OPERATING AGREEMENT
OF
RATHAUS TEMPE, LLC

This OPERATING AGREEMENT (the "**Agreement**") of Rathaus Tempe, LLC, an Arizona limited liability company (the "**Company**"), is entered as of this 2nd day of December, 2016 (the "**Effective Date**"), by Rathaus Restaurants, LLC, as "**Manager**" and the initial **Member**."

AGREEMENT

NOW, THEREFORE, in consideration of the declarations contained in this Agreement, the parties agree as follows:

ARTICLE 1
ORGANIZATION

1.1 Organization. Pursuant to the Act (as defined below), the parties have formed or shall form an Arizona limited liability company effective upon the filing of the Articles of Organization with the Arizona Corporation Commission. The parties have executed this Agreement to serve as the "Operating Agreement" of the Company, and, subject to any applicable restrictions set forth in the Act, the business and affairs of the Company, and the relationships of the parties to one another, shall be operated in accordance with and governed by the terms and conditions set forth in this Agreement. The parties agree to execute all amendments of the Articles of Organization, and do all filing, publication, and other acts as may be appropriate from time to time hereafter to comply with the requirements of the Act.

1.2 Company Name. The name of the Company shall be "Rathaus Tempe, LLC" or such other name as selected by the Manager in the future. The Manager may also select one or more names under which the Company can do business.

1.3 Registered Office. The address of the Company's registered office in the State of Arizona shall be 3946 E. Glenrosa Avenue, Phoenix, Arizona 85018. The Company may change its registered office at any time at the direction of the Manager.

1.4 Purpose. The sole purposes of the Company shall be: to operate, own, and manage a restaurant operating under the trade name RatHaus (the "Business") to be located at 664 E. Warner Road, Tempe, Arizona 85284 (the "Premises"); to enter into a lease agreement with the owner of the Premises, including entering into any and all amendments thereto or extensions thereof; to incur indebtedness (secured or unsecured), including financing and refinancing, with respect to the operation of the Business; to enter into and perform contracts with respect to the Business and/or Premises; and to carry on any other activities in connection with, in furtherance of and/or incidental to the foregoing as the Manager and Member(s) deems desirable in its sole discretion at any time and from time to time.

1.5 Agent for Service of Process. The name and address of the agent for service of process on the Company is Donald Hulke, 3946 E. Glenrosa Avenue, Phoenix, Arizona 85018, or such other eligible Person and address as shall be designated by the Manager from time to time.

1.6 Term. The term of this Company shall commence on the date the Articles of Organization are filed with the Arizona Corporation Commission) and shall continue until such time as it is terminated under the provisions of **Article 8** below.

1.7 Nature of Each Member's Interest in the Company. The interest of each Member in the Company shall be intangible personal property for all purposes. Any and all real or other property owned by the Company shall be deemed owned by the Company as an entity, and no Member, individually, shall have any beneficial ownership interest therein.

1.8 Definitions. Capitalized terms shall have the meanings ascribed to them in definitional parentheticals located throughout this Agreement or as provided below in this **Section 1.8**:

"**Act**" means the Arizona Limited Liability Company Act, as set forth in A.R.S. § 29-601 et seq., as amended from time to time (or any corresponding provisions of succeeding law).

"**Affiliate**" means, with respect to any Person: (a) any Person directly or indirectly controlling, controlled by or under common control with such Person; (b) any officer, director, general partner, member or trustee of such Person; or (c) any Person who is an officer, director, general partner, member or trustee of any Person described in clauses (a) or (b) of this sentence. For purposes of this definition, the terms "**controlling**," "**controlled by**" or "**under common control with**" mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"**Agreement**" means this written Operating Agreement (including all exhibits and schedules attached hereto).

"**Assignee**" means a Person who has acquired an economic interest in the Company but who has not been admitted as a Member of the Company. An Assignee shall have such other rights set forth in **Section 7.9** below.

"**Bankruptcy**" means: (a) the voluntary filing of a petition in bankruptcy or petition pursuant to any insolvency act; (b) the making of an assignment for the benefit of his creditors; (c) giving consent to the appointment of a receiver, liquidator, custodian, or trustee for the whole or any substantial part of the property of the Person; (d) the voluntary filing of a petition or answer seeking or consenting to reorganization under Chapter 11 of Title 11 of the United States Code ("**Title 11**") or state insolvency statutes; (e) the appointment, by order of a court of competent jurisdiction, of a receiver, liquidator, custodian, or trustee for a Person for the whole

or any substantial part of his property, which appointment shall not have been discharged within 60 consecutive days thereafter; (f) the institution against a Person of any proceeding under Title 11 and any amendment or successor thereto or under any other applicable law or statute of the United States or any state (including state insolvency statutes), which proceedings shall not have been dismissed within 60 consecutive days after the institution thereof; or (g) if an insolvency petition is filed against a Person and an order for relief is directed under Title 11.

"**Capital Contribution**" means the total amount of cash and the fair market value (as determined by the Manager) of any other non-cash assets contributed (or deemed contributed under Regulation Section 1.704-1(b)(2)(iv)(d)) to the Company by a Member.

"**Code**" means the Internal Revenue Code of 1986, as amended from time to time (or any corresponding provisions of succeeding law).

"**Company**" means Rathaus Tempe, LLC, an Arizona limited liability company.

"**Confidential Information**" means any and all information of a sensitive or proprietary nature or corporate opportunity obtained or learned of while such Person was a Company Person of any nature and in any form which at the time or times concerned is not generally known to the public, and which relates to any one or more of the aspects of the present and past business of the Company including, but not limited to: customer lists; contractual arrangements with customers; vendors and suppliers; financial statements; pricing policies; advertising policies; trade secrets; training manuals; concepts; trademarks; trade names; policies; processes; formulas; techniques; know-how; licenses or any written or unwritten information that actually or potentially allows the Company any competitive advantage, or that, if used or disclosed by others, could cause the Company any competitive disadvantage; or any other facts relating to sales, advertising, franchising, promotions, financial matters, customers, customer lists, customer purchases or requirements. Information which (a) is available or becomes available to the public through no fault or action by a Company Person or their respective agents, representatives or employees, or (b) becomes available on a non-confidential basis from any source other than the Company or any Company Person and such source is not prohibited from disclosing such information shall not be deemed Confidential Information.

"**Fiscal Year**" means the fiscal year of the Company, as determined under **Article 5**.

"**Majority in Interest**" means one or more Members (but excluding each Defaulting Member) who hold, collectively, a simple majority or more of the Percentage Interests held by the Members (other than the Defaulting Members). For example, if there are Defaulting Members who collectively hold 10% of the Percentage Interests in the Company, then it would require in excess of 45% of the Percentage Interests in the Company to achieve a Majority in Interest of the Members.

"**Manager**" means Rathaus Restaurants, LLC or its successor(s) as such may be designated pursuant to **Article 4** below.

"**Member**" means each Person signing this Agreement as a member of the Company and any Person who subsequently is admitted as a member of the Company pursuant to this Agreement.

"**Membership Interest(s)**" means, with respect to each Member, each such Member's: (a) economic interest in the Company; (b) share of the Company's Profits and Losses (and specially allocated items of income, gain, and deduction), and the right to receive distributions of Net Cash Flow from the Company; (c) right to inspect the Company's books and records; and (d) right to participate in the management of and vote on matters coming before the Members as provided in this Agreement.

"**Net Cash Flow**" means all cash received by the Company from any source less the portion thereof used to pay or establish reserves for Company expenses and fees, principal and interest payments on Company debt, capital improvements and contingencies, all as determined by the Manager in its sole and absolute discretion. Net Cash Flow shall not be reduced by depreciation, amortization, cost recovery deductions, or similar allowances, but shall be increased by any reductions of reserves previously established pursuant to the foregoing sentence of this definition of Net Cash Flow.

"**Percentage Interest**" means the percentage of the Company owned by each Member, which will initially be as shown on **Schedule 1**.

"**Person**" means and includes an individual, corporation, company, partnership, association, limited liability limited partnership, trust, estate, or other legal entity.

"**Tax Matters Partner**" means the "tax matters partner" as defined in Code Section 6231(a)(7), which shall be the Manager, or such other Person selected by the Manager.

"**Transfer**" means, when used as a noun, any voluntary or involuntary sale, assignment, encumbrance, mortgage, pledge, hypothecation, gift or other transfer, and, when used as a verb, means voluntarily or involuntarily to sell, encumber, mortgage, pledge, hypothecate, assign, gift or otherwise transfer.

"**Unreturned Capital Contribution Balance**" means as to each Member, the aggregate Capital Contributions made by such Member, reduced (but not below zero) by the aggregate amounts distributed to such Member pursuant to **Section 3.1** and **Section 8.2**, whenever made and regardless of the source or character thereof.

1.9 Additional Defined Terms. In addition, all capitalized words and phrases used in this Agreement that are defined in **Exhibit A** shall have the meanings ascribed to them in **Exhibit A**.

ARTICLE 2
MEMBERS AND CAPITAL CONTRIBUTIONS

2.1 Member Identification. The Member(s) will contribute cash or other property to the capital of the Company as provided in this **Article 2** and in the amounts described on **Schedule 1**. All Members as a group will hold aggregate Percentage Interests of no more or less than 100%. Any Person admitted as a Member shall execute such documents or other instruments as the Manager may deem necessary or desirable to effect or maintain such admission.

2.2 Capitalization. The name, address, initial Capital Contributions and current Percentage Interests for the initial Member are set forth on **Schedule 1**, as such may be amended from time to time as Members are added and deleted from the Company. Percentage Interests may be evidenced by certificates, in the Manager's sole discretion.

2.3 Additional Capital Contributions. If the Manager and all Members unanimously determine that Additional Capital Contributions are required for the operations of the Company, upon written notice from the Manager, each Member shall be required to make an additional Capital Contribution (an "**Additional Capital Contribution(s)**") in a pro rata amount equal to their respective Percentage Interest within ten (10) business days of receiving such notice. A Member who fails to timely make an Additional Capital Contribution will be considered a Defaulting Member.

2.4 Member Loans. A Member may agree to make a loan (a "**Member Loan**") to the Company in such amount and for such duration as the Manager may determine. Such loans shall be on such commercially reasonable terms and conditions, as is determined by the Manager. All Member Loans shall include such additional terms and conditions as are reasonably approved by the Manager. Any such Member Loans shall be repaid in full out of available funds of the Company before any distribution may be made to any Member pursuant to **Section 3.1** or **Section 8.2**. If more than one Member has made a Member Loan, repayment shall be made to the Members in the ratio of the amounts of principal they have loaned to the Company.

2.5 Capital Accounts and Interest. The Company shall maintain for each Member a separate Capital Account in accordance with this Agreement and the Code. Except as otherwise expressly provided in this Agreement, no Member shall receive any interest with respect to such Member's Capital Contributions or positive Capital Account balance.

2.6 No Third Party Beneficiary. No creditor or other third party having dealings with the Company shall have the right to enforce the right or obligation of any Member to make Additional Capital Contributions or lend money to the Company or to pursue any other right or

remedy hereunder or at law or in equity, it being understood and agreed that the provisions of this Agreement shall be solely for the benefit of, and may be enforced solely by, the parties hereto and their respective successors and assigns. None of the rights or obligations of the Members set forth in this Agreement to make Capital Contributions shall be deemed an asset of the Company for any purpose by any creditor or other third party, nor may such rights or obligations be Transferred by the Company to secure any debt or other obligation of the Company or of any of the Members.

2.7 Restrictive Covenant. Each Member and Manager, on behalf of its itself and each of its respective owners, members, managers, partners, shareholders, principals and directors, warrants and represents that no Person that is a party to this Agreement or a contemplated beneficiary of this Agreement, nor any owner, member, manager, partner, shareholder, principal or director of a Member or Manager that is an entity, shall have any direct or indirect involvement, stake, share or interest of any kind in any entity in any way involved in any entity or venture designed to create, develop, advise, support, finance or operate a German-themed establishment, restaurant or bar, regardless of location or the level of service or industry where segment said establishment is intended to operate.

ARTICLE 3
DISTRIBUTIONS AND ALLOCATIONS

3.1 Distributions of Net Cash Flow. Except as otherwise provided in this Agreement, distributions of Net Cash Flow may be made to the Members at such times as determined by the Manager as follows:

(a) All Members other than Rathaus Restaurants, LLC shall receive a 40% preferred return on distributions of Net Cash Flow until such time as such receiving Members receive distributions in an amount equal to their respective initial Capital Contributions; and

(b) The balance of the Net Cash Flow to all Members proportionately based upon their respective Membership Interests.

3.2 No Expected Tax Distributions. In the Manager's sole discretion, the Company may distribute some Net Cash Flow to the Members on an annual basis to cover the approximate tax liability of the Members regarding the Company's Profits from the prior year. However, no Member should expect or plan on receiving such distributions, and needs to plan on making necessary tax payments without such distributions.

3.3 Foreign Members – Expenses and Withholding. In the case of a foreign Member (such as a Person who is not a citizen of the United States), such foreign Member shall pay all additional expenses incurred by the Company and the Manager as a result of or attributable to the interest in the Company owned by such foreign Member, including, without limitation, any foreign, federal, state, or local income tax required to be withheld and remitted to any taxing authority. Each Member hereby acknowledges, understands, and agrees that the Code requires

that the Company withhold and remit to the Internal Revenue Service tax on the allocable share of taxable income of each foreign Member whether or not such the Company derives cash with respect to such taxable income or the Company distributes cash with respect to such taxable income to the foreign Member. Each Member further acknowledges, understands, and agrees that **Sections 3.4(b)** and **3.4(c)** shall apply with respect to any expenses, including, without limitation, tax withholdings, applicable to this **Section 3.3**.

3.4 Other Distribution Issues.

(a) Distribution Limitations. In connection with any distribution, no Member shall have the right to receive Company assets other than cash, except as may be specifically provided herein. If any Company non-cash asset is distributed in-kind to the Members, such asset shall be valued on the basis of its fair market value. To the extent any Member may become entitled to any direct interest in a non-cash Company asset, such Member will receive that interest only as a tenant-in-common with each other Member so entitled. Except as otherwise provided in this Agreement, the fair market value of the Company assets shall be determined by the Manager utilizing such procedures as the Manager determines to be fair and reasonable.

(b) Amounts Withheld. The Manager may withhold from amounts to be distributed to any Member any and all amounts, determined in the Manager's reasonable discretion, required by any federal, state, local or foreign law, treaty, regulation, rule, ruling, directive or other governmental requirement. All amounts withheld pursuant the preceding sentence shall be treated as amounts distributed to the relevant Member pursuant to this **Article 3**. Each Member acknowledges and agrees that the Company shall be entitled to withhold any and all amounts that may, in the Manager's discretion, be required to be withheld under any such applicable law.

(c) Withholding Requirements. If the Company is required to withhold, pursuant to the Code or any provisions of foreign, federal, state or local tax law, any amounts on behalf of any Member, and if the Company does not have sufficient cash which would otherwise be due to such Member as a payment or distribution hereunder from which to withhold such sum, then such Member shall immediately reimburse the Company for such amount upon written notification of the same from the Manager. If a Member fails to reimburse the Company for such amount within thirty 30 days of the Member's receipt of written notification, then that Member will be deemed a Defaulting Member.

(d) Distributions Upon Transfers. All distributions on or before the date of a Transfer of a Membership Interest shall be made to the transferring Member, and all distributions thereafter shall be made to the transferee. The Manager and the non-transferring Members, as applicable, and the Company shall incur no liability for making allocations or distributions in accordance with the provisions of this **Section 3.4**, whether or not the Manager or the Company has knowledge of any pending or possible transfer of ownership of any Membership Interest.

3.5 Allocations of Profits and Losses. For income tax purposes, all items of income, gain, loss, deduction and credit of the Company for any tax period shall be allocated among the Members in accordance with the provisions set forth in **Exhibit A** attached hereto.

3.6 Discretion Regarding Elections. Any elections or other decisions relating to the allocations under this **Article 3** or **Exhibit A**, the Members' Capital Accounts or any other elections provided for in the Code or other applicable law shall be made by the Manager in its sole and absolute discretion.

ARTICLE 4
MANAGEMENT

4.1. Management. The Company shall be manager managed. The initial Manager is Rathaus Restaurants, LLC.

4.2. Time Devoted to Business**.** Unless otherwise specified in a separate employment or retainer agreement, the Manager and anyone to whom the Manager may delegate some of Manager's responsibilities will devote only the amount of time to the Company's activities as is reasonably necessary to discharge the Manager's responsibilities.

4.3. Powers and Authority.

(a) General Scope. Except for matters on which the Members' approval is required by this Agreement, the Manager has the full power, authority and discretion to manage and direct the Company's business, affairs and assets, including, without limitation, the specific powers referred to in Section 4.3(b).

(b) Specific Powers.

(i) Subject to Section 4.3(c) below and any other provision herein providing for the consent of all or any portion of the Members, the Manager is authorized on the Company's behalf to make all decisions as to: (aa) the operation of the Business; (bb) the prepayment, refinancing or extension of any loans made to the Company; (cc) the compromise or release of any of the Company's claims or debts; (dd) the employment of Persons for the operation and management of the Company's business; and (ee) all elections available to the Company under any federal or state tax law or regulation.

(ii) In accordance with the provisions herein, the Manager, on the Company's behalf, may execute and deliver: (i) all contracts and agreements, including, without limitation, maintenance and service agreements, employment agreements and lease agreements, on behalf of the Company relating to the Company's day to day operations of the Company's business other than those requiring Member consent as set forth herein; (ii) all checks, drafts and other orders for the payment of the Company's funds; (iii) all articles, certificates and reports

pertaining to the Company's organization, qualification and dissolution; and (iv) all tax returns and reports.

(d) Major Decisions Requiring Majority in Interest of the Members. Notwithstanding any provision to the contrary in this Agreement, the following matters shall require the consent of a Majority in Interest of the Members:

(i) The consolidation or merger by the Company with or into any other limited liability company, partnership, corporation, firm, association, trust or other enterprise;

(ii) The Company assuming, guarantying, endorsing or otherwise in any way becoming directly or indirectly responsible or liable for obligations of any other Person; The consolidation or merger by the Company with or into any other limited liability company, partnership, corporation, firm, association, trust or other enterprise;

(iii) The Company purchasing, leasing or otherwise acquiring for cash or property, any stock or other securities or all or substantially all of the assets of any other limited liability company, partnership, corporation, firm, association, trust or other enterprise, or forming any subsidiary;

(iv) The execution and delivery of all promissory notes, security agreements, guaranties, sureties and other similar documents.

4.4. Manner of Acting. The Manager may act with respect to any matter within the scope of its authority pursuant to formal or informal procedures adopted by the Manager.

4.5. Fiduciary Duties.

(a) Standard of Care.

(i) Exculpation. The Manager will not be liable to the Company or any Member for an act or omission done in good faith to promote the Company's best interests, unless the act or omission constitutes gross negligence, intentional misconduct or a knowing violation of law.

(ii) Justifiable Reliance. The Manager may rely on the Company's records maintained in good faith and on information, opinions, reports or statements received from any Person pertaining to matters the Manager reasonably believes to be within the Person's expertise or competence.

(b) Independent Activities. Any Member or the Manager may engage in and/or possess an interest in other business ventures of every nature and description,

independently or with others, and neither the Company nor any of the Members or the Manager shall have any right by virtue of this Agreement in and to said independent ventures or to the income or profits derived therefrom. Any of the Members or the Manager and any affiliated Person may engage in business transactions of any kind whatsoever with the Company. Such dealings shall be on terms no less favorable to the Company than those that could be obtained from an unaffiliated party.

4.6. Indemnification of Manager. The Company shall indemnify the Manager for all expenses, losses, liabilities and damages the Manager actually and reasonably incurs in connection with the defense or settlement of any action arising out of or relating to the conduct of the Company's activities, except an action which the Manager is adjudged to be liable for breach of a fiduciary duty owed to the Company or the Members under the Act or this Agreement.Compensation to Manager. The Company will reimburse the Manager for reasonable expenses properly incurred on the Company's behalf. Upon the consent of a Majority in Interest of the Members (excluding any Member who is also the Manager), the Company shall also pay the Manager a reasonable management fee.Tenure.

(a) Term. The Manager will serve until the earlier of: (i) the Manager's resignation; (ii) the Manager's removal; (iii) the Manager's Bankruptcy; (iv) as to a Manager who is a natural person, the Manager's death, adjudication of incompetency, or imprisonment for a term longer than thirty (30) days; (v) as to a Manager that is an entity, the Manager's dissolution; and (vi) as to a Manager who is also a Member, the time when the Manager ceases to be a Member, including dissociation.

(b) Resignation. The Manager at any time may resign by written notice delivered to the Members at least thirty (30) days prior to the effective date of the resignation.

(c) Removal. The Manager may be removed only for gross negligence, intentional misconduct or a knowing violation of law. Any such removal requires the approval of all Members (except a Member who is at such time also a Manager).

(d) Vacancy. If the Manager for any reason ceases to act, the Members will unanimously and promptly elect a successor to serve until a successor is elected and qualified.

4.9. Execution of Documents. Except as otherwise provided in this Agreement, the signature of the Manager shall be sufficient to convey title to any property owned by the Company, acquire any property in the Company's name or to execute any document, agreement, or instrument binding on the Company regarding, among other things, the borrowing of money from third parties or the leasing of property from any third party. All of the Members agree that a copy of this Agreement may be shown to the appropriate parties in order to confirm the same, and further agree that the signature of the Manager shall be sufficient to execute any documents necessary to effectuate this or any other provision of this Agreement. The Members further agree that any attempt to convey title to any property owned by the Company or attempted execution of any document, agreement, or instrument binding on the Company without the

consent of the Manager shall be void and shall have no force or effect.

ARTICLE 5
RECORDS AND ELECTIONS

5.1 Books and Records. At the expense of the Company, the Manager shall keep or cause to be kept complete and accurate books and records of the Company and supporting documentation of transactions with respect to the conduct of the Company's business. The books and records shall be maintained in accordance with sound accounting practices and kept at the Company's registered office and such other location or locations as the Manager shall from time to time determine and otherwise in accordance with the Act. At a minimum, the Manager shall keep at the Company's registered office the following records: (a) a current list of the full name and last known business, residence, or mailing address of each Member and each Manager; (b) a copy of the Company's Articles of Organization and all amendments thereto and restatements thereof; (c) copies of the Company's federal, state, and local income tax returns and reports, if any, for the three most recent Fiscal Years; (d) copies of this Agreement and all amendments hereto or restatements hereof, including any prior Operating Agreements no longer in effect; (e) copies of any documents relating to a Member's obligation to contribute cash, property, or services to the Company; (f) copies of any financial statements of the Company for the three most recent Fiscal Years; and (g) copies of minutes of all meetings of the Members and all written consents obtained from Members for actions taken by Members without a meeting.

5.2 Tax Returns. The Manager shall cause the preparation and timely filing of all tax returns required to be filed by the Company pursuant to the Code and all other tax returns deemed necessary and required in each jurisdiction in which the Company does business.

5.3 Review; Audit. At the sole discretion of the Manager, the books of the Company may be reviewed or audited annually at Company's expense by such independent public accounting firm as the Manager shall designate.

5.4 Annual Accounting Period. The annual accounting period of the Company shall be its Fiscal Year, which shall be the calendar year unless otherwise determined by the Manager.

5.5 Bank Accounts. The Manager shall determine the financial institution or institutions at which the Company's banking and investment accounts will be opened and maintained from time to time, the types of accounts, and the Persons who will have signature authority with respect to the accounts and the funds therein.

5.6 Federal Income Tax Proceedings. The Tax Matters Partner shall notify each Member of all material administrative and judicial federal and state tax proceedings directly involving the Company. The Tax Matters Partner shall have the right to obtain professional assistance with respect to any federal, state or local taxing authority's audit of the Company. Expenses of any proceedings undertaken by the Tax Matters Partner shall be paid by the Company. The cost of any adjustment to a Member, and the cost of any resulting audits or

adjustments to a Member's tax return, shall be borne solely by the affected Member. The Tax Matters Partner shall act as such for the Company and the Members, with all the rights and responsibilities of that position described in the Code, while keeping the other Members fully informed. No other Member shall have the right to act for the Company, or for himself or for any other Member with respect to any Company tax issues. The Tax Matters Partner shall have the sole and absolute discretion to settle, defend or refuse to settle any tax issues raised by any authority with respect to items of income, gain, loss, deduction and credit relating to the Company, its property or business.

5.7 Access to Records. Upon at least 10 days' prior written notice to the Manager, a Member and its designated representatives shall be permitted access to the books and records of the Company at the principal office of the Company during ordinary business hours and shall have the right to make copies thereof at such Member's own expense. Upon written request, after payment of the reasonable expenses of duplication, a Member shall be provided with a copy of the Company's Articles of Organization, any amendments thereto and the current list of Members' names, last known business address and Capital Contributions. The Company shall not otherwise be required to deliver, send or mail a copy of the list of Members, Articles of Organization, this Agreement, or any amendment thereto. The Members shall have the further right to obtain from the Manager from time to time upon at least 30 days' prior written notice: (a) true and full information regarding the state 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; and (c) such other information regarding the affairs of the Company as is required by the Act. The Manager may cause the Company to charge a requesting Member a reasonable fee to cover the cost of compiling, copying and providing the Company records described in the previous sentence.

ARTICLE 6
MEMBERS

6.1 Liability of Members. No Member (including the Manager) shall be liable for the expenses, liabilities or obligations of the Company or make any contributions or payments to the Company or any Member, except to the extent explicitly stated under this Agreement, the Act or other applicable law.

6.2 Authority of Members. Except with respect to such matters or duties delegated to a Member hereunder, no Member who is not otherwise a Manager is authorized or empowered to execute, deliver, or perform any agreements, acts, transactions, or matters contemplated in this Agreement on behalf of the Company.

6.3 Meetings.

(a) The Members may have regular or special meetings. Unless the Manager and of a Majority in Interest of the Members agree otherwise, each meeting shall be held within the State of Arizona at a location determined by the Manager. Either the Manager or a group of

Members holding in a Majority in Interest of the Percentage Interests may call for a meeting of the Members.

(b) Except as provided in this Agreement, written notice stating the date, time, and place of the meeting, and the purpose or purposes for which the meeting is called, shall be delivered not less than three nor more than 50 days before the date of the meeting, either personally or by mail, facsimile, email, or overnight or next-day delivery services by or at the direction of the Person or Persons calling the meeting, to each Member entitled to vote at such meeting. When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken, unless the adjournment is for more than 30 days. At the adjourned meeting, the Members may transact any business that might have been transacted at the original meeting. When any notice is required to be given to any Member, a waiver thereof in writing signed by the Person entitled to such notice, whether before, at, or after the time stated therein, shall be equivalent to the giving of such notice.

(c) Each meeting may be held by means of a conference telephone conversation, web conferencing or any similar communications equipment by means of which all Persons participating in the meeting may hear each other speak. If all of the Members shall meet at any time and place, including by conference telephone call, either within or outside of the State of Arizona, and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice.

(d) At all meetings of Members, a Member may vote in person or by proxy executed in writing by the Member or by a duly authorized attorney-in-fact. Such proxy shall be filed with the Company before or at the time of its exercise. No proxy shall be valid after 11 months from the date of its execution, unless otherwise provided in the proxy. Members holding in aggregate at least 51% of the Percentage Interests held by the Members, represented in person or by proxy, shall constitute a quorum at any meeting of Members. Business may be conducted once a quorum is present. Unless otherwise provided in the Act, the Company's Articles of Organization, or this Agreement, the affirmative vote of a Majority in Interest of the Members at a meeting at which a quorum is present shall be deemed an act of the Members.

(e) Each Member shall be entitled to vote based on its Percentage Interest or as otherwise provided hereunder. No withdrawn Member or Defaulting Member shall be entitled to vote nor shall such Member's Membership Interest be considered outstanding for any purpose pertaining to meetings or voting.

6.4 Manner of Acting. Unless specifically provided to the contrary in this Agreement or the Act, all decisions reserved to the Members shall be made by a Majority in Interest of the Members.

6.5 Action by Members without a Meeting. Any action required or permitted to be taken at a meeting of Members may be taken without a meeting if the action is evidenced by one

or more written consents describing the action taken and executed by Members who hold at least the minimum aggregate amount of Percentage Interest required to take such action at a meeting of the Members. Any such written consent shall be circulated to all the Members at least one full business day prior to the proposed effective date of the consent, and after it is executed by the required number of Members, will be promptly delivered to the Company for inclusion in the minute books or similar Company records. Action taken by written consent under this **Section 6.5** shall be effective on the date the required Percentage Interests or required number of the Members have signed the consent, unless the consent specifies a different effective date (subject to the one-business-day prior circulation requirement in the previous sentence). The record date for determining Members entitled to take action without a meeting shall be the date the written consent is circulated to the Members.

6.6 Other Activities. Except as otherwise provided in this Agreement, a Member may have other business interests and may engage in other activities in addition to those relating to the Company. Neither the Company, nor the Manager nor any Member shall have any right, by virtue of this Agreement or otherwise, to share or participate in such other investments or activities of another Member or Manager or to the income or proceeds derived therefrom.

6.7 Confidentiality and Records Retention.

(a) Except as contemplated hereby or required by a court of competent authority, at any time during or after such time that a Person is a Member, or is a principal, manager, owner, director, partner or member of a Member (each, a "**Company Person**"), such Company Person shall keep confidential and shall not disclose or use, and shall use the Company Person's reasonable efforts to prevent the Company Person's Affiliates, agents and representatives from disclosing or using, without the prior written authorization of the Manager and a Majority in Interest of the Members, any Confidential Information.

(b) All records, papers, documents, files and other information and materials and their contents furnished to the Company Person by the Company or obtained by the Company Person while they are Members or a Manager, as the case may be, are and shall be and remain forever the property of the Company. No copies or facsimiles of those items may be made or possessed by the Company Person outside of the ordinary course of the Company's business activities without the express written consent (and then only coextensive with that consent) of the Company. Each Company Person shall be the holder thereof for the sole benefit of the Company and shall safely keep and preserve such property, except as consumed in the normal business operation of the Company. Each Company Person acknowledges that this property is confidential and is not readily accessible to the Company's competitors. All originals and copies of those items shall be turned over and delivered to the Company within 24 hours of a Person ceasing to be a Company Person.

6.8 Events of Default. The occurrence of any of the following events shall constitute an event of default (each an "**Event of Default**") and the Member or Affiliate of such Member so defaulting (herein referred to as the "**Defaulting Member**") shall thereafter be deemed to be

in default without any further action whatsoever on the part of the Company or the other Members:

(a) a Member's attempt to dissolve the Company other than pursuant to the provisions contained in this Agreement;

(b) a Member's attempt to Transfer all or any part of their Membership Interest in violation of the terms of this Agreement;

(c) a Member's withdrawal from the Company that is not otherwise approved by the Manager;

(d) a Member violating the Member's obligations set forth in **Section 6.7**;

(e) a Member not making a timely Additional Capital Contribution; or

(f) a Member's breach of or failure to perform any other obligation, act or acts required of that Member by the provisions of this Agreement (other than those expressly delineated in the above sub-paragraphs) where such breach or failure continues for 30 days after written notice of such breach or failure is given by the Manager; *provided, however*, that if the breach or failure is a non-monetary in nature and cannot reasonably and with due diligence and in good faith be cured within the 30-day period, then if the Defaulting Member immediately commences and proceeds to complete the cure of such breach or default with due diligence and in good faith, the 30-day period with respect to such breach or shall be extended to include such additional period of time as may be reasonably necessary to cure such breach or failure.

6.9 Effect of Default. Notwithstanding anything in this Agreement to the contrary, on the date that a Member becomes a Defaulting Member voluntarily or involuntarily, that Member shall not, until and unless such default is cured, have any voting rights with respect to any matters set forth in this Agreement.

6.10 Remedies on Default. Upon the occurrence of a Defaulting Member's Event of Default, the Manager, on behalf of the Company, shall have all rights and remedies available at law and in equity, including but not limited to the following:

(a) cause the Company to withhold any payments, distributions of Net Cash Flow, compensation or consideration otherwise owed or to be paid to such Defaulting Member under this or any other Agreement;

(b) seek, apply for and receive a temporary restraining order without notice to the Defaulting Member enjoining the Defaulting Member from continued violation of those provisions (for that purpose only, the Manager may waive notice on any petition or application for a temporary restraining order);

(c) seek and recover monetary damages to the Company resulting from the Defaulting Member's Event of Default;

(d) cause the Company to purchase from the Defaulting Member all of the Defaulting Member's Membership Interest in exchange for an amount equal to the lesser of (i) the Defaulting Member's Unreturned Capital Contribution Balance or (ii) the fair market value of such Membership Interest as determined by a certified business appraiser selected by the Manager (or if the Manager is the Defaulting Member, then selected by a Majority in Interest); and

(e) except as otherwise restricted herein, pursue any other remedy or course of action that the Manager deems appropriate.

ARTICLE 7
TRANSFERS AND WITHDRAWALS

7.1 General Restrictions on Transfers. Except as otherwise provided in this **Article 7**, until December 31, 2018, no Member may Transfer, directly or indirectly, all, or any portion of, or any interest in its Membership Interest without the prior written consent of the Manager, which consent may be withheld or granted in the Manager's sole and absolute discretion. A Transfer of Membership Interest in violation of the prohibitions contained in this **Article 7** shall be deemed invalid, null, and void, and of no force or effect. Any Person to whom Membership Interests are attempted to be Transferred in violation of this **Article 7** shall not be entitled to vote on matters coming before the Members, participate in the management of the Company, act as an agent of the Company, receive distributions from the Company, or have any other rights in or with respect to the Membership Interest. Any transferee desiring to make a further Transfer shall become subject to all the provisions of this **Article 7** to the same extent and in the same manner as any Member desiring to make any Transfer.

7.2 Withdrawal. No Member shall have the right to withdraw, retire, or resign (collectively, "**withdraw**") as a Member of the Company except with the prior written approval of the Manager which approval may be withheld in its sole and absolute discretion. In the event a Member withdraws from the Company in violation of this Agreement and the business of the Company is continued, such withdrawn Member shall not be entitled to the return of such Member's Capital Contributions nor shall such withdrawn Member receive payment for such Member's Membership Interest until the Company is dissolved pursuant to **Article 7**. Instead, such withdrawn Member shall have the status of an Assignee. Furthermore, any such withdrawal shall constitute a material breach of this Agreement, and the Company shall have the right to recover damages from the withdrawn Member and to offset the damages against any amounts otherwise distributable to such withdrawn Member under this Agreement.

7.3 Dissociation; Redemption.

(a) Events of Dissociation. A Member's **"Dissociation"** from the Company occurs upon: (i) the Member's Bankruptcy; (ii) as to a Member who is a natural person, the Member's death, an adjudication by a court of competent jurisdiction of the Member's incompetency, or the Member's imprisonment after conviction of a felony for a term greater than one year (**"Imprisonment"**); (iii) as to a Member who holds a Membership Interest as a fiduciary, distribution of the Member's entire Membership Interest to the beneficial owners; or (iv) as to a Member that is a legal entity other than a natural person, the entity's dissolution. A Dissociation of a Member shall not, in and of itself, cause the termination or dissolution of the Company.

(b) Rights of Members Following Dissociation. As of the effective date of the Member's Dissociation: (i) the Member's right to participate in the Company's governance and voting shall terminate and such Member shall have no right to receive information or records concerning the Company's affairs; and (ii) the Member will be entitled to receive any Distributions to which the Member would have been entitled had the Dissociation not occurred. The dissociated Member will, however, remain liable for any obligation to the Company that existed prior to the effective date of the Dissociation, including any costs or damages resulting from the Member's breach of this Agreement.

(c) Optional Redemption.

(i) If a Member's Dissociation is a result of Bankruptcy, death, Imprisonment, or dissolution, and the Company is not terminated or dissolved within 120 days after the effective date of the Disassociation, then, at any time within 120 days after the effective date of the Dissociation, the Company may exercise its right to redeem not less than all of the dissociated Member's Membership Interest on the terms set forth in this **Section 7.3**.

(ii) The Company must exercise its right to redeem the dissociated Member's Membership Interest by giving written notice to the dissociated Member or, as the case may be, the dissociated Member's successor in interest, trustee, receiver, executor, administrator, guardian or conservator within the 120-day exercise period. The notice must specify the redemption price and payment terms and indicate a closing date within 60 days after the date the notice is delivered. The Company will pay the redemption price at the closing in the form of immediately available funds.

(iii) The redemption price of the Membership Interest for a Member's Dissociation resulting from Bankruptcy, death, Imprisonment, or dissolution shall be fair market value, as determined by a certified business appraiser selected by the Manager (or if the Manager is the dissociated Member, then by a Majority in Interest). The Company will pay all costs of the certified business appraiser.

7.4 Permitted Transfers. Subject to and in accordance with **Section 7.5** and **Section 7.6**, a Member may Transfer all or any portion of their Membership Interest, with or without the Manager's prior consent described in to **Section 7.1,** to: (a) any trust of which the transferring

Member is the trustee and sole primary beneficiary ; (b) any legal entity 100% owned and controlled by the transferring Member; or (c) the Member's executor, administrator, trustee or personal representative to whom such Membership Interest is Transferred at death or involuntarily by operation of law (each a "**Permitted Transfer**"). Except with respect to the preceding **Subsection 7.4(c)**, the transferring Member must give the Manager at least 30 days' written notice of any such proposed Permitted Transfer, with sufficient detail regarding the proposed Permitted Transfer, including the name, tax identification number and contact information of the proposed transferee.

7.5 Right of First Refusal. The provisions of this **Section 7.5** shall only apply to the extent the provisions of **Section 7.6** or **7.10** are not otherwise applicable.

(a) In the event any Member (a "**Selling Member**") receives a bona fide written offer (the "**Sale Offer**") from a Person (other than a Member or an Affiliate of a Member) to purchase all or any portion of such Member's Membership Interest (the "**Sale Interest**") for a purchase price denominated and payable in United States dollars, then the Selling Member shall first, prior to accepting such Sale Offer, provide to the Company and the other Members (the "**non-Selling Members**") a written notice (an "**Offering Notice**") specifying in detail the price, terms and conditions of the Sale Offer along with the name of the proposed purchaser (such proposed purchaser being a fully disclosed principal) together with a complete copy of such Sale Offer. The Company and non-Selling Members shall have an obligation to keep such Sale Offer confidential and shall not have the right to contact the Person making the Sale Offer until such Sale Offer is either accepted or deemed rejected.

(b) The Company and non-Selling Members each shall have the right for a period of 30 days after the receipt of the Offering Notice (the "**Offer Period**") to give written notice to the Selling Member, the Company and the non-Selling Members of their respective intention to purchase all or a portion of the Sale Interest at the price and upon the terms set forth in the Offering Notice; subject, however, to the modifications set forth in **Section 7.5**. The Manager will have the right to accept or reject the Sale Offer on behalf of the Company in the Manager's sole discretion. If the Company or any non-Selling Member fails to accept the terms set forth in the Offering Notice within the Offer Period as described above, then the Sale Offer will be deemed to be rejected by such Person.

(c) If the Sale Offer is accepted by more than one Person as described in **Subsection 7.5(b)**, then the Sale Interest will be divided in the following priority order:

(i) First, to the Company.

(ii) Second, if the Company does not accept the Sale Offer regarding the entire Sale Interest, then the remainder will be divided among the non-Selling Member(s) who are Members and who accepted the Sale Offer. If more than one non-Selling Member who is a Member desires to purchase such Sale Interest (or portion thereof), then, in the absence of an agreement between them, each such non-Selling Member who are Members shall purchase such

Sale Interest in the proportion that its respective Percentage Interest bears to the total Percentage Interests of all of such non-Selling Members who are Members who accepted in writing the Sale Offer in accordance with **Subsection 7.5(b)**.

(iii) Third, if the Company and the non-Selling Members who are Members do not collectively accept the Sale Offer regarding the entire Sale Interest (or portion thereof), then the remainder will be divided among the non-Selling Members who are Members and who accepted the Sale Offer. If more than one non-Selling Member who is a Member desires to purchase such Sale Interest, then, in the absence of an agreement between them, each such non-Selling Member who is a Member shall purchase such Sale Interest in the proportion that its respective Percentage Interest bears to the total Percentage Interests of all of such non-Selling Members who are Members who accepted in writing the Sale Offer in accordance with **Subsection 7.5(b)**.

(d) Subject to the provisions of **Subsections 7.5(f)** and **(h)** below, the Company and/or the non-Selling Members in aggregate may not purchase less than the entire Sale Interest upon the terms and conditions set forth in the Offering Notice. The Transfer from the Selling Member to the Company and/or the non-Selling Members, as the case may be, must be consummated (i.e. the Sale Interest transfer documents executed and delivered along with the monetary consideration) on a date not less than 30 days after the Offer Period expires (except if such Transfer fails to be consummated due to the delay or fault of the Selling Member, in which case this 30-day closing period will be extended accordingly).

(e) In the event the Company and/or the non-Selling Members elect to purchase in aggregate the entire Sale Interest in accordance with **Subsection 7.5(b)** above and then fail to timely consummate the purchase of any Sale Interest pursuant to **Subsection 7.5(d)** above, the Selling Member shall thereafter for 90 days have the right to Transfer such Sale Interest (or portion thereof, as the case may be) to any Person making a bona fide offer for such Sale Interest without first having to offer such to the Company or the non-Selling Members pursuant to this **Section 7.5;** *subject, however*, to the provisions and conditions set forth in **Section 7.7** and **Section 7.8**.

(f) Except as provided in **Subsection 7.5(e)**, if the Selling Member fails to Transfer the Sale Interest within the 30-day period following the Company's and non-Selling Members' rejection of the Sale Offer, the rights of the Company and the non-Selling Members as set forth in this **Section 7.5** shall again apply to any subsequent Transfer of all or any portion of the Selling Member's Membership Interest.

(g) If the Sale Offer includes terms or conditions that are in contravention of this Agreement, or would result in a breach of this Agreement, such terms or conditions will not be applicable to the Company or non-Selling Member for this purposes of **Section 7.5**. If the Sale Offer includes consideration that is not cash or cash equivalents, then the Company and/or non-Selling Members may substitute cash for such non-cash consideration in their respective

sole discretion (at fair market value, to be determined by the Manager in good faith) when giving written notice under **Subsection 7.5(b)** above.

7.6 Drag Along Rights.

(a) Subject to the provisions set forth below, if the Manager and those Members then holding at least fifty percent (50%) of the Percentage Interests of the Members (the "**Majority Members**") determine that each Member should Transfer all or substantially all of its Membership Interest to any Person other than to a Member or an Affiliate of a Member (the "**Third Party Purchaser**") in an arm's-length bona fide transaction (a "**Third Party Sale**"), each Member (and such Member's successors) shall be obligated to and shall upon the written request of the Manager and the Majority Members: (i) Transfer and deliver, or cause to be Transferred and delivered, to the Third Party Purchaser all of its Membership Interest on the same terms and conditions applicable to all of the Members; and (ii) execute and deliver such instruments of conveyance and transfer and take such other action, including voting such Membership Interest in favor of any Third Party Sale proposed by the Manager and the Majority Members and executing any purchase agreements, merger agreements, escrow agreements or related documents, as the Manager and the Majority Members or the Third Party Purchaser may reasonably require in order to carry out the terms and provisions of this **Section 7.6**; *provided, however*, that each such Member shall be required to only (x) make representations, warranties, covenants and indemnities and assume other obligations related to the Third Party Sale as are consistent with those made and assumed by the Majority Members and (y) agree to sell its Membership Interest, and consummate such sale, if all of the other Members agree to sell their respective Membership Interests and consummate such sales.

(b) Not less than 30 days prior to the date proposed for the closing of any Third Party Sale, the Manager shall give written notice to all of the Members, setting forth in reasonable detail the identity of the Third Party Purchaser, the terms and conditions of the Third Party Sale (including copies of relevant documents), the purchase price, the proposed closing date and location of such transaction and other relevant provisions with respect to the closing of the proposed transaction.

(c) If a Member fails, for any reason, to execute any agreements or other documents, or to take any other action necessary to satisfy its obligations set forth in this **Section 7.6**, such Member: (i) shall be deemed to have assigned all of its right, title and interest in and to its Membership Interest to the Third Party Purchaser and the Third Party Purchaser shall have the right to receive all distributions with respect to such Membership Interest, (ii) shall be deemed to have given the Manager an irrevocable proxy, coupled with an interest, to vote its Membership Interest on all matters submitted which the Member is entitled to a vote, (iii) shall be deemed to have given the Manager an irrevocable power of attorney to execute and deliver in such Member's name and stead all documents, agreements and instruments necessary and appropriate to effectuate the Third Party Sale, and (iv) shall cease to have any rights with respect to such Membership Interest except to only the right to receive the respective amounts for such Member's Membership Interest as computed pursuant to this **Section 7.6** upon the execution of

such agreements or other documents, or completion of any other action, necessary to effectuate the Third Party Sale as set forth in this **Section 7.6**. This remedy is in addition to any other remedies allowed by law or by this Agreement.

7.7 Conditions Precedent. As a condition to recognizing one or more of the effectiveness and binding nature of any Transfer of Membership Interests and after satisfying the other restrictions contained in **Article 7**, a Transfer of all or any portion of or any interest or rights in the Membership Interests (including Permitted Transfers) shall only be effective if the following conditions are satisfied:

(a) a duly executed and acknowledged written instrument of assignment is filed with the Company;

(b) the transferee agrees to be bound by the terms and conditions of this Agreement, including, without limitation, the provisions of this **Article 7** (regardless of whether such Person is to be admitted as a new Member);

(c) the Transfer will not cause a termination of the Company under Code Section 708; provided, however, that the requirement of this **Subsection 7.7(c)** shall be waived if the Manager reasonably determines that such termination will not have a material adverse effect on the Company or the Members; and

(d) the Manager is reasonably satisfied that after the completion of such Transfer: the Company will remain qualified to do business in each jurisdiction in which the Company is qualified, organized or does business; the Company will maintain its status as a partnership for federal and applicable state tax purposes; and such Transfer will comply with any applicable state and federal laws including securities laws and regulations.

7.8 Substitute Members. No Person subscribing to purchase Membership Interests pursuant to this Agreement or receiving Membership Interests pursuant to a Transfer permitted by this **Article 7** shall become a Member of the Company unless and until:

(a) such Person has executed an instrument accepting and adopting the terms and provisions of the Articles of Organization and this Agreement, including any amendments thereto;

(b) such Person has caused to be paid all reasonable expenses of the Company in connection with the admission of the transferee as a Member of the Company; and

(c) such Person has received the written consent of the Manager to the extent the Manager is required to consent hereunder.

Upon satisfaction of all of the foregoing conditions, the Manager shall cause the books and records of the Company to reflect the admission of the Person as a substitute Member to the

extent of the Transferred Membership Interest held by such Person. A Person who becomes a Member pursuant to this **Section 7.8** has, to the extent of the Membership Interest held by such Person, all the rights, powers and benefits of and is subject to the restrictions and liabilities of a Member under the Articles of Organization, this Agreement and the Act.

7.9 Assignees. An Assignee shall be entitled to receive allocations of Profits and Losses and distributions of Net Cash Flow from the Company attributable to the Membership Interest held by such Assignee; *provided, however*, that such Assignee shall have no right to inspect the Company books or records, to vote on Company matters, to exercise any other right or privilege as a Member of the Company. Further, any Member assigning their Membership Interest may not, as a condition of such assignment or otherwise, agree or obligate themselves to act on behalf of or under the direction of such Assignee with regard to any right or privilege which a Member would have with respect to such Transferred Membership Interest and any attempts to act in such capacity shall be void and of no effect and shall not be recognized by the Company.

7.10 Redemption Of Up to 50% of Initial Membership Interests. Notwithstanding anything to the contrary in this Article 7 or elsewhere in this Agreement, the Company, upon the decision of the Manager (so long as Rathaus Restaurants, LLC is the Manager), may unconditionally and freely redeem up to and not to exceed a total of fifty percent (50%) of the initial Membership Interests of Rathaus Restaurants, LLC for no redemption price and may then issue said Membership Interests to up to one or more additional Members in exchange for certain Capital Contributions as described below in this Section 7.10. The Company may redeem 2.78% of the Membership Interests of Rathaus Restaurants, LLC and issue same to a Person approved by the Manager who has paid $50,000.00 to the Company as a Capital Contribution, provided any such Person shall only be admitted as a Member in accordance with Section 7.8 above. The redeemed Membership Interests shall not exceed 50% in exchange for Capital Contributions totaling $900,000.00.

ARTICLE 8
DISSOLUTION OF THE COMPANY

8.1 Dissolution. The Company will be dissolved upon the first to occur of the following:

(a) upon the written consent of the Members;

(b) upon the sale or other disposition of all or substantially all of the Company's assets and receipt by the Company of the proceeds therefrom;

(c) the entry of a decree of dissolution or an administrative dissolution under the Act;

(d) upon the withdrawal of the last remaining Member, unless the Assignees, if any, unanimously agree to continue the business of the Company and admit a Member within 90 days after such withdrawal; or

(e) any other event requiring the dissolution of the Company under the laws of the State of Arizona.

8.2 Distributions and Other Matters. Upon the dissolution of the Company, the Company shall cease to carry on its business, except insofar as may be necessary for the winding up of its affairs in an orderly manner, liquidating its assets, and satisfying the claims of its creditors, but its separate existence shall continue until a certificate of termination has been issued by the Arizona Corporation Commission or until a decree dissolving the Company has been entered by a court of competent jurisdiction. Promptly upon the dissolution of the Company, the Manager shall cause to be executed and filed the required notices and other documents in accordance with the Act, and will liquidate the assets of the Company and apply and distribute the proceeds of such liquidation, or distribute the Company's assets in kind, as follows and in the following order:

(a) Ordinary Debts. To payment of the debts and liabilities of the Company, including debts owed to Members, in the order of priority provided by law; provided, however, that the Company shall first pay to the extent permitted by law, liabilities with respect to which any Member is or may be personally liable.

(b) Reserves and Distributions. To the setting up of such reserves as the Manager may deem reasonably necessary for any contingent or unforeseen liabilities or obligations of the Company arising out of or in connection with the Company business.

(c) Unreturned Capital Contribution Balance. To the Members on a pro rata basis in proportion to and to the extent of their respective then Unreturned Capital Contribution Balances.

(d) Remainder. The balance of the proceeds shall be distributed to the Members in accordance with the positive balance in their Capital Accounts determined as though all of the Company Property was sold for cash at their fair market value as of the date of distribution. Any such distributions shall be made in accordance with the timing requirements of Regulation Section 1.704 1(b)(2)(ii)(b)(2).

8.3 Rights of Members' Distributions of Property. Except as otherwise provided in this Agreement, each Member shall look solely to the assets of the Company for the return of its Capital Contribution and shall have no right or power to demand or receive property other than cash from the Company.

8.4 Filing of Required Notice of Dissolution. When all the assets of the Company have been distributed as provided herein, the Manager shall cause to be executed and filed on behalf of the Company any documents as required by applicable law.

ARTICLE 9
INDEMNITY

9.1 Indemnity Rights. The Company shall indemnify each Member, Manager and officer of the Company and their respective Affiliates (each an "**Indemnified Party**") who was or is a party or is threatened to be made a party to any threatened, pending, or completed investigation, action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of its actions as a member, manager or officer of the Company or by reason of its acts while serving at the request of the Company as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against out-of-pocket expenses, including attorneys' fees, and against judgments, fines, and amounts paid in settlement actually and reasonably incurred by it in connection with such action, suit, or proceeding, provided that the acts of such Indemnified Party were not committed with gross negligence or willful misconduct, and, with respect to any criminal action or proceeding, such Indemnified Party had no reasonable cause to believe his conduct was unlawful. The termination of any investigation, action, suit, or proceeding by judgment, order, settlement, or conviction, or upon a plea of no contest or its equivalent, shall not, in and of itself, create a presumption that the Indemnified Party acted with gross negligence or willful misconduct, or with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

9.2 Notice and Defense. Any Indemnified Party who is or may be entitled to indemnification shall give timely written notice to the Company and each Member that a claim has been or is about to be made against it, shall permit the Company to defend it through legal counsel of the Company's own choosing, and shall cooperate with the Company in defending against the claim. The Manager shall have the sole power and authority to select such legal counsel and to determine the terms and conditions of any settlement of such claim.

9.3 Other Sources. The indemnification provided for herein shall apply only in the event, and to the extent that, the Indemnified Party is not entitled to indemnification, or other payment, from any other source (including insurance), and the Company's indemnity obligations hereunder shall be in excess of any indemnification or other payment provided by such other source.

9.4 Survival. The indemnification provided for herein shall continue as to an Indemnified Party who has ceased to be a member, manager or officer of the Company and shall inure to the benefit of the heirs, executors, and administrators of such Person.

ARTICLE 10
POWER OF ATTORNEY

10.1 Appointment. Each Member, by the execution of this Agreement or a counterpart of this Agreement, either personally or by duly constituted attorney-in-fact, irrevocably constitutes and appoints the Manager as such Member's true and lawful attorney-in-fact and agent, with the full power and authority in its name, place and stead to make, execute, swear to, acknowledge, deliver, file and record, if necessary: (a) the Articles of Organization and any amendment thereto, as required by the Act, including any amendment required for the Transfer of Membership Interest, and admission, substitution or deletion of Members; (b) any cancellation of this Agreement and the Articles of Organization as required by the Act upon the dissolution and termination of the Company; (c) all certificates, instruments, documents and other papers (including without limitation any business certificate, fictitious name certificate, and additional powers of attorney) and amendments thereto which may from time to time be required under the laws of the United States of America, the State of Arizona, or any other jurisdiction in which the Company determines to do business, or required by any political subdivision or agency of any of the foregoing or otherwise, or which the Manager deems appropriate or necessary, to qualify or continue the qualification of the Company as a partnership for income tax purposes, to carry on the objects and intent of this Agreement, to conduct the business and affairs of the Company, to admit, substitute or delete Members and to effect the termination and dissolution of the Company; (d) all instruments or documents which the Manager deems appropriate to reflect an amendment, change or modification of the Company in accordance with the terms of this Agreement (including but not limited to completion of **Schedule 1**); and (e) all conveyances and other instruments which the Manager deems appropriate to effect the Transfer of a Membership Interest, to admit, substitute or delete Members, to sell, exchange or dispose of assets or properties of the Company, to borrow money and otherwise enter into financing transactions and to reflect the dissolution and termination of the Company in accordance with the terms of this Agreement.

10.2 Coupled With Interest. The power of attorney granted herein shall be deemed to be a power coupled with an interest, shall survive the death or legal incapacity of a Member and shall survive the Transfer by a Member of all or any portion of Membership Interests or any interest therein except where the transferee thereof has been approved by Manager for admission to the Company as a substituted Member, the power shall survive such Transfer with respect to the Membership Interest so Transferred only for the purpose of enabling the Manager to execute, acknowledge and file any instrument necessary to effect such substitution.

ARTICLE 11
ADDITIONAL PROVISIONS

11.1 Notices. Any notice, demand, offer, or other communication which any Person is required or may desire to give to any other Person in connection with this Agreement shall be delivered in person, or by "next business day" delivery by FedEx or UPS, or by email. If transmitted by way of email, such notice shall be deemed to be delivered on the business day following the date of transmission of such fax or email. If transmitted by "next business day" delivery, such notice shall be deemed to be delivered on the next business day after deposit with

the delivery service and addressed to the Person at their address as it appears on the books of the Company (or if there is no such address, then to the last address known to the Manager). If transmitted by personal delivery, on the next business day after such delivery is made at the address of the Person. All addresses and email addresses of each Member are as indicated on **Schedule 1**, and may be changed by each Member only by a notice to the Company and all the other Members complying with the terms of this **Section 11.1**.

11.2 Partial Invalidity. The invalidity of any portion of this Agreement will not affect the validity of the remainder hereof.

11.3 Governing Law; Parties in Interest; Exclusive Jurisdiction and Venue. This Agreement, and all claims or causes of action (whether in contract or tort) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this note or the transaction contemplated herein), will be governed by and subject to only the internal laws of the State of Arizona, without reference to the State of Arizona's choice of law rules, regulations or statutes. This Agreement will bind and inure to the benefit of the heirs, successors, assigns, and personal representatives of the parties. All claims, lawsuits or causes of action of any kind arising from or related to this Agreement, including any enforcement or breach of this Agreement, must be filed, brought, litigated, tried and appealed only in the state or federal courts located in Maricopa County, Arizona, and in no other jurisdiction or venue. The parties hereby consent to irrevocably the exclusive jurisdiction and venue of such courts, and waive all objections to such exclusive jurisdiction and venue, including an objection based on inconvenient forum.

11.4 Amendment. Except as otherwise provided in this Agreement, this Agreement shall not be altered, modified or changed without the written consent of the Manager and those Members then holding at least 50% of the Membership Interests; provided, however, that the Manager is hereby authorized, without prior written notice to or consent of any Member: (a) to amend the Agreement to reflect any permitted Transfer of a Membership Interest; (b) to make ministerial changes in this Agreement to satisfy requirements contained in any opinion, directive, order, ruling or regulation of any federal or state agency or in any federal or state statutes, compliance with which, upon the advice of Company counsel, is deemed to be in best interests of the Company, or (c) to make other ministerial amendments to this Agreement which, in the opinion of Company counsel, do not have a material adverse effect upon the rights or interests of the Members. The Manager shall give written notice to all Members promptly after any such amendment has become effective.

11.5 Execution in Counterparts; Scanned and Facsimile Signatures. This Agreement may be executed in counterparts, all of which taken together shall be deemed one original. This Agreement may be signed by electronic mail or facsimile and a scanned, faxed or photocopy of a signature of a party hereto shall have the same force and effect as an original signature.

11.6 Titles and Captions. All article, section, or paragraph titles or captions contained in this Agreement are for convenience only and are not deemed part of the context thereof.

11.7 Pronouns and Plurals. All pronouns and any variations thereof are deemed to refer to the masculine, feminine, neuter, singular, or plural as the identity of the person or persons may require.

11.8 Waiver of Action for Partition. Each Member irrevocably waives any right that he may have to maintain any action for partition with respect to any Company assets.

11.9 Entire Agreement; Sole and Exclusive Remedies. This Agreement contains the entire agreement among the Members regarding the matters described in this Agreement, including the formation, operation, business and control of the Company. This Agreement and supersedes any prior agreements among the Members regarding the matters described in this Agreement, including the formation, operation, business and control of the Company. The Members have voluntarily agreed to define their rights, obligations and liabilities regarding the matters described in this Agreement, including the formation, operation, business and control of the Company, exclusive in contract pursuant to the express terms and provisions in this Agreement. The Members each hereby acknowledge and agree that this Agreement: (a) embodies the justifiable expectations of sophisticated business people derived from arm's length negotiations; (b) no Member has any special relationship with another Member that would justify any expectation beyond that of an ordinary business relationship in an arm's length transaction. The sole and exclusive remedies for any breach of the terms and provisions of this Agreement or any claim or cause of action otherwise arising out of or related to the matters described in this Agreement will be those remedies available at law or in equity for breach of contract only, with the exception of those remedies against a Defaulting Member as expressly described in this Agreement. No party to this Agreement will have any remedies or cause of action (whether in contract or in tort) for any statements, communications, disclosures, failures to disclose, representations or warranties not set forth explicitly in this Agreement.

11.10 Construction. Such pronouns as "he," "his," "him," "it," or "who" with "Members," "Member," "Manager," or "Managers" as the antecedent shall be deemed to refer also to each such Persons who is a man, woman, a partnership, a joint venture, an association, a corporation, a company, a trust or other legal entity. Whenever required by the context hereof, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders, and vice versa. Section headings and captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

11.11 Legal Representation. The Manager and each Member hereby agrees, represents, warrants and acknowledges on an individual and separate basis, and on behalf of itself and its respective managers, members, principals, owners, partners and officers, that Buchalter Nemer PC and its authorized employees, agents and affiliates (collectively, **"BN"**) have represented only the Company in connection with the preparation of this Agreement and all other agreements

or documents contemplated herein and/or relating to the Company. BN does not represent any Member or the Manager in connection with this Agreement or the Company. The Manager and all Members hereby waive any conflict of interest, whether real or perceived, involving BN's representation solely of the Company as described in this **Section 11.11**. All Members understand and acknowledge they are advised to and should each seek independent legal, tax and investment counsel in connection with this Agreement and the structure of the Company. The Members warrant and represent that each has reviewed this Agreement, along with the structure of the Company on an individual basis and with their respective spouses and their respective tax, legal and investment advisors.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement, effective as of the date first set forth above.

MANAGER and MEMBER:

Rathaus Restaurants, LLC, an Arizona limited liability company

By: _____
Donald Hulke, its Manager

[indemnification follows]

REPRESENTATION AND INDEMNIFICATION OF MARK DIMARTINO AND ELIAS RESTAURANT GROUP, LLC:

Mark DiMartino ("DiMartino"), the undersigned, is a Member and/or Manager of Elias Restaurant Group, LLC, a Nevada limited liability company, which is currently a member of Rathaus Restaurant Holdings, LLC (i.e., the Manager of the Company). DiMartino hereby represents that he has relationships and involvement of various kinds with other hospitality industry entities outside of the Company and that he has disclosed his involvement with the Company and its Business to such other hospitality industry entities and their principals. DiMartino hereby agrees that he will take all necessary steps and precautions to ensure that none of his actions taken in connection with the Company or its Business do or will conflict with his obligations to any of other entities or under any other agreements to which DiMartino is a party. In the event any person or entity initiates any action or litigation against Mark DiMartino and/or the Company or its affiliates as a result of DiMartino's involvement in the Company or its Rathaus concept affiliates in derogation of any contract, agreement, covenant or other obligations by and between DiMartino and any such person or entity or owed by DiMartino to any such person or entity, DiMartino and Elias Restaurant Group, LLC, jointly and severally, agree to hold the Company harmless and to indemnify and defend the Company for any and all damages and liabilities, including any litigation cost and legal fees incurred by the Company in the defense of such action or litigation. The foregoing indemnification will first be satisfied through offsets from payments of any and all percentage of profits or other distributions payable to Elias Restaurant Group, LLC by the Company, and then by DiMartino personally if the incurred litigation costs and legal fees exceed the proceeds of Elias Restaurant Group, LLC's profits or other distributions payable to Elias Restaurant Group, LLC by the Company, and then by DiMartino personally if the incurred litigation costs and legal fees exceed the proceeds of Elias Restaurant Group, LLC's profits or other distributions. DiMartino hereby represents and warrants that he has the full authority to bind Elias Restaurant Group, LLC with respect to the foregoing indemnification and that the signature below binds the entity with respect to same. Venue for any action or proceeding related to the foregoing indemnity shall be proper and exclusive only in a court of competent jurisdiction situated in Maricopa County, Arizona and the prevailing party shall be entitled to recovery of its attorneys' fees from the non-prevailing party.

_____ Date: _____

Mark DiMartino

Elias Restaurant Group, LLC, a Nevada limited liability company

By: _____

Name: Mark DiMartino

Its: _____

SCHEDULE 1
of
Operating Agreement of Rathaus Tempe, LLC

List of Members

Name and Address of the Member	Initial Capital Contribution	Percentage Interest / Membership Interests
Rathaus Restaurants, LLC 3946 E. Glenrosa Avenue Phoenix, Arizona 85018	$10,000.00	100%

EXHIBIT A
of
Operating Agreement of Rathaus Restaurants, LLC

Special Tax Provisions

A.1 Definitions. The following terms, which are used predominantly in this **Exhibit A**, shall have the meanings set forth below for all purposes under this Agreement.

"**Adjusted Capital Account Deficit**" means, with respect to any Member, the deficit balance, if any, in the Member's Capital Account as of the end of the relevant Fiscal Year, after giving effect to the following adjustments: (a) the Capital Account shall be increased by the amounts which the Member is obligated to restore under this Agreement or is deemed obligated to restore pursuant to Regulation Sections 1.704 2(g)(1) and (i)(5); and (b) the Capital Account shall be decreased by the items described in Regulation Sections 1.704 1(b)(2)(ii)(d)(4), (5) and (6). This definition of Adjusted Capital Account Deficit is intended to comply with Regulation Section 1.704-1(b)(2)(ii)(d) and shall be interpreted and applied in a manner consistent with that Regulation.

"**Capital Account**" means, with respect to each Member, the Capital Account maintained for such Member in accordance with the following provisions:

(a) To each Member's Capital Account there shall be credited (i) such Member's Capital Contributions, (ii) such Member's allocable share of Profits and any items in the nature of income or gain which are specially allocated pursuant to **Section A.3** or **Section A.5**, and (iii) the amount of any Company liabilities assumed by such Member or which are secured by any Company assets distributed to such Member;

(b) To each Member's Capital Account there shall be debited (i) the amount of money and the Gross Asset Value of any Company asset distributed to such Member pursuant to any provision of this Agreement, (ii) such Member's allocable share of Losses and any items in the nature of expenses or losses which are specially allocated pursuant to **Section A.3** or **Section A.5**, and (iii) the amount of any liabilities of such Member assumed by the Company or which are secured by any Company assets contributed by such Member to the Company;

(c) In the event Membership Interests are Transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the Transferred Membership Interests; and

(d) In determining the amount of any liability for purposes of subparagraphs (a) and (b) above there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Regulations. In the event the Manager determines that it is prudent to modify the manner in which the Capital Accounts,

or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities which are secured by contributed or distributed property or which are assumed by the Company or any Members), are computed in order to comply with such Regulations, the Manager may make such modification. The Manager also shall (i) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Members and the amount of capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv), and (ii) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b).

"**Partnership Minimum Gain**" has the meaning given the term "partnership minimum gain" in Sections 1.704-2(b)(2) and 1.704-2(d) of the Regulations.

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

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

The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset, as reasonably determined by the Manager;

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

(f) The Gross Asset Value of any item of Company assets distributed to any Member shall be adjusted to equal the gross fair market value (taking Code Section 7701(g) into account) of such asset on the date of distribution as determined by written agreement of all of the Members; and

(g) The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m) and subparagraph (f) of the definition of "Profits" and "Losses" or **Section A.5(g)**; provided, however, that Gross Asset Values shall not be adjusted pursuant to this subparagraph (d) to the extent that an adjustment pursuant to subparagraph (b) is required in connection with a transaction that would otherwise result in an adjustment pursuant to this subparagraph (d).

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

"**Partner Nonrecourse Debt**" has the same meaning as the term "Partner nonrecourse debt" in Section 1.704-2(b)(4) of the Regulations.

"**Partner Nonrecourse Debt Minimum Gain**" means an amount, with respect to each Partner Nonrecourse Debt, equal to the Company Minimum Gain that would result if such Partner Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Section 1.704-2(i)(3) of the Regulations.

"**Partner Nonrecourse Deductions**" has the same meaning as the term "Partner nonrecourse deductions" in Sections 1.704-2(i)(1) and 1.704-2(i)(2) of the Regulations.

"**Nonrecourse Deductions**" has the meaning set forth in Regulations Section 1.704-2(b)(1).

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

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

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

(i) In the event the Gross Asset Value of any Company asset is adjusted pursuant to subparagraphs (b) or (c) of the definition of Gross Asset Value, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the Gross Asset Value of the asset) or an item of loss (if the adjustment decreases the Gross Asset Value of the asset)

from the disposition of such asset and shall be taken into account for purposes of computing Profits or Losses;

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

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

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

(m) Notwithstanding any other provision of this definition, any items which are specially allocated pursuant to **Section A.3** or **Section A.5** shall not be taken into account in computing Profits or Losses.

The amounts of the items of Company income, gain, loss or deduction available to be specially allocated pursuant to **Sections A.3** and **A.5** shall be determined by applying rules analogous to those set forth in subparagraphs (a) through (f) above.

"**Regulations**" means the income tax regulations, including any temporary regulations, promulgated under the Code as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

A.2 Allocations of Profits and Losses. After giving special effect to the special allocations set forth in **Section A.3** and **Section A.5**, Profits and Losses for any Fiscal Year shall be allocated to the Members in the following manner:

(a) Profits.

(i) First, Profits shall be allocated among the Members in proportion to the cumulative Losses previously allocated to the Members under **Section A.2(b)(iii)** until the cumulative Profits allocated to each Member under this **Section A.2(a)(i)** equal the cumulative Losses previously allocated to each Member under **Section A.2(b)(iii)**;

(ii) Second, Profits shall be allocated to the Members until the cumulative Profits allocated to each Member under this **Section A.2(a)(ii)** equals the Losses, if any, previously allocated to each Member under **Section A.2(b)(ii)**; and

(iii) Third, Profits shall be allocated to the Members on a pro rata basis in proportion to their respective Percentage Interests.

(b) Losses.

(i) First, Losses shall be allocated to the Members in proportion to the cumulative Profits previously allocated to the Members under **Section A.2(a)(iii)** until the cumulative Losses allocated pursuant to this **Section A.2(b)(i)** to each Member are equal to the cumulative Profits previously allocated to each Member under **Section A.2(a)(iii)**;

(ii) Second, Losses shall be allocated to the Members based on their respective positive Capital Accounts until each Member has been allocated an amount of Losses pursuant to this **Section A.2(b)(ii)** in the current and previous Fiscal Years to reduce each Member's Capital Account to zero; and

(iii) Third, Losses shall be allocated to the Members on a *pro rata* basis in proportion to their respective Percentage Interests.

A.3 Loss Limitations. Except as provided below, no Losses shall be allocated to any Member pursuant to **Section A.2(b)** if the allocation causes the Member to have an Adjusted Capital Account Deficit or increases the Member's Adjusted Capital Account Deficit. All Losses in excess of the limitations set forth in this **Section A.3** shall be allocated to the other Members on a *pro rata* basis based on each such Member's positive Adjusted Capital Account balance until each such other Member is subject to the limitation of this **Section A.3**, and thereafter, to all of the Members in accordance with the Members' Percentage Interests. If any Losses are allocated to a Member because of this **Section A.3**, then all subsequent Profits shall be allocated to the Members on a *pro rata* basis based on Losses allocated to them pursuant to this **Section A.3** until each Member has been allocated an amount of Profits pursuant to this **Section A.3** equal to the Losses previously allocated to that Member under this **Section A.3**.

A.4 Section 704(c) Allocations. In accordance with Code Section 704(c) and the Regulations there under, as well as Regulation Section 1.704 1(b)(2)(iv)(d)(3), income, gain, loss, and deduction with respect to any property contributed (or deemed contributed) to the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of any Company asset for federal income tax purposes and its fair market value at the date of contribution (or deemed contribution) under any permitted method set forth in Regulation Section 1.704-3 that is selected by the Manager. In the event the Gross Asset Value of any Company asset is adjusted pursuant to subparagraph (b) of the definition of Gross Asset Value, subsequent allocations of income, gain, loss and deduction with respect to each such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as provided under Code Section 704(c) and the Regulations thereunder.

A.5 Special Allocations. The following special allocations shall be made in the following order:

(a) Minimum Gain Chargeback. Except as otherwise provided in Regulations Section 1.704-2(f), notwithstanding any other provision of this **Exhibit A**, if there is a net

decrease in Partnership Minimum Gain during any Fiscal Year, each Member shall be specially allocated items of Membership income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Member's share of the net decrease in Partnership Minimum Gain, determined in accordance with Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This **Section A.5(a)** is intended to comply with the minimum gain chargeback requirement in Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(b) Partner Minimum Gain Chargeback. Except as otherwise provided in Regulations Section 1.704-2(i)(4), notwithstanding any other provision of this **Exhibit A**, if there is a net decrease in Partner Nonrecourse Debt Minimum Gain attributable to a Partner Nonrecourse Debt during any Fiscal Year, each Member who has a share of the Partner Nonrecourse Debt Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(5), shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Member's share of the net decrease in Partner Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(i)(4) and 1.704-(j)(2) of the Regulations. This **Section A.5(b)** is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(i)(4) of the Regulations and shall be interpreted consistently therewith.

(c) Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), or 1.7041(b)(2)(ii)(d)(6) of the Regulations, items of Company income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of the Member as quickly as possible, provided that an allocation pursuant to this **Section A.5(c)** shall be made only if and to the extent that the Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this **Exhibit A** have been tentatively made as if this **Section A.5(c)** were not in the Agreement.

(d) Gross Income Allocation. In the event any Member has a deficit Capital Account balance at the end of any Fiscal Year which is in excess of the sum of (i) the amount (if any) such Member is obligated to restore pursuant to any provision of this Agreement, and (ii) the amount such Member is obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.7042(i)(5), each such Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this **Section A.5(d)** shall be made only if and to the extent that such Member would have a deficit Capital Account balance in excess of such sum after all other allocations provided for in this **Exhibit A** have been made as if **Section A.5(c)** and this **Section A.5(d)** were not in the Agreement.

(e) Nonrecourse Deductions. Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Members on a pro rata basis in proportion to their respective Percentage Interests.

(f) Partner Nonrecourse Deductions. Any Partner Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Partner who bears the economic risk of loss with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i)(1).

(g) Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Company asset, pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.7041(b)(2)(iv)(m)(2) or 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of such Member's interest in the Company, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in accordance with their interests in the Company in the event Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Member to whom such distribution was made in the event Regulations Section 1.7041(b)(2)(iv)(m)(4) applies.

A.6 Curative Allocations. The allocations set forth in **Section A.5** (the "**Regulatory Allocations**") are intended to comply with certain requirements of the Regulations. To the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss or deduction pursuant to this **Section A.6**. Therefore, notwithstanding any other provision of this **Exhibit A** (other than the Regulatory Allocations), the Manager shall make such offsetting special allocations of Company income, gain, loss or deduction in whatever manner they determine appropriate so that, after such offsetting allocations are made, each Member's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of the Agreement and all Company items were allocated pursuant to **Section A.3**.

A.7 Discretion Regarding Elections. Any elections or other decisions relating to the allocations under this **Exhibit A**, the Member's Capital Accounts or any other elections provided for in the Code or other applicable law shall be made by the Manager.

A.8 Allocations in the Event of Admissions and Withdrawals. In the event Members are admitted to or withdraw from the Company pursuant to this Agreement on different dates during any Fiscal Year, the Profits or Losses allocated to the Members for each such Fiscal Year shall be allocated among the Members in proportion to the interest that each Member holds from time to time during such Fiscal Year in accordance with Code Section 706, using any convention permitted by law and selected by the Manager. For purposes of determining the Profits, Losses, or any other items allocable to any period, Profits, Losses, and any such other items shall be determined on a daily, monthly, or other basis, as determined by the Manager, using any method permissible under Code Section 706 and the Regulations thereunder.