

State of \_\_\_\_\_

## LIMITED LIABILITY COMPANY OPERATING AGREEMENT

\_\_\_\_\_, LLC  
A Member-Managed Limited Liability Company

### MULTI-MEMBER LIMITED LIABILITY COMPANY OPERATING AGREEMENT

**THIS OPERATING AGREEMENT** is made and entered into effective \_\_\_\_\_, by and between: \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ (collectively "Members").

#### SECTION I THE LIMITED LIABILITY COMPANY

- I. **NAME.** The company shall be named \_\_\_\_\_ (the "Company")
- II. **OFFICE.** The Company's principal office and place of business shall be located at \_\_\_\_\_.
- III. **PURPOSE.** The Company's purpose shall be to engage in any lawful business in which the Limited Liability Company may be formed within the State of \_\_\_\_\_.
- IV. **TERM.** The Company's term shall commence on \_\_\_\_\_ and shall continue until dissolved pursuant to the provisions of this agreement.
- V. **REGISTERED AGENT.** \_\_\_\_\_ is the Company's initial registered agent whose address is \_\_\_\_\_.
- VI. **MEMBERS.** The Members' names and addresses are attached as Schedule 1 to this Agreement.
- VII. **ADMISSION OF ADDITIONAL MEMBERS.** Unless otherwise expressly provided in this Agreement, no additional members may be admitted to the Company, through the issuance of new interests, without the prior unanimous written consent of the Members.

#### SECTION II CAPITAL CONTRIBUTIONS

- I. **INITIAL CONTRIBUTION.** The Members shall initially contribute to the Company capital as described in Schedule 2 attached to this Agreement.
- II. **ADDITIONAL CONTRIBUTION.** No member shall be obligated to furnish any additional contribution without the prior unanimous written consent of the Members.
- III. **NO INTEREST ON CAPITAL CONTRIBUTION.** The Members shall not be entitled to interest or compensation for or on account of their capital contributions, unless otherwise expressly provided by this Agreement.

#### SECTION III ALLOCATION OF PROFITS AND LOSSES; DISTRIBUTION

- I. **PROFITS/LOSSES.** For the purposes of financial accounting and taxation, the Company's net profit/loss shall be determined annually and shall be allocated proportionately among members according to their respective capital interest in the Company, as set forth in Schedule 2, as amended from time to time pursuant to the Department of the Treasury Regulation 1.704-1.

State of \_\_\_\_\_

- II. **DISTRIBUTION.** The Members shall determine and distribute available funds annually or frequently, as they see fit. Available funds shall mean the net cash of the company available after provisions for expenses and liabilities are determined by the Managers. Liquidation of the Company's and Member's capital interest shall be made according to the positive account balances pursuant to the Department of the Treasury Regulation 1.704-1(b)(2)(ii)(b)(2). To the extent, a Member shall have a negative account balance and there shall be a qualified income offset, as set forth in the Department of the Treasury Regulation 1.704-1(b)(2)(ii)(d)
- III. **NO RIGHT TO DEMAND RETURN OF CAPITAL.** Members shall not be entitled the right to any return of capital or the distribution thereof, unless otherwise expressly provided by this Agreement. The Company shall not extend drawing accounts to any of its Members.

#### **SECTION IV INDEMNIFICATION**

- I. The Company shall indemnify any person who was or is a party defendant or is threatened to be made a party defendant, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Company) because he is or was a Member of the Company, Manager, employee or agent of the Company, or is or was serving at the request of the Company, against expenses (including attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding if the Members determine that he acted in good faith and a manner he reasonably believed to be in or not opposed to the best interest of the Company, and to any criminal action proceeding, has no reasonable cause to believe his/her conduct was unlawful.
- II. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of "no lo Contendere" or its equivalent, shall not in itself create a presumption that the person did or did not act in good faith and in a manner which he reasonably believed to be in the best interest of the Company, and, concerning any criminal action or proceeding, had reasonable cause to believe that his/her conduct was lawful.

#### **SECTION V POWERS AND DUTIES OF MANAGERS**

##### **I. MANAGEMENT OF COMPANY**

- A. The Members shall, within the authority granted by the Act and the terms of this Agreement, have the complete power and authority to manage and operate the Company and make all decisions affecting its business and affairs.
- B. Unless expressly provided in this Agreement, all decisions and documents relating to the management and operation of the Company shall be made and executed by a Majority, in Interest of the Members.
- C. Third parties dealing with the Company shall be entitled to rely conclusively upon the power and authority of a Majority, in Interest of the Members, to manage and operate the business and affairs of the Company.
- D. Any decision, consent, approval, judgment, or action made Members, unless otherwise expressly provided in this Agreement, shall mean a Majority of the Members.

**SECTION VI  
SALARIES, REIMBURSEMENT, AND PAYMENT OF EXPENSES**

- I. **ORGANIZATION EXPENSES.** The Company shall pay any reasonable expenses incurred in connection with the formation and organization of the Company.
- II. **SALARY.** The Members shall not be entitled to a salary unless otherwise agreed and approved in writing by the Majority of the Members.
- III. **LEGAL AND ACCOUNTING SERVICES.** The Company may obtain legal and accounting services to the extent reasonably necessary in the conduct of the Company's business.

**SECTION VII  
BOOKS OF ACCOUNTS, ACCOUNTING REPORTS, TAX RETURN, BANKING, FISCAL YEAR**

- I. **METHOD OF ACCOUNTING.** The Company shall use the method of accounting previously determined and approved by the Members for the purpose of Tax and Financial Reporting.
- II. **FISCAL YEAR, TAXABLE YEAR.** The Company shall have the Calendar Year as its Fiscal and Taxable Year.
- III. **CAPITAL ACCOUNTS.** The Company shall maintain a Capital Account for each Member, on a cumulative basis, in accordance with federal income tax accounting principles.
- IV. **BANKING.** All funds of the Company shall be deposited in a separate bank account or accounts of a savings and loan association in the name of the Company as determined by the Majority of the Members. Company funds shall be invested or deposited with an institution, the accounts or deposits of which are insured or guaranteed by an agency of the United States government.

**SECTION VIII  
TRANSFER OF MEMBERSHIP INTEREST**

- I. **PROHIBITION OF SALE OR ENCUMBRANCE.** No Member shall voluntarily or involuntarily transfer, sell, convey, encumber, pledge, assign, or otherwise dispose of (collectively, "Transfer") an interest in the Company without the prior written consent of a majority of the other non-transferring Members determined on a per capita basis, or unless permitted by this Agreement.
- II. **RIGHT OF FIRST REFUSAL.** In lieu of the provisions of Section VIII-I, a Member may transfer all or any part of the Member's interest in the Company (the "Interest") as follows:
  - A. The Member desiring to transfer his or her Interest must first provide written notice (the "Notice") to the other Members, specifying the price and terms on which the Member is prepared to sell the Interest (the "Offer").
  - B. Other Members may acquire all of the Interest at the price and under the terms specified in the Offer for a period of 30 days after receipt of the Notice. If the acquiring Members cannot agree among themselves on the allocation of the Interest, the allocation shall be proportional to the Ownership Interests of those Members desiring to acquire the Interest.
  - C. Closing the sale of the Interest shall occur as stated in the Offer, which shall not be less than 45 days after the expiration of the 30-day notice period.
  - D. The Members shall be deemed to have waived their right to acquire the Interest on the terms described in the Offer should they fail or refuse to notify the transferring Member of their desire to acquire all of the Interest proposed to be transferred within the 30-day

period following receipt of the Notice. The transferring Member may then sell and convey the Interest consistent with the Offer to any other person or entity provided that it should not be contrary to anything in Section VIII-II.

- E. Should the sale to a third person be at a price or on terms that are more favorable than stated in the Offer, the transferring Member must then reoffer the sale of the Interest to the remaining Members at that other price or other terms. If the sale to a third person is not closed within six months after the expiration of the 30-day period described above, then the provisions of Section VIII-II will again apply to the Interest proposed to be sold or conveyed.
- F. In lieu with the foregoing provisions of Section VIII-II, should the sole remaining Member be entitled to and elect to acquire all the Interests of the other Members of the Company in accordance with the provisions of Section VIII-II, the acquiring Member may assign the right to acquire the Interests to a spouse, lineal descendant, or an affiliated entity if the assignment is reasonably believed to be necessary to continue the existence of the Company as a limited liability company.

**III. SUBSTITUTED PARTIES.** A Transferee will not be permitted to become a fully substituted Member in any transfer unless and until;

- A. The transferor and assignee executes and delivers the necessary or appropriate documents and instruments of conveyance to the Company, to effect the transfer and to confirm the agreement of the permitted assignee to be bound by the provisions of this Agreement; and
- B. The transferor presents an opinion of counsel, satisfactory to the Company, that the transfer will not cause the Company to terminate for federal income tax purposes or that any termination is not adverse to the Company or the other Members.

**IV. DEATH, INCOMPETENCY, AND BANKRUPTCY OF A MEMBER.** In the event of death, incompetence, and bankruptcy of a Member, unless the Company exercises its rights under Section VIII-V, the successor to the interest of the Member (whether a member of his estate, a bankruptcy trustee, or otherwise) shall only be entitled to receive distributions made from the Company and Member's Allocable share of taxable income, gain, loss, deduction, and credit (the "Economic Rights") unless the Majority of the Members decide to induct the successor as a fully substituted Member in accordance to the provisions of Section VIII-III.

**V. ACQUISITION OF A DECEASED MEMBER'S INTEREST.** The Company shall have the option to acquire, purchase, or redeem a deceased Member's interest in the company provided that;

- A. A written notice to the deceased member's estate within 180 following the member's death. The deceased member's interest shall be valued in accordance with schedule 3 attached and made part of this Agreement, or upon agreement and the surviving Members and the deceased Member's estate.
- B. Closing the acquisition, purchase, or redemption of the deceased Member's interest in the Company shall be made within the Company's office on a designated date. Closing shall be made no later than 90 days following the appraisal of the deceased Member's interest in the Company, in accordance with Section VIII-II.
- C. The Company shall pay the purchase price of the deceased Member's interest in the Company. The purchase price shall be paid in cash if the interest is worth \$1,000.00; If the interest's worth exceeds \$1,000.00, the purchase price shall be paid in the following

manner; (a) in cash, bank cashier's check, or certified funds; (b) by executing and delivering its promissory note for the balance, with interest at the prime interest rate stated by primary banking institution utilized by the Company at the time of the deceased Member's death. Interest will be payable monthly, with the principal sum being due and payable in three equal annual installments. The promissory note will be unsecured and will contain provisions that the principal sum may be paid in whole or in part at any time, without penalty.

- D. The deceased Member's estate or personal representative must assign to the Company all of the deceased Member's Interest in the Company free and clear of all liens, claims, and encumbrances, and, at the request of the Company. The estate or personal representative must also execute all other instruments as may reasonably be necessary to vest in the Company all of the deceased Member's right, title, and interest in the Company and its assets. If either the Company or the deceased Member's estate or personal representative fails or refuses to execute any instrument required by this Agreement, the other party is hereby granted the irrevocable power of attorney which, is coupled with an interest, to execute and deliver on behalf of the failing or refusing party all instruments required to be executed and delivered by the failing or refusing party.
- E. Upon completion of the purchase of the deceased Member's Interest in the Company, the Ownership Interests of the remaining Members will increase proportionately to their then existing Ownership Interests.

## SECTION IX DISSOLUTION OR WINDING UP OF COMPANY

- I. **DISSOLUTION.** The shall dissolve under any of the following events and conditions:
  - A. Sale, transfer, or other disposition of all or a substantial part of the property of the Company;
  - B. By agreement of all of the Members;
  - C. By operation of law; or
  - D. The death, incompetence, expulsion, or bankruptcy of a Member, or the occurrence of any event that terminates the continued membership of a Member in the Company, unless there is then remaining at least the minimum number of Members required by law and all of the remaining Members, within 120 days after the date of the event, elect to continue the business of the Company.
- II. **WINDING UP.** If the Company is not continued upon its dissolution, the members must take full account of the Company's assets and liabilities. Such assets will then be liquidated as promptly consistent with obtaining their fair value, and the proceeds, to the extent sufficient to pay the Company's obligations with respect to the liquidation, will be applied and distributed, after any gain or loss realized in connection with the liquidation has been allocated in accordance with Section 3 of this Agreement, and the Members' Capital Accounts have been adjusted to reflect the allocation and all other transactions through the date of the distribution.

## SECTION X GENERAL PROVISIONS

State of \_\_\_\_\_

- I. **AMENDMENTS.** Amendments to this Agreement can be proposed by any Member. A proposed amendment will be adopted and become effective only upon the written approval of all of the Members.
  
- II. **GOVERNING LAW.** This Agreement and the rights and obligations of the parties under it are governed by and interpreted in accordance with the laws of the State of \_\_\_\_\_.
  
- III. **ENTIRE AGREEMENT.** This Agreement constitutes the entire understanding and agreement between the Members with respect to the subject matter of this Agreement. No agreements, understandings, restrictions, representations, or warranties exist between or among the members other than those in this Agreement or referred to or provided for in this Agreement.
  
- IV. **MODIFICATION.** No modification or amendment of any provision of this Agreement shall bind any Member unless it is in writing, and signed by all the Members.
  
- V. **ATTORNEY FEES.** In the event of any suit or action to enforce or interpret any provision of this Agreement (or that is based on this Agreement), the prevailing party is entitled to recover reasonable attorney fees other costs related to the suit, action, or arbitration, and in any appeals. The determination of who is the prevailing party and the sum of reasonable attorney fees to be paid will be decided by the court or courts, including any appellate courts, in which the matter is tried, heard, or decided.
  
- VI. **FURTHER EFFECT.** The parties agree to execute other documents necessary to further effect and evidence the terms of this Agreement, as long as the terms and provisions of the other documents are fully consistent with the terms of this Agreement.
  
- VII. **SEVERABILITY.** If any term or provision of this Agreement is held to be void or unenforceable, that term or provision will be severed from this Agreement, the balance of the Agreement will survive, and the balance of this Agreement will be reasonably construed to carry out the intent of the parties as evidenced by the terms of this Agreement.
  
- VIII. **NOTICES.** All notices required to be given by this Agreement will be in writing and will be effective when actually delivered or, if mailed, when deposited as certified mail, postage prepaid, directed to the addresses first shown above for each Member or to such other address as a Member may specify by notice given in conformance with these provisions to the other Members.

**IN WITNESS WHEREOF,** the parties to this Agreement execute this Operating Agreement as of the date and year first above written.

**MEMBERS:**

**Printed/Typed Name** \_\_\_\_\_ **Signature** \_\_\_\_\_

**Printed/Typed Name** \_\_\_\_\_ **Signature** \_\_\_\_\_

**Printed/Typed Name** \_\_\_\_\_ **Signature** \_\_\_\_\_

State of \_\_\_\_\_

## SCHEDULES

### Listing of Members -Schedule 1

LIMITED LIABILITY COMPANY OPERATING AGREEMENT  
FOR \_\_\_\_\_(COMPANY NAME), L.L.C.

#### LISTING OF MEMBERS

As of the this \_\_\_\_ (Day) day of \_\_\_\_\_, 20\_\_\_\_ (Month, Year), the following is a list of Members of the Company:

**NAME**

**ADDRESS**

\_\_\_\_\_

\_\_\_\_\_

State of \_\_\_\_\_

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

Authorized by Member(s) to provide Member Listing as this \_\_\_\_ (Day) day of \_\_\_\_\_, 20 \_\_\_\_  
(Month, Year).

Printed/Typed Name \_\_\_\_\_ Signature \_\_\_\_\_

Printed/Typed Name \_\_\_\_\_ Signature \_\_\_\_\_

Printed/Typed Name \_\_\_\_\_ Signature \_\_\_\_\_

**Listing of Capital Contributions -Schedule 2**

**LIMITED LIABILITY COMPANY OPERATING AGREEMENT  
FOR \_\_\_\_\_ (COMPANY NAME), L.L.C.**

**CAPITAL CONTRIBUTIONS**

Pursuant to **ARTICLE II**, the Members' initial contribution to the Company capital is stated to be \$100.  
The description and each individual portion of this initial contribution are as follows:

<b>NAME</b>	<b>CONTRIBUTION</b>	<b>OWNERSHIP</b>
_____	\$ _____	_____ %

State of \_\_\_\_\_

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

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

**SIGNED AND AGREED** this \_\_\_\_ (Day) day of \_\_\_\_\_, 20 \_\_\_\_ (Month, Year).

**Printed/Typed Name** \_\_\_\_\_ **Signature** \_\_\_\_\_

**Printed/Typed Name** \_\_\_\_\_ **Signature** \_\_\_\_\_

**Printed/Typed Name** \_\_\_\_\_ **Signature** \_\_\_\_\_

**Listing of Valuation of Members Interest -Schedule 3**

**LIMITED LIABILITY COMPANY OPERATING AGREEMENT  
FOR \_\_\_\_\_ (COMPANY NAME), L.L.C.**

**VALUATION OF MEMBERS INTEREST**

Pursuant to **ARTICLE VIII**, the value of each Member's interest in the Company is endorsed as follows:

<b>NAME</b>	<b>VALUATION ENDORSEMENT</b>
_____	\$ _____
_____	\$ _____
_____	\$ _____

State of \_\_\_\_\_

**SIGNED AND AGREED** this \_\_\_\_ (Day) day of \_\_\_\_\_, 20\_\_\_\_ (Month, Year).

**Printed/Typed Name** \_\_\_\_\_ **Signature** \_\_\_\_\_

**Printed/Typed Name** \_\_\_\_\_ **Signature** \_\_\_\_\_

**Printed/Typed Name** \_\_\_\_\_ **Signature** \_\_\_\_\_

**NOTARY SEAL OF ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

**State of** \_\_\_\_\_

**County of** \_\_\_\_\_

On, \_\_\_\_\_, before me personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under the **PENALTY OF PERJURY** under the laws of the State of \_\_\_\_\_ that the foregoing paragraph is true and correct.

**WITNESS** my hand and official seal.

State of \_\_\_\_\_

Signature(Seal)