

accordance with Regulations Section 1.704-2(f). This Section 5.3(b)(i) is intended to comply with the minimum gain chargeback requirement in such Section of the Regulations and shall be interpreted consistently therewith.

(ii) Member Minimum Gain Chargeback. Except as otherwise provided in Regulations Section 1.704-2(i)(4), notwithstanding any other provision of this Article 5, if there is a net decrease in Member Nonrecourse Debt Minimum Gain attributable to a Member Nonrecourse Debt during any Company Fiscal Year, each Member who has a share of the Member Nonrecourse Debt Minimum Gain attributable to such Member 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 Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse debt, determined in accordance with Regulations Section 1.704-2(j)(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 Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This Section 5.3(b)(ii) is intended to comply with the minimum gain chargeback requirement in Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(c) Qualified Income Offset. In the event any Member unexpectedly receives any adjustment, allocations, or distributions described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of Company income and gain shall be specially allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of such Member as quickly as possible, provided, however, that any allocation pursuant to this Section 5.3(c) shall be made only if and to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article 5 have been tentatively made as if this Section 5.3(c) were not in this Agreement.

(d) Deficit Capital Account. In the event any Member has a deficit Capital Account at the end of any Company fiscal year which is in excess of the sum of (i) the amount such Member is obligated to restore pursuant to any provision of this Agreement; (ii) the amount such Member is, deemed to be obligated to restore pursuant to the penultimate sentence of Regulations Section 1.704-2(g)(1) and Regulations Section 1.704-2(i)(5); and (iii) the amount such Member would be deemed obligated to restore if Member Loan Nonrecourse Deductions were treated as Nonrecourse Deductions, each such Member shall be specifically allocated items of Company income and gain in the amount of such excess as quickly as possible, provided, however, that an allocation pursuant to this Section 5.3(d) shall be made only if and to the extent that such Member would have a deficit Capital Account in excess of such sum after all other allocations provided for in this Article 5 have been made as if section 5.3(c) hereof and this Section 5.3(d) were not in the Agreement.

(e) Curative Allocations. The allocations set forth in Sections 5.1 and 5.5 hereof (the "**Regulatory Allocations**") are intended to comply with certain requirement of Regulations Section 1.704-1(b). Notwithstanding any other provision of this Article 5 (other than the Regulatory Allocations), the Regulatory Allocations shall be taken into account in allocating other profits, losses, and items of income, gains, loss, and deduction among the Members and shall

be equal to the net amount that would have been allocated to each such Member if the Regulatory Allocations had not occurred. Notwithstanding the preceding sentence, Regulatory Allocations relating to (i) Nonrecourse Deductions shall not be taken into account except to the extent that there has been a reduction in Company Minimum Gain; and (ii) member Nonrecourse Deductions shall not be taken into account except to the extent that there would have been a reduction in the Company Minimum Gain if the loan to which such deductions are attributable were not made or guaranteed by a Member within the meaning of Regulations Section 1.704-2(i).

Section 5.4 Net Cash from Operations and Net Capital Proceeds.

(a) The “**Net Cash from Operations**” shall mean the gross cash proceeds from the Company’s operations, which shall include the leasing or rental of portions of the Company Property, in the normal course of the Company’s business, less the portion thereof used to pay, establish reserves for Carry Costs and other Company operating expenses, all as reasonably determined by the Manager. The Net Cash from Operations shall not be reduced by depreciation, amortization, cost recovery deductions or similar allowances.

(b) The “**Net Capital Proceeds**” shall mean the gross cash proceeds from the sale, exchange or other disposition of any Company Property, minus each of the following: (i) any amounts necessary to payoff any Capital Shortfall Loan or other indebtedness encumbering all or any portion of the Property; (ii) normal and customary closing costs and commissions; (iii) if the business of the Company shall be ongoing, reserves for Carry Costs and other Company operating expenses, all as reasonably determined by the Steering Committee in consultation with the Manager; and (iv) all other costs associated with the subject sale, exchange or other disposition of Company Property, as reasonably approved by the Steering Committee in consultation with the Manager;

Section 5.5 Allocations. Allocations shall be as follows:

(a) Profits. After giving effect to the special allocations below, profits for each fiscal year shall be allocated among the Members according to their then existing Membership Interest.

(b) Losses. After giving effect to the special allocations below, losses for the fiscal year, shall be allocated among the Members according to their then existing Membership Interest. Loss allocations, however, shall not exceed the maximum amount of losses that can be so allocated without causing any Member to have an adjusted capital account deficit at the end of any fiscal year.

(c) General.

(i) All items of income, gain, loss, deductions, and any other allocations not otherwise provided for shall be divided in the same proportions as they share profits and losses for the fiscal year.

(ii) The Members are aware or should be aware after consulting with their tax counsel of the income tax consequences of this Article and agree to be bound by this Article when reporting their shares of income and loss of the Company for income tax purposes.

(d) Special and Code Allocations.

(i) Member Nonrecourse Deductions. Any Member Nonrecourse Deductions for any Fiscal Year or other period shall be specially allocated to the Member who bears (or is deemed to bear) the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Treasury Regulation Section 1.704-2(i)(2).

(ii) Code Section 704(c). Income, gain, loss, and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among Members so as to take into account any variations by the adjusted basis of such property to the Company for federal income tax purposes and its initial Gross Asset Value.

Section 5.6 Tax Allocations: Code Section 704(c). In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss, and deduction with respect to any property contributed to the capital of 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 such property to the Company for federal income tax purposes and its initial Gross Asset Value.

In the event the Gross Asset Value of any Company asset is adjusted pursuant to Section 2.4 hereof, subsequent allocations of income gain, loss and deduction with respect to 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 under Code Section 704 (c) and the Regulations thereunder.

Any elections or other decisions relating to such allocations shall be made by the Manager in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section 5.6 are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, and Member's Capital Account or share of profits, losses, other items, or distributions pursuant to any provision of this Agreement.

Section 5.7 Distributions to Members.

(a) Distributions, if any, to the Members of Net Cash From Operations or Net Capital Proceeds, shall be as follows:

(i) First, as a return of all unreturned Supplemental Capital Contributions, together with all accrued interest thereon as provided in Section 4.3 above, to the Class A or Class B Members, as applicable, to the extent that they made such contributions; then

(ii) Second, as a return of all unreturned Additional Member Contributions, together with all accrued interest thereon as provided in Section 4.2 above; then

(iii) Third, ninety percent (90%) to the Class A Members in proportion to their Membership Interests and ten percent (10%) to the Class B Member, until the Class A Members have received an amount equal to the Waterfall Increase Amount as defined below; then

(iv) Fourth and thereafter, seventy percent (70%) to the Class A Members in proportion to their Membership Interests and thirty percent (30%) to the Class B Member.

The "Waterfall Increase Amount" is an amount equal to the Class A Members Initial Contribution plus one percent (1%) of the Initial Contribution per annum from the Effective Date of this Agreement until the date of the sale of the Property, prorated monthly. By way of example only, assuming (i) the Class A Members Initial Contribution was \$1,000,000, and (ii) the Property sold 3 years and 3 months from the Effective Date of this Agreement, the Waterfall Increase Amount would increase by 3.25%. Therefore, in this example, the split between the Class A Members and the Class B Member would go from 90/10 to 70/30 once the Class A Members had received under Sub-Section (iii) the amount of \$1,032,500.

Such distribution of Net Capital Proceeds shall be made to the Members no more than ten (10) days after the sale or other transaction from which the proceeds resulted. If a distribution of Net Capital Proceeds results from a sale or other disposition of only a portion of the Property, then, after fulfillment of Subsections (i) and (ii) above, the distribution pursuant to Subsections (iii) and (iv) above (as well as the Waterfall Increase Amount) shall be prorated based on the percentage by which the acreage of the portion of the Property sold bears to the total acreage of the Property (e.g., if only 30% of the Property is sold, then the net proceeds will first go to unreturned Supplemental Capital Contributions, together with all accrued interest thereon, then to unreturned Additional Member Contributions, together with all accrued interest thereon. If net proceeds remain, distributions would be 90% to the Class A Members in proportion to their Membership Interests and 10% to the Class B Member, until each Class A Member has received 30% the value of its entire Initial Contribution, and then on a 70/30 basis pursuant to Sub-Section (iv) thereafter.

(b) Allocation of Supplemental Interest and Costs. The Administrative Agent in consultation with the Manager shall appropriately allocate the Supplemental Interest and Costs only between the Paying and Non-Paying Class A Members such that:

(i) In the event of Supplemental Capital Contributions, the Paying Members receive the return of any such Supplemental Capital Contribution paid on behalf of Non-Paying Members, as well as Supplemental Interest thereon, and the cost of repaying any such Supplemental Capital Contribution and Supplemental Interest thereon is borne by the Non-Paying Members in the correct proportions; and

(ii) In the event of Capital Shortfall Loans, the Supplemental Interest and Costs created by the Capital Shortfall Loans is borne by the Non-Paying Members in the correct proportions so that the distribution to the Paying Members is equal to the amount the Paying Members would have received had the Non-Paying Members contributed their full Capital Contributions so that no Capital Shortfall Loans would have been necessary.

Supplemental Interest and Costs shall be excluded from the calculation used to determine the distribution amounts to the Class B Member under Sections 5.7(a)(iii) and (iv).

(c) Non-Cash distributions. Non-cash assets, if any, shall be distributed in a manner that reflects how cash proceeds from the sale of such assets for fair market value would

have been distributed (i.e. after any unrealized gain or loss attributable to such non-cash assets has been allocated among the Members in accordance with this Section, as if such assets had been sold in a taxable transaction for fair market value).

Section 5.8 Adjustments Among Paying and Non-Paying Members. Any Class A Member that fails to timely make a required Additional Capital Contribution is referred to herein as a “**Non-Paying Member.**” The distribution of Net Capital Proceeds among the Class A Members pursuant to Section 5.7 above shall be adjusted such that all interest and other expense payable with respect to any Supplemental Capital Contribution and/or any Capital Shortfall Loan shall be borne solely by the Non-Paying Members on a pro-rata basis in proportion to their respective shortfalls in required contributions. A Non-Paying Class A Member shall remain designated as a Non-Paying Member until such time as such Member pays any outstanding Additional Member Contribution with all Supplemental Interest and Costs.

Section 5.9 Changes in Membership Interests. If a Member’s Membership Interest changes during any fiscal year, the allocations to be made pursuant to this Agreement shall be made in accordance with Section 706 of the Code, using any convention permitted by Section 706 of the Code and the Regulations promulgated thereunder and selected by the Manager so as to equitably effectuate the allocations of this Article.

ARTICLE 6 ACCOUNTING, RECORDS AND REPORTS

Section 6.1 Fiscal Year. The Company’s fiscal year shall be the calendar year, from January 1 to December 31.

Section 6.2 Accounting. The Administrative Agent shall cause to be prepared, all required Company reports and returns, including quarterly and annual reports and returns.

Section 6.3 Company Books. The Administrative Agent shall cause detailed, complete and accurate records of all financial and business transactions of the Company to be maintained, and shall keep proper and complete books of account, in which shall be entered fully and accurately all transactions and other matters relative to the Company’s business as are usually entered into records and books of account maintained by persons engaged in businesses of a like character. The books and records shall at all times be maintained at the principal place of business of the Company. Copies of all books and records of the Company shall be provided to and held by the Manager at all times and shall be open to the inspection and examination of the Members or their duly authorized representatives.

In addition, the Administrative Agent will maintain a written log with copies of all Unit Certificate, the name and address of each Unit holder, including the history of any Unit transfers and the name and address of any New Member.

Section 6.4 Reports to Members. As soon as is practicable in the particular case, the Administrative Agent shall, upon request, but no less than annually, cause the Company Accountant to deliver to each Member:

- (a) Such information concerning the Company as shall be necessary for the preparation by such Member of its income or other tax returns;
- (b) The Company's federal income tax return for that year;
- (c) Such other information as may be requested by the Manager or by any Member or as shall be reasonably necessary for the other Members to be advised of the results of the operations of the Company.

Section 6.5 Capital Accounts. The Company Accountant shall maintain records of all required Capital Accounts and provide all required capital accounting for the Company, the Manager and the Members.

Section 6.6 Bank Accounts. Funds of the Company shall be deposited in a Company account or accounts in such financial institutions (including any state or federally chartered bank or savings and loan association) as selected by the Manager, taking into consideration the financial stability of the financial institution and the availability of FDIC insurance coverage for the Company funds to be deposited. Withdrawals from such bank accounts shall be made only by the Manager.

Section 6.7 Title to Property. Title to the Company Property shall be held in the name of the Company.

ARTICLE 7 BUSINESS OPERATIONS AND MANAGEMENT

Section 7.1 Management. Except for the Major Decisions, for which a vote of the Class A Members is required, the Steering Committee is authorized and instructed to take all actions necessary and appropriate to carry out the business of the Company. Day to day management and control of the business of the Company shall be vested in the Manager which shall implement the decisions of the Steering Committee.

Section 7.2 Manager. [Focus management entity] is hereby appointed the Manager of the Company and, as such, shall, under the direction of the Steering Committee, be responsible of the supervision, management, control and implementation of the day-to-day business of the Company. In all events, Manager shall perform Manager's duties in good faith, in a manner that Manager reasonably believes to be in the best interests of the Company, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. Without limiting the foregoing, Manager's obligations shall include the active and direct involvement by John A. Ritter in the activities of the Manager. Subject only to his unavailability due to death, disability or illness, should John A. Ritter voluntarily abandon direct involvement in the activities of Manager then, after written notice by the Steering Committee and reasonable opportunity to cure, such abandonment by Mr. Ritter shall be deemed a default by Manager and permit the Company to terminate the Manager and the interest of the Class B Member.

Annually, and upon the written request of the Steering Committee, the Manager will meet with the Steering Committee to provide an update on the Property, any maintenance or

predevelopment activities on the Property, and any activity with regard to the potential sale of the Property.

Section 7.3 Steering Committee. A Steering Committee shall be formed to manage the Company which shall be comprised of five (5) individuals. Four (4) of the Steering Committee members shall be appointed by the Class A Members and one (1) Steering Committee member shall be appointed by the Class B Member. Each member of the Steering Committee shall have one (1) vote on all committee decisions, with equal voting power. The initial appointees of the Class A Members to the Steering Committee are listed on Exhibit "D" attached hereto. The Steering Committee members appointed by the Class A Members shall serve a two (2) year term. Every two (2) years following the date hereof, the Class A Members shall vote, by Majority Approval, to appoint their Steering Committee members to serve for the ensuing two years. If the Class A Members fail to elect new Steering Committee members then the current members previously appointed shall continue to serve until they are replaced. The initial Steering Committee member appointed by the Class B Member is also listed on Exhibit "D." If and when the Class B Member wishes to replace its member on the Steering Committee it shall notify the Manager and Steering Committee in writing. If at any time there are not at least four Class A Members who wish to serve on the Steering Committee, the number of Steering Committee Members may be reduced but in all events the Steering Committee, including the Class B Member, shall constitute an odd number.

Section 7.4 Powers and Duties of the Steering Committee. Subject to the terms and conditions of this Agreement, the general duties of the Manager shall include, without limitation, the following: (i) the supervision, management, control and implementation of the business of the Company, including the activities of the Manager and the Administrative Agent; (ii) the acquisition, preservation, protection and disposition of the Company Property; (iii) the approval of the annual budget of the Company and all supplemental capital requests; and (iv) supervision of the entitlement and marketing of the Company Property. Subject to Section 3.5, the Steering Committee shall have full power and authority, without obtaining the consent or approval of any Member, to take or refrain from such actions, and to make all decisions affecting the Company and the Company Property in the manner that Steering Committee, in its sole discretion and good faith business judgment, deems appropriate, including causing the Manager to execute on behalf of the Company of such written instruments as are necessary to document the foregoing. As necessary, the Steering Committee shall document its decisions for the reliance of third-parties by the execution of resolutions. Such resolutions shall be binding upon the Company upon the execution thereof by no less than three (3) members of the Steering Committee.

Section 7.5 Company Budget. On an annual basis, the Manager shall prepare and present an annual budget for the Company to the Steering Committee for approval. The budget shall include estimates of the Carry Costs for the ensuing year, a reasonable amount to be held for reserves and such additional amounts as Manager considers appropriate for the required engagement of third parties, such as outside consultants, engineers, architect, planners or attorneys. Upon approval by the Steering Committee, the annual budget shall be the basis for the Additional Member Contributions required for that year. As the year progresses, if the Manager determines that additional funds are required, it may prepare and present a supplemental budget to the Steering Committee for approval. Upon approval, that supplemental budget shall be the basis for an additional capital call to the Class A Members. In the event that the Manager believes that the

Company should incur third party expenses, such as hiring outside consultants, engineers, architects, planners, attorneys and the like, the Manager may request such funds from the Company by presentation to the Steering Committee. If the Steering Committee approves such expense and the funds are not available in the Company's account, the Steering Committee shall cause a Capital Call to be sent to the Class A Members for such funds. In no event will the Manager be required to expend any such third party expenses on behalf of the Company.

Section 7.6 Administrative Agent. _____ is hereby appointed the "Administrative Agent" for the Company. The Administrative Agent shall be responsible for the process of coordinating the activities of the Class A Members. The Administrative Agent shall act under the direction of the Manager and its responsibilities shall include, without limitation: (i) coordinating and conducting all communications with the Class A Members; (ii) conducting all requiring voting of the Class A Members; (iii) communicating and collecting for deposit into company accounts all Additional Member Contributions and Supplemental Capital Contributions; and (iv) obtaining and coordinating all bookkeeping, accounting and tax services for the Company. For such services, the Administrative Agent shall be paid a fee of \$15.00 per Class A Member per month. Said fee shall be paid quarterly, in advance.

Section 7.7 Compensation and Fees. Except as expressly set forth herein, neither the Manager nor any Steering Committee member shall be entitled to receive any compensation from the Company for its services rendered pursuant to this Agreement, nor, except as expressly set forth herein, shall it be entitled to receive any reimbursement for its expenditures, including without limitations, office overhead, travel and entertainment expenses, made in the course of its duties under this Agreement.

Section 7.8 Time Devoted to Business; Independent Activities. The Manager shall not be required to devote full time to the Company, but shall devote only such time to its duties on behalf of the Company as shall be reasonably necessary to perform or delegate such duties as contemplated hereunder. Any Member, including but not limited to the Manager, may have an interest, directly or indirectly, in various other businesses and undertakings not included in the Company. Neither this Agreement nor any activity undertaken pursuant hereto shall prevent any Member or the Manager or any Affiliate of such parties from engaging in whatever activities the Member, Manager or Affiliate thereof chooses, whether the same are competitive with the Company or otherwise, and any such activities may be undertaken without having or incurring any obligation to offer any interest in such activities to the Company or any Member, or require any Member, Manager or Affiliate thereof to permit the Company or any other Member, Manager or Affiliate thereof to participate in any such activities. As a material part of the consideration for the execution of this Agreement by each Member, each Member hereby waives and relinquishes any such right or claim of participation.

Section 7.9 Limits on Powers. The Steering Committee and the Manager shall cause the Company to conduct its business separate and apart from that of any Member, of Manager, of Administrative Agent or of Affiliate thereof, including, without limitation:

(a) segregating Company Property and not allowing the Company's funds or other property to be commingled with the funds or other assets of, held by, or registered in the

name of any Member or Manager or Administrative Agent, or Affiliate thereof or of any other person;

(b) causing the books, tax returns, and financial records of the Company to be maintained separate from the books and financial records of any Member or Manager or Administrative Agent, or Affiliate thereof or of any other person;

(c) observing all Company procedures and formalities (including, without limitation, maintaining minutes of meetings and acting on behalf of the Company only pursuant to due authorization of the Class A Members); and

(d) causing the Company to conduct its dealings with third parties in the Company's name as a separate and independent entity.

In addition, no Steering Committee member, Manager or Member may, and shall not cause the company to:

- (i) Do any act in contravention of this Agreement;
- (ii) Possess Company Property or assign the rights of the Company in property for other than a Company purpose;
- (iii) Commingle the Company's assets with those of any other person;
- (iv) Use or permit another person to use the Company's assets in any manner, except for the exclusive benefit of the Company;
- (v) Make loans to any Member or any Affiliate of any Member; or
- (vi) Hold the assets of the Company, whether real or personal, to be held in a name other than the name of the Company.

Section 7.10 Limited Role of Members. Except as otherwise expressly provided in this Agreement or as provided by the non-waivable provisions or NRS Chapter 86, no Member shall take part in, or interfere with, the management or conduct of the Company's business. No Member shall, without the prior approval of the Manager, endorse any note or act as an accommodation party, or otherwise become surety for any person in any transaction that may involve the Company. Notwithstanding the foregoing, any Member may solicit offers on the Property and convey any such offers received to the Manager.

Section 7.11 Transactions With Interested Parties. The Company may only enter into a business transaction in which the Manager, the Administrative Agent, a Member or any Affiliate the Manager, the Administrative Agent, or a Member has a personal interest, whether directly or indirectly, if the following conditions are satisfied:

- (a) The transaction is an arms-length transaction entered into in good faith by all parties; and

(b) The Company is benefitted by the transaction and the transaction is made on commercially reasonable terms and conditions; and

(c) The personal interest in the transaction is fully disclosed to the Steering Committee by the interested Member and the transaction is approved by the Steering Committee.

In accordance with the foregoing terms, the Members agree that, at the Steering Committee's discretion, the Company may use Landtek, LLC and Quadrant Planning, which are entities affiliated with Manager, for construction and development management services, consulting, and other services, so long as such services are provided on industry standard terms.

Section 7.12 Real Estate Brokerage Commissions. Notwithstanding the terms of Section 7.11, the Company shall use the services of Focus Commercial Group, Inc., or its successor or assignee, for the marketing and sale of the Property, and upon the sale of the Property, or any portion thereof, the Company shall pay from the proceeds of such sale an industry standard real estate brokerage commission to said entity. The Members acknowledge that Focus Commercial Group, Inc. is an affiliate of Manager and the Class B Member.

Section 7.13 Termination of Affiliate Agreements. Except as provided in Section 7.12, any agreement with any Affiliate of the Manager shall expressly provide that it is subject to termination, without penalty, upon thirty (30) days' notice, and without notice under any circumstances in which such agreement may be terminated under the provisions of this Agreement. The authority of Manager and Manager's Affiliates to incur obligations and expenses shall be subject to the same limitations as provided under this Agreement with respect to the authority of the Manager. At any time that the Manager is removed as Manager pursuant to Section 7.2, the Steering Committee shall be entitled to terminate such Affiliates administrative agreement(s) with the Company, and terminate the right of such Affiliates to receive any of the fees (other than fees then accrued) and to engage such other agents as the Steering Committee shall determine in the Steering Committee's sole discretion.

ARTICLE 8 TRANSFERS OF MEMBERSHIP INTERESTS

Section 8.1 Restrictions.

This Article 8 shall apply to all transfers of a Membership Interest (now owned or hereafter acquired) by a Member, whether voluntary, involuntary, by operation of law, or resulting from death, disability or otherwise, and shall include assignment, encumbrance, pledge, disposal, sale, exchange, delivery, hypothecation and transfer (all referred to as "**Transfer**"). Without limiting the foregoing, a Transfer shall include an involuntary lifetime transfer by entry of a final order of a court in a divorce proceeding directing transfer of a Membership Interest or any transfer occasioned by a separation agreement in a divorce proceeding.

Subject only to Section 8.2(d) below, any Member may sell all or part of such Member's Interest to any Class A or Class B Member.

Section 8.2 Sale to a Non-Member.

(a) Any Member who desires to sell a Membership Interest (“**Selling Member**”) to any person or entity who is not a Class A or Class B Member prior to the sale, must first offer in writing to sell the entire interest in the Company to the Paying Class A Members and the Class B Member, outlining the price and terms under which the Selling Member would sell its Membership Interest. The Administrative Agent in consultation with the Manager shall be responsible for disseminating the offer to the Members.

(b) The Paying Class A and Class B Members shall have the right to buy the Selling Member’s Membership Interest for a period of thirty (30) days after the Selling Member has made the Selling Member’s offer. The Paying Class A Members and/or Class B Member desiring to purchase the Interest, may do so in such proportion mutually agreed to between the Members choosing to purchase an Interest. In the event that the Members choosing to purchase an Interest can not mutually agree, such purchases shall be in a proportionate amount calculated by the Membership Interest of each such Member divided by the total Membership Interests of all Members choosing to purchase an interest. For the purposes of this calculation only, the Class B Member shall be deemed to have a 30% proportional ownership.

(c) If the Paying Class A Members and/or Class B Member do not chose to purchase all of the Selling Member’s interest within the 30 day period, subject to Section 8.6 below, the Selling Member shall have the right for another 90 days to sell the remaining unsold share to any bona fide offeror for the same or higher price and on the same terms and conditions as had been offered to the Members.

(d) Notwithstanding the foregoing, a Selling Member may only Transfer all or part of such Member’s Interest if (a) the Selling Member is a Paying Member as of the date of the Transfer, or (b) upon the consummation of the Transfer, the all necessary payments are made so that the new Member is deemed a Paying Member upon acquisition of the Membership Interest.

Section 8.3 Transferees; Charging Orders.

(a) Any assignee or other transferee of a Member’s Membership Interest, or any portion thereof, who is not admitted as a Member pursuant to this Article 8 shall only have, as its sole rights, the right to receive allocations and distributions with respect to thereto in accordance with this Agreement and to receive a K1 that reflects such person’s share thereof (“**Economic Interest**”). In addition, no such person shall have the right to any information concerning, or an accounting of, the affairs of the Company, be entitled to inspect the books or records of the Company, or have any of the rights of a Member that are provided in this Agreement or under the NRS.

(b) Additionally, no such person may (i) cause a dissolution of the Company; or (ii) compel the Company, the Manager, or any Member to make a distribution, or otherwise cause a distribution to be made.

(c) The sole and exclusive remedy of any creditor or other third party against any Member with respect to such Member’s Membership Interest shall be the right to seek and obtain a charge by a court of competent jurisdiction (a “**Charging Order**”), as prescribed in NRS

86.401 or any successor provision of the NRS, against such Member's Membership Interest. Upon successfully obtaining a Charging Order, a creditor or other third party shall only be entitled to the Economic Interest of such Membership Interest. No creditor or other third party, whether or not a Charging Order exists, shall have any right or remedy of foreclosure or to otherwise sell or force a sale of any portion of the Economic Interest of any charged Membership Interest without the approval of the Manager, nor shall any such person have any right or remedy to access Company Property whatsoever or to otherwise force or request a distribution of property from the Company.

Section 8.4 Distributions and Allocations with respect to Transferred Membership Interest. If any Membership Interest is transferred during any fiscal year, profits, losses, and each item thereof, and all other items attributable thereto for such fiscal year shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during such Fiscal year in accordance with Code Section 706(d), using any convention permitted by law and selected by the Manager in its reasonable determination. All distributions, including, without limitation, Net Capital Proceeds, on or before the date of such Transfer shall be made to the transferor, and all distributions thereafter shall be made to the transferee. Solely for purposes of making such allocations and distributions, the Company shall only recognize such Transfer on the first day of the calendar month following the month in which it receives notice thereof; provided, however, that, if the Company does not receive a notice that contains such other information as the Manager may reasonably require to properly effectuate such Transfer within thirty (30) days after any request by the Company therefor, then all items shall be allocated, and all distributions shall be made, to the transferor of such Interest so long as such transferor's economic rights have been recognized by the Company. Neither the Company, the Manager, nor any Member shall incur any liability for making allocations and distributions in accordance with the provisions of this Section, whether or not a Manager, a Member, or the Company has actual knowledge of any such Transfer.

Section 8.5 Taxpayer Information. Notwithstanding anything to the contrary contained in this Article, the transferor and transferee shall be responsible, jointly and severally, to furnish the Company with the taxpayer identification number of the transferee of any Membership Interest that is recognized by the Company or required to be recognized by applicable law; sufficient information to determine the transferee's initial tax basis in the Membership Interest that is to be transferred; and any other information reasonably necessary to permit the Company to file all required federal and state tax returns and other legally required information. Without limiting the generality of the foregoing, the Company shall not be required to make any distribution whatsoever pursuant to this Agreement with respect to any such Interest until it has received such information.

Section 8.6 Admission of Additional Members.

(a) No additional member may be admitted to the Company without the advance written consent of the Manager. Such approval by the Manager may specify the terms and conditions under which the Transfer may occur and whether the transferee will become a Member. If the Transfer is approved but the transferee is not approved as a Member, or if the Transfer is required by operation of law or court order, then the transferee shall hold only an Economic Interest. Manager shall not unreasonably withhold or delay providing consent for the Transfer. Manager will only deny a request for Transfer if, in the Manager's good faith opinion, Manager believes that the Transfer would not be in the best interest of the Company. In addition to general

business considerations for such a decision, Manager may also determine that the Transfer would not be in the best interest of the Company if such Transfer may violate state or federal securities laws, or could cause the Company to become a "Reporting Company" under securities laws.

(b) Any and all such additional Members shall promptly execute, acknowledge (if required), and deliver such documents as the Manager may require, including, without limitation, this Agreement or a supplement hereto whereby said new Member binds himself to the terms and conditions hereof.

(c) Unless the Steering Committee approves otherwise, the transferee of Units shall reimburse the Company for all reasonable accounting, legal and other expenses incurred by the Company in connection with the Transfer of Units to such transferee.

Section 8.7 Revocable Trust and Other Estate Planning Entities. Notwithstanding Section 8.6, a Member may elect to assign all of the Member's Membership Interest to a family or separate property revocable trust, partnership, limited liability company or to a corporation wholly owned by the Member for estate planning purposes, or convey the Member's interest through any estate vehicle or law upon such Member's death. The conveyance shall not be deemed a sale since the Members recognize that individuals frequently arrange their holdings for estate planning purposes. However, application for the conveyance and proof of conveyance shall be made to the Manager and Administrative Agent. The Administrative Agent shall cause the membership records to be changed to show the new vesting of membership.

Section 8.8 Restrictive Legend. In addition to any other restrictive legend that may be imposed on any certificate evidencing ownership of any Units, such certificate shall bear the following legend:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE
SUBJECT TO RESTRICTIONS ON TRANSFER AS SET FORTH
IN THE OPERATING AGREEMENT OF THE COMPANY.

ARTICLE 9 TERM AND TERMINATION

Section 9.1 Duration. The Company shall be perpetual and shall terminate and dissolve only as provided in the Article.

Section 9.2 Dissolution of Company. The Company shall be terminated and dissolved only upon the occurrence of any of the following events:

- (a) Majority Approval of the Class A Members and the affirmative vote of the Class B Member to dissolve the Company; or
- (b) the sale of all of the assets of the Company; or
- (c) the entry of a dissolution decree or judicial order by a court of competent jurisdiction or by operation of law.

Section 9.3 Winding up of the Company. On dissolution and termination of the Company under this Agreement or applicable law, except as otherwise provided in this Agreement, the continuing operation of the Company's business shall be confined to those activities reasonably necessary to wind up the Company's affairs, discharge its obligations, and either liquidate the Company's assets and deliver the proceeds of liquidation, or preserve and distribute its assets in kind promptly on dissolution.

Section 9.4 Termination of Company.

(a) Upon dissolution of the Company, the Company shall be terminated as rapidly as business circumstances will permit. At the direction of the Manager the Administrative Agent shall cause a full accounting of the assets and liabilities of the Company to be taken and a statement of the Company assets and a statement of each Member's Capital Account to be furnished to all Members as soon as is reasonably practicable. The Administrative Agent shall take such action as is necessary so that the Company's business shall be terminated, its liabilities discharged and its assets distributed as hereinafter described, and shall be subject to and act in accordance with the provisions of this Agreement. A reasonable period of time shall be allowed for the orderly termination of the Company to minimize the normal losses of a liquidation process.

(b) After the payment of all expenses of liquidation and of all debts and liabilities of the Company in such order or priority as provided by law (including any debts or liabilities to Members, who shall be treated as secured or unsecured creditors, as may be the case, to the extent permitted by law, for sum loaned to the Company, if any, as distinguished from Capital Contributions) and after all resulting items of Company income, gain, credit, loss or deduction are credited or debited to the Capital Accounts of the Members in accordance with Articles 4 and 5 hereof, all remaining Company assets shall then be distributed among the Members in accordance with and pursuant to Section 5.7 hereof. Upon termination, a Member may not demand and receive cash in return for such Member's Capital Contributions and no Member shall have any obligation to restore any deficit that may then exist in the Member's Capital Account.

ARTICLE 10 REPRESENTATIONS AND WARRANTIES

Section 10.1 Representations and Warranties. Each person or entity admitted as a Member represents and warrants to the Company and to all of the other Members the matters set forth below.

(a) Prior Ownership of Percentage in Note. Immediately prior to the Effective Date of this Agreement, such Member owned the beneficial interest in the Note in the percentage set forth in Exhibit "C".

(b) Interests not Registered. The Company has advised such Member: (i) that the Membership Interests have not been registered under the Securities Act, as the offering and sale of such Membership Interests was effected in accordance with an exemption from the registration requirements of the Securities Act and similar exemptions under applicable state securities laws,

and (ii) that, in this connection, the Company is relying, in part, on the representations and warranties of each Member set forth herein.

(c) Exemption from Registration Required upon Disposition. Without limiting any other restrictions on the Transfer of a Membership Interest contained in this Agreement, no Member shall make a Transfer of all or any portion of such Member's Membership Interest unless and until: (i) such Member has notified the Company of the proposed disposition; (ii) if requested by the Manager, such Member has furnished the Company with an opinion of legal counsel to the effect that such Transfer shall not require registration of such Member's Membership Interest under the Securities Act; (iii) such opinion of legal counsel has been concurred with by the Company's legal counsel; and (iv) the Company has advised such Member of such concurrence.

(d) Acknowledgment of Receipt of Information. Such Member has received all information as such Member deems necessary and appropriate to enable such Member to evaluate the financial risk inherent in acquiring such Member's Membership Interest, and such Member acknowledges receipt of satisfactory and complete information covering the business and financial condition of the Company in response to all inquiries in respect thereof.

(e) Independent Advice. Such Member has had the opportunity to consult with such Member's investment counselors, attorneys, accountants and other advisors regarding the terms and conditions of this Agreement and the tax and legal consequences thereof. Such Member has made its own independent evaluation of its investment in the Company and has not relied on the Company, any other Member or any of their Affiliates, accountants, counsel or other representatives in connection with such Member's investment in the Company. Such Member understands that neither the Company nor any other Member nor any of their Affiliates, accountants, counsel or other representatives is acting as such Member's broker or advisor in connection with such Member's investment in the Company. Such Member is relying solely upon its own advisers and not upon the Company, any other Member or any of their Affiliates, accountants, counsel or other representatives to evaluate an investment in the Company and/or with respect to tax or other economic considerations of such Member relating to this investment.

(f) Risks. Such Member understands that such Member's investment in the Company is speculative and risky, and such Member has no assurance that the Company will be a financial success or that such Member's investment in the Company will be recovered.

(g) No Representations or Warranties. Neither the Company, nor any of the Members or Manager, nor any employee, agent or Affiliate of the Company or of any of the Members or Manager has made any representation or warranty to such Member not contained in this Agreement.

(h) No General Solicitation. The Company used no general solicitation or general advertising in connection with the Company's offer to sell (if any) or the Company's sale of such Member's Membership Interests to such Member.

(i) Absence of Registration. Such Member recognizes that: (i) such Member's Membership Interest have not been registered under the Securities Act and must be held indefinitely unless subsequently registered under the Securities Act or an exemption from such

registration is available; (ii) the Company is under no obligation to register such Member's Membership Interest under the Securities Act or to comply with any exemption from such registration; (iii) Rule 144 under the Securities Act presently does not apply and may never apply to the Company because the Company does not now, and may never, file reports required by the Exchange Act, and has not made, and may never make, publicly available the information required by Rule 15c2-1 1 of the Exchange Act; (iv) that if Rule 144 were available, sales of Company securities made in reliance thereon could be made only in certain limited amounts, after certain holding periods, and only when specified current information about the Company had been made available to the public, all in accordance with the terms and in satisfaction of the conditions of Rule 144; and (v) that, in the case of Company securities to which Rule 144 is not applicable, compliance with some other exemption under the Securities Act will be required in order for any re-sale or other Transfer of such Company securities to be effected legally.

(j) No Distribution. Such Member has not and will not distribute this Agreement or the Information to anyone other than its professional advisers or to the extent necessary to enforce any of the Member's rights under this Agreement.

(k) Information True, Correct and Complete; Continuing Representations and Warranties. All information or documents furnished or to be furnished by such Member or its representatives or professionals to the Company, including without limitation, the representations and warranties made by such Member in this Article (such information, documents, representations and warranties being referred to herein as the "**Member Information**"), are true, correct and complete in all material respects as of the date of this Agreement. Such Member shall inform the Members and the Company as soon as reasonably practicable if at any time any of such Member's Member Information ceases to be true, correct and complete in any material respect. Such Member understands and agrees that the Members and the Company will rely on (i) such Member's covenant to immediately inform the Members and the Company if any of such Member's Member Information ceases to be true, correct and complete in all respects and (ii) the continuing accuracy of such Member's Member Information without re-confirming or re-certifying such accuracy with such Member.

(l) No Withholding. Such Member is entitled to receive any payments and distributions to be made to such Member under this Agreement without the withholding of any tax.

(m) ERISA. Except as otherwise disclosed to the Company and the Members in writing, such Member is not receiving the Membership Interests for or on behalf of one or more "employee benefit plans" subject to ERISA, "plans" subject to Section 4975 of the Code or any entity whose assets are deemed to be assets of such an "employee benefit plan" or "plan" for purposes of ERISA or the Code.

(n) No Broker. Other than the commissions described in Section 7.9, no broker, investment banker, financial advisor or other person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission, or the reimbursement of expenses, in connection with the transactions contemplated hereby.

Section 10.2 Restrictive Legend. In addition to any other restrictive legend that may be imposed on any certificate evidencing ownership of Units, each certificate evidencing Units shall bear the following legend:

THE SECURITIES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS. NO SUCH SECURITY NOR ANY INTEREST OR PARTICIPATION THEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, REGISTRATION.

ARTICLE 11 MISCELLANEOUS

Section 11.1 Governing Law. This Agreement is intended to be performed in the State of Nevada, and the laws of Nevada shall govern its interpretation and effect. The Members consent to the jurisdiction of any Federal or State court located in the County of Clark, State of Nevada for any action commenced hereunder.

Section 11.2 Amendments. This Agreement and the Articles of Organization may be amended at any time and from time to time by the Majority Approval of the Class A Members. Notwithstanding the above, any amendment hereto which in any way affects the rights or obligations of Manager or the Class B Member must be approved in writing by Manager or the Class B Member, as applicable.

Section 11.3 Confidentiality.

(a) Right to Inspect. The Company shall maintain, at the Company's principal place of business, separate books of account for the Company that shall show a true and accurate record of all costs and expenses incurred, all charges made, all credits made and received and all income derived in connection with the operation of the Company in accordance with this Agreement. A copy of this Agreement, the Articles of Organization and a current list of Members and members of the Steering Committee with mailing addresses shall be maintained at the principal place of business of the Company and shall be open to inspection and examination by a Member upon ten (10) days written notice to the Company which notice shall include the Member's purpose of such demand. Inspections conducted pursuant to this Section shall be permitted at the principal place of business of the Company between the hours of 9 a.m. and 5 p.m., Monday through Friday.

(b) Confidentiality and Non Disclosure. Each member of the Steering Committee and each other Class A Member (such person, a "Disclosee"), during membership in the Company and for a period of three (3) years thereafter, shall hold Confidential Information in confidence and not Disclose Confidential Information to any third person. Each Disclosee shall use best efforts, but in all events at least the same degree of care in respect to Confidential

Information that the Disclosee uses to protect such person's own confidential information from unauthorized use, Disclosure or availability.

(c) Each Disclosee represents, warrants and covenants that the Confidential Information includes commercially valuable, Company Trade Secrets, the design and development of which reflect the effort of skilled experts and required the investment of considerable amounts of time and money. Each Disclosee further acknowledges that the Company has treated such Confidential Information as confidential and secret information that Company or Manager entrusts to a Disclosee in confidence to use only for the purpose of participating in the Company. Each Disclosee represents, warrants and covenants that the Company claims and reserves all rights and benefits afforded under all U.S. and international laws or treaties, including, without limitation, patent, copyright and Trade Secret law, in all Confidential Information furnished or otherwise made available to a Member. In perpetuity, a Member shall not Disclose the Company Trade Secrets to any Person.

(d) The unauthorized use or Disclosure of any Confidential Information by a Disclosee in violation of this Section 11.3 will cause severe and irreparable damages to the Company, which may be difficult to measure with certainty or to compensate through damages. If a Member or member of the Steering Committee violates this Section 11.3, the Company shall have all remedies available to the Company at law or equity.

Section 11.4 Defaults. Should any Member, Manager or Administrative Agent default under any obligation contained in this Agreement, the Manager or any non-defaulting Member may provide written notice to such party of such default and identify a reasonable opportunity for the cure of such default. If the default is not cured within the reasonable period of time; the non-defaulting parties may pursue all remedies available under this Agreement, law or equity.

Section 11.5 Notices. Any written notice to a Member required or permitted under this Agreement shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the date of documented receipt if delivered by standard mail, prepaid overnight courier or e-mail. Notices to the Company shall be similarly given and addressed to the Company at its principal place of business. Notices to Members shall be delivered to the addresses listed herein. Such listed addresses may be changed by written notice to the Company and the other Members.

Section 11.6 Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the Agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

Section 11.7 Entire Agreement. This Agreement contains the entire, integrated agreement of the Members relating to the rights granted and obligations assumed under this Agreement. Any oral representations or modifications concerning this Agreement shall be of no force or effect unless contained in a subsequent written modification signed by the Members.

Section 11.8 Binding Effect. Except as otherwise provided in this Agreement, every covenant, term, and provision of this Agreement shall be binding upon and inure to the benefit of

the Members and their respective heirs, legatees, legal representatives, successors, transferee, and assigns as authorized by this Agreement.

Section 11.9 Construction. Every covenant, term, and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any Member.

Section 11.10 Time. Time is of the essence with respect to this Agreement.

Section 11.11 Heading. Article, section, and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision hereof.

Section 11.12 Incorporation by Reference. Any exhibit or schedule attached to this Agreement and referred to herein is hereby incorporated in this Agreement by reference.

Section 11.13 Variation of Pronouns. All pronouns and any variations thereof shall be deemed to refer to masculine, feminine or neuter, singular or plural as the identity of the person or persons may require.

Section 11.14 Waiver Of Action for Partition. Each of the Members irrevocably waives any right that it may have to maintain any action for partition with respect to any of the Company Property.

Section 11.15 Counterpart Execution. This Agreement may be executed in any number of counterparts (including separate affirmation and signature instruments) with the same effect as if both of the Members had signed the same document. All counterparts shall be construed together and shall constitute one agreement.

Section 11.16 Further Documents. Each Member agrees to perform any further acts and to execute and deliver any further documents reasonably necessary or proper to carry out the intent of this Agreement.

Section 11.17 Attorneys' Fees. If an action is instituted to enforce the provisions of this Agreement, the prevailing party or parties in such action, including appeals, shall be entitled to recover from the losing party or parties its or their reasonable attorneys' fees and costs as set by the court.

Section 11.18 Legal Representation. This Agreement was drafted by legal counsel employed by an Affiliate of Manager on behalf of Class B Member and Manager. The other Members of the Company acknowledge and agree that they have had the opportunity to review and discuss this Agreement with their own independent legal counsel and tax and accounting advisors.

Section 11.19 Elections Made by Company. All elections required or permitted to be made by the Company under the Code shall be made by the Manager on behalf of the Company, subject to Majority Approval, in such manner as in its judgment will be most advantageous to the Company.

Section 11.20 Dispute Resolution. Any controversy, dispute or claim arising out of or relating to the performance of the Manager or any alleged breach of this Agreement by the Manager shall be resolved in accordance with the terms and provisions of this Section 11.20.

(a) Agreement to Negotiate. Before submitting any controversy, dispute or claim arising out of or relating to this Agreement or any breach of this Agreement to arbitration, the following procedures shall be followed:

(i) The party desiring to submit any such ~~controversy, dispute~~ or claim to arbitration ("Claimant") first shall give written notice thereof to the other party ("Recipient") setting forth in detail the pertinent facts and circumstances relating to such controversy, dispute or claim;

(ii) Recipient shall have a period of ten (10) days in which to consider the controversy, dispute or claim that is the subject of the notice and to furnish in writing to Claimant a written statement of Recipient's position with respect thereto;

(iii) Within seven (7) days of Claimant's receipt of Recipient's written statement, Claimant and Recipient shall meet with a mediator, whose identity shall be mutually agreed upon by Claimant and Recipient, in an effort to resolve amicably any difference that may exist between the respective positions of Claimant and Recipient, and, if such resolution is not achieved, either or both of Claimant and Recipient shall have the right to submit the matter to arbitration.

(b) Procedure for Arbitration. Any controversy, dispute or claim arising out of or relating to this Agreement or any breach of this Agreement, including any dispute concerning the termination of this Agreement, that has not been resolved in accordance with Section 11.20(a) (including, the failure to agree upon a mediator within the seven (7) period described in Section 11.20(a)) shall be settled by arbitration in Clark County, Nevada in accordance with the arbitration provisions of the Nevada Revised Statutes. In arbitration, this Agreement (including this provision providing for arbitration in the event of any controversy, dispute or claim arising out of or relating to this Agreement or any breach of this Agreement that has not been resolved in accordance with Section 11.20(a)) shall be specifically enforceable. Depositions may be taken and other discovery permitted as provided under the Nevada Rules of Civil Procedure contained in the Nevada Revised Statutes, excluding Rule 16.1. Judgment upon any award rendered by an arbitrator may be entered and enforced in District Court, Clark County, Nevada. The prevailing party to an arbitration proceeding commenced hereunder shall be entitled as a part of the arbitration award to the costs and expenses (including reasonable attorneys' fees) of investigating, preparing and pursuing an arbitration claim as such costs and expenses are awarded by the arbitrator.

IN WITNESS WHEREOF, the Manager has executed this Agreement as of the date first above written.

MANAGER:

_____, a Nevada
limited liability company

By: _____
_____, Manager

Exhibit "A" – Confirmation Order

Exhibit "B" – Property Description

Exhibit "C" – List of Class A Members and Percentage Membership Interest

Exhibit "D" – Initial Members of the Steering Committee