

OPERATING AGREEMENT

OF

FLORIDA CANNING COMPANY, LLC

(A FLORIDA LIMITED LIABILITY COMPANY)

This Operating Agreement is made as December __, 2021 by and between the Persons set forth on Schedule “A” hereto.

A. The parties desire to form FLORIDA CANNING COMPANY LLC (the “Company”) as a limited liability company under the laws of the State of Florida and, to that end, have filed Articles of Organization for the Company with the Florida Secretary of State.

B. The parties desire to become members of the Company and to adopt a limited liability company agreement to govern the respective rights and obligations of the members and the manager of the Company.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree that the following shall be the Operating Agreement of the Company.

ARTICLE I

DEFINITIONS

When used in this Agreement, the following terms have the following meanings:

1.1 “Act” means the Florida Revised Limited Liability Company Act.

1.2 “Adjusted Capital Account” of a Member means the Capital Account of that Member, increased by any amount that such Member is obligated to restore pursuant to Treasury Regulations § 1.704-1(b)(2)(ii)(c) or deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulations § 1.704-2(g)(1) or 1.704-2(i)(5), and reduced by the items described in Treasury Regulations § 1.704-1(b)(2)(ii)(d)(4), (5) or (6).

1.3 “Affiliate” of another Person means (a) a Person directly or indirectly (through one or more intermediaries) Controlling, Controlled by or under common Control with that other Person, or (b) a Person owning or controlling ten percent (10%) or more of the outstanding voting securities or beneficial interests of that other Person.

- 1.4 “Agreement” means this Operating Agreement of the Company.
- 1.5 “Articles of Organization” means the Articles of Organization of the Company filed under the Act with the Florida Secretary of State.
- 1.6 “Business” means the leasing, operation, improvement, financing, refinancing, development and or management of the Property.
- 1.7 “Call” has the meaning set forth in Section 3.1.2.
- 1.8 “Capital Account” of a Member means the capital account of that Member determined in accordance with Treasury Regulations § 1.704-1(b)(2)(iv) and this Section 1.8. The Capital Accounts shall be adjusted by the Managing Member upon an event described in Treasury Regulations § 1.704-1(b)(2)(iv)(f)(5) in the manner described in Treasury Regulations § 1.704-1(b)(2)(iv)(f) and (g) if the Managing Member reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company, and at such other times as the Managing Member may determine is appropriate to reflect the economic arrangement among the parties. Each such capital account can increase or decrease as applicable depending on each Members contributions to the Company or distributions from the Company.
- 1.9 “Capital Contribution” of a Member means the amount of money contributed to the capital of the Company by such Member.
- 1.10 “Code” means the Internal Revenue Code of 1986.
- 1.11 “Company” means FLORIDA CANNING COMPANY, LLC, a Florida limited liability company.
- 1.12 “Company Minimum Gain” with respect to any Fiscal Year means the “partnership minimum gain” of the Company computed in accordance with Treasury Regulations §§ 1.7042(b)(2) and 1.704-2(d).
- 1.13 “Control” of a Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.
- 1.14 “Defaulting Member” has the meaning set forth in Section 3.2.1.
- 1.15 “Distributable Cash” at any time means that portion of the cash then on hand or in accounts of the Company at a bank or other financial institution which the Managing Member deem available for distribution to the Members at such time, taking into account (a) the amount of cash required for the payment of all current expenses, liabilities and obligations of the Company (whether for expense items, capital expenditures, improvements, retirement of indebtedness or otherwise) and (b) the amount of cash which the Managing Member deem necessary or appropriate to establish reserves for the payment of future expenses, liabilities, obligations, capital expenditures, improvements, retirements of indebtedness, operations and contingencies, known or

unknown, liquidated or unliquidated, including liabilities which may be incurred in litigation and liabilities undertaken pursuant to the indemnification provisions of this Agreement.

1.16 “Distribution” means the transfer of money or property by the Company to one or more Members with respect to their Interests, without separate consideration.

1.17 “Excess Contribution” at any time means the excess, if any, of (a) the aggregate Capital Contributions through such date over (b) the sum of the aggregate Capital Contributions through such date and the Distributions pursuant to Section 6.5.1(b).

1.18 “Fair Market Value” means the amount that would be paid for such interest/property or assets in cash at the closing by a hypothetical willing buyer to a hypothetical willing seller, each having knowledge of all relevant facts and neither being under a compulsion to buy or sell.

1.19 “Fiscal Year” means the Company’s taxable year, which shall be the taxable year ended December 31, or such other taxable year as may be selected by the Managing Member in accordance with applicable law.

1.20 “Interest” means a Member’s overall interest as a Member of the Company, including the Member’s interest in Profit, Loss, special allocations, Distributable Cash or other Distributions, rights to vote or participate in the management of the Company and rights to information concerning the business and affairs of the Company. Each Member’s applicable Interest in the Company is set forth in Schedule “A” annexed hereto.

1.21 “Interest Rate” means a rate of interest equal to two (2) percentage points above the prime rate of interest as reported in the “Money Rates Section” of The Wall Street Journal from time to time, but not more than the maximum rate permitted by applicable law.

1.22 “Liquidation Value” on any date with respect to an Interest means the amount a Person would receive with respect to such Interest if the net assets of the Company were sold for cash equal to their Fair Market Value on such date and the Company liquidated on such date.

1.23 “Managing Member” means the Person(s) designated pursuant to Section 5.2, until such Person(s) ceases to be a Managing Member of the Company pursuant to the terms of this Agreement.

1.24 “Member” means a Person designated on Schedule “A” as a Member, and any other Person that is admitted as a Member pursuant to the provisions of this Agreement, in each case until such Person ceases to be a member of the Company as provided herein.

1.25 “Member Minimum Gain” means the “partner nonrecourse debt minimum gain” of the Company computed in accordance with Treasury Regulations § 1.704-2(i)(3).

1.26 “Member Nonrecourse Debt” means the “partner nonrecourse liability” or “partner nonrecourse debt” of the Company computed in accordance with Treasury Regulations § 1.704-2(b)(4).

1.27 “Member Nonrecourse Deductions” means the “partner nonrecourse deductions” of the Company computed in accordance with Treasury Regulations § 1.704-2(i)(1) and (2).

1.28 “Nonrecourse Deductions” means the “nonrecourse deductions” of the Company computed in accordance with Treasury Regulations § 1.704-2(b).

1.29 “Percentage” of a Member means the percentage set forth on Schedule A for such Member, as the same may be adjusted pursuant to this Agreement.

1.30 “Person” means any entity, corporation, company, association, joint venture, joint stock company, partnership (including a general partnership, limited partnership and limited liability partnership), limited liability company, trust, real estate investment trust, organization, individual, nation, state, government (including any agency, department, bureau, board, division and instrumentality thereof), trustee, receiver or liquidator.

1.31 “Profit” and “Loss” means, for each Fiscal Year, the taxable income and taxable loss, as the case may be, of the Company for such Fiscal Year determined in accordance with federal income tax principles, including items required to be separately stated, taking into account income that is exempt from federal income taxation, items that are neither deductible nor chargeable to a capital account and rules governing depreciation and amortization, except that in computing taxable income or taxable loss, the “book” value of an asset will be substituted for its adjusted tax basis if the two differ, and any gain, income, deductions or losses specially allocated under Section 6.3 or 6.4 shall be excluded from the computation.

1.32 “Property” means the real property that is the subject of the lease between CIDC and the Company located at 15375 Blue Fish Circle, Lakewood Ranch, FL 34202, the improvements thereon and the personal property related thereto.

1.33 “Securities Act” means the Securities Act of 1933.

1.34 “Tax Matters Partner” means the Person designated pursuant to Section 9.5.1.

1.35 “Transfer” means a sale, assignment, transfer, other disposition, pledge, hypothecation or other encumbrance, whether direct or indirect, whether voluntary, involuntary or by operation of law, and whether for value or not. Transfer includes any transfer by gift, devise, intestate succession, sale, operation of law, upon the termination of a trust, as a result of or in connection with any property settlement or judgment incident to a divorce, dissolution of marriage or separation, by decree of distribution or other court order or otherwise.

1.36 “Treasury Regulations” means the regulations promulgated by the United States Treasury Department pertaining to the income tax.

ARTICLE II ORGANIZATIONAL MATTERS

2.1 Name. The name of the Company shall be “FLORIDA CANNING COMPANY, LLC,” or upon compliance with applicable law, any other name that the Managing Member may determine. The Business of the Company shall be conducted under that name. The Company shall notify the Members of any change in the name of the Company.

2.2 Term. The term of the Company’s existence commenced upon the filing of its Articles of Organization with the Florida Secretary of State on November 20, 2020, and shall continue until such time as the Company is terminated pursuant to ARTICLE X.

2.3 Office and Agent. The principal office of the Company shall be located at such place as the Managing Member may determine from time to time. The Managing Member shall notify the Members of any change in the principal office of the Company. The name and business address of the agent for service of process for the Company in the State of Florida is Charles Schorr Lesnick; located at 11259 Edgewater Circle, Wellington, FL 33414, or such other Person with such other address as the Managing Member may appoint from time to time.

2.4 Purpose of Company. The purpose of the Company shall be to engage in the Business, and any activities incidental thereto or connected therewith.

2.5 Intent. It is the intent of the Members that the Company shall be treated as a “partnership” for federal income tax purposes. It also is the intent of the Members that the Company not be operated or treated as a “partnership” for purposes of Section 303 of the United States Bankruptcy Code. No Member or Managing Member shall take any action inconsistent with either such express intent without the vote of Members owning a majority of the Percentages of the Members.

2.6 Members. The name, address, phone number, e-mail, Capital Contribution and Percentage of each Member as of the date hereof is set forth on Schedule “A”. The Company shall amend Schedule “A” to reflect any change pursuant to this Agreement in any of the foregoing with respect to any Member.

2.7 Qualification. The Company shall qualify to do business in each jurisdiction where such qualification is required.

ARTICLE III CAPITAL CONTRIBUTIONS

3.1 Capital Contributions.

3.1.1 Capital Contributions. Each Member has contributed to the Company the Capital Contribution specified opposite such Member’s name on Schedule “A”, the receipt of which is hereby acknowledged.

3.1.2 Further Capital Contributions. If the Managing Member determines that the Company needs additional funds that the Managing Member determines should be funded with additional Capital Contributions from the Members, the Company shall give each Member at least Twenty (20) days' notice of the Company's need for the additional funds, the amount of the funds needed, the reason therefor, the Member's additional Capital Contribution required thereby (which shall be equal to his Percentage of the aggregate funds being called), and the date by which the additional Capital Contribution is required to be made (each a "Call"). Notwithstanding the foregoing, the Members may prohibit the Managing Member from making an additional Capital Contribution vis-à-vis a Call through an affirmative vote of Members owning a majority of the Percentages of the Members to be held within Five (5) days of a Call being announced.

3.1.3 No Further Capital Contributions. Except as set forth in this Section 3.1, no Member shall be required to make any Capital Contribution or lend money to the Company. Except as provided in this ARTICLE III no Member may make a Capital Contribution or lend money to the Company without the Managing Member's written consent.

3.2 Default by a Member.

3.2.1 Default With Respect to Further Capital Contribution. If a Member fails to timely make a required Capital Contribution pursuant to a Call (which shall not be made upon less than Twenty (20) days' notice) (a "Defaulting Member"), the Company may request one or more non-Defaulting Members to make an additional Capital Contribution to the Company in an amount up to the amount of the required contribution that was not paid by the Defaulting Member. The Defaulting Member shall be liable for any costs and expenses incurred by the Company or any non-Defaulting Member in enforcing its or their rights pursuant to this Section 3.2. Such Capital Contribution shall accrue at the Interest Rate defined in Section 1.21 until paid in full and said amounts shall be charged against the Defaulting Member's Capital Account and/or be recovered against any monies due to the Defaulting Member until paid in full and such Defaulting Member shall not receive any Distributions as defined in this Agreement until such sum is fully paid; or

3.2.2 All Non-Defaulting Members, pro-rata to their Percentage(s) in the Company, shall have the ability to offer a loan to the Defaulting Member at the Interest Rate to cure the default.

3.3 Capital Accounts. The Company shall establish and maintain a separate Capital Account for each Member.

3.4 No Priorities of Members; No Withdrawals of Capital. Except as otherwise specified in this Agreement, no Member shall have a priority over any other Member as to any Distribution, whether by way of return of capital or by way of Profits, or as to any allocation of Profit, Loss or special allocations. No Member shall have any right to withdraw or reduce their Capital Contribution except as a result of the dissolution and liquidation of the Company, and no Member shall have the right to demand or receive property other than cash in return for their Capital Contribution. No Member has any right to, interest in, or claim against any specific property of the Company by reason of their Interest.

3.5 No Interest. Except as specifically provided herein, no Member shall be entitled to receive any interest on their Capital Contributions or Capital Account.

3.6 Certificates of Interest. The Company may issue certificates representing the outstanding Interests. Each certificate shall bear such legends as the Managing Member may determine.

ARTICLE IV MEMBERS

4.1 Resignations. Except as otherwise expressly provided herein, no Member may resign from the Company prior to the dissolution and liquidation of the Company (other than pursuant to a permitted Transfer of a Member's entire Interest in the Company pursuant to ARTICLE X). A Member that resigns in contravention of this Agreement shall not be entitled to any consideration for his Interest as a result of such resignation, and shall be liable to the Company and the other Members for any damages suffered by them as a result of such resignation. A Member that resigns from the Company shall cease to be a Member.

4.2 Action by Members.

4.2.1 Meetings of Members. Meetings of the Members may be called by the Managing Member, or in the case of any matter on which Members may vote, by any Member. Such meetings shall be held at the place, date and time that the Person(s) calling such meeting shall designate in the notice of the meeting. Members may participate in any meeting through the use of conference calls, Zoom or similar video conference platforms, or similar communications equipment as long as all Members participating can hear one another. A Member so participating is deemed to be present in person at the meeting. Except as otherwise provided herein, action at any meeting with respect to the Company requires the affirmative vote of Members owning a majority of the Percentages of the Members.

4.2.2 Notice of Meeting. At least two (2) calendar days prior written notice shall be given to the Members entitled to vote at such meeting, stating the place, date and time of the meeting, the Person(s) calling the meeting and the purpose for which the meeting is called. Notice of a meeting need not be given to any Member who submits a signed waiver of notice, in person or by proxy, whether before, at or after the meeting. All such waivers shall be filed with the Company records or made part of the minutes of the meeting. The attendance of a Member at the meeting, whether in person or by proxy, without protesting the lack of proper notice shall constitute a waiver of notice by such Member. All parties shall have the right to call into the meeting by telephone, if they cannot attend in person as well as having the option of assigning a person by proxy to represent them and to vote on any and all issues raised at such meeting.

4.2.3 Action by Consent. Any action that may be taken by Members at a meeting may also be taken without a meeting, if a consent in writing setting forth the action so taken is signed by Members owning a sufficient Percentage to take such action at a meeting at which all the Members entitled to vote on such action are present and voting, and such consent is delivered to the Managing Member within sixty (60) days after the date of the earliest signature to such

consent. Consents may be signed in counterparts and facsimile and PDF signatures shall be deemed originals. The Company shall retain such consents with the books and records of the Company and shall notify all Members of the action so taken.

4.3 Other Activities of Members. Nothing in this Agreement shall prevent a Member, Managing Member or officer from engaging or participating in any other activity, venture or enterprise, whether or not related to the Business and whether or not competitive with the Company. Being a Member of the Company does not entitle such Person to participate or otherwise have any interest in any other permitted activity, venture or enterprise of another Member, the Managing Member or an officer of the Company, unless otherwise agreed between them in writing.

4.4 Membership Interests. The Members shall maintain the respective voting, distribution and equitable Interests in the Company as is set forth on Schedule "A."

ARTICLE V MANAGEMENT AND CONTROL OF THE COMPANY

5.1 Management by the Managing Member.

5.1.1 Exclusive Management by the Managing Member. Except as otherwise expressly provided in this Agreement or as expressly required by a non-waivable provision of the Act, (a) the business, property and affairs of the Company shall be managed exclusively by the Managing Member, (b) the Managing Member shall have full, complete and exclusive authority, power and discretion to manage and Control the business, property and affairs of the Company, to make all decisions regarding those matters, to bind the Company and to perform any and all other actions customary or incident to the management of the Company's business, property and affairs, and (c) no Member, other than the Managing Member, shall have any right or power to participate in the management of the Company or to bind the Company.

5.1.2 Performance of Duties. The Managing Member shall perform their managerial duties for the Company in accordance with the standard of care prescribed by Section 10.2. In performing his duties, the Managing Member shall be entitled to rely in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any Member, officer, employee or committee of the Company, or by any other Person, as to matters which the Managing Member reasonably believes are within such Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company (including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits or losses of the Company or any other facts pertinent to the existence and amount of assets from which Distributions might properly be made). For this purpose, if the Managing Member is responsible for the making of any Company records, the Managing Member may only rely on those records in good faith if that reliance is reasonable.

5.1.3 Devotion of Time. The Managing Member shall devote such time and effort as they deem appropriate for the management of the Company's business, property and affairs. The Members acknowledge that the Managing Member is engaged in substantial other activities

which require a substantial portion of their time and attention and that of its partners, officers, employees and agents.

5.2 Designation and Removal of the Managing Member.

5.2.1 Number of Managing Member. There shall be one (1) Managing Member.

5.2.2 Designation. The Members designate Charles Schorr Lesnick as the Managing Member. If the Person designated as a Managing Member fails to qualify or resigns, then the Person designated by Members owning a majority of the Percentages of the Members shall be the Managing Member, provided such Person qualifies and is willing to serve. The Company shall promptly notify all of the Members of such designation.

5.2.3 Resignation. The Managing Member may resign upon twenty (20) days prior written notice to the Members. Resignation as Managing Member shall not affect the Managing Member's Interest, if any, as a Member.

5.2.4 The Managing Member shall be afforded an additional Forty (40%) Percent Membership Interest in lieu of receiving a fee for acting as Managing Member. This additional Membership Interest shall not require that the Managing Member make any additional Capital Contribution to the Company, nor shall it entitle the Managing Member to additional distributions than any other Member after any distributions made to reimburse the Members for monies contributed pursuant to each Member's Capital Account.

5.3 Limitations on Powers of the Managing Member. Notwithstanding anything herein to the contrary, without the consent of the Members owning a majority of the Percentages of the Members, the Managing Member may not cause or permit the Company to:

- (a) issue any additional Interests or any option or other right to acquire an Interest;
- (b) amend, restate or revoke the Articles of Organization of the Company or this Agreement;
- (c) merge or consolidate with or into another Person, enter into, transfer or terminate any business combination, partnership or joint venture with any other Person;
- (d) engage in any business other than the Business or any activity that is not consistent with the Company's purpose;
- (e) commence, join in or settle any claim, action, suit or proceeding by, against or involving the Company which may materially affect the operations of the Company;
- (f) confess a judgment against the Company;
- (g) take any action for which this Agreement requires the consent of Members, as set forth elsewhere in this Agreement; or

(h) agree to do any of the foregoing.

5.4 Transactions with the Managing Member and his Affiliates.

5.4.1 Compensation. Other than for the additional Membership Interests (for voting rights only) granted to the Managing Member pursuant to Section 5.2.4, the Managing Member shall not receive compensation from the Company for their services as Managing Member, except as outlined below. Additionally, the Company shall reimburse the Managing Member for all reasonable out-of-pocket costs and expenses incurred by the Managing Member in connection with the business and affairs of the Company.

5.4.2 Management Fee. There shall be no management fee. Notwithstanding the foregoing, the Managing Member is authorized to retain and pay Kookaburra Management LLC to handle certain management responsibilities.

5.4.3 Arm's Length Transactions. Any transaction or fees between the Company and a Managing Member or an Affiliate of a Managing Member shall be at arm's length, upon terms no less favorable to the Company than would be obtained from unrelated third parties dealing at arm's length. The Members agree that the allocations and Distributions pursuant to this Agreement satisfy such standard.

5.5 Officers. The Managing Member may appoint such officers of the Company with such powers and duties as the Managing Member may determine from time to time. Each officer shall serve at the pleasure of the Managing Member. An individual may hold any number of offices.

5.6 Day-to-Day Management of the Property. The Company shall hire Kookaburra Management LLC for the services of Amy Angelo and Scott Angelo (collectively, the "Managers") to manage the day-to-day business of the Company and the Property pursuant to a Management Agreement dated ____ and subsequent agreement to be entered into between the Company and the Managers. Notwithstanding the foregoing, the Members may overturn any decision made by the Managers through an affirmative vote of Members owning a majority of the Percentages of the Members. In the event that: (i) the Managers stop managing the day-to-day business of the Company and Property; (ii) the Managing Member determines, in their sole discretion, that the Managers are not doing a satisfactory job in performing their duties pursuant to the Management Agreement; (iii) the Managers cease to be a tenant at the Property without written consent of the Company; or (iv) the Managers' business goes out of business; then the Company shall have the right to buy the Managers' Interest in the Company at the then Fair Market Value, as determined by the Managing Member based on a formula taking into account the Company's actual earnings.

ARTICLE VI
ALLOCATIONS OF PROFIT, LOSS AND DISTRIBUTIONS

6.1 Allocation of Profit. Profit for each Fiscal Year shall be allocated to the Members in accordance with the following order of priority:

(a) Profit up to the excess, if any, of the aggregate Loss allocated pursuant to Section 6.2(c) for any prior Fiscal Year over the aggregate Profit previously allocated pursuant to this Section 6.1(a) shall be allocated to the Members in proportion to their respective Percentages for each Member;

(b) Any remaining Profit up to the excess, if any, of the aggregate Loss allocated pursuant to Section 6.2(b) for any prior Fiscal Year over the aggregate Profit previously allocated pursuant to this Section 6.1(b) shall be allocated to the Members in proportion to the Capital Contributions for each Member;

(c) Notwithstanding the provisions of Section 6.5 below, any remaining Profit shall be allocated back to the Company.

6.2 Allocation of Loss. Loss for each Fiscal Year shall be allocated to the Members in accordance with the following order of priority:

(a) Loss up to the excess, if any, of the aggregate Profit allocated pursuant to Section 6.1(c) for any prior Fiscal Year over the sum of the aggregate Loss previously allocated pursuant to this Section 6.2(a) and the aggregate amount previously allocated to the Members in proportion to the Capital Contribution for each Member;

(b) Any remaining Loss up to the aggregate Adjusted Capital Account balances of the Members having positive Adjusted Capital Account balances shall be allocated to the Members in proportion to such Adjusted Capital Account balances; and

(c) Any remaining Loss shall be allocated to the Members in proportion to their respective Percentages.

6.3 Special Allocations

6.3.1 Minimum Gain Chargeback. In the event there is a net decrease in the Company Minimum Gain during any Fiscal Year, the minimum gain chargeback provisions described in Treasury Regulations § 1.704-2(f) and (g) shall apply.

6.3.2 Member Minimum Gain Chargeback. In the event there is a net decrease in Member Minimum Gain during any Fiscal Year, the partner minimum gain chargeback provisions described in Treasury Regulations § 1.704-2(i) shall apply.

6.3.3 Qualified Income Offset. In the event a Member unexpectedly receives an adjustment, allocation or Distribution described in Treasury Regulations § 1.704-1(b)(2)(ii)(d)(4), (5) or (6), which adjustment, allocation or distribution creates or increases a deficit balance in that Member's Capital Account, the "qualified income offset" provisions described in Treasury Regulations § 1.704-1(b)(2)(ii)(d) shall apply.

6.3.4 Nonrecourse Deductions. Nonrecourse Deductions shall be allocated to the Members in proportion to their respective Percentages.

6.3.5 Member Nonrecourse Deductions. Member Nonrecourse Deductions shall be allocated to the Members as required in Treasury Regulations § 1.704-2(i)(1).

6.3.6 Intention. The special allocations in Section 6.3 are intended to comply with certain requirements of the Treasury Regulations and shall be interpreted consistently therewith. It is the intent of the Members that any special allocation pursuant to Section 6.3 shall be offset with other special allocations pursuant to Section 6.3. Accordingly, special allocations of Company income, gain, loss or deduction shall be made in such manner that, in the reasonable determination of the Managing Member, taking into account likely future allocations under Section 6.3, after such allocations are made, each Member's Capital Account is, to the extent possible, equal to the Capital Account it would have been were Section 6.3 not part of this Agreement.

6.4 Tax Allocation Matters.

6.4.1 Contributed or Revalued Property. Each Member's allocable share of the taxable income or loss of the Company, depreciation, depletion, amortization and gain or loss with respect to any contributed property, or with respect to Company property that is revalued pursuant to Treasury Regulations § 1.704-1(b)(2)(iv)(f) or Section 1.8, shall be determined in the manner (and as to revaluations, in the same manner as) provided in Section 704(c) of the Code. The allocation shall take into account, to the full extent required or permitted by the Code, the difference between the adjusted basis of the property to the Member contributing (or deemed to be contributing) it and the Fair Market Value of the property at the time of its contribution or revaluation, as the case may be, determined by the Managing Member. The Company shall apply Section 704(c)(1)(A) by using the "traditional method" as set forth in Treasury Regulations § 1.704-3(b).

6.4.2 Recapture Items. In the event that the Company has taxable income in any Fiscal Year that is characterized as ordinary income under the recapture provisions of the Code, each Member's distributive share of taxable gain or loss from the sale of Company assets (to the extent possible) shall include a proportionate share of this recapture income equal to that Member's share of prior cumulative depreciation deductions with respect to the assets which gave rise to the recapture income.

6.4.3 Consistent Treatment. All items of income, gain, loss, deduction and credit of the Company shall be allocated among the Members for federal income tax purposes in a manner consistent with the allocation of the corresponding items under this ARTICLE VI. Each Member is aware of the income tax consequences of the allocations made by this ARTICLE VI and hereby agrees to be bound by the provisions of this ARTICLE VI in reporting their share of Company income, gain, loss, deduction and credit for income tax purposes. No Member shall report on their tax return any transaction by the Company, any amount allocated or distributed from the Company or contributed to the Company inconsistently with the treatment reported (or to be reported) by the Company on its tax return nor take a position for tax purposes that is inconsistent with the position taken by the Company.

6.5 Distributions.

6.5.1 Distributions. The Company may make Distributions to the Members as needed and at such times and in such amounts as the Managing Member may determine.

6.5.2 Order of Distributions. The Company shall make Distributions in cash, to the extent there is Distributable Cash, to the Members in the following order of priority:

- (a) Repayment of all other outstanding Company loans, in the order and priority that they were entered into by the Company, except subject to Section 6.5.1;
- (b) Any bonus or salaries determined due and payable to the Managing Member; and
- (c) Distributions shall be made to the Members in proportion to their respective Percentages.

6.5.3 Distributions in Kind. The Company may make Distributions in property (other than cash) at such times and in such amounts as the Managing Member may determine. Any such Distributions shall be made to the Members in proportion to their respective Percentages, unless a Member agrees to take such property in lieu of a Distribution that it would otherwise receive under Section 6.5.2. Any property (other than cash) Distributed to one or more Members shall first be valued at its Fair Market Value as determined by the Managing Member to determine the Profit, Loss and special allocations that would have resulted if the property had been sold for such value, which amounts shall be allocated pursuant to Article VI, and the Members' Capital Accounts shall be adjusted to reflect those allocations. The amount Distributed and charged to the Capital Account of each Member receiving an interest in the Distributed property shall be the Fair Market Value of such interest as determined by the Managing Member (net of any liability secured by the asset that the Member assumes or takes subject to).

6.5.4 Limitations on Distributions. Notwithstanding anything herein to the contrary, the Company may not make a Distribution to a Member to the extent that at the time of the Distribution, after giving effect to the Distribution, all liabilities of the Company (other than to Members on account of their Interests and liabilities for which the recourse of creditors is limited to specified property of the Company) exceed the Fair Market Value of the assets of the Company (except that the Fair Market Value of property that is subject to a liability for which the recourse of creditors is limited to such property shall be included in the assets of the Company only to the extent the Fair Market Value of such property exceeds that liability).

6.6 Allocations in Respect of a Transferred Interest.

6.6.1 Allocation. If there is a change in any Member's Percentage for any reason during any Fiscal Year, each item of income, gain, loss, deduction or credit of the Company for that Fiscal Year shall be assigned pro rata to each day in that Fiscal Year in the case of items allocated based on Percentages, and the amount of such item so assigned to any such day shall be allocated to the Member based upon that Member's Percentage at the close of that day. Notwithstanding the foregoing, the net amount of gain or loss realized by the Company in connection with the sale or other disposition of property other than in the ordinary course of

business shall be allocated solely to Members having a Percentage of Membership on the date of such sale or other disposition.

6.6.2 Distributions. Except as otherwise provided herein, all Distributions shall be allocated among the Members in accordance with their respective Percentages of Membership on the date of the Distribution.

6.6.3 Attributes. If any Interest is Transferred pursuant to the terms of this Agreement, the transferee shall succeed to the Capital Account, excess contributions, and any other relevant attribute of the transferor to the extent it is attributable to the Interest so Transferred.

6.7 Order of Application. To the extent that any allocation, Distribution or adjustment specified in this Agreement affects the results of any other allocation, Distribution or adjustment required herein, the allocations, Distributions and adjustments specified in the following Sections shall be made in the priority listed and in the order set forth therein:

- (a) Section 6.5;
- (b) Section 6.4;
- (c) Section 6.3;
- (d) Section 6.2;
- (e) Section 6.1; and
- (f) Section 10.4.

To the extent possible, these provisions shall be applied as if all Distributions and allocations were made at the end of the Company's Fiscal Year. Where any provision depends on the Capital Account of any Member, that Capital Account shall be determined after the operation of all preceding provisions for the Fiscal Year.

6.8 Allocation of Excess Nonrecourse Liabilities. "Excess nonrecourse liabilities" of the Company as used in Treasury Regulations § 1.752-3(a)(3) shall first be allocated among the Members pursuant to the "additional method" described in such section and then in accordance with the Members' respective Percentages.

6.9 Form of Distribution. No Member has the right to demand or receive any Distribution from the Company in any form other than money. No Member may be compelled to accept from the Company a Distribution of any asset in kind in lieu of a proportionate Distribution of money being made to other Member(s), and except with respect to a Distribution of an asset in kind pro rata to all of the Members with an Interest or upon a dissolution and the winding up of the Company, no Member may be compelled to accept a Distribution of any asset in kind.

6.10 Amounts Withheld. Any amounts withheld with respect to a Member pursuant to any federal, state, local or foreign tax law from a Distribution by the Company to the Member shall be treated as distributed to such Member pursuant to Section 6.5 or 10.4. Any other amount

required to be paid by the Company to a taxing authority with respect to a Member pursuant to any federal, state, local or foreign tax law in connection with any payment to or tax liability (estimated or otherwise) of the Member shall be treated as a loan from the Company to such Member. If such loan is not repaid within thirty (30) days from the date the Managing Member notifies such Member of such withholding, the loan shall bear interest at the Interest Rate from the date of the applicable notice to the date of repayment. In addition to all other remedies the Company may have, the Company may withhold Distributions that would otherwise be payable to such Member and apply such amount toward repayment of the loan and interest.

ARTICLE VII TRANSFER OF INTERESTS

7.1 Transfer of Interests. Except as otherwise expressly provided in this ARTICLE VII, no Member may Transfer all or any portion of their Interest. Any attempted Transfer in violation of this ARTICLE VII hereof shall be null and void *ab initio*, and shall not bind the Company. Unless the transferee is a Member or is admitted as a Member, a permitted Transfer shall only Transfer a right to allocations and Distributions hereunder. Upon the Transfer of a Member's entire Interest, the transferor shall cease to be a Member.

7.2 Permitted Transfers. Subject to the provisions of Sections 7.3, 7.4 and 7.5, the restrictions upon Transfer specified in Section 7.1 shall not apply to any Transfer by a Member (a) to the transferor's spouse or lineal descendant(s) who are over the age of twenty-one (21) years, or to a trust solely for the benefit of the transferor and/or any such Person irrespective of the age of the beneficiary, and from such trust to any such beneficiary, (b) to a Member or lineal descendant(s) of a Member who are over the age of twenty-one (21) years, or a trust solely for the benefit of the transferor and/or any such Person irrespective of the age of the beneficiary, and from such trust to any such beneficiary, or (c) with the prior written consent of the Managing Member, which consent may be withheld, delayed or conditioned in their sole reasonable discretion, to any other Person; *provided, however*, that such permitted transferee (other than a Person who is already a Member) agrees in writing to become a party to this Agreement and to be subject to the terms and conditions hereof.

7.3 Further Restrictions on Transfers. Notwithstanding anything herein to the contrary, in addition to any other restrictions on a Transfer of an Interest, no Interest may be Transferred (a) without compliance with the Securities Act and any other applicable securities or "blue sky" laws, (b) if, in the determination of the Managing Member, the Transfer could result in the Company not being classified as a partnership for federal income tax purposes, (c) if, in the determination of the Managing Member, the Transfer could cause the Company to become subject to the Investment Company Act of 1940, (d) if, in the determination of the Managing Member, the Transfer results in the termination of the Company under Section 708 of the Code and such termination has a material adverse affect on the Company or the Members; or (e) the transferee is a minor or incompetent.

7.4 Admission of Transferee as a Member. Upon a Transfer of an Interest to a permitted transferee pursuant to Section 7.2, the permitted transferee shall be admitted as a Member. Except as provided in the preceding sentence, no transferee of an Interest who is not

already a Member shall become a Member without the prior consent of the Members through an affirmative vote of the Members holding a majority of Membership Percentages in the Company that are in good standing at the time the transferee is seeking to be admitted, and the transferee pays to the Company a transfer fee in cash which is sufficient, in the Members' sole determination, to cover all expenses incurred by the Company in connection with the Transfer and admission of the transferee as a Member.

7.5 Bring-Along Rights.

7.5.1 Drag-Along Rights. If Members owning a majority of the Interests entitled to vote determine to sell all or substantially all of their Interests to a purchaser who is not an Affiliate of any such Member pursuant to a *bona fide* offer, all the Members and their permitted transferees to whom Interests were transferred shall sell a proportionate amount of their Interests to the purchaser on the same terms and conditions (determined on the basis of their relative Liquidation Values). Notwithstanding the foregoing, the Managing Member must agree to such sale, in writing, or such majority of Members shall be unable to compel the sale of a proportionate share of the Interests of the remaining Members.

7.5.2 Tag-Along Rights. If a Member (the "Seller") determines to Transfer in one (1) or more related transactions, a portion of their Interests having a majority of the aggregate Percentages to a purchaser who is not an Affiliate of any such Member pursuant to a *bona fide* offer, the Seller shall provide the other Members (the "Remaining Members") with at least Twenty (20) days prior written notice of the Transfer, together with a copy of the offer and a description of the terms, including the price for the Interest(s) proposed to be Transferred (the "Notice"). Each Remaining Member shall have the right, by delivery to the Seller of written notice, within such twenty (20) day period, to Transfer a portion of their Interest equal to the same proportion as the proportion of the Seller's Percentages proposed to be Transferred bears to the total Seller's Percentages, to the purchaser on terms and conditions consistent with the Transfer by the Seller. For example, if Seller Members are transferring Fifty Percent (50%) of their Membership Interest(s), then, upon proper Notice to all Remaining Members, such Remaining Members may "Tag Along" and sell their pro-rata (in this case Fifty Percent (50%)) Membership Interest(s) too.. The aggregate purchase price for the Interests sold shall be allocated among the Seller Members in proportion to their respective Liquidation Values on the date of the Notice.

7.6 Enforcement. The restrictions on Transfer contained in this Agreement are an essential element in the ownership of an Interest. Upon application to any court of competent jurisdiction, a Member shall be entitled to a decree against any Person violating or about to violate such restrictions, requiring their specific performance, including those prohibiting a Transfer of all or a portion of their Interest.

7.7 Deadlock. If the Members are unable to agree on any of the matters described in this Section 7 of the LLC Agreement or "Fundamental Matters" and such disagreement continues for fourteen (14) days despite good faith deliberations by the Members (a "Deadlock"), then any Member shall be entitled to exercise the Buy-Sell rights set forth in this Agreement in Article 9 by delivering a Buy-Sell Offer Notice (as defined herein). For purposes hereof, "Fundamental Matters" shall mean any of the following matters:

- (a) Amend, modify or waive the Certificate of Formation or the LLC Agreement;
- (b) Make any material change to the nature of the Business conducted by the Company or enter into any business other than the Business;
- (c) Adopt or amend the Budget;
- (d) Issue additional Membership Interests or admit additional Members to the Company;
- (e) Incur any indebtedness, pledge or grant liens on any assets or guarantee, assume, endorse or otherwise become responsible for the obligations of any other Person except to the extent approved or authorized in the Budget in excess of \$50,000 in any single transaction or series of related transactions, or in excess of \$50,000 in the aggregate at any time outstanding;
- (f) Make any loan, advance or capital contribution to or in any Person except to the extent approved or authorized in the Budget in excess of \$20,000.
- (g) Appoint or remove the Company's auditors or make any changes in the accounting methods or policies of the Company (other than as required by [GAAP]);
- (h) Enter into, amend in any material respect, waive or terminate any Related Party Agreement other than the entry into a Related Party Agreement that is on an arm's length basis and on terms no less favorable to the Company than those that could be obtained from an unaffiliated third party;
- (i) Enter into or effect any transaction or series of related transactions involving the purchase, lease, license, exchange or other acquisition (including by merger, consolidation, acquisition of stock or acquisition of assets) by the Company of any assets and/or equity interests of any Person, other than in the ordinary course of business consistent with past practice;
- (j) Enter into or effect any transaction or series of related transactions involving the sale, lease, license, exchange or other disposition (including by merger, consolidation, sale of stock or sale of assets) by the Company of any assets, other than sales of inventory in the ordinary course of business consistent with past practice;
- (k) Establish a Subsidiary or enter into any joint venture or similar business arrangement within Fifty (50) miles of the Company's Business;
- (l) Settle any lawsuit, action, dispute or other proceeding or otherwise assume any liability with a value in excess of \$50,000 or agree to the provision of any equitable relief by the Company;
- (m) Initiate or consummate an initial public offering or make a public offering and sale of the Membership Interests or any other securities;
- (n) Make any investments in any other, company, entity or individual in excess of \$20,000; or
- (o) Dissolve, wind-up or liquidate the Company or initiate a bankruptcy proceeding involving the Company.

ARTICLE VIII

DEATH OR DISABILITY OF A MEMBER

8.1. *Intentionally deleted.*

ARTICLE IX BUY-SELL RIGHTS

9.1 Buy-Sell Rights. Each Member shall, at all times, have the right to buy or sell their Member interests (the "Buy-Sell Right").

9.2 Buy-Sell Offer Notice. If a Member wishes to exercise the buy-sell right provided in Section 9.1 above, such Member (the "Initiating Member") shall deliver to the other Member (the "Responding Member") written notice (the "Buy-Sell Offer Notice") of such election, which notice shall include (a) a description of the circumstances that triggered the use of the buy-sell right, and (b) the purchase price (which shall be payable exclusively in cash (unless otherwise agreed to in writing)) at which the Initiating Member shall (i) purchase all of the Membership Interests owned by the Responding Member(s) (the "Buy-out Price") or (ii) sell all of its Membership Interests to the Responding Member(s) (the "Sell-out Price"), with any difference between the Buy-out Price and the Sell-out Price based solely on each Member's Membership Interest in the Company, without regard to any market discount or premium from differences in such proportionate interests. If more than one (1) Member wishes to become a Responding Member such sold Membership Interests shall be split proportionately among the Responding Members in accordance to their existing Membership Interests.

9.3 Response Notice. Within thirty (30) days after the Buy-Sell Offer Notice is received (the "Buy-Sell Election Date"), the Responding Member(s) shall deliver to the Initiating Member a written notice (the "Response Notice") stating whether it elects to (a) sell all of its Membership Interests to the Initiating Member for the Buy-out Price or (b) buy all of the Membership Interests owned by the Initiating Member for the Sell-out Price. The failure of the Responding Member to deliver the Response Notice by the Buy-Sell Election Date shall be deemed to be an election to sell all of its Membership Interests to the Initiating Member at the Buy-out Price.

9.4 Closing. The closing of any purchase and sale of Membership Interests pursuant to this Agreement shall take place within thirty (30) days after the Response Notice is delivered or deemed to have been delivered or some other date mutually agreed upon by the parties. The Buy-out Price or the Sell-out Price, as the case may be, shall be paid at closing by wire transfer of immediately available funds to an account designated in writing by the selling Member (the "Selling Member"). At the closing, the Selling Member shall deliver to the purchasing Member (the "Purchasing Member") good and marketable title to its Membership Interests, free and clear of all liens and encumbrances. Each Member agrees to cooperate and take all actions and execute all documents reasonably necessary or appropriate to reflect the purchase of the Selling Member's Membership Interest by the Purchasing Member.

ARTICLE X

ACCOUNTING, RECORDS AND REPORTING

10.1 Books and Records. The books and records of the Company shall be kept, and the financial position and the results of its operations recorded, in accordance with the Company's method of accounting, consistently applied. The books and records of the Company shall reflect all Company transactions and shall be appropriate and adequate for the Company's business. The Company shall maintain all of the following at its principal office, with copies available at all times during normal business hours for inspection and copying upon reasonable notice by any Member or their authorized representatives for any purpose reasonably related to the Interest of that Member, including, but not limited to:

- (a) true and full information regarding the status of the business and financial condition of the Company;
- (b) promptly after becoming available, a copy of the Company's federal, state and local income tax returns, if any, for each Fiscal Year;
- (c) a current list of the name and last known business, residence or mailing address of each Member and Managing Member;
- (d) a copy of this Agreement and the Articles of Organization and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which this Agreement or the Articles of Organization or any amendments thereto have been executed; and
- (e) true and full information regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each Member and which each Member has agreed to contribute in the future, and the date on which each became a Member.

10.2 Tax Reports. The Company shall cause to be prepared and duly and timely filed, at the Company's expense, all tax returns required to be filed by the Company. The Company shall send to each Member within ninety (90) days after the end of each Fiscal Year such information relating to the Company as is necessary for the Member to complete their federal, state and local income tax returns that include such Fiscal Year.

10.3 Accounts; Invested Funds. All funds of the Company shall be deposited in such account or accounts of the Company as may be determined by the Managing Member and shall not be commingled with the funds of any other Person. All withdrawals therefrom shall be made upon checks signed by such Persons and in such manner as the Managing Member may determine. Temporary surplus funds of the Company may be invested in commercial paper, time deposits, short-term government obligations or other investments determined by the Managing Member.

10.4 Tax Elections. No Member or Managing Member shall elect to treat the Company as an association taxable as a corporation without the vote of Members owning a majority of the

Percentages of the Members. Except as otherwise expressly provided herein, the Company shall make such tax elections as the Managing Member may determine.

10.5 Tax Matters Partner.

10.5.1 Designation. As long as he qualifies as tax matters partner under the Code, Charles Schorr Lesnick shall be the Tax Matters Partner. If there is no Tax Matters Partner, the Person meeting the requirements for a tax matters partner under Code Section 6231(a)(7) and designated by vote of Members owning a majority of the Percentages of the Members shall be the Tax Matters Partner. The Tax Matters Partner may resign in the same manner as the Managing Member pursuant to Sections 5.2.3, which shall be applied by substituting “Tax Matters Partner” for “Managing Member”.

10.5.2 Powers. The Tax Matters Partner shall have all of the powers and authority of a tax matters partner under the Code. The Tax Matters Partner shall represent the Company (at the Company’s expense) in connection with all administrative and/or judicial proceedings by the Internal Revenue Service or any taxing authority involving any tax return of the Company and may expend the Company’s funds for professional services and costs associated therewith. The Tax Matters Partner shall provide to the Members prompt notice of any communication to or from or agreements with a federal, state, or local taxing authority regarding any tax return of the Company, including a summary of the provisions thereof.

10.6 Confidentiality. All books, records, financial statements, tax returns, budgets, business plans and projections of the Company, all other information concerning the business, affairs and properties of the Company and all of the terms and provisions of this Agreement shall be held in confidence by the Managing Member and Member and their respective Affiliates, subject to any obligation to comply with (a) any applicable law, (b) any rule or regulation of any legal authority or securities exchange or (c) any subpoena or other legal process to make information available to the Persons entitled thereto. Such confidentiality shall be maintained until such time, if any, as any such confidential information either is, or becomes, published or a matter of public knowledge (other than as a result of a breach of this Section 9.6 by such Person or its Affiliate).

ARTICLE XI

DISSOLUTION AND WINDING UP

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

- (a) a determination of the Members to dissolve the Company through an affirmative vote of the majority of the Members;
- (b) the sale of all or substantially all of the assets of the Company;

(c) ninety (90) days after the date on which there are no Members, unless a Member is admitted within such period;

(d) the entry of a judicial decree of dissolution of the Company pursuant to the Act.

11.2 Date of Dissolution. Dissolution of the Company shall be effective on the day on which the event occurs giving rise to the dissolution, but the Company shall not terminate until its assets have been liquidated and distributed as provided herein. Notwithstanding a dissolution, prior to termination, the business and the rights and obligations of the Members, as such, shall continue to be governed by this Agreement.

11.3 Winding Up. Upon the occurrence of any event specified in Section 10.1, the Company shall continue solely for the purpose of winding up its affairs in an orderly manner, liquidating its assets, satisfying the claims of its creditors, and distributing any remaining assets in cash or in kind, to the Members. The Managing Member shall be responsible for overseeing the winding up and liquidation of the Company and shall cause the Company to sell or otherwise liquidate all of the Company's assets except to the extent the Managing Member determines to distribute any assets to the Members in kind, discharge or make reasonable provision for all of the liabilities of the Company and all costs relating to the dissolution, winding up, and liquidation and distribution of assets, 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, the amounts of such reserves shall be deemed to be an expense of the Company), and distribute the remaining assets to the Members, in the manner specified in Section 10.4. The Managing Member shall be allowed a reasonable time for the orderly liquidation of the Company's assets and discharge of its liabilities, so as to preserve and upon disposition maximize, to the extent possible, the value of such assets.

11.4 Liquidating Distributions. The Company's assets, or the proceeds from the liquidation thereof, shall be applied in cash or in kind in the following order:

(a) to creditors (including Members who are creditors (other than on account of their Capital Accounts)) to the extent otherwise permitted by applicable law in satisfaction of liabilities of the Company, including expenses of the liquidation (whether by payment of the making of reasonable provision for payment thereof), other than liabilities for which reasonable provision for payment has been made;

(b) to the establishment of such reserves for contingent liabilities of the Company as are deemed reasonably necessary by the Managing Member (other than liabilities for which reasonable provision for payment has been made); *provided, however*, that such reserves shall be held for the purpose of disbursing such reserves for the payment of such contingent liabilities and, at the expiration of such period as the Managing Member may reasonably deem advisable, for the purpose of distributing the remaining balance in accordance with subparagraph (c) and (d) below;

(c) to the Members, in accordance with their respective positive Capital Account balances (after giving effect to all contributions, distributions, allocations and other Capital Account adjustments for all Fiscal Years, including the Fiscal Year in which the liquidation occurs).

11.5 Distributions in Kind. Any non-cash asset distributed to one or more Members shall first be valued at its Fair Market Value as determined by the Managing Member to determine the Profit, Loss and special allocations that would have resulted if that asset had been sold for that value, which amounts shall be allocated pursuant to ARTICLE VI, and the Members' Capital Accounts shall be adjusted to reflect those allocations. The amount distributed and charged to the Capital Account of each Member receiving an interest in the distributed asset shall be the Fair Market Value of such interest as determined by the Managing Member (net of any liability secured by the asset that the Member assumes or takes subject to).

11.6 No Liability. Notwithstanding anything herein to the contrary, upon a liquidation within the meaning of Treasury Regulations § 1.704-1(b)(2)(ii)(g), if any Member has a deficit Capital Account balance (after giving effect to all contributions, distributions, allocations and other Capital Account adjustments for all Fiscal Years, including the Year in which such liquidation occurs), neither that Member nor the Managing Member shall have any obligation to make any contribution to the capital of the Company, and the deficit balance of that Member's Capital Account shall not be considered a debt owned by that Member or the Managing Member to the Company or to any other Person for any purpose whatsoever.

11.7 Limitations on Payments Made in Dissolution. Each Member shall be entitled to look only to the assets of the Company for the return of that Member's positive Capital Account balance and no Member, Managing Member or officer of the Company shall have any personal liability therefor.

11.8 Articles of Dissolution. Upon completion of the winding up of the Company, the Company shall file an Articles of Dissolution with the Florida Secretary of State to cancel the Articles of Organization.

ARTICLE XII

LIMITATION OF LIABILITY; STANDARD OF CARE; INDEMNIFICATION

12.1 Limitation of Liability. Except as otherwise required by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Member, Managing Member or officer of the Company shall be obligated personally for any such debt, obligation or liability of the Company, or for any debt, or liability of another Member, Managing Member or officer of the Company solely by reason of being a Member, Managing Member and/or officer of the Company.

12.2 Standard of Care. No Managing Member, Member or officer of the Company shall have any personal liability whatsoever to the Company, any Member, Affiliate of the Company or

any Affiliate of any Member on account of such Person's status as Managing Member, Member or officer of the Company or any of the foregoing, or by reason of such Person's acts or omissions in connection with the conduct of the business of the Company, so long as such Person acts in good faith for a purpose which the Person reasonably believes to be in, or not opposed to, the best interests of the Company or any act or omission by an employee, independent contractor or agent of the Company, so long as the selection of such employee, independent contractor or agent was within the scope of such Person's authority and such Person exercised reasonable care in selecting such employee, independent contractor or agent; *provided, however*, that nothing contained herein shall protect any such Person against any liability to which such Person would otherwise be subject by reason of such Person's gross negligence or willful misconduct.

12.3 Indemnification.

11.3.1 The Company shall indemnify and hold harmless any Person made, or threatened to be made, a party to an action or proceeding, whether civil, criminal or investigative (a "proceeding"), including an action by or in the right of the Company, by reason of the fact that such Person was or is the Managing Member, a Member (including in the capacity of the Tax Matters Partner) or an officer of the Company or of any of the foregoing, from and against all judgments, fines, amounts paid in settlement and reasonable expenses (including investigation, accounting and attorneys' fees) incurred as a result of such proceeding, or any appeal therein if such Person acted in accordance with the standard of care prescribed in Section 11.2, and in a criminal proceeding, in addition, such Person had no reasonable cause to believe that their conduct was unlawful; *provided, however*, that nothing contained herein shall permit any Person to be indemnified or held harmless if and to the extent the liability sought to be indemnified or held harmless against results from such Person's gross negligence or willful misconduct. The termination of any such civil or criminal proceeding by judgment, settlement, conviction or upon a plea of *nolo contendere*, or its equivalent, shall not in itself create a presumption that any such Person did not act in good faith, for a purpose which he reasonably believed to be in, or not opposed to, the best interests of the Company, that he did not exercise reasonable care in selecting an employee, independent contractor or agent, that an act or omission involved actual fraud or willful misconduct, or that he had reasonable cause to believe that their conduct was unlawful. The Company's indemnification obligations hereunder shall survive the termination of the Company. Each indemnified Person shall have a claim against the net assets of the Company for payment of any indemnity amounts from time to time due hereunder, which amounts shall be paid or properly reserved for prior to the making of Distributions by the Company to the Members.

12.3.2 Each of the Members hereby agrees to indemnify, defend and hold the other Members, the Managing Member, the Company, the officers of the Company and the employees of the Company harmless, including all costs and reasonable legal fees, from and against any and all claims which arise out of or relate to a certain Members negligent act, or claims arising from or related to the personal conduct or actions of Member outside of the scope of the Members employment with the Company.

12.4 Contract Right; Expenses. The right to indemnification conferred in this ARTICLE XII shall be a contract right. The Company may advance the expenses incurred by the indemnified Person in defending any such proceeding in advance of its final disposition, provided such Person

agrees to repay any amount that it is ultimately determined such Person is not entitled to receive under this ARTICLE XI.

12.5 Indemnification of Employees and Agents. In addition to the indemnification provided in Section 11.3 and 11.4, the Company may, to the extent authorized from time to time by the Managing Member, grant rights to indemnification and to advancement of expenses to any employee, independent contractor or agent of the Company and/or to their officers, directors, shareholders, partners, members, managers, employees, independent contractors or agents, up to the extent provided to an indemnified Person pursuant to Sections 11.3 and 11.4.

12.6 Nonexclusive Right. The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this ARTICLE XII shall not be exclusive of any other right which any Person may have or hereafter acquire under any statute or agreement, or under any insurance policy obtained for the benefit of any indemnified Person.

12.7 Severability. If any provision of this ARTICLE XII is determined to be unenforceable in whole or in part, such provision shall nonetheless be enforced to the fullest extent permissible, it being the intent of this ARTICLE XII to provide indemnification to all Persons eligible hereunder to the fullest extent permitted by applicable law.

12.8 Insurance. In the discretion of the Managing Member, the Company may purchase and maintain insurance on behalf of an indemnified Person (and for each such indemnified Person who was a Managing Member, Member or officer of the Company for a reasonable period after ceasing to have such status) against any liability that may be asserted against that Person and incurred by that Person in any such capacity or arising out of that Person's connection with the Company. In addition, in the discretion of the Managing Member, the Company may purchase and maintain insurance on behalf of any other Person who is or was an employee, independent contractor or agent of the Company, and/or their officers, directors, shareholders, partners, members, managers, employees, independent contractors or agents, whether or not the Company would be required to indemnify that Person against liability under the provisions of ARTICLE XII or under applicable law.

ARTICLE XIII INVESTMENT REPRESENTATIONS

Each Member represents and warrants to the Members and the Company as follows:

13.1 Authority. The Member has the requisite power and authority to enter into this Agreement. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby do not violate any other agreement to which the Member is a party. This Agreement constitutes a valid and binding agreement of the Member, enforceable against the Member in accordance with its terms, except that such enforcement may be subject to bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other laws, whether now or hereafter in effect, relating to or limiting creditors' rights generally and (b)

enforcement of this Agreement may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

13.2 Preexisting Relationship or Experience. By reason of the Member's business or financial experience, or by reason of the business or financial experience of the Member's financial advisor who is unaffiliated with and who is not compensated, directly or indirectly, by the Company or any Affiliate or selling agent of the Company, the Member is capable of evaluating the risks and merits of an investment in their Interest and of protecting the Member's own interests in connection with the investment.

13.3 Access to Information. Each Member has had an opportunity to review all documents, records and books pertaining to this investment and has been given the opportunity to consult with counsel of their choice with respect to all aspects of this investment, the Company's proposed business activities. To the extent desired, such Member has met with representatives of the Managing Member and has been provided with such information as may have been requested and has at all times been given the opportunity to obtain additional information necessary to verify the accuracy of the information received and the opportunity to ask questions of and receive answers concerning the terms and conditions of the investment and the nature and prospects of the Company's business.

13.4 Economic Risk. The Member is financially able to bear the economic risk of an investment in their Membership Interest, including the total loss thereof.

13.5 Investment Intent. The Member is acquiring their Interest for investment purposes and for the Member's own account only and not with a view to, or for sale in connection with, any distribution of all or any part of their Interest. Except for the shareholders or members of the Members, no other Person will have any direct or indirect beneficial interest in, or right to, their Interest.

13.6 Consultation with Attorney; Conflict. Each Member has been advised to consult with their or her own attorney regarding all legal and tax matters concerning an investment in their Interest, has had adequate opportunity to do so and has done so to the extent they consider necessary. The Member acknowledges and understands that the interests of each Member may be different with respect to this Agreement and the Member waives any conflict of interest that may exist with respect to the preparation of this Agreement.

13.7 Interest is Restricted Security. Each Member understands that their Interest is a "restricted security" under the Securities Act in that the Interest will be acquired from the Company in a transaction not involving a public offering, that their Interest may be resold without registration under the Securities Act only in certain limited circumstances and that otherwise their Interest must be held indefinitely.

13.8 No Registration of Interest. Each Member acknowledges that their Interest has not been registered under the Securities Act or qualified under any state securities law in reliance, in part, upon their representations, warranties and agreements herein, and that the Company has no obligation to register or qualify, or maintain any registration or qualification of, their Interest.

13.9 Accredited Investor. The Member is an “accredited investor” as that term is defined in Rule 501(a) of Regulation D under the Securities Act. If the Member is a corporation, partnership, limited liability company, trust or other entity, it was not organized for the specific purpose of acquiring its Interest.

13.10 No Advertising. Each Member has not seen, received or been solicited by any leaflet, public promotional meeting, newspaper or magazine article or advertisement, radio or general solicitation with respect to the purchase of their Membership Interest.

ARTICLE XIV MEMBER MEETINGS

14.1 Meetings of Members. Meetings of the Members shall be held on an annual basis, beginning March 1, 2022 or such other date as determined by the Members, or as may be called by the Managing Member or in the case of any matter on which Members may vote, by any Member. A Member so participating is deemed to be present in person at the meeting. Except as otherwise provided herein, action at any meeting with respect to the Company requires the affirmative vote of Members owning a majority of the Percentages of the Members.

14.2 Annual Meetings. Unless otherwise decided by resolution of the Members, annual meetings of the Members shall be held on the First day of March of each Fiscal Year of the Company if not a legal holiday in the state in which the meeting shall be held, and if a legal holiday, then on the next business day following, beginning at 10:00AM, or at any other time and place as the Members may decide by resolution and designate in the notice of the meeting (each an “Annual Meeting”). If the Annual Meeting or the election of a Managing Member is not held on the day designated in this Section, the Members shall conduct the election and a meeting of the Members as soon as is convenient. The Annual Meeting shall be for the purpose of electing a Managing Member and for transacting any other business which may properly come before the Meeting. Attendance by telephone conference is permissible.

14.3 Notice of Meeting. At least two (2) calendar days prior written notice shall be given to the Members entitled to vote at such meeting, stating the place, date and time of the meeting, the Person calling the meeting and the purpose for which the meeting is called. Notice of a meeting need not be given to any Member who submits a signed waiver of notice, in person or by proxy, whether before, at or after the meeting. All such waivers shall be filed with the Company records or made part of the minutes of the meeting. The attendance of a Member at the meeting, whether in person or by proxy, without protesting the lack of proper notice shall constitute a waiver of notice by such Member.

14.4 Consents. Personal presence of a Member shall not be required, provided a written consent to or rejection of the proposed action is submitted to the chairman of the meeting. Attendance by a Member and voting in person at any meeting shall revoke any written consents or rejections of the Member submitted with respect to action proposed to be taken at the meeting. Submission of a later dated written consent or rejection with respect to any action shall revoke an earlier one as to the action. Every consent or rejection must be signed by the Member or their

attorney-in-fact. All questions regarding the validity of consents or rejections shall be determined by the Member or Managing Member presiding over the meeting.

14.5 Action by Consent. Any action that may be taken by Members at a meeting may also be taken without a meeting, if a consent in writing setting forth the action so taken is signed by Members owning a sufficient Percentage to take such action at a meeting at which all the Members entitled to vote on such action are present and voting, and such consent is delivered to the Managing Member within sixty (60) days after the date of the earliest signature to such consent. Consents may be signed in counterparts. The Company shall retain such consents with the books and records of the Company and shall notify to all Members of the action so taken.

14.6 Action by Written Consent. Any matter on which the Members are authorized to take action under law, the Article of Organization, or these Regulations may be taken by the Members without a meeting assembled if written consents to the action by the Members are signed by the Members entitled to vote on the action at a meeting and who hold a majority in interest of the Members (as defined in Section 13.8 of this Article) or any greater ownership interest in the Company as may be required by law, by the Articles of Organization or by these Regulations.

14.7 Adjourned Meeting. On an adjournment of a meeting, it shall not be necessary to give any notice of the adjourned meeting, provided that the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and any business which might have been transacted on the original date of the meeting may be transacted at the adjourned meeting. If, however, after the adjournment, the Managing Member fixes a new record date for the adjourned meeting, a notice of the adjourned meeting shall be given as provided in Section 13.4 of this Article to each Member of record on the new record date entitled to vote at such meeting.

14.8 Member Quorum and Voting. The holders of a majority of the then-outstanding contributed and not returned capital of the Company ("majority in interest of the Members") entitled to vote, represented in person or by written consent, shall constitute a quorum at a meeting of Members provided that the Managing Member is present, except as otherwise prescribed by law or by the Articles of Organization of the Company. All Members present in person or represented by written consent at the meeting may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, except as prescribed by law or the Articles of Organization. If a quorum is present, the affirmative vote of a majority in interest of the Members represented at the meeting and entitled to vote on the subject matter shall be the act of the Members unless otherwise provided by law, these Regulations or the Articles of Organization of the Company. All questions regarding the qualification of voters and the acceptance or rejection of votes shall be decided by the Managing Member presiding over the meeting.

14.9 Closing of Transfer Books or Fixing of Record Date. For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment or postponement of any meeting of Members, or in order to make a determination of Members for any other proper purpose, the Managing Member of the Company may provide that the transfer books shall be closed for a stated period, but not to exceed, in any case, ten (10) days. If the transfer books shall be closed for the purpose of determining Members entitled to notice of or to vote at a meeting of Members, the books shall be closed for at least two (2) days immediately preceding the

meeting. In lieu of closing the transfer books, the Managing Member may fix in advance a date as the record date for any such determination of Members, this date in any case to be not more than one (1) day and, in case of a meeting of Members, not less than ten (10) days prior to the date on which the particular action requiring the determination of Members is to be taken. If the transfer books are not closed and no record date is fixed for the determination of Members entitled to notice of or to vote at a meeting of Members, or Members entitled to receive payment of a dividend, the date on which notice of the meeting is mailed shall be the record date for the determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this section, the determination shall apply to any adjournment or postponement of the meeting.

ARTICLE XV MISCELLANEOUS

15.1 Amendments. Except as otherwise provided herein, no amendment to this Agreement shall be valid or effective unless in writing and authorized by Members owning a majority of the Percentages of the Members; *provided, however*, that except as otherwise provided herein, without the consent of a Member that is materially and adversely affected, no amendment shall make such Member personally liable for any obligation of the Company, change the allocation and distribution provisions or change this Section 14.1.

15.2 Offset Privilege. The Company may offset against any monetary obligation owing from the Company to any Member any monetary obligation then owing from that Member to the Company.

15.3 Notices. Any notice or other communication (collectively, “notice”) to be given to the Company or any Member in connection with this Agreement shall be in writing and will be deemed to have been given and received (a) on the date delivered if by courier or other means of personal delivery, (b) on the date sent by e-mail with a written mailed follow-up, (c) on the next business day after being sent by a nationally recognized overnight mail service in time for and specifying next day or next business day delivery. Any such notice must be given, if to the Company, to the Company at its principal place of business, and if to any Member or Managing Member, to such Member or Managing Member at the address specified for him on Schedule A. Any party may by notice pursuant to this Section 14.3 designate any other address as the new address to which notice must be given.

15.4 Fees and Expenses. Each party shall bear their own fees and expenses in connection with this transaction; *provided, however*, that the fees and expenses of MarksDiPalermo PLLC in connection with the legal work and preparation of this Agreement and any related documents shall be borne by the Company and all of its Members individually agree to ensure such payment by the Company is made in connection with the acquisition of the project and any other acquisition costs.

15.5 Waiver. No course of dealing or omission or delay on the part of any party hereto in asserting or exercising any right hereunder shall constitute or operate as a waiver of any such right. No waiver of any provision hereof shall be effective, unless in writing and signed by or on behalf

of the party to be charged therewith. No waiver shall be deemed a continuing waiver or waiver in respect of any other or subsequent breach or default, unless expressly so stated in writing.

15.6 Governing Law. This Agreement shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of Florida, without regard to choice or conflict of laws principles that would defer to the substantive laws of any other jurisdiction.

15.7 Remedies. Notwithstanding the foregoing, in the event of any actual or prospective breach or default by any party, the other parties shall be entitled to equitable relief, including remedies in the nature of injunction and specific performance (without being required to post a bond or other security or to establish any actual damages). In this regard, the parties acknowledge that they will be irreparably damaged in the event this Agreement is not specifically enforced, since (among other things) the Interests are not readily marketable.

15.8 Jurisdiction. Each of the parties hereto hereby irrevocably consents and submits to the jurisdiction of the Supreme Court of the State of Florida in connection with any suit, action or other proceeding arising out of this Agreement, and hereby unconditionally and irrevocably waives any objection to venue in Florida, and agrees that service of any summons, complaint, notice or other process relating to such suit, action or other proceeding may be effected in the manner provided by clause (c) of Section 14.3. **EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT**

15.9 Severability. The provisions hereof are severable and in the event that any provision of this Agreement shall be determined to be illegal, invalid or unenforceable in any respect by a court of competent jurisdiction, the remaining provisions hereof shall not be affected, but shall, subject to the discretion of such court, remain in full force and effect, and any illegal, invalid or unenforceable provision shall be deemed, without further action on the part of the parties hereto, amended and limited to the extent necessary to render such provision, as so amended and limited, legal, valid and enforceable, it being the intention of the parties that this Agreement and each provision hereof shall be legal, valid and enforceable to the fullest extent permitted by applicable law.

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

15.11 Further Assurances; Power of Attorney. Each party hereto shall promptly execute, deliver, file or record such agreements, instruments, certificates and other documents and take such other actions as the Managing Member may reasonably request or as may otherwise be necessary or proper to carry out the terms and provisions of this Agreement and to consummate and perfect the transactions contemplated hereby. Failure to comply with this Section 14.11 shall be considered a breach of a material provision. In addition, each party hereby grants to the Managing Member the power of attorney (which power of attorney is coupled with an interest) to execute, deliver, file or record, on behalf of and in the name of such party any and all agreements, instruments, certificates and other documents which the Managing Member deems necessary, appropriate or desirable to effectuate the terms of this Agreement.

15.12 Assignment. Except as otherwise provided herein, this Agreement, and any right, interest or obligation hereunder, may not be assigned by any party hereto without the prior written consent of each other party hereto. Any purported assignment without such consent shall be null and void *ab initio* and without effect.

15.13 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and permitted assigns. This Agreement is not intended, and shall not be deemed, to create or confer any right or interest for the benefit of any Person not a party hereto.

15.14 Titles and Captions. The titles and captions of the Articles and Sections of this Agreement are for convenience of reference only and do not in any way define or interpret the intent of the parties or modify or otherwise affect any of the provisions hereof and shall not have any effect on the construction or interpretation of this Agreement.

15.15 Construction. This Agreement shall not be construed against any party by reason of such party having caused this Agreement to be drafted.

15.16 Usage. References in this Agreement to “Articles,” “Sections” and “Schedules” shall be to the Articles, Sections and Schedules of this Agreement, unless otherwise specifically provided; all Schedules to this Agreement are incorporated herein by reference; any use in this Agreement of the singular or plural, or the masculine, feminine or neuter gender, shall be deemed to include the others, unless the context otherwise requires; the words “herein”, “hereof” and “hereunder” and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement; the word “including” when used in this Agreement shall mean “including without limitation”; and except as otherwise specified in this Agreement, all references in this Agreement (a) to any agreement, document, certificate or other written instrument shall be a reference to such agreement, document, certificate or instrument, in each case together with all exhibits, schedules, attachments and appendices thereto, and as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof; and (b) to any law, statute or regulation shall be deemed references to such law, statute or regulation as the same may be supplemented, amended, consolidated, superseded or modified from time to time.

15.17 Entire Agreement. This Agreement constitutes the entire understanding and agreement among the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings and agreements relating thereto (written or oral).

15.18 Representation. Each of the undersigned hereby acknowledges that this Agreement has been drafted on behalf of the Company by Cabot J . Marks, Esq. of MarksDiPalermo PLLC and that MarksDiPalermo PLLC. has represented all of the parties to this Agreement. Each of the undersigned understands that the interest of each of them may be different with respect to this Agreement. Each of the undersigned acknowledges that they have been fully, separately and individually apprised and advised by their own attorney of their legal rights and financial liabilities and responsibilities arising out of this Agreement and each has in addition thereto made independent inquiry and investigation with respect to all of the same. Each waives any conflict in

connection with the preparation of this Agreement and the documents related thereto and each acknowledges that they have had the opportunity to have this Agreement reviewed by, and to consult with, their own separate counsel, prior to executing the same.

BALANCE OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Members have executed this Agreement, effective as of the date first written above.


By: 
CHARLES SCHORR LESNICK

By: 
DAVINA DEVELOPMENT LLC

By: 
PHILIP SCHORR

By: 
PEGALO PROPERTIES INC.

By: 
AMY ANGELO

By: 
SCOTT ANGELO

**SCHEDULE A NAMES, ADDRESSES, CAPITAL CONTRIBUTIONS, AND
PERCENTAGES OF THE MEMBERS**

Name, Address and E-mail	Capital Contribution	Percentage
Charles Schorr Lesnick 15 Albemarle Place Yonkers, NY 10701 Email: chuck.schorr.lesnick@gmail.com Phone: 914-954-3039	\$2,000.00	60%
Davina Development LLC 944 Warren Pkwy Teaneck, NJ 07666 Email: lschwartz@rmabronx.com Phone: 201-906-8005	\$2,000.00	10%
Philip Schorr 15 Albemarle Place Yonkers, NY 10701 Email: pschorr@rmaorg.com Phone: 718-538-5000	\$2,000.00	10%
Pegalo Properties Inc. 501 North IH-35 Austin, TX 78702 Email: rkooris1@501studios.com Phone: 512-422-8878	\$2,000.00	10%
Amy Angelo and Scott Angelo 221 Old Dixie Hwy, Suite 1 Tequesta, FL 33469 Email: amy.angelo@oceanacoffee.com Phone: 561.339.2913	\$2,000.00	10%
TOTAL	\$10,000.00	100%

OPERATING AGREEMENT

FLORIDA CANNING COMPANY, LLC

(A FLORIDA LIMITED LIABILITY COMPANY)

THE SECURITIES REPRESENTED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 NOR REGISTERED OR QUALIFIED UNDER ANY STATE SECURITIES LAWS. SUCH SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, DELIVERED AFTER SALE, TRANSFERRED, PLEDGED OR HYPOTHECATED UNLESS REGISTERED AND QUALIFIED UNDER APPLICABLE FEDERAL AND STATE SECURITIES LAWS OR UNLESS, IN THE OPINION OF COUNSEL SATISFACTORY TO THE COMPANY, SUCH REGISTRATION AND QUALIFICATION IS NOT REQUIRED. ANY TRANSFER OF THE SECURITIES REPRESENTED BY THIS AGREEMENT IS FURTHER SUBJECT TO OTHER RESTRICTIONS, THE TERMS AND CONDITIONS OF WHICH ARE SET FORTH IN THIS AGREEMENT.

TITLE	CanningCo. Long OA NK 12.20
FILE NAME	CanningCo.%20Long....20%20redline.pdf
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AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	● Signed

This document was requested from app.clio.com

Document History



SENT

02 / 04 / 2022

21:46:10 UTC

Sent for signature to Chuck Lesnick, Esq. (chuck.schorr.lesnick@gmail.com), Len Schwartz (lschwartz@rmabronx.com), Philip Schorr (philipschorr@aol.com), Richard Kooris (rkooris@501studios.com), Amy Angelo (amy.angelo@oceanacoffee.com) and Scott Angelo (scott.angelo@oceanacoffee.com) from nkilcoyne@marksdipalermo.com
IP: 158.106.217.218



VIEWED

02 / 04 / 2022

21:55:52 UTC

Viewed by Chuck Lesnick, Esq. (chuck.schorr.lesnick@gmail.com)
IP: 148.74.212.141



SIGNED

02 / 04 / 2022

22:25:39 UTC

Signed by Chuck Lesnick, Esq. (chuck.schorr.lesnick@gmail.com)
IP: 148.74.212.141

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AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	● Signed

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Document History



02 / 04 / 2022
22:26:35 UTC

Viewed by Philip Schorr (philipschorr@aol.com)
IP: 148.74.212.141



02 / 04 / 2022
22:26:54 UTC

Signed by Philip Schorr (philipschorr@aol.com)
IP: 148.74.212.141



02 / 04 / 2022
23:17:55 UTC

Viewed by Richard Kooris (rkooris@501studios.com)
IP: 23.112.37.223



02 / 07 / 2022
21:48:20 UTC

Viewed by Scott Angelo (scott.angelo@oceanacoffee.com)
IP: 76.110.216.75



02 / 07 / 2022
21:48:32 UTC

Signed by Scott Angelo (scott.angelo@oceanacoffee.com)
IP: 76.110.216.75

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FILE NAME	CanningCo.%20Long....20%20redline.pdf
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02 / 07 / 2022
21:53:40 UTC

Signed by Richard Kooris (rkooris@501studios.com)
IP: 23.112.37.223



02 / 07 / 2022
23:07:14 UTC

Viewed by Amy Angelo (amy.angelo@oceanacoffee.com)
IP: 98.249.177.207



02 / 07 / 2022
23:08:00 UTC

Signed by Amy Angelo (amy.angelo@oceanacoffee.com)
IP: 98.249.177.207



02 / 08 / 2022
04:46:51 UTC

Viewed by Len Schwartz (lschwartz@rmabronx.com)
IP: 68.195.13.45



02 / 08 / 2022
04:47:20 UTC

Signed by Len Schwartz (lschwartz@rmabronx.com)
IP: 68.195.13.45



02 / 08 / 2022
04:47:20 UTC

The document has been completed.

**Electronic Articles of Organization
For
Florida Limited Liability Company**

L20000368144
FILED 8:00 AM
November 20, 2020
Sec. Of State
jgharris

Article I

The name of the Limited Liability Company is:
FLORIDA CANNING COMPANY, LLC

Article II

The street address of the principal office of the Limited Liability Company is:
11259 EDGEWATER CIRCLE
WELLINGTON, FL. 33414

The mailing address of the Limited Liability Company is:
11259 EDGEWATER CIRCLE
WELLINGTON, FL. 33414

Article III

Other provisions, if any:
ANY AND ALL LAWFUL PURPOSE.

Article IV

The name and Florida street address of the registered agent is:
CHARLES LESNICK ESQ
11259 EDGEWATER CIRCLE
WELLINGTON, FL. 33414

Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Registered Agent Signature: CHARLES LESNICK

Article V

The name and address of person(s) authorized to manage LLC:

Title: AMBR
CHARLES LESNICK
11259 EDGEWATER CIRCLE
WELLINGTON, FL. 33414

L20000368144
FILED 8:00 AM
November 20, 2020
Sec. Of State
jgharris

Article VI

The effective date for this Limited Liability Company shall be:

11/20/2020

Signature of member or an authorized representative

Electronic Signature: CHARLES LESNICK

I am the member or authorized representative submitting these Articles of Organization and affirm that the facts stated herein are true. I am aware that false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S. I understand the requirement to file an annual report between January 1st and May 1st in the calendar year following formation of the LLC and every year thereafter to maintain "active" status.

Date of this notice: 01-07-2022

Employer Identification Number:
87-4314149

Form: SS-4

Number of this notice: CP 575 B

KISS KITCHENS LLC
RICHARD KOORIS MBR
15375 BLUE FISH CIR
LAKEWOOD RCH, FL 34202

For assistance you may call us at:
1-800-829-4933

IF YOU WRITE, ATTACH THE
STUB AT THE END OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 87-4314149. This EIN will identify you, your business accounts, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

Taxpayers request an EIN for their business. Some taxpayers receive CP575 notices when another person has stolen their identity and are opening a business using their information. If you did **not** apply for this EIN, please contact us at the phone number or address listed on the top of this notice.

When filing tax documents, making payments, or replying to any related correspondence, it is very important that you use your EIN and complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information is not correct as shown above, please make the correction using the attached tear-off stub and return it to us.

Based on the information received from you or your representative, you must file the following forms by the dates shown.

Form 1065

03/15/2022

If you have questions about the forms or the due dates shown, you can call us at the phone number or write to us at the address shown at the top of this notice. If you need help in determining your annual accounting period (tax year), see Publication 538, *Accounting Periods and Methods*.

We assigned you a tax classification (corporation, partnership, estate, trust, EPMF, etc.) based on information obtained from you or your representative. It is not a legal determination of your tax classification, and is not binding on the IRS. If you want a legal determination of your tax classification, you may request a private letter ruling from the IRS under the guidelines in Revenue Procedure 2020-1, 2020-1 I.R.B. 1 (or superseding Revenue Procedure for the year at issue). Note: Certain tax classification elections can be requested by filing Form 8832, *Entity Classification Election*. See Form 8832 and its instructions for additional information.

A limited liability company (LLC) may file Form 8832, *Entity Classification Election*, and elect to be classified as an association taxable as a corporation. If the LLC is eligible to be treated as a corporation that meets certain tests and it will be electing S corporation status, it must timely file Form 2553, *Election by a Small Business Corporation*. The LLC will be treated as a corporation as of the effective date of the S corporation election and does not need to file Form 8832.

**Electronic Articles of Organization
For
Florida Limited Liability Company**

L22000003035
FILED 8:00 AM
December 23, 2021
Sec. Of State
bcoates

Article I

The name of the Limited Liability Company is:

KISS KITCHENS LLC

Article II

The street address of the principal office of the Limited Liability Company is:

15375 BLUE FISH CIRCLE
LAKEWOOD RANCH, FL. US 34202

The mailing address of the Limited Liability Company is:

15375 BLUE FISH CIRCLE
LAKEWOOD RANCH, FL. US 34202

Article III

The name and Florida street address of the registered agent is:

RICHARD KOORIS
15375 BLUE FISH CIRCLE
LAKEWOOD RANCH, FL. 34202

Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Registered Agent Signature: RICHARD KOORIS

Article IV

The name and address of person(s) authorized to manage LLC:

Title: AMBR
RICHARD KOORIS
15375 BLUE FISH CIRCLE
LAKEWOOD RANCH, FL. 34202 US

L22000003035
FILED 8:00 AM
December 23, 2021
Sec. Of State
bcoates

Signature of member or an authorized representative

Electronic Signature: SCOTT J. SCHUSTER

I am the member or authorized representative submitting these Articles of Organization and affirm that the facts stated herein are true. I am aware that false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S. I understand the requirement to file an annual report between January 1st and May 1st in the calendar year following formation of the LLC and every year thereafter to maintain "active" status.

OPERATING AGREEMENT

OF

KISS KITCHENS LLC

(A FLORIDA LIMITED LIABILITY COMPANY)

This Operating Agreement is made as of December 23, 2021 by and between the Persons set forth on Schedule “A” hereto.

A. The parties desire to form KISS KITCHENS LLC (the “Company”) as a limited liability company under the laws of the State of Florida and, to that end, have filed Articles of Organization for the Company with the Florida Secretary of State.

B. The parties desire to become members of the Company and to adopt a limited liability company agreement to govern the respective rights and obligations of the members and the manager of the Company.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree that the following shall be the Operating Agreement of the Company.

ARTICLE I

DEFINITIONS

When used in this Agreement, the following terms have the following meanings:

1.1 “Act” means the Florida Revised Limited Liability Company Act.

1.2 “Adjusted Capital Account” of a Member means the Capital Account of that Member, increased by any amount that such Member is obligated to restore pursuant to Treasury Regulations § 1.704-1(b)(2)(ii)(c) or deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulations § 1.704-2(g)(1) or 1.704-2(i)(5), and reduced by the items described in Treasury Regulations § 1.704-1(b)(2)(ii)(d)(4), (5) or (6).

1.3 “Affiliate” of another Person means (a) a Person directly or indirectly (through one or more intermediaries) Controlling, Controlled by or under common Control with that other Person, or (b) a Person owning or controlling ten percent (10%) or more of the outstanding voting securities or beneficial interests of that other Person.

1.4 “Agreement” means this Operating Agreement of the Company.

1.5 “Articles of Organization” means the Articles of Organization of the Company filed under the Act with the Florida Secretary of State.

1.6 “Business” means the leasing, operation, development and or management of a commercial kitchen, cold storage, and canning company and its operation as an Opportunity Zone Business.

1.7 “Call” has the meaning set forth in Section 3.1.2.

1.8 “Capital Account” of a Member means the capital account of that Member determined in accordance with Treasury Regulations § 1.704-1(b)(2)(iv) and this Section 1.8. The Capital Accounts shall be adjusted by the Managing Member upon an event described in Treasury Regulations § 1.704-1(b)(2)(iv)(f)(5) in the manner described in Treasury Regulations § 1.7041(b)(2)(iv)(f) and (g) if the Managing Member reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company, and at such other times as the Managing Member may determine is appropriate to reflect the economic arrangement among the parties. Each such capital account can increase or decrease as applicable depending on each Members contributions to the Company or distributions from the Company.

1.9 “Capital Contribution” of a Member means the amount of money contributed to the capital of the Company by such Member.

1.10 “Code” means the Internal Revenue Code of 1986.

1.11 “Company” means KISS KITCHENS LLC, a Florida limited liability company.

1.12 “Company Minimum Gain” with respect to any Fiscal Year means the “partnership minimum gain” of the Company computed in accordance with Treasury Regulations §§ 1.7042(b)(2) and 1.704-2(d).

1.13 “Control” of a Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

1.14 “Defaulting Member” has the meaning set forth in Section 3.2.1.

1.15 “Distributable Cash” at any time means that portion of the cash then on hand or in accounts of the Company at a bank or other financial institution which the Managing Member deems available for distribution to the Members at such time, taking into account (a) the amount of cash required for the payment of all current expenses, liabilities and obligations of the Company (whether for expense items, capital expenditures, improvements, retirement of indebtedness or otherwise) and (b) the amount of cash which the Managing Member deems necessary or appropriate to establish reserves for the payment of future expenses, liabilities, obligations, capital expenditures, improvements, retirements of indebtedness, operations and contingencies, known or

unknown, liquidated or unliquidated, including liabilities which may be incurred in litigation and liabilities undertaken pursuant to the indemnification provisions of this Agreement.

1.16 “Distribution” means the transfer of money or property by the Company to one or more Members with respect to their Interests, without separate consideration.

1.17 “Excess Contribution” at any time means the excess, if any, of (a) the aggregate Capital Contributions through such date over (b) the sum of the aggregate Capital Contributions through such date and the Distributions pursuant to Section 6.5.1(b).

1.18 “Fair Market Value” means the amount that would be paid for such interest/property or assets in cash at the closing by a hypothetical willing buyer to a hypothetical willing seller, each having knowledge of all relevant facts and neither being under a compulsion to buy or sell.

1.19 “Fiscal Year” means the Company’s taxable year, which shall be the taxable year ended December 31, or such other taxable year as may be selected by the Managing Member in accordance with applicable law.

1.20 “Interest” means a Member’s overall interest as a Member of the Company, including the Member’s interest in Profit, Loss, special allocations, Distributable Cash or other Distributions, rights to vote or participate in the management of the Company and rights to information concerning the business and affairs of the Company. Each Member’s applicable Interest in the Company is set forth in Schedule “A” annexed hereto.

1.21 “Interest Rate” means a rate of interest equal to two (2) percentage points above the prime rate of interest as reported in the “Money Rates Section” of The Wall Street Journal from time to time, but not more than the maximum rate permitted by applicable law.

1.22 “Liquidation Value” on any date with respect to an Interest means the amount a Person would receive with respect to such Interest if the net assets of the Company were sold for cash equal to their Fair Market Value on such date and the Company liquidated on such date.

1.23 “Manager or Managing Member” means the Person(s) designated pursuant to Section 5.2, until such Person(s) ceases to be a Manager or Managing Member of the Company pursuant to the terms of this Agreement. In the event that a Member is appointed they shall be deemed the Managing Member. In the event that a member of a Company that is a Member is appointed, they shall be deemed the Manager of the Company. In this Operating Agreement the terms are synonymous and can be used interchangeably depending on the person performing the position and their status as a Member.

1.24 “Member” means a Person designated on Schedule “A” as a Member, and any other Person that is admitted as a Member pursuant to the provisions of this Agreement, in each case until such Person ceases to be a member of the Company as provided herein.

1.25 “Member Minimum Gain” means the “partner nonrecourse debt minimum gain” of the Company computed in accordance with Treasury Regulations § 1.704-2(i)(3).

1.26 “Member Nonrecourse Debt” means the “partner nonrecourse liability” or “partner nonrecourse debt” of the Company computed in accordance with Treasury Regulations § 1.704-2(b)(4).

1.27 “Member Nonrecourse Deductions” means the “partner nonrecourse deductions” of the Company computed in accordance with Treasury Regulations § 1.704-2(i)(1) and (2).

1.28 “Nonrecourse Deductions” means the “nonrecourse deductions” of the Company computed in accordance with Treasury Regulations § 1.704-2(b).

1.29 “Percentage” of a Member means the percentage set forth on Schedule “A” for such Member, as the same may be adjusted pursuant to this Agreement.

1.30 “Person” means any entity, corporation, company, association, joint venture, joint stock company, partnership (including a general partnership, limited partnership and limited liability partnership), limited liability company, trust, real estate investment trust, organization, individual, nation, state, government (including any agency, department, bureau, board, division and instrumentality thereof), trustee, receiver or liquidator.

1.31 “Profit” and “Loss” means, for each Fiscal Year, the taxable income and taxable loss, as the case may be, of the Company for such Fiscal Year determined in accordance with federal income tax principles, including items required to be separately stated, taking into account income that is exempt from federal income taxation, items that are neither deductible nor chargeable to a capital account and rules governing depreciation and amortization, except that in computing taxable income or taxable loss, the “book” value of an asset will be substituted for its adjusted tax basis if the two differ, and any gain, income, deductions or losses specially allocated under Section 6.3 or 6.4 shall be excluded from the computation.

1.32 “Property” means the real property that is the subject of the lease between CIDC and the Company located at 15375 Blue Fish Circle, Lakewood Ranch, FL 34202, the improvements thereon and the personal property related thereto.

1.33 “Securities Act” means the Securities Act of 1933.

1.34 “Tax Matters Partner” means the Person designated pursuant to Section 9.5.1.

1.35 “Transfer” means a sale, assignment, transfer, other disposition, pledge, hypothecation or other encumbrance, whether direct or indirect, whether voluntary, involuntary or by operation of law, and whether for value or not. Transfer includes any transfer by gift, devise, intestate succession, sale, operation of law, upon the termination of a trust, as a result of or in connection with any property settlement or judgment incident to a divorce, dissolution of marriage or separation, by decree of distribution or other court order or otherwise.

1.36 “Treasury Regulations” means the regulations promulgated by the United States Treasury Department pertaining to the income tax.

ARTICLE II ORGANIZATIONAL MATTERS

2.1 Name. The name of the Company shall be “KISS KITCHENS LLC,” or upon compliance with applicable law, any other name that the Managing Member may determine. The Business of the Company shall be conducted under that name. The Company shall notify the Members of any change in the name of the Company.

2.2 Term. The term of the Company’s existence commenced upon the filing of its Articles of Organization with the Florida Secretary of State on December 23, 2021, and shall continue until such time as the Company is terminated pursuant to ARTICLE XI.

2.3 Office and Agent. The principal office of the Company shall be located at such place as the Managing Member may determine from time to time. The Manager or Managing Member shall notify the Members of any change in the principal office of the Company. The name and business address of the agent for service of process for the Company in the State of Florida is Richard Kooris; located at 15375 Blue Fish Circle, Lakewood Ranch, FL 34202 or such other Person with such other address as the Managing Member may appoint from time to time.

2.4 Purpose of Company. The purpose of the Company shall be to engage in the Business, and any activities incidental thereto or connected therewith.

2.5 Intent. It is the intent of the Members that the Company shall be treated as a “partnership” for federal income tax purposes. It also is the intent of the Members that the Company is not operated or treated as a “partnership” for purposes of Section 303 of the United States Bankruptcy Code. No Member, Manager or Managing Member shall take any action inconsistent with either such express intent without the vote of Members owning a majority of the Percentages of the Members.

2.6 Members. The name, address, phone number, e-mail, Capital Contribution and Percentage of each Member as of the date hereof is set forth on Schedule “A”. The Company shall amend Schedule “A” to reflect any change pursuant to this Agreement in any of the foregoing with respect to any Member.

2.7 Qualification. The Company shall qualify to do business in each jurisdiction where such qualification is required.

ARTICLE III CAPITAL CONTRIBUTIONS

3.1 Capital Contributions.

3.1.1 Capital Contributions. Each Member has contributed to the Company the Capital Contribution specified opposite such Member’s name on Schedule “A”, the receipt of which is hereby acknowledged.

3.1.2 Further Capital Contributions. If the Managing Member determines that the Company needs additional funds that the Managing Member determines should be funded with additional Capital Contributions from the Members, the Company shall give each Member at least Twenty (20) days' notice of the Company's need for the additional funds, the amount of the funds needed, the reason therefor, the Member's additional Capital Contribution required thereby (which shall be equal to his Percentage of the aggregate funds being called), and the date by which the additional Capital Contribution is required to be made (each a "Call"). Notwithstanding the foregoing, the Members may prohibit the Manager or Managing Member from making an additional Capital Contribution vis-à-vis a Call through an affirmative vote of Members owning a majority of the Percentages of the Members to be held within Five (5) days of a Call being announced.

3.1.3 No Further Capital Contributions. Except as set forth in this Section 3.1, no Member shall be required to make any Capital Contribution or lend money to the Company. Except as provided in this ARTICLE III no Member may make a Capital Contribution or lend money to the Company without the Manager or Managing Member's written consent.

3.2 Default by a Member.

3.2.1 Default with Respect to Further Capital Contribution. If a Member fails to timely make a required Capital Contribution pursuant to a Call (which shall not be made upon less than Twenty (20) days' notice) (a "Defaulting Member"), the Company may request one or more non-Defaulting Members to make an additional Capital Contribution to the Company in an amount up to the amount of the required contribution that was not paid by the Defaulting Member. The Defaulting Member shall be liable for any costs and expenses incurred by the Company or any Non-Defaulting Member in enforcing its or their rights pursuant to this Section 3.2. Such Capital Contribution shall accrue at the Interest Rate defined in Section 1.21 until paid in full and said amounts shall be charged against the Defaulting Member's Capital Account and/or be recovered against any monies due to the Defaulting Member until paid in full and such Defaulting Member shall not receive any Distributions as defined in this Agreement until such sum is fully paid; or

3.2.2 All Non-Defaulting Members, pro-rata to their Percentage(s) in the Company, shall have the ability to offer a loan to the Defaulting Member at the Interest Rate to cure the default.

3.3 Capital Accounts. The Company shall establish and maintain a separate Capital Account for each Member.

3.4 No Priorities of Members; No Withdrawals of Capital. Except as otherwise specified in this Agreement, no Member shall have a priority over any other Member as to any Distribution, whether by way of return of capital or by way of Profits, or as to any allocation of Profit, Loss or special allocations. No Member shall have any right to withdraw or reduce their Capital Contribution except as a result of the dissolution and liquidation of the Company, and no Member shall have the right to demand or receive property other than cash in return for their Capital Contribution. No Member has any right to, interest in, or claim against any specific property of the Company by reason of their Interest.

3.5 No Interest. Except as specifically provided herein, no Member shall be entitled to receive any interest on their Capital Contributions or Capital Account.

3.6 Certificates of Interest. The Company may issue certificates representing the outstanding Interests. Each certificate shall bear such legends as the Managing Member may determine.

ARTICLE IV MEMBERS

4.1 Resignations. Except as otherwise expressly provided herein, no Member may resign from the Company prior to the dissolution and liquidation of the Company (other than pursuant to a permitted Transfer of a Member's entire Interest in the Company pursuant to ARTICLE IX). A Member that resigns in contravention of this Agreement shall not be entitled to any consideration for his Interest as a result of such resignation and shall be liable to the Company and the other Members for any damages suffered by them as a result of such resignation. A Member that resigns from the Company shall cease to be a Member.

4.2 Action by Members.

4.2.1 Meetings of Members. Meetings of the Members may be called by the Manager or Managing Member, or in the case of any matter on which Members may vote, by any Member. Such meetings shall be held at the place, date and time that the Person(s) calling such meeting shall designate in the notice of the meeting. Members may participate in any meeting through the use of conference calls, Zoom or similar video conference platforms, or similar communications equipment as long as all Members participating can hear one another. A Member so participating is deemed to be present in person at the meeting. Except as otherwise provided herein, action at any meeting with respect to the Company requires the affirmative vote of Members owning a majority of the Percentages of the Members.

4.2.2 Notice of Meeting. At least two (2) calendar days prior written notice shall be given to the Members entitled to vote at such meeting, stating the place, date and time of the meeting, the Person(s) calling the meeting and the purpose for which the meeting is called. Notice of a meeting need not be given to any Member who submits a signed waiver of notice, in person or by proxy, whether before, at or after the meeting. All such waivers shall be filed with the Company records or made part of the minutes of the meeting. The attendance of a Member at the meeting, whether in person or by proxy, without protesting the lack of proper notice shall constitute a waiver of notice by such Member. All parties shall have the right to call into the meeting by telephone, if they cannot attend in person as well as having the option of assigning a person by proxy to represent them and to vote on any and all issues raised at such meeting.

4.2.3 Action by Consent. Any action that may be taken by Members at a meeting may also be taken without a meeting, if a consent in writing setting forth the action so taken is signed by Members owning a sufficient Percentage to take such action at a meeting at which all the Members entitled to vote on such action are present and voting, and such consent is delivered to the Manager or Managing Member within sixty (60) days after the date of the earliest signature

to such consent. Consents may be signed in counterparts and facsimile and PDF signatures shall be deemed originals. The Company shall retain such consents with the books and records of the Company and shall notify all Members of the action so taken.

4.3 Other Activities of Members. Nothing in this Agreement shall prevent a Member, Manager, Managing Member or officer from engaging or participating in any other activity, venture or enterprise, whether or not related to the Business and whether or not competitive with the Company. Being a Member of the Company does not entitle such Person to participate or otherwise have any interest in any other permitted activity, venture or enterprise of another Member, the Managing Member or an officer of the Company, unless otherwise agreed between them in writing.

4.4 Membership Interests. The Members shall maintain the respective voting, distribution and equitable Interests in the Company as is set forth on Schedule "A."

ARTICLE V MANAGEMENT AND CONTROL OF THE COMPANY

5.1 Management by the Managing Member.

5.1.1 Exclusive Management by the Manager or Managing Member. Except as otherwise expressly provided in this Agreement or as expressly required by a non-waivable provision of the Act, (a) the business, property and affairs of the Company shall be managed exclusively by the Manager or Managing Member, (b) the Manager or Managing Member shall have full, complete and exclusive authority, power and discretion to Manage and Control the Business, Property and affairs of the Company, to make all decisions regarding those matters, to bind the Company and to perform any and all other actions customary or incident to the management of the Company's Business, Property and affairs, and (c) no Member, other than the Managing Member (or the Manager), shall have any right or power to participate in the management of the Company or to bind the Company.

5.1.2 Performance of Duties. The Manager or Managing Member shall perform their managerial duties for the Company in accordance with the standard of care prescribed by Section 10.2. In performing his duties, the Manager or Managing Member shall be entitled to rely in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any Member, officer, employee or committee of the Company, or by any other Person, as to matters which the Manager or Managing Member reasonably believes are within such Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company (including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits or losses of the Company or any other facts pertinent to the existence and amount of assets from which Distributions might properly be made). For this purpose, if the Manager or Managing Member is responsible for the making of any Company records, the Manager or Managing Member may only rely on those records in good faith if that reliance is reasonable.

5.1.3 Devotion of Time. The Manager shall devote such time and effort

as they deem appropriate for the management of the Company's business, property and affairs. The Members acknowledge that the Manager is engaged in substantial other activities which require a substantial portion of their time and attention and that of its partners, officers, employees and agents.

5.2 Designation and Removal of the Manager or Managing Member.

5.2.1 Number of Manager or Managing Member. There shall be one (1) Manager or Managing Member.

5.2.2 Designation. The Members designate Richard Kooris as the Manager. If the Person designated as a Manager fails to qualify or resigns, then the Person designated by Members owning a majority of the Percentages of the Members shall be the Manager or Managing Member, provided such Person qualifies and is willing to serve. The Company shall promptly notify all of the Members of such designation.

5.2.3 Resignation. The Manager or Managing Member may resign upon twenty (20) days prior written notice to the Members. Resignation as Managing Member shall not affect the Managing Member's Interest, if any, as a Member.

5.3 Limitations on Powers of the Manager or Managing Member. Notwithstanding anything herein to the contrary, without the consent of the Members owning a majority of Membership Percentages, the Manager may not make decisions for the Company on certain "Fundamental Matters". For purposes hereof, "Fundamental Matters" shall mean any of the following matters:

- (a) Amend, modify or waive the Certificate of Formation or the LLC Agreement;
- (b) Make any material change to the nature of the Business conducted by the Company or enter into any business other than the Business;
- (c) Adopt or amend the Budget;
- (d) Issue additional Membership Interests or admit Additional Members to the Company;
- (e) Incur any indebtedness, pledge or grant liens on any assets or guarantee, assume, endorse or otherwise become responsible for the obligations of any other Person, except to the extent approved or authorized in the Budget, in excess of \$50,000 in any single transaction or series of related transactions, or in excess of \$50,000 in the aggregate at any time outstanding;
- (f) Make any loan, advance or capital contribution in excess of \$20,000 to or in favor of any Person; except to the extent approved or authorized in the Budget;
- (g) Merge or consolidate with or into another Person, enter into, transfer or terminate any business combination, partnership or joint venture with any other Person;

(h) Appoint or remove the Company's auditors or make any changes in the accounting methods or policies of the Company (other than as required by [GAAP]);

(i) Enter into, amend in any material respect, waive or terminate any Related Party Agreement other than the entry into a Related Party Agreement that is on an arm's length basis and on terms no less favorable to the Company than those that could be obtained from an unaffiliated third party;

(j) Enter into or effect any transaction or series of related transactions involving the purchase, lease, license, exchange or other acquisition (including by merger, consolidation, acquisition of stock or acquisition of assets) by the Company of any assets and/or equity interests of any Person, other than in the ordinary course of business consistent with past practices;

(k) Enter into or effect any transaction or series of related transactions involving the sale, lease, license, exchange or other disposition (including by merger, consolidation, sale of stock or sale of assets) by the Company of any assets, other than sales of inventory in the ordinary course of business consistent with past practices;

(l) Establish a Subsidiary or enter into any joint venture or similar business arrangement within Fifty (50) miles of the Company's Business;

(m) Commence, join in, or settle any claim, action, suit or proceeding by, against, or involving, the Company which may materially affect the operations of the Company;

(n) Settle any lawsuit, action, dispute or other proceeding or otherwise assume any liability with a value in excess of \$50,000 or agree to the provision of any equitable relief by the Company;

(o) Confess a judgment against the Company;

(p) Consummate an initial public offering or make a public offering and sale of the Membership Interests or any other securities;

(q) Make any investments in any other, company, entity or individual in excess of \$20,000; or

(r) Dissolve, wind-up or liquidate the Company or initiate a bankruptcy proceeding involving the Company.

(s) Enter into any refinance, loans, funding arrangement or other financial commitment on behalf of the Company with any institutional or private lender. Notwithstanding the foregoing, the Managing Member is authorized to initiate discussions and negotiations for such refinances, loans or funding arrangements so long as any commitment on behalf of the Company requires approval by a majority of the Membership Interest of the Company;

(t) Take any action which this Agreement requires the consent of Members as set forth elsewhere in this Agreement; or

(u) Agree to do any of the foregoing.

5.4 Transactions with the Manager or Managing Member and his Affiliates.

5.4.1 Compensation. The Manager or Managing Member shall not receive compensation from the Company for their services as Manager, except as outlined below. Additionally, the Company shall reimburse the Manager for all reasonable out-of-pocket costs and expenses incurred by the Manager in connection with the business and affairs of the Company.

5.4.2 Management Fee. There shall be no management fee. Notwithstanding the foregoing, the Manager is authorized to retain and pay Kookaburra Management LLC to handle certain management responsibilities.

5.4.3 Arm's Length Transactions. Any transaction or fees between the Company and a Manager or Managing Member or an Affiliate of a Managing Member shall be at arm's length, upon terms no less favorable to the Company than would be obtained from unrelated third parties dealing at arm's length. The Members agree that the allocations and Distributions pursuant to this Agreement satisfy such standard.

5.5 Officers. The Manager may appoint such officers of the Company with such powers and duties as the Manager may determine from time to time. Each officer shall serve at the pleasure of the Manager. An individual may hold any number of offices.

5.6 Day-to-Day Management of the Property. The Company shall hire Kookaburra Management LLC for the services of Amy Angelo and Scott Angelo (collectively, the "Managers") to manage the day-to-day business of the Company and the Property pursuant to a separate Management Agreement, and subsequent agreements, to be entered into between the Company and the Managers. Notwithstanding the foregoing, the Members may overturn any decision made by the Managers through an affirmative vote of Members owning a majority of the Percentages of the Members. In the event that: (i) the Managers stop managing the day-to-day business of the Company and Property; (ii) the Manager or Managing Member determines, in their sole discretion, that the Managers are not doing a satisfactory job in performing their duties pursuant to the Management Agreement; (iii) the Managers cease to be a tenant at the Property without written consent of the Company; or (iv) the Managers' business goes out of business; then the Company shall have the right to buy the Managers' Interest in the Company at the then Fair Market Value, as determined by the Manager or Managing Member based on a formula taking into account the Company's actual earnings.

ARTICLE VI ALLOCATIONS OF PROFIT, LOSS AND DISTRIBUTIONS

6.1 Allocation of Profit. Profit for each Fiscal Year shall be allocated to the Members in accordance with the following order of priority:

(a) Profit up to the excess, if any, of the aggregate Loss allocated pursuant to Section 6.2(c) for any prior Fiscal Year over the aggregate Profit previously allocated pursuant to this Section 6.1(a) shall be allocated to the Members in proportion to their respective Percentages for each Member;

(b) Any remaining Profit up to the excess, if any, of the aggregate Loss allocated pursuant to Section 6.2(b) for any prior Fiscal Year over the aggregate Profit previously allocated pursuant to this Section 6.1(b) shall be allocated to the Members in proportion to the Capital Contributions for each Member;

(c) Notwithstanding the provisions of Section 6.5 below, any remaining Profit shall be allocated back to the Company.

6.2 Allocation of Loss. Loss for each Fiscal Year shall be allocated to the Members in accordance with the following order of priority:

(a) Loss up to the excess, if any, of the aggregate Profit allocated pursuant to Section 6.1(c) for any prior Fiscal Year over the sum of the aggregate Loss previously allocated pursuant to this Section 6.2(a) and the aggregate amount previously allocated to the Members in proportion to the Capital Contribution for each Member;

(b) Any remaining Loss up to the aggregate Adjusted Capital Account balances of the Members having positive Adjusted Capital Account balances shall be allocated to the Members in proportion to such Adjusted Capital Account balances; and

(c) Any remaining Loss shall be allocated to the Members in proportion to their respective Percentages.

6.3 Special Allocations

6.3.1 Minimum Gain Chargeback. In the event there is a net decrease in the Company Minimum Gain during any Fiscal Year, the minimum gain chargeback provisions described in Treasury Regulations § 1.704-2(f) and (g) shall apply.

6.3.2 Member Minimum Gain Chargeback. In the event there is a net decrease in Member Minimum Gain during any Fiscal Year, the partner minimum gain chargeback provisions described in Treasury Regulations § 1.704-2(i) shall apply.

6.3.3 Qualified Income Offset. In the event a Member unexpectedly receives an adjustment, allocation or Distribution described in Treasury Regulations § 1.704-1(b)(2)(ii)(d)(4), (5) or (6), which adjustment, allocation or Distribution creates or increases a deficit balance in that Member's Capital Account, the "qualified income offset" provisions described in Treasury Regulations § 1.704-1(b)(2)(ii)(d) shall apply.

6.3.4 Nonrecourse Deductions. Nonrecourse Deductions shall be allocated to the Members in proportion to their respective Percentages.

6.3.5 Member Nonrecourse Deductions. Member Nonrecourse Deductions shall be allocated to the Members as required in Treasury Regulations § 1.704-2(i)(1).

6.3.6 Intention. The special allocations in Section 6.3 are intended to comply with certain requirements of the Treasury Regulations and shall be interpreted consistently therewith. It is the intent of the Members that any special allocation pursuant to Section 6.3 shall be offset with other special allocations pursuant to Section 6.3. Accordingly, special allocations of Company income, gain, loss or deduction shall be made in such manner that, in the reasonable determination of the Manager or Managing Member, taking into account likely future allocations under Section 6.3, after such allocations are made, each Member's Capital Account is, to the extent possible, equal to the Capital Account it would have been where Section 6.3 not part of this Agreement.

6.4 Tax Allocation Matters.

6.4.1 Contributed or Revalued Property. Each Member's allocable share of the taxable income or loss of the Company, depreciation, depletion, amortization and gain or loss with respect to any contributed property, or with respect to Company property that is revalued pursuant to Treasury Regulations § 1.704-1(b)(2)(iv)(f) or Section 1.8, shall be determined in the manner (and as to revaluations, in the same manner as) provided in Section 704(c) of the Code. The allocation shall take into account, to the full extent required or permitted by the Code, the difference between the adjusted basis of the property to the Member contributing (or deemed to be contributing) it and the Fair Market Value of the property at the time of its contribution or revaluation, as the case may be, determined by the Managing Member. The Company shall apply Section 704(c)(1)(A) by using the "traditional method" as set forth in Treasury Regulations § 1.704-3(b).

6.4.2 Recapture Items. In the event that the Company has taxable income in any Fiscal Year that is characterized as ordinary income under the recapture provisions of the Code, each Member's distributive share of taxable gain or loss from the sale of Company assets (to the extent possible) shall include a proportionate share of this recapture income equal to that Member's share of prior cumulative depreciation deductions with respect to the assets which gave rise to the recapture income.

6.4.3 Consistent Treatment. All items of income, gain, loss, deduction and credit of the Company shall be allocated among the Members for federal income tax purposes in a manner consistent with the allocation of the corresponding items under this ARTICLE VI. Each Member is aware of the income tax consequences of the allocations made by this ARTICLE VI and hereby agrees to be bound by the provisions of this ARTICLE VI in reporting their share of Company income, gain, loss, deduction and credit for income tax purposes. No Member shall report on their tax return any transaction by the Company, any amount allocated or distributed from the Company or contributed to the Company inconsistently with the treatment reported (or to be reported) by the Company on its tax return nor take a position for tax purposes that is inconsistent with the position taken by the Company.

6.5 Distributions.

6.5.1 Distributions. The Company may make Distributions to the Members as needed and at such times and in such amounts as the Manager or Managing Member may determine.

6.5.2 Order of Distributions. The Company shall make Distributions in cash, to the extent there is Distributable Cash, to the Members in the following order of priority:

- (a) Repayment of all other outstanding Company loans, in the order and priority that they were entered into by the Company, except subject to Section 6.5.1;
- (b) Any bonus or salaries determined due and payable to the Managing Member; and
- (c) Distributions shall be made to the Members in proportion to their respective Percentages.

6.5.3 Distributions in Kind. The Company may make Distributions in property (other than cash) at such times and in such amounts as the Manager or Managing Member may determine. Any such Distributions shall be made to the Members in proportion to their respective Percentages, unless a Member agrees to take such property in lieu of a Distribution that it would otherwise receive under Section 6.5.2. Any property (other than cash) Distributed to one or more Members shall first be valued at its Fair Market Value as determined by the Manager to determine the Profit, Loss and special allocations that would have resulted if the property had been sold for such value, which amounts shall be allocated pursuant to Article VI, and the Members' Capital Accounts shall be adjusted to reflect those allocations. The amount Distributed and charged to the Capital Account of each Member receiving an interest in the Distributed property shall be the Fair Market Value of such interest as determined by the Managing Member (net of any liability secured by the asset that the Member assumes or takes subject to).

6.5.4 Limitations on Distributions. Notwithstanding anything herein to the contrary, the Company may not make a Distribution to a Member to the extent that at the time of the Distribution, after giving effect to the Distribution, all liabilities of the Company (other than to Members on account of their Interests and liabilities for which the recourse of creditors is limited to specified property of the Company) exceed the Fair Market Value of the assets of the Company (except that the Fair Market Value of property that is subject to a liability for which the recourse of creditors is limited to such property shall be included in the assets of the Company only to the extent the Fair Market Value of such property exceeds that liability).

6.6 Allocations in Respect of a Transferred Interest.

6.6.1 Allocation. If there is a change in any Member's Percentage for any reason during any Fiscal Year, each item of income, gain, loss, deduction, or credit of the Company for that Fiscal Year shall be assigned pro rata to each day in that Fiscal Year in the case of items allocated based on Percentages, and the amount of such item so assigned to any such day shall be allocated to the Member based upon that Member's Percentage at the close of that day. Notwithstanding the foregoing, the net amount of gain or loss realized by the Company in connection with the sale or other disposition of property other than in the ordinary course of

Business shall be allocated solely to Members having a Percentage of Membership on the date of such sale or other disposition.

6.6.2 Distributions. Except as otherwise provided herein, all Distributions shall be allocated among the Members in accordance with their respective Percentages of Membership on the date of the Distribution.

6.6.3 Attributes. If any Interest is Transferred pursuant to the terms of this Agreement, the transferee shall succeed to the Capital Account, excess contributions, and any other relevant attribute of the transferor to the extent it is attributable to the Interest so Transferred.

6.7 Order of Application. To the extent that any allocation, Distribution or adjustment specified in this Agreement affects the results of any other allocation, Distribution or adjustment required herein, the allocations, Distributions and adjustments specified in the following Sections shall be made in the priority listed and in the order set forth therein:

- (a) Section 6.5;
- (b) Section 6.4;
- (c) Section 6.3;
- (d) Section 6.2;
- (e) Section 6.1; and
- (f) Section 10.4.

To the extent possible, these provisions shall be applied as if all Distributions and allocations were made at the end of the Company's Fiscal Year. Where any provision depends on the Capital Account of any Member, that Capital Account shall be determined after the operation of all preceding provisions for the Fiscal Year.

6.8 Allocation of Excess Nonrecourse Liabilities. "Excess nonrecourse liabilities" of the Company as used in Treasury Regulations § 1.752-3(a)(3) shall first be allocated among the Members pursuant to the "additional method" described in such section and then in accordance with the Members' respective Percentages.

6.9 Form of Distribution. No Member has the right to demand or receive any Distribution from the Company in any form other than money. No Member may be compelled to accept from the Company a Distribution of any asset in kind in lieu of a proportionate Distribution of money being made to other Member(s), and except with respect to a Distribution of an asset in kind pro rata to all of the Members with an Interest or upon a dissolution and the winding up of the Company, no Member may be compelled to accept a Distribution of any asset in kind.

6.10 Amounts Withheld. Any amounts withheld with respect to a Member pursuant to any federal, state, local or foreign tax law from a Distribution by the Company to the Member shall be treated as distributed to such Member pursuant to Section 6.5 or 10.4. Any other amount

required to be paid by the Company to a taxing authority with respect to a Member pursuant to any federal, state, local or foreign tax law in connection with any payment to or tax liability (estimated or otherwise) of the Member shall be treated as a loan from the Company to such Member. If such loan is not repaid within thirty (30) days from the date the Managing Member notifies such Member of such withholding, the loan shall bear interest at the Interest Rate from the date of the applicable notice to the date of repayment. In addition to all other remedies the Company may have, the Company may withhold Distributions that would otherwise be payable to such Member and apply such amount toward repayment of the loan and interest.

ARTICLE VII TRANSFER OF INTERESTS

7.1 Transfer of Interests. Except as otherwise expressly provided in this ARTICLE VII, no Member may Transfer all or any portion of their Interest. Any attempted Transfer in violation of this ARTICLE VII hereof shall be null and void *ab initio*, and shall not bind the Company. Unless the transferee is a Member or is admitted as a Member, a permitted Transfer shall only Transfer a right to allocations and Distributions hereunder. Upon the Transfer of a Member's entire Interest, the transferor shall cease to be a Member.

7.2 Permitted Transfers. Subject to the provisions of Sections 7.3, 7.4 and 7.5, the restrictions upon Transfer specified in Section 7.1 shall not apply to any Transfer by a Member (a) to the transferor's spouse or lineal descendant(s) who are over the age of twenty-one (21) years, or to a trust solely for the benefit of the transferor and/or any such Person irrespective of the age of the beneficiary, and from such trust to any such beneficiary, (b) to a Member or lineal descendant(s) of a Member who are over the age of twenty-one (21) years, or a trust solely for the benefit of the transferor and/or any such Person irrespective of the age of the beneficiary, and from such trust to any such beneficiary, or (c) with the prior written consent of the Managing Member, which consent may be withheld, delayed or conditioned in their sole reasonable discretion, to any other Person; *provided, however*, that such permitted transferee (other than a Person who is already a Member) agrees in writing to become a party to this Agreement and to be subject to the terms and conditions hereof.

7.3 Further Restrictions on Transfers. Notwithstanding anything herein to the contrary, in addition to any other restrictions on a Transfer of an Interest, no Interest may be Transferred (a) without compliance with the Securities Act and any other applicable securities or "blue sky" laws, (b) if, in the determination of the Managing Member, the Transfer could result in the Company not being classified as a partnership for federal income tax purposes, (c) if, in the determination of the Managing Member, the Transfer could cause the Company to become subject to the Investment Company Act of 1940, (d) if, in the determination of the Managing Member, the Transfer results in the termination of the Company under Section 708 of the Code and such termination has a material adverse effect on the Company or the Members; or (e) the transferee is a minor or incompetent.

7.4 Admission of Transferee as a Member. Upon a Transfer of an Interest to a permitted transferee pursuant to Section 7.2, the permitted transferee shall be admitted as a Member. Except as provided in the preceding sentence, no transferee of an Interest who is not

already a Member shall become a Member without the prior consent of the Members through an affirmative vote of the Members holding a majority of Membership Percentages in the Company that are in good standing at the time the transferee is seeking to be admitted, and the transferee pays to the Company a transfer fee in cash which is sufficient, in the Members' sole determination, to cover all expenses incurred by the Company in connection with the Transfer and admission of the transferee as a Member.

7.5 Bring-Along Rights.

7.5.1 Drag-Along Rights. If Members owning a majority of the Interests entitled to vote determine to sell all or substantially all of their Interests to a purchaser who is not an Affiliate of any such Member pursuant to a *bona fide* offer, all the Members and their permitted transferees to whom Interests were transferred shall sell a proportionate amount of their Interests to the purchaser on the same terms and conditions (determined on the basis of their relative Liquidation Values). Notwithstanding the foregoing, the Managing Member must agree to such sale, in writing, or such majority of Members shall be unable to compel the sale of a proportionate share of the Interests of the remaining Members.

7.5.2 Tag-Along Rights. If a Member (the "Seller") determines to Transfer in one (1) or more related transactions, a portion of their Interests having a majority of the aggregate Percentages to a purchaser who is not an Affiliate of any such Member pursuant to a *bona fide* offer, the Seller shall provide the other Members (the "Remaining Members") with at least Twenty (20) days prior written notice of the Transfer, together with a copy of the offer and a description of the terms, including the price for the Interest(s) proposed to be Transferred (the "Notice"). Each Remaining Member shall have the right, by delivery to the Seller of written notice, within such twenty (20) day period, to Transfer a portion of their Interest equal to the same proportion as the proportion of the Seller's Percentages proposed to be Transferred bears to the total Seller's Percentages, to the purchaser on terms and conditions consistent with the Transfer by the Seller. For example, if Seller Members are transferring Fifty Percent (50%) of their Membership Interest(s), then, upon proper Notice to all Remaining Members, such Remaining Members may "Tag Along" and sell their pro-rata (in this case Fifty Percent (50%) Membership Interest(s) too. The aggregate purchase price for the Interests sold shall be allocated among the Seller Members in proportion to their respective Liquidation Values on the date of the Notice.

7.6 Enforcement. The restrictions on Transfer contained in this Agreement are an essential element in the ownership of an Interest. Upon application to any court of competent jurisdiction, a Member shall be entitled to a decree against any Person violating or about to violate such restrictions, requiring their specific performance, including those prohibiting a Transfer of all or a portion of their Interest.

7.7 Deadlock. If the Members are unable to agree on any of the matters described in this Section 7 of the LLC Agreement or "Fundamental Matters" and such disagreement continues for fourteen (14) days despite good faith deliberations by the Members (a "Deadlock"), then any Member shall be entitled to exercise the Buy-Sell rights set forth in this Agreement in ARTICLE IX by delivering a Buy-Sell Offer Notice (as defined herein). For purposes hereof, "Fundamental Matters" shall mean any of the following matters:

- (a) Amend, modify or waive the Certificate of Formation or the LLC Agreement;
- (b) Make any material change to the nature of the Business conducted by the Company or enter into any business other than the Business;
- (c) Adopt or amend the Budget;
- (d) Issue additional Membership Interests or admit additional Members to the Company;
- (e) Incur any indebtedness, pledge or grant liens on any assets or guarantee, assume, endorse or otherwise become responsible for the obligations of any other Person except to the extent approved or authorized in the Budget in excess of \$50,000 in any single transaction or series of related transactions, or in excess of \$50,000 in the aggregate at any time outstanding;
- (f) Make any loan, advance or capital contribution to or in any Person except to the extent approved or authorized in the Budget in excess of \$20,000.
- (g) Appoint or remove the Company's auditors or make any changes in the accounting methods or policies of the Company (other than as required by [GAAP]);
- (h) Enter into, amend in any material respect, waive or terminate any Related Party Agreement other than the entry into a Related Party Agreement that is on an arm's length basis and on terms no less favorable to the Company than those that could be obtained from an unaffiliated third party;
- (i) Enter into or effect any transaction or series of related transactions involving the purchase, lease, license, exchange or other acquisition (including by merger, consolidation, acquisition of stock or acquisition of assets) by the Company of any assets and/or equity interests of any Person, other than in the ordinary course of business consistent with past practice;
- (j) Enter into or effect any transaction or series of related transactions involving the sale, lease, license, exchange or other disposition (including by merger, consolidation, sale of stock or sale of assets) by the Company of any assets, other than sales of inventory in the ordinary course of business consistent with past practice;
- (k) Establish a Subsidiary or enter into any joint venture or similar business arrangement within Fifty (50) miles of the Company's Business;
- (l) Settle any lawsuit, action, dispute or other proceeding or otherwise assume any liability with a value in excess of \$50,000 or agree to the provision of any equitable relief by the Company;
- (m) Initiate or consummate an initial public offering or make a public offering and sale of the Membership Interests or any other securities;
- (n) Make any investments in any other, company, entity or individual in excess of \$50,000; or

(o) Enter into any refinance, loans, funding arrangement or other financial commitment on behalf of the Company with any institutional or private lender. Notwithstanding the foregoing, the Managing Member is authorized to initiate discussions and negotiations for such refinances, loans or funding arrangements so long as any commitment on behalf of the Company requires approval by a majority of the Membership Interest of the Company;

(p) Dissolve, wind-up or liquidate the Company or initiate a bankruptcy proceeding involving the Company.

ARTICLE VIII

DEATH OR DISABILITY OF A MEMBER

8.1. *Intentionally deleted.*

ARTICLE IX BUY-SELL RIGHTS

9.1 Buy-Sell Rights. Each Member shall, at all times, have the right to buy or sell their Member interests (the "Buy-Sell Right").

9.2 Buy-Sell Offer Notice. If a Member wishes to exercise the buy-sell right provided in Section 9.1 above, such Member (the "Initiating Member") shall deliver to the other Member (the "Responding Member") written notice (the "Buy-Sell Offer Notice") of such election, which notice shall include (a) a description of the circumstances that triggered the use of the buy-sell right, and (b) the purchase price (which shall be payable exclusively in cash (unless otherwise agreed to in writing)) at which the Initiating Member shall (i) purchase all of the Membership Interests owned by the Responding Member(s) (the "Buy-out Price") or (ii) sell all of its Membership Interests to the Responding Member(s) (the "Sell-out Price"), with any difference between the Buy-out Price and the Sell-out Price based solely on each Member's Membership Interest in the Company, without regard to any market discount or premium from differences in such proportionate interests. If more than one (1) Member wishes to become a Responding Member such sold Membership Interests shall be split proportionately among the Responding Members in accordance to their existing Membership Interests.

9.3 Response Notice. Within thirty (30) days after the Buy-Sell Offer Notice is received (the "Buy-Sell Election Date"), the Responding Member(s) shall deliver to the Initiating Member a written notice (the "Response Notice") stating whether it elects to (a) sell all of its Membership Interests to the Initiating Member for the Buy-out Price or (b) buy all of the Membership Interests owned by the Initiating Member for the Sell-out Price. The failure of the Responding Member to deliver the Response Notice by the Buy-Sell Election Date shall be deemed to be an election to sell all of its Membership Interests to the Initiating Member at the Buy-out Price.

9.4 Closing. The closing of any purchase and sale of Membership Interests pursuant to this Agreement shall take place within thirty (30) days after the Response Notice is delivered or deemed to have been delivered or some other date mutually agreed upon by the parties. The Buy-out Price or the Sell-out Price, as the case may be, shall be paid at closing by wire transfer of immediately available funds to an account designated in writing by the selling Member (the

"Selling Member"). At the closing, the Selling Member shall deliver to the purchasing Member (the "Purchasing Member") good and marketable title to its Membership Interests, free and clear of all liens and encumbrances. Each Member agrees to cooperate and take all actions and execute all documents reasonably necessary or appropriate to reflect the purchase of the Selling Member's Membership Interest by the Purchasing Member.

ARTICLE X ACCOUNTING, RECORDS AND REPORTING

10.1 Books and Records. The books and records of the Company shall be kept, and the financial position and the results of its operations recorded, in accordance with the Company's method of accounting, consistently applied. The books and records of the Company shall reflect all Company transactions and shall be appropriate and adequate for the Company's business. The Company shall maintain all of the following at its principal office, with copies available at all times during normal business hours for inspection and copying upon reasonable notice by any Member or their authorized representatives for any purpose reasonably related to the Interest of that Member, including, but not limited to:

- (a) true and full information regarding the status of the business and financial condition of the Company;
- (b) promptly after becoming available, a copy of the Company's federal, state and local income tax returns, if any, for each Fiscal Year;
- (c) a current list of the name and last known business, residence or mailing address of each Member and Managing Member;
- (d) a copy of this Agreement and the Articles of Organization and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which this Agreement or the Articles of Organization or any amendments thereto have been executed; and
- (e) true and full information regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each Member and which each Member has agreed to contribute in the future, and the date on which each became a Member.

10.2 Tax Reports. The Company shall cause to be prepared and duly and timely filed, at the Company's expense, all tax returns required to be filed by the Company. The Company shall send to each Member within ninety (90) days after the end of each Fiscal Year such information relating to the Company as is necessary for the Member to complete their federal, state and local income tax returns that include such Fiscal Year.

10.3 Accounts; Invested Funds. All funds of the Company shall be deposited in such account or accounts of the Company as may be determined by the Managing Member and shall not be commingled with the funds of any other Person. All withdrawals therefrom shall be made upon checks signed by such Persons and in such manner as the Managing Member may determine. Temporary surplus funds of the Company may be invested in commercial paper, time deposits, short-term government obligations or other investments determined by the Managing Member.

10.4 Tax Elections. No Member or Managing Member shall elect to treat the Company as an association taxable as a corporation without the vote of Members owning a majority of the Percentages of the Members. Except as otherwise expressly provided herein, the Company shall make such tax elections as the Managing Member may determine.

10.5 Tax Matters Partner.

10.5.1 Designation. As long as he qualifies as tax matters partner under the Code, Richard Kooris shall be the Tax Matters Partner. If there is no Tax Matters Partner, the Person meeting the requirements for a tax matters partner under Code Section 6231(a)(7) and designated by vote of Members owning a majority of the Percentages of the Members shall be the Tax Matters Partner. The Tax Matters Partner may resign in the same manner as the Managing Member pursuant to Sections 5.2.3, which shall be applied by substituting “Tax Matters Partner” for “Managing Member”.

10.5.2 Powers. The Tax Matters Partner shall have all of the powers and authority of a tax matters partner under the Code. The Tax Matters Partner shall represent the Company (at the Company’s expense) in connection with all administrative and/or judicial proceedings by the Internal Revenue Service or any taxing authority involving any tax return of the Company and may expend the Company’s funds for professional services and costs associated therewith. The Tax Matters Partner shall provide to the Members prompt notice of any communication to or from or agreements with a federal, state, or local taxing authority regarding any tax return of the Company, including a summary of the provisions thereof.

10.6 Confidentiality. All books, records, financial statements, tax returns, budgets, business plans and projections of the Company, all other information concerning the business, affairs and properties of the Company and all of the terms and provisions of this Agreement shall be held in confidence by the Managing Member and Member and their respective Affiliates, subject to any obligation to comply with (a) any applicable law, (b) any rule or regulation of any legal authority or securities exchange or (c) any subpoena or other legal process to make information available to the Persons entitled thereto. Such confidentiality shall be maintained until such time, if any, as any such confidential information either is, or becomes, published or a matter of public knowledge (other than as a result of a breach of this Section 10.6 by such Person or its Affiliate).

ARTICLE XI

DISSOLUTION AND WINDING UP

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

- (a) a determination of the Members to dissolve the Company through an affirmative vote of the majority of the Members;
- (b) the sale of all or substantially all of the assets of the Company;
- (c) ninety (90) days after the date on which there are no Members, unless a Member is admitted within such period;
- (d) the entry of a judicial decree of dissolution of the Company pursuant to the Act.

11.2 Date of Dissolution. Dissolution of the Company shall be effective on the day on which the event occurs giving rise to the dissolution, but the Company shall not terminate until its assets have been liquidated and distributed as provided herein. Notwithstanding a dissolution, prior to termination, the business and the rights and obligations of the Members, as such, shall continue to be governed by this Agreement.

11.3 Winding Up. Upon the occurrence of any event specified in Section 11.1, the Company shall continue solely for the purpose of winding up its affairs in an orderly manner, liquidating its assets, satisfying the claims of its creditors, and distributing any remaining assets in cash or in kind, to the Members. The Manager or Managing Member shall be responsible for overseeing the winding up and liquidation of the Company and shall cause the Company to sell or otherwise liquidate all of the Company's assets except to the extent the Managing Member determines to distribute any assets to the Members in kind, discharge or make reasonable provision for all of the liabilities of the Company and all costs relating to the dissolution, winding up, and liquidation and distribution of assets, 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, the amounts of such reserves shall be deemed to be an expense of the Company), and distribute the remaining assets to the Members, in the manner specified in Section 11.4. The Manager or Managing Member shall be allowed a reasonable time for the orderly liquidation of the Company's assets and discharge of its liabilities, so as to preserve and upon disposition maximize, to the extent possible, the value of such assets.

11.4 Liquidating Distributions. The Company's assets, or the proceeds from the liquidation thereof, shall be applied in cash or in kind in the following order:

- (a) to creditors (including Members who are creditors (other than on account of their Capital Accounts)) to the extent otherwise permitted by applicable law in satisfaction of liabilities of the Company, including expenses of the liquidation (whether by payment of the

making of reasonable provision for payment thereof), other than liabilities for which reasonable provision for payment has been made;

(b) to the establishment of such reserves for contingent liabilities of the Company as are deemed reasonably necessary by the Manager or Managing Member (other than liabilities for which reasonable provision for payment has been made); *provided, however*, that such reserves shall be held for the purpose of disbursing such reserves for the payment of such contingent liabilities and, at the expiration of such period as the Managing Member may reasonably deem advisable, for the purpose of distributing the remaining balance in accordance with subparagraph (c) and (d) below;

(c) to the Members, in accordance with their respective positive Capital Account balances (after giving effect to all contributions, distributions, allocations and other Capital Account adjustments for all Fiscal Years, including the Fiscal Year in which the liquidation occurs).

11.5 Distributions in Kind. Any non-cash asset distributed to one or more Members shall first be valued at its Fair Market Value as determined by the Manager or Managing Member to determine the Profit, Loss and special allocations that would have resulted if that asset had been sold for that value, which amounts shall be allocated pursuant to ARTICLE VI, and the Members' Capital Accounts shall be adjusted to reflect those allocations. The amount distributed and charged to the Capital Account of each Member receiving an interest in the distributed asset shall be the Fair Market Value of such interest as determined by the Managing Member (net of any liability secured by the asset that the Member assumes or takes subject to).

11.6 No Liability. Notwithstanding anything herein to the contrary, upon a liquidation within the meaning of Treasury Regulations § 1.704-1(b)(2)(ii)(g), if any Member has a deficit Capital Account balance (after giving effect to all contributions, distributions, allocations and other Capital Account adjustments for all Fiscal Years, including the Year in which such liquidation occurs), neither that Member, Manager nor the Managing Member shall have any obligation to make any contribution to the capital of the Company, and the deficit balance of that Member's Capital Account shall not be considered a debt owned by that Member or the Managing Member to the Company or to any other Person for any purpose whatsoever.

11.7 Limitations on Payments Made in Dissolution. Each Member shall be entitled to look only to the assets of the Company for the return of that Member's positive Capital Account balance and no Member, Manager or Managing Member or officer of the Company shall have any personal liability therefor.

11.8 Articles of Dissolution. Upon completion of the winding up of the Company, the Company shall file an Articles of Dissolution with the Florida Secretary of State to cancel the Articles of Organization.

ARTICLE XII

LIMITATION OF LIABILITY; STANDARD OF CARE; INDEMNIFICATION

12.1 Limitation of Liability. Except as otherwise required by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Member, Managing Member or officer of the Company shall be obligated personally for any such debt, obligation or liability of the Company, or for any debt, or liability of another Member, Manager or Managing Member or officer of the Company solely by reason of being a Member, Manager or Managing Member and/or officer of the Company.

12.2 Standard of Care. No Managing Member, Manager, Member or officer of the Company shall have any personal liability whatsoever to the Company, any Member, Affiliate of the Company or any Affiliate of any Member on account of such Person's status as Managing Member, Member or officer of the Company or any of the foregoing, or by reason of such Person's acts or omissions in connection with the conduct of the business of the Company, so long as such Person acts in good faith for a purpose which the Person reasonably believes to be in, or not opposed to, the best interests of the Company or any act or omission by an employee, independent contractor or agent of the Company, so long as the selection of such employee, independent contractor or agent was within the scope of such Person's authority and such Person exercised reasonable care in selecting such employee, independent contractor or agent; *provided, however*, that nothing contained herein shall protect any such Person against any liability to which such Person would otherwise be subject by reason of such Person's gross negligence or willful misconduct.

12.3 Indemnification.

11.3.1 The Company shall indemnify and hold harmless any Person made, or threatened to be made, a party to an action or proceeding, whether civil, criminal or investigative (a "proceeding"), including an action by or in the right of the Company, by reason of the fact that such Person was or is the Manager or Managing Member, a Member (including in the capacity of the Tax Matters Partner) or an officer of the Company or of any of the foregoing, from and against all judgments, fines, amounts paid in settlement and reasonable expenses (including investigation, accounting and attorneys' fees) incurred as a result of such proceeding, or any appeal therein if such Person acted in accordance with the standard of care prescribed in Section 12.2, and in a criminal proceeding, in addition, such Person had no reasonable cause to believe that their conduct was unlawful; *provided, however*, that nothing contained herein shall permit any Person to be indemnified or held harmless if and to the extent the liability sought to be indemnified or held harmless against results from such Person's gross negligence or willful misconduct. The termination of any such civil or criminal proceeding by judgment, settlement, conviction or upon a plea of *nolo contendere*, or its equivalent, shall not in itself create a presumption that any such Person did not act in good faith, for a purpose which he reasonably believed to be in, or not opposed to, the best interests of the Company, that he did not exercise reasonable care in selecting an employee, independent contractor or agent, that an act or omission involved actual fraud or willful misconduct, or that he had reasonable cause to believe that their conduct was unlawful. The

Company's indemnification obligations hereunder shall survive the termination of the Company. Each indemnified Person shall have a claim against the net assets of the Company for payment of any indemnity amounts from time to time due hereunder, which amounts shall be paid or properly reserved for prior to the making of Distributions by the Company to the Members.

12.3.2 Each of the Members hereby agrees to indemnify, defend and hold the other Members, Manager, the Managing Member, the Company, the officers of the Company and the employees of the Company harmless, including all costs and reasonable legal fees, from and against any and all claims which arise out of or relate to a certain Members negligent act, or claims arising from or related to the personal conduct or actions of Member outside of the scope of the Members employment with the Company.

12.4 Contract Right; Expenses. The right to indemnification conferred in this ARTICLE XII shall be a contract right. The Company may advance the expenses incurred by the indemnified Person in defending any such proceeding in advance of its final disposition, provided such Person agrees to repay any amount that it is ultimately determined such Person is not entitled to receive under this ARTICLE XI.

12.5 Indemnification of Employees and Agents. In addition to the indemnification provided in Section 12.3 and 12.4, the Company may, to the extent authorized from time to time by the Manager or Managing Member, grant rights to indemnification and to advancement of expenses to any employee, independent contractor or agent of the Company and/or to their officers, directors, shareholders, partners, members, managers, employees, independent contractors or agents, up to the extent provided to an indemnified Person pursuant to Sections 12.3 and 12.4.

12.6 Nonexclusive Right. The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this ARTICLE XII shall not be exclusive of any other right which any Person may have or hereafter acquire under any statute or agreement, or under any insurance policy obtained for the benefit of any indemnified Person.

12.7 Severability. If any provision of this ARTICLE XII is determined to be unenforceable in whole or in part, such provision shall nonetheless be enforced to the fullest extent permissible, it being the intent of this ARTICLE XII to provide indemnification to all Persons eligible hereunder to the fullest extent permitted by applicable law.

12.8 Insurance. In the discretion of the Managing Member, the Company may purchase and maintain insurance on behalf of an indemnified Person (and for each such indemnified Person who was a Manager, Managing Member, Member or officer of the Company for a reasonable period after ceasing to have such status) against any liability that may be asserted against that Person and incurred by that Person in any such capacity or arising out of that Person's connection with the Company. In addition, in the discretion of the Managing Member, the Company may purchase and maintain insurance on behalf of any other Person who is or was an employee, independent contractor or agent of the Company, and/or their officers, directors, shareholders, partners, members, managers, employees, independent contractors or agents, whether or not the

Company would be required to indemnify that Person against liability under the provisions of ARTICLE XII or under applicable law.

ARTICLE XIII INVESTMENT REPRESENTATIONS

Each Member represents and warrants to the Members and the Company as follows:

13.1 Authority. The Member has the requisite power and authority to enter into this Agreement. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby do not violate any other agreement to which the Member is a party. This Agreement constitutes a valid and binding agreement of the Member, enforceable against the Member in accordance with its terms, except that such enforcement may be subject to bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other laws, whether now or hereafter in effect, relating to or limiting creditors' rights generally and (b) enforcement of this Agreement may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

13.2 Preexisting Relationship or Experience. By reason of the Member's business or financial experience, or by reason of the business or financial experience of the Member's financial advisor who is unaffiliated with and who is not compensated, directly or indirectly, by the Company or any Affiliate or selling agent of the Company, the Member is capable of evaluating the risks and merits of an investment in their Interest and of protecting the Member's own interests in connection with the investment.

13.3 Access to Information. Each Member has had an opportunity to review all documents, records and books pertaining to this investment and has been given the opportunity to consult with counsel of their choice with respect to all aspects of this investment, the Company's proposed business activities. To the extent desired, such Member has met with representatives of the Manager or Managing Member and has been provided with such information as may have been requested and has at all times been given the opportunity to obtain additional information necessary to verify the accuracy of the information received and the opportunity to ask questions of and receive answers concerning the terms and conditions of the investment and the nature and prospects of the Company's business.

13.4 Economic Risk. The Member is financially able to bear the economic risk of an investment in their Membership Interest, including the total loss thereof.

13.5 Investment Intent. The Member is acquiring their Interest for investment purposes and for the Member's own account only and not with a view to, or for sale in connection with, any distribution of all or any part of their Interest. Except for the shareholders or members of the Members, no other Person will have any direct or indirect beneficial interest in, or right to, their Interest.

13.6 Consultation with Attorney; Conflict. Each Member has been advised to consult with their or her own attorney regarding all legal and tax matters concerning an investment in their Interest, has had adequate opportunity to do so and has done so to the extent they consider

necessary. The Member acknowledges and understands that the interests of each Member may be different with respect to this Agreement and the Member waives any conflict of interest that may exist with respect to the preparation of this Agreement.

13.7 Interest is Restricted Security. Each Member understands that their Interest is a “restricted security” under the Securities Act in that the Interest will be acquired from the Company in a transaction not involving a public offering, that their Interest may be resold without registration under the Securities Act only in certain limited circumstances and that otherwise their Interest must be held indefinitely.

13.8 No Registration of Interest. Each Member acknowledges that their Interest has not been registered under the Securities Act or qualified under any state securities law in reliance, in part, upon their representations, warranties and agreements herein, and that the Company has no obligation to register or qualify, or maintain any registration or qualification of, their Interest.

13.9 Accredited Investor. The Member is an “accredited investor” as that term is defined in Rule 501(a) of Regulation D under the Securities Act. If the Member is a corporation, partnership, limited liability company, trust or other entity, it was not organized for the specific purpose of acquiring its Interest.

13.10 No Advertising. Each Member has not seen, received, or been solicited by any leaflet, public promotional meeting, newspaper or magazine article or advertisement, radio or general solicitation with respect to the purchase of their Membership Interest.

ARTICLE XIV MEMBER MEETINGS

14.1 Meetings of Members. Meetings of the Members shall be held on an annual basis, beginning March 1, 2022, or such other date as determined by the Members, or as may be called by the Manager or in the case of any matter on which Members may vote, by any Member. A Member so participating is deemed to be present in person at the meeting. Except as otherwise provided herein, action at any meeting with respect to the Company requires the affirmative vote of Members owning a majority of the Percentages of the Members.

14.2 Annual Meetings. Unless otherwise decided by resolution of the Members, annual meetings of the Members shall be held on the First day of March of each Fiscal Year of the Company if not a legal holiday in the state in which the meeting shall be held, and if a legal holiday, then on the next business day following, beginning at 10:00AM, or at any other time and place as the Members may decide by resolution and designate in the notice of the meeting (each an “Annual Meeting”). If the Annual Meeting or the election of a Manager or Managing Member is not held on the day designated in this Section, the Members shall conduct the election and a meeting of the Members as soon as is convenient. The Annual Meeting shall be for the purpose of electing a Managing Member and for transacting any other business which may properly come before the Meeting. Attendance by telephone conference is permissible.

14.3 Notice of Meeting. At least two (2) calendar days prior written notice shall be given to the Members entitled to vote at such meeting, stating the place, date and time of the meeting, the Person calling the meeting and the purpose for which the meeting is called. Notice of a meeting need not be given to any Member who submits a signed waiver of notice, in person or by proxy, whether before, at or after the meeting. All such waivers shall be filed with the Company records or made part of the minutes of the meeting. The attendance of a Member at the meeting, whether in person or by proxy, without protesting the lack of proper notice shall constitute a waiver of notice by such Member.

14.4 Consents. Personal presence of a Member shall not be required, provided a written consent to or rejection of the proposed action is submitted to the chairman of the meeting. Attendance by a Member and voting in person at any meeting shall revoke any written consents or rejections of the Member submitted with respect to action proposed to be taken at the meeting. Submission of a later dated written consent or rejection with respect to any action shall revoke an earlier one as to the action. Every consent or rejection must be signed by the Member or their attorney-in-fact. All questions regarding the validity of consents or rejections shall be determined by the Member, Manager or Managing Member presiding over the meeting.

14.5 Action by Consent. Any action that may be taken by Members at a meeting may also be taken without a meeting, if a consent in writing setting forth the action so taken is signed by Members owning a sufficient Percentage to take such action at a meeting at which all the Members entitled to vote on such action are present and voting, and such consent is delivered to the Manager or Managing Member within sixty (60) days after the date of the earliest signature to such consent. Consents may be signed in counterparts. The Company shall retain such consents with the books and records of the Company and shall notify to all Members of the action so taken.

14.6 Action by Written Consent. Any matter on which the Members are authorized to take action under law, the Article of Organization, or these Regulations may be taken by the Members without a meeting assembled if written consents to the action by the Members are signed by the Members entitled to vote on the action at a meeting and who hold a majority in interest of the Members (as defined in Section 14.8 of this Article) or any greater ownership interest in the Company as may be required by law, by the Articles of Organization or by these Regulations.

14.7 Adjourned Meeting. On an adjournment of a meeting, it shall not be necessary to give any notice of the adjourned meeting, provided that the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and any business which might have been transacted on the original date of the meeting may be transacted at the adjourned meeting. If, however, after the adjournment, the Managing Member fixes a new record date for the adjourned meeting, a notice of the adjourned meeting shall be given as provided in Section 14.4 of this Article to each Member of record on the new record date entitled to vote at such meeting.

14.8 Member Quorum and Voting. The holders of a majority of the then-outstanding contributed and not returned capital of the Company ("majority in interest of the Members") entitled to vote, represented in person or by written consent, shall constitute a quorum at a meeting of Members provided that the Managing Member is present, except as otherwise prescribed by law or by the Articles of Organization of the Company. All Members present in person or represented

by written consent at the meeting may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, except as prescribed by law or the Articles of Organization. If a quorum is present, the affirmative vote of a majority in interest of the Members represented at the meeting and entitled to vote on the subject matter shall be the act of the Members unless otherwise provided by law, these Regulations or the Articles of Organization of the Company. All questions regarding the qualification of voters and the acceptance or rejection of votes shall be decided by the Managing Member presiding over the meeting.

14.9 Closing of Transfer Books or Fixing of Record Date. For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment or postponement of any meeting of Members, or in order to make a determination of Members for any other proper purpose, the Managing Member of the Company may provide that the transfer books shall be closed for a stated period, but not to exceed, in any case, ten (10) days. If the transfer books shall be closed for the purpose of determining Members entitled to notice of or to vote at a meeting of Members, the books shall be closed for at least two (2) days immediately preceding the meeting. In lieu of closing the transfer books, the Managing Member may fix in advance a date as the record date for any such determination of Members, this date in any case to be not more than one (1) day and, in case of a meeting of Members, not less than ten (10) days prior to the date on which the particular action requiring the determination of Members is to be taken. If the transfer books are not closed and no record date is fixed for the determination of Members entitled to notice of or to vote at a meeting of Members, or Members entitled to receive payment of a dividend, the date on which notice of the meeting is mailed shall be the record date for the determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this section, the determination shall apply to any adjournment or postponement of the meeting.

ARTICLE XV MISCELLANEOUS

15.1 Amendments. Except as otherwise provided herein, no amendment to this Agreement shall be valid or effective unless in writing and authorized by Members owning a majority of the Percentages of the Members; *provided, however*, that except as otherwise provided herein, without the consent of a Member that is materially and adversely affected, no amendment shall make such Member personally liable for any obligation of the Company, change the allocation and distribution provisions or change this Section 15.1.

15.2 Offset Privilege. The Company may offset against any monetary obligation owing from the Company to any Member any monetary obligation then owing from that Member to the Company.

15.3 Notices. Any notice or other communication (collectively, “Notice”) to be given to the Company or any Member in connection with this Agreement shall be in writing and will be deemed to have been given and received (a) on the date delivered if by courier or other means of personal delivery, (b) on the date sent by e-mail with a written mailed follow-up, (c) on the next business day after being sent by a nationally recognized overnight mail service in time for and specifying next day or next business day delivery. Any such notice must be given, if to the

Company, to the Company at its principal place of business, and if to any Member, Manager or Managing Member, to such Member, Manager or Managing Member at the address specified for him on Schedule A. Any party may by notice pursuant to this Section 15.3 designate any other address as the new address to which notice must be given.

15.4 Fees and Expenses. Each party shall bear their own fees and expenses in connection with this transaction; *provided, however*, that the fees and expenses of MarksDiPalermo PLLC in connection with the legal work and preparation of this Agreement and any related documents shall be borne by the Company and all of its Members individually agree to ensure such payment by the Company is made in connection with the acquisition of the project and any other acquisition costs.

15.5 Waiver. No course of dealing or omission or delay on the part of any party hereto in asserting or exercising any right hereunder shall constitute or operate as a waiver of any such right. No waiver of any provision hereof shall be effective, unless in writing and signed by or on behalf of the party to be charged therewith. No waiver shall be deemed a continuing waiver or waiver in respect of any other or subsequent breach or default, unless expressly so stated in writing.

15.6 Governing Law. This Agreement shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of Florida, without regard to choice or conflict of laws principles that would defer to the substantive laws of any other jurisdiction.

15.7 Remedies. Notwithstanding the foregoing, in the event of any actual or prospective breach or default by any party, the other parties shall be entitled to equitable relief, including remedies in the nature of injunction and specific performance (without being required to post a bond or other security or to establish any actual damages). In this regard, the parties acknowledge that they will be irreparably damaged in the event this Agreement is not specifically enforced, since (among other things) the Interests are not readily marketable.

15.8 Jurisdiction. Each of the parties hereto hereby irrevocably consents and submits to the jurisdiction of the Supreme Court of the State of Florida in connection with any suit, action or other proceeding arising out of this Agreement, and hereby unconditionally and irrevocably waives any objection to venue in Florida, and agrees that service of any summons, complaint, notice or other process relating to such suit, action or other proceeding may be effected in the manner provided by clause (c) of Section 15.3. **EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT**

15.9 Severability. The provisions hereof are severable and in the event that any provision of this Agreement shall be determined to be illegal, invalid or unenforceable in any respect by a court of competent jurisdiction, the remaining provisions hereof shall not be affected, but shall, subject to the discretion of such court, remain in full force and effect, and any illegal, invalid or unenforceable provision shall be deemed, without further action on the part of the parties hereto, amended and limited to the extent necessary to render such provision, as so amended and limited, legal, valid and enforceable, it being the intention of the parties that this Agreement and each provision hereof shall be legal, valid and enforceable to the fullest extent permitted by applicable law.

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

15.11 Further Assurances; Power of Attorney. Each party hereto shall promptly execute, deliver, file or record such agreements, instruments, certificates and other documents and take such other actions as the Managing Member may reasonably request or as may otherwise be necessary or proper to carry out the terms and provisions of this Agreement and to consummate and perfect the transactions contemplated hereby. Failure to comply with this Section 15.11 shall be considered a breach of a material provision. In addition, each party hereby grants to the Managing Member the power of attorney (which power of attorney is coupled with an interest) to execute, deliver, file or record, on behalf of and in the name of such party any and all agreements, instruments, certificates and other documents which the Manager deems necessary, appropriate or desirable to effectuate the terms of this Agreement.

15.12 Assignment. Except as otherwise provided herein, this Agreement, and any right, interest or obligation hereunder, may not be assigned by any party hereto without the prior written consent of each other party hereto. Any purported assignment without such consent shall be null and void *ab initio* and without effect.

15.13 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and permitted assigns. This Agreement is not intended, and shall not be deemed, to create or confer any right or interest for the benefit of any Person not a party hereto.

15.14 Titles and Captions. The titles and captions of the Articles and Sections of this Agreement are for convenience of reference only and do not in any way define or interpret the intent of the parties or modify or otherwise affect any of the provisions hereof and shall not have any effect on the construction or interpretation of this Agreement.

15.15 Construction. This Agreement shall not be construed against any party by reason of such party having caused this Agreement to be drafted.

15.16 Usage. References in this Agreement to “Articles,” “Sections” and “Schedules” shall be to the Articles, Sections and Schedules of this Agreement, unless otherwise specifically provided; all Schedules to this Agreement are incorporated herein by reference; any use in this Agreement of the singular or plural, or the masculine, feminine or neuter gender, shall be deemed to include the others, unless the context otherwise requires; the words “herein”, “hereof” and “hereunder” and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement; the word “including” when used in this Agreement shall mean “including without limitation”; and except as otherwise specified in this Agreement, all references in this Agreement (a) to any agreement, document, certificate or other written instrument shall be a reference to such agreement, document, certificate or instrument, in each case together with all exhibits, schedules, attachments and appendices thereto, and as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof; and (b) to any law, statute or regulation shall be deemed

references to such law, statute or regulation as the same may be supplemented, amended, consolidated, superseded or modified from time to time.

15.17 Entire Agreement. This Agreement constitutes the entire understanding and agreement among the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings and agreements relating thereto (written or oral).

15.18 Representation. Each of the undersigned hereby acknowledges that this Agreement has been drafted on behalf of the Company by Cabot J. Marks, Esq. of MarksDiPalermo PLLC and that MarksDiPalermo PLLC. has represented all of the parties to this Agreement. Each of the undersigned understands that the interest of each of them may be different with respect to this Agreement. Each of the undersigned acknowledges that they have been fully, separately and individually apprised and advised by their own attorney of their legal rights and financial liabilities and responsibilities arising out of this Agreement and each has in addition thereto made independent inquiry and investigation with respect to all of the same. Each waives any conflict in connection with the preparation of this Agreement and the documents related thereto and each acknowledges that they have had the opportunity to have this Agreement reviewed by, and to consult with, their own separate counsel, prior to executing the same.

BALANCE OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Members have executed this Agreement, effective as of the date first written above.

PEGALO PROPERTIES INC.

Richard Kooris

By: Richard Kooris

DAVINA DEVELOPMENT CORP.

L. Schorf

By: Leonard Schwartz

WOMBAT HOLDINGS LLC

Amy Angelo *Scott Angelo*

By: Amy and Scott Angelo

Charles Lesnick

By: Chuck Schorr Lesnick

Philip Schorr

By: Philip Schorr

**SCHEDULE A NAMES, ADDRESSES, CAPITAL CONTRIBUTIONS, AND
PERCENTAGES OF THE MEMBERS**

Name, Address and E-mail	Capital Contribution	Percentage
Chuck Schorr Lesnick 15 Albemarle Place Yonkers, NY 10701 Email: chuck.schorr.lesnick@gmail.com Phone: (914)954-3039	\$110,000.00	21%
Davina Development Corp. 944 Warren Pkwy Teaneck, NJ 07666 Email: lschwartz@rmabronx.com Phone: (201)906-8005	\$110,000.00	20.5%
Philip Schorr 15 Albemarle Place Yonkers, NY 10701 Email: pschorr@rmaorg.com Phone: (718)538-5000	\$110,000.00	19%
Pegalo Properties Inc. 501 North IH-35 Austin, TX 78702 Email: rkooris@501studios.com Phone: (512)422-8878	\$110,000.00	20.5%
Wombat Holdings LLC 221 Old Dixie Hwy, Suite 1 Tequesta, FL 33469 Email: amy.angelo@oceanacoffee.com Phone: (561)339-2913	\$110,000.00	19%
TOTAL	\$550,000.00	100%

OPERATING AGREEMENT

KISS KITCHENS LLC

(A FLORIDA LIMITED LIABILITY COMPANY)

THE SECURITIES REPRESENTED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 NOR REGISTERED OR QUALIFIED UNDER ANY STATE SECURITIES LAWS. SUCH SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, DELIVERED AFTER SALE, TRANSFERRED, PLEDGED OR HYPOTHECATED UNLESS REGISTERED AND QUALIFIED UNDER APPLICABLE FEDERAL AND STATE SECURITIES LAWS OR UNLESS, IN THE OPINION OF COUNSEL SATISFACTORY TO THE COMPANY, SUCH REGISTRATION AND QUALIFICATION IS NOT REQUIRED. ANY TRANSFER OF THE SECURITIES REPRESENTED BY THIS AGREEMENT IS FURTHER SUBJECT TO OTHER RESTRICTIONS, THE TERMS AND CONDITIONS OF WHICH ARE SET FORTH IN THIS AGREEMENT.

TITLE	Kiss Kitchens LLC Operating Agreement.pdf
FILE NAME	Kiss%20kitchen%20...ement%20Clean.pdf
DOCUMENT ID	424c95e1cdc07a87a7987568404b6e0258b5d6cd
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	● Signed

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17:57:17 UTC

Sent for signature to Chuck Lesnick, Esq. (chuck.schorr.lesnick@gmail.com), Len Schwartz (lschwartz@rmabronx.com), Philip Schorr (philipschorr@aol.com), Richard Kooris (rkooris@501studios.com), Amy Angelo (amy.angelo@oceanacoffee.com) and Scott Angelo (scott.angelo@oceanacoffee.com) from nkilcoyne@marksdipalermo.com
IP: 100.2.36.109



VIEWED

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18:50:43 UTC

Viewed by Richard Kooris (rkooris@501studios.com)
IP: 23.112.37.223



SIGNED

01 / 28 / 2022

18:51:03 UTC

Signed by Richard Kooris (rkooris@501studios.com)
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VIEWED

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19:23:59 UTC

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02:47:13 UTC

Viewed by Chuck Lesnick, Esq.
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02 / 02 / 2022
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02 / 02 / 2022
03:02:18 UTC

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02 / 02 / 2022
03:03:13 UTC

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IP: 148.74.212.141

TITLE	Kiss Kitchens LLC Operating Agreement.pdf
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02 / 03 / 2022
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