

OPERATING AGREEMENT FOR MEMBER-MANAGED LIMITED LIABILITY COMPANY

I. PRELIMINARY PROVISIONS

(1) *Commencement Date:* This agreement for _____, effective from _____, is adopted by the members whose signatures are affixed at the end of this document (the "Agreement").

(2) *Formation:* This limited liability company (LLC) was formed by filing Articles of Organization, a Certificate of Formation or a similar organizational document with the LLC filing office of the state of _____ on _____. A copy of this organizational document is stored in the LLC's records book.

(3) *Name:* The formal name of this LLC is as stated above. However, this LLC may do business under a different name by complying with the state's fictitious or assumed business name statutes and procedures.

(4) *Registered Office and Agent:* The registered office of this LLC and the registered agent at this address are as follows:

The registered office and its corresponding agent may be periodically adjusted as deemed appropriate by the members, through the submission of the requisite form for changing the registered agent or office to the pertinent state LLC administrative office. No amendment to this clause of the operating agreement shall be necessitated upon the execution of such modifications.

(5) *Business Purposes:* The specific business objectives and activities contemplated by the founders of this LLC at the time of initial execution of this agreement include the following:"

It is understood that the foregoing statement of purposes shall not serve as a limitation on the powers or abilities of this LLC, which shall be permitted to engage in any and all lawful business activities. If this LLC intends to engage in business activities outside the state of its formation that require the qualification of the LLC in other states, it shall obtain such qualification before engaging in such out-of-state activities.

(6) *Duration of LLC:* The duration of this LLC shall be _____. Further, this LLC shall terminate when a proposal to dissolve the LLC is adopted by the membership of this LLC or when this LLC is otherwise terminated in accordance with law.

II. MEMBERSHIP PROVISIONS

(1) *Non-liability of Members:* No member of this LLC shall be personally liable for the expenses, debts, obligations or liabilities of the LLC, or for claims made against it.

(2) *Reimbursement for Organizational Costs:* Members shall be reimbursed by the LLC for organizational expenses paid by the members. The LLC shall be authorized to elect to deduct organizational expenses and start-up expenditures ratably over a period of time as permitted by the Internal Revenue Code and as may be advised by the LLC's tax advisor.

(3) *Management:* This LLC shall be managed exclusively by all of its members

(4) *Members' Percentage Interests:* A member's percentage interest in this LLC shall be computed as a fraction, the numerator of which is the total of a member's capital account and the denominator of which is the total of all capital

accounts of all members. This fraction shall be expressed in this agreement as a percentage, which shall be called each member's "percentage interest" in this LLC.

(5) *Membership Voting:* Unless otherwise mandated by the Articles of Organization, Certificate of Formation, or another foundational document, provisions of this operating agreement, or by the laws of this jurisdiction, each member shall cast a vote on any issue presented to the membership based on their percentage stake in this LLC. Additionally, unless specified differently in a section of this operating agreement, the term "majority of members" signifies the vote of members whose collective votes surpass 50% of the total votes of all members in this LLC.

(6) *Compensation:* Members shall not be paid as members of the LLC for performing any duties associated with such membership, including management of the LLC. Members may be paid, however, for any services rendered in any other capacity for the LLC, whether as officers, employees, independent contractors or otherwise.

(7) *Members' Meetings:* The LLC will not schedule regular members' meetings. Yet, any member can initiate a meeting by expressing their intent to all other members. This communication can be in person, in writing, or through telephone, fax, or other electronic means likely to reach a member. The other members should then confirm, either in person, in writing, or electronically to the member initiating the meeting, to convene at a mutually agreed time and location. The agenda for the meeting isn't mandatory to be shared by the member initiating it, and any topic can be deliberated and acted upon. If not all members can participate, the meeting should be deferred to when everyone can join, unless those absent have provided written consent for the meeting to proceed without them. If a rescheduled meeting can't occur due to non-attendance or lack of written consent, a subsequent rescheduled meeting can be set, with its date and time announced during the initial rescheduled meeting and communicated to absent members. This subsequent meeting can proceed if a majority of the LLC's membership percentage interests are present. Decisions from this meeting should be promptly communicated in writing to non-attending members. Detailed minutes of discussions, proposals, and decisions from any meeting should be documented by a member or designated individual. These minutes should be stored in the LLC's official records post-meeting.

(8) *Membership Certificates:* This LLC is permitted to procure and distribute certificates denoting membership stakes in this LLC. Every certificate will display the LLC's name, the member's name, and affirm that the named individual is a member of the LLC with rights as outlined in the Articles of Organization, Certificate of Formation, or another foundational document, this operating agreement, and legal provisions. Each membership certificate will be sequentially numbered and endorsed by one or several officers of this LLC. The certificates may encompass any further details deemed suitable by the members. Beyond the aforementioned details, all membership certificates must prominently feature a legend on their front or back, highlighting or referencing any transfer constraints pertaining to memberships in this LLC as per the Articles of Organization, Certificate of Formation, or another document and/or this operating agreement, and the location where a member can acquire a copy of these limitations upon inquiry to this LLC. The LLC's record book will maintain a roster of all certificate recipients, the issuance date for each, and the date of any certificate cancellations or transfers.

(9) *Other Business by Members:* Every member shall commit not to possess a stake in, oversee, or be employed by another entity or venture if such ownership or endeavors would rival this LLC's objectives, vision, profitability, or efficiency, or would reduce the member's capacity to optimally manage this LLC's operations.

III. TAX AND FINANCIAL PROVISIONS

(1) *Tax Classification of LLC:* The members of this LLC aim for it to be initially designated as a _____ for federal and, if relevant, state income tax purposes. All members understand they can modify the tax status of this LLC by endorsing, or authorizing the endorsement of, IRS Form 8832, Entity Classification Election, and submitting it to the IRS and, if necessary, the state tax department within the designated timeframes.

(2) *Tax Year and Accounting Method:* The fiscal year of this LLC shall be _____. The LLC will employ the _____ method of accounting. Both the tax year and the accounting cycle can be adjusted with the unanimous consent of members if the LLC meets the criteria for such a change, and can be initiated by filing the appropriate forms with the IRS and state tax agencies.

(3) *Tax Matters Partner*: If mandated by Internal Revenue Code stipulations or guidelines, this LLC will select from its members a "tax matters partner" in line with Internal Revenue Code Section 6231 (a) (7) and related regulations. This individual will act as the representative for the LLC in interactions with the IRS as mandated under the Internal Revenue Code and Regulations, and will inform the members about the developments and results of these interactions.

(4) *Annual Income Tax Returns and Reports*: Within 60 days following the end of the LLC's tax year, a copy of the state and federal tax returns for the preceding year will be dispatched or provided to each member of the LLC, along with any additional data and forms essential for members to complete their individual state and federal tax filings. If this LLC is identified as a partnership for tax purposes, this supplementary information will include a federal (and, if applicable, state) Form K-1 (Form 1065 - Partner's Share of Income, Credits, Deductions) or a similar tax reporting form. This extra data will also comprise a financial report, which will present a balance sheet and profit and loss statement for the previous tax year of the LLC.

(5) *Bank Accounts*: The LLC will identify one or more banks or financial institutions for the deposit of its funds and will establish savings, checking, investment, and other accounts as deemed appropriate for its operations and investments. One or more members of the LLC will be nominated, with the unanimous agreement of all members, to deposit and withdraw the LLC's funds and to oversee the investment of funds across these accounts. The funds of the LLC, regardless of where they are deposited or invested, shall remain separate from the personal funds of any of its members.

(6) *Title to Assets*: All tangible and intangible assets of this LLC will be held under the name of the LLC, not under individual members.

IV. CAPITAL PROVISIONS

(1) *Capital Contributions by Members*: Members are to make the contributions of cash, assets, or services as detailed next to each member's name below. Unless specified differently, cash and assets described below are to be transferred to the LLC by _____. The agreed-upon market values of property or services between the LLC and the contributing member are also indicated below. The percentage stake in the LLC that each member receives in exchange for their capital input is also specified for each member.

<u>NAME & ADDRESS</u>	<u>CONTRIBUTION</u>	<u>% INTEREST IN LLC</u>
(1) _____ _____ _____	_____	_____
(2) _____ _____ _____	_____	_____
(3) _____ _____ _____	_____	_____

(2) *Additional Contributions by Members*: The members may agree, from time to time by unanimous vote, to require the payment of additional capital contributions by the members, on or by a mutually agreeable date.

(3) *Failure to Make Contributions:* If a member fails to make a required capital contribution within the time agreed for a member's contribution, the remaining members may, by unanimous vote, agree to reschedule the time for payment of the capital contribution by the late-paying member, setting any additional repayment terms, such as a late payment penalty, rate of interest to be applied to the unpaid balance, or other monetary amount to be paid by the delinquent member, as the remaining members decide. Alternatively, the remaining members may, by unanimous vote, agree to cancel the membership of the delinquent member, provided any prior partial payments of capital made by the delinquent member are refunded promptly by the LLC to the member after the decision is made to terminate the membership of the delinquent member.

(4) *No Interest on Capital Contributions:* No interest shall be paid on funds or property contributed as capital to this LLC, or on funds reflected in the capital accounts of the members.

(5) *Capital Account Bookkeeping:* A capital account shall be set up and maintained on the books of the LLC for each member. It shall reflect each member's capital contribution to the LLC, increased by each member's share of profits in the LLC, decreased by each member's share of losses and expenses of the LLC, and adjusted as required in accordance with applicable provisions of the Internal Revenue Code and corresponding income tax regulations.

(6) *Consent to Capital Contribution Withdrawals and Distributions:* Members shall not be allowed to withdraw any part of their capital contributions or to receive distributions, whether in property or cash, except as otherwise allowed by this agreement and, in any case, only if such withdrawal is made with the written consent of all members.

(7) *Allocations of Profits and Losses:* No member shall be given priority or preference with respect to other members in obtaining a return of capital contributions, distributions or allocations of the income, gains, losses, deductions, credits or other items of the LLC. The profits and losses of the LLC, and all items of its income, gain, loss, deduction and credit shall be allocated to members according to each member's percentage interest in this LLC.

(8) *Allocation and Distribution of Cash to Members:* Cash from LLC business operations, as well as cash from a sale or other disposition of LLC capital assets, may be distributed from time to time to members in accordance with each member's percentage interest in the LLC, as may be decided by _____ of the members.

(9) *Allocation of Noncash Distributions:* If proceeds consist of property other than cash, the members shall decide the value of the property and allocate such value among the members in accordance with each member's percentage interest in the LLC. If such noncash proceeds are later reduced to cash, such cash may be distributed among the members as otherwise provided in this agreement.

(10) *Allocation and Distribution of Liquidation Proceeds:* Regardless of any other provision in this agreement, if there is a distribution in liquidation of this LLC, or when any member's interest is liquidated, all items of income and loss shall be allocated to the members' capital accounts, and all appropriate credits and deductions shall then be made to these capital accounts before any final distribution is made. A final distribution shall be made to members only to the extent of, and in proportion to, any positive balance in each member's capital account.

V. MEMBERSHIP WITHDRAWAL AND TRANSFER PROVISIONS

(1) *Withdrawal of Members:* A member may withdraw from this LLC by giving written notice to all other members at least _____ days before the date the withdrawal is to be effective.

(2) *Restrictions on the Transfer of Membership:* A member shall not transfer his or her membership in the LLC unless all non-transferring members in the LLC first agree to approve the admission of the transferee into this LLC. Further, no member may encumber a part or all of his or her membership in the LLC by mortgage, pledge, granting of a security interest, lien or otherwise, unless the encumbrance has first been approved in writing by all other members of the LLC. Notwithstanding the above provision, any member shall be allowed to assign an economic interest in his or her membership to another person without the approval of the other members. Such an assignment

shall not include a transfer of the member's voting or management rights in this LLC, and the assignee shall not become a member of the LLC.

VI. DISSOLUTION PROVISIONS

(1) Events That Trigger Dissolution of the LLC: The following events shall trigger dissolution of the LLC, except as provided:

- (a) the death, permanent incapacity, bankruptcy, retirement, resignation or expulsion of a member, except that within _____ of the happening of any of these events, all remaining members of the LLC may vote to continue the legal existence of the LLC, in which case the LLC shall not dissolve;
- (b) the expiration of the term of existence of the LLC if such term is specified in the Articles of Organization, Certificate of Formation or a similar organizational document, or this operating agreement;
- (c) the written agreement of all members to dissolve the LLC;
- (d) entry of a decree of dissolution of the LLC under state law.

VII. GENERAL PROVISIONS

(1) Officers: The LLC may designate one or more officers, such as a President, Vice President, Secretary and Treasurer. Persons who fill these positions need not be members of the LLC. Such positions may be compensated or non-compensated according to the nature and extent of the services rendered for the LLC as a part of the duties of each office. Ministerial services only as a part of any officer position will normally not be compensated, such as the performance of officer duties specified in this agreement, but any officer may be reimbursed by the LLC for out-of-pocket expenses paid by the officer in carrying out the duties of his or her office.

(2) Records: The LLC shall keep at its principal business address a copy of all proceedings of membership meetings, as well as books of account of the LLC's financial transactions. A list of the names and addresses of the current membership of the LLC also shall be maintained at this address, with notations on any transfers of members' interests to nonmembers or persons being admitted into membership in the LLC.

Copies of the LLC's Articles of Organization, Certificate of Formation or a similar organizational document, a signed copy of this operating agreement, and the LLC's tax returns for the preceding three tax years shall be kept at the principal business address of the LLC. A statement also shall be kept at this address containing any of the following information that is applicable to this LLC:

- the amount of cash or a description and value of property contributed or agreed to be contributed as capital to the LLC by each member;
- a schedule showing when any additional capital contributions are to be made by members to this LLC;
- a statement or schedule, if appropriate, showing the rights of members to receive distributions representing a return of part or all of members' capital contributions; and
- a description of, or date when, the legal existence of the LLC will terminate under provisions in the LLC's Articles of Organization, Certificate of Formation or a similar organizational document, or this operating agreement.

If one or more of the above items is included or listed in this operating agreement, it will be sufficient to keep a copy of this agreement at the principal business address of the LLC without having to prepare and keep a separate record of such item or items at this address. Any member may inspect any and all records maintained by the LLC upon reasonable notice to the LLC. Copying of the LLC's records by members is allowed, but copying costs shall be paid for by the requesting member.

(3) All Necessary Acts: The members and officers of this LLC are authorized to perform all acts necessary to perfect the organization of this LLC and to carry out its business operations expeditiously and efficiently. The Secretary of the LLC, or other officers, or all members of the LLC, may certify to other businesses, financial institutions and

individuals as to the authority of one or more members or officers of this LLC to transact specific items of business on behalf of the LLC.

(4) Indemnification: The LLC shall indemnify the Member and those authorized officers, agents, and employees of the LLC identified in writing by the Member as entitled to being indemnified under this section for all costs, losses, liabilities and damages paid or accrued by the Member (as the Member or officer, agent, or employee) or any such office, agent, or employee in connection with the business of the LLC, except to the extent prohibited by the laws of the state that governs this Agreement. In addition, the LLC may advance costs of defense of any proceeding to the Member or any such officer, agent, or employee upon receipt by the LLC of an undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined that the person is not entitled to be indemnified by the LLC.

(5) Mediation and Arbitration of Disputes Among Members: In any dispute over the provisions of this operating agreement and in other disputes among the members, if the members cannot resolve the dispute to their mutual satisfaction, the matter shall be submitted to mediation. The terms and procedure for mediation shall be arranged by the parties to the dispute. If good-faith mediation of a dispute proves impossible or if an agreed-upon mediation outcome cannot be obtained by the members who are parties to the dispute, the dispute may be submitted to arbitration in accordance with the rules of the American Arbitration Association. Any party may commence arbitration of the dispute by sending a written request for arbitration to all other parties to the dispute. The request shall state the nature of the dispute to be resolved by arbitration, and, if all parties to the dispute agree to arbitration, arbitration shall be commenced as soon as practical after such parties receive a copy of the written request. All parties shall initially share the cost of arbitration, but the prevailing party or parties may be awarded attorney fees, costs and other expenses of arbitration. All arbitration decisions shall be final, binding and conclusive on all the parties to arbitration, and legal judgment may be entered based upon such decision in accordance with applicable law in any court having jurisdiction to do so.

(6) Governing Law: This Agreement shall be governed by, and interpreted and enforced in accordance with, the substantive laws of the State in which the LLC was formed, without reference to the conflicts of law rules of that or any other jurisdiction.

(7) Entire Agreement: This operating agreement represents the entire agreement among the members of this LLC, and it shall not be amended, modified or replaced except by a written instrument executed by all the parties to this agreement who are current members of this LLC as well as any and all additional parties who became members of this LLC after the adoption of this agreement. This agreement replaces and supersedes all prior written and oral agreements among any and all members of this LLC.

(8) Severability: If any provision of this agreement is determined by a court or arbitrator to be invalid, unenforceable or otherwise ineffective, that provision shall be severed from the rest of this agreement, and the remaining provisions shall remain in effect and enforceable.

VIII. ADDITIONAL PROVISIONS

(1) Non-Compete Clause: Members agree that during the term of their membership in the LLC and for a period of _____ after termination or withdrawal, they will not engage in or start a business that directly competes with the LLC within a radius of _____ from the LLC's primary place of business.

(2) Confidentiality: All members agree to maintain the confidentiality of the LLC's proprietary information, trade secrets, and any other confidential information. This obligation shall continue even after a member's termination or withdrawal from the LLC.

(3) Dispute Resolution: In the event of any dispute arising out of or related to this agreement, the members agree to first attempt to resolve the dispute through good-faith negotiations. If the dispute cannot be resolved through negotiations, the members agree to submit the dispute to mediation before resorting to arbitration or litigation.

(4) *Amendment of the Agreement:* This agreement can only be amended or modified in writing and must be signed by all members. Any amendments must be consistent with the state's LLC laws.

(5) *Admission of New Members:* New members may be admitted to the LLC only with the unanimous consent of the existing members. The terms and conditions of such admission shall be set forth in a written agreement and shall be consistent with the terms of this operating agreement.

(6) *Duties and Responsibilities:* Members shall perform the duties and responsibilities as outlined in any attached schedules or as mutually agreed upon from time to time.

(7) *Non-Solicitation:* For a period of _____ after termination or withdrawal from the LLC, members shall not solicit or attempt to solicit any employee, contractor, or client of the LLC for their benefit or the benefit of any third party.

(8) *Notices:* Any notices or communications required or permitted by this agreement shall be in writing and shall be deemed given when delivered personally, by overnight courier, or _____ after being mailed by certified mail, postage prepaid, to the member's address as listed in the LLC's records.

(9) *Waiver:* The failure of any member to enforce any provision of this agreement shall not be construed as a waiver or limitation of that member's right to subsequently enforce and compel strict compliance with every provision of this agreement.

(10) *Binding Effect:* This agreement shall be binding upon and inure to the benefit of the members and their respective heirs, executors, administrators, legal representatives, successors, and assigns.

IX. SIGNATURES OF MEMBERS

Execution of Agreement: In witness whereof, the members of this LLC sign and adopt this agreement as the operating agreement of this LLC.

Date: _____

Signature: _____

Printed Name: _____, Member

Date: _____

Signature: _____

Printed Name: _____, Member

Date: _____

Signature: _____

Printed Name: _____, Member