

```
CODES(  
  CHAR(vSeries;Series LLC (Y or N)?;Series LLC)  
  ASSIGN(vSeries;TOUPPER(VARIABLE(vSeries)))  
  IF("VARIABLE(vSeries)"="Y")  
    ASSIGN(vSeries;1)  
  ELSE  
    ASSIGN(vSeries;0)  
  ENDIF  
)
```

**COMPANY AGREEMENT  
OF  
FIELD(ENTITYNAME)**

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**COMPANY AGREEMENT**  
**OF**  
**FIELD(ENTITYNAME)**

In accordance with the Texas Business Organizations Code, the IF("FIELD(Control)"="Manager")managers named in the Certificate of FormationENDIF MembersENDIF of **FIELD(EntityName)**, a limited liability company referred to in these Articles as the “**Company**,” who have reserved the right of management of the Company, adopt the following Company Agreement (the “**Agreement**”) in order to regulate the Company’s affairs, conduct its business, and establish the relations of its membersIF("FIELD(Control)"="Manager") and managersENDIF :

Each **FIELD(Control)** hereby acknowledges that the **FIELD(Control)** has carefully reviewed the certificate of formation filed with the Texas Secretary of State (the Certificate of Formation as defined below) and that the Certificate of Formation is acceptable to the **FIELD(Control)** without alteration or amendment.

Except as otherwise expressly provided in this agreement, no amendment shall be valid unless it is in writing and is signed by all of the **FIELD(Control)**s.

ARTICLE I.  
INTRODUCTION

**Formation of Limited Liability Company**

1.01. The Limited Liability Company has been formed by filing a Certificate of Formation (the “**Certificate**”) with the Secretary of State. The Company’s business is conducted under the name **FIELD(EntityName)**, until such time as all the **FIELD(Control)**s designate otherwise and file amendments to the Certificate in accordance with applicable law. This Company Agreement is subject to, and governed by, the Texas Business Organizations Code and the Certificate of Formation. In the event of a conflict between the provisions of this Company Agreement and the mandatory provisions of the Code or the provisions of the Certificate, the provisions of the Code or the Certificate control.

**Defined Terms**

1.02. The following terms used in this Company Agreement with their initial letters capitalized, unless the context requires otherwise or unless otherwise expressly provided in this Company Agreement, have the meanings specified in this Section. The singular includes the plural and vice versa, as the context requires. When used in this Company Agreement, the following terms have the meanings set forth below:

- (a) “*Additional Member*” means any person or entity admitted as a Member pursuant to Section [2.08](#) of this Company Agreement.
- (b) “*Adjusted Capital Account*” means the balance in the Capital Account maintained for each Member, further (i) increased by any amounts which such Member is obligated to restore pursuant to any provision of this Agreement or is treated as being obligated to restore pursuant to Treasury Regulations Section 1.704-1(b)(2)(ii)(c) or is deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5) and (ii) decreased by the items described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.704-1(b)(2)(ii)(d)(6). The foregoing definition of Adjusted Capital Account is intended to comply with the provisions of Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.
- (c) “*Affiliate*” means any individual, partnership, corporation, limited liability company, trust, or other Entity or association, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with a Member. The term “control,” as used in the immediately preceding sentence, means, with respect to a corporation the right to exercise, directly or indirectly, more than 50 percent of the voting rights attributable to the controlled corporation, and, with respect to any individual, partnership, trust, other entity or association, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled Entity.
- (d) “*Available Cash*” of the Company means all cash funds of the Company on hand from time to time (other than cash funds obtained as contributions to the capital of the Company by the Members and cash funds obtained from loans to the Company) after (1) payment of all operating expenses of the Company as of such time, (2) provision for payment of all outstanding and unpaid current obligations of the Company as of such time, and (3) provision for a working capital reserve in accordance with Section [9.03](#), below.
- (e) “*Bankruptcy*” means, and a Member is deemed a “Bankrupt Member” on (1) the entry of a decree or order for relief against the member by a court of competent jurisdiction in any involuntary case brought against the Member under any bankruptcy, insolvency, or other similar law (collectively, “Debtor Relief Laws”) generally affecting the rights of creditors and relief of debtors now or hereafter in effect, (2) the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or other similar agent under applicable Debtor Relief Laws for the Member or for any substantial part of its



assets or property, (3) the ordering of the winding up or liquidation of the Member's affairs, (4) the filing of a petition in any such involuntary bankruptcy case that remains undismissed or suspended pursuant to Section 305 of the Federal Bankruptcy Code (or any corresponding provision of any future United States bankruptcy law), (5) the commencement by the Member of a voluntary case under any applicable Debtor Relief Law now or hereafter in effect, (6) the consent by the Member to the entry of an order for relief in an involuntary case under any such law or to the appointment of or the taking of possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar agent under any applicable Debtor Relief Laws for the Member or for any substantial part of its assets or property, or (7) the making by a Member of any general assignment for the benefit of its creditors.

- (f) “*Capital Account*” means the individual accounts established and maintained pursuant to Section [2.06](#) of this Company Agreement.
- (g) “*Capital Contribution*” means the total value of cash and agreed fair market value of property contributed and agreed to be contributed to the Company by each Member. Reference in this Company Agreement to the Capital Contribution of a present Member includes a Capital Contribution previously made by any prior Member for the interest of the present Member, reduced by any distribution to such Member in return of “Capital Contribution” as contemplated herein. Additional Capital Contributions may be made only by a Member with his or her consent and with the consent of all other Members.
- (h) “*Code*” means the Texas Business Organizations Code, as exists on this date and as may be amended from time to time.
- (i) “*Company*” refers to **FIELD(ENTITYNAME)**.
- (j) “*Company Agreement*” means this Company Agreement, as originally executed and as amended from time to time, and the terms “hereof,” “hereto,” “hereby,” and “hereunder,” when used with reference to this Company Agreement, refer to this Company Agreement as a whole, unless the context otherwise requires.
- (k) “*Entity*” means any association, corporation, general partnership, limited partnership, limited liability company, joint stock association, joint venture, firm, trust, business trust, cooperative, and foreign associations of like structure.
- (l) “*Interest*” in the Company means the entire ownership interest of a Member in the Company at any particular time, including the right of such Member to

any and all benefits to which a Member may be entitled as provided in this Company Agreement and under the Code, together with the obligations of the Member to comply with all of the terms and provisions of this Company Agreement.

- (m) “*IRC*” means the Internal Revenue Code of 1986, as amended. All references herein to sections of the IRC include any corresponding provision or provisions of succeeding law.
- (n) “*Percentage Interests*” of a Member means the percentage of a Member set forth opposite the name of such Member under the column “Percentage Interest” in Exhibit A hereto, as such percentage may be adjusted from time to time pursuant to the terms hereof.
- (o) “*Person*” includes an individual, partnership, limited partnership, limited liability company, foreign limited liability company, trust, estate, corporation, custodian, trustee, executor, administrator, nominee or entity in a representative capacity.
- (p) “*Principal Office*” means the office of the Agent as shown in the Certificate, or such other address as may be established.
- (q) “*Profits Interest*” means an interest in the Company intended to qualify as a “profits interest” within the meaning of IRS Revenue Procedure 93-27.
- (r) “*Pro Rata Part*” means the proportion that a Percentage Interest of a Member bears to the aggregate Interest in the Company of all Members.**IF(VARIABLE(vSeries))**
- (s) “*Series*” means each separate series of Company Members, membership interests, or assets as provided in this Agreement and in accordance with the Texas Business Organizations Code.
- (t) “*Series Member*” means a Member with respect to a particular Series.**ENDIF**
- (u) “*Substitute Member*” means any person or Entity who or which is admitted into Membership on the written consent of all Members pursuant to Section [10.14](#).
- (v) “*Unit*” refers to an interest in the Company representing a contribution to capital, to be measured in such quantities as may be established pursuant to Section [2.04](#). Whenever reference is made to “Percentage Interest,” a Unit may be converted into the same by dividing a Member’s number of Units by the

total of all Units outstanding.

### **Company Purpose**

1.03. The general purposes of the Company are as set forth in the Certificate. The Company may exercise all powers reasonable or necessary to pursue its purpose. In addition, the Company may engage in and do any act concerning any or all lawful businesses for which limited liability companies may be organized according to the Code which purposes have been specifically authorized by all Members.

## **ARTICLE II. MEMBERS AND MEMBERSHIP INTERESTS**

### **Names, Addresses and Initial Capital Contributions of Members**

2.01. Members, their respective addresses, their initial Capital Contributions to the Company, and their respective Percentage Interest in the Company are set forth on Exhibit A, attached and made part of this Company Agreement. Each Member agrees to make the initial contribution set out in Exhibit A within thirty (30) days.

### **Future Contributions**

2.02. Subsequent contributions must be in such amounts and may be in any type of property as is agreed on by all of the Members. No Member is required to make a Capital Contribution to the Company other than the Capital Contribution required to be made by such Member under Section [2.01](#) without the Member's prior express consent.

### **Member Loans or Services**

2.03. Loans or services by a Member to the Company may not be treated as a contribution to the capital of the Company.

### **Units of Membership Interests**

2.04. The membership interest of the Company shall be divided into Units, each Unit to represent the amount of capital contributed as the Members unanimously determine.

### **Certificates for Membership Interests**

2.05. The Units of a Member or the Member's Interest in the Company may be represented by a Certificate of Membership. The contents of a Certificate of Membership shall be determined by the Members.

## Capital and Capital Accounts

2.06. Capital contributions and accounts shall be treated as follows:

- (a) The initial Capital Contribution of each Member is as set forth on Exhibit A.
- (b) No interest may be paid on any Capital Contribution. An individual capital account (the “Capital Account”) must be established and maintained on behalf of each Member, including any additional or substituted Member who hereafter receives an Interest in the Company. The Capital Account of each Member consists of (1) the amount of cash the Member has contributed to the Company, plus (2) the agreed fair market value of any property the Member has contributed to the Company, less any liabilities assumed by the Company or to which the property is subject, plus (3) the amount of profits or income (including tax-exempt income) allocated to the Member, less (4) the amount of losses and deductions allocated to the Member, less (5) the amount of all cash distributed to the member, less (6) the fair market value of any property distributed to the Member, net of any liability assumed by the Member or to which the property is subject, less (7) the Member’s share of any other expenditures that are not deductible by the Company for federal income tax purposes or which are not allowable as additions to the basis of Company property, and (8) subject to other adjustments that may be required under the IRC. The Capital Account of a Member is not affected by adjustments to basis made pursuant to Section 743 of the IRC but must be adjusted with respect to adjustments to basis made pursuant to Section 734 of the IRC.
- (c) No Member may withdraw his or her Capital Contribution or demand and receive property of the Company or a distribution in return for his or her Capital Contribution, except as may be specifically provided in this Company Agreement or required by law. No Member may receive out of Company property any part of his or her or its Capital Contribution until (i) all liabilities of the Company, except liabilities to Members on account of their loans have been paid or sufficient Company property remains to pay them, and (ii) all Members consent, unless the return of the Contribution to Capital is rightfully demanded as provided in the Code.
- (d) Subject to the provisions of subsection (c) of this section, a Member may rightfully demand the return of his or its Capital Contribution: (1) on the dissolution of the Company, or (2) as may otherwise be provided in the Code. A Member may demand and receive only cash in return for the Member’s Capital Contribution.

- (e) Except as is specifically provided otherwise in this Company Agreement or in the Code, no Member has any liability or obligation to restore a negative or deficit balance in such Member's Capital Account.

### **Admission of Additional Capital**

2.07. Additional capital may be contributed to the Company, but only on the written consent of all Members.

### **Admission of Additional Members**

2.08. As provided in the Certificate, the Members may admit to the Company additional Member(s) to participate in the profits, losses, available cash flow, and ownership of the assets of the Company on such terms as are determined by all of the Members. Admission of any such Additional Member(s) requires the written consent of all Members then having any Interest in the Company. Any Additional Members are allocated gain, loss, income or expense by the method provided in this Company Agreement, and if no method is specified, then as may be permitted by Section 706(d) of the IRC.

### **Limitation on Liability**

2.09. No Member is liable under a judgment, decree or order of the court, or in any other manner, for a debt, obligation or liability of the Company, except as provided by law. No Member is required to loan any funds to the Company. Except as may be expressly provided otherwise herein, no Member is required to make any contribution to the Company by reason of any negative balance in his or her capital account, nor does any negative balance in a Member's capital account create any liability on the part of the Member to any third party.

### **No Individual Authority**

2.10. Unless expressly provided in Article [III](#), no Member, acting alone, has any authority to act for, or to undertake or assume, any obligation, debt, duty or responsibility on behalf of, any other Member or the Company.

### **No Member Responsible for Other Member's Commitment**

2.11. In the event that a Member (or a Members' shareholders, partners, members, owners, or Affiliates) has incurred any indebtedness or obligation prior to the date hereof that relates to or otherwise affects the Company, neither the Company nor any other Member has any liability or responsibility with respect to the indebtedness or obligation unless the indebtedness or obligation is assumed by the Company pursuant to a written instrument signed by all Members. Furthermore, neither the Company nor any Member is responsible or liable for any indebtedness or obligation that is hereafter incurred by any

other Member (or a Member's shareholder, partners, members, owners, or Affiliates). In the event that a Member (or a Members' shareholders, partners, members, owners, or Affiliates (collectively, the "liable Member")), whether prior to or after the date hereof, incurs (or has incurred) any debt or obligation that neither the Company nor any of the other Members is to have any responsibility or liability for, the liable Member must indemnify and hold harmless the Company and the other Members from any liability or obligation they may incur in respect thereof.

ARTICLE III.  
MANAGEMENT AND CONTROL OF BUSINESS

IF("FIELD(Control)"="Manager")

**Overall Management Vested in Managers**

3.01. The right to exercise the powers of the Company and to manage the business and affairs of the Company is vested entirely in the Managers as listed in the Certificate of Formation.

**Number of Managers and Election of Managers**

3.02. The initial managers specified in the Certificate of Formation shall serve as managers for the period specified in the Certificate of Formation, until the organization meeting of the members. After that time, the number of managers of the Company shall be two (2). Except as specified elsewhere in these Articles, the term of service for managers shall be for one year, to expire on the date of each annual meeting of members.

**Classes or Series of Membership Voting Interests**

3.03. Holders of any class or series of membership interest with respect to voting rights specified in Section 3.02 of this Company Agreement are entitled to elect managers in the manner and for the term specified in Section 3.02 of this Company Agreement.

**Classification of Managers**

3.04. [Two classes] After the term of initial managers as specified in the Certificate of Formation expires, two classes of managers of managers are established for purposes of election of the managers. Each class shall consist of one half of the number of managers specified in Paragraph 6. The first class is designated as "Class A Managers," and the second class is designated as "Class B Managers." The terms of office of Class A Managers shall expire at the end of the first annual meeting of members after their election and new Class A managers of an equal number shall be elected every two years thereafter at the annual meeting of members, and such Class A managers shall serve for a period of two years. The terms of office of Class B Managers shall expire at the end of the second annual meeting of

members after their election and new Class B managers of an equal number shall be elected every two years thereafter at the annual meeting of members, and such Class B managers shall serve for a period of two years.

[OR]

[Three classes] After the term of initial managers as specified in the Certificate of Formation expires, three classes of managers are established for purposes of electing managers. Each class shall consist of one third of the number of managers specified in Paragraph 6. The first class is designated as “Class A Managers,” the second class is designated as “Class B Managers,” and the third class is designated as “Class C Managers.” The terms of office of Class A Managers shall expire at the end of the first annual meeting of members after their election and new Class A managers of an equal number shall be elected every three years thereafter at the annual meeting of members, and such Class A managers shall serve for a period of three years. The terms of office of Class B Managers shall expire at the end of the second annual meeting of members after their election and new Class B managers of an equal number shall be elected every three years thereafter at the annual meeting of members, and such Class B managers shall serve for a period of three years. The terms of office of Class C Managers shall expire at the end of the third annual meeting of members after their election and new Class C managers of an equal number shall be elected every three years thereafter at the annual meeting of members, and such Class C managers shall serve for a period of three years.

[OR]

After the term of the initial managers as specified in the Certificate of Formation expires, the managers shall be divided into \_\_\_\_\_ [number of classes] of classes. The classes are designated as \_\_\_\_\_ [specify name of classes], with \_\_\_\_\_ [number of managers, e.g., each class containing three managers or Class A and B consisting of 3 managers each, and Class C consisting of 4 managers]. The terms of managers of each class expire as follows \_\_\_\_\_ [specify order of expiration, and members’ meeting at which managers are to be elected].

### **Removal of Manager**

3.05. The Members may, by unanimous vote, remove any Manager prior to the expiration of the Manager’s term specified in this Company Agreement.

### **Quorum of Managers**

3.06. At all meetings of the Managers, seventy-five percent (75%) of the Managers shall be necessary and sufficient to constitute a quorum for the transaction of business.

### **Action by Managers**

3.07. An act of the Managers is effective if a majority of Managers vote approval of the act at a meeting at which a quorum of Managers is present.

### **Supermajorities Required**

3.08. Notwithstanding the above, a supermajority of ninety percent (90%) of the Managers shall be required to authorize or confirm the following actions:

- (a) the sale of all or substantially all assets of the Company,
- (b) a mortgage or encumbrance on all or substantially all assets of the Company,
- (c) any matter which could result in a change in the amount or character of the Company's contributions to capital,
- (d) a change in the character of the business of the Company,
- (e) borrowing of money,
- (f) commission of an act which would make it impossible for the Company to carry on its ordinary business or which would contravene this Company Agreement.
- (g) **[Actions]**

### **Manager Committees**

3.09. By resolution, the Managers may designate from among the Managers one or more committees that may exercise the authority of the Managers generally, and may designate one or more managers to serve as alternate members of any committee. A committee may not amend the Company Agreement.

## **ARTICLE IV.**

### **MEETINGS OF MEMBERS**

#### **Meetings of the Members**

4.01. Meetings of Members may be called by Members representing in the aggregate more than 50 percent of the Percentage Interests in the Company. Meetings shall be conducted in accordance with the following provisions:

- (a) The Company must deliver or mail written notice stating the date, time, and



place of any meeting of Members and, when otherwise required by law, a description of the purposes for which the meeting is called, to each Member of record entitled to vote at the meeting, at the address that appears in the records of the Company, such notice to be mailed at least ten, but not more than thirty, days before the date and time of the meeting. A Member may waive notice of any meeting, before or after the date of the meeting, by delivering a signed waiver to the Company for inclusion in the minutes of the Company. A Member's attendance at any meeting, in person or by proxy, waives objection to lack of notice or defective notice of the meeting (unless the Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting), and further waives objection to consideration of a particular matter at the meeting that is not within any purposes described in the meeting notice (unless the Member objects to considering the matter when it is presented).

- (b) The record date for the purpose of determining the Members entitled to notice of a Members' meeting, for demanding a meeting, for voting, or for taking any other action is the tenth (10<sup>th</sup>) day prior to the date of the meeting or other action.
- (c) A Member may appoint a proxy to vote or otherwise act for the Member pursuant to a written appointment form executed by the Member or the Member's duly authorized attorney-in-fact. An appointment of a proxy is effective when received by the Company. The general proxy of a fiduciary is given the same effect as the general proxy of any other Member. A proxy appointment is valid for six months unless otherwise expressly stated in the appointment form.
- (d) At any meeting of Members, each Member entitled to vote has a number of votes equal to the number of Units issued to the Member pursuant to Section [2.04](#) (if any). If no Units have been issued, each Member has one vote for each percentage point in the Member's Percentage Interest as set forth on Exhibit A hereto, as the same may be amended from time to time. At any meeting of Members, presence of Members entitled to cast at least 75 percent of the total votes of all Members entitled to vote at such meeting constitutes a quorum. Action on a matter is approved if the matter receives approval by at least 51 percent of the total number of votes entitled to be cast by all Members in the Company entitled to vote at such meeting or such greater number as may be required by law or the Certificate for the particular matter under consideration. On the occurrence of a Dissolution Event (as defined herein), a Former Member is not entitled to a vote in determining whether the Company will purchase the interest of the Former Member as permitted in

Section 6.1. Also, any assignee of a Member's Interest in the Company is not entitled to vote or participate on any matters at any meeting unless the assignee becomes a Substitute Member as contemplated in Section [10.14](#).

- (e) Subject to the applicable laws of the State of Texas, any action required or permitted to be taken at a Members' meeting may be taken without a meeting if the action is taken by all of the Members entitled to vote on the action. The action must be evidenced by one or more written consents describing the action to be taken, signed by all the Members entitled to vote on the action, and delivered to the Company for inclusion in the minutes. The record date for determining Members entitled to take action without a meeting is the first date a Member signs the consent to the action.
- (f) Any or all Members may participate in a Members' meeting by, or through the use of, any means of communications by which all Members participating may simultaneously hear each other during the meeting. A Member so participating is deemed to be present in person at the meeting.
- (g) At any Members' meeting the Members must appoint a person to preside at the meeting and a person to act as secretary of the meeting. The secretary of the meeting must prepare minutes of the meeting which are placed in the minute books of the Company.

#### **Action by Written Consent Without a Meeting**

4.02. Any action required by law to be taken at any annual or special meeting of members, or any action which may be taken at any annual or special meeting of members, may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, shall have been signed by the holder or holders of all the membership interests and/or Units entitled to vote with respect to the action that is the subject of the consent. The Certificate of Formation may provide that any action required by law to be taken at any annual or special meeting of members, or any action which may be taken at any annual or special meeting of members, may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holder or holders of Units or membership interests having not less than the minimum number of votes that would be necessary to take such action at a meeting at which the holders of all Units or membership interests entitled to vote on the action were present and voted.

ARTICLE V.  
MEETINGS OF MANAGERS

**Regular Meetings of Managers**

5.01. Regular meetings of the Managers shall be held at the principal office of the Company. By resolution, the Managers are authorized to designate, from time to time, a place or places other than that specified above as the place for regular meetings of the Managers. Regular meetings of the Managers shall be held immediately following the annual meeting of the Members. Written notice of the time and place of regular meetings shall be delivered personally to the Managers or sent to each Manager by U.S. mail or facsimile machine at the Manager's address as shown on the records of the Company. In cases in which the notice is mailed, it must be deposited in the U.S. mail at least 96 hours prior to the time of the holding of the meeting.

**Special Meetings of Managers**

5.02. Special meetings called by action of the Managers shall be held at the principal office of the Company or at the place designated by the Managers. Written notice of the time and place of special meetings shall be delivered personally to the Managers or sent to each Manager by U.S. mail or facsimile machine at the Manager's address as shown on the records of the Company. Notice that is mailed must be deposited in the U.S. mail at least 96 hours prior to the time of the holding of the meeting.

**Notice of Purpose of Meetings**

5.03. Notice of any meetings of the Managers shall specify the purpose of the meeting or the business to be transacted at the meeting, in addition to the place, date, and time of meeting.

**ELSE**

**Overall Management Vested in Members**

5.04. Except as expressly provided otherwise herein or otherwise agreed, management of the Company is vested in the Members in proportion to their initial Capital Contributions. The Members or any of their Affiliates may engage in other activities of any nature.

**Meetings of the Members**

5.05. Meetings of Members may be called by Members representing in the aggregate more than 50 percent of the Percentage Interests in the Company. Meetings shall be conducted in accordance with the following provisions:

- (a) The Company must deliver or mail written notice stating the date, time, and place of any meeting of Members and, when otherwise required by law, a description of the purposes for which the meeting is called, to each Member of record entitled to vote at the meeting, at the address that appears in the records of the Company, such notice to be mailed at least ten, but not more than thirty, days before the date and time of the meeting. A Member may waive notice of any meeting, before or after the date of the meeting, by delivering a signed waiver to the Company for inclusion in the minutes of the Company. A Member's attendance at any meeting, in person or by proxy, waives objection to lack of notice or defective notice of the meeting (unless the Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting), and further waives objection to consideration of a particular matter at the meeting that is not within any purposes described in the meeting notice (unless the Member objects to considering the matter when it is presented).
- (b) The record date for the purpose of determining the Members entitled to notice of a Members' meeting, for demanding a meeting, for voting, or for taking any other action is the tenth (10<sup>th</sup>) day prior to the date of the meeting or other action.
- (c) A Member may appoint a proxy to vote or otherwise act for the Member pursuant to a written appointment form executed by the Member or the Member's duly authorized attorney-in-fact. An appointment of a proxy is effective when received by the Company. The general proxy of a fiduciary is given the same effect as the general proxy of any other Member. A proxy appointment is valid for six months unless otherwise expressly stated in the appointment form.
- (d) At any meeting of Members, each Member entitled to vote has a number of votes equal to the number of Units issued to the Member pursuant to Section [2.04](#) (if any). If no Units have been issued, each Member has one vote for each percentage point in the Member's Percentage Interest as set forth on Exhibit A hereto, as the same may be amended from time to time. At any meeting of Members, presence of Members entitled to cast at least 51 percent of the total votes of all Members entitled to vote at such meeting constitutes a quorum. Action on a matter is approved if the matter receives approval by at least 51 percent of the total number of votes entitled to be cast by all Members in the Company entitled to vote at such meeting or such greater number as may be required by law or the Certificate for the particular matter under consideration. On the occurrence of a Dissolution Event (as defined herein), a Former Member is not entitled to a vote in determining whether the

Company will purchase the interest of the Former Member as permitted in Section 6.1. Also, any assignee of a Member's Interest in the Company is not entitled to vote or participate on any matters at any meeting unless the assignee becomes a Substitute Member as contemplated in Section [10.14](#).

- (e) Subject to the applicable laws of the State of Texas, any action required or permitted to be taken at a Members' meeting may be taken without a meeting if the action is taken by all of the Members entitled to vote on the action. The action must be evidenced by one or more written consents describing the action to be taken, signed by all the Members entitled to vote on the action, and delivered to the Company for inclusion in the minutes. The record date for determining Members entitled to take action without a meeting is the first date a Member signs the consent to the action.
- (f) Any or all Members may participate in a Members' meeting by, or through the use of, any means of communications by which all Members participating may simultaneously hear each other during the meeting. A Member so participating is deemed to be present in person at the meeting.
- (g) At any Members' meeting the Members must appoint a person to preside at the meeting and a person to act as secretary of the meeting. The secretary of the meeting must prepare minutes of the meeting which are placed in the minute books of the Company.

### **Action by Written Consent Without a Meeting**

5.06. Any action required by law to be taken at any annual or special meeting of members, or any action which may be taken at any annual or special meeting of members, may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, shall have been signed by the holder or holders of all the membership interests and/or Units entitled to vote with respect to the action that is the subject of the consent. The Certificate of Formation may provide that any action required by law to be taken at any annual or special meeting of members, or any action which may be taken at any annual or special meeting of members, may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holder or holders of Units or membership interests having not less than the minimum number of votes that would be necessary to take such action at a meeting at which the holders of all Units or membership interests entitled to vote on the action were present and voted.

## **Powers of the Company**

5.07. Except as provided in Section [5.08](#), below, all powers of the Company are exercised by or under the authority of the members and the business and affairs of the Company are managed under the direction of the Members.

## **Members to Make Joint Decisions**

5.08. No act may be taken, sum expended, decision made or obligation incurred by the Company except by the unanimous consent of all Members with respect to a matter within the scope of any of the major decisions enumerated below (the “Major Decisions”). The Major Decisions include:

- (a) the sale of all or substantially all assets of the Company,
- (b) a mortgage or encumbrance on all or substantially all assets of the Company,
- (c) any matter which could result in a change in the amount or character of the Company’s contributions to capital,
- (d) a change in the character of the business of the Company,
- (e) borrowing of money,
- (f) commission of an act which would make it impossible for the Company to carry on its ordinary business or which would contravene this Company Agreement.

## **Alteration of Management Responsibilities**

5.09. Management responsibilities as set forth in the above Section may not be altered except by the action of a majority in interest of all Members at a meeting called on written notice expressly describing alternation of management responsibilities as one of the purposes of the meeting.

## **Managing Member Compensation**

5.10. Members may receive compensation as determined by all Members for services provided in the management of the Company. In all events Members may be reimbursed for all expenses advanced by such Members on behalf of the Company.

## **Powers of Members as Managers**

5.11. Except as expressly provided in Section [5.08](#), above, each of the Members has all

necessary powers to carry out the purposes, business, and objectives of the Company, including, but not limited to, the right to enter into and carry out contracts of all kinds; to employ employees, agents, consultants and advisors on behalf of the Company; to lend or borrow money and to issue evidences of indebtedness; to bring and defend actions in law or at equity; **IF(VARIABLE(vSeries))** to establish one or more designated Series consisting of Members, membership interests, or assets; **ENDIF** to buy, own, manage, sell, lease, mortgage, pledge or otherwise acquire or dispose of Company property. Each Member may deal with any related Affiliate or other related person, firm or Entity on terms and conditions that would be available from an independent responsible third party that is willing to perform.

### **Accounting and Records**

5.12. The Members may employ a competent person to be responsible for authenticating the records of the Company, including keeping correct and complete books of account that show accurately at all times the financial condition of the Company; safeguarding all funds, notes, securities, and other valuables that may from time to time come into possession of the Company; depositing all funds of the Company with such depositories as the Members designate. This competent person may have such other duties as the Members may from time to time jointly prescribe, but under no circumstances does such employee have any of the rights, powers, responsibilities or duties of a Member of the Company as prescribed herein or by law. Any person responsible for the above-described duties may be terminated at any time by a Member, and any Member may restrict the duties and/or authority of the person responsible for these duties at any time.

### **Execution of Instruments**

5.13. Every contract, deed, mortgage, lease and other instrument executed by a Member is conclusive evidence in favor of every person relying on or claiming under the fact that, at the time of the delivery thereof, (1) the Company was in existence, (2) neither this Company Agreement nor the Certificate had been amended in any manner to restrict the delegation of authority among the Members, and (3) the execution and delivery of such instrument was duly authorized by the Members. Any person may always rely on a certificate addressed to him and signed by any Member hereunder regarding the following:

- (a) Who are the Members hereunder;
- (b) The existence or non-existence of any fact that constitutes a condition precedent to acts by the Member or in any other manner germane to the affairs of the Company;
- (c) Who is authorized to execute and deliver any instrument or document of the Company;

- (d) The authenticity of any copy of the Certificate, this Company Agreement, amendments thereto and any other document relating to the conduct of the affairs of the Company; and
- (e) Any act or failure to act by the Company or as to any other matter whatsoever involving the Company or any Member in the capacity as a Member of the Company.

### **Reimbursement of Expenses**

5.14. Each member is entitled to reimbursement from the Company of all expenses of the Company reasonably incurred and paid by the Member on behalf of the Company.

### **Organization Expenses**

5.15. The Company must pay all expenses incurred in the organization of the Company. **ENDIF**

## **ARTICLE VI. OFFICERS**

### **Executive Officers**

6.01. The Officers of the Company may consist of a President, a Chief Executive Officer, one or more Vice Presidents, a Chief Operational Officer or Secretary, and a Chief Financial Officer or Treasurer, each of whom shall be elected by the **FIELD(Control)s** as provided below.

### **Election and Qualification**

6.02. The **FIELD(Control)s**, at each annual meeting, may choose a President or Chief Executive Officer, one or more Vice Presidents, a Secretary or Chief Operational Officer, and a Treasurer or Chief Financial Officer, none of whom need be a **IF("FIELD(Control)"="Manager")** Manager or **ENDIF** Member. The **FIELD(Control)s** may elect one or more Assistant Secretaries and Assistant Treasurers.

### **Other Officers and Agents**

6.03. The **FIELD(Control)s** may elect or appoint such other officers, assistant officers and agents as may be necessary, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the **FIELD(Control)s**.



## **Salaries**

6.04. The salaries of all officers and agents of the Company shall be fixed by resolution of the **FIELD(Control)**s.

## **Term, Removal and Vacancies**

6.05. Each officer of the Company shall hold office until his successor is chosen and qualified or until his death, resignation or removal. An officer may resign at any time upon giving written notice to the Company. Any officer or agent or member of a committee elected or appointed by the **FIELD(Control)**s may be removed by the **FIELD(Control)**s whenever in their judgment the best interests of the Company will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent or member of a committee shall not of itself create contract rights. Any vacancy occurring in any office of the Company by death, resignation, removal or otherwise shall be filled by the **FIELD(Control)**s.

## **President or Chief Executive Officer**

6.06. The President or Chief Executive Officer shall have such powers and duties as usually pertain to such office, except as the same may be modified by the **FIELD(Control)**s. Unless the **FIELD(Control)**s shall otherwise delegate such duties, the President or Chief Executive Officer shall be ex-officio a member of all standing committees, shall have general powers of oversight, supervision and management of the business and affairs of the Company, and shall see that all orders and resolutions of the **FIELD(Control)**s are carried into effect. He shall execute bonds, mortgages and other contracts requiring a seal, under the seal of the Company, except where required or permitted by law to be otherwise signed and executed, and except where the signing and execution thereof shall be expressly delegated by the **FIELD(Control)**s to some other officer or agent of the Company.

## **Vice Presidents**

6.07. The Vice Presidents, in the order of their seniority, unless otherwise determined by the **FIELD(Control)**s, shall, in the absence or disability of the President or Chief Executive Officer, perform the duties and exercise the powers of the President or Chief Executive Officer. They shall perform such other duties and have such other powers as the **FIELD(Control)**s shall prescribe.

## **Secretary or Chief Operational Officer**

6.08. The Secretary or Chief Operational Officer shall attend all meetings of the **FIELD(Control)**s and all meetings of the shareholders, and record all the proceedings of the meetings of the Company and of the **FIELD(Control)**s in a book to be kept for that purpose, and shall perform like duties for the standing committees when required. He shall give, or

cause to be given, notice of all meetings of the shareholders and special meetings of the **FIELD(Control)s**, and shall perform such other duties as may be prescribed by the **FIELD(Control)s** or President or Chief Executive Officer, under whose supervision he shall be. He shall keep in safe custody the seal of the Company, and, when authorized by the **FIELD(Control)s**, affix the same to any instrument requiring it, and, when so affixed, it shall be attested by his signature or by the signature of the Treasurer or an Assistant Secretary.

#### **Assistant Secretaries**

6.09. The Assistant Secretaries, in the order of their seniority, unless otherwise determined by the **FIELD(Control)s**, shall, in the absence or disability of the Secretary, perform the duties and exercise the powers of the Secretary. They shall perform such other duties and have such other powers as the **FIELD(Control)s** from time to time may prescribe.

#### **Treasurer or Chief Financial Officer**

6.10. The Treasurer or Chief Financial Officer shall have the custody of the company's funds and securities, and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Company, and shall deposit all monies and other valuable effects in the name and to the credit of the Company in such depositories as may be designated by the **FIELD(Control)s**. He shall disburse the funds of the Company as may be ordered by the **FIELD(Control)s**, taking proper vouchers for such disbursements, and shall render to the President and the **FIELD(Control)s** at their regular meetings, or when the **FIELD(Control)s** so require, an account of all his transactions as Treasurer or Chief Financial Officer, and of the financial condition of the Company.

#### **Assistant Treasurers**

6.11. The Assistant Treasurers, in the order of their seniority, unless otherwise determined by the **FIELD(Control)s**, shall, in the absence or disability of the Treasurer or Chief Financial Officer, perform the duties and exercise the powers of the Treasurer or Chief Financial Officer. They shall perform such other duties and have such other powers as the **FIELD(Control)s** from time to time may prescribe.

#### **Officer's Bond**

6.12. If required by the **FIELD(Control)s**, any officer so required shall give the Company a bond (which shall be renewed as the **FIELD(Control)s** may require) in such sum and with such surety or sureties as shall be satisfactory to the **FIELD(Control)s** for the faithful performance of the duties of his office and for the restoration to the Company, in case of his death, resignation, retirement or removal from office, of any and all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the Company.**IF(VARIABLE(vSeries))**

ARTICLE VII.  
CREATION OF SERIES MEMBERSHIP RIGHTS AND MEMBERS

**Establishment and Designation of Series**

7.01. The **FIELD(Control)**s, at any time and from time to time, may authorize the creation of one or more series of Members and membership interests and, additionally, may authorize the division of existing Members and membership interests into series and the division of any existing or new series into two or more classes. For purposes of this Company Agreement any series created pursuant to this section shall be referred to as a “Series,” any membership interest in a Series shall be referred to as a “Series Interest,” and any division of a Series into a class shall be referred to as a “Class.” One or more Series may be created by an Authorization attached as an Exhibit to this Company Agreement.

**Assets and Liabilities Associated with Series**

7.02. The **FIELD(Control)**s shall cause the Company to maintain separate and distinct records for each Series and shall cause the assets, debts, liabilities, obligations, expenses, profits and losses associated with any such Series to be held and accounted for separately from the other assets, debts, liabilities, obligations, expenses, profits and losses of the Company or any other Series. The **FIELD(Control)**s may delegate to any **FIELD(Control)** management of any Series.

- (a) All consideration received by the Company for the issue or sale of Series Interests or Series Membership Rights of a particular Series together with all Company Assets in which such consideration is invested or reinvested, all revenue, income, earnings, profits and proceeds thereof, including any Capital Proceeds received by the Company from a Capital Transaction with respect to such assets, shall irrevocably belong to that Series for all purposes, subject only to the rights of creditors of that Series and except as may otherwise be required by applicable tax laws. In the event that there are any funds or payments which are not readily identifiable as belonging to any particular Series, the **FIELD(Control)**s shall allocate them among any one or more Series in such manner and on such basis as the **FIELD(Control)**s deem fair and equitable.
- (b) All liabilities, expenses, costs, charges and reserves of the Company which are readily associated with a particular Series shall be charged against the assets associated with the Series. In the event that there are any liabilities, expenses, costs, charges and reserves of the Company that are not readily associated with a particular Series, they shall be allocated and charged by the **FIELD(Control)**s to, between or among any one or more of the Series, in such a manner and on such basis as the **FIELD(Control)**s deem fair and equitable.

## **Limitation on Enforceability of Obligations and Expenses of Series against Assets**

7.03. Notwithstanding any other provision of this Company Agreement or of law:

- (a) the debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise with respect to a particular Series shall be enforceable against the assets of that Series only, and shall not be enforceable against the assets of the Company generally or any other Series; and
- (b) none of the debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to the Company generally or any other Series shall be enforceable against the assets of a particular Series or the Company. All persons who extend credit to (or with respect to) a particular Series, or who contract with (or with respect to) or have a claim against a particular Series, may look only to the assets associated with that Series for repayment of such credit or to enforce or satisfy any such contract or claim.

### **Rights, Powers and Privileges of Series**

7.04. Unless otherwise limited by the authorization creating the Series or Class, the purpose of any Series created hereunder shall be as set forth in the authorization for such Series and in the event no such purpose is set for in the authorization it shall be the purpose set forth for the Company.

### **Rights of Members**

7.05. The rights, powers, privileges, limitations, restrictions, voting rights of Series Members shall be as set forth in the authorization creating such Series or Class. **ENDIF**

## **ARTICLE VIII.**

### **ACCOUNTING AND RECORDS**

#### **Records and Accounting**

8.01. The books and records of the Company must be kept, and the financial position and the results of its operations recorded, in accordance with the accounting methods elected to be followed by the Company for federal and state income tax purposes. The books and records of the Company must reflect all Company transactions and must be appropriate and adequate for the Company's business. The fiscal year of the Company for financial reporting and for federal income tax purposes is the calendar year.

#### **Access to Accounting Records**

8.02. All books and records of the Company must be maintained at any office of the

Company or at the Company's principal place of business, and each **FIELD(Control)**, and his or her duly authorized representative, must have access to them at such office of the Company and the right to inspect and copy them at reasonable times.

### **Annual and Tax Information**

8.03. The **FIELD(Control)**s must use their best efforts to cause the Company to deliver to each Member, within sixty (60) days after the end of each fiscal year, all information necessary for the preparation of the Member's federal income tax return. The **FIELD(Control)**s must also use their best efforts to cause the Company to prepare, within sixty (60) days after the end of each fiscal year, a financial report of the Company for the fiscal year, which contains a balance sheet as of the last day of the year then ended, an income statement for the year then ended, a statement of sources and applications of funds, and a statement of reconciliation of the Capital Accounts of the Members.

### **Accounting Decisions**

8.04. All decisions regarding accounting matters, except as otherwise specifically set forth herein, must be made by the **FIELD(Control)**s. The **FIELD(Control)**s may rely on the advice of their accountants as to whether the decisions are in accordance with accounting methods followed for federal and state income tax purposes.

### **Income Tax Elections**

8.05. The Company may make all elections for federal and state income tax purposes, including, but not limited to, the following:

- (a) To the extent permitted by applicable law and regulations, elect to use an accelerated depreciation method on any depreciable unit of the assets of the Company; and
- (b) In case of a transfer of all or part of the Company Interest of any Member, the Company may elect, pursuant to Sections 734, 743 and 754 of the IRC, as amended (or corresponding provisions of future law) to adjust the basis of the assets of the Company.

## **ARTICLE IX.**

### **CAPITAL ACCOUNTS AND ALLOCATIONS OF PROFITS AND LOSSES**

#### **Capital Accounts**

9.01. Capital accounts for the Members shall be governed by the following provisions:

- (a) A separate capital account shall be maintained for each Member (each a

“Capital Account”) in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv). The Managers may modify the manner in which Capital Accounts are computed as deemed necessary to comply with such regulations, provided that such modifications shall not have a material effect on the amounts distributable to any Member under this Agreement.

- (b) The Company may at the discretion of the Managers (or, whenever the Company issues a Profits Interest<sup>1</sup>, the Company shall) revalue Company property as permitted under Treasury Regulations Section 1.704-1(b)(2)(iv)(f).
- (c) If the book value of Company property differs from its adjusted tax basis, including but not limited to by reason of a contribution of property to the Company, the revaluation of Company property, or the exercise of an option to acquire an interest in the Company, the Members’ Capital Accounts shall be adjusted in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g) for allocations of gain or loss, depreciation, depletion, and amortization with respect to such property.

#### **Allocation of Net Income, Net Loss or Capital Gains**

9.02. Except as may be expressly provided otherwise in this Article and subject to the provisions of Section 704(c) of the IRC, the net income, net loss or capital gains of the Company for each fiscal year of the Company is allocated to the Members, pro rata in accordance with their Percentage Interest.

#### **Distribution of Available Cash**

9.03. Periodically, but not less frequently than at the end of each calendar quarter, the Available Cash of the Company, if any, must be distributed to the Members, pro rata in accordance with their Percentage Interest. For any calendar quarter, Available Cash of the Company need not be distributed to the extent that such cash is required for a reasonable working capital reserve for the Company, the amount of such reasonable working capital reserve to be determined by the Members.

#### **Allocations and Distributions in Respect of Interests Transferred**

9.04. If any Interest in the Company is transferred, or is increased or decreased by reason of the admission of a new Member or otherwise, during any fiscal year of the Company, each item of income, gain, loss, deduction, or credit of the Company for the fiscal

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<sup>1</sup> Although capitalized terms are defined in this Company Agreement’s “Definitions” section, for convenience some are re-printed here.

year must be assigned pro rata to each day in the particular period of the fiscal year to which such item is attributable (i.e., the day on or during which it is accrued or otherwise incurred) and the amount of each such item so assigned to any such day is allocated to the Member based on his respective Interest in the Company at the close of such day. For the purpose of accounting convenience and simplicity, the Company may treat a transfer of, or an increase or decrease in, an Interest in the Company which occurs at any time during a semimonthly period (commencing with the semimonthly period including the date hereof) as having been consummated on the first day of the semimonthly period, regardless of when during such semimonthly period such transfer, increase, or decrease actually occurs (i.e., sales and dispositions made during the first 15 days of any month are deemed to have been made on the 16th day of the month).

### **Distributions of Assets**

9.05. Distributions of Company assets in respect of an Interest in the Company is made only to the Members who, according to the books and records of the Company, are the holders of record of the Interests in respect of which the distributions are made on the actual date of distribution. Neither the Company nor any Member incurs any liability for making distributions in accordance with the provisions of the preceding sentence, whether or not the Company or the Member has knowledge or notice of any transfer or purported transfer of ownership of Interest in the Company which has not been approved by unanimous vote of the Members. Notwithstanding any provision above to the contrary, gain or loss of the Company realized in connection with a sale or other disposition of any of the assets of the Company must be allocated solely to the parties owning Interests in the Company as of the date the sale or other disposition occurs.

### **Allocations Without Economic Effect**

9.06. Tax credits, nonrecourse deductions, and other items the allocation of which cannot have economic effect shall be allocated at the discretion of the Managers in a manner consistent with the Treasury Regulations under Code Section 704(b). Nonrecourse liabilities, including excess nonrecourse liabilities, shall be allocated at the discretion of the Managers in a manner consistent with the Treasury Regulations under Code Section 752.

### **Regulatory Allocations**

9.07. The provisions of the Treasury Regulations under Code Section 704(b) relating to qualified income offset, minimum gain chargeback, minimum gain chargeback with respect to partner nonrecourse debt, allocations of nonrecourse deductions, allocations with respect to partner nonrecourse debt, and forfeiture allocations with respect to substantially nonvested partnership interests are hereby incorporated by reference and shall be applied to the allocation of income, gain, loss, or deduction in the manner provided in the Treasury Regulations. Notwithstanding anything to the contrary in this Agreement, the Company shall

make no allocation of loss or deduction to cause or increase a Member's Adjusted Capital Accountz deficit, and such loss or deduction shall be allocated to other Member's in accordance with their positive Adjusted Capital Account balances.

The Managers may, in its discretion, adjust the subsequent allocations of income, gain, losses, or deduction to prevent distortion of the economic arrangement of the Members, as otherwise described in this Agreement, due to allocations resulting from the foregoing.

### **Income Tax Allocations**

9.08. Unless otherwise determined by the Managers, a Member's distributive share shall be deemed to consist of a pro rata portion of each item of income, gain, loss, or deduction required to be separately stated under Code Section 702(a). If the book value of Company property differs from its adjusted tax basis, including but not limited to by reason of a contribution of property to the Company, the revaluation of Company property, or the exercise of an option to acquire an interest in the Company, the Managers shall adjust allocations of income, gain, loss, or deduction for income tax purposes to take into account such difference by any method permitted by the Treasury Regulations under Code Section 704(c).

## **ARTICLE X.**

### **CHANGES IN MEMBERS**

#### **Death, Dissolution, Retirement or Bankruptcy of Member**

10.01. The death, retirement, resignation, bankruptcy or dissolution of a Member, or the period for the duration of the company expires, or the occurrence of any other event which terminates the continued membership of a Member in the Company (a "Dissolution Event"), dissolves the Company unless the remaining Member(s) unanimously consent to the continuation of the business of the Company ("Unanimous Consent"). If the Member whose actions or conduct result in the Dissolution Event ("Former Member") or the Former Member's representative, rightfully demands the return of his Interest by a written notice to the remaining Member(s), the Company (if the remaining Member(s) unanimously consent in writing) or remaining Member(s), to avoid dissolution of Company, must within 60 days following such written notice, purchase the Former Member's Interest as provided in the subsections to this Article.

#### **First Option to Purchase**

10.02. On the occurrence of the Dissolution Event, and the Unanimous Consent, and if applicable, the rightful demand for the return of the Former Member's Interest by the Former Member or the Former Member's representative, the Company has first option to purchase the Interest of the Former Member by giving notice of the intent to purchase within



sixty (60) days following occurrence of the Dissolution Event or the demand for return of contribution. If the Company elects to give notice within such 60 days, the purchase and sale obligation accrues one hundred twenty (120) days after the Dissolution Event or rightful demand for return of contribution. After the Company has given notice of its election and prior to the date on which the purchase and sale obligation accrues, the parties must take all necessary steps to determine the price and terms of the purchase and sale obligation as provided hereinafter.

### **Second Option to Purchase**

10.03. If the Company does not exercise its first option to purchase the Interest of a Former Member within 60 days as provided above, for thirty (30) days thereafter, that is, between the 61<sup>st</sup> and 90<sup>th</sup> day after the Dissolution Event or the rightful demand for withdrawal of contribution, the remaining Members have an option to purchase the interest. Between the 61<sup>st</sup> and 90<sup>th</sup> day, the remaining Member(s) must notify the Former Member and all other Members in writing of their desires to purchase a portion of the Former Member's Interest. The failure of a Member to submit a notice within the applicable period constitutes an election on the part of the remaining Member not to purchase any of the Former Member's Interest. Each remaining Member may purchase a portion of the Former Member's Interest based on the remaining Member's Pro Rata Part on the date of the Unanimous Consent or the date of receipt of the rightful demand for the return of its Interest by the Former Member.

### **Partially Unexercised Options**

10.04. If the remaining Member(s) elects not to purchase any or to purchase less than all of the remaining Member's Pro Rata Part of the Former Member's Interest, the Company may at its election purchase the portion of the Former Member's Interest. In the event the Company elects not to purchase the Former Member's Interest, the portion not purchased may be purchased by those remaining Members that elected to purchase more than their Pro Rata Part.

### **Entirely Unexercised Options**

10.05. If the remaining Members fail to purchase the entire interest of the Former Member, the interest passes by operation of law to any assignee or remains in the hands of the Former Member, subject to any right of the holder of the interest to demand payment therefor according to Texas law.

### **Overriding Agreement**

10.06. Notwithstanding any other provision in this Article to the contrary, the remaining Members may mutually agree to an allocation of the Former Member's Interest to be purchased by each of them.

## **Valuation of Interest**

10.07. The Former Member's Interest must be valued according to its book value for federal income tax purposes, provided, however, a party to a purchase of the Interest pursuant to this Article VI who deems the value to vary from fair market value (as defined below) by more than 25 percent, may request and receive an appraisal. In such event, the Former Member's Interest must equal the fair market value of such Interest as determined by agreement between the Former Member or the representatives of the Former Member and the purchaser or purchasers no less than 21 days prior to the date on which the purchase and sale obligation accrue, or in case of failure to agree within the time period, as determined by three appraisers, one selected by the Former Member or the Former Member's representative, one selected by the remaining Member(s), and one selected by the two appraisers so named. The appraiser shall be instructed to appraise the net fair market value of the underlying assets of the Company and multiply the value by the Former Member's Percentage Interest, which is then further discounted by the appraiser to reflect lack of marketability, loss of counsel of the Former Member, absence of control for a minority interest, and other factors that the appraiser may reasonably believe to affect the value of an Interest in the Company. The fair market value of the Former Member's Interest in the Company is the average of the two appraisals closest in amount to each other. In the event the fair market value is determined to be within the said 25 percent of book value, the party requesting the appraisal must pay all expense of the same otherwise incurred by the parties offering to enter into the transaction at the book valuation.

## **Accrual of Obligation**

10.08. The purchase and sale obligation for all purposes under Section [10.01](#) accrues 120 days after the Dissolution Event, assuming the Unanimous Consent has been obtained. In the case of a rightful demand for withdrawal of contribution to capital by any Member, the purchase and sale obligation accrues 180 days after such demand.

## **Method of Payment of Purchase Price**

10.09. The purchase price must be paid by the Company (if all Members consent in writing) or the remaining Member(s), as the case may be, either (1) in five (5) equal annual installments of principal together with interest, commencing to accrue from the date of closing, at the then current Mid-Term Applicable Federal Rate (the "AFR") under Section 1274(d) of the IRC for the month in which the first payment is made (or a rate per annum equal to what the AFR would be for the month under Section 1274(d) of the IRC if the AFR is no longer published) to fully amortize the purchase price over the five (5) payments with the first payment being due and payable when the purchase and sale obligation shall accrue, or (2) without interest when the purchase and sale obligation accrue, as the Company and/or the remaining Member(s), as the case may be, elect in their sole discretion.

## **Closing**

10.10. Closing of any sale transaction pursuant to this Section occurs on the date the purchase and sale obligation is to accrue as provided herein, or the next previous business day if the same falls on a weekend or holiday. At the closing, documents evidencing the payment obligation(s) must be delivered by the purchasers, and any certificates, duly endorsed, must be delivered by the Former Member or the representatives of the Former Member.

## **Limitation of Article**

10.11. This Article does not prohibit Members from agreeing on terms and conditions for the purchase by the Company or any Member(s) of the Interest of any Member in the Company desiring to retire, withdraw or resign, in whole or in part, as a Member (on such terms and conditions as are agreed on by the selling Member and the Company or the remaining Member(s)), nor does anything herein limit or otherwise affect the ability of a Member to demand a return of his contribution to the Company as provided in the Code.

## **Transfer and Assignment of Members' Interest**

10.12. No Member may assign, convey, sell, encumber or in any way alienate all or any part of his or her Interest in the Company as a Member without the prior written unanimous consent of all the other Members, which consent may be given or withheld, conditioned or delayed (as allowed by this Company Agreement or the Code), as the remaining Members may determine in their sole discretion.

## **Further Restrictions on Transfer**

10.13. No Member may assign, convey, sell, encumber or in any way alienate all or any part of his or her Interest in the Company (1) without registration under applicable federal and state securities laws, unless he delivers an opinion of counsel satisfactory to the Company that registration under such laws is not required; or (2) if the Interest to be sold or exchanged, when added to the total of all other interests sold or exchanged in the preceding twelve (12) consecutive months prior thereto, would result in the termination of the Company under Section 708 of the IRC.

## **Substitute Members**

10.14. A transferee may become a substitute Member if (1) the requirements of Sections [10.02](#) and [10.03](#) are met, (2) the person executes an instrument satisfactory to the remaining Members accepting and adopting the terms and provisions of this Company Agreement, and (3) the person pays all reasonable expenses in connection with his or her admission as a remaining Member.

### **Effect of Transfer**

10.15. Any permitted transfer of all or any portion of a Member's Interest in the Company takes effect on the first day of the month following receipt by the Members of written notice of transfer. Any transferee of an Interest in the Company takes subject to the restrictions on transfer imposed by this Company Agreement and to the Texas Business Organizations Code.

### **Death of Single Member**

10.16. Notwithstanding the above, the death of a Member who is the single member of the Company shall not operate as a Dissolution Event if the Member has filed in the records of the Company a Designation of Successor. The person or entity appointed by the Designation of Successor shall operate the Company in the Member's stead until a personal representative of the Estate of the deceased Member is duly qualified, in which event the personal representative shall operate the Company in such Member's stead until the interest of the Member may be transferred to the beneficiary designated by the Member in a valid Will.

## **ARTICLE XI. DISSOLUTION**

### **Dissolution of the Company**

11.01. The Company is dissolved, its assets are disposed of, and its affairs wound up on the first to occur of the following occurrences:

- (a) A determination by Members owning more than 90 percent of the interests in the Company that the Company should be dissolved;
- (b) A Dissolution Event, and the Company's or remaining Members' failure to purchase the Interest of the Former Member as provided in Section [10.01](#);
- (c) The expiration of the Company term as stated in its Certificate; or
- (d) At such earlier time as provided by applicable law.

### **Winding Up**

11.02. In settling accounts of the Company after dissolution, the liabilities of the Company must be paid in the following order, all as required by the Code:

- (a) Liabilities to creditors, in the order of priority as provided by law, except those to Members of the Company on account of their contributions;

- (b) Liabilities to Members of the Company in respect of their share of the profits and other compensation by way of income on their contributions; and
- (c) Liabilities to to Members of the Company in respect of their contribution to capital.

ARTICLE XII.  
INDEMNIFICATION

**Indemnification of FIELD(Control)s**

12.01. To the greatest extent not inconsistent with the laws and public policies of Texas, the Company indemnifies, as a matter of right, any FIELD(Control) (any such FIELD(Control) who is a person, and any responsible officer, partner, shareholder, director, or manager of such FIELD(Control) which is an Entity, hereinafter referred to as the indemnified “individual”) made a party to any proceeding because he or she is or was a FIELD(Control), against all liability incurred by the individual in connection with any proceeding; provided that it is determined in the specific case according to Section 12.04 that indemnification of the individual is permissible in the circumstances because the individual has met the standard of conduct for indemnification set forth in Section 12.03. The Company will pay for or reimburse the reasonable expenses incurred by a FIELD(Control) in connection with any such proceeding in advance of final disposition thereof if:

- (a) the individual furnishes the Company a written affirmation of the individual’s good faith belief that he has met the standard of conduct for indemnification described in Section 12.03,
- (b) the individual furnishes the Company a written undertaking, executed personally or on such individual’s behalf, to repay the advance if it is ultimately determined that such individual did not meet the standard of conduct, and
- (c) a determination is made in accordance with Section 12.04 that based on facts then known to those making the determination, indemnification would not be precluded under this Article.

The undertaking described above must be a general obligation of the individual, subject to the reasonable limitations as the Company may permit, but need not be secured and may be accepted without reference to financial ability to make repayment. The Company must indemnify a FIELD(Control) who is wholly successful, on the merits or otherwise, in the defense of any such proceeding, as a matter of right, against reasonable expenses incurred by the individual in connection with the proceeding without the requirement of a

determination as set forth in Section [12.04](#). On demand by a **FIELD(Control)** for indemnification or advancement of expenses, the Company must expeditiously determine whether the **FIELD(Control)** is entitled to indemnification in accordance with this Section. The indemnification and advancement of expenses provided for under this section is applicable to any proceeding arising from acts or omissions occurring before or after the adoption of this Article.

### **Indemnification of Officers, Employees or Agents**

12.02. The Company may, but need not, indemnify an individual who is or was an Officer, employee, or agent of the Company to the same extent as if the individual was a **FIELD(Control)**.

### **Prerequisites for Indemnification**

12.03. Indemnification of an individual is permissible under this Company Agreement only if this individual (1) conducted himself or herself in good faith, (2) reasonably believed that his or her conduct was in or at least not opposed to the Company's best interest; (3) in the case of any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful; and (4) the individual is not adjudged in any such proceeding to be liable for negligence or misconduct in the performance of duty. The termination of a proceeding by judgment, order, settlement, conviction or on a plea of nolo contendere or its equivalent is not, of itself, determinative that the individual did not meet the standard of conduct described in this Section.

### **Determination**

12.04. The determination whether indemnification or advancement of expenses is permissible must be made in any one of the following manners:

- (a) By a majority vote of the **FIELD(Control)**s who are not parties to the proceeding; or
- (b) By special legal counsel selected by a majority vote of the **FIELD(Control)**s who are not parties to the proceeding.

### **Application for Indemnification**

12.05. A **FIELD(Control)** of the Company who is a party to a proceeding may apply for indemnification from the Company to the court, if any, that is conducting the proceeding or to another court of competent jurisdiction. On receipt of an application, the court, after giving all required notice, may order indemnification if it determines:

- (a) In a proceeding in which the **FIELD(Control)** is wholly successful, on the

merits or otherwise, the **FIELD(Control)** is entitled to indemnification under this Section, in which case the court orders the Company to pay the individual reasonable expenses incurred to obtain such court ordered indemnification; or

- (b) The individual is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the individual met the standard of conduct set forth in Section [12.03](#).

### **Employee Benefit Plans**

12.06. Indemnification must also be provided for an individual's conduct with respect to an employee benefit plan if the individual reasonably believed that he or she acted in the interest of the participants in and beneficiaries of the plan.

### **Non-Limitation of Indemnification**

12.07. This Company Agreement do not limit or preclude the exercise or exclude any right under the law, by contract or otherwise, relating to indemnification of or advancement of expenses to any individual who is or was a **FIELD(Control)** of the Company or is or was serving at the Company's request as a director, officer, partner, manager, trustee, employee, or agent of another foreign or domestic company, partnership, association, limited liability company, corporation, joint venture, trust, employee benefit plan, or other enterprise, whether for-profit or not. Nothing contained in this Company Agreement limits the ability of the Company to otherwise indemnify or advance expenses to any individual. The intent of the parties making this Company Agreement is to provide indemnification to **FIELD(Control)**s to the fullest extent now or hereafter permitted by the law consistent with the terms and conditions of this Section. Indemnification is provided in accordance with this, without regard of the nature of the legal or equitable theory on which a claim is made including without limitation negligence, breach of duty, mismanagement, waste, breach of contract, breach of warranty, strict liability, violation of federal or state securities law, violation of the Employee Retirement Income Security Act of 1974, as amended, or violation of any other state or federal law.

### **Definitions**

12.08. For purposes of this Article, the following apply:

- (a) The term "expenses" includes all direct and indirect costs (including without limitation counsel fees, retainers, court costs, transcripts, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees and all other disbursements or out-of-pocket expenses) actually incurred in connection with the

investigation, defense, settlement or appeal of a proceeding or establishing or enforcing a right to indemnification under this Article, applicable law or otherwise.

- (b) The term “liability” means the obligation to pay a judgment, settlement, penalty, fine, excise tax (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses incurred with respect to a proceeding.
- (c) The term “party” includes an individual who was, is or is threatened to be made a named defendant or respondent in a proceeding.
- (d) The term “proceeding” means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal.

### **Indemnification Insurance**

12.09. The Company may purchase and maintain insurance for its benefit, the benefit of any individual who is entitled to indemnification under this section, or both, against any liability asserted against or incurred by the individual in any capacity or arising out of the individual’s service with the Company, whether or not the Company would have the power to indemnify the individual against such liability.

## **ARTICLE XIII. MISCELLANEOUS**

### **Complete Agreement**

13.01. This Company Agreement and the Certificate constitute the complete and exclusive statement of agreement among the Members with respect to the subject matter described. This Company Agreement and the Certificate replace and supersede all prior agreements by and among the Members or any of them. This Company Agreement and the Certificate supersede all prior written and oral statements and no representation, statement, or condition or warranty not contained in this Company Agreement or the Certificate is binding on the Members or has any force or effect whatsoever.

### **Governing Law**

13.02. This Company Agreement and the rights of the parties hereunder are governed by, interpreted, and enforced in accordance with the laws of the State of Texas.



### **Binding Effect**

13.03. Subject to the provisions of this Company Agreement relating to transferability, this Company Agreement are binding on and inure to the benefit of the Members, and their respective distributees, successors and assigns.

### **Terms**

13.04. Common nouns and pronouns refer to the singular and plural, identity of the person or persons, firm or corporation as the context requires. Any reference to the IRC or other statutes or laws will include all amendments, modifications, or replacements of the specific sections and provisions concerned.

### **Headings**

13.05. 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 Company Agreement.

### **Severability**

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

### **Multiple Counterparts**

13.07. This Company Agreement may be executed in several counterparts, each of which is deemed an original but all of which constitute one and the same instrument. Nevertheless, in making proof, only one copy signed by the party to be charged is required.

### **Additional Documents and Acts**

13.08. Each Member agrees to execute and deliver additional documents and instruments and to perform all additional acts necessary or appropriate to effectuate, carry out and perform all of the terms, provisions, and conditions of this Company Agreement and the transactions contemplated hereby.

### **No Third Party Beneficiary**

13.09. This Company Agreement are made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns subject to the express provisions hereof relating to successors and assigns, and no other person has or will have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Company Agreement as a third party beneficiary or otherwise.

### **References to this Company Agreement**

13.10. Numbered or lettered articles, sections and subsections in this Company Agreement refer to articles, sections, and subsections of this Company Agreement unless otherwise expressly stated.

### **Notices**

13.11. Any notice to be given or to be served on the Company or any party hereto in connection with this Company Agreement must be in writing and is deemed to have been given and received when delivered to the address specified by the party to receive the notice. Such notices must be given to a Member at the address specified in Exhibit A. Any Member or the Company may, at any time, designate any other address in substitution of the foregoing address to which such notice will be given by giving written notice to the other Members and the Company thirty days prior to the date of delivery of the notice.

### **Amendments**

13.12. All amendments to this Company Agreement must be in writing and signed by all the Members.

### **Title to Company Property**

13.13. Legal title to all property of the Company must be held and conveyed in the name of the Company.

### **Reliance on Authority of Person Signing Company Agreement**

13.14. In the event that a **FIELD(Control)** is not a natural person, neither the Company nor any **FIELD(Control)** will (a) be required to determine the authority of the individual signing this Company Agreement to make any commitment or undertaking on behalf of such Entity or to determine any fact or circumstance bearing on the existence of the authority of the individual or (b) be required to see to the application or distribution of proceeds paid or credited to individuals signing this Company Agreement on behalf of the Entity.

**IN WITNESS WHEREOF**, the undersigned have executed this Company Agreement, to be effective as of the date the Certificate of Formation of the Company is accepted for

filing by the Secretary of State of Texas.

DATED the \_\_\_\_ day of July, 2020.

TOUPPER(FIELD(EntityName))

By: \_\_\_\_\_  
FIELD(H1)  
FIELD(Control)IFNOTBLANK(H2)

By: \_\_\_\_\_  
FIELD(H2)  
FIELD(Control)ENDIF IFNOTBLANK(H3)

By: \_\_\_\_\_  
FIELD(H3)  
FIELD(Control)ENDIF IFNOTBLANK(H4)

By: \_\_\_\_\_  
FIELD(H4)  
FIELD(Control)ENDIF

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EXHIBIT A TO COMPANY AGREEMENT

<i>Member</i>	<i>Membership Shares</i>	<i>Consideration</i>	<i>Percent</i>
FIELD(H1)	FIELD(SharesH1)	\$	??
FIELD(H2)	FIELD(SharesH2)	\$	??
FIELD(H3)	FIELD(SharesH3)	\$	??
FIELD(H4)	FIELD(SharesH4)	\$	??
TOTAL:	o	\$0.00	??

IF(VARIABLE(vSeries))

## EXHIBIT B TO COMPANY AGREEMENT

### ARTICLE I. SERIES OF INTERESTS

#### **Statement of Series**

1.01. The Members and Interests in the Company shall be divided into three series designated as series A (“Series A”), series B (“Series B”) and series C (“Series C”) (collectively referred to as “Series”). Each Series shall have the separate purpose, separate assets and liabilities, separate management, issue the separate Interests, have the separate Members and such other terms, provisions, rights, duties, privileges, liabilities, powers, relative rights, voting rights and preferences set for herein.

#### **Definitions**

1.02. For purposes of this document, the following terms shall be defined as follows:

- (a) *“Interests”*: The term Interests as used in this Agreement shall refer to all Interests including Series Interests from each of the Series unless the context otherwise requires the exclusion of one or more Series by reason of the use of such term.
- (b) *“Member”*: The term Member as used in this Agreement shall include Members from each of the Series unless the context otherwise requires the exclusion of one or more Members by reason of the use of such term.
- (c) *“Series A Interests”*: The Series A Interests held by a Series A Member.
- (d) *“Series A Member”*: Any Person admitted to the Company as a Series A Member pursuant to the terms of this Agreement, but not including any Person who ceases to be a Series A Member.
- (e) *“Series B Interests”*: The Series B Interests held by a Series B Member.
- (f) *“Series B Member”*: Any Person admitted to the Company as a Series B Member pursuant to the terms of this Agreement, but not including any Person who ceases to be a Series B Member.
- (g) *“Series C Interests”*: The Series C Interests held by a Series C Member.
- (h) *“Series C Member”*: Any Person admitted to the Company as a Series C Member

pursuant to the terms of this Agreement, but not including any Person who ceases to be a Series C Member.

- (i) “*Voting Ratio*”: The term Voting Ratio shall, as the context requires, refer to the Voting Ratio with respect to a particular Series or with respect to all of the Series taken together.

### **Purpose of Series A**

1.03. The purpose of Series A of the Company is to purchase, acquire, buy, sell, own, trade in, hold, develop, lease, manage, subdivide, finance, mortgage and otherwise deal with the real property and improvements thereon, if any, known as \_\_\_\_\_, and to do any and all things necessary, convenient or incidental to that purpose.

### **Purpose of Series B**

1.04. The purpose of Series B of the Company is to purchase, acquire, buy, sell, own, trade in, hold, develop, lease, manage, subdivide, finance, mortgage and otherwise deal with the real property and improvements thereon, if any, known as \_\_\_\_\_, and to do any and all things necessary, convenient or incidental to that purpose.

### **Purpose of Series C**

1.05. The purpose of Series C of the Company is to purchase, acquire, buy, sell, own, trade in, hold, develop, lease, manage, subdivide, finance, mortgage and otherwise deal with the real property and improvements thereon, if any, known as \_\_\_\_\_, and to do any and all things necessary, convenient or incidental to that purpose.

### **Assets Associated with Series**

1.06. The **FIELD(Control)s** shall cause the Company to maintain separate and distinct records for each Series and shall cause the assets, debts, liabilities, obligations, expenses, profits and losses associated with any such Series to be held and accounted for separately from the other assets, debts, liabilities, obligations, expenses, profits and losses of the Company or any other Series. All consideration received by the Company for the issue or sale of Series Interests or Series Interests of a particular Series together with all Company Assets in which such consideration is invested or reinvested, all revenue, income, earnings, profits and proceeds thereof, including any Capital Proceeds received by the Company from a Capital Transaction with respect to such assets, shall irrevocably belong to that Series for all purposes, subject only to the rights of creditors of that Series and except as may otherwise be required by applicable tax laws. In the event that there are any funds or payments which are not readily identifiable as belonging to any particular Series, the **FIELD(Control)s** shall allocate them among anyone or more Series in such manner and on such basis as the **FIELD(**

Control)s deem fair and equitable.

### **Liabilities Associated with Series**

1.07. All liabilities, expenses, costs, charges and reserves of the Company which are readily associated with a particular Series shall be charged against the assets associated with the Series. In the event that there are any liabilities, expenses, costs, charges and reserves of the Company that are not readily associated with a particular Series shall be allocated and charged by the **FIELD**(Control)s to, between or among anyone or more of the Series, in such a manner and on such basis as the **FIELD**(Control)s deem fair and equitable.

### **Transferability**

1.08. All Series Members and the holders of any Series Interests or Series Interests shall be subject to the transfer restrictions contained in the Company Agreement. Persons may be admitted as new or substitute Series Members upon compliance with the provisions of this Agreement.

### **Distributions**

1.09. The holders of interests in a particular Series shall be entitled to distributions, whether interim or upon dissolution and winding up of that Series or the Company, only out of the assets and proceeds associated with that particular Series and shall not be entitled to receive any distributions out of, and shall have not rights or interests with regard to, the assets or proceeds associated with any other Series.

### **Voting Rights**

1.10. Each Series Members shall have only the voting right s otherwise set forth in this Agreement, provided, however, that in no event shall Members of a Series be entitled to vote with respect to any matter that does not directly affect any of the assets, liabilities or interests of such Series.

### **Winding Up of Series**

1.11. An event causing the winding up of a Series shall not be deemed an event causing the winding up of the Company. An event causing the winding up of the Company as provided in th is Agreement shall be an event causing the winding up of all Series. The occurrence of any of the events set forth below shall cause the winding up and liquidation of a Series and upon the completion of the winding up and liquidation of the particular Series the Series shall terminate unless prior to the completion of the winding up and liquidation of the particular Series there has been a revocation of such event or a cancellation of such event pursuant to the provisions of Sections 101.618 and 101.619 of the Code. The **FIELD**(

Control)s managing the Series must send a notice to the known claimants against the Series of the winding up and liquidation of the Series. The events requiring a winding up of a Series shall be the first to occur of the following:

- (a) an event causing the winding up of the Company;
- (b) a determination of the **FIELD**(Control)s to wind up the Series and the approval of such determination by Series Members holding 51% of the total outstanding interests of such Series;
- (c) a judicial determination pursuant to the provisions of Section 101.621 of the Code.

Unless the event is subject to a revocation or a cancellation pursuant to the provisions of Section 101.618 and 101.619 of the Code, the Series shall be wound up and liquidated pursuant to the provisions Code Section 101.617.**ENDIF**