

Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS ON FILE OF "THE ALOFT GROUP LLC" AS RECEIVED AND FILED IN THIS OFFICE.

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

CERTIFICATE OF FORMATION, FILED THE TWENTY-FIFTH DAY OF MAY, A.D. 2006, AT 6:08 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID CERTIFICATES ARE THE ONLY CERTIFICATES ON RECORD OF THE AFORESAID LIMITED LIABILITY COMPANY, "THE ALOFT GROUP LLC".



4104525 8100H

060509754

Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 4820289

DATE: 06-13-06

State of Delaware
Secretary of State
Division of Corporations
Delivered 06:08 PM 05/25/2006
FILED 06:08 PM 05/25/2006
SRV 060507277 - 4104525 FILE

STATE of DELAWARE
LIMITED LIABILITY COMPANY
CERTIFICATE of FORMATION

- **First:** The name of the limited liability company is The Aloft Group LLC
- **Second:** The address of its registered office in the State of Delaware is 6 Polly Drummond Hill Road, Drummond Office Condominium, in the City of Newark, County of New Castle, Zip Code 19711-5703.
The name of its Registered agent at such address is IncyourBIZ Corp.
- **Third:** "The latest date on which the limited liability company is to dissolve is 1/1/2030."

In Witness Whereof, the undersigned have executed this Certificate of Formation of
The Aloft Group LLC this 25th day of May, 2006

BY: Karen Sena
Authorized Person(s)

NAME: Karen Sena
Type or Print

OPERATING AGREEMENT

For

The Aloft Group, LLC

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DISCLAIMER: Users of this Sample LLC Operating Agreement should consult with an attorney and research the applicable laws of their state. This Sample Agreement is not a substitute for professional legal and accounting advice tailored to your individual business situation. It certainly is not intended to replace the services of an attorney or accountant. Used as a starting point, an attorney can modify this agreement for your needs or perhaps even suggest a different Agreement entirely, perhaps due to some unique detail in your situation.

Users of this Agreement must go through this document and insert specific details where indicated. In many places you must choose between several alternatives. In those spots, the language not being used **MUST** be taken out of the document. Otherwise, it will cause confusion and may result in an opposite result than what you intended. Be sure to read, understand, and modify the entire document.

OPERATING AGREEMENT

Caution: Since the organization of a Limited Liability Company is largely tax driven, the reader is cautioned that in using this illustrative form to prepare similar LLC operating agreements, it is essential to review applicable Treasury regulations, preambles thereto, as well as pertinent letter rulings.

This Operating Agreement of The Aloft Group, LLC, a limited liability company organized pursuant to the laws of the State of Delaware, is entered into and shall be dated and effective as of the Effective Date, by and among the Company and the persons executing this Agreement as Members.

ARTICLE I

TERMS & CONDITIONS

a. The terms and conditions used in this Agreement shall have the meanings set forth in the codified laws of the state of Delaware, or as set forth below (unless otherwise expressly provided herein.)

1. “Act” shall mean the set of laws expressly enacted to deal with limited liability companies in Delaware and all amendments thereto.
2. “Additional Member” shall mean a member other than an initial member or a substitute member who has acquired a membership interest in the Company.
3. “Agreement” shall mean this Operating Agreement, as originally executed and as it may be amended from time to time.
4. “Articles of Organization” shall mean the Articles of Organization of the Company filed or to be filed with the Delaware Secretary of State for the

purpose of forming the Company and as they may from time to time be amended.

5. "Assignee" shall mean the transferee of a Membership Interest who has not been admitted as a substituted member.
6. "Bankrupt Member" shall mean a Member who (a) has become the subject for an order for relief under the United States Bankruptcy Code, (b) has initiated, either in an original proceeding or by way of answer in any state, insolvency receivership proceeding, an action for liquidation arrangements, composition, readjustment, dissolution or similar relief.
7. "Capital Account" as of any date shall mean the Capital Contribution to the Company by a Member, adjusted as of such date pursuant to this Agreement.
8. "Capital Contribution" shall mean any contribution by a Member to the capital of the Company in cash, property, services rendered or a promissory note or other binding obligation to contribute cash or property or to render services. "Initial Capital Contribution" shall mean the initial contribution to the capital of the Company.
9. "Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, or the corresponding provisions of any superseding federal revenue statute.
10. "Company" shall refer to The Aloft Group, LLC..
11. "Company Property" shall mean any Property owned by the Company.

12. "Default Interest Rate" shall mean the higher of the legal rate or the then prime rate quoted in The Wall Street Journal plus 2%.
13. "Disposition" (Dispose) shall mean any sale, assignment, exchange, mortgage, pledge, grant hypothecation, or other transfer, absolute or as security or encumbrance (including dispositions by operation of law).
14. "Disassociation" shall mean any action which causes a person to cease to be a Member as described in Article XIII hereof.
15. "Dissolution Event" shall mean an event, the occurrence of which will result in the dissolution of the Company under Article XIV unless the Members agree to the contrary.
16. "Distribution" means any cash and other property paid by the Company to a Member of the Company in his or her capacity as a Member.
17. "Effective Date" shall mean: May, 25, 2006.
18. "Entity" shall mean any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or association, or any foreign trust or foreign business organization.
19. "Fiscal Year" shall mean the fiscal year of the Company, which shall be the year ending December.
20. "Gifting Member" shall mean any Member or Economic Interest Owner who gifts, bequeaths or otherwise transfers for no consideration (by operation of law

or otherwise, except with respect to bankruptcy) all or any part of its Membership Interest or Economic Interest.

21. “Manager” shall mean one or more managers. Specifically, “Manager” shall mean those names listed on Exhibit B, or any person that succeed him in that capacity.
22. “Member” shall mean each of the parties who executes a counterpart of this Operating Agreement as a Member, and each of the parties who may hereafter become Members in accordance Article XII.
23. “Membership Interest” shall mean a Member’s entire interest in the Company, including the right to participate in the management of the business and affairs of the Company, including the right to vote on, consent to, or otherwise participate in any decision or action of or by the Members granted pursuant to this Operating Agreement and the Act.
24. “Net Losses” shall mean the losses and deductions of the Company, determined in accordance with accounting principles consistently applied from year to year employed under the method of accounting adopted by the Company, and as reported separately or in the aggregate, as appropriate, on the tax return of the Company filed for federal income tax purposes.
25. “Net Profits” shall mean the income and gains of the Company, determined in accordance with accounting principals consistently applied from year to year employed under the method of accounting adopted by the Company, and as reported separately or in the aggregate, as appropriate, on the tax return of the Company filed for federal income tax purposes.

26. "Person" shall mean any association, corporation, stock company, estate, general partnership (including any Registered Limited Liability Partnership), limited association, limited liability company (including a professional service limited liability company), foreign limited liability company (including a foreign professional service limited liability company), joint venture, limited partnership, natural person, real estate investment trust, business trust or other trust, or other individual in its own or any representative capacity. In addition, it shall mean the heirs, executors, administrators, legal representatives, successors and assigns of such "Person" where the context so permits.
27. "Proceeding" shall mean any judicial or administrative trial, hearing or other activity, civil, criminal or investigative, the result of which may be that a court, arbitrator or governmental agency may enter a judgment, order, decree or other determination.
28. "Property" shall mean any Property, real or personal, tangible or intangible, including money and any legal or equitable interest in such Property, but excluding services and promises to perform services in the future.
29. "Reserves" shall mean, with respect to any fiscal period, funds set aside or amounts allocated during such period to Reserves which shall be maintained in an amount deemed sufficient by the Managers to pay taxes, insurance, or other costs or expenses incident to the ownership or operation of the Company's business.
30. "Resignation" shall mean the act by which a Manager ceases to be a Manager.

31. "Selling Member" shall mean any Member who or which desires to or does sell, assign, pledge or otherwise transfers for a consideration all or any portion of the Member's Membership Interest.
32. "Taxable Year" shall mean the taxable year of the Company as determined pursuant to Section 706 of the Code.
33. "Taxing Jurisdiction" shall mean any state, local or foreign government that collects tax, interest or penalties, however designated, and any Member's share of the income or gain attributable to the Company.

ARTICLE II

Agreement

a. Agreement. For and in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Members executing this Agreement hereby agree to the terms and conditions of the Agreement as it may be from time to time amended according to its terms. It is the express intention of the Members that the Agreement shall be the sole source of agreement of the parties, and except to the extent a provision of this Agreement expressly incorporates federal income tax rules by reference to the sections of the Code or Regulations, or is expressly prohibited or ineffective under the Act, even when inconsistent with or different from the provisions of the Act or any other law or rule. To the extent any provision of the Agreement is prohibited or ineffective under the Act, the Agreement shall be considered amended to the smallest degree possible in order to make the Agreement effective under the Act. In the event the Act is subsequently amended or interpreted in such a way to make any provision of the Agreement that was formerly invalid valid, such provision shall be considered to be valid from the effective date of such interpretation or amendment.

ARTICLE III

Company Business

a. Nature of Business. The Company is formed for, and the business of the Company shall be: to accomplish any lawful business whatsoever, or which shall at any time appear conducive to or expedient for the protection or benefit of the Company and its assets.

b. The Company exists only for the purposes specified in Section a. and may not conduct any other business without the unanimous consent of the Members. The authority granted to the Managers thereunder to bind the Company shall be limited to the actions necessary or convenient to this business.

ARTICLE IV

Members

a. Names and Addresses. The names and addresses of the Initial Members are as set forth in Exhibit A to this Agreement.

b. Additional Members. In the event that a Person is hereafter admitted as an Additional Member, their name, address and Capital Contribution shall be added to Exhibit A.

c. *Membership Interests in the Company shall be represented by certificates. They shall be numbered and entered in the books of the Company as they are issued. They shall exhibit the holder of the Membership Interest and the numerical percentage or other designation of the Member's Interest, and shall be signed by the Managers.

d. The Managers may issue a new certificate or certificates in place of any certificate or certificates therefore issued by the Company, alleged to have been lost or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate to be lost or

destroyed. When authorizing such issue of a new certificate or certificates, the Managers may, in their discretion and as a condition precedent to the issuance thereof, require the owner of such lost or destroyed certificate or certificates, or his legal representative, to advertise the same in such manner as the Managers may require, and/or give the Company a bond in such sum and with such surety or sureties as it may direct as indemnity against any claim that may be made against the Company with respect to the certificate or certificates alleged to be lost or destroyed.

e. Transfer of Certificates. Upon proof of compliance with the provisions of Article XI relating to transfer of Membership Interest, duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, the Company shall issue a new certificate to the Person entitled thereto and cancel the old certificate, a record of every such transfer shall be entered upon the transfer book of the Company, which shall be kept at its principal office. No transfer shall be made within ten (10) days next preceding the annual meeting of Members.

f. The Company shall be entitled to treat the owner of record of any certificates of Membership Interest as the holder in fact thereof, and shall not be bound to recognize any equitable claim on the part of any other Person, whether or not it shall have express or other notice thereof, except as expressly provided by the laws of Delaware.

ARTICLE V

Member Rights and Duties

a. Management Rights. All Members (other than Assignees) who have not dissociated shall be entitled to vote on any matter submitted to a vote of the Members.

Notwithstanding the foregoing, the following actions require the vote or consent of a majority:

1. any amendment to this Agreement
2. the admission of Assignees as a Member
3. the continuation of the Company after a Dissolution Event

b. Majority. Whenever any matter is required or allowed to be approved by a Majority of the Members or a Majority of the Remaining Members under the Act or this Agreement, such matter shall be considered approved or consented to upon the receipt of the affirmative approval or consent, either in writing or at a meeting of the Members, of Members entitled to vote on a particular matter. Disassociating Members shall not be considered Members entitled to vote for the purpose of determining a Majority.

c. Limitation of Liability of Members. Members shall not be liable for any debts, obligations or liability of the Company or each other, whether arising in tort, contract or otherwise, solely by reason of being such Member. However, each Member shall remain personally liable for payment of his, her or its Capital Contribution.

d. Indemnification. The Company shall indemnify the Members, Managers, and agents for all costs, losses, liabilities and damages paid or accrued by such Member, Manager or agent in connection with the business of the Company.

e. Books and Records. The Managers shall maintain and preserve during the term of the Company and for six (6) years thereafter, all accounts, books, minutes of meetings of Members, and all other relevant Company documents. Upon reasonable request, each Member shall have the right, during ordinary business hours and at the principal place of business of the company, to inspect and copy such documents, at the requesting Member's expense.

f. Sale of All Assets. The Members shall have the right, by the vote or written consent of Members holding a majority of all Capital Interests, to approve the sale, lease, exchange or

other disposition of all or substantially all of the assets of the Company which is to occur as part of a single transaction or plan.

g. Priority and Return of Capital. Except as may be expressly provided in Articles VIII or IX, no Member shall have priority over any other Member.

h. Financial Adjustments. No Members admitted after the date of this Agreement shall be entitled to any retroactive allocations of losses income or expense deductions incurred by the Company.

i. Representations and Warranties. Each Member, and in the case of an organization, the person(s) executing the Agreement on behalf of the organization hereby represents and warrants to the Company and each other Member and Manager that:

1. If that Member is an organization, that it is duly organized, validly existing, and in good standing under the law of its state of organization, and that it has full organizational power to executed and agree to the Agreement to perform its obligations hereunder;
2. That the Member is acquiring its interest in the Company for the Member's own account as an investment and without an intent to distribute the interest;
3. The Member acknowledges that the interests have not been registered under the Securities Act of 1933 or any state securities laws, and may not be resold or transferred by the Member without appropriate registration or the availability of an exemption from such requirements.

j. Conflicts of Interest. A Member shall be entitled to enter into transactions that may be considered competitive with, or a business opportunity that may be beneficial to, the Company, it being expressly understood that some of the Members may enter into transactions that are similar to the transactions into which the Company may enter.

Notwithstanding the foregoing, Members shall account to the Company and hold as trustee for it any property, profit or benefit derived by the Member, without the consent of the other members, in the conduct and winding up of the Company business or from a use or appropriation by the Member of Company Property, including information developed exclusively for the Company and opportunities expressly offered to the Company.

ARTICLE VI

Rights and Duties of Managers

a. **Management.** The business and affairs of the Company shall be managed by its Managers. The Managers shall direct, manage and control the business of the Company to the best of their ability. Except for situations in which the approval of the Members is expressly required by this Operating Agreement or by non-waivable provisions of applicable law, the Managers shall have full and complete authority, power and discretion to manage and control the business, affairs and properties of the Company, to make all decisions regarding those matters, and to perform any and all other acts or activities customary or incident to the management of the Company's business.

b. **Number, Tenure and Qualifications of Managers.** The Company shall initially have four Managers. Each of the individuals listed on Exhibit B to this Agreement shall initially serve as the Managers. The number of Managers of the Company may be amended by the vote or written consent of Members holding a Majority of the Membership Interests. Each Manager shall hold office until the next annual meeting of Members, or until a successor shall have been elected and qualified.

c. **Certain Powers of Managers.** Except as set forth in this Agreement, the Managers shall have the power and authority, on behalf of the Company to:

1. Purchase, lease or otherwise acquire from, or sell, lease or otherwise dispose of to any property, to any Person.

2. Open bank accounts and otherwise invest the funds of the Company.
3. Borrow money for the Company from banks or other lending institutions and on such terms as the Members deem appropriate.
4. Purchase insurance on the business and assets of the Company.
5. Commence lawsuits and other proceedings.
6. Enter into any agreement, instrument or other writing.
7. Retain accountants, attorneys, or any other professionals or agents.
8. Take any other lawful action that the Managers consider necessary, convenient, or advisable in connection with any business of the Company.

d. Binding Authority. Unless authorized to do so by the Managers, no attorney-in-fact, employee or other agent of the Company shall have any power or authority to bind the Company in any way. No Member shall have any power or authority to bind the Company unless the Member has been authorized by the Managers to act as an agent of the Company.

e. Liability for Certain Acts. Each Manager shall perform his duties as Manager in good faith, in a manner he reasonably believes to be in the best interests of the Company, and with such care as an ordinarily prudent person in a like position would use under similar circumstances.

f. No Exclusive Duty to Company. The Managers shall not be required to manage the Company as their sole and exclusive function and they may have other business interests

and may engage in other activities in addition to those relating to the Company. Neither the Company nor any Member shall have any right pursuant to this Agreement to share or participate in such other business interests, activities or to the income or proceeds derived therefrom.

g. Indemnification. The Company shall indemnify and hold harmless the Managers from and against all claims and demands to the maximum extent permitted under applicable laws.

h. Resignation. Any Manager may resign at any time by giving written notice to the Company, with a copy to each Member. The resignation of any Manager shall take effect upon receipt of such notice by the Company or at any later time specified in such notice. Unless otherwise specified in the notice, the acceptance of the resignation shall not be necessary to make it effective. The resignation of the Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of such Member.

i. Removal. Any Manager may be removed or replaced with or without cause by the vote or written consent of Members who hold at least a Majority of Membership Interests. The removal of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of such Member.

j. Vacancies. Any vacancy occurring for any reason in the number of Managers may be filled by the vote or written consent of at least a Majority of the Membership Interests. A Manager elected to fill a vacancy shall be elected for the unexpired term of the Manager's predecessor and shall hold office until the expiration of such term and until the Manager's successor has been elected and qualified.

k. Salaries. Each Manager shall be reimbursed for all reasonable expenses incurred in managing the Company. The salaries and other compensation of the Managers shall be fixed from time to time by the vote or written consent of at least a majority of the Membership Interests.

ARTICLE VII

Meetings of Members

a. Annual Meeting. The annual meeting of the Members shall be held during the first week of December, or at such other time as shall be determined by the Managers.

b. Special Meetings. Special meetings of the Members, for any purpose or purposes, may be called by any Manager or any Member or group of Members holding collectively not less than twenty percent (20%) of the Membership Interests.

c. Place of Meetings. Meetings of the Members may be held at any place, within or outside of the State of Delaware, for any meeting of the Members designated in any notice of such meeting. If no such designation is made, the place of the meeting shall be the executive office of the company.

d. Notice of Meetings. Except as per written notice stating the place, day and hour of the meeting, indicating that it is being issued by or at the direction of the person or persons calling the meeting, stating the purpose or purposes for which the meeting is called, shall be delivered no fewer than ten (10) nor more than fifty (50) days before the date of the meeting.

e. Record Date. For the purpose of determining the Members entitled to notice of or to vote at any meeting of Members or any adjournment of such meeting, or Members entitled to receive payment of any Distribution, or to make a determination of Members for any other purpose, the date on which the notice of the meeting is mailed or the date on which the resolution declaring Distribution is adopted, as the case may be, shall be not more than sixty (60) nor less than ten (10) days.

f. Quorum. Members holding a Majority of all Membership Interests, represented in person or by proxy, shall constitute a quorum at any meeting of Members. In the absence of a quorum at any meeting of Members, a Majority of the Membership Interests so represented may adjourn the meeting from time to time for a period not to exceed sixty (60) days without further notice.

g. Manner of Acting. If a quorum is present at any meeting, the vote or written consent of Members holding not less than a Majority of Membership Interests shall be the act of the Members.

h. Proxies. At all meetings of Members, a Member may vote in person or by proxy. The proxy shall be executed in writing by the Member granting the proxy or by a duly authorized attorney-in-fact of the Member. Such proxy shall be filed with the Managers of the Company before or at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided for in the proxy.

i. Actions by Members Without a Meeting. Whenever the Members of the Company are required or permitted to take any action by vote or consent, such action may be taken without a meeting, without prior notice, and without a vote.

1. The action so taken shall be signed by the Members who hold the Membership Interests, having not less than the minimum number of votes that would be necessary to authorize such actions.

2. Every written consent shall bear the date of signature of each Member who signs the consent, and no written consent shall be effective to take the action referred to therein unless written consents signed by a sufficient number of Members are delivered within sixty (60) days to the office of the Company, its principal place of business, or to a Manager, employee, or agent of the Company having custody of the records of the Company.

3. Delivery of consents to such office or principal place of business of Manager, employee, or agent shall be by hand, including messenger or other courier, or by certified or registered mail, return receipt requested.

4. Prompt notice of the taking of the action without a meeting by less than unanimous written consent shall be given to each Member who has not consented in writing but who would have been entitled to vote thereon had such action been taken at a meeting.

j. Waiver of Notice of Meeting. Notice of a meeting need not be given to any Member who submits a signed waiver of notice, in person or by proxy, whether before or after the meeting. The attendance of any Member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting about the lack of notice of such meeting shall constitute a waiver of notice by him or her.

ARTICLE VIII

Contributions

a. Capital Contributions. Each member shall contribute such amount as is set forth in Exhibit A hereto as its share of the Initial Capital Contribution.

b. Additional Contributions. Each Member shall be required to make such additional Capital Contributions as shall be determined by the Managers from time to time to be reasonably necessary to meet the expenses of the Company. Upon the making of any such determination, the Manager shall give written notice to each Member of the amount of required additional contribution, and each Member shall deliver to the Company its share thereof no later than thirty (30) days following the date such notice is received by the Member. If a Member fails to contribute his/her share within the time allotted, a twenty percent penalty shall be assessed to the Member and all contributions will be made payable no later than 30 additional days following the date such notice is made to the Member. Failure to comply with the second notice shall result in possible removal actions (Article VI paragraph j).

c. Capital Accounts. A Capital Account shall be established and maintained for each Member and each Assignee. Each Member's Capital Account shall be increased by the value of each Capital Contribution made by the Member, allocations to such Member of the Net Profits and any other allocations to such Member of income pursuant to the Code. Each Member's Capital Account will be decreased by the value of each Distribution made to the Member by the Company, allocations to such Member of Net Losses, and other allocations to such Members pursuant to the Code.

d. Transfers. Upon a permitted sale or other transfer of a Membership Interest in the Company, the Capital Account of the Member transferring his/her/its Membership Interests shall become the Capital Account of the Person to which or whom such Membership Interest is sold or transferred in accordance with Section 1.704-1(b)(2)(iv) of the Treasury Regulations.

e. Modifications. The manner in which Capital Accounts are to be maintained pursuant to this Section is intended to comply with the requirement of Section 704(b) of the Code. If, in the opinion of the Managers, the manner in which Capital Accounts are to be maintained pursuant to this Agreement should be modified to comply with Section 704(b) of the Code, then the Managers shall so modify its practices, provided, however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members.

f. Deficit Capital Account. Except as otherwise required in the Act or this Agreement, no Member shall have any liability to restore all or any portion of a deficit balance in a Capital Account.

g. Withdrawal or Reduction of Capital Contributions. A Member shall not receive from the Company any portion of his Capital Contribution until all indebtedness and liabilities of the Company have been paid. No distributions shall be made from the Capital Contributions of a Member without the consent of members owning a majority of Membership Interests in the Company. A Member, irrespective of the nature of the Capital Contribution of such Member, has only the right to demand and receive cash in return for such Capital Contribution.

ARTICLE IX

Allocations and Distributions

a. Allocations of Profits and Losses. The Net Profits and the Net Losses of the Company for each Fiscal Year shall be allocated as follows:

1. to each Member in accordance with the ratio of the value of the Member's Capital Account in proportion to the value of all Capital Accounts in the aggregate.

- b. Distributions. Except for a distribution on Dissolution, the Managers may, from time to time, in the discretion of the Managers, make Distributions to the Members.
- c. Offset. The Company may offset all amounts owing to the Company by a member against any Distribution to be made to such Member.
- d. Limitation Upon Distributions. No Distribution shall be declared and paid unless, after such Distribution is made, the assets of the Company are in excess of all liabilities of the Company.
- e. Interest on and Return of Capital Contributions. No Member shall be entitled to interest on his Capital Contribution, or to a return of his Capital Contribution.
- f. Accounting Principles. The profits and losses of the Company shall be determined in accordance with accounting principles applied on a consistent basis using the insert accounting method here method of accounting. It is intended that the Company will elect those accounting methods which provide the greatest tax benefits.
- g. Accounting Period. The Accounting Period of the Company shall be the calendar year.
- h. Loans to Company. Nothing in this Operating Agreement shall prevent any Member from making secured or unsecured loans to the Company by agreement with the Company.
- i. Records, Audits and Reports. At the expense of the Company, the Manager shall maintain records and accounts of all operations and expenditures of the Company. At a minimum, the Company shall keep at its principal place of business, or as otherwise agreed, the following records:

1. A current list of the full name and last known business, residence, or mailing address of each Member, Economic Interest Owner and Manager, both past and present.
2. A copy of the Articles of Organization of the Company and all amendments, together with executed copies of any powers of attorney pursuant to which any amendment has been executed.
3. Copies of the Company's federal, state, and local income tax returns and reports, if any, for the four (4) most recent years.
4. Copies of the Company's currently effective written Operating Agreement, copies of any writings permitted or required with respect to a Member's obligation to contribute cash, property or services, and copies of any financial statements of the Company for the three (3) most recent years.
5. Minutes of every annual, special, and court-ordered meeting. Any written consents obtaining from Members for actions taken by Members without a meeting.

ARTICLE X

Taxes

- a. **Tax Returns.** The Managers shall cause to be prepared and filed all necessary federal and state income tax returns for the Company. Copies of such returns shall be furnished to the Members within a reasonable time after the end of the Company's Fiscal Year. Each Member shall furnish to the Managers all pertinent information in its possession relating to Company operations that is necessary to enable the Company's income tax returns to be prepared and filed.
- b. **Tax Elections.** The Company shall make the following elections on the appropriate tax returns:

1. To adopt the calendar year as the Fiscal Year;
 2. To adopt the cash method of accounting and keep the Company's books and records on the income tax method;
 3. If a Distribution as described in section 734 of the Code occurs, or if a transfer of a Membership Interest described in Section 743 of the Code occurs, upon the written request of any Member, to elect to adjust the basis of the property of the Company pursuant to Section 754 of the Code;
 4. To elect to amortize the organizational expenses of the Company and the start-up expenditures of the Company under Section 185 of the Code, pro rated over a period of sixty (60) months as permitted by Section 708(b) of the Code;
 5. Any other election that the Managers may deem appropriate and in the best interest of the Members Neither the Company nor any Member may make an election for the Company to be excluded from the application of Subchapter K of Chapter 1 of Subtitle A of the Code or any similar provisions of applicable state law, and no provisions of this Agreement shall be interpreted to authorize any such election.
- c. Tax Matters Partners. The Managers shall designate one Manager to be the "tax matters partner" of the Company pursuant to Section 6231 (a) (7) of the Code. Any Manager who is designated as such shall take any action as may be necessary to cause each other Member to become a "notice partner" within the meaning of Section 6223 of the Code.

ARTICLE XI

Disposition of Interests

- a. General. Except as otherwise specifically provided herein, a Member shall have the right to: Sell, assign, pledge, hypothecate, transfer, exchange or otherwise transfer for consideration (collectively, "sell"), gift, bequeath, or otherwise transfer for no consideration (whether or not by operation of law, except in the case of bankruptcy) all or any part of its Membership Interest or Economic Interest.
- b. Gift of Membership Interest. A Transferring Member may gift all or any portion of its Membership Interest, provided that the donee or other successor-in-interest (collectively, "donee") is either the Gifting Member's spouse, former spouse, or lineal descendent (including adopted children) and provided that it is done in accordance with this Agreement and all state law requirements are met.
- c. Sale of Membership Interest. If a Selling Member desires to sell all or any portion of its Membership Interest or Economic Interest to another person, the Selling Member shall obtain from such purchaser a bona fide written offer to purchase such interest, stating the terms and conditions upon which the purchase is to be made. The Selling Member shall give written Notice to the remaining Members of its intention to so transfer such interest, with a copy of such bona fide written offer to purchase such interest.
- d. First Refusal. Each of the remaining Members, on a basis pro rata to their Capital Interests or on a basis pro rata to the Capital Interests of those remaining Members exercising their right of first refusal, shall have the right to exercise a right of first refusal to purchase all (but not less than all) of the interest proposed to be sold by the Selling Member upon the same terms and conditions as stated in the bona fide written offer to purchase by giving Notice to the Selling Member of their intention to do so within sixty (60) days after receiving written notice from the Selling Member. The failure of the remaining Members to so notify the Selling Member of their desire to exercise this right of first refusal with respect to all of the interest desired to be sold within said period of days shall result in the

termination of the right of first refusal, and the Selling Member shall be entitled to consummate the sale of its interest in the Company, or such portion of its interest, if any, with respect to which the right of first refusal has not been exercised, to such third party purchaser.

e. Closing. In the event the remaining Members (or any one or more of the remaining Members) give written notice to the Selling Member of their desire to purchase all of the Selling Member's interest in the Company which the Selling Member desires to sell upon the same terms and conditions as are stated in the aforesaid written offer to purchase, the remaining Members shall have the right to designate the time, date and place of closing, provided that the date of closing shall be no later than the date set forth for closing in the bona fide offer or within sixty (60) days after receipt of written notification from the Selling Member of the third party offer to purchase.

f. Conditions of Transfer. In the event of either the purchase of the Selling Member's interest in the Company by a third party purchaser or a gift of an interest in the Company (including an Economic Interest), and as a condition to recognizing one or more of the effectiveness and binding nature of any such sale or gift and (subject to this Operating agreement) substitution of a new Member as against the Company or otherwise, the Managers may require the Selling Member or Gifting Member and/or the proposed purchaser, donee or successor-in-interest, as the case may be, to execute, acknowledge and deliver to the remaining Members, such instruments of transfer, assignment and assumption and such other certificates, representations and documents, and to perform all such other acts which the Managers may deem necessary or desirable to:

1. constitute such purchaser, as a Member, donee or successor-in-interest as such;
2. confirm that the person desiring to acquire an interest or interests in the Company, or to be admitted as a Member, has accepted, assumed and agreed to be subject to and

bound by all of the terms, obligations and conditions of the Operating Agreement, as the same may have been further amended (whether such Person is to be admitted as a new Member or will merely be an Economic Interest Owner);

3. preserve the Company after the completion of such sale, transfer, assignment, or substitution under the laws of each jurisdiction in which the Company is qualified, organized or does business;

4. maintain the status of the Company as an LLC for federal tax purposes;

5. assure compliance with any applicable state and federal laws, including securities laws and regulations.

g. **Effective Date.** Any sale or gift of a Membership Interest or Economic Interest or admission of a Member in compliance with this Article XI shall be deemed effective as of the last day of the calendar month in which the remaining Members' consent thereto was given or, if no such consent was required pursuant to Section 11(d.), then on such date that the donee or successor interest complies with the provisions of Section 11(f.). The Selling Member agrees, upon request of the Managers, to execute such certificates or other documents and perform such other acts as may be reasonably requested by; the Managers from time to time in connection with such sale, transfer, assignment or substitution. The Selling Member hereby indemnifies the Company and the remaining Members against any and all loss, damage or expense (including, without limitation, tax liabilities or loss of tax benefits) arising directly or indirectly as a result of any transfer or purported transfer in violation of this **Article XI**.

h. **Transferee Not Member in Absence of Unanimous Consent.** Notwithstanding anything contained herein to the contrary (including, without limitation, Section 11 (c.) hereof), if all of the remaining Members do not approve by unanimous consent of the proposed sale or

gift of the Transferring Member's Membership Interest or Economic Interest to a transferee or donee which is not a Member immediately prior to the sale or gift, then the proposed transferee or donee shall have no right to participate in the management of the business and affairs of the Company or to become a Member. The transferee or donee shall be merely an Economic Interest Owner. No transfer of a Member's interest in the Company shall be effective unless and until written notice has been provided to the Company and the non-transferring Members. Notice shall include the name and address of the proposed transferee or donee and the date of such transfer. This provision shall include any transfer of an Economic Interest or any other transfer which has not been approved by unanimous written consent of the Members

i. Remaining Rights. Upon and contemporaneously with any sale or gift of a Transferring Member's Economic Interest in the Company which does not at the same time transfer the balance of the rights associated with the Economic Interest transferred by one Transferring Member (including, without limitation, the rights of the Transferring Member to participate in the management of the business and affairs of the Company), the Company shall purchase from the Transferring Member, and the Transferring Member shall sell to the Company, for a purchase price of One Hundred U.S. Dollars (U.S. \$100.00), all remaining rights and interest retained by the Transferring Member which immediately prior to such sale or gift were associated with the transferred Economic Interest.

ARTICLE XII

Admitting Additional Members

a. Admission of New Members or Assignees. From the date of the formation of the Company, any Person or Entity acceptable to the Members by their unanimous vote thereof may become a Member in the Company, subject to the terms and conditions of this Operating Agreement, either by the issuance by the Company of Membership Interests for

such consideration as the Members, by their unanimous votes, shall determine, or as an Assignee of a Member's Membership Interest or a portion thereof.

b. No Retroactive Allocations. No new Members shall be entitled to any retroactive allocation of losses, income or expense deductions incurred by the Company. At the time a Member is admitted, the Manager or Managers may, at his or their option, close the Company books (as though the Company's tax year had ended) or make pro rata allocations of loss, income and expense deductions to a new Member for that portion of the Company's tax year (admittance year) in accordance with the Provisions of Section 706(d) of the Code and the Treasury Regulations promulgated thereunder.

ARTICLE XIII

Dissociation of Members

a. Dissociation. A Person shall cease to be a Member upon the happening of any of the following events (a "Withdrawal Event").

1. The withdrawal of a Member with the consent of a Majority of the remaining Members. Consent of the Majority shall no longer be necessary after May 30, 2009.
2. A Member becoming a Bankrupt Member;
3. In the case of a Member who is a natural person, the death of the Member or the entry of an order by a court of competent jurisdiction adjudicating the Member incompetent to manage the Member's personal financial affairs;
4. In the case of a Member who is acting as a Member by virtue of being a trustee of a trust, the termination of the trust (but not merely the substitution of a new trustee);

5. In the case of a Member which is a separate Organization other than a corporation, the dissolution and commencement of winding up of the separate Organization;

6. In the case of a Member that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter; or

7. In the case of a Member which is an estate, the distribution by the fiduciary of the estate's entire interest in the limited liability company.

b. If the dissociation causes a dissolution and winding up of the Company under **Article XIV**, the Member shall be entitled to participate in the winding up of the Company to the same extent as any other Member, except that any Distributions to which the member would have been entitled shall be reduced by the damages sustained by the Company as a result of the Dissolution and winding up.

c. If the dissociation does not cause a dissolution and winding up of the Company under Article XIV, the Member shall be entitled to an amount equal to the value of the Member's Membership Interest in the Company, to be paid within six (6) months of the date of dissociation. Notwithstanding the foregoing, if the dissociation is other than as a result of the death or incompetence of the Member, the Managers may pay the value of the Member's Membership Interest in the Company out over a period not to exceed five (5) years, provided that the dissociating Member shall be entitled to participate as an Assignee in the Company until the value of such interest (plus interest at the Default Interest Rate) is paid in full. The value of the Member's Membership Interest shall include the amount of any Distributions to which the Member is entitled under the Agreement and the fair value of the Member's Membership Interest as of the date of dissociation, based upon the Member's right to share in distributions from the Company, reduced by any damages sustained by the Company as a result of the Member's dissociation.

d. If the dissociation is a consensual withdrawal pursuant to Section 13(a.), then the disposition of the Member's interest shall be provided in the terms of the consent to withdraw.

ARTICLE XIV

Dissolution and Winding Up

a. Dissolution. The Company shall be dissolved and its affairs shall be wound up upon the first to occur of the following Dissolution Events:

1. The latest date on which the Company is to dissolve, if any, as set forth in the Articles of Organization;
2. The vote or written consent of Members who own at least a majority of the Membership Interest ; or

b. Remaining Members' Option to Continue. The dissociation of any Member or any other event that terminates the continued membership of any Member, unless within one hundred eighty (180) days after such event, the Company is continued by the vote or written consent of a Majority Interest of all the remaining Members. Each of the Members hereby agrees that within ninety (90) days after the occurrence of a Withdrawal Event (and provided that there are then at least two (2) remaining Members of the Company), they will promptly consent, in writing, to continue the business of the Company. Such consents shall be mailed or hand delivered to the principal place of business of the Company, or to such other address designated by the Managers, no later than ninety (90) days after each Withdrawal Event or transfer by a Member of its entire Economic Interest or Membership Interest. The sole remedy for breach of a Member's obligation under this Section shall be monetary damages and not specific performance.

c. Winding Up. Upon the dissolution of the Company, the Managers may, in the name of and for and on behalf of the Company, prosecute and defend suits, whether civil, criminal, or administrative, sell and close the Company's business, dispose of and convey the Company's property, discharge the Company's liabilities, and distribute to the Members any remaining assets of the Company, all without affecting the liability of Members. Upon winding up of the Company, the assets shall be distributed as follows:

1. To creditors, including any Member who is a creditor, to the extent permitted by law, in satisfaction of liabilities of the Company, whether by payment or by establishment of adequate reserves, other than liabilities for distributions to Members;
2. To Members and former Members in satisfaction of liabilities for Distributions; and
3. To Members and owners of Economic Interests, first for the return of their Capital Contributions, to the extent not previously returned, and second, respecting their Membership Interests, in the proportions in which the Members share in Distributions in accordance with this Agreement.

d. Articles of Dissolution. Within ninety (90) days following the dissolution and the commencement of winding up of the Company, or at any other time there are no Members, the Manager shall file articles of dissolution with the appropriate state agency, pursuant to that state's laws.

e. Deficit Capital Account. Upon a liquidation of the Company within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations, if any Member has a Deficit Capital Account (after giving effect to all contributions, distributions, allocations and other adjustments for all Fiscal Years, including the Fiscal Year in which such liquidation occurs), the Member shall have no obligation to make any Capital Contribution, and the negative

balance of any Capital Account shall not be considered a debt owed by the Member to the Company or to any other Person for any purpose.

f. Non-Recourse to Other Members. Except as provided by applicable law or as expressly provided for in this Agreement, upon dissolution, each Member shall receive a return of his, her, or its Capital Contribution solely from the assets of the Company. If the assets of the Company are insufficient to return any Capital Contribution of any Member, such Member shall have no recourse, legal or otherwise, against any other Member.

g. Termination. Upon completion of the dissolution, winding up, liquidation, and distribution of the assets of the Company, the Company shall be deemed terminated.

ARTICLE XV

General Provisions

a. Notices. Any notice, demand or other communication required or permitted to be given pursuant to this Agreement shall have been sufficiently given for all purposes if it is in writing and (a) delivered personally to the party or to an executive officer of the party to whom such notice is directed or (b) sent by messenger, or (c) by overnight courier, or (d) by registered or certified mail, postage prepaid, addressed to the Member, Manager or the Company at his/her/its address as set forth in this Agreement or at the address as the Member manager or Company notices for such deliveries of notices. Except as otherwise provided for in this Agreement, any such notice shall be deemed to be given upon delivery, except if sent by registered or certified mail, five (5) days after the postmarked date.

b. Entire Agreement and Amendments. This Agreement contains the entire agreement among the Members with respect to the subject matter of this Agreement, and supersedes each course of conduct previously pursued or acquiesced in, and each oral agreement and representation previously made, by the Members with respect thereto, whether or not

relied or acted upon. No course of performance or other conduct subsequently pursued or acquiesced in, and no oral agreement or representation subsequently made, by the Members, whether or not relied or acted upon, and no usage of trade, whether or not relied or acted upon, shall amend this Agreement or impair or otherwise affect any Member's obligations pursuant to this Agreement or any right and remedies of a Member pursuant to this Agreement. No amendment to this Agreement shall be effective unless made in writing duly executed by all Members and specifically referring to each provision of the Agreement which is being amended.

c. No Partnership Intended for Non-Tax Purposes. The Members have formed the Company under applicable state law, and expressly do not intend hereby to form a partnership under state law. The Members do not intend to be partners, one to another, or partners as to any third party. To the extent any Member, by work or action, represents to another person that any other Member is a partner or that the Company is a partnership, the Member making such wrongful representation shall be liable to any other Member who incurs personal liability by reason of such wrongful representation.

d. Creditors and Third Party Rights. The Agreement is entered into among the Company and the Members for the exclusive benefit of the Company, its Members, and their successors and assignees. The Agreement is expressly not intended for the benefit of any creditor of the Company or any other Person. Except and only to the extent provided by applicable statute, no such creditor or third party shall have any rights under the Agreement or any agreement between the Company and any Member with respect to any Capital Contribution or otherwise.

e. Execution of Additional Instruments. Each Member hereby agrees to execute such other and further statements of interest and holdings, designations, powers of attorney and other instruments necessary to comply with any laws, rules, or regulations.

f. Telephonic Conferences. The Members and/or Managers may participate in a meeting of Members or a meeting of Managers, as the case may be, by means of conference telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence of the Person at the meeting.

g. Construction. Whenever the singular number is used in this Agreement, and when required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

h. Headings. The headings in this Agreement are for convenience only and shall not be used to interpret or construe any provision of this Agreement.

i. Waiver. No failure of a Member to exercise, and no delay by a Member in exercising, any right or remedy under this Agreement shall constitute a waiver of such right or remedy. No waiver by a Member of any such right or remedy under this Agreement shall be effective unless made in a writing duly executed by all Members and specifically referring to each such right or remedy being waived.

j. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable laws. However, if any provision of this Agreement shall be prohibited by or invalid under such law, it shall be deemed modified to conform to the minimum requirements of such law. If for any reason it is not deemed so modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any other such provision being prohibited or invalid.

k. Binding. This Agreement shall be binding upon and insure to the benefit of all Members, and each of the successors and assignees of the Members, except that right or obligation of

a Member under this Agreement may be assigned by such Member to another Person without first obtaining the written consent of all other Members.

l. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

m. Governing Law. This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of Delaware, without regard to principles of conflict of laws.

IN WITNESS WHEREOF, the individuals and entities signing this Agreement below conclusively evidence their agreement to the terms and conditions of this Agreement by so signing this Agreement.

Thomas Lintner

Signature

Date

Thomas Michael Lintner
Printed Name

Terry Eisenbart

Signature

Date

Terry Lee Eisenbart
Printed Name

EXHIBIT A

Initial Members

Name: Thomas Michael Lintner

Address: 23650 Havelock Walk Ter Unit 401
Ashburn, VA 20148

Name: Terry Lee Eisenbart

Address: 1575 W. Ella Dr.
Corrales NM 87048-7240

EXHIBIT B

Managers

Name:

Address:

Relative's Address:

Name:

Address:

Relative's Address:

Name:

Address:

Relative's Address:

Name:

Address:

Relative's Address:

EXECUTION

In accordance with 28 U.S.C. § 1746, and subject to the penalties of 18 U.S.C. § 1001 and 22 U.S.C. § 618, the undersigned swears or affirms under penalty of perjury that he/she has read the information set forth in this statement filed pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.*, that he/she is familiar with the contents thereof, and that such contents are in their entirety true and accurate to the best of his/her knowledge and belief.

Date

Printed Name

Signature

20 August '24

THOMAS LINTNER

