agreement with respect to issues not expressly addressed in the Agreement.

13. Dispute Resolution - Mandatory Mediation

A. Mandatory Mediation

- a. If any dispute arises between the Members under or relating to this Agreement or relating to the Company's business or internal affairs that the Members cannot resolve voluntarily between themselves, they shall seek to resolve the dispute by mediation.

B. Procedural Rules

- a. Except as otherwise provided for herein or as agreed in writing by the Members at the time, any mediation under this Section of the Operating Agreement shall be governed by the Commercial Mediation Procedures of the American Arbitration Association (the "AAA") as in effect on the date of commencement of the mediation. www.AAAMediation.org

C. Notice of Mediation; Selection of Mediator, Etc.

- a. Notice of Mediation. Either Member may initiate a mediation under this Agreement by giving the other Member a written notice of mediation. This notice shall bear a current date and shall briefly state the matter or matters to be mediated.
- b. Voluntary Selection of Mediator, Etc.; Commencement of Mediation. Unless the parties to a mediation agree otherwise in writing at the time, then, within 10 business days after the other Member has received the notice provided for herein, the Members shall agree in writing upon the identity of the mediator, the site of the mediation and the method of administering the mediation.

They shall commence the mediation as promptly as reasonably possible after reaching agreement on these matters.

- c. Referral of Mediation to AAA. If, within the above 10 business days, the Members cannot agree on any of the matters identified in set forth herein Company shall promptly give a written notice of the mediation to the AAA and the AAA shall administer the mediation.

D. Mediation Expenses

- a. Each Member in any mediation under this Agreement shall bear the Member's mediation expenses, except that each Member shall be liable for one-half of any fees charged by the mediator and any applicable AAA fees.

E. Confidentiality

- a. Members' Duty of Confidentiality. The Members shall maintain in confidence all information disclosed by each to the other and to the mediator in any mediation and reasonably identified by the disclosing party as confidential.
- b. Settlements, Etc. No settlement offer by either Member during any mediation under this Agreement shall be discoverable or binding in any other proceeding.
- c. Mediator's Duty of Confidentiality. Before the commencement of any mediation under this Agreement the Members may require the mediator to sign an appropriate non-disclosure agreement.

F. Members' Duty to Perform Their Obligations during Mediation

- a. Unless the Members agree otherwise in writing at the time, each Member shall perform the Member's obligations under the Agreement during any mediation under this section.

14. General Provisions

- A. Notices. Any notice, demand or other communication required or permitted to be given pursuant to this Operating Agreement by a Member shall have been sufficiently given for all purposes if (a) delivered personally to the party or to an executive officer the party to whom such notice, demand or other communication is directed or (b) sent by registered or certified mail, postage prepaid, addressed to the Member or the Company at his or her address set forth in this Operating Agreement. Except as otherwise provided in this Operating Agreement any such notice shall be deemed to given three business days after the date on which it was deposited in a regularly maintained receptacle for the deposit United States mail, addressed and sent as set forth in this Section. Any notice or other communication required or permitted by the Company or Members thereof shall be deemed to be sufficient also if transmitted electronically, by fax or e-mail.
- B. Amendments. This Operating Agreement contains the entire agreement among the Members with respect to the subject matter of this Operating Agreement and supersedes each course of conduct previously pursued or acquiesced in, and each oral agreement and representation previously made, by the Members with

respect thereto, whether or not relied or acted upon. No course of performance or other conduct subsequently pursued or acquiesced in, and no oral agreement or representation subsequently made, by the Members, whether or not relied or acted upon, and no usage of trade, whether or not relied or acted upon, shall amend this Operating Agreement or impair or otherwise affect any Member's obligations pursuant to this Operating Agreement or any rights and remedies of a Member pursuant to this Operating Agreement. No amendment to this Operating Agreement shall be effective unless made in a writing duly executed by all Members and specifically referring to each provision of this Operating Agreement being amended.

- C. Severability. Whenever possible, each provision of this Operating Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. However, if any provision of this Operating Agreement shall be prohibited by or invalid under such law, it shall be deemed modified to conform to the minimum requirements of such law or, if for any reason it is not deemed so modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any other such provision being prohibited or invalid.
- D. Binding. This Operating Agreement shall be binding upon and inure to the benefit of all Members.
- E. Counterparts. This Operating Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.
- F. Governing Law. This Operating Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of Florida, without regard to principles of conflict of laws.
- G. Securities Law Disclosure. The Membership Interests in the Company represented by this Operating Agreement have not been registered with the Securities And Exchange Commission under the Securities Act of 1933, as amended, or under the Florida laws governing securities, or similar laws or acts of other states in reliance upon exemptions under those acts. The sale or other disposition of the Membership Interests is prohibited unless the Company receives an opinion of counsel satisfactory to it and its counsel that such sale or other disposition can be made without registration under the Securities Act of 1933, as amended, and any applicable state securities acts and laws. By acquiring the Membership Interest represented by this operating agreement, the Member represents that he, she or it will not sell or otherwise dispose of his, her or its Membership Interests without registration or other compliance with the aforesaid acts and the rules and regulations issued thereunder.

SIGNATURES ON NEXT PAGE

IN WITNESS WHEREOF, the individuals signing this Operating Agreement below conclusively evidence their agreement to the terms and conditions contained herein.

SIGNATURES OF THE MEMBERS

Signature Date: _____

Print Name

Signature Date: _____

Print Name

EXHIBIT A

DETERMINATION OF PURCHASE PRICE UPON OCCURRENCE OF EVENT OF DISSOCIATION

Section 1 DETERMINATION OF PRICE TERM

The price of any transaction (a "buy-out transaction") constituting a redemption or purchase of a dissociated Member's Membership Interest under the "Events Of Dissociation" provisions of this Agreement shall be the fair market value of those rights as agreed upon by the parties to the transaction in accordance with the valuation principles set forth in Rev. Rul. 59-60, 1959-1 C.B. 237 on or reasonably promptly after the effective date of the event of dissociation triggering the transaction.

Section 2 DETERMINATION OF NON-PRICE TERMS

The parties to any buy-out transaction under Section 1 of this exhibit shall agree on the non-price terms of the transaction (including installment terms, interest terms, security terms and closing terms) on or reasonably promptly after the effective date of the event of dissociation triggering the transaction. These terms shall not unduly burden the Company or the cross-purchasing Member (as the case may be).

Section 3 MINORITY DISCOUNTS, ETC.

The price in any redemption or cross-purchase under Section 1 of this exhibit shall not reflect minority discounts, marketability discounts or other similar discounts.

Section 4 REDUCTION OF BUY-OUT PRICE BY REASON OF MEMBER'S DISSOCIATION

(a) Reduction of buy-out price by reason of a Member's dissociation - in general. The price of any buy-out under the "Events Of Dissociation" provisions of this Agreement shall reflect any reduction in the value of the Company resulting from the fact that the dissociated Member is no longer a Member.

(a) Expulsion. In the case of a buy-out occurring after a Member's expulsion of the Agreement, the buy-out price shall be reduced not only under Section 4(a) of this Exhibit but also to reflect any decrease in the Company's value caused by the actions or omissions of the expelled Member that resulted in the expulsion.

Section 5 FAILURE TO AGREE

To the extent that the parties do not reach agreement on a price term or any non-price term under Section 1 or 2 of this exhibit, each such term shall be determined in mediation, or, if necessary, in litigation as provided for in this Agreement.

EXHIBIT B

Duties of Members

All members shall make good faith reasonable efforts to accomplish all tasks reasonably required by the business of the Company.

Specific Functions of the Manager

The specific functional responsibilities of the Manager to the Company shall be as follows:

The Manager shall serve the Company by rendering professional and management services. The Manager shall act as the primary agent for the Company overseeing all of its business operations. Specifically, the Manager shall assist the Company to carry out the following duties:

- hiring employees (if any)
- overseeing work of employees and independent contractors
- planning and program coordination
- carrying out Company's contract obligations.
- negotiation assistance
- public relations
- venture implementation
- monitoring and maintaining the Company's financial accountability systems.
- preparation of financial reports.
- Such other duties as the Members may assign.

The Manager shall receive no compensation except as may or may not be provided for in a separate independent contractors agreement entered into between the Manager and Company. If the Manager is a Member he or she shall receive Member distributions as provided for in this Operating Agreement.

EXHIBIT C
Company Capital Contributions and Membership Interest

NOTE: delete this yellow highlighted text after reading. The "Membership Interest" of particular members **DOES NOT** necessarily have to be directly tied to the amount of "Capital Contribution" being made by that member (though it frequently is). Under this Operating Agreement "Membership Interests" determine each Member's share in the distribution of profits. Capital Contributions (as reflected in the "Capital Accounts") come into play during any eventual liquidation of the Company and the distribution of its remaining assets

Member	Capital Contribution	State whether Cash, Services or Both	Membership Interest
{MEMBER 1}	\$		0.00%
{MEMBER 2}	\$		33.33%
{MEMBER 3}	\$		33.33%
{MEMBER 4}	\$		33.33%
TOTAL	\$		100.00%

NOTE: delete this yellow highlighted text after reading. If some Capital Contributions are to be in the form of "service" to be rendered for the Company enter a description of those services below in the place indicated. Clearly state whether the services were provided in the past or will be provided in the future, or both. If no cash or service contributions are desired it is probably still best to at least state some nominal cash contributions (perhaps a total of, say, \$100, split between the Members) so that the Capital Accounts reflect the desired percentages upon liquidation. Doing this, and complying with provisions stated below, WILL HELP AVOID AMBIGUITY AND LITIGATION IN THE EVENT THAT THE COMPANY LIQUIDATES AND THE MEMBERS ARE ARGUING ABOUT THE PERCENTAGE OF THEIR CAPITAL ACCOUNTS (which will determine their share of the liquidation proceeds)

Description of Services listed above (if any): <<enter description>>

Capital Contributions of Services:

1. For Past Services: The Members, by their execution to this Operating Agreement, agree with the dollar valuation of any past services indicated above.
2. For Future Services: If a Capital Contributions, in whole or in part, are to be in the form of services to be provided provided to the Company by a Member, there must be an independent contractor agreement entered into between the Company and the Mem-

ber in question specifying in reasonable detail the services that are to be rendered, the time frame in which those services must to be provided, and the specific dollar value of those services. Services provided in this manner shall not be considered a Capital Contribution and the Membership of that Member shall not vest until such time as the Member in question has fully performed his or her obligations under that independent contractor agreement.

3. Past or future services to be provided by a Member are NOT to be considered "Capital Contributions" unless specified here as such in this Exhibit C (in other words, Members can be compensated for services rendered without the value of those services being considered "Capital Contributions")