

**LIMITED LIABILITY COMPANY OPERATING
AGREEMENT**

OF

309 Garrard LLC

(A KENTUCKY LIMITED LIABILITY COMPANY)

DATED AS OF April 04, 2013

LIMITED LIABILITY COMPANY OPERATING

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OF

309 Garrard LLC

THIS LIMITED LIABILITY COMPANY OPERATING AGREEMENT (this "Agreement") has been made and entered by and among the persons and/or entities whose names appear on Exhibit A annexed hereto (individually a "Member" and collectively the "Members"), for the purposes of setting forth the rights and obligations of the Members in and to 309 Garrard LLC (the "Company") formed pursuant to the provisions of the Kentucky Limited Liability Company Act (the "Act").

W I T N E S S E T H

WHEREAS, the Company was formed on April 04, 2013, subject to the laws of the State of Kentucky; and

WHEREAS, the parties hereto have agreed upon the terms and conditions that will govern their relationship and wish to reduce such agreement to writing;

NOW, THEREFORE, in consideration of the premises, the mutual agreements contained herein and other good and valuable consideration, the receipt and adequacy of which hereby are acknowledged, the parties hereto hereby agree as follows:

ARTICLE I

INTERPRETATION

1.1 Definitions.

Unless otherwise expressly provided herein or unless the context clearly requires otherwise, the following terms as used in this Agreement shall have the following meanings:

"Act." Means the Kentucky Limited Liability Company Act, as amended from time to time.

"Additional Capital Contributions." Means the aggregate amount of additional Capital Contributions made to the Company by the Members, beyond the initial Capital Contributions of the Members pursuant to Section 3.1(c).

"Affiliate." Means a Person that directly or indirectly through, one or more intermediaries, controls or is controlled by, or is under common control with the Person specified. For this purpose "control" of a Person means that power (whether or not exercised) to direct the policies, operations or activities of such Person by or through ownership of, or right to vote, or to direct the manner of voting of such Person, or pursuant to law, or agreement or otherwise. No Member shall be deemed to be an Affiliate of another Member by virtue of this Agreement or their respective ownership of Interests in the Company.

"Agreement." Means this Limited Liability Company Operating Agreement by and among the Members, as further amended or restated from time to time.

"Available Cash." Means as of any date, all cash receipts received by the Company (other than Capital Contributions), less the sum of the following to the extent made from cash receipts received by the Company:

(i) all principal, interest and other payments due and owing with respect to loans, mortgages and other indebtedness of the Company;

(ii) all cash expenditures then necessary, in the opinion of the Manager, to be made in connection with the operation of the Business of the Company; and

(iii) such cash reserves as the Manager deems reasonably necessary for the proper operation of the Business of the Company and all costs and expenses of the Business of the Company.

"Business." Means Own Real Estate.

"Capital Account." Means the Capital Account maintained and adjusted for each Member pursuant to Section 4.1.

"Capital Contribution." Means the aggregate amount of cash and the initial Gross Asset Value of any property (other than cash) contributed to the Company by a Member as of such time.

"Code." Means the Internal Revenue Code of 1986, as amended, and as it may be further amended from time to time.

"Company." Means 309 Garrard LLC, a limited liability company formed under the laws of the State of Kentucky.

"Confidential Information." Means any information regarding the Business, operations, ownership or governance of the Company, including its operations, operating plans, customers, customer lists, proposed or current ventures, business plans, past agreements, potential agreements, private or proprietary conversations, trade secrets, as well as information relating to its financial performance, condition or valuation; provided that "Confidential Information" does not include information which: (i) is now, or hereafter becomes, through no act or failure to act on the part of the receiving party, generally known or available to the public; (ii) was acquired by the receiving party before receiving such information from the disclosing party and without restriction as to use or disclosure; (iii) is hereafter rightfully furnished to the receiving party by a third party, without restriction as to use or disclosure; (iv) is information which the receiving party can document was independently developed by the receiving party without breach of any obligation of confidentiality; (v) is required to be disclosed pursuant to law, provided the receiving party uses reasonable efforts to give the Company reasonable advance notice of such required disclosure; or (vi) is disclosed with the prior written consent of the Company.

"Disability." Means with respect to a Person, (i) the inability (as determined by the Manager) of the Person, as a result of any physical or mental incapacity, to perform any material duties of the Person under this Agreement for a period of one hundred eighty

(180) consecutive days or two hundred seventy (270) days during any twelve-month period or (ii) the entry of judgment of a court of competent jurisdiction adjudicating the Person to be incompetent to manage such Person's property or person.

"Fair Market Value". Means the fair market value of a Member's Interest, as determined by an appraiser appointed by the Manager. The Fair Market Value of a Member's Interest shall be based upon an arm's length sale of the Company on such date in its entirety, such sale being between a willing buyer and a willing seller without regard to any minority discount or a discount with respect to disparate voting rights or a lack of marketability and liquidity for such Member's Interests. In determining Fair Market Value, the Manager appointed appraiser may obtain and rely on information and advice from any source or sources it deems appropriate, including investment banks, consulting firms, accounting firms and/or appraisal forms. Any determination of Fair Market Value made by the Manager appointed appraiser shall be final and conclusive on the Company and the Members and their permitted successors and assigns.

"Fiscal Year". Means the fiscal year of the Company, which shall be the calendar year or, in the case of the first fiscal year of the Company, the portion of the calendar year commencing on the date hereof and, in the case of the last fiscal year of the Company, the portion of the calendar year ending on the date on which the winding-up of the Company is completed. The taxable year of the Company for U.S. federal income tax purposes shall be determined under Section 706 of the Code. The Manager shall have the authority to change the ending date of the fiscal year if the Manager determines in good faith that such change is necessary or appropriate; provided that the Manager shall promptly give written notice of any such change to the Members.

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

(a) The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset, as set forth herein;

(b) The Gross Asset Values of all Company assets shall be adjusted to equal their respective gross fair market values, as determined by the Manager, as of the following times: (i) the acquisition or issuance of Interests in the Company by any new or existing Member in exchange for more than a de minimis Capital Contribution or in connection with the grant of an Interest as consideration for the provision of services to or for the

benefit of the Company; (ii) the distribution by the Company to a Member of more than a de minimis amount of property or money as consideration for an interest in the Company; and (iii) the liquidation of the Company within the meaning of Regulation Section 1-704-1(b)(2)(ii)(g); provided, however, that adjustments pursuant to clauses (i) and (ii) above shall be made only if the Management determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members;

(c) The Gross Asset Value of any Company asset distributed to a Member shall be the gross fair market value of such asset on the date of distribution;

(d) The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining capital accounts pursuant to Regulation Section 1-704-1(b)(2)(iv)(m); and

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

"Interest." Means the ownership interest of a Member in the Company as reflected on Exhibit A annexed hereto, as the same may, from time to time, be required to be amended. Holders of Interests shall not be entitled to vote or grant or withhold consents on any Company matter unless required by the Act or expressly provided for in this Agreement. All Interests shall be considered personal property.

"Majority." Means the affirmative vote of the Members holding greater than 50% of the Percentage Interests.

"Majority-in-Interest." Means the affirmative vote of the Members holding greater than 66-2/3% of the Percentage Interests.

"Manager." Means the Person designated or elected as the Manager as provided in Section 5.1 below.

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

(a) Any income of the Company that is exempt from federal income tax shall be added to such taxable income or loss:

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

(c) If the Gross Asset Value of any Company asset is adjusted pursuant to clause (b) or clause (c) of the definition of Gross Asset Value, the amount of such adjustment shall be taken into account as Net Profit or Net Loss from the disposition of such asset;

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

(e) To the extent an adjustment to the adjusted tax basis of any item of property pursuant to Sections 734(b) or 743(b) of the Code is required, pursuant to Regulation Section 1.704-(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Member's Interest, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the item of property) or loss (if the adjustment decreases such basis) from the disposition of such item of property and shall be taken into account for purposes of computing Net Profits or Net Losses.

"Percentage Interests." Means the percentage of each Member's Interest in the Company as reflected on Exhibit A hereto, as such Exhibit may be amended from time to time in accordance with the terms hereof and subject to adjustment as set forth in this Agreement.

"Person." Means an individual, corporation, partnership, limited liability company, trust, unincorporated organization, association or other entity.

"Regulations." Means the Treasury Regulations promulgated under the Code as such regulations may be amended from time to time (including the corresponding provisions of succeeding regulations).

"Transfer" or "Transferred." Means the mortgage, pledge, transfer, sale, assignment, gift or other disposition, in whole or in part, of an Interest, whether voluntarily, by operation of law or otherwise.

"Unreturned Capital Contributions." Means, with respect to each Member who contributed capital to the Company, all Capital Contributions (including any Additional Capital Contributions) actually made by such Member to the Company less any distributions received by such Member pursuant to Section 4.2(a)(i).

1.2 Terms Defined Elsewhere.

The following terms have been defined in the locations set forth below.

<u>Defined Term</u>	<u>Location</u>
Additional Capital Contribution Notice	Section 3.1(c)
Attorney-in-Fact	Section 11.2(a)
Bona Fide Offer	Section 9.3(b)
Cause	Section 5.1(c)
Company Election Notice	Section 9.3(c)
Company Minimum Gain	Section 4.3(c)(iv)(A)
Cure Period	Section 3.1(b)(ii)
Disposing Members	Section 9.4(a)
Effective Date	Section 4.3(a)(ii)
Effective Transfer Date	Section 9.2(c)
Failed Contribution	Section 3.1(b)(ii)

Indemnified Person	Section 6.1(a)
Involuntary Selling Member	Section 9.5(a)
Member Election Notice	Section 9.3(d)
Member Minimum Gain	Section 4.3(c)(iv)(B)
Members Nonrecourse Debt	Section 4.3(c)(iii)(A)
Member Nonrecourse Deductions	Section 4.3(c)(iii)(A)
Non-Contributing Member	Section 3.1(b)(ii)
Nonrecourse Deductions	Section 4.3(c)(iii)(B)
Offeree	Section 9.3(b)
Offered Interests	Section 9.3(b)
Option Termination Date	Section 9.3(f)
Proportionate Share	Section 9.3(d)
Regulatory Allocation	Section 4.3(d)
Relief Period	Section 3.1(d)(ii)
Selling Member	Section 9.3(a)
Tag-Along Notice	Section 9.4(b)
TMP	Section 7.5
Transferring Members	Section 9.4(b)

1.3 General Rules of Construction.

As used in this Agreement, pronouns shall refer to male or female persons or corporate entities where such construction is required to give meaning to a provision contained herein. Whenever a singular or plural number is used herein, the same shall refer to the plural or singular, as applicable, as well. Unless the context clearly requires otherwise, the words "hereof," "herein" and "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any particular provision hereof. The terms "including" and "include" however used are not limiting and mean "including without limitation." In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if negotiated and drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of

any of the provisions of this Agreement.

ARTICLE II

THE COMPANY

2.1 Formation of Company.

The Company was formed pursuant to the provisions of the Act. The rights and liabilities of the Members, the management of the affairs of the Company and the conduct of its Business shall be as provided in the Act, except as otherwise expressly provided herein.

2.2 Name.

The name of the Company shall be 309 Garrard LLC; however, the Manager, subject to the terms of this Agreement, may change the name of the Company at any time and from time to time upon written notice to the Members.

2.3 Term of Company.

The term of the Company commenced upon the filing of the appropriate formation documents in the Office of the Secretary of State of the State of Kentucky in accordance with the Act and shall continue until terminated in accordance with this Agreement or as provided by law.

2.4 Purposes of Company.

The purposes of the Company are to (i) engage in any lawful act or activity for which limited liability companies may be organized under the Act; and (ii) do all things necessary, suitable or proper for the accomplishment of, or in the furtherance of the Company's Business as set forth herein and to do every other act or acts incidental to, or arising from or connected with, any of such purposes.

2.5 Offices.

The address of the Company's registered office in the State of Kentucky shall be

Michael Aytes, Erlinger, KY, 41018. In addition, the Company shall maintain its chief executive office and principal place of business at 3935 Deerwalk Ct., Erlanger, KY, 41018, or at such other places of business as the Manager deems advisable for the conduct of the Company's Business. The Manager from time to time may change the Company's chief executive office and/or its principal place of business and shall notify the Members in writing of any such changes.

2.6 Filings.

(a) The Manager is authorized to execute, file and publish, or cause to be filed and published, with the proper authorities in each jurisdiction where the Company conducts Business and where the failure to file or publish would have a material adverse effect on the Company or such other places as the Manager deems necessary or advisable, such certificates or documents in connection with the conduct of Business as are necessary or desirable pursuant to applicable law.

(b) The Members from time to time shall execute, acknowledge, verify, file, and publish all such applications, certificates and other documents, and do or cause to be done all such other acts, as the Manager may deem necessary or appropriate to comply with the requirements of law for the formation, qualification and operation of the Company as a limited liability company in all jurisdictions in which the Company shall desire to conduct Business.

ARTICLE III

MEMBERS, COMPANY INTERESTS AND CAPITALIZATION

3.1 Interests and Capital Contributions of the Members.

(a) **Initial Interests/Initial Capital Contributions.** As of the date hereof, each Person named on Exhibit A shall become a Member and shall be shown as such on the books and records of the Company. Each Member's Capital Contribution shall be provided on Exhibit A. Each Member shall be required to contribute the full amount of said Capital Contribution on the date hereof, unless otherwise determined by the Manager. Each Member has been allocated the Percentage Interest set forth opposite such Member's name on Exhibit A annexed hereto.

(b) **Failure to Make Capital Contributions.** (i) The Company shall be entitled to enforce the obligations of each Member to make Capital Contributions pursuant to Section 3.1(a) hereof and the Company shall have all remedies available at law or in equity in the event any such Capital Contribution is not so made.

(ii) In the event that a Member shall fail to timely make his, her or its Capital Contribution when required pursuant to Section 3.1(a) of this Agreement (each such Member being thereafter referred to as a "Non-Contributing Member", and such defaulted amount is hereinafter referred to as a "Failed Contribution"), and if a Non-Contributing Member shall not have timely cured his, her, or its Failed Contribution within ten (10) business days of receipt of written notice of such failure from the Manager (the "Cure Period"), then the Manager, on behalf of the Company, shall have the right to purchase to all of a Non-Contributing Member's Interest for an amount equal to 100% of such Non-Contributing Member's Capital Account balance at such time. The Manager, on behalf of the Company, may exercise this right by providing written notice to such Non-Contributing Member within thirty (30) from the end of the Cure Period and such written notice shall specify a date within sixty (60) days from the end of such thirty (30) day period when the repurchase shall be consummated. The Company may in its discretion pay all or a portion of the repurchase price for such Non-Contributing Member's Interest by setting off and canceling any indebtedness then owed by the Non-Contributing Member to the Company, if any, with the balance of the repurchase price to be paid in cash. If the Company elects to repurchase a Non-Contributing Member's Interest, such Non-Contributing Member shall be treated as resigning from any and all positions with the Company and shall immediately cause any and all of his, her or its designees or representatives to resign immediately from any and all positions held with the Company.

(c) **Additional Contributions.** (i) The Manager, in his, her or its sole discretion, may call upon the Members to make Additional Capital Contributions (an "Additional Capital Contribution Notice") if the Manager in good faith determines that additional capital is required for the Company's Business, including to provide working capital, establish reserves or pay expenses, costs, losses or liabilities of the Company at any time and from time to time. Within twenty (20) days after the Additional Capital Contribution Notice is sent to the Members, each Member shall contribute to the Company an amount equal to such Member's pro rata share of the aggregate amount identified on the Additional Capital Contribution Notice, based upon each Member's Percentage Interest. Each Additional Capital Contribution Notice shall specify the use of proceeds, the aggregate

amount of Additional Capital Contributions requested, and the Additional Capital Contribution amount each Member is required to contribute to the Company.

(d) **Failure to Make Additional Capital Contributions.** (i) The Company shall be entitled to enforce the obligations of each Member required to make Additional Capital Contributions pursuant to Section 3.1(c) of this Agreement and the Company shall have all remedies available at law or in equity in the event any such Additional Capital Contribution is not so made.

(ii) In the event that a Member shall fail to timely make his, her or its Additional Capital Contribution pursuant to Section 3.1(c) of this Agreement (each such Member being thereafter referred to as a "Non-Contributing Additional Capital Member"), and such defaulted amount is hereinafter referred to as a ("Failed Additional Capital Contribution"), and if a Non-Contributing Additional Capital Member shall not have timely cured his, her, or its Failed Additional Capital Contribution within ten (10) business days of receipt of written notice of such failure from the Manager (the "Relief Period"), then the Manager, on behalf of the Company, shall have the right to repurchase all of a Non-Contributing Additional Capital Member's Interest for an amount equal to 100% of such Non-Contributing Additional Capital Member's Capital Account balance at such time. The Manager, on behalf of the Company, may exercise this right by providing written notice to the Non-Contributing Additional Capital Member within thirty (30) days from the end of the Relief Period and such written notice shall specify a date within sixty (60) days from the end of such thirty (30) day period when the repurchase shall be consummated. The Company may in its discretion pay all or a portion of the repurchase price for such Non-Contributing Additional Capital Member's Interest by setting off and canceling any indebtedness then owed by the Non-Contributing Additional Capital Member to the Company, if any, with the balance of the repurchase price to be paid in cash. If the Company elects to repurchase a Non-Contributing Additional Capital Member's Interest, such Non-Contributing Additional Capital Member shall be treated as resigning from any and all positions with the Company and shall immediately cause any and all of his, her or its designees or representatives to resign immediately from any and all positions held with the Company.

3.2 No Withdrawal of Capital Contributions.

Except upon dissolution and liquidation of the Company, no Member shall have the right to withdraw, reduce or demand the return of his, her or its Capital Contribution, or

any part thereof.

3.3 Return of Capital Contributions.

Except upon dissolution and liquidation of the Company or as otherwise provided herein, there is no agreement, nor time set, for the return of any Capital Contribution of any Member. A Member shall look solely to the assets of the Company for the return of his, her or its Capital Contributions, and if the assets remaining after the payment or discharge of the debts and liabilities of the Company are insufficient to return his, her or its Capital Contributions, the Members shall have no recourse against the Manager for such insufficiency.

3.4 No Obligation to Restore Negative Balances in Capital Account.

No Member shall have an obligation, at any time during the term of the Company or upon its liquidation, to pay to the Company or any other Member or third party an amount equal to any part or all of the negative balance in such Member's Capital Account.

3.5 No Liability of Members, Manager and Their Affiliates For Capital and Debts.

The debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company. Neither the Members, the Manager nor any Person that is an Affiliate of a Member or the Manager shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member, acting as the Manager or being an Affiliate of any of them.

3.6 Withdrawal by a Member.

No Member shall have the right to withdraw from the Company without the prior written consent of the Manager. From and after the effective date of such withdrawal, the withdrawing Member shall not be entitled to receive any distributions from the Company.

3.7 Securities Laws Representations.

Each Member, by executing this Agreement, hereby represents and warrants to the Company and to the Members that such Member (a) is aware that the acquisition of its

Interest in the Company has not been registered under the Securities Act of 1933, as amended, or qualified under the securities laws of any state, (b) is acquiring its Interest in the Company solely for its own account and not for the account of any other Person, for investment only, and not with a view to or for sale in connection with any distribution of such Interest, (c) understands that resale, pledge, assignment or other transfer of its Interest in the Company is limited by this Agreement and in any event may not be effected unless (i) the Transfer is registered and qualified under applicable securities laws, or is effected as a non-public offering that is exempt from the registration and qualification requirements of applicable securities laws, and (ii) the Person acquiring such Interest represents and warrants to the Company and to the Members that such Person is acquiring its Interest in the Company solely for its own account and not for the account of any other Person, for investment only, and not with a view to or for sale in connection with any distribution of such Interest, (d) has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of acquiring its Interest in the Company, (e) acknowledges that there is no guarantee that the Company will be a financial success, and is able to bear the economic risk of the loss of its Interest in the Company, and (f) acknowledges that the Company and the Members are relying on the foregoing representations.

ARTICLE IV

CAPITAL ACCOUNTS; ALLOCATIONS OF NET PROFITS, NET LOSSES AND DISTRIBUTIONS

4.1 Capital Accounts.

(a) The Company shall maintain a separate capital account ("Capital Account") for each Member and his, her or its legal representatives, successors and permitted assigns.

(b) The Capital Account of each Member shall be maintained in accordance with Sections 1.704-1(b) and -2 of the Regulations and shall be interpreted and applied in a manner consistent with such Regulations. In the event the Manager determines that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto, are computed in order to comply with Regulation Sections 1.704-1(b) and -2 the Manager may make such modifications, provided that it is not likely to have a material effect on the amounts distributable to any Member upon the dissolution of the Company.

(c) The Capital Account of each Member shall be as set forth herein and (i) increased by (A) the amount of cash and the Gross Asset Value (as at the time of its contribution) of any property (other than cash) contributed to the Company by the Member (net of liabilities relating to such contributed property that the Company assumes or to which the Company takes subject under Section 752 of the Code); and (B) the amount of Net Profits allocated to such Member pursuant to Section 4.3 of this Agreement, and (ii) decreased by (A) the amount of Net Losses allocated to such Member pursuant to Section 4.3 of this Agreement; and (B) the amount of cash and the Gross Asset Value (at the time of its distribution) of property, if any, distributed to such Member by the Company (net of liabilities relating to such distributed property that such Member assumes or to which the Member takes subject under Section 752 of the Code).

(d) In the event any Member's Interest is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred Interest. In the case of a sale or exchange of an Interest in the Company at a time when an election under Code Section 754 is in effect, the Capital Account of the transferee Member shall not be adjusted to reflect the adjustments to the adjusted tax bases of Company property required under Code Sections 754 and 743, except as otherwise permitted by Regulation Section 1.704-1(b)(2)(iv)(m).

(e) In determining the amount of any liability for purposes of paragraph (c) above, there shall be taken into account Code Section 752(c) and the Regulations promulgated thereunder, and any other applicable provisions of the Code and Regulations.

(f) In the event the Gross Asset Values of Company assets are adjusted pursuant to paragraphs (b), (c) or (d) under the definition of "Gross Asset Value," the Capital Accounts of all Members shall be adjusted simultaneously to reflect the manner in which unrealized income, gain, loss and deduction inherent in all Company assets (that has not been previously reflected in the Capital Accounts) would be allocated pursuant to Article IV if there were a taxable disposition of Company property at fair market value.

4.2 Distributions of Available Cash.

(a) **Distributions of Available Cash.** Except as otherwise provided in this Agreement, Available Cash shall be distributed (i) promptly after the sale, exchange, or transfer of all or substantially all of the Company's assets, and (ii) at such times and in such amounts

as are determined in the sole discretion of the Manager, to and among the Members in the following order of priority:

(i) To the Members pro-rata in proportion to the Unreturned Capital Contribution amounts until such time as each such Member has received cumulative distributions pursuant to this Section 4.2(a)(i) in an amount that reduces the Unreturned Capital Contribution amount of such Members to zero; and

(ii) The balance to the Members pro-rata in accordance with their respective Percentage Interests in the Company.

(b) **Distributions Generally**. To the extent any distributions pursuant to this Agreement were incorrectly made, the recipients shall promptly repay all incorrect payments and the Company shall have the right to set off any such incorrectly paid amount against any current or future sums owing to such recipients.

(c) **Limitations on Distributions**. In determining the timing and amount of distributions, if any, the Manager shall consider the best interests of the Company provided, however that no distributions will be made if the making of such distributions would impair the Business of the Company or violate the Act, or any restriction imposed by this Agreement.

(d) **Distributions in Kind**. If the Company makes a distribution in kind of Company property, the Capital Accounts of the Members shall be debited or credited as though the property had been sold for an amount equal to its fair market value and the amount received on such sale had been distributed.

4.3 Net Profits and Net Losses.

(a) **Generally**.

(i) This Section 4.3(a) generally sets forth the rules for allocations of Net Profits and Net Losses to the Members. Section 4.3(b) sets forth the allocations of Net Profits, Net Losses and similar items, determined in accordance with the method of accounting based on U.S. federal income tax principles as adjusted by the allocation rules set forth in Regulation Sections 1.704-1(b) and 1.704-2, rather than in accordance with either GAAP

or the method used in filing the Company's U.S. federal income tax return. Section 4.3(f) sets forth the manner in which items of income, gain, loss, deduction, credits and basis therefor will be allocated to the Members for income tax purposes to the extent such items may be allocated differently from the allocations referred to in the preceding sentence.

(ii) Except as otherwise provided in Section 4.3(a)(iii), all Net Profits, Net Losses, or any other items of income, gain, loss or deduction of the Company shall be allocated to the Members pursuant to this Article IV with respect to each Fiscal Year of the Company (or part thereof) as of the last day of such year. Except as otherwise provided herein, whenever a proportionate part of the Net Profit or Net Loss is credited or charged to a Member's Capital Account, every item of income, gain, loss, deduction or credit entering into the computation of such Net Profit or Net Loss shall be considered either credited or charged, as the case may be, in the same proportion to such Member's Capital Account, and every item of credit or tax preference related to such Net Profit or Net Loss, and applicable to the period during which such Net Profit or Net Loss was realized shall be allocated to such Member in the same proportion.

(iii) Net Profits and Net Losses shall be allocated to the Members in the manner set forth below, as adjusted from time to time, and for this purpose, at the end of the month that includes the date on which there occurs the admission of a new member in the Company or a valid Transfer of all or part of a Member's Interest pursuant to Section 9.2 hereof (the "Effective Date"), the books of the Company shall be closed in accordance with Section 706(d) of the Code, and consistent therewith: (X) items of income, deduction, gain, loss and/or credit of the Company that are recognized prior to the Effective Date shall be allocated among those Persons who were Members in the Company prior to the Effective Date in accordance with Section 4.3(b); and (Y) items of income, deduction, gain, loss and/or credit of the Company that are recognized after the Effective Date shall be allocated among the Persons or entities who were Members after the Effective Date in accordance with Section 4.3(b).

(b) **Allocation of Net Profits and Net Losses**. This Section 4.3(b) sets forth the general rule for Net Profit or Net Loss allocations to the Members. Whereas, Sections 4.3(c), 4.3(d), 4.3(e), and 4.3(f) sets forth various special rules that modify or clarify the general rules of this Section 4.3(b). Subject to Sections 4.3(c), (d), (e) and (f) hereof, Net Profits and Net Losses during each of the Company's Fiscal Years shall be allocated as set forth below:

(i) **Allocation of Net Profits.**

(A) First, to the Members in an amount sufficient to reverse the cumulative amount of any Net Losses allocated to the Members in the current and all prior Fiscal Years pursuant to Sections 4.3(b)(ii)(B) and (C) (in the inverse order of such allocation) which have not been previously offset, in proportion to the allocation of such Net Losses to such Members; and

(B) The balance, to the Members pro-rata in accordance with their respective Percentage Interests.

(ii) **Allocation of Net Losses.**

(A) First, to the Members in the amount and in proportion to the Net Profits, if any, allocated to the Members pursuant to Section 4.3(b)(i)(B) until the cumulative amount of Net Losses allocated pursuant to this Section 4.3(b)(ii)(A) equals the cumulative amount of Net Profits allocated to each Member pursuant to Section 4.3(b)(i)(B) and not previously offset pursuant to this Section 4.3(b)(ii)(A);

(B) Second, to the Members, in proportion to the positive balance in their respective Capital Accounts, until the Capital Accounts of all Members have reached a zero balance; and

(C) The balance, to the Members pro-rata in accordance with their Percentage Interests.

(c) **Special Allocation Provisions.** Notwithstanding the general allocation rule set forth in Section 4.3(b), the following allocation rules shall apply under the circumstances described therein.

(i) **General Limitation.** Notwithstanding anything to the contrary contained in Section 4.3, no allocation of Net Losses or items of loss or deduction shall be made to a Member which would cause such Member to have a deficit balance in his, her or its Capital Account which exceeds the sum of such Member's share (if any) of the recourse debt of the Company, such Member's share of Company Minimum Gain (as defined in

Section 4.3(c)(iv)(A) hereof) and such Member's share of Member Minimum Gain (as defined in Section 4.3(c)(iv)(B) hereof), and such Net Losses or items of loss or deduction shall instead be allocated to the other Members pro rata in accordance with their respective positive Capital Account balances. If the limitation contained in the preceding sentence would apply to cause an item of loss or deduction to be unavailable for allocation to all Members, then such item of loss or deduction shall be allocated between or among the Members in accordance with the Members' respective "interests in the Company" within the meaning of Section 1.704-1(b)(3) of the Regulations.

(ii) **Qualified Income Offset**. In the event any Member unexpectedly receives an adjustment, allocation or distribution described in clauses (4), (5) and (6) of Regulation Section 1.704-1(b)(2)(ii)(d) that results in such Member having a negative balance in his, her or its Capital Account in excess of the amount the Member is required to restore on a liquidation of the Company (or of the Member's interest in the Company), then, after any allocations required by Section 4.3(c)(iv) hereof, such Member shall be allocated income and gain in an amount and manner sufficient to eliminate such excess as quickly as possible. To the extent permitted by the Code and the Regulations, an allocation under this Section 4.3(c)(ii) shall be made only if and to the extent that such Member would have a negative balance in his, her or its Capital Account after all other allocations provided under this Article IV have been tentatively made as if this Section 4.3(c)(ii) were not in this Agreement. This Section 4.3(c)(ii) is intended to comply with the "qualified income offset" provision Regulation Section 1.704-1(b)(2)(ii)(d)(3) and shall be applied consistently therewith.

(iii)(A) **Member Nonrecourse Deductions**. Any Member Nonrecourse Deductions (as defined in Regulation Section 1.704-2(i)) for any Fiscal Year of the Company or portion thereof shall be allocated to the Member who bears the economic risk of loss with respect to the Members Nonrecourse Debt (as defined in Regulation Section 1.704-2(b)(4) to which such Member Nonrecourse Deductions are attributable, in accordance with Regulation Section 1.704-2(i)(1).

(B) **Nonrecourse Deductions**. Any Nonrecourse Deductions (as defined in Regulation Section 1.704-2(b)(1)) for any Fiscal Year or other period shall be specially allocated to the Members in proportion to their aggregate respective Percentage Interests.

(iv) **Company Minimum Gain Chargeback.** (A) Notwithstanding the other provisions of this Article IV, except as provided in Regulations Sections 1.704-2(f), if there is a net decrease in Company Minimum Gain (as determined under Regulations Section 1.704-2(d)) during any Company taxable period, each Member shall be allocated items of Company income and gain for such period (and, if necessary, subsequent periods) in the manner and amounts provided in Regulations Sections 1.704-2(f)(6), 1.704-2(g)(2) and 1.704-2(j)(2)(i), or any successor provisions. This Section 4.3(c)(iv)(A) is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(f) of the Regulations and shall be interpreted consistently therewith.

(B) **Member Minimum Gain Chargeback.** Notwithstanding the other provisions of this Article IV, except as provided in Regulations Section 1.704-2(i)(4), if there is a net decrease in Member Minimum Gain attributable to Member Nonrecourse Debt (as determined under Regulation Section 1.704-2(i)(3)) during any Company taxable period, any Person with a share of Member Minimum Gain attributable to Member Nonrecourse Debt at the beginning of such taxable period shall be allocated items of Company income and gain for such period (and if necessary, subsequent periods) in the manner and amounts provided in Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2), or any successor provisions. This Section 4.3(c)(iv)(B) is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(i)(4) of the Regulations and shall be interpreted consistently therewith.

(v) **Section 754 Adjustments.** To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated among the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such Section of the Regulations.

(d) **Curative Allocations.** The allocations set forth in Section 4.3(c) (the “Regulatory Allocations”) are intended to comply with certain requirements of the Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss or deduction pursuant to this Section 4.3(d). Therefore, notwithstanding any other provision of this Article IV (other than the Regulatory

Allocations), the Manager shall make such offsetting special allocations of Company income, gain, loss or deduction in whatever manner it determines appropriate so that, after such offsetting special allocations are made, each Member's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of the Agreement.

(e) **Allocation on Liquidation.** Notwithstanding anything to the contrary contained in Section 4.3, but subject to the special allocation provisions set forth in Section 4.3(c), in connection with the liquidation of the Company, Net Profits and items thereof, and Net Losses and items thereof attributable to the year in which such liquidation takes place shall be allocated among the Members in such a manner that the Capital Account balance of each Member shall, to the extent possible, be the same amount as the liquidation proceeds to be distributed to such Members pursuant to Section 10.2. To the extent that such allocations fail to produce such final Capital Account balances, such allocations of items of income (including gross income) and deductions for the year shall be made among the Members to the extent necessary to produce Capital Account balances in the same amount as the liquidation proceeds to be distributed to such Members pursuant to Section 10.2.

(f) **Section 704(c) Allocation.**

(i) Except as set forth in this Section 4.3(f), allocations for tax purposes of items of income, gain, loss and deduction, and credits and basis therefor, shall be made in the same manner as allocations as set forth in Section 4.3(b). Allocations pursuant to this 4.3(f) are solely for purposes of U.S. federal, state, local and foreign income taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Net Profits, Net Losses, other items or distributions pursuant to any provision of this Agreement.

(ii) Any item of Company income, gain, loss, deduction or credit attributable to property contributed to the Company, solely for tax purposes, shall be allocated among the Members in accordance with the principles set forth in Section 704(c) of the Code and the Regulations promulgated thereunder 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 fair market value at the time such property was contributed to the Company.

(iii) In the event the Gross Asset Value of any Company asset is adjusted pursuant to the definition of Gross Asset Value, subsequent allocations of income, gain, loss, deduction and credit 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 promulgated thereunder as in effect at that time such Gross Asset Value is adjusted.

(iv) Any elections or other decisions relating to allocations, including without limitation, the choice of permissible methods under Regulation Section 1.704-3 (Section 704(c) allocations) shall be made by the Manager in any manner that reasonably reflects the purpose and intention of the Agreement.

4.4 Withholding.

The Company may withhold and pay any taxes with respect to any Member which it is required to withhold and pay over under applicable tax law. Each Member hereby authorizes the Company to withhold from or pay on behalf of or with respect to such Member any amount of federal, state, local or foreign taxes that the Manager determines that the Company is required to withhold or pay with respect to any amount distributable to such Member pursuant to this Agreement. The Manager, on behalf of the Company, shall be entitled to take any other action it determines to be necessary or appropriate in connection with any obligation or possible obligation to impose withholding pursuant to any tax law or to pay any tax with respect to a Member. Any such taxes may be withheld from any distribution otherwise payable to such Member or, if no sufficiently large distribution is imminent, the Company may require the relevant Member to promptly reimburse the Company for the amount of such tax withheld and paid over by the Company. No such reimbursement payment will be considered a Capital Contribution for purposes of this Agreement and shall not increase the Capital Account of the Member making such reimbursement payment. Taxes withheld on amounts directly or indirectly payable to the Company and taxes otherwise paid by the Company shall be treated for purposes of this Agreement as distributed to the appropriate Member and paid by the appropriate Member to the relevant taxing jurisdiction.

ARTICLE V

MANAGEMENT & MEMBERS

5.1 Management.

(a) **General Powers.** The Manager, who shall initially be Michael Aytes shall have the full, exclusive and absolute right, power and authority to manage and control the Company and the property, assets, affairs and Business thereof, except as limited by the Act and this Agreement. The Manager shall serve as Manager until his, her, or its successor is appointed in accordance with Section 5.1(c).

(b) **Compensation.** The Manager shall not be entitled to receive any compensation for serving as Manager of the Company. If the Manager directly or indirectly performs other services for the Company as an employee, consultant or independent contractor, the Manager shall be entitled to reasonable compensation therefore, as determined by the Members holding a Majority of the Interests.

(c) **Removals, Vacancies.** The Manager may be removed only for “Cause” (as defined below) as determined by the vote of the Members holding a Majority-in-Interest of the Interests. The Manager may not resign without receiving the consent of the Members holding a Majority of the Interests. In the event of the death, incapacity, removal, or resignation of the Manager, the successor Manager shall be selected by the vote of the Members holding a Majority-in-Interest of the Interests. For purposes of Article V, “Cause” shall mean fraud, willful misconduct, gross negligence, breach of fiduciary duty or other gross misconduct by the Manager with respect to a material matter relating to the affairs of the Company.

(d) **Expenses.** The Company shall pay all of its own operating, overhead and administrative expenses of every kind. The Manager will also be entitled to reimbursement from the Company for reasonable expenses incurred in connection with the performance of his, her or its duties hereunder so long as the Manager submits appropriate documentation for such expenses.

5.2 Authority of the Manager.

(a) Except as otherwise provided in this Agreement, the Manager shall have all rights and powers that may be possessed by a Manager under the Act on behalf and in the name of the Company to carry out any and all of the objects and purposes of the Company and to perform all acts and affairs of the Business which it may deem

necessary or desirable and which are not otherwise prohibited under this Agreement. Except with the consent of the Members holding a Majority of the Interests, which consent cannot be unreasonably withheld, the Manager shall not:

(i) enter in to a merger, consolidation, recapitalization or other reorganization of the Company or a sale of all or substantially all of the Company's assets;

(ii) enter into any equity financing or issue additional Percentage Interests in the Company;

(iii) borrow money for the Company and pledge, mortgage or grant security interests in any assets of the Company to secure such borrowings;

(iv) admit additional Members, other than pursuant to the provisions of Article IX hereof;

(v) approve or adopt any equity incentive plans for employees or other Persons;

(vi) materially change the nature of the Company's Business;

(vii) amend, alter or otherwise modify any Interest or other interest or equity or debt security issued by the Company;

(viii) consent to any tax audit adjustment in respect of taxes;

(ix) create or allow the creation of any material lien with respect to the property of the Company; or

(x) make any loans or provide guarantees of liabilities of any other Person.

(b) **Time and Other Activities**. Except as otherwise provided, the Manager (in his, her or its capacity as the Manager) shall devote such time and attention to the Business of the Company as the Manager shall determine, from time to time, in the exercise of his, her or its reasonable judgment, to be necessary for the conduct of the Company's Business. The Manager shall have the right to manage his, her or its own investments and to make investments in any other business not competitive with the Business of the Company and neither the Company nor any of its Members shall have any rights or claims as a result of any such activity. In furtherance of the foregoing, the Members (in their capacity as such other than the Manager) hereby waive any and all rights and claims that they might otherwise have as a result of such activities.

(c) **Fiduciary Duty**. The Manager shall have a fiduciary responsibility for the safekeeping and use of all Company funds, property and assets, whether or not in his, her or its immediate possession. The Manager shall not employ or permit another to use any of the Company's funds, property or assets in any manner except for the exclusive benefit of the Company. In fulfilling his, her or its fiduciary duty, the Manager shall exercise his, her or its business judgment in a manner that is reasonably consistent with that which would be applied by a reasonable Person under similar circumstances.

5.3 Officers.

The Manager may, from time to time, but shall not be required to, designate or appoint one or more officers of the Company, including without limitation, a chairman of the board, a chief executive officer, president, one or more vice presidents, a secretary, an assistant secretary, a treasurer and/or an assistant treasurer. Such officers may, but need not be, employees of the Company or an Affiliate of the Company. Each appointed officer shall hold such office until (i) his or her successor is appointed, (ii) such officer submits his or her resignation or (iii) such officer is removed, with or without Cause (as defined in Section 5.1(c) hereof), by the Manager. All officers shall perform his or her duties in good faith and with such degree of care, which an ordinarily prudent Person in a like position would use under similar circumstances.

5.4 Members Have No Management Powers.

Except as otherwise expressly provided herein, the Members (other than the Manager) shall take no part in or interfere in any manner with the management, conduct or control of the Company's Business and no Member shall have any right or authority to act for or bind the Company in any manner whatsoever. Members shall have only the right to vote on specified matters as set forth in this Agreement, if any, or as required by the Act.

5.5 Member Meetings. There shall be no requirement that meetings of the Members be held. Any action that requires the approval of the Members may be taken without a meeting. Any matter to be voted upon by the Members shall be decided by the Members holding the required percentage of Interests as required by express provision of this Agreement or the Act.

ARTICLE VI

INDEMNIFICATION

6.1 Indemnification.

(a) The Company shall have the power to indemnify any Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that the Person is or was a Manager, officer, employee or agent of the Company or is or was serving at the request of the Company as a director, officer, employee or agent of another entity, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the Person in connection with such action, suit or proceeding if such Person (a "Indemnified Person") acted in good faith in any manner the Person reasonably believed to be in or not opposed to the best interests of the Company and, with respect to any criminal action or proceeding, had no reasonable cause to believe his/her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the Person is not an Indemnified Person.

(b) The Company shall have the power to indemnify any Indemnified Person against expenses (including attorneys' fees) actually and reasonably incurred by such Person in connection with the defense or settlement of such action or suit except that no indemnification shall be made in respect of any claim, issue or matter as to which such Person shall have been adjudged to be liable to the Company, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all of the circumstances of the case, such Person is fairly and reasonably entitled to indemnity for such expenses which such other court shall deem proper.

(c) To the extent that a Indemnified Person has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to subsections (a) and (b) above, or in defense of any claim, issue or matter therein, such Person shall be indemnified against expenses (including attorneys' fees), actually and reasonably incurred by such Person in connection therewith.

(d) A determination that indemnification is available pursuant to sub sections (a) and/or (b) above shall be made with respect to a Person who is an Indemnified Person at the time of such determination, by the Manager or, if the Manager is the subject of the proceedings for which indemnification is sought, by independent counsel.

(e) Expenses (including attorneys' fees) incurred by an Indemnified Person in defending any civil, criminal, administrative or investigative action, suit or proceeding may be paid by the Company in advance of the final disposition of such action, suit or proceeding upon receipt of a written undertaking by or on behalf of such Indemnified Person to repay such amount if it shall ultimately be determined that such Person is not entitled to be indemnified by the Company as authorized hereby. Such expenses (including attorneys' fees) incurred by Indemnified Persons may be so paid upon such terms and conditions, if any, as the Manager deems appropriate.

(f) The indemnification and advancement of expenses provided by or granted pursuant to this Section 6.1 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled to under any agreement or otherwise. The Company shall have the power to purchase and maintain insurance on behalf of any Indemnified Person.

ARTICLE VII

BOOKS OF ACCOUNT

7.1 Books of Account.

Complete books of account shall be kept by the Manager at the principal office of the Company (or at such other office as the Manager may designate). The method of accounting to be used in keeping the books of the Company for financial accounting purposes shall be determined by the Manager in accordance with applicable law.

7.2 Tax Elections.

The Manager shall have the authority to cause the Company to make any election required or permitted to be made for income tax purposes if the Manager determines that such election is in the best interests of the Company. The Manager, in his, her, or its sole

discretion, may cause the Company to make, in accordance with Section 754 of the Code, a timely election to adjust the basis of the Company property as described in Sections 734 and 743 of the Code.

7.3 Bank Accounts.

The Manager may maintain one or more bank accounts for such funds of the Company as it shall choose to deposit therein, and withdrawals therefrom shall be made upon such signature or signatures, as the Manager shall determine.

7.4 Tax Returns.

The Company shall prepare income tax returns for the Company and shall further cause such returns to be timely filed with the appropriate authorities. It is contemplated that the Company will be classified as a “partnership” for federal, state and local income tax purposes. The Manager agrees that he, she or it: (a) will not cause or permit the Company to elect (1) to be excluded from the provisions of Subchapter K of the Code or (2) to be treated as a corporation for federal income tax purposes, and (b) will cause the Company to make any election reasonably determined to be necessary or appropriate in order to ensure the treatment of the Company as a partnership for federal income tax purposes. The Company and its Members will take such reasonable action as may be necessary or advisable, and as determined by the Manager, including the amendment of this Agreement, to cause or ensure that the Company shall be treated as a “partnership” for federal, state and local income tax purposes.

7.5 Tax Matters Member.

(a) The Manager shall act as the “tax matters partner” (“TMP”) of the Company, as such term is defined in Section 6231(a)(7) of the Code, and shall have all the powers and duties assigned to the TMP under Sections 6221-6231 of the Code and the Regulations thereunder. The Members agree to perform all acts necessary under Section 6231 of the Code and the Regulations thereunder to designate such person as the TMP.

(b) The Company shall indemnify and reimburse the TMP for all expenses (including legal and accounting fees) incurred as TMP pursuant to this Section 7.5 in connection with any administrative or judicial proceeding with respect to the tax liability of the Members as long as the TMP has determined in good faith that its course of conduct was

in, or not opposed to, the best interest of the Company.

7.6 Tax Status.

Each Member acknowledges that the Company will be recognized as a partnership for federal income tax purposes and will be subject to all provisions of Subchapter K of Chapter 1 of Subtitle A of the Code.

ARTICLE VIII

CERTAIN REPORTING PROVISIONS

8.1 Tax Reporting.

The Company shall use all reasonable efforts to furnish to the Members within ninety (90) days after the close of the Company's Fiscal Year the information reasonably required for the Members to prepare their federal, state and local income tax returns.

8.2 Access and Inspection.

The Company's books and records shall be available for inspection and copying (at such Member's cost) at reasonable times during business hours by each or any Member or its duly authorized agent or representative for a purpose reasonably related to such Member's Interest in the Company. Each Member further agrees to be bound by Section 11.8 of this Agreement with respect to Confidential Information received from the Company.

8.3 Title to Company Assets.

Title to, and all rights and interests in, the Company's assets shall be acquired in the name of and held by the Company, or, if required to be held in any other name, shall be held for the benefit of the Company.

ARTICLE IX

TRANSFERS OF INTERESTS OF MEMBERS

9.1 General Provisions.

(a) Except as otherwise set forth in this Agreement or as otherwise provided in the Act, a Member may not Transfer his, her or its Interest in the Company without the prior written consent of the Manager (which consent to any Transfer may be withheld without any liability or accountability to any Person). Notwithstanding anything to the contrary in this Agreement, any Transfer of an Interest (a) in violation of the provisions of this Agreement or (b) to a Person who, in accordance with the laws of the State of Kentucky, lacks capacity by reason of minority, incompetence or otherwise, to hold such Interest, or (c) to a Person prohibited by law from holding such Interest shall be void and shall not bind the Company.

(b) Notwithstanding anything in this Agreement to the contrary:

(i) A Member who is a natural person may Transfer his or her Interest to such Member's spouse, children or grand-children or to a trust or entity under his or her control upon not less than ten (10) days prior written notice to the Manager accompanied, in each case, by evidence (to be reasonably satisfactory to the Manager) that such Member has control over the transferee and has the power to vote or direct or control the vote of the Interest Transferred to such transferee.

(ii) A Member that is a legal entity may Transfer all of its Interest to any Affiliate.

(iii) Any Member which is a trust may Transfer its Interest to the beneficiaries of such trust in accordance with the terms thereof; provided, however, that with respect to any trusts established by the Manager in accordance with the terms hereof, voting with respect to such Interests shall be controlled by the Manager, by irrevocable proxy or otherwise.

(c) Any Member making or permitting a Transfer allowed pursuant to any of the above permitted Transfers must send immediate written notice thereof to the Manager together with reasonable evidence that the conditions or restrictions applicable thereto as set forth above have been complied with. Any Member making or permitting a Transfer allowed pursuant hereto shall also comply with such other conditions and requests for information about the transferee as the Manager may reasonably request.

9.2 General Conditions to Permitted Transfers.

(a) No Transfer of an Interest permitted by the terms of this Agreement shall be

effective unless:

(i) such Transfer shall have satisfied the provisions of Section 9.1;

(ii) the transferee shall accept and adopt in writing, by an instrument in form and substance satisfactory to the Manager, all of the terms and provisions of this Agreement, as the same may be amended from time to time, and shall have expressly assumed all of the obligations of the transferring Member relating to the Transferred Interest;

(iii) the transferee shall pay all filing, publication and recording fees, all transfer and stamp taxes, if any, and all reasonable expenses, including, without limitation, reasonable counsel fees and expenses incurred by the Company in connection with such transaction;

(iv) the transferee shall execute such other documents or instruments as counsel to the Company may require (or as may be required by law) in order to effect the admission of such Person as a Member;

(v) the transferee shall execute a statement that it is acquiring the Interest for his, her or its or its own account for investment and not with a view to the resale or distribution thereof and that he will only Transfer the acquired Interest to a Person who so similarly represents and warrants;

(vi) if required by the Manager, the Company receives an opinion of responsible counsel (who may be counsel for the Company), in form and substance satisfactory to the Manager, that such Transfer does not violate federal or state securities laws or any representation or warranty of such transferring Member given in connection with the Transfer of his, her or its Interest; and

(vii) if required by the Manager, counsel to the Company delivers to the Company an opinion that such Transfer (A) will not result in a termination of the Company under Section 708 of the Code; and (B) will not cause the Company to lose its status as a partnership for United States federal income tax purposes.

(b) No Transfer of an Interest, where permitted by the terms of this Agreement, shall be binding on the Company until all of the conditions to such Transfer pursuant to this Agreement have been fulfilled. Upon the admission of a substitute or additional Member,

the Manager shall promptly cause any necessary documents or instruments to be filed, recorded or published, wherever required, if any, showing the substitution of the transferee as a substitute Member in place of the transferring Member or as an additional Member, as appropriate.

(c) The effective date of a permitted Transfer of an Interest shall be no earlier than the last day of the calendar month that includes the date on which the Manager had received such documentation as the Manager shall determine, in his, her, or its sole discretion, is required pursuant to this Article IX (the “Effective Transfer Date”). The transferring Member shall cease to be, and the transferee shall become, a substituted Member as to the Interest so Transferred at such time as the Effective Transfer Date has passed. Thereafter, the transferring Member shall have no rights or obligations with respect to the Company insofar as the Interest Transferred is concerned.

9.3 Right of First Refusal.

(a) No Member (for purposes of this Section 9.3, a “Selling Member”) may Transfer all or any part of such Member’s Interest to a un-Affiliated third party unless Section 9.1(a) above has been satisfied and an offer to sell such Interest shall have first been made to the Company and then to the Members, as contemplated in this Section 9.3, and such offers shall not have been accepted.

(b) Copies of the Selling Member’s offer shall be given to the Company and to the Members and shall consist of an offer to sell to the Company or, failing its election to purchase, then to the Members, all of the Interests proposed to be Transferred by the Selling Member pursuant to a bona fide, arm's-length offer for cash consideration (a “Bona Fide Offer”) from any un-Affiliated third party (“Offeree”), to which copies shall be attached of the name and address of the Offeree making the Bona Fide Offer, the Interests subject to the Bona Fide Offer (the “Offered Interests”), the price and other material terms of the Bona Fide Offer, reasonable evidence of financing, and a statement that the Selling Member is willing to accept the Bona Fide Offer.

(c) The Company shall then have a non-assignable first option to purchase all or any part of the Offered Interests specified in the Bona Fide Offer on the same terms and conditions as specified in the Bona Fide Offer. Such option shall be exercisable by the Company by giving written notice of such election (the “Company Election Notice”) to the Selling Member and the Members within twenty (20) days after receipt of the Bona Fide

Offer. The failure of the Company to provide a Company Election Notice to the Selling Member and the Members within such 20-day period shall be deemed to be a refusal by the Company of such option.

(d) If the Company either fails to exercise such option, or exercises such option as to some but not all of the Offered Interests, then the Members shall have a non-assignable option to purchase all of such Offered Interests which the Company has not elected to purchase up to such Member's "Proportionate Share" (as defined below) of the Offered Interests, or in any other proportion as all the Members may agree upon, on the same terms and conditions as specified in the Bona Fide Offer (the "Member Election Notice"). The option provided for herein shall be exercisable by each Member by providing a Member Election Notice to the Company, the Selling Member and the other Members within twenty (20) days after being notified that the Company has not elected to purchase all of the Selling Member's Interests. The failure by any Member to give a Member Election Notice to the Company, the Selling Member and the other Members within such 20-day period shall be deemed to be a refusal by such Member of such option. If any of the Members have provided Member Election Notices indicating that they will exercise options for less than their full Proportionate Share of the Offered Interests, or if at the expiration of said 20-day period, the Selling Member has not received an acceptance for all of such Offered Interests, then those Members that have elected to purchase their Proportionate Share of the Offered Interests shall have the right to purchase up to their Proportionate Share of any Offered Interests that no other Member has elected to purchase, or in any other proportion as all the Members may agree upon. As used herein, the term "Proportionate Share" of a Member entitled to exercise an option to purchase Offered Interests pursuant to this Section 9.3 shall mean the percentage of Offered Interests multiplied by a fraction, the numerator of which shall be the aggregate Percentage Interests then owned by such Member and the denominator of which shall be the aggregate Percentage Interests then owned by all of the Members that are entitled to exercise such option.

(e) If the Company and/or the Members elect to purchase all of the Offered Interests, then the Company and the Members (to the extent that each has so elected) shall be obligated to purchase and the Selling Member shall be obligated to sell such Offered Interests within forty-five (45) days of the last election to purchase the Offered Interests as set forth above, unless the Bona Fide Offer shall specify such other closing date, in which event the closing date shall be the same date specified in the Bona Fide Offer.

(f) If the option to purchase the Offered Interests of the Selling Member is not exercised in its entirety by the end of the time periods set forth above for the exercise of such option (the “Option Termination Date”), then in such event, the Selling Member shall have the right to Transfer all of such Offered Interests to the Offeree; provided that: (i) the consummation of any such Transfer shall occur within sixty (60) days after the Option Termination Date, unless the Bona Fide Offer specified such other closing date, in which event the closing date shall be the same date specified in the Bona Fide Offer, (ii) the price of the Offered Interests shall be no less than the price set forth in the Bona Fide Offer and the terms and conditions of such Transfer shall be no more favorable to the Offeree than those set forth in the Bona Fide Offer, and (iii) the transferor and the transferee shall have complied with the provisions of Section 9.2 hereof. In the event that any such Transfer is not in compliance with the foregoing provisions, all of the Offered Interests automatically shall become subject once again to the terms of this Section 9.3.

9.4

(a) **Drag Along Rights**. Subject to Section 9.1(a) and Section 9.3 hereof, if one or more Members owning a Majority-in-Interest of the Interests in the Company (the “Disposing Members”) determine to sell all of their Interests in the Company to an un-Affiliated purchaser who seeks to purchase all of the Interests of the Company pursuant to a bona fide third-party offer, the Disposing Members may, in writing, request each other Member to sell, and if so requested, each other Member shall be obligated to sell their Interests on the same terms and conditions (including representations and warranties) to the un-Affiliated purchaser on the same date on which the sale of Interests to the un-Affiliated purchaser occurs. In connection therewith, the Disposing Members must send written notice to the other Member(s), which notice must describe in reasonable detail the proposed purchase price, the un-Affiliated purchaser, the payment terms and the projected closing date and must include a copy of the letter of intent or proposed contract, as applicable and if any.

(b) **Tag Along Rights**. Subject to Section 9.1(a) and Section 9.3 hereof, if one or more Members owning a Majority-in-Interest of the Interests in the Company (the “Transferring Members”) determine to sell all of their Interests to an un-Affiliated purchaser pursuant to a bona fide third-party offer, the Transferring Members shall give the other Member(s) written notice thereof prior to the execution of a contract with respect thereto, which notice must describe in reasonable detail the proposed purchase price, the un-Affiliated purchaser, the payment terms, and the projected closing date and must include a copy of the letter of intent or proposed contract, as applicable and if any

(the “Tag-Along Notice”). The other Member(s) must send written notice to the Transferring Members within thirty (30) days of their receipt of the Tag Along Notice if they wish to include their respective Interests in the sale on a pro-rata basis. If the un-Affiliated purchaser identified in the Tag Along Notice does not wish to purchase the Transferring Members Interests that were to be sold, as described in the Tag Along Notice, and all of the Interests of the other Member(s) who opted to tag along, then all the Interests of such other Member(s) shall be reduced pro rata to an aggregate amount which such un-Affiliated purchaser is willing to buy.

9.5 Redemption of Interest. (a) Upon either the death or Disability of any Member, (an “Involuntary Selling Member”) the Manager, on behalf of the Company, shall have the right, exercisable at any time, within ninety (90) days after the Company learns of a Member becoming an Involuntary Selling Member to repurchase all of such Involuntary Selling Member's Interest for an amount in cash equal to the Fair Market Value of the Involuntary Selling Member's Interest. The Manager shall exercise this right by sending written notice within said ninety (90) day period to the executor or representative of the Involuntary Selling Member, as the case may be, at his, her, or its address, if known, or to the Involuntary Selling Member in question at his or her address specifying a date within sixty (60) from the end of such ninety (90) day period when the repurchase shall be consummated. The Company may pay all or a portion of the repurchase price for such Involuntary Selling Member's Interest by setting off and canceling any indebtedness then owed by the Involuntary Selling Member to the Company, if any, with the balance of the repurchase price to be paid in cash.

(b) Any Member who becomes an Involuntary Selling Member shall, automatically upon becoming an Involuntary Selling Member, no longer be entitled to vote upon any matter related to the Company, and such Member's Interest shall be limited to an economic interest only (no voting rights).

(c) The Company may, in the Manager's discretion, elect to purchase and maintain insurance policies on one or more of the Members for the purpose of providing for the purchase or redemption of all or a portion of an Involuntary Selling Member's Interest. In the event the Company receives the insurance proceeds to pay the Involuntary Selling Member for his or her Interest, any excess insurance proceeds shall be retained by the Company.

ARTICLE X

DISSOLUTION AND TERMINATION

10.1 Dissolution. The Company shall be dissolved and terminated upon the earliest to occur of the following:

- (a) the Members holding a Majority of the Interests elect to dissolve the Company;
- (b) the entry of a decree of judicial dissolution of the Company which is final and not subject to appeal; or
- (c) when the provisions of Section 10.3 below have been met.

10.2 Liquidation.

(a) Upon the dissolution of the Company, the Manager shall proceed, within a reasonable time, to sell or otherwise liquidate the assets of the Company. The assets of the Company (whether consisting of cash, assets or a combination thereof) shall be distributed by the Manager as follows:

(i) first, all of the Company's debts and liabilities to Persons other than Members shall be paid and discharged (excluding secured creditors whose obligations will be assumed or otherwise transferred on the liquidation of Company assets), and any reserve deemed necessary by the Manager for the payment of such debts shall be set aside; and thereafter

(ii) all of the Company's debts and liabilities to Members shall be paid and discharged; and thereafter

(iii) to the Members in accordance with Section 4.2(a).

(b) Upon dissolution, the Members shall look solely to the assets of the Company for the return of their Capital Contributions. The winding up of the affairs of the Company and the distribution of its assets shall be conducted exclusively by the Manager.

10.3 Termination.

The Company shall terminate when all property owned by the Company shall have been disposed of and the assets, after payment of, or due provision has been taken for, liabilities to Company creditors, shall have been distributed as provided in Section 10.2 of this Agreement. Upon such termination, the Manager shall execute and cause to be filed a certificate of cancellation of the Company and any and all other documents necessary in connection with the termination of the Company.

10.4 Effect of Certain Events on the Company's Existence.

The death or Disability of any individual Member or bankruptcy, dissolution or similar event of any other Member shall not dissolve or terminate the Company.

ARTICLE XI

MISCELLANEOUS

11.1 Entire Agreement; Binding Effect; Amendment.

This Agreement contains the entire agreement of the parties concerning the subject matter hereof, and supersedes any and all prior agreements oral or written among the parties hereto concerning the subject matter hereof, which prior agreements are hereby cancelled. This Agreement and all of its provisions, rights and obligations shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors, heirs, legal representatives and permitted assigns. The recitals at the beginning hereof shall constitute a part of this Agreement. This Agreement may not be changed, modified, amended, discharged, abandoned or terminated orally, except by a written agreement signed by the Members owning a Majority of the Interests. Notwithstanding the preceding sentence of this Section 11.1, the Manager may amend this Agreement from time to time without the approval of any Person for any of the following purposes (provided that any such amendments do not involve a change in the form of organization or fundamental purposes of the Company): (i) to correct any typographical errors contained herein; (ii) to cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provision herein or to make any other provision with respect to matters or questions arising under this Agreement which will not be inconsistent with the provisions of this Agreement; (iii) to reflect the addition or substitution of a Member in

accordance with this Agreement; or (iv) for the purpose of reflecting changes to the information set forth on Exhibit A attached hereto; or (v) to take such steps as the Manager determines are advisable or necessary, based upon an opinion of counsel to the Company, in order to preserve the tax status of the Company as an entity which is not taxable as a corporation for federal income tax purposes.

11.2 Power of Attorney.

(a) **Grant of Power.** Each Member constitutes and appoints the Manager as the Member's true and lawful attorney-in-fact ("Attorney-in-Fact"), and in the Member's name, place, and stead, to make, execute, sign, acknowledge and, if appropriate, file:

(i) all such documents or instruments to reflect the admission to the Company of a substituted Member, an additional Member, or the withdrawal of any Member, in the manner prescribed in this Agreement;

(ii) all such documents or instruments which the Manager deems necessary, appropriate, or helpful in the ordinary course of the Company's Business, in the manner prescribed in this Agreement, but not limited to, documents to open accounts, acquire, hold, dispose of or encumber any investments; provided that, no such document shall subject the Member on whose behalf the power of attorney is being exercised to personal liability or is otherwise adversely affecting such Member's rights, privileges, benefits or obligations pursuant hereto;

(iii) all documents which the Attorney-in-Fact deems appropriate to reflect any amendment, change, or modification of this Agreement or any exhibit thereto;

(iv) any and all other certificates or other instruments required to be filed by the Company under the laws of the State of Kentucky or of any other state or jurisdiction, including, without limitation, any certificate or other instruments necessary in order for the Company to continue to qualify as a limited liability company under the laws of the State of Kentucky or to do business under the laws of any other state or jurisdiction; and

(v) all documents which may be required to dissolve and terminate the Company.

(b) **Irrevocability.** The foregoing power of attorney is irrevocable and is coupled with an interest, and, to the extent permitted by applicable law, shall survive the death or

disability of a Member. This power of attorney with respect to any transferring Member shall survive the Transfer of an Interest and the delivery of the notice of assignment for the sole purpose of enabling the Attorney-in-Fact to execute, acknowledge, and file any documents needed to effectuate the substitution and/or Transfer.

11.3 Severability.

If any of the provisions of this Agreement is held invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions hereof, which can be given effect without the invalid provision, and to this end the provisions of this Agreement are intended to be and shall be deemed severable.

11.4 Notices.

Any and all notices, requests, demands or other communications hereunder shall be in writing and shall be given by personal delivery, by overnight delivery or courier or by certified or registered mail, postage prepaid, to each of the Members at their respective addresses as set forth on Exhibit A hereto or to such addresses as may from time to time be designated by any of them in writing by notice similarly given to all parties in accordance with this Section 11.4. Notices shall be effective upon receipt or refusal. Any notice to be given hereunder can be given by counsel to such party or any other authorized representative.

11.5 Governing Law.

This Agreement shall be governed and construed in accordance with the laws of the State of Kentucky without regard to the conflicts of law rules of said state.

11.6 Arbitration.

Any claim or controversy arising out of or related to, or in connection with this Agreement, or the breach thereof, shall be settled and determined by a binding arbitration in the State of Kentucky conducted by a single arbitrator in accordance with the then applicable rules of the American Arbitration Association, and a non-appealable judgment from the award rendered by the arbitrator may be entered in and specifically enforced by any court having jurisdiction over the parties. All costs and expenses of such arbitration shall be borne equally by the parties to the claim or controversy, except that the arbitrator

may, if he or she chooses to do so, award the prevailing party his, her or its reasonable legal fees and expenses.

11.7 Outside Interest, Conflicts. Any Member and their Affiliate shall have the right to engage in and/or possess an interest in any other business of any kind. Neither the Company nor any Member shall have or be entitled to any rights, solely by virtue of this Agreement, in and to such independent ventures or the income and profits derived therefrom, nor shall any such Member have any obligation whatsoever to offer, share or offer to share any business opportunity of any kind to the Company or any other Member. The Members hereby waive any and all rights and claims which they may otherwise have against such other Member and its officers, directors, shareholders, partners, agents, employees and Affiliates as a result of such activities.

11.8 Confidentiality. The Members agree to refrain from disclosing Confidential Information about the Company (except to such Member's partners, representatives, attorneys, employees, accountants, and other advisors of the members who have a need to know such information and have agreed to refrain from disclosing Confidential Information) for so long as such Member holds an Interest in the Company and for two (2) years thereafter. Each Member who ceases to be a Member agrees to return to the Company all documents, materials and writings (in any format, including electronic) that contain Confidential Information. No Member shall use Confidential Information for his, her or its own personal gain at any time, even after a Member ceases to be a Member of the Company.

11.9 Counterparts; Facsimile Signatures.

This Agreement may be executed in any number of counterparts any one of which, or a copy of any one of which, shall be admissible into evidence, and all of which shall constitute one and the same agreement. The parties agree that they may rely on the facsimile or electronic signature of any Member with respect to this Agreement or any waiver, amendment, supplement or consent relating thereto, with the same affect as if such signature was an original.

11.10 Waiver of Action for Partition.

Each of the parties hereto irrevocably waives during the term of the Company and during the period of its liquidation following any dissolution any right that he may have to

maintain any action for partition with respect to any of the assets of the Company, or otherwise to bring any action to dissolve the Company except as set forth in this Agreement.

11.11 No Third Party Beneficiaries.

None of the provisions of this Agreement shall be for the benefit of or enforceable by any of the creditors of the Company or any other Person not a party to this Agreement.

11.12 Further Assurances.

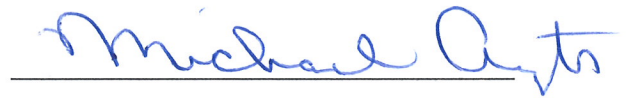
The Members agree to execute and deliver or cause to be executed and delivered such additional instruments, certificates or documents and take such actions as any Member may reasonably request for the purpose of more fully giving effect to the terms hereof.

11.13 Additional Remedies.

The rights and remedies of the Members shall not be mutually exclusive. The respective rights and obligations hereunder shall be enforceable by specific performance, injunction or other equitable remedy, but nothing herein contained is intended to, nor shall it limit or affect, any other rights in equity or any rights at law or by statute or otherwise of any Member aggrieved as against the other Members, for breach or threatened breach of any provision hereof, it being the intention of this Section to make clear the agreement of the Members that their respective rights and obligations hereunder shall be enforceable in equity as well as at law or otherwise.

IN WITNESS WHEREOF, the undersigned Member has caused this counterpart signature page to this Limited Liability Company Operating Agreement to be duly executed on the date set forth below, to be effective as of the date set forth below.

MEMBER

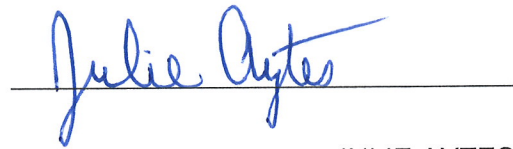
A handwritten signature in blue ink, reading "Michael Aytes", is written over a horizontal line.

MICHAEL AYTES

Date: 4/3/2013

IN WITNESS WHEREOF, the undersigned Member has caused this counterpart signature page to this Limited Liability Company Operating Agreement to be duly executed on the date set forth below, to be effective as of the date set forth below.

MEMBER

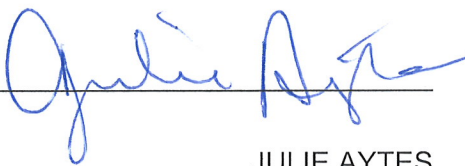
A handwritten signature in blue ink, reading "Julie Aytes", is written over a horizontal line.

JULIE AYTES

Date: 4/3/2013

IN WITNESS WHEREOF, the undersigned Member has caused this counterpart signature page to this Limited Liability Company Operating Agreement to be duly executed on the date set forth below, to be effective as of the date set forth below.

MEMBER



JULIE AYTES

Date: 4/3/13

IN WITNESS WHEREOF, the undersigned Member has caused this counterpart signature page to this Limited Liability Company Operating Agreement to be duly executed on the date set forth below, to be effective as of the date set forth below.

MEMBER

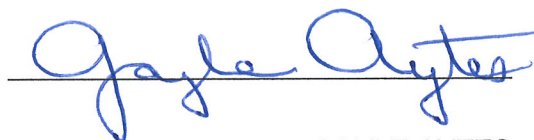
A handwritten signature in blue ink, appearing to read "D. M. Aytes", is written over a horizontal line.

DON MICHAEL AYTES I

Date: 4/3/2013

IN WITNESS WHEREOF, the undersigned Member has caused this counterpart signature page to this Limited Liability Company Operating Agreement to be duly executed on the date set forth below, to be effective as of the date set forth below.

MEMBER



GAYLE AYTES

Date: 4/3/13

IN WITNESS WHEREOF, the undersigned Member has caused this counterpart signature page to this Limited Liability Company Operating Agreement to be duly executed on the date set forth below, to be effective as of the date set forth below.

MEMBER

_____

SEAN AYTES

Date: 4/3/13

EXHIBIT A

Percentage Interests, Capital and Member Information