

**VISION AMERICAS, L.L.C.****OPERATING AGREEMENT**

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**VISION AMERICAS, L.L.C.**

**OPERATING AGREEMENT**

This Operating Agreement (this "Agreement") is entered into, effective from the 27th day of January, 2009, by and between ROGER F. NORIEGA ("Owner" and/or "Member") and VISION AMERICAS, L.L.C., a Virginia limited liability company:

**Explanatory Statement**

"Owner" has determined to organize and operate a limited liability company in accordance with the terms of, and subject to the conditions set forth in, this Agreement.

**NOW, THEREFORE**, the terms and conditions under which the limited liability company are to be organized and operated are as follows:

**Section I  
Defined Terms**

The following capitalized terms shall have the meanings specified in this Section I. Other terms are defined in the text of this Agreement; and, throughout this Agreement, those terms shall have the meanings respectively ascribed to them.

"Act" means the Virginia Limited Liability Company Act, Virginia Code, §§13.1-1000, et seq., as amended from time to time.

"Agreement" means this Agreement, as amended from time to time.

"Code" means the Internal Revenue Code of 1986, as amended, or any corresponding provision of any succeeding law.

"Company" means the limited liability company organized in accordance with this Agreement.

"Interest" means a Person's share of the Profits and Losses of, and the right to receive distributions from, the Company.

"Interest Holder" means any Person who holds an Interest, whether as a Member or as an unadmitted assignee of a Member.

"Involuntary Withdrawal" means, with respect to "Owner," the occurrence of any of the following events:

- (i) the making of an assignment for the benefit of creditors;
- (ii) the filing of a voluntary petition of bankruptcy;

(iii) the adjudication as a bankrupt or insolvent or the entry against Owner of an order for relief in any bankruptcy or insolvency proceeding;

(iv) the filing of a petition or answer seeking for Owner any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;

(v) the seeking, consenting to, or acquiescence in the appointment of a trustee for, receiver for, or liquidation of Owner or of all or any substantial part of Owner's properties;

(vi) the filing of an answer or other pleading admitting or failing to contest the material allegations of a petition filed against Owner in any proceeding described in Subsections (i) through (v);

(vii) any proceeding against Owner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, continues for one hundred twenty (120) days after the commencement thereof, or the appointment of a trustee, receiver, or liquidator for Owner or all or any substantial part of Owner's properties without Owner's agreement or acquiescence, which appointment is not vacated or stayed for one hundred twenty (120) days or, if the appointment is stayed, for one hundred twenty (120) days after the expiration of the stay during which period the appointment is not vacated; or

(viii) Owner's death or adjudication by a court of competent jurisdiction as incompetent to manage Owner's person or property.

"Member" means the Person signing this Agreement and any Person who subsequently is admitted as a member of the Company.

"Membership Rights" means all of the rights of a Member in the Company, including a Member's: (i) Interest; (ii) right to inspect the Company's books and records; (iii) right to participate in the management of and vote on matters coming before the Company; and (iv) unless this Agreement or the Articles of Organization provide to the contrary, right to act as an agent of the Company.

"Person" means and includes an individual, corporation, partnership, association, limited liability company, trust, estate, or other entity.

"Profit" and "Loss" means, for each taxable year of the Company (or other period for which Profit or Loss must be computed) the Company's taxable income or loss determined in accordance with the Code.

"Regulation" means the income tax regulations, including any temporary regulations, from time to time promulgated under the Code.

"SCC" means the Virginia State Corporation Commission.

“Successor” means all Persons to whom all or any part of an Interest is transferred either because of (i) the sale or gift by Owner of all or any part of Owner’s Interest, (ii) an assignment of Owner’s Interest due to Owner’s Involuntary Withdrawal, or (iii) because Owner dies and the Persons are Owner’s personal representatives, heirs, or legatees.

“Transfer” means, when used as a noun, any voluntary sale, hypothecation, pledge, assignment, attachment, or other transfer, and, when used as a verb, means voluntarily to sell, hypothecate, pledge, assign, or otherwise transfer.

“Withdrawal” means a Member’s dissociation from the Company by any means.

## **Section II Formation and Name; Office; Purpose**

2.1. *Organization.* Owner hereby organizes a limited liability company pursuant to the Act and the provisions of this Agreement and, for that purpose, has caused Articles of Organization to be prepared, executed and filed with SCC on or about January 26, 2009.

2.2. *Name of the Company.* The name of the Company shall be “VISION AMERICAS, L.L.C.” The Company may do business under that name and under any other name or names upon which Owner may, in Owner sole discretion, determine. If the Company does business under a name other than that set forth in its Articles of Organization, then the Company shall file a trade name certificate as required by law.

2.3. *Purpose.* Company is organized to:

2.3.1. To do anything permitted by the Act, as may be amended, and to engage in any other lawful activity, purpose or business for which a limited liability company may be organized under the Act; and

2.3.2. To have all of the powers permitted by Va. Code, Section 13.1-1009 of the Act, as amended from time to time.

2.4. *Principal Office.* The principal office of the Company in the Commonwealth of Virginia shall initially be located at 23324 Potts Mill Road, P.O. Box 446, Middleburg, Virginia 20118-0446. The principal office of the Company may be located at any other place within the Commonwealth of Virginia, provided that notice of change of the Company’s principal office, which is signed by Owner, is duly filed with SCC.

2.5. *Resident Agent.* The name and address of the Company’s registered agent in the Commonwealth of Virginia shall be John M. Falk, 23324 Potts Mill Road, P.O. Box 446, Middleburg, Virginia 20118-0446. The registered agent of the Company may be changed, provided that notice of change of the Company’s registered agent, which is signed by Owner and registered agent, is duly filed with SCC.

2.6. *Members.* The Owner is the sole “Member” of the Company and the “Managing Member” pursuant to Section 5.1. The name, present mailing address, and taxpayer identification number of Owner is set forth on Exhibit A.

### **Section III Members; Capital; Capital Accounts**

3.1. *Initial Capital Contributions.* Upon the execution of this Agreement, Owner shall contribute to the Company the cash and property set forth on Exhibit B, for one hundred percent (100%) of the membership Interests in the Company, and the Company shall then commence to do business.

3.2. *No Other Capital Contributions Required.* No Member shall be required to contribute any additional capital to the Company, and except as set forth in the Act, no Member shall have any personal liability for any obligations of the Company.

3.3. *Loans.* Any Member may, at any time, make or cause a loan to be made to the Company in any amount and on those terms upon which the Company and the Member agree.

### **Section IV Profit, Loss, and Distributions**

4.1. *Distributions of Cash Flow.* Cash Flow for each taxable year of the Company shall be distributed to Owner no later than seventy-five (75) days after the end of the taxable year.

4.2. *Allocation of Profit or Loss.* All Profit or Loss shall be allocated to Owner.

4.3. *Liquidation and Dissolution.* If the Company is liquidated, the assets of the Company shall be distributed to Owner or to a Successor or Successors.

### **Section V Management: Rights, Powers, and Duties**

5.1. *Management.* The Company shall be managed by a manager and that person shall be the Owner who shall be designated as the Managing Member. Owner may use the titles “Managing Member” and/or “Manager” and/or may also use the titles of “Founder”, “Managing Director” and/or “President”.

5.2. *Personal Services.* Owner shall not be required to perform services for the Company solely by virtue of being a Member. However, it is expected that Owner shall manage and conduct all business of the Company and assist the Company in generating Profits.

5.3. *Liability and Indemnification.*

5.3.1. Owner shall not be liable, responsible, or accountable, in damages or otherwise, to the Company for any act performed by the Owner with respect to Company matters, except for fraud by the Owner.

5.3.2. The Company shall indemnify Owner for any act performed by Owner with respect to Company matters, except for fraud by the Owner.

**Section VI**  
**Transfer of Interests and Withdrawals of Members**

6.1. *Transfers.* Owner may Transfer all, or any portion of, or Owner's interest or rights in, Owner's Membership Rights to one or more Successors.

6.2. *Transfer to a Successor.* In the event of any Transfer of all or any part of Owner's Interest to a Successor, the Successor shall thereupon become a Member and the Company shall be continued.

**Section VII**  
**Dissolution, Liquidation, and Termination of the Company**

7.1. *Events of Dissolution.* The Company shall be dissolved if:

7.1.1. Owner determines, or if a Successor determines, or all of the Successors unanimously determine, to dissolve the Company; or

7.1.2. The Company has no Members for a period of ninety (90) consecutive days.

The Company shall not dissolve merely because of Owner's Involuntary Withdrawal, unless the Company has no Members for a period of ninety (90) consecutive days.

7.2. *Procedure for Winding Up and Dissolution.* If the Company is dissolved, the affairs of the Company shall be wound up. On winding up of the Company, the assets of the Company shall be distributed, first, to creditors of the Company in satisfaction of the liabilities of the Company, and then to the Persons who are the Members of the Company in proportion to their Interests.

7.3. *Filing of Articles of Cancellation.* If the Company is dissolved, Articles of Cancellation shall be promptly filed with SCC. If there are no remaining Members, the Articles shall be filed by the last Person to be a Member; if there are no remaining Members, or a Person who last was a Member, the Articles shall be filed by the legal or personal representatives of the Person who last was a Member.

**Section VIII**  
**Books, Records, Accounting, and Tax Elections**

8.1. *Bank Accounts.* All funds of the Company shall be deposited in a bank account or accounts opened in the Company's name. Owner shall determine the institution or institutions at

which the accounts will be opened and maintained, the types of accounts, and the Persons who will have authority with respect to the accounts and the funds therein.

8.2. *Annual Accounting Period.* The annual accounting period of the Company shall be its taxable year. The Company's taxable year shall be selected by Owner, subject to the requirements and limitations of the Code.

**Section IX**  
**General Provisions**

9.1. *Assurances.* Owner shall execute all such certificates and other documents and shall do all such filing, recording, publishing, and other acts as Owner deems appropriate to comply with the requirements of law for the formation and operation of the Company and to comply with any laws, rules, and regulations relating to the acquisition, operation, or holding of the property of the Company.

9.2. *Applicable Law.* All questions concerning the construction, validity, and interpretation of this Agreement and the performance of the obligations imposed by this Agreement shall be governed by the internal law, not the law of conflicts, of the Commonwealth of Virginia.

9.3. *Section Titles.* The headings herein are inserted as a matter of convenience only, and do not define, limit, or describe the scope of this Agreement or the intent of the provisions hereof.

9.4. *Binding Provisions.* This Agreement is binding upon, and inures to the benefit of, Owner and Owner's heirs, executors, administrators, personal and legal representatives, Successors, and permitted assigns.

9.5. *Terms.* Common nouns and pronouns shall be deemed to refer to the masculine, feminine, neuter, singular, and plural, as the identity of the Person may in the context require.

9.6. *Separability of Provisions.* Each provision of this Agreement shall be considered separable; and if, for any reason, any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid.

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[SIGNATURE PAGE IMMEDIATELY FOLLOWS]

**IN WITNESS WHEREOF**, Owner and the Company has executed, or caused this Agreement to be executed, under seal, as of the date set forth hereinabove.

WITNESS OR ATTEST:

ROGER F. NORIEGA  
("Owner" & "Member")



\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
ROGER F. NORIEGA

WITNESS OR ATTEST:

VISION AMERICAS, L.L.C.  
("Company")



\_\_\_\_\_  
(SEAL)

By: \_\_\_\_\_  
ROGER F. NORIEGA  
Title: Managing Member



**VISION AMERICAS, L.L.C.**  
**Exhibit A to Operating Agreement**

Name, Address, and Taxpayer Identification Number of Member	Percentage of Membership Interests	Consideration Paid
ROGER F. NORIEGA _____ _____ SSN/TIN: _____	100%	Assets Set Forth on Exhibit B

**VISION AMERICAS, L.L.C.**  
**Exhibit B to Operating Agreement**  
**Assets to Be Contributed to VISION AMERICAS, L.L.C.**  
**by ROGER F. NORIEGA**

Assets Contributed	Basis of Assets
Cash	US\$1,000

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