OPERATING AGREEMENT

FOR

A SINGLE-MEMBER LIMITED LIABILITY COMPANY

ARTICLE 1
Company Formation

1.01 **FORMATION.** The Member has formed a Limited Liability Company ("Company") subject to the laws of the State of North Carolina, including the North Carolina General Statutes (“the Statutes”) and the North Carolina Limited Liability Company Act (“the Act”). This Operating Agreement (“Agreement”) is adopted and effective upon adoption by the Member. This Agreement is intended to provide for the regulation and management of the affairs of the Company. Except for the provisions of the Act that specifically may not be modified by the Member, to the extent of any contradiction between the provisions of this Agreement and the Act or the variation of the general terms of the Act by this Agreement, the Member elects that the provisions of this Agreement shall govern and control.

1.02 **COMPANY NAME.** The Member may change the name of the Company or operate under different names, *provided* the name complies with Section 57D-2-21 of the Act and Sections 55D-20 and 55D-21 of the Statutes.

1.03 **REGISTERED OFFICE & AGENT.** The name and location of the registered agent will be as stated in the Company’s formation documents and complies with Section 57D-2-40 of the Act and Article 4 of Title 55D of the Statutes. Pursuant to Article 4 of Title 55D of the Statutes, the Member is obligated to maintain and update the business records on file with the Company’s registered agent.

1.04 **TERM.** Pursuant to Section 57D-2-01 of the Act, the Company will continue until:

(a) The Member elects for dissolution;

(b) An event occurs which causes the Company’s business to become unlawful; or

(c) Any other event causes the Company’s dissolution under the Act.

1.05 **BUSINESS PURPOSE.** The Company may conduct any and all lawful business appropriate in carrying out the Company's objectives, as permitted under Section 57D-2-01 of the Act.

1.06 **PRINCIPAL PLACE OF BUSINESS.** The Company's principal place of business will be as stated in the Company's formation documents or as selected by the Member.

1.07 **THE MEMBER.** The Member is the owner of the Company. Pursuant to Section 57D-2-30 of the Act, the Member is not entitled to compensation for services furnished to the Company in the Member's simple capacity as a Member.

An unauthorized transfer of the Member's interest could create a substantial hardship for the Company. Consequently, the Member consents to the restrictions and procedures affecting the ownership and transfer of the Member's interest as identified in Article VII. The Member acknowledges these restrictions are not intended to penalize, but rather are intended to protect and preserve the existing trust-based relationships, the Company's capital, and the Company's financial ability to continue its operations.

1.08 **ADMISSION OF ADDITIONAL MEMBERS.** Pursuant to Sections 57D-3-01 and 57D-3-03 of the Act and this Agreement, new Members may only be admitted to the Company through issuance of a new interest in the Company or the transfer of the Member's current interest under Article 7. Prior to being admitted as a new Member, the prospective Member(s) must: (i) provide evidence to the Company that the admission of the prospective Member(s) will not violate any securities law, alter the tax status of the Company, or cause the termination of the Company; (ii) provide proof that the prospective Member(s) can make the initial contribution, as agreed upon between the prospective Member(s) and the Member.

Any attempt to admit a new Member that deviates from this Section or Article VII will be null, void, and unenforceable against the Company or its Member.

ARTICLE 2
Capital Contributions

2.01 **INITIAL CONTRIBUTIONS.** Pursuant to Section 57D-4-01 of the Act, the Member will contribute the Company's initial capital as described in Exhibit 1 attached to this Agreement. The declared total value of such property and cash is _____.

2.02 **ADDITIONAL CONTRIBUTIONS.** The Member may elect to make an additional capital contribution. Contributions related to an authorized capital call should be memorialized.

2.03 **WITHDRAWAL OF CAPITAL.** The Member may not withdraw all or any part of its Capital Contribution, except as provided in Article 3 (regarding distributions generally) or Article 7 (regarding dissolution of the Company).

2.04 **RETURN OF CAPITAL CONTRIBUTIONS.** The Member agrees that if the Company does not have adequate assets to return the Capital Contributions, then the Member will not have any recourse against the Company.

ARTICLE 3
Profits, Losses, and Distribution

3.01 **PROFITS/LOSSES.** For accounting and tax purposes, the Company's net profits or net losses will be determined annually. As provided in Section 6.03, below, profits and losses will be allocated to the Member in accordance with Treasury Regulation 1.704-1.

3.02 **DISTRIBUTIONS.** Pursuant to Sections 57D-4-03 and 57D-4-05 of the Act, the Member may determine to distribute available funds annually or as the Member sees fit, *provided* that there remains sufficient funds to cover any debts or liabilities of the Company about which the Member knows or has reason to know or expect. "Available funds" means the Company's net cash available after expenses, working capital, and liabilities, as determined by the Member. Distributions in liquidation of the Company or in liquidation of a Member's interest must be made in accordance with the positive capital account balances pursuant to Treasury Regulation 1.704-1(b)(2)(ii)(b)(2). To the extent the Member has a negative capital account balance, there will be a qualified income offset, as set forth in Treasury Regulation 1.704-1(b)(2)(ii)(d).

3.03 **IN-KIND DISTRIBUTIONS.** Subject to Section 57D-4-04 of the Act, the Company may make in-kind distributions of the Company assets. The Member must record such an in-kind distribution in the Company's books. The fair market value of the property must be determined before the distribution is made. The Member's capital account shall be adjusted to reflect the value of the in-kind distribution.

3.04 **NO INTEREST.** No interest shall accrue on any un-withdrawn distribution.

3.05 **WITHHOLDINGS**. The Company is authorized to withhold from payments, allocation, or distributions to the Member, and to pay over to any federal, state, or local government any amounts required to be so withheld pursuant to the Act or any provision of any other federal, state or local law. All amounts withheld pursuant to this Section 3.05 with respect to any payment, distribution, or allocation to the Member will be treated as amounts paid or distributed to such Member for all purposes of this Agreement and the Act.

ARTICLE 4
Management

4.01 **MANAGEMENT OF THE BUSINESS.** Pursuant to Section 57D-3-20 of the Act, and as stated in its Articles, the Company's day to day affairs are managed by the Member. The Member is responsible for the daily operations of the business.

4.02 **APPOINTING OFFICERS.** The Member may appoint officers or managers and define their function and authority per Section 57D-3-22 of the Act.

4.03 **MEMBER LIABILITY.** To the extent permitted under Section 57D-3-30 of the Act, the Member shall not be personally liable for the obligations of the Company. Pursuant to Section 57D-3-20 of the Act, the Member may take any part in the control, management, direction, or

operation of the Company's affairs and has the power to bind the Company. Any agreement must be signed by the Member to legally bind the Company.

4.04 **POWERS OF THE MEMBER.** Pursuant to Section 57D-3-20 of the Act, the Member is authorized:

(a) to make all decisions regarding the Company's operations and legal affairs, including but not limited to:

i. the sale, development, lease, or other disposition of the Company's assets;

ii. the purchase or acquisition of other assets;

iii. the management of all or any part of the Company's assets;

iv. the borrowing of money and granting of security interests in the Company's assets;

v. the pre-payment, refinancing, or extension of any loan affecting the Company's assets;

vi. the compromise or release of any of the Company's claims or debts; and

vii. the employment of persons, firms, or corporations for the operation and management of the Company's business; ***and***

(b) to execute and deliver:

i. all contracts, conveyances, assignments, leases, sub-leases, franchise agreements, licensing agreements, management contracts, and maintenance contracts covering or affecting the Company's assets;

ii. all checks, drafts, and other orders for the payment of the Company's funds;

iii. all promissory notes, loans, security agreements and other similar documents; and

iv. all other instruments of any kind relating to the Company's business and affairs.

4.05 **NOMINEE.** Title to the Company's assets will be held in the Company's name or in the name of any nominee that the Member may designate. The Member has the power to enter into a nominee agreement with any person, and such agreement may contain provisions indemnifying the nominee, except for their willful misconduct.

4.06 **FIDUCIARY RESPONSIBILITIES.** The Member will exercise all powers and perform all duties in good faith and shall act in all matters consistent with the duty of loyalty and the duty of care. Pursuant to Section 57D-3-21 of the Act, the Member acts in good faith if acting with a view to the interests of the limited liability company and with the degree of diligence, care and skill that ordinarily prudent persons would exercise in similar circumstances.

4.07 **PERMITTED TRANSACTIONS.** The Member is free to engage in any activity on its own or by the means of any entity. The Member's fiduciary duty of loyalty, as it applies to outside business activities and opportunities, and the "corporate opportunity doctrine," as such doctrine may be described under general corporation law, is hereby eliminated to the maximum extent allowed by the Act.

4.08 **EXCULPATION.** Pursuant to Section 57D-3-30 of the Act, the Member will not be personally liable, directly or indirectly, for any debt, obligation, or liability of the Company by sole reason of a being a Member. Any debt, obligation, or liability of the Company is strictly and solely the liability of the Company. Any act or omission by the Member which causes or results in loss or damage to the Company, if done in good faith to promote the best interests of the Company, will not subject the Member to any liability, so long as the Member's conduct does not conflict with Article 4 of this Agreement or Sections 57D-3-21 or 57D-4-06 of the Act.

4.09 **INDEMNIFICATION.** Subject to Section 57D-3-31 of the Act, the Company will indemnify any person who was or is a party defendant or is threatened to be made a party defendant, in a pending or completed proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Company) by reason of the fact that the person is or was a Member of the Company, employee, or agent of the Company, or is or was serving at the request of the Company. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of "nolo contendere" (or its equivalent) does not imply that the person did or did not act in good faith and in a manner which they reasonably believed to be lawful and in the best interest of the Company. Notwithstanding the other provisions of this Section, the Company will only indemnify someone under this Section if that conduct of that person does not conflict with Sections 57D-3-21 or 57D-4-06 of the Act and Article 4 of this Agreement.

ARTICLE 5
Compensation

5.01 **MANAGEMENT FEE.** The Member rendering services to the Company is entitled to compensation equal to the value of those services.

5.02 **REIMBURSEMENT.** The Company will reimburse the Member for direct out-of-pocket expenses reasonably incurred in managing the Company.

ARTICLE 6
Bookkeeping

6.01 **BOOKS.** Per Section 57D-3-04 of the Act, the Member will maintain complete and accurate accounting of the Company's affairs at the Company's principal place of business or other location selected by the Member. The Member will choose the method of accounting. The Company's accounting period will be the calendar year.

6.02 **RECORDS.** The Member will keep at the Company's principal place of business:

(a) The full name and the last known street address of the Member;

(b) A copy of all formation documents, this Agreement, and any amendments;

(c) Copies of the Company's federal, state, and local income tax returns and reports, if any, for the three (3) most recent years;

(d) Copies of any resolutions of the Member; and

(e) Copies of the Company's financial statements for the three (3) most recent years.

6.03 **MEMBER'S ACCOUNTS.** The Member will maintain separate capital and distribution accounts. The Member's capital account will be determined and maintained in the manner set forth in Treasury Regulation 1.704-1(b)(2)(iv), each capital account will consist of the Member's initial capital contribution:

(a) *increased by:*

i. Any additional capital contribution made by the Member;

ii. Credit balances transferred from the Member's distribution account to his or her capital account; ***and***

(b) *decreased by:*

i. Distributions to the Member in reduction of Company capital;

ii. The Member's share of Company losses if charged to his or her capital account.

6.04 **REPORTS.** The Member will close the books after the close of each calendar year, and must prepare a statement of the Member's income and expenses for income tax reporting purposes.

ARTICLE 7
Dissolution

7.01 **ASSIGNMENT.** Pursuant to Article 5 of the Act, the Member is permitted to sell, assign, or otherwise dispose of all or part of its interest in the Company.

7.02 **DISSOLUTION.** The Member may dissolve the Company at any time. Consistent with Section 57D-6-01 of the Act, the Company shall be dissolved if there is no Member for a consecutive period of ninety (90) days.

7.03 **DISTRIBUTIONS AFTER DISSOLUTION.** Upon dissolution, the Company must pay its debts before distributing cash, assets, or capital to the Member or the Member's interests. The Member agrees that any distributions occurring after the dissolution of the Company will follow the process outlined in this Agreement and Section 57D-6-07 of the Act.

ARTICLE 8
General Matters

8.01 **BINDING EFFECT.** This Agreement binds and inures to the benefit of the Member and to its respective successors, personal representatives, heirs, and assigns.

8.02 **CONSTRUCTION OF HEADINGS.** The headings contained in this Agreement are included solely for the reader's convenience and reference.

8.03 **AMENDING OPERATING AGREEMENT.** This Agreement may only be amended as authorized by the Member.

8.04 **GOVERNING LAW.** Pursuant to Section 57D-1-02 of the Act, the Member acknowledges and agrees this Agreement is and will be governed, construed, and administered according to the laws of the State of North Carolina, as they may be amended from time to time.

8.05 **COMPLIANCE WITH THE ACT.** All matters related to the operations of the Company not specifically addressed herein must be addressed in accordance with the Act. The Company must comply with all other provisions of the Act in order to stay compliant with the law.

8.06 **SEVERABILITY.** If a court of competent jurisdiction determines that any provision of this Agreement is invalid, then the remaining provisions are to be construed as if the invalid provision was never included.

8.07 **VENUE.** The venue for any dispute arising under this Agreement will be the county in which the Registered Office is located.

8.08 **ENTIRE AGREEMENT.** This Agreement, together with the Articles of Organization (as may be amended) and all related exhibits, schedules, attachments, et cetera, constitute the sole and entire agreement of the Member. This Agreement supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, written or oral, with respect to the subject matter.

CERTIFICATION OF SOLE MEMBER

The undersigned hereby agrees, acknowledges, and certifies that the foregoing Operating Agreement is adopted and approved by the Member as of the ___ day of _____, 20___.

Member:

_____
Signature

_____
Printed Name
Percent: **100%**
Address: _____

EXHIBIT 1
CAPITAL CONTRIBUTIONS

Pursuant to ARTICLE II, the Member's initial contribution to the Company capital is stated to be $_____. The description and each individual portion of this initial contribution is as follows:

_____ $_____

_____ $_____

_____ $_____

_____ $_____

_____ $_____

_____ $_____

_____ $_____

_____ $_____

_____ $_____

SIGNED AND AGREED this _____ day of _____, 20____.

_____
Member

LLC Resolution to Open a Bank Account

Account: _____ Bank Name: _____
Holder: _____ Address: _____
_____ _____

Acct #:_____

As a Member of the LLC named above, I certify that the LLC has been organized within the bounds of state law as an LLC with its principal office located at:

_____

I further attest that at the initial meeting of the LLC's members was held on_____, a quorum was present, and voting and adopted the following resolutions:

Resolved, that the financial institution named above is designated as a depository for the funds of this LLC, which may be withdrawn on checks, drafts, debit advices, notes, or other orders for payments bearing any officer, manager, or authorized employee of this LLC.

Further Resolved, that the financial institution will accept and pay on, without further inquiry, any checks or debits drawn against any of the LLC's accounts. The checks or debits will be honored by the financial institution whether the item has been drawn or endorsed to the order of any authorized officer, manager, or employee signing; tendered by the authorized officer, manager, or employee for the purpose of cashing or payment; or for deposit to the officer's, manager's, or employee's personal account. The financial institution will not be required to inquire as to the use of any check or debit signed in accordance with the resolutions contained herein.

Further Resolved, that the officers, managers, or authorized employees may execute other agreements, including, but not limited to, special depository agreements, and arrangements concerning the manner, condition, and/or purposes for which funds, checks, debits, or items of the LLC may be deposited, collected, or withdrawn, as long as these other agreements are not contrary to the provisions contained in this resolution.

Further Resolved, that the power granted to the LLC's officers, managers, or authorized employees will remain in full force and effect until written notice has been delivered and received by the financial institution at each location where an account is maintained. The financial institution will be indemnified and held harmless from any losses suffered or liabilities incurred by continuing to act in accordance with this resolution.

I Further Attest that the person(s) named below occupy the stated position, as indicated by their signature, and that the resolutions contained in this document are recorded on the books of the LLC, and these resolutions are in full force and effect and have not been altered in any way.

CERTIFIED AND ATTESTED TO ON THIS _____ DAY OF _____, 20___, BY:

X_____

LLC MEMBER