

OPERATING AGREEMENT OF

A COLORADO LIMITED LIABILITY COMPANY

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THIS OPERATING AGREEMENT (the “**Operating Agreement**”) is entered into and adopted by all of the Members of _____, a Colorado Limited Liability Company (the “**Company**”) and by the Company this _____.

RECITALS

A. On _____, the Organizer(s) of the Company caused the Articles of Organization (the “**Articles**”) to be delivered with the Colorado Secretary of State pursuant to the laws set forth in the Colorado Limited Liability Company Act, Colorado Revised Statutes §§ 7-80-101 et seq. (the “**Act**”). Pursuant to such delivery, the Company was duly formed. A true and correct copy of the file-stamped Articles is attached hereto as Exhibit A.

B. The Members and the Company unanimously desire to adopt this Operating Agreement. This Operating Agreement shall govern the rights, duties, limitations, qualifications and relations among the Members, Managers (if any), the Members’ assignees and transferees, and the Company. The Company shall also be bound by this Operating Agreement.

C. Except as otherwise specifically provided by the Act, the Members desire that the Operating Agreement take precedence and control over any conflicting or contrary provisions in the Act. To the extent the Operating Agreement is silent upon a matter, the Act shall control.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the Members agree as follows.

SECTION 1 COMPANY INFORMATION

1.1 Name. The name of the Company is:

The Company shall conduct all of its business under this name.

1.2 Purpose and Powers. Company is organized under the Act to transact any and all lawful business, subject to any applicable provisions of law governing or regulating such business. The Company shall, to the fullest extent permitted, have all powers of a limited liability company as provided by the Act.

1.3 Fiscal Year. The fiscal year of the Company shall be the calendar year unless otherwise agreed.

1.4 Duration. The Company's period of duration shall be perpetual.

1.5 Registered Agent/Office. The initial registered agent is

(the "**Registered Agent**"). The registered office of the Company is

(the "**Registered Office**"), which is located within the State of Colorado and is the business address of the Registered Agent. The Registered Agent and/or Registered Office may be changed from time to time by action of the Members, and shall be reported to the Colorado Secretary of State as provided by the Act. The Registered Agent may resign as provided by the Act.

1.6 Principal Place of Business. The initial principal place of business is

(the "**Principal Address**"). The Company may have such other offices with which its business may require.

1.7 Effective Date. This Operating Agreement shall be effective as of: the date of formation of the Company the date of this Operating Agreement. the following date: _____.

SECTION 2
MEMBERS/CAPITAL CONTRIBUTIONS

2.1 Initial Members. The initial Members of the Company are:

2.2 Form of Contributions. The contribution of a Member may be in cash, property, or services rendered or a promissory note or other obligation to contribute cash or property to perform services. A person may be admitted to the Company as a Member of the Company and may receive a Membership Interest in the Company without making a contribution or being obligated to make a contribution to the Company. A person may be admitted to the Company as a Member of the Company without acquiring a Membership Interest in the Company. A person may also be admitted as the sole Member of the Company without making a contribution or being obligated to make a contribution to the Company or without acquiring a Membership Interest in the Company.

2.3 Initial Contributions. The initial capital contributions of Members are as follows:

Member	Contribution	Value
_____	_____	_____
_____	_____	_____
_____	_____	_____

In the event of a Capital Call, the Members shall be obligated to contribute to the Company their respective obligations for the Capital Call within _____ days after notice of Capital Call from the Company. The Members' respective obligation for Capital Calls shall be calculated based upon their Membership Interest percentages. All Capital Call contributions shall be in cash. In the event a Member fails to meet a Capital Call, the remaining Members, or any one or combination thereof, may pay said Member's Capital Call obligation and the Membership Interest shall be modified accordingly.

SECTION 3 MEMBER CONSENT

3.1 Member Consent. In the event the consent or agreement of Members is required under the Operating Agreement or applicable law, and unless otherwise specifically required to be in writing, such consent or agreement may, but need not, be in writing. Unless otherwise specifically required, Member Consent shall mean the consent of a majority of the Members.

SECTION 4 MEMBERS' INTEREST TRANSFERABILITY

4.1 Admission of Additional Members. After the filing of the Company's Articles, one or more persons may be admitted as an additional Member or Member upon the consent of all Members. At any time that the Company has no Members, upon the unanimous consent of all the persons holding by assignment or transfer any of the Membership Interest of the last remaining Member of the Company, one or more persons, including an assignee or transferee of the last remaining Member, may be admitted as a Member or Members.

4.2 Interest in Company/Transferability of Interest. The interest of each Member in the Company constitutes the personal property of the Member and may be assigned or transferred. However, unless the assignee or transferee is admitted as a Member, the assignee or transferee shall only be entitled to receive the share of profits or other compensation by way of income and the return of contributions to which that Member would otherwise be entitled and shall have no right to participate in the management of the business and activities of the Company or to become a Member. The transferee shall be liable for Additional Contributions as provided in Paragraph 2.7.

4.3 Substitution. A Member ceases to be a Member upon assignment or transfer of all of the Member's Membership Interest. A person to whom all or a portion of a Member's Membership Interest has been assigned or transferred and who has been admitted as a Member has all the rights and powers and is subject to all the restrictions and liabilities of the assignor or transferor with respect to the portion of the Membership Interest assigned or transferred. The admission of the assignee or transferee releases the assignor or transferor from liability to the Company except that the substitution of the assignee does not release the assignor from liability to the Company for pre-existing contributions due and owing and liabilities under Section 502 or 606 of the Act.

4.4 Effect of Death/Termination. If a Member who is an individual dies or a court of competent jurisdiction appoints a guardian or general conservator for the Member, the Member's executor, administrator, guardian, conservator, or other legal representative may exercise all of the powers of an assignee or transferee of the Member. If a Member other than an individual is dissolved or terminated, the legal representative or successor of the Member may exercise all of the powers of an assignee or transferee of the Member.

4.5 Rights of Creditor Against a Member. On application to a court of competent jurisdiction by any judgment creditor of a Member, the court may charge the Membership Interest of the Member with payment of the unsatisfied amount of the judgment with interest thereon and may then or later appoint a receiver of the Member's share of the profits and of any other money due or to become due to the Member in respect of the Company and make all other orders, directions, accounts, and inquiries that the debtor Member might have made, or that the circumstances of the case may require. To the extent so charged, except as provided in this section, the judgment creditor has only the rights of an assignee or transferee of the Membership Interest. The Membership Interest charged may be redeemed at any time before foreclosure. If the sale is directed by the court, the Membership Interest may be purchased without causing a dissolution with separate property by any one or more of the Members. With the consent of all Members whose Membership Interests are not being charged or sold, the Membership Interest may be purchased without causing a dissolution with property of the Company. This section shall not deprive any Member of the benefit of any exemption laws applicable to the Member's Membership Interest.

4.6 Liability of Members and Managers. Members and Managers of the Company are not liable under a judgment, decree, or order of a court, or in any other matter, for a debt, obligation, or liability of the Company.

4.7 Derivative Proceedings. A Member may commence or maintain a derivative proceeding only in conforming with and compliance with sections 720-722 of the Act.

SECTION 5 MANAGEMENT

5.1 Manager. The articles:

vest the management of the Company in a Manager or Managers (the "**Managers**" or "**Board of Manager**"). The number of Managers is _____ and the name(s) and address(es) of the initial Manager(s) are:

_____	_____
_____	_____
_____	_____

The initial Managers shall hold office until their successors have been designated.

reserve management to the Members (and any reference in this Operating Agreement to Managers shall be deemed to refer to Members) except when such construction would be inconsistent or would conflict with a reasonable construction of this Operating Agreement.

5.2 Designation of Managers. The Company may designate one or more persons to be Managers. Managers may be designated and removed by the consent of a majority of the Members.

5.3 Other Agents. The Company may have one or more officers or other agents with such titles, rights, duties and authority as the Company may determine. An officer or an agent who is an individual shall be eighteen years of age or older. Except as provided in the sentence immediately below, officers and other agents may be designated or removed, and their titles, rights, duties and authority may be established, by the consent of a majority of the Members or, if the Company has one or more Managers, by a majority of the

Managers. Officers and other agents may be given authority to do any act that is not in the ordinary course of the business of the Company only with the consent of all of the Members.

5.4 Duties of Managers. In addition to the duties established elsewhere in the Operating Agreement and the Act, the duties that each Manager (and each Member in a Member managed company) owes to the Company include the duties to:

(a) Account to the Company and hold as trustee for it any property, profit, or benefit derived by the Member or Manager in the conduct or winding up of the Company business or derived from a use by the Member or Manager of property of the Company, including the appropriation of an opportunity of the Company;

(b) Refrain from dealing with the Company in the conduct or winding up of the Company business as or on behalf of a party having an interest adverse to the Company; and

(c) Refrain from competing with the Company in the conduct of the Company business before the dissolution of the Company.

5.5 Duties upon Winding up. A Manager (and each Member in a Member managed company) owes to the Company a duty of care in the conduct and winding up of the business of the Company, which shall be limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

5.6 Good Faith and Fair Dealing. Each Manager (and each Member in a Member managed company) shall also discharge the Manager's duties to the Company and exercise any rights consistently with the contract and obligation of good faith and fair dealing.

5.7 Self-Interest. A Manager (and each Member in a Member managed company) does not violate a duty of care or obligation to the Company solely because the Manager's conduct furthers the Manager's own interest.

5.8 Member Authority Limited in Managers Exist. If the Company is managed by Managers, a Member is not an agent of the Company and has no authority to bind the Company solely by virtue of being a Member.

5.9 Managers as Agents of the Company. Each Manager is an agent of the Company for the purposes of its business and an act of a Manager, including the execution of an instrument in the name of the Company, for apparently carrying on in the ordinary course the business of the Company or business of the kind carried on by the Company binds the Company, unless the Manager had no authority to act for the Company in the particular matter and the person with whom the Manager was dealing had notice that the Manager lacked authority.

5.10 Actions Requiring Member Approval. Notwithstanding any other provisions to the contrary, the Managers shall not have the authority amend the Articles, amend the Operating Agreement, to admit any additional Members to the Company, authorize an act of the Company that is not in the ordinary course of business of the Company, or to act on behalf of the Company for any of the following transactions without the express consent of all of the Members:

Enter into any contract, make any expenditure of funds or borrow any funds on behalf of the Company in the aggregate greater than \$_____; or

Sell, transfer, assign, convey, encumber or otherwise dispose of substantially all of the assets of the Company.

(Check all that apply.)

In all other actions and transactions, the Managers shall consult with the Members as may be reasonable to ascertain the Members' Membership Interests, desires and concerns regarding the Company as may be appropriate under the circumstances, but specific consent shall not be required. Managers shall not undertake any act or fail to perform any act which would adversely and materially affect the business of the Company.

5.11 Members as Agents in Member Managed Company. If the Articles provide that management of the Company is vested in the Members, each Member is an agent of the Company for the purposes of its business and an act of a Member, including the execution of an instrument in the name of the Company, for apparently carrying on in the ordinary course the business of the Company or business of the kind carried on by the Company binds the Company, unless the Member had no authority to act for the Company in the particular matter and the person with whom the Member was dealing knew or had reason to believe that the Member lacked authority.

SECTION 6 BUSINESS TRANSACTIONS

6.1 Business Transactions of Member or Manager with the Company. A Member or a Manager may lend money to, and transact other business with, the Company, and as to each loan or transaction the rights and obligations of the Member or Manager may be exercised or performed in the same manner as those of a person who is not a Member or Manager, subject to other applicable law.

SECTION 7 REIMBURSEMENT/INDEMNIFICATION

7.1 Reimbursement and Indemnification of Members and Managers. The Company shall reimburse a person who is or was a Member or Manager for payments made, and indemnify a person who is or was a Member or Manager for liabilities incurred by the person, in the ordinary course of the business of the Company or for the preservation of its business or property if such payments were made or liabilities incurred without violation of the person's duties to the Company.

SECTION 8 RECORDS

8.1 Access to Records. Each Member of the Company has the right, subject to such reasonable standards as may be established by the Managers, to inspect and copy at the expense of the requesting Member the following records of the Company from time to time upon reasonable demand for any purpose reasonably related to the Member's interest as a Member of the Company:

- (a) True and full information regarding the business and financial condition of the Company, including written resolutions and minutes, if any, of the Company;
- (b) A copy of the Company's federal, state, and local income tax returns for each year;
- (c) A current list of the name and last-known business, residence, or mailing address of each Member and Manager;
- (d) A copy of the Company's Articles and a copy of any written operating agreement of the Company;

(e) True and full information regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each Member and that each Member has agreed to contribute in the future, and the date on which each became a Member; and

(f) Other information regarding the affairs of the Company as is just and reasonable.

8.2 Manager Inspection Rights. Each Manager shall have the right to examine all of the information described in this section above for a purpose reasonably related to the position of Manager.

8.3 Confidentiality. Each Member of the company and each Manager shall have the right to keep confidential from the Members, for such period of time as the Members or Managers deem reasonable, any information that the Members or Managers reasonably believe to be in the nature of trade secrets or that the Company is required by law or by agreement with a third party to keep confidential.

8.4 Electronic Records. A Company may maintain records in other than a written form, if such form is capable of conversion into written form with reasonable accuracy.

8.5 Written Request for Records. Any demand by a Member under this section shall be in writing and shall state the purpose of the demand.

8.6 Accounting. A Member of the Company shall have the right to a reasonable accounting of Company affairs whenever circumstances render it just and reasonable.

SECTION 9 AMENDMENTS

9.1 Amendment of Articles. Any and all amendments and modifications of the Articles shall require the approval of all of the Members.

9.2 Amendment of Operating Agreement. Any and all amendments and modifications to this Operating Agreement shall require the approval of all of the Members.

SECTION 10 DISTRIBUTION

10.1 Interim Distribution. Distributions from the Company to Members shall be authorized by Member consent pursuant to Section 3. All distributions shall be at the discretion of Members, and subject only to Paragraph 10.2 and other applicable laws.

10.2 Limitations on Distributions.

(1) The Company shall not make a distribution to a Member to the extent that at the time of distribution, after giving effect to the distribution, all liabilities of the Company, other than liabilities to Members on account of their Company interests and liabilities for which the recourse of creditors is limited to a specific property of the Company, exceed the fair value of the assets of the Company; except that the fair value of property that is subject to a liability for which the recourse of creditors is limited shall be included in the assets of the Company only to the extent that the fair value of that property exceeds that liability. For purposes of this subsection, the term “distribution” shall not include payments to the extent that the payments do not exceed amounts equal to or constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program.

(2) A Member who receives a distribution in violation of subsection (1) of this section, and who knew at the time of the distribution that the distribution violated subsection (1) of this section, shall be liable to the Company for the amount of the distribution. A Member who receives a distribution in violation of subsection (1) of this section, and who did not know at the time of the distribution that the distribution violated subsection (1) of this section, shall not be liable for the amount of the distribution. Subject to subsection (3) of this section, this subsection (2) shall not affect any obligation or liability of a Member under an agreement or other applicable law for the amount of a distribution.

(3) Unless otherwise agreed, a Member who receives a distribution from the Company shall have no liability under this provision or other applicable law for the amount of the distribution after the expiration of three years from the date of the distribution unless an action to recover the distribution from such Member is commenced prior to the expiration of the said three-year period and an adjudication of liability against such Member is made in the said action.

10.3 Distributions in Kind. A Member, regardless of the nature of the Member's contribution, has no right to demand and receive any distribution from the Company in any form other than cash. A Member may not be compelled to accept a distribution of any asset in kind from the Company to the extent that the percentage of the asset distributed to the Member exceeds a percentage of that asset which is equal to the percentage in which the Member contributed in distribution to the Company.

10.4 Sharing of Distributions. Distributions of cash or other assets of the Company shall be allocated among the Members and among classes of Members on the basis of value, as stated in the Company records required to be kept by the Company, of the contributions made by each Member.

10.5 Right to Distribution. At the time a Member becomes entitled to receive a distribution, the Member has the same right and is entitled to all remedies available to a creditor of the Company with respect to the distribution.

SECTION 11 RESIGNATION

11.1 Resignation of Member. A Member may resign from the Company at any time by giving written notice to the other Members. Notwithstanding the foregoing, if the resignation violates any other provisions of this Operating Agreement, the Company may recover from the resigning Member damages for breach of this Operating Agreement and offset the damages against the amount otherwise distributable to the resigning Member.

11.2 Interest of Member upon Resignation. A Member who has resigned shall have no right further rights to participate in the management of the business and affairs of the Company, and is entitled only to receive the shares of the profits or other compensation by way of income, and the return of contributions, to which such Member would have been entitled if the Member had not resigned.

SECTION 12 DISSOLUTION

12.1 Dissolution. The Company shall be dissolved:

- (a) Upon the agreement of all Members;
- (b) At the time or upon the occurrence of the events stated in the operating agreement; or

(c) After the Company ceases to have Members, on the earlier of:

(I) The ninety-first day after the Company ceases to have Members unless, prior to that date, a person has been admitted as a Member; or

(II) The date on which a Statement of Dissolution of the Company becomes effective pursuant to applicable law. Upon dissolution, the Company shall deliver to the Secretary of State, for filing a Statement of Dissolution stating the domestic entity name of the Company; and the principal address of the Company.

12.2 Effect of Dissolution. The dissolved Company continues its existence as a limited liability company but shall not carry on any business except as is appropriate to wind up and liquidate its business and affairs, including:

- (a) Collecting its assets;
- (b) Disposing of its properties that will not be distributed in kind to the Members;
- (c) Discharging or making provision for discharging its liabilities;
- (d) Distributing its remaining property among the Members; and
- (e) Doing every other act necessary to wind up and liquidate its business and affairs.

12.3 Disposition of Claims. The dissolved Company may dispose of claims against it pursuant to Sections 7-90-911 and 7-90-912 of the Colorado Revised Statutes.

12.4 Winding up business. After dissolution, the Manager or, if there is no Manager, any Member may wind up the Company's business, but on application of any Member, Member's legal representative, or Member's assignee or transferee, the district court, for good cause shown, may order judicial supervision of the winding up. The legal representative, assignee, or transferee of the last remaining Member may wind up the Company's business if the Company dissolves. A person winding up the Company's business may preserve the business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, settle disputes, settle and close the Company's business, dispose of and transfer the Company's property, discharge or provide for obligations of the Company, distribute the assets of the Company pursuant to this Operating Agreement and applicable law and perform other necessary acts. Subject to Section 802 (3) of the Act, the Company is bound by a Manager's act or, in the case of a company, the Articles of which provide that management is vested in Members, a Member's act after dissolution that: (a) Is appropriate for winding up the Company's business; or (b) Would have bound the Company under Section 405 of the Act before dissolution, if the other party to the transaction did not have notice of the dissolution.

12.5 Judicial or Administrative Dissolution. Pursuant to applicable law the Company is also subject to Judicial or Administrative Dissolution.

SECTION 13 MISCELLANEOUS

13.1 Complete Agreement. This Agreement and the Articles constitute the complete and exclusive statement of agreement among the Members and the Company. This Agreement and the Articles replace and supersede all prior agreements by and among the Members or any of them.

13.2 Governing Law. This Agreement and the rights of the parties hereunder will be governed by, interpreted, and enforced in accordance with the Act and the laws of the State of Colorado.

13.3 Binding Effect. Subject to the provisions of this agreement relating to transferability, this Agreement will be binding upon and inure to the benefit of the Managers, Members, and their respective distributees, successors and assigns.

13.4 Headings. All headings herein are inserted only for convenience and ease of reference, and are not to be considered in the construction or interpretation of any provision of this Agreement.

13.5 Severability. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under the present or future laws effective during the term of this Agreement, such provision will be fully severable; this Agreement will be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this agreement will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there will be added automatically to the Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid and enforceable.

13.6 Multiple Counterparts. This Agreement may be executed in several counterparts, each of which will be deemed an original but all of which will constitute one and the same instrument.

13.7 Additional Documents and Acts. Each Member agrees to execute and deliver such additional documents and instruments and to perform such additional acts as may be necessary or appropriate to effectuate, carry out, and perform all of the terms, provisions, and conditions of this Agreement and the transactions contemplated hereunder.

13.8 Executive Delivery. To the extent that any provisions contained herein contemplate execution of documents to be delivered to or filed with the Colorado Secretary of State such provision or provisions shall be deemed to mean delivery of the document to the secretary of State for filing pursuant to § 7-90-301 et seq. C.R.S.

13.9 Additional Provisions. In the event that there are any additional agreements between the Members or provisions with respect to the Company, an Addendum may be attached hereto, which shall be incorporated by this reference as a part of this Operating Agreement. An Addendum containing additional provisions is is not attached.

AGREED AND ACCEPTED by all of the initial Members of _____,
a Colorado Limited Liability Company, this _____ day of _____, 20_____.

