EXECUTION

LEXINGTON MACHINING LLC

LIMITED LIABILITY COMPANY AGREEMENT

Dated as of August 11, 2011

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LEXINGTON MACHINING LLC
a Delaware Limited Liability Company

LIMITED LIABILITY COMPANY AGREEMENT

THIS LIMITED LIABILITY COMPANY AGREEMENT of Lexington Machining LLC, a Delaware limited liability company (the "Company"), is made and entered into as of August 11, 2011, by and among each of Michael A. Lubin, Lubin Partners, LLC, a Delaware limited liability company, ORA Associates LLC, a New York limited liability company, and William B. Conner, Marilyn Lubin and Warren Delano(each of the aforesaid Persons being herein referred to individually as a "Class A Member" and collectively, as the "Class A Members"). The Class A Members and the Class B Members (as herein defined) shall constitute and may herein be referred to individually as the "Members".

PRELIMINARY STATEMENT

WHEREAS, a Certificate of Formation organizing the Company as a limited liability company under and pursuant to the Delaware Limited Liability Company Act was filed with the Secretary of State of the State of Delaware on July 25, 2011, with Michael A. Lubin serving as its managing member;

WHEREAS, each of the parties listed on Schedule I desires to become a Member of the Company and to acquire certain Units (as herein defined) in the Company; and

WHEREAS, in accordance with the Delaware Limited Liability Company Act, the Company and the Members desire to set forth their mutual understandings regarding the respective rights, powers and interests of the Members with respect to the Company and the respective Units therein and to provide for the management of the business and operations of the Company.

NOW, THEREFORE, in consideration of the mutual promises and agreements made herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I
GENERAL DEFINITIONS

Section 1.1 Definitions. As used in this Agreement, the following terms shall each have the meaning set forth in this Article I (unless the context otherwise requires):

"Act" means the Delaware Limited Liability Company Act, as it may be amended from time to time, and any successor to such Act.

"Additional Contribution" has the meaning specified in Section 4.2(a).

"Additional Contribution Request" has the meaning specified in Section 4.2(a).

"**Additional Tag-Along Units**" has the meaning specified in Section 6.4(c).

"**Adjusted Capital Account**" means, with respect to any Member, the balance, if any, in such Member's Capital Account as of the end of the relevant taxable year, after: (i) crediting to such Capital Account any amounts that such Member is treated as obligated to restore pursuant to Section 1.704-1(b)(2)(ii)(c) of the Treasury Regulations or the penultimate sentences of Sections 1.704-2(g)(1) and 1.704-2(i)(5) of the Treasury Regulations and (ii) debiting to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6) of the Treasury Regulations.

"**Adjusted Property**" means any property the Carrying Value of which has been adjusted pursuant to Section 4.4(e).

"**Affiliate**" shall mean with respect to a specified Person, any Person directly or indirectly controlling, controlled by or under common control with, the specified Person. For purposes of this Agreement, (a) "**control**" shall mean the ownership (directly or indirectly through another Affiliate) of a majority of the outstanding voting securities of such Person or the power to direct or cause the direction of the management and policies of such Person, either by serving (directly or indirectly through another Affiliate) as a general partner or managing member of such Person or by having (directly or indirectly through another Affiliate) the right to elect a majority of the members of such Person's board of directors, board of managers or other governing body, and (b) it shall be further understood that each Member Parent of a Member and its respective Affiliates shall be deemed to be Affiliates of such Member.

"**Agreed Value**" means the fair market value of Contributed Property, as determined by the Majority Vote of the Board of Directors using any reasonable method of valuation.

"**Agreement**" means this Limited Liability Company Agreement, including Schedule I, as originally executed and as subsequently amended from time to time in accordance with the provisions hereof.

"**Board of Directors**" means, at any time, the Board of Directors designated in accordance with Section 8.2.

"**Buyout Member**" has the meaning specified in Section 6.6(a).

"**Call Holder**" has the meaning specified in Section 6.6(c).

"**Call Notice**" has the meaning specified in Section 6.6(c).

"**Call Option**" has the meaning specified in Section 6.6(c).

"**Capital Account**" means the Capital Account maintained for each Member pursuant to Section 4.4 of this Agreement.

"**Capital Contribution**" means the total amount of cash and property, including Initial Capital Contributions, Mandatory Contributions, and Optional Additional Cash Contributions, if any, contributed to the Company or deemed contributed to the Company by all the Members or any one Member, as the case may be.

"**Carrying Value**" means (a) with respect to a Contributed Property, the Agreed Value of such property reduced (but not below zero) by all depreciation, cost recovery and amortization deductions charged to the Capital Accounts pursuant to Section 4.4(d) with respect to such property, as well as any other reductions as a result of sales, retirements and other dispositions of assets included in a Contributed Property, as of the time of determination, (b) with respect to an Adjusted Property, the value of such property immediately following the adjustment provided in Section 4.4(e) reduced (but not below zero) by all depreciation, cost recovery and amortization deductions charged to the Capital Accounts pursuant to Section 4.4(d) with respect to such property, as well as any other reductions as a result of sales, retirements or dispositions of assets included in Adjusted Property, as of the time of determination and (c) with respect to any other property, the adjusted basis of such property for federal income tax purposes as of the time of determination.

"**Certificate of Formation**" means the Certificate of Formation of the Company described in Section 2.1.

"**Chief Executive Officer**" has the meaning specified in Section 8.14.

"**Class A Member**" has the meaning specified in the first paragraph of this Agreement.

"**Class A Units**" means a Unit representing a fractional part of the ownership of the Company and having rights, powers, and duties specified with respect to Class A Units in Section 8.2 and as otherwise set forth in this Agreement. The number of a Member's Class A Units shall be set forth opposite such Member's name on Schedule I and be adjusted from time to time consistent with this Agreement.

"**Class B Director**" has the meaning specified in Section 8.2(a).

"**Class B Member**" means each Person who is the owner of a Class B Unit under this Agreement.

"**Class B Units**" means a Unit representing a fractional part of the ownership of the Company and having rights, powers, and duties specified with respect to Class B Units in Section 8.2 and as otherwise set forth in this Agreement. The number of a Member's Class B Units shall be set forth opposite such Member's name on Schedule I and be adjusted from time to time consistent with this Agreement.

"**Code**" means the Internal Revenue Code of 1986, as now in effect or as hereafter amended.

"**Company**" has the meaning specified in the first paragraph of this Agreement.

"**Company Intellectual Property**" has the meaning specified in Section 9.1(b).

"**Company Property or Properties**" means all interests, properties, whether real or personal, and rights of any type owned or held by the Company, whether owned or held by the Company at the date of its formation or thereafter acquired. Company Property shall include Company Intellectual Property.

"**Contributed Property**" means property or other consideration (other than cash) contributed to the Company.

"**Conversion**" has the meaning specified in Section 13.1(a).

"**Directors**" means at any time the Persons elected in accordance with Section 8.2 to serve on the Board of Directors.

"**Disposition**" has the meaning specified in Section 6.5.

"**Distributable Funds**" means all proceeds received (or released from reserves) by the Company during any period (including all interest income from temporary investments made by the Company pending distribution of the foregoing proceeds), as reduced by funds used during such period (a) to pay all costs and expenses incurred during such period, including all expenses incurred in any sale or disposition transaction, (b) to discharge during such period any indebtedness or liabilities of the Company for which such proceeds are to be used and (c) to create or increase during such period such reserves as the Board of Directors may determine for the discharge of known or existing liabilities or obligations of the Company or otherwise for the Company's present or future obligations, needs or business opportunities.

"**Drag Along Right**" has the meaning specified in Section 6.5.

"**Eligible Buyout Member**" has the meaning specified in Section 6.6(a).

"**Initial Capital Contribution**" has the meaning specified in Section 4.1.

"**Initial Public Offering**" has the meaning specified in Section 13.1(a).

"**Intellectual Property**" means all domestic and foreign copyrights, copyrightable works, and mask work, whether registered or unregistered, and registrations and pending applications to register the same; patents, patent applications, continuations, continuations-in-part, divisions, reissues, reexaminations, extensions, patent disclosures, inventions (whether or not patentable or reduced to practice) and improvements thereto; trademarks, service marks, logos, trade dress, trade names and corporate names, domain names and universal resource locators, whether registered or unregistered, and registrations and pending applications to register the foregoing; confidential ideas, trade secrets, know-how, concepts, methods, processes, formulae, reports, data, customer lists, supplier lists, mailing lists, business plans or other proprietary information; and all agreements, contracts, licenses, sublicenses, assignments and indemnities which relate or pertain to any of the foregoing.

"**Liquidator**" has the meaning specified in Section 12.2(a).

"**Majority Vote**" means, (i) with respect to actions to be taken by the Board of Directors, the affirmative vote or consent of at least a majority of the Directors present at a meeting of the Board of Directors at which a quorum is present and (ii) with respect to actions to be taken by the Members, the affirmative vote or consent of Class A Members holding at least a majority of the outstanding Class A Units.

"**Member**" has the meaning specified in the first paragraph of this Agreement.

"**Member Buyout Notice**" has the meaning specified in Section 6.6(c).

"**Member Nonrecourse Debt**" means any liability (or portion thereof) of the Company that constitutes debt which, by its terms, is nonrecourse to the Company and the Members for purposes of Section 1.1001-2 of the Treasury Regulations, but for which a Member bears the economic risk of loss, as determined under Section 1.704-2(b)(4) of the Treasury Regulations.

"**Member Nonrecourse Debt Minimum Gain**" means an amount of gain characterized as "partner nonrecourse debt minimum gain" under Section 1.704-2(i)(2) and 1.704-2(i)(3) of the Treasury Regulations. Subject to the preceding sentence, Member Nonrecourse Debt Minimum Gain shall mean an amount, with respect to each Member Nonrecourse Debt, equal to the Minimum Gain that would result if such Member Nonrecourse Debt were treated as a Nonrecourse Liability.

"**Membership Interest**" means, with respect to any Member, the interest of such Member in the Company as set forth on Schedule I, as amended from time to time, including all management rights, voting rights or rights to consent and such other rights, benefits and obligations resulting from ownership of Membership Interests under this Agreement. Fractional Membership Interests shall be permitted. A Member's Membership Interest shall be reflected in its Units.

"**Minimum Gain**" means the amount determined by computing with respect to each Nonrecourse Liability of the Company the amount of gain, if any, that would be realized by the Company if it disposed of the property securing such liability in full satisfaction thereof, and by then aggregating the amounts so computed.

"**Newco**" has the meaning specified in Section 13.1(a).

"**Nonrecourse Liability**" means a liability (or that portion of a liability) with respect to which no Member bears the economic risk of loss as determined under Section 1.704-2(b)(3) of the Treasury Regulations.

"**Notification**" means all notices permitted or required to be given to any Person hereunder. Such Notifications must be given in writing and will be deemed to be duly given on the date of delivery if delivered in person or sent by facsimile transmission or email or on the earlier of actual receipt or three (3) days after the date of mailing if mailed by registered or certified mail, first class postage prepaid, return receipt requested, to such Person, at the last known address of such Person on the Company records.

"**Participating Member**" has the meaning specified in Section 4.2(b).

"**Percentage Interest**" means with respect to any Member, the percentage of the outstanding Units held by such Member, which percentage is set forth opposite such Member's name on Schedule I, as amended from time to time consistent with this Agreement.

"**Permitted Transfer**" shall mean a Public Sale or a Transfer of Units by a Member to an Affiliate of such Member.

"**Person**" means any general partnership, limited partnership, limited liability partnership, corporation, limited liability company, joint venture, trust, business trust, governmental agency, cooperative, association, individual or other entity, and the heirs, executors, administrations, legal representatives, successors and assigns of such person, as the context may require.

"**Proposal Notice**" has the meaning specified in Section 6.5.

"**Proposing Members**" has the meaning specified in Section 6.5.

"**Public Sale**" means any sale of Units (including Newco capital securities issued in connection with a Conversion) pursuant to a registration statement in compliance with the Securities Act or, if the Company satisfies the current public information requirements of Rule 144(c) in effect on the date of this Agreement, pursuant to Rule 144 promulgated under the Securities Act.

"**Purchaser**" has the meaning specified in Section 6.5.

"**Put Purchase Price**" has the meaning specified in Section 6.6(b).

"**Put Right**" has the meaning specified in Section 6.6(a).

"**Schedule I**" means the schedule attached hereto and labeled "Schedule I", as amended from time to time.

"**Section 705(a)(2)(B) Expenditure**" means any expenditure of the Company described in Section 705(a)(2)(B) of the Code and any expenditure considered to be an expenditure described in Section 705(a)(2)(B) of the Code pursuant to Section 704(b) of the Code and the Treasury Regulations thereunder.

"**Securities Act**" means the Securities Act of 1933, as amended.

"**Super-Majority Vote**" means, with respect to actions to be taken by the Board of Directors, the affirmative vote or consent of Directors representing at least seventy-five percent (75 %) of the Directors then serving on the Board of Directors.

"**Tag-Along Allotment**" means with respect to any Tag-Along Member, the percentage of the total Units of the Company held by such Tag-Along Member as of the close of business on the second day preceding the date on which the Tag-Along Notice is delivered.

"**Tag-Along Member**" has the meaning specified in Section 6.4(a).

"**Tag-Along Notice**" has the meaning specified in Section 6.4(a).

"**Tag-Along Response**" has the meaning specified in Section 6.4(c).

"**Tag-Along Sale**" has the meaning specified in Section 6.4(a).

"**Tax Matters Member**" has the meaning specified in Section 10.9.

"**Transfer**" has the meaning specified in Section 6.2.

"**Transfer Date**" has the meaning specified in Section 6.3(a).

"**Transfer Units**" has the meaning specified in Section 6.3(a).

"**Transfer Notice**" has the meaning specified in Section 6.3(a).

"**Transfer Price**" has the meaning specified in Section 6.3(a).

"**Transferee Party**" has the meaning specified in Section 6.3(a).

"**Transferring Member**" has the meaning specified in Section 6.3(a).

"**Treasury Regulations**" means the regulations promulgated by the U.S. Treasury Department pursuant to the Code.

"**Unit**" means a Membership Interest in the Company representing a fractional part of the entire ownership interest in the Company; provided that, any class or group of Units, including but not limited to the Class Units and the Class B Units, shall have the relative rights, powers, and duties set forth in this Agreement.

"**Unrealized Gain**" means the excess (attributable to a Company Property), if any, of the fair market value of such property as of the date of determination (as reasonably determined by the Board of Directors (or pursuant to the procedure specified in Section 4.3 under the circumstances described therein)) over the Carrying Value of such property as of the date of determination (prior to any adjustment to be made pursuant to Section 4.4(e) as of such date).

"**Unrealized Loss**" means the excess (attributable to a Company Property), if any, of the Carrying Value of such property as of the date of determination (prior to any adjustment to be made pursuant to Section 4.4(e) as of such date) over its fair market value as of such date of determination (as reasonably determined by the Board of Directors (or pursuant to the procedure specified in Section 4.3 under the circumstances described therein)).

Section 1.2 Interpretation. Each definition in this Agreement includes the singular and the plural, and reference to the neuter gender includes the masculine and feminine where appropriate. References to any statute or Treasury Regulations means such statute or regulations as amended at the time and include any successor legislation or regulations. The headings to the Articles and Sections are for convenience of reference and shall not affect the

meaning or interpretation of this Agreement. Except as otherwise stated, reference to Articles, Sections and Schedules mean the Articles, Sections and Schedules of this Agreement. The Schedules are hereby incorporated by reference into and shall be deemed a part of this Agreement. For purposes of this Agreement, (i) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation," (ii) the word "or" is not exclusive and (iii) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole.

ARTICLE II
ORGANIZATION

Section 2.1 **Formation.** The Company has been organized as a Delaware limited liability company under and pursuant to the Act by the filing on July 25, 2011 of a Certificate of Formation with the Office of the Secretary of State of Delaware as required by the Act. In the event of a conflict between the terms of this Agreement and the Certificate of Formation, the terms of the Certificate of Formation shall prevail.

Section 2.2 **Name.** The name of the Company is Lexington Machining LLC. To the extent permitted by the Act, the Company may conduct its business under one or more assumed names deemed advisable by the Board of Directors by Majority Vote.

Section 2.3 **Purposes; Scope of Business.** The purposes of the Company are to engage in any activity and/or business for which limited liability companies may be formed under the Act. The Company shall have all the powers necessary or convenient to effect any purpose for which it is formed, including all powers granted by the Act.

Section 2.4 **Duration.** The Company shall continue in existence indefinitely, until dissolved and terminated in accordance with the Act or this Agreement.

Section 2.5 **Registered Office and Registered Agent; Principal Office.**
(a) The registered office of the Company required by the Act to be maintained in the State of Delaware shall be the initial registered office named in the Certificate of Formation or such other office (which need not be a place of business of the Company) as the Board of Directors by Majority Vote may designate from time to time in the manner provided by the Act.

(b) The registered agent of the Company in the State of Delaware shall be the initial registered agent named in the Certificate of Formation or such other Person or Persons as the Board of Directors by Majority Vote may designate in the manner provided by the Act.

(c) The principal office of the Company shall be at 677 Buffalo Road, Rochester, New York 14611 or at such place as the Board of Directors by Majority Vote may designate from time to time, which need not be in the State of Delaware, and the Company shall maintain records there for inspection as required by the Act. The Company may have such other offices as the Board of Directors by Majority Vote may designate from time to time.

Section 2.6 **No State-Law Partnership.** No provisions of this Agreement (including the provisions of Article VIII) shall be deemed or construed to constitute the Company a partnership (including a limited partnership) or joint venture, or any Member or

Director a partner or joint venturer of or with any other Member or Director, for any purposes other than federal and state tax purposes.

ARTICLE III
MEMBERS AND UNITS

Section 3.1 **Members**. The Members of the Company are listed on Schedule I of this Agreement and designated as Class A Members or Class B Members on such Schedule. The addresses of the Members are as set forth on such Schedule I. As of the date hereof, there are no other Members of the Company and no other Person has any right to take part in the ownership of the Company.

Section 3.2 **Admission of Additional Members**. One (1) or more additional Members of the Company may be admitted from time to time pursuant to Section 3.3, Section 3.4, Section 4.3(e), Section 6.7 or as otherwise contemplated by this Agreement. Any additional Member shall be designated as a Class A Member, a Class B Member or a member of such other class as the Board of Directors shall determine by Majority Vote and shall execute a counterpart of, or an agreement agreeing to be bound by, this Agreement. Upon admission as a Member, an additional Member shall have, to the extent of the Units acquired, the rights and powers and shall be subject to the restrictions and liabilities of a Member under this Agreement, the Certificate of Formation and the Act.

Section 3.3 **Authorized Units; General Provisions with Respect to Units.**

(a) The Company shall have the authority to issue Class A Units in exchange for Initial Capital Contributions as set forth in Section 4.1. The initial Class A Members are set forth on Schedule I hereto. The number of a Class A Member's initial Class A Units, initial Capital Account and Percentage Interest is or shall be set forth opposite such Member's name on Schedule I.

(b) The Company shall have the authority to issue Class B Units to any person providing services to the Company or providing benefits to the Company and may issue such Units pursuant to a grant agreement that provides for vesting of such Units over time and contains other terms and conditions. Notwithstanding any other provision of this Agreement, no Class B Units shall have voting rights with respect to the Company or this Agreement. The number of a Member's initial Class B Units, initial Capital Account and Percentage Interest shall be set forth opposite such Member's name on Schedule I.

(c) The Class B Units issued by the Company are intended to constitute tax-free "profits interests" for federal income tax purposes as described in IRS Revenue Procedures 93-27 and 2001-43 or any successor IRS authority. Any such Unit shall have an initial Capital Account of $0.

(d) By executing this Agreement, each Class A Member and Class B Member authorizes and directs the Company to elect to have the "safe harbor" described in the proposed Revenue Procedure set forth in IRS Notice 2005-43 (the "Notice") apply to any Class B Unit transferred to a person on or after the effective date of such Revenue Procedure in connection with the services provided to the Company. The Company and each Class A Member and Class

B Member agreed to comply with all requirements of such safe harbor, including any requirement that upon a forfeiture of Class B Units, Profit of the Company may have to be allocated to other Members to the extent the Capital Account associated with such forfeited Units is allocated to them.

(e) For the purposes of Article 8 of any Uniform Commercial Code, each Unit as may be evidenced by a unit certificate shall be deemed to be a security, as such term is defined in any such Uniform Commercial Code.

Section 3.4 Issuance of Additional Units; No Redemption Rights. (a) The Company shall issue additional Units pursuant to Section 4.3. Such Units shall be either Class A Units or Class B Units, as the case may be.

(b) In addition to Section 3.4(a), upon the approval of the Board of Directors by Majority Vote, the Company may issue additional Units to one or more Persons.

(c) No Member shall have the right to force or cause the Company to redeem, retire or otherwise repurchase any or all of such Member's Units.

ARTICLE IV
CAPITAL CONTRIBUTIONS

Section 4.1 Initial Capital Contributions. The initial contribution of each Member to the capital of the Company is set forth as such Member's initial Capital Contribution (the "Initial Capital Contribution") on Schedule I. Each Member holds the Units and Percentage Interest set forth opposite such Member's name on Schedule I. Schedule I shall be revised from time to time to reflect any changes in the Units and Percentage Interests held by the Members or the admission of any additional Members and the issuance of any additional Units.

Section 4.2 Additional Contributions. (a) On or after three months from the date of this Agreement, the Chief Executive Officer of the Company may from time to time deliver written requests (which may be made by electronic transmission) to the Class A Members (a "Additional Contribution Request") for additional cash contributions in an aggregate amount not to exceed $500,000; provided, that, unless otherwise agreed to by a Majority Vote of either the Board of Directors or the Members, the amount of any Additional Contribution Request shall not exceed the Company's reasonably anticipated cash needs for the ninety (90) day period following such request and no Additional Contribution Request may be delivered less than sixty (60) days after the previous Additional Contribution Request. Upon receipt of an Additional Contribution Request, each Class A Member shall have the right, but not the obligation, to deliver to the Company, within fifteen (15) days of receipt of the Additional Contribution Request, by wire transfer of immediately available funds to the account specified by the Company an amount equal to the aggregate amount requested in the Additional Contribution Request multiplied by such Member's Class A Units (an "Additional Contribution").

(b) In the event one (1) or more Members do not make such Member's full Additional Contribution when due, the Board of Directors shall make successive requests for Additional Contributions equal to the amount of the shortfall only from those Members that made their required Additional Contributions (each one, a "Participating Member"), and the

contribution date shall not be earlier than fifteen (15) days) after delivery of such request. Each Participating Member shall have a right to contribute cash in the amount of such shortfall determined on a pro rata basis in accordance with each such Participating Member's Units in the Company at the time of such request. If fewer than all Participating Members agree to contribute cash equal to their pro rata share of the shortfall, Participating Members may elect to contribute cash on a pro rata basis in accordance with each such Member's Percentage Interest in the Company. The successive requests provided by this subsection (b) may be continued until no Participating Member wishes to make an Additional Contribution. In making any request to satisfy a shortfall of Additional Contributions, the Board of Directors shall follow such procedures as it shall deem to be reasonable and fair to all Class A Members.

(c) Except as provided in this Section 4.2, no Member shall be obligated to make any contributions to the capital of the Company other than its Initial Capital Contribution.

Section 4.3 Failure to Make Additional Contributions. (a) At any time on or after the date specified in the Additional Contribution Request, any Class A Member or Class A Members may advance funds to the Company in an aggregate amount not exceeding the aggregate Additional Contributions requested in the Additional Contribution Request, upon such terms as the Board of Directors may approve. The Company shall repay any such advances from the proceeds of the Additional Cash Contributions, not later than five (5) days after such contributions are received by the Company.

(b) In the event that any Class A Member fails to make such Class A Member's full Additional Contribution, but other Class A Members or Persons make such contributions, the Percentage Interest of each Member shall be adjusted to reflect the outstanding Units of the Company and the Units held by each Member after giving effect to the issuance of Units in connection with the Additional Contributions consistent with this Section 4.3. Schedule I shall be amended to reflect the revised outstanding Units of each of the Members and each Member's revised Percentage Interest, which shall be adjusted so as to equal the ratio of such Member's aggregate Units to the aggregate amount of outstanding Units of all Members. Each Member shall be limited in its right to provide further additional capital in proportion to such Member's Percentage Interest as so revised.

Section 4.4 Capital Accounts. (a) A Capital Account shall be established and maintained for each Member. Each Member's Capital Account (i) shall be increased by (A) the amount of cash contributed or deemed contributed by that Member to the Company, (B) the Agreed Value of Contributed Property contributed or deemed contributed by that Member to the Company (net of liabilities secured by the Contributed Property that the Company is considered to assume or take subject to Section 752 of the Code) and (C) allocations to that Member of Company income and gain (or items thereof), including income and gain exempt from tax and income and gain described in Section 1.704-1(b)(2)(iv)(g) of the Treasury Regulations, but excluding income and gain described in Section 1.704-1(b)(4)(i) of the Treasury Regulations and (ii) shall be decreased by (A) the amount of cash distributed to that Member by the Company, (B) the fair market value of property distributed to that Member by the Company (net of liabilities secured by the distributed property that the Member is considered to assume or take subject to Section 752 of the Code), (C) allocations to that Member of Section 705(a)(2)(B) Expenditures and (D) allocations of Company loss and deduction (or items thereof), including

loss and deduction described in Section 1.704-1(b)(2)(iv)(g) of the Treasury Regulations, but excluding items described in clause (a)(ii)(C) of this paragraph and loss or deduction described in Section 1.704-1(b)(4)(i) or Section 1.704-1(b)(4)(iii) of the Treasury Regulations. The initial Capital Account of each Member is set forth on Schedule I hereto.

(b) Except as otherwise provided herein, whenever it is necessary to determine the Capital Account of any Member for purposes of this Agreement, the Capital Account of the Member shall be determined after giving effect to (i) all Capital Contributions made or deemed made to the Company on or after the date of this Agreement, (ii) all allocations of income, gain, deduction and loss pursuant to Article V for operations and transactions effected on or after the date of this Agreement and prior to the date such determination is required to be made under this Agreement and (iii) all distributions made or deemed made on or after the date of this Agreement and prior to the time as of which such determination is required to be made.

(c) Upon the Transfer of any Units in the Company after the date of this Agreement, if such Transfer does not cause a termination of the Company within the meaning of Section 708(b)(1)(B) of the Code, the Capital Account of the transferor Member that is attributable to the transferred interest will be carried over to the transferee Member but, if the Company has an election in effect under Section 754 of the Code, the Capital Account will be adjusted to reflect any adjustment required as a result thereof by the Treasury Regulations promulgated pursuant to Section 704(b) of the Code.

(d) The realization, recognition and classification of any item of income, gain, loss or deduction for Capital Account purposes shall be the same as its realization, recognition and classification for federal income tax purposes; provided, however, that:

(i) Any deductions for depreciation, cost recovery or amortization attributable to Contributed Property shall be determined for Capital Account purposes as if the adjusted tax basis of such property on the date it was acquired by the Company was equal to the Agreed Value of such property. Upon adjustment pursuant to Section 4.4(e) of the Carrying Value of the Company Property subject to depreciation, cost recovery or amortization, any further deductions for such depreciation, cost recovery or amortization shall be determined for Capital Account purposes as if the adjusted tax basis of such property was equal to its Carrying Value immediately following such adjustment. Any deductions for depreciation, cost recovery or amortization under this Section 4.4(d) shall be computed in accordance with Section 1.704-1(b)(2)(iv)(g)(3) of the Treasury Regulations.

(ii) Any income, gain or loss attributable to the taxable disposition of any property shall be determined by the Company as if the adjusted tax basis of such property as of such date of disposition was equal in amount to the Carrying Value of such property as of such date.

(iii) All items incurred by the Company that can neither be deducted nor amortized under Section 709 of the Code shall, for purposes of Capital Accounts, be treated as an item of deduction and shall be allocated among the Members pursuant to Article V.

(e) (i) Upon the contribution or deemed contribution to the Company by a new or existing Member of cash or Contributed Property as consideration for an interest in the Company (other than cash contributions made in proportion to the Members' Percentage Interests), the Capital Accounts of all Members and the Carrying Values of all Company Properties immediately prior to such contribution shall be adjusted (consistent with the provisions hereof and with the Treasury Regulations under Section 704 of the Code) upward or downward to reflect any Unrealized Gain or Unrealized Loss attributable to each Company Property, as if such Unrealized Gain or Unrealized Loss had been recognized upon an actual sale of each such Company Property immediately prior to such issuance and had been allocated to the Members in accordance with Article V of this Agreement.

(ii) Immediately prior to the distribution of any Company Property (other than cash) or the distribution of cash to a retiring or continuing Member as consideration for an interest in the Company, the Capital Accounts of all Members and the Carrying Value of all Company Property shall be adjusted (consistent with the provisions hereof and Treasury Regulations under Section 704 of the Code) upward or downward to reflect any Unrealized Gain or Unrealized Loss attributable to each Company Property, as if such Unrealized Gain or Unrealized Loss had been recognized upon an actual sale of each such Company Property immediately prior to such distribution and had been allocated to the Members at such time in accordance with Article V of this Agreement.

(f) In addition to the adjustments required by the foregoing provisions of this Section 4.4, the Capital Accounts of the Members shall be adjusted in accordance with the capital account maintenance rules of Section 1.704-1(b)(2)(iv) of the Treasury Regulations.

(g) The foregoing provisions of this Section 4.4 are intended to comply with Section 1.704-1(b)(2)(iv) of the Treasury Regulations and shall be interpreted and applied in a manner consistent with such Treasury Regulations. If the Board of Directors, by Majority Vote, shall determine that it is prudent to modify the manner in which the Capital Accounts are computed in order to comply with Section 1.704-1(b)(2)(iv) of the Treasury Regulations, the Board of Directors, by Majority Vote, may make such modification, provided that such modification is not likely to have a material effect on the amounts distributable to any Member pursuant to Article V and the Board of Directors provides a Notification to the Members of such modification prior to its effective date, and provided further that the Board of Directors shall have no liability to any Member for any failure to exercise any such discretion to make any modifications permitted under this Section 4.4(g).

Section 4.5 Return of Capital Contributions. Except as otherwise provided herein or in the Act, no Member shall have the right to withdraw, or receive any return of, all or any portion of such Member's Capital Contribution.

Section 4.6 Interest. No interest shall be paid by the Company on Capital Contributions or on balances in Members' Capital Accounts.

Section 4.7 Loans From Members. Loans by a Member to the Company shall not be considered Capital Contributions. If any Member shall advance funds to the Company in excess of the amounts required hereunder to be contributed by such Member to the

capital of the Company, the making of such advances shall not result in any increase in the amount of the Capital Account of such Member. The amounts of any such advances shall be a debt of the Company to such Member and shall be payable or collectible only out of the Company assets in accordance with the terms and conditions upon which such advances are made. The repayment of loans from a Member to the Company upon liquidation shall be subject to the order of priority set forth in Section 12.4.

ARTICLE V
ALLOCATIONS AND DISTRIBUTIONS

Section 5.1 Allocations of Profits. Except as otherwise provided in this Article V, items of income, gain, loss, expense and credit of the Company for the calendar year (or other accounting period as appropriate) shall be allocated to the Members for Capital Account and federal income tax purposes as follows.

(a) Subject to Sections 5.3 through 5.9 hereof, income and gain shall be allocated to the Members as follows:

(i) First, to offset any cumulative losses (net of prior allocations of income and gain under this Section 5.1(a)(i)) allocated pursuant to Section 5.1(b)(iii) among the Members in reverse order of priority as such losses being offset were allocated;

(ii) Second, to offset any cumulative losses (net of prior allocations of income and gain under this Section 5.1(a)(ii)) allocated pursuant to Section 5.1(b)(ii) among the Members in reverse order of priority as such losses being offset were allocated; and

(iii) Third, among the Members in accordance with their respective Percentage Interests.

(b) Subject to Sections 5.3 through 5.9 hereof, losses (including expenses) shall be allocated to the Members as follows:

(i) First, to offset any cumulative income and gain (net of prior allocations of losses under this Section 5.1(b)(i)) allocated pursuant to Section 5.1(a)(iii);

(ii) Second, among the Class A Members in accordance with their respective Percentage Interests in an amount equal to their Capital Contributions (net of prior allocations of Profits under Section 5.1(a)(ii)); and

(iii) Third, among the Members in proportion to their respective Percentage Interests.

(c) Any tax credits of the Company shall be allocated to the Members in accordance with their Percentage Interests, unless otherwise required under applicable law.

Section 5.2 Book/Tax Disparities; Section 754 Elections; Etc. (a) In the case of Contributed Property, items of income, gain, loss, deduction and credit, as determined for federal income tax purposes, shall be allocated for federal income tax purposes in a manner

consistent with the requirements of Section 704(c) of the Code to take into account the difference between the Agreed Value of such property and its adjusted tax basis at the time of contribution. The method under Section 704(c) of the Code and the Treasury Regulations thereunder shall be the traditional allocation method provided by §1.704-3(b) of the Treasury Regulations, unless a different method shall be adopted by the Majority Vote of the Board of Directors; provided, that the traditional allocation method shall be used for all Initial Capital Contributions.

(b) In the case of Adjusted Property, such items shall be allocated in a manner consistent with the principles of Section 704(c) of the Code to take into account the difference between the Carrying Value of such property and its adjusted tax basis. In the event that the Adjusted Property was originally Contributed Property, the allocation required by this Section 5.2(b) also shall take into account the requirements of Section 5.2(a).

(c) All items of income, gain, loss, deduction and credit recognized by the Company for federal income tax purposes and allocated to the Members in accordance with the provisions hereof shall be determined without regard to any election under Section 754 of the Code which may be made by the Company; provided, however, that such allocations, once made, shall be adjusted as necessary or appropriate to take into account those adjustments permitted by Sections 734 and 743 of the Code.

(d) Whenever the income, gain and loss of the Company allocable hereunder consists of items of different character for tax purposes (e.g., ordinary income, long-term capital gain, interest expense, etc.), the income, gain and loss for tax purposes allocable to each Member shall be deemed to include its pro rata share of each such item. Notwithstanding the foregoing, if the Company realizes depreciation recapture income pursuant to Section 1245 or Section 1250 (or other comparable provision) of the Code as the result of the sale or other disposition of any asset, the allocations to each Member hereunder shall be deemed to include the same proportion of such depreciation recapture as the total amount of deductions for tax depreciation of such asset previously allocated to such Member bears to the total amount of deductions for tax depreciation of such asset previously allocated to all Members. This Section 5.2(d) shall be construed to affect only the character, rather than the amount, of any items of income, gain and loss.

Section 5.3 Allocation of Nonrecourse Deductions. Items of loss and deduction attributable, under Section 1.704-2(c) of the Treasury Regulations, to increases in the Company's Minimum Gain shall be allocated, as provided in Section 1.704-2(e) of the Treasury Regulations, to the Members in accordance with their respective Percentage Interests.

Section 5.4 Allocation of Member Nonrecourse Deductions. Notwithstanding the provisions of Section 5.1, items of loss and deduction attributable, under Section 1.704-2(i) of the Treasury Regulations, to Member Nonrecourse Debt shall (prior to any allocation pursuant to Section 5.1) be allocated, as provided in Section 1.704-2(i) of the Treasury Regulations, to the Members in accordance with the ratios in which they bear the economic risk of loss for such debt for purposes of Section 1.752-2 of the Treasury Regulations.

Section 5.5 **Minimum Gain Chargeback.** In the event that there is a net decrease in the Company's Minimum Gain during a taxable year of the Company, the minimum gain chargeback described in Sections 1.704-2(f) and (g) of the Treasury Regulations shall apply.

Section 5.6 **Member Minimum Gain Chargeback.** If during a taxable year of the Company there is a net decrease in Member Nonrecourse Debt Minimum Gain, any Member with a share of that Member Nonrecourse Debt Minimum Gain (determined under Section 1.704-2(i)(5) of the Treasury Regulations) as of the beginning of the year must be allocated items of income and gain for the year (and, if necessary, for succeeding years) equal to that Member's share of such net decrease in accordance with Section 1.704-2(i) of the Treasury Regulations.

Section 5.7 **Qualified Income Offset.** Pursuant to Section 1.704-1(b)(2)(ii)(d) of the Treasury Regulations, income of the Company shall be allocated, after the allocations required by Sections 5.5 and 5.6 but before any other allocation required by this Article V, to the Members with deficit balances in their Adjusted Capital Accounts in an amount and manner sufficient to eliminate such deficit balances as quickly as possible. This Section 5.7 is intended to satisfy the provisions of Section 1.704-1(b)(2)(ii)(d) of the Treasury Regulations and shall be interpreted consistently therewith.

Section 5.8 **Limitations on Loss Allocation.** Notwithstanding any other provision of this Agreement to the contrary, no item of loss or deduction of the Company shall be allocated to a Member if such allocation would result in a negative balance in such Member's Adjusted Capital Account. Such loss or deduction shall be allocated first among the Members with positive balances in their Adjusted Capital Accounts in proportion to (and to the extent of) such positive balances and thereafter in accordance with their Percentage Interests as determined under Section 1.704-1(b)(3) of the Treasury Regulations.

Section 5.9 **Curative Allocations.** If any items of income and gain (including gross income) or loss or deduction are allocated to a Member pursuant to Section 5.7 or 5.8, then, prior to any allocation pursuant to Section 5.1 and subject to Sections 5.3 through 5.9, the Board of Directors by Majority Vote may allocate items of income and gain (including gross income) and items of loss and deduction for subsequent periods shall be allocated to the Members in a manner designed to result in each Member's Capital Account having a balance equal to what it would have been had such allocation of items of income and gain (including gross income) or loss and deduction not occurred under Section 5.7 or 5.8.

Section 5.10 **Interest in Company Profits.** Pursuant to Section 1.752-3(a)(3) of the Treasury Regulations, the Members' interests in Company profits for purposes of determining the Members' proportionate shares of the excess nonrecourse liabilities (as defined in Section 1.752-3(a)(3) of the Treasury Regulations) of the Company shall be determined in accordance with their respective Percentage Interests.

Section 5.11 **Distributions in Kind.** If any assets of the Company are distributed in kind pursuant to Section 12.4, such assets shall be distributed to the Members entitled thereto in the same proportions as if the distribution were in cash. Such assets shall be valued at their then fair market value as reasonably determined by the Board of Directors by

Majority Vote. The amount of Unrealized Gain or Unrealized Loss attributable to any asset to be distributed in kind to the Members shall, to the extent not otherwise recognized by the Company, be taken into account in computing gain or loss of the Company for purposes of allocation of gain or loss under Section 5.1, and distributions of proceeds to the Members under Sections 5.13 and 12.4. If the assets of the Company are sold in a transaction in which, by reason of the provisions of Section 453 of the Code or any successor thereto, gain is realized but not recognized, such gain shall be taken into account in computing gain or loss of the Company for purposes of allocations and distributions to the Members pursuant to this Article V, notwithstanding that the Members may elect to continue the Company pending collection of deferred purchase money obligations received in connection with such sale.

Section 5.12 Allocations and Distributions to Transferred Interests. (a) If any interest in the Company is transferred, increased or decreased during the year, all items of income, gain, loss, deduction and credit recognized by the Company for such year shall be allocated among the Members to take into account their varying Percentage Interests during the year in any manner the Board of Directors shall approve by Majority Vote, in its sole discretion, as then permitted by the Code.

(b) Distributions under Sections 5.13 and 12.4 shall be made only to Members and assignees who, according to the books and records of the Company, are Members or assignees on the actual date of distribution. Neither the Company nor the Board of Directors (or any Director serving thereon) shall incur any liability for making distributions in accordance with this Section 5.12(b).

Section 5.13 Distributions of Distributable Funds.

(a) Except as provided in Section 12.4 hereof relating to distributions upon the dissolution and liquidation of the Company, Distributable Funds shall be distributed to the Members in accordance with their respective Percentage Interests. Any such distributions shall be made only to the extent approved by the Board of Directors. To the extent that the Board of Directors approves any distribution pursuant to this Section 5.13 that consists of a consideration of a type or in a form other than cash, the types and forms of such consideration shall be allocated in an equitable manner among the Members entitled thereto, in the proportions and amounts provided for herein, such that each Member shall, except for immaterial variances, receive the same type or form of consideration. The Company shall not make any distribution to the Members if, immediately after giving effect to the distribution, all liabilities of the Company, other than liabilities to Members with respect to their Units and liabilities for which the recourse of creditors is limited to specified property of the Company, exceed the fair value of Company Property, except that the fair value of Company Property that is subject to a liability for which recourse of creditors is limited shall be included in the Company assets only to the extent that the fair value of that Company Property exceeds that liability.

(b) The Chief Executive Officer, on behalf of the Company and to the fullest extent possible without impairing the ability of the Company to continue to conduct its business and activities, as determined by the Chief Executive Officer in his discretion, shall use commercially reasonable efforts to distribute Distributable Funds to the Members in order to permit them to pay their quarterly estimated and annual income taxes on their allocable share of

the taxable income of the Company, determined without regard to limitations on the allowance of deductions applicable to a particular Member and using the quarterly estimated tax payment dates for individuals. The Chief Executive Officer shall cause such distributions to be made to each Member in an amount equal to the tax liability of such Member with respect to the anticipated taxable income of the Company allocable to such Member for such taxable year (taking into account for this purpose (i) the cumulative amount of federal, state and local income taxes (including any applicable estimated taxes), determined taking into account the character of income and loss allocated as it affects the applicable tax rate, that the Chief Executive Officer estimates would be due from such Member as of such tax distribution date, (x) assuming such Member earned solely the items of income, gain, deduction, loss, and/or credit allocated to such Member, (y) after taking proper account of loss carryforwards resulting from losses allocated to the Members by the Company, to the extent not taken into account in prior periods, and (z) assuming that such Member is subject to tax at the highest income tax rates applicable to any Member, reduced by (ii) all previous distributions made to such Member pursuant to this Section 5.13(b) (such distribution, a "Tax Distribution"). To the extent the Company does not have sufficient funds available to make Tax Distributions to each Member in the manner as computed under this Section 5.13(b), it should allocate and distribute the Distributable Funds available to the Class A Members and the Class B Members pro rata, in proportion to the Tax Distributions due to them, up to the amount of Tax Distributions due to them, all as computed under this Section 5.13(b). Notwithstanding anything to the contrary in this Section 5.13(b), distributions under this Section 5.13(b) shall not be required following an event resulting or reasonably expected by the Chief Executive Officer to result in the dissolution of the Company. Any Tax Distributions made to a Member pursuant to this Section 5.13(b) shall be treated as advances on distributions that such Member is otherwise entitled to receive pursuant to Article V and such Member's entitlement to distributions under Article V shall be reduced by the amount of any such Tax Distributions received by such Member.

Section 5.14 Order of Application. For purposes of this Article V, the listed provisions shall be applied in the order in which they are listed below (from first to last): Section 5.7; Section 5.6; Section 5.5; Section 5.4; Section 5.9; Section 5.8; Section 5.10; and Section 5.1 (allocations from operations are made before allocations from sales of all or substantially all of the Company's assets or other liquidating event).

ARTICLE VI
RIGHTS, POWERS AND OBLIGATIONS OF MEMBERS

Section 6.1 Authority; Liability to Third Parties. No Member has the authority or power to act for or on behalf of the Company, to do any act that would be binding on the Company, or to incur any expenditures on behalf of the Company. No Member shall be liable for the debts, obligations or liabilities of the Company, including under a judgment decree or order of a court.

Section 6.2 Transfer of Units. A Member shall not, directly or indirectly, voluntarily or involuntarily, by operation of law or will or the laws of descent or distribution, sell, assign, pledge, mortgage, exchange, encumber, hypothecate or otherwise transfer ("Transfer") any Units, except for (a) a Transfer after the third anniversary of the date of this Agreement in accordance with the terms of this Article VI or (b) a Permitted Transfer. In the

event a Member desires to Transfer all or part of such Member's Units or any interest therein, such Member will be responsible for compliance with all conditions of Transfer imposed by this Agreement and under applicable law and for any expenses incurred by the Company for legal and/or accounting services in connection with reviewing any proposed Transfer or issuing opinions in connection therewith. Until the transferee is admitted as a Member pursuant to Section 6.7, the transferor Member shall continue to be a Member and to be entitled to exercise any rights or powers of a Member with respect to the Units transferred.

Section 6.3 Right of First Refusal. (a) Prior to any proposed Transfer (other than a Permitted Transfer) of Units, a Member that desires to Transfer any Units (the "Transferring Member") shall deliver to the other Members and the Company a Notification (the "Transfer Notice") of its intention to Transfer such Units, which Transfer Notice shall be irrevocable for a period of thirty (30) days after the delivery thereof and shall state (i) the total amount of Units which such Member intends to Transfer (the "Transfer Units"), (ii) the proposed Transfer price (the "Transfer Price"), (iii) the proposed transferee (the "Transferee Party"), (iv) the proposed date of Transfer (the "Transfer Date") and (v) any other information reasonably requested by the other Members to fully describe and confirm the bona fide nature of the proposed Transfer. The Transfer Units shall be transferred in the following order of priorities:

(i) First, the Members (excluding any Transferring Member) shall have the right and option to purchase the Transfer Units in whole for the Transfer Price in proportion to each such Member's ownership interest in the Company (excluding, for purposes of calculating such Member's proportionate ownership interest in the Company, Units held by the Transferring Member) by giving a Notification of the exercise of such right to the Transferring Member within ten (10) days of delivery of the Transfer Notice. Should one or more of the Members elect not to participate, then the Transfer Units may be purchased in whole and not in part for the Transfer Price by all interested Members in proportion to each such interested Member's ownership interest in the Company (excluding, for purposes of calculating such Member's proportionate ownership interest in the Company, Units held by the Transferring Member) or such other method of allocation as otherwise agreed to by such interested Members. If the interested Members do not provide Notification to the Transferring Member of their desire to purchase all of the Transfer Units within twenty (20) days of delivery of the Transfer Notice, the Transferring Member may sell the Transfer Units to the Transferee Party pursuant to clause (ii) below. The closing of the sale of Transfer Units pursuant to this Section 6.3(a)(i) shall take place at the offices of the Company no later than sixty (60) days after the delivery of the Transfer Notice. Each Member purchasing Transfer Units shall pay their pro rata portion of the Transfer Price by wire transfer of immediately available funds to the account specified by the Transferring Member. The Transferring Member shall deliver the Transfer Units free and clear of all liens, security interests and competing claims, and shall deliver to the participating Members such instruments of transfer and other documents as such Members shall reasonably request.

(ii) Second, if the Transfer Units shall have thereafter not been purchased by the Members, the Transferring Member shall have the right, subject to Section 6.4, for a period of ninety (90) days from the date of the Transfer Notice, to sell all of the Transfer Units to the Transferee Party for no less than the Transfer Price. If the Transferring

Member does not consummate the Transfer within such ninety (90) day period, the Transfer Units shall remain subject to this Section 6.3 and the Transferring Member shall not thereafter Transfer any such Units to any Person without again first complying with all of the provisions of this Section 6.3.

(b) Should the Transferring Member subsequently determine to change the amount of the Transfer Units to be sold or the Transfer Price, the Transferring Member shall be required to follow the same procedures set forth in clause (a) of this Section 6.3.

Section 6.4 Tag-Along Rights. (a) Any Transferring Member or group of Transferring Members who proposes to Transfer, directly or indirectly, Units representing 50% or more of the outstanding Units (a "Tag-Along Sale") shall afford each of the other Members (each, a "Tag-Along Member") the opportunity to participate therein in accordance with this Section 6.4. The obligations of each Transferring Member under this Section 6.4 are in addition to the obligations under Section 6.3, but shall not apply if all of the Transfer Units are sold to subscribing Members pursuant to Section 6.3. The obligations of each Transferring Member under this Section 6.4 shall not apply to a Permitted Transfer. The Transferring Member(s) shall deliver to each Member a Notification (the "Tag-Along Notice") which discloses the amount of Units such Transferring Member(s) are permitted to sell after complying with the procedures of Section 6.3.

(b) With respect to each Tag-Along Sale, each Tag-Along Member shall have the right to Transfer, at the same price and upon identical terms and conditions as such proposed Transfer and in diminution of the amounts to be sold by the Transferring Member(s), the Units owned by such Tag-Along Member equal to such Tag-Along Member's Tag-Along Allotment multiplied by the aggregate amount of outstanding Units proposed to be Transferred by the Transferring Members in the Tag-Along Sale; provided that, the price for Class B Units shall be adjusted by the Board of Directors in good faith in its sole discretion to take into account the fact that Class B Units are "profits interests," do not have Capital Contributions associated with them, and may have been issued after revaluations of the Capital Accounts of the Company had already occurred that take into account appreciation in the Company's assets.

(c) Each Tag-Along Member who wishes to participate in the Tag-Along Sale shall provide a Notification (the "Tag-Along Response") to the Transferring Members no more than ten (10) days after delivery of the Tag-Along Notice. The Tag-Along Response shall set forth the number of Units that such Tag-Along Member elects to include in the Transfer, which shall not exceed such Tag-Along Member's Tag-Along Allotment. The Tag-Along Response shall also specify the aggregate Units owned by such Tag-Along Member as of the close of business on the second day immediately preceding the date on which the Tag-Along Response is given by such Tag-Along Member, if any, that such Tag-Along Member also desires to include in the Transfer (the "Additional Tag-Along Units") if there is any under-subscription for the entire amount of all Tag-Along Members' Tag-Along Allotments. If there is an under-subscription by the Tag-Along Members for any portion of the aggregate Tag-Along Members' Tag-Along Allotments, the Transferring Members shall apportion the under-subscribed Tag-Along Members' Tag-Along Allotments among the Tag-Along Members whose Tag-Along Responses specified an amount of Additional Tag-Along Units, which apportionment shall be on a pro rata basis among such Tag-Along Members in accordance with the number of Additional

Tag-Along Units specified by all such Tag-Along Members in their Tag-Along Responses. The Tag-Along Responses given by the Tag-Along Members shall constitute their binding agreements to sell such Units on the terms and conditions applicable to the Transfer.

(d) The Transferring Members shall Transfer all or any portion of the Transfer Units only if the Transferring Members make arrangements for the Transfer, on the same terms and conditions, of all Units for which Tag-Along Responses were timely delivered (up to the full amount of the aggregate Tag-Along Allotments). Transfer of all or any portion of the Transfer Units by the Transferring Members shall only be made, however, on terms and conditions no more favorable to the Transferring Members than as stated in the Tag-Along Notice and only if such Transfer occurs within ninety (90) days of the Transfer Date. Any such Units not so transferred during such ninety (90) day period shall thereafter again be subject to the Tag-Along Sale rights of each of the Members.

Section 6.5 Drag Along Rights. If any Member or any group of Members acting together or pursuant to a common plan or arrangement propose to sell or otherwise dispose of to a third party unaffiliated with such Members (a "Purchaser") Units that constitute at least 50% of the outstanding Units (a "Disposition"), such Member(s) (the "Proposing Members") shall provide a Notification of such proposed Disposition to each of the other Members (a "Proposal Notice"), and the Proposing Members shall have the right (a "Drag Along Right") to require such other Members to sell the Units owned by them to the Purchaser at the same price and upon the same terms as are applicable to the sale of Units by the Proposing Members by delivery of a Notification within ten (10) days of the Proposal Notice; ; provided that, the price for Class B Units shall be adjusted by the Board of Directors in good faith in its sole discretion to take into account the fact that Class B Units are "profits interests," do not have Capital Contributions associated with them, and may have been issued after revaluations of the Capital Accounts of the Company had already occurred that take into account appreciation in the Company's assets. Each Member agrees that it shall cooperate in good faith and waive any and all available appraisal, dissenters' or similar rights in connection with the exercise of a Drag Along Right by the Proposing Members. The Proposal Notice shall set forth: (i) the identity of the Purchaser(s); (ii) the price and the other general terms of the proposed Disposition; and (iii) the Drag Along Right sale date. Sections 6.3 and 6.4 shall not apply to sales of Units by Members pursuant to the exercise of a Drag Along Right in accordance with this Section 6.5.

Section 6.6 Member Put Option. (a) Three years after the date of this Agreement, for a period of three months thereafter, each of ORA Associates LLC and William B. Conner (an "Eligible Buyout Member") may provide Notification to the Board of Directors and the Company of his intent to exercise his right (the "Put Right") to require the Company to purchase all of his Units. Within fourteen (14) business days of the receipt of such Notification, the Company shall provide Notification to any Exercising Member of its intent to either (i) purchase the Units of an Eligible Buyout Member at the Put Purchase Price or (ii) seek to sell all of the interests in the Company or all of the assets of the Company. If the Company elects to provide the Notification specified in clause (i) of the immediately preceding sentence, the Company shall have six (6) months to purchase such Units. If the Company elects to provide the Notification specified in clause (ii) of the immediately preceding sentence, each of the Eligible Buyout Members shall have the right to(i) provide a Notification to the Board of Directors, all Class A Members and the Chief Executive Officer that he elects to extend his Put Right under

this Section 6.6 to be exercisable on the fifth anniversary of this Agreement, for a period of three months thereafter, whereupon such Put Right shall be so extended, or (ii) demand that the Board of Directors promptly seeks a buyer for all of the Units or all or substantially all of the assets of the Company, in which case (x) the Company shall have no obligation to buy the Units of any Eligible Buyout Member and (y) the Board of Directors shall take such action as it deems necessary or appropriate to complete such sale of the Units or all or substantially all of the assets of the Company in a manner intended to maximize the return to the Members taken as a whole, including hiring investment bankers and other professional advisors.

(b) The aggregate purchase price to be paid to the Buyout Member for all of his Units upon any exercise of a Put Right (the "Put Purchase Price") shall be the amount of (i) the aggregate Capital Contributions made by the Buyout Member to the Company, plus (ii) a preferred return of twenty percent (20%), compounded annually through and including the date of payment, on such unreturned Capital Contributions and computed on the basis of a 365 day year. Any distributions made to the Buyout Member by the Company prior to the payment of such Put Purchase Price (other than distributions to permit such Buyout Member to pay income taxes in respect of earnings of the Company) shall be treated as a partial payment of such preferred return and shall accordingly reduce the amount of the preferred return payable under clause (ii) of the immediately preceding sentence, but regular operating distributions made to the Buyout Member not involving the sale of a substantial portion of the Company's assets shall not be treated as a return of Capital Contributions for this purpose. Any sales proceeds from the sale of any of such Buyout Member's Class A or B Units received by such Buyout Member prior to the payment of the Put Purchase Price shall be treated as in part a partial return of such Member's Capital Contributions and in part as a payment of such Member's preferred return payable under clause (ii) of the first sentence of this paragraph (b), as determined by the Board of Directors in good faith and in its sole discretion.

(c) If a Put Right has been exercised, then the Company shall deliver to each Member that is not the Buyout Member (each, a "Call Holder") a Notification (the "Member Buyout Notice") of the occurrence of a Put Right. Notwithstanding the foregoing provisions of this Section 6.6, each Call Holder shall have the option (a "Call Option") to purchase, at the Put Purchase Price per Unit so purchased, a pro rata portion of the Units of the Buyout Member equal to such Call Holder's Units in the Company (excluding, for purposes of calculating such Call Holder's Units in the Company, Units held by the Buyout Member) by giving Notification of exercise of such right (a "Call Notice") to the Board of Directors and the Buyout Member within ten (10) days of delivery of the Member Buyout Notice. Should one or more Call Holders elect not to exercise their purchase rights pursuant to this Section 6.6(c), then the unpurchased Units may be purchased in whole or in part by all interested Call Holders who elected to exercise their purchase rights pursuant to this Section 6.6(c), at the Put Purchase Price per Unit so purchased, in proportion to their respective Units in the Company (excluding, for purposes of calculating such Member's ownership interests in the Company, Units held by the Buyout Member and Units held by Call Holders who elect not to exercise their Call Option) or such other method of allocation as otherwise agreed to by such interested Call Holders. Any Units of the Buyout Member not subject to an election to purchase by a Call Holder shall be acquired by the Company at the Put Purchase Price per Unit so acquired.

(d) The closing of the purchase of Units pursuant to the Put Right shall be held at the principal office of the Company no later than thirty (30) days after the later of (i) the determination of the Put Purchase Price by the Board of Directors, but in any event not later than sixty (60) days after the Board of Directors receives Notification of the Put Right and (ii) the date such purchase is required to be completed pursuant to this Section 6.6. The Company shall pay its pro rata portion of the Put Purchase Price by wire transfer of immediately available funds to the account specified by the Buyout Member. The Buyout Member shall transfer to the Company the Units to be purchased, free and clear of all liens, security interests and competing claims, and shall deliver to the Company such instruments of transfer and other documents as the Company shall reasonably request. In addition, each Call Holder who timely exercised its Call Option shall pay its pro rata portion of the Put Purchase Price by wire transfer of immediately available funds to the account specified by the Buyout Member. The Buyout Member shall transfer to the Call Holders who timely exercised their Call Option the Units to be purchased, free and clear of all liens, security interests and competing claims, and shall deliver to the respective Call Holders such instruments of transfer and other documents as the Call Holders shall reasonably request. If a Call Holder does not pay its pro rata portion of the Put Purchase Price at such closing consistent with such Call Holders' Call Notice, the Company shall step in and finalize such purchase with its own funds and acquire the Units attributable to the shortfall of the Put Purchase Price as soon as practicable.

(e) Notwithstanding any provision of this Agreement to the contrary, in the event the Company determines to make an acquisition or enter into a merger or other business combination with a Person that is not an Affiliate of the Company (each, an "Overriding Transaction"), the Company may make an offer (the " Buyout Offer"), by making a Notification, to purchase all Units then held by each Eligible Buyout Member for a purchase price equal to the Put Purchase Price (assuming for such Purposes that each Eligible Buyout Member is a Buyout Member). Each Eligible Buyout Member shall have ten (10) days after the making of such Buyout Offer to provide Notification to the Company of whether he elects (any such election, the "Election") to (i) sell his Units to the Company pursuant to such Buyout Offer or (ii) to extend his Put Right under this Section 6.6 to be exercisable on the later of (x) third anniversary of the closing of the Overriding Transaction and (y) such later date on which, under the terms of the financing of the Overriding Transaction (and any refinancing, refunding, extension or renewal thereof) the exercise of the Put Option and related transactions would be permitted, for a period of three months thereafter in the case of either clause (x) or clause (y), whereupon such Put Right shall be so extended. The closing of any such purchase shall occur within sixty (60) days of the making of such Buyout Notice by the Company, the precise date to be reasonably determined by the Company. If an Eligible Member does not make an Election, all of his rights under this Section 6.6 shall be relinquished, cease and terminate.

Section 6.7 Transfers in Violation of Agreement. Any purported Transfer of any Unit in violation of the provisions of this Agreement shall be wholly void and shall not effectuate the Transfer contemplated thereby. Notwithstanding anything contained herein to the contrary, (i) no Member may Transfer any Units in violation of any provision of this Agreement or in violation of the Securities Act and any applicable state securities laws, (ii) no Transfer of any Unit may be effected if such Transfer would cause a dissolution of the Company under the Act, unless the Members unanimously approve such Transfer and (iii) no Transfer of any Unit

may be effected if such Transfer would cause a termination of the Company under Section 708(b)(1)(B) of the Code, unless the Members unanimously approve of the Transfer.

Section 6.8 Confidentiality. (a) Each Member agrees not to divulge, communicate, use to the detriment of the Company or for the benefit of any other Person, or misuse in any way, any confidential information or trade secrets of the Company or any subsidiary of the Company, including personnel information, secret processes, know-how, customer lists, formulas or other technical data; provided, however, that this prohibition shall not apply to (i) any information that (x) was already in such Member's possession prior to the disclosure thereof by the Company (other than through disclosure by any other Person known by such Member to be subject to a duty of confidentiality), (y) was then generally known to the public or (z) was disclosed to such Member by a third Person not bound by an obligation of confidentiality or (ii) disclosures made as required by law or legal process. If such Member, in the opinion of its counsel, is compelled to disclose information concerning the Company to any tribunal or governmental body or agency or else stand liable for contempt or suffer other censure or penalty, such Member may disclose such information to such tribunal or government body or agency without liability hereunder. If such Member is compelled, pursuant to the preceding sentence, to disclose confidential information concerning the Company, such Member will provide a Notification regarding such disclosure to the Company and will, at the Company's expense, join the Company in seeking a protective order.

(b) It is agreed between the parties that the Company would be irreparably damaged by reason of any violation of the provisions of this Section 6.9, and that any remedy at law for a breach of such provisions would be inadequate. Therefore, the Company shall be entitled to seek and obtain injunctive or other equitable relief (including a temporary restraining order, a temporary injunction or a permanent injunction) against any Member, such Member's agents, assigns or successors for a breach or threatened breach of such provisions and without the necessity of proving actual monetary loss. It is expressly understood among the parties that this injunctive or other equitable relief shall not be the Company's exclusive remedy for any breach of this Section 6.9 and the Company shall be entitled to seek any other relief or remedy that either may have by contract, statute, law or otherwise for any breach hereof, and it is agreed that the Company shall also be entitled to recover its attorneys' fees and expenses in any successful action or suit against any Member relating to any such breach.

ARTICLE VII
MEETINGS OF MEMBERS

Section 7.1 Place of Meetings. All meetings of Members shall be held at the principal office of the Company as provided in Section 2.5(c), or at such other place as may be designated by the Majority Vote of the Board of Directors or by the Members calling the meeting.

Section 7.2 Meetings. Meetings of the Members shall be held only as required by the Act or by applicable law.

Section 7.3 Notice. A Notification of all meetings, stating the place, day and hour of the meeting and in the case of a special meeting, the purpose or purposes for which the

meeting is called, shall be delivered not less than ten (10) nor more than sixty (60) days before the meeting to each Member entitled to vote.

Section 7.4 Waiver of Notice. Attendance of a Member at a meeting shall constitute a waiver of Notification of the meeting, except where such Member attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. Notification of a meeting may also be waived in writing. Attendance at a meeting is not a waiver of any right to object to the consideration of matters required to be included in the Notification of the meeting but not so included, if the objection is expressly made at the meeting.

Section 7.5 Quorum. The presence of Members holding at least a majority of the outstanding Units is required to constitute a quorum at any meeting of the Members.

Section 7.6 Voting. (a) Except as otherwise expressly set forth herein, all Members shall be entitled to vote on any matter submitted to a vote of the Members. Each Member shall be entitled to one vote for each Class A Unit held by such Member. Fractional votes shall be permitted. Notwithstanding any provision of this Agreement, Class B Units shall not be entitled to vote for any purpose whatsoever.

(b) With respect to any matter other than a matter for which the affirmative vote of Members owning a specified percentage of the Units is required by the Act, the Certificate of Formation or this Agreement, the affirmative vote of the holders of at least a majority of the outstanding Units at a meeting at which a quorum is present shall be the act of the Members.

(c) No provision of this Agreement requiring that any action be taken only upon approval of Members holding a specified percentage of the outstanding Units may be modified, amended or repealed unless such modification, amendment or repeal is approved by Members holding at least such percentage of the outstanding Units.

Section 7.7 Conduct of Meetings. The Board of Directors shall have full power and authority concerning the manner of conducting any meeting of the Members, including the determination of Persons entitled to vote, the existence of a quorum, the satisfaction of the requirements of this Article VII, the conduct of voting and the determination of any controversies, votes or challenges arising in connection with or during the meeting or voting. The Board of Directors by Majority Vote shall designate a Person to serve as chairperson of any meeting and shall further designate a Person to take minutes of any meeting. The chairperson of the meeting shall have the power to adjourn the meeting from time to time, without notice, other than announcement of the time and place of the adjourned meeting. Upon the resumption of such adjourned meeting, any business may be transacted that might have been transacted at the meeting as originally called.

Section 7.8 Action by Written Consent. Any action that may be taken at a meeting of the Members may be taken without a meeting if a written consent, setting forth the action to be taken, shall be signed and dated by Members holding the percentage of outstanding Units required to approve such action under the Act, the Certificate of Formation or this

Agreement. Such consent shall have the same force and effect as a vote of the signing Members at a meeting duly called and held pursuant to this Article VII. No prior notice from the signing Members to the Company or other Members shall be required in connection with the use of a written consent pursuant to this Section 7.8. Notification of any action taken by means of a written consent of Members shall, however, be sent within a reasonable time after the date of the consent by the Company to all Members who did not sign the written consent.

ARTICLE VIII
MANAGEMENT OF THE COMPANY

Section 8.1 Management of Business. Except as otherwise expressly provided in this Agreement, the powers of the Company shall be exercised by or under the authority of, and the business and affairs of the Company shall be managed under the direction of, a board of directors (the "Board of Directors") as described herein.

Section 8.2 Board of Directors; Number and Election of Directors; Additional Committees. (a) Subject to Section 8.2(d), the Board of Directors shall consist of five (5) Directors, which Directors shall initially be as set forth on Schedule II. Subject to Section 8.2(c), Michael A. Lubin shall have the right to designate three (3) Directors to serve on the Board of Directors and each of ORA Associates LLC and William B. Conner shall have the right to designate one (1) Director to serve on the Board of Directors, including himself or herself if they are individuals. The Chief Executive Officer of the Company and any other officer shall be entitled to serve as a Director and vote with the Board of Directors on any matters presented before the Board of Directors.

(b) The Members shall take all actions necessary to appoint each Director designated by a Class A Member in accordance with Section 8.2(a). The Members shall take all other actions necessary, including the exercise of voting rights, to effect the intent of this Section 8.2.

(c) (i) Notwithstanding the provisions of Section 8.2(a) above, if a Class A Member's Percentage Interest (calculated, for purposes of this Section 8.2(d), including the Units held by such Class A Member's Affiliates) decreases below eight percent (8%), then such Class A Member shall lose its right to designate a Director.

(ii) If a Member loses its right to designate a Director pursuant to this Section 8.2(c), then the size of the Board of Directors shall be decreased to reflect such occurrence; provided, that if any Member relinquishes the right to designate a Director pursuant to this Section 8.2(c) as a result of a Transfer of Units that represent 8% or more of the then-outstanding Units of the Company in accordance with this Agreement, it shall have the right (but not the obligation) to transfer to such transferee who receives in such Transfer Units that represent a 8% or greater Percentage Interest in the Company the right to designate the Director that has been relinquished by such Member as a result of such Transfer and, in such case, the size of the Board of Directors shall not be decreased.

Section 8.3 General Powers of Board of Directors. Except as may otherwise be expressly provided in this Agreement, the Board of Directors shall have complete and

exclusive discretion in the management and control of the business and affairs of the Company, including the right to make and control all ordinary and usual decisions concerning the business and affairs of the Company. The Board of Directors shall possess all power, on behalf of the Company, to do or authorize the Company or to direct the executive officers of the Company on behalf of the Company to do all things necessary or convenient to carry out the business and affairs of the Company.

Section 8.4 Place of Meetings. Meetings of the Board of Directors may be held either within or without the State of Delaware at whatever place is specified in the call of the meeting. In the absence of specific designation, the meetings shall be held at the principal office of the Company as provided in Section 2.5(c). The Directors serving on the Board of Directors, by Majority Vote, may appoint from among themselves a chairperson to preside at meetings of the Board of Directors. Any Director shall be permitted to attend any meeting of the Board of Directors in person or by conference call pursuant to Section 14.1.

Section 8.5 Regular Meetings. The Board of Directors shall meet at least quarterly. No Notification need be given to Directors of regular meetings for which the Directors have previously designated a time and place for the meeting.

Section 8.6 Special Meetings. Special meetings of the Board of Directors may be held at any time upon the request of the Chief Executive Officer of the Company or at least four (4) of the Directors. A Notification of any special meeting shall be sent to the last known address of each Director at least ten (10) days before the meeting. Notification of the time, place and purpose of such meeting may be waived in writing before or after such meeting, and shall be equivalent to the giving of a Notification. Attendance of a Director at such meeting shall also constitute a waiver of Notification thereof, except where such Director attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. If the business to be transacted at, or the purpose of, any regular or special meeting of the Board of Directors involves a matter which requires a Super-Majority Vote of the Board of Directors, such matter shall be specified in the notice of such meeting.

Section 8.7 Quorum of and Action by Board of Directors. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of any business of the Board of Directors. Except as otherwise expressly set forth in this Agreement, any action to be taken or approved by the Board of Directors hereunder must be taken or approved by a Majority Vote of the Board of Directors, and any action so taken or approved shall constitute the act of the Board of Directors.

Section 8.8 Compensation. The Directors shall serve without compensation; provided, however, that nothing contained herein shall preclude any Director from receiving compensation pursuant to any employment agreement with the Company for services rendered to the Company.

Section 8.9 Removal and Vacancies. The Member or Members that designated a Director shall have the sole right to remove such Director, with or without cause, from the Board of Directors. Such removal shall be effective immediately upon delivery of a

Notification of such removal to the Company by such designating Member. Any vacancy on the Board of Directors shall be filled by the Member that designated the vacating Director.

Section 8.10 Action by Written Consent. Any action that may be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action to be taken, shall be signed by all of those Directors entitled to vote at that meeting, and such consent shall have the same force and effect as a unanimous vote of the Board of Directors at a meeting duly called and held. No Notification shall be required in connection with the use of a written consent pursuant to this Section 8.11.

Section 8.11 Other Business. The Directors may engage in or possess an interest in other business ventures (unconnected with the Company) of every kind and description, independently or with others. Neither the Company nor the Members shall have any rights in or to such independent ventures of the Directors or the income or profits therefrom by virtue of this Agreement.

Section 8.12 Standard of Care; Liability. Every Director shall discharge his or her duties as a Director in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the best interests of the Company. A Director shall not be liable for any monetary damages to the Company for any breach of such duties except for receipt of a financial benefit to which the Director is not entitled, voting for or assenting to a distribution to Members in violation of this Agreement or the Act, or a knowing violation of law.

Section 8.13 Appointment of Officers; Chief Executive Officer. The Board of Directors shall, in accordance with the provisions of Section 8.3, have the right to appoint officers of the Company, including a chief executive officer of the Company (the "Chief Executive Officer"), to assist with the day-to-day management of the business affairs of the Company. The Chief Executive Officer shall not have greater power and authority than the Board of Directors and shall not, on behalf of the Company, authorize, engage in or enter into any of the transactions or actions specified in Section 8.4 without the requisite prior consent of the Board of Directors in respect thereof. The Board of Directors shall have the right to remove any Chief Executive Officer of the Company, either for or without cause, at any time; provided, however, that nothing contained herein shall limit any rights of the Chief Executive Officer under any employment agreement which such Chief Executive Officer may have entered into with the Company. Michael A. Lubin shall serve as the initial Chief Executive Officer. In addition to the Chief Executive Officer, the Company may have additional executive officers. The appointment of officers shall be made by the Board of Directors.

Section 8.14 Committees. The Board of Directors may create such committees as the Board of Directors, from time to time, deems desirable. Each committee of the Board of Directors, to the extent provided in the resolutions creating the committees or in this Agreement, shall have the powers of the Board of Directors in the management of the business and affairs of the Company.

ARTICLE IX
OWNERSHIP OF PROPERTY

Section 9.1 **Company Property.** (a) Company Property shall be deemed to be owned by the Company as an entity, and no Member or Director, individually or collectively, shall have any ownership interest in such Company Property or any portion thereof. Title to any or all Company Property may be held in the name of the Company or one or more nominees, as the Board of Directors by Majority Vote may determine. All Company Property shall be recorded as the property of the Company on its books and records, irrespective of the name in which legal title to such Company Property is held.

(b) To the extent the Company owns, acquires, develops or creates its own ideas, concepts, software, patents, designs, trademarks, trade secrets, text, plans or other material or Intellectual Property ("Company Intellectual Property"), the Company shall own and retain all rights, title and interest in and to all such Company Intellectual Property. Such rights shall include the exclusive right to own and register the Company Intellectual Property in the Company's name.

ARTICLE X
FISCAL MATTERS; BOOKS AND RECORDS

Section 10.1 **Bank Accounts; Investments.** Capital Contributions, revenues and any other Company funds shall be deposited by the Company in a bank account established in the name of the Company, or shall be invested by the Company, at the direction of the Board of Directors, in furtherance of the purposes of the Company. No other funds shall be deposited into Company bank accounts or commingled with Company investments. Funds deposited in the Company's bank accounts may be withdrawn only to be invested in furtherance of the Company's purposes, to pay Company debts or obligations or to be distributed to the Members pursuant to this Agreement.

Section 10.2 **Records Required by Act; Right of Inspection.** (a) During the term of the Company's existence and for a period of four (4) years thereafter, there shall be maintained in the Company's principal office specified pursuant to Section 2.5(c) all records required to be kept pursuant to the Act, including, without limitation, a current list of the names, addresses and Units held by each of the Members (including the dates on which each of the Members became a Member), copies of federal, state and local information or income tax returns for each of the Company's tax years, copies of this Agreement and the Certificate of Formation, including all amendments or restatements.

(b) On written request stating the purpose, a Class A Member may examine and copy in person, at any reasonable time, for any proper purpose reasonably related to such Member's interest as a Member of the Company, and at such Member's expense, records required to be maintained under the Act and such other information regarding the business, affairs and financial condition of the Company as is just and reasonable for the Member to examine and copy, as determined by the Board of Directors. Upon written request by any Class A Member made to the Company at the address of the Company's principal office specified in Section 2.5(c), the Company shall provide to the Member without charge true copies of (i) this

Agreement and the Certificate of Formation and all amendments or restatements and (ii) any of the tax returns of the Company described above.

Section 10.3 Books and Records of Account. The Company shall maintain adequate books and records of account that shall be maintained on the accrual method of accounting and on a basis consistent with appropriate provisions of the Code, containing, among other entries, a Capital Account for each Member.

Section 10.4 Tax Returns and Information. The Members intend for the Company to be treated as a partnership for tax purposes. The Company shall prepare or cause there to be prepared all federal, state and local income and other tax returns that the Company is required to file. Within seventy-five (75) days after the end of each calendar year, the Company shall use its commercial best efforts to send or deliver to each Person who was a Member at any time during such year such tax information as shall be reasonably necessary for the preparation by such Person of such Person's federal income tax return and state income and other tax returns.

Section 10.5 Delivery of Financial Statements to Members. As to each of the first three fiscal quarters of the Company and each fiscal year of the Company, the Company shall send to each Member a copy of (a) the balance sheet of the Company as of the end of the fiscal quarter or year, (b) an income statement of the Company for such quarter or year and (c) a statement of cash flows of the Company in respect of such quarter or year. Such financial statements shall be delivered no later than forty-five (45) days following the end of the fiscal quarter to which the statements apply, except that the financial statements relating to the end of the fiscal year shall be delivered no later than ninety (90) days following the end of such fiscal year. Each Member shall also have the right to receive copies of the operating plan, strategic plan and capital expenditure budget of the Company for any fiscal year upon request.

Section 10.6 Audits. The fiscal year-end financial statements to be delivered pursuant to Section 10.5 shall be audited if the Board of Directors, by Majority Vote, determines that an audit is advisable. The audit shall be performed by an accounting firm approved by the Board of Directors.

Section 10.7 Fiscal Year. The Company's fiscal year shall end on December 31 of each calendar year. Each fiscal year shall consist of four quarters ending on March 31, June 30, September 30 and December 31 of each fiscal year. Each such quarter shall be referred to as a "fiscal quarter."

Section 10.8 Tax Elections. If permitted by the Code, the Company shall make the following elections on the appropriate tax returns:

(a) to adopt the calendar year as the Company's fiscal year;

(b) to adopt the accrual method of accounting;

(c) to elect, pursuant to Section 754 of the Code, to adjust the basis of Company Properties;

(d) to elect to amortize the organizational expenses of the Company ratably over a period of one-hundred and eighty (180) months; and

(e) any other election the Board of Directors may deem appropriate and in the best interests of the Members.

Neither the Company, the Board of Directors nor any Member or Director may make an election for the Company to be (i) excluded from the application of the provisions of subchapter K of chapter 1 of subtitle A of the Code or any similar provisions of applicable state law or (ii) any election to treat the Company as an association taxable as a corporation for U.S. federal income tax purposes (other than pursuant to Article XIII).

Section 10.9 Tax Matters Member. The Board of Directors shall designate one Member to be the "tax matters partner" (the "Tax Matters Member") of the Company pursuant to Section 6231(a)(7) of the Code. Such Member shall take such action as may be necessary to cause each other Member to become a "notice partner" within the meaning of Section 6223 of the Code. Such Member shall inform each other Member of all significant matters that may come to its attention in its capacity as "Tax Matters Member" by giving a Notification thereof on or before the tenth day after becoming aware thereof and, within that time, shall forward to each other Member copies of all significant written communications it may receive in that capacity. Such Member may not take any action contemplated by Sections 6222 through 6234 of the Code without the consent of all Members but this sentence does not authorize such Member to take any action left to the determination of an individual Member under Sections 6222 through 6234 of the Code. The Tax Matters Member shall be reimbursed by the Company for any out-of-pocket expenses it incurs in performing its function as Tax Matters Member. The initial Tax Matters Member shall be Michael A. Lubin.

ARTICLE XI
INDEMNIFICATION AND INSURANCE

Section 11.1 Indemnification and Advancement of Expenses. (a) The Company shall indemnify any Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or 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 he, she or it is or was a Director, Member, officer, employee, representative or agent of the Company, or is or was serving at the request of the Company as a director, officer, manager, employee, representative or agent of another corporation, limited liability company, general partnership, limited partnership, joint venture, trust, business trust or other enterprise or entity, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him, her or it in connection with such action, suit or proceeding if he, she or it acted in good faith and in a manner he, she or it reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his, her or its conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that such Person did not act in good faith and in a manner which he, she or it reasonably believed to be in or not opposed to the best interests of the Company, and, with

respect to any criminal action or proceeding, had reasonable cause to believe that his, her or its conduct was unlawful.

(b) The Company shall indemnify any Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Company to procure a judgment in its favor by reason of the fact that he, she or it is or was a Director, Member, officer, employee, representative or agent of the Company, or is or was serving at the request of the Company as a director, officer, manager, employee, representative or agent of another corporation, limited liability company, general partnership, limited partnership, joint venture, trust, business trust or other enterprise or entity, against expenses (including attorneys' fees) actually and reasonably incurred by him, her or it in connection with the defense or settlement of such action or suit if he, she or it acted in good faith and in a manner he, she or it reasonably believed to be in or not opposed to the best interests of the Company, except that no indemnification shall be made in respect of any claim, issue or matter as to which such Person shall have been adjudged to be liable to the Company unless and only to the extent that a Delaware state court or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(c) To the extent that a Director, Member, officer, employee, representative or agent of the Company has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in paragraphs (a) and (b) of this Section 11.1, or in defense of any claim, issue or matter therein, he, she or it shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him, her or it in connection therewith.

(d) Any indemnification under paragraphs (a) and (b) of this Section 11.1 (unless ordered by a court of competent jurisdiction) shall be made by the Company only as authorized in the specific case upon a determination that indemnification of the Director, Member, officer, employee, representative or agent is proper in the circumstances because he, she or it has met the applicable standard of conduct set forth in paragraphs (a) and (b) of this Section 11.1. Such determination shall be made (i) by the Board of Directors by a majority vote of Directors who were not parties to such action, suit or proceeding (even if such Directors constitute less than a quorum of Directors), (ii) if a majority of disinterested Directors so directs, by independent legal counsel in a written opinion or (iii) by the Members.

(e) Expenses (including attorneys' fees) incurred by a Director or Member in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Company in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such Director or Member to repay such amount if it shall ultimately be determined that he, she or it is not entitled to be indemnified by the Company pursuant to this Section 11.1. Such expenses (including attorneys' fees) incurred by other officers, employees, representatives and agents shall be so paid upon such terms and conditions, if any, as the Board of Directors deems appropriate.

(f) The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 11.1 shall not be deemed exclusive of any other rights to which those

seeking indemnification or advancement of expenses may be entitled under any by-law, agreement, vote of Members or disinterested Directors or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office.

(g) For purposes of this Section 11.1, any reference to the "Company" shall include, in addition to the resulting or surviving corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, managers, members, employees, representatives or agents, so that any Person who is or was a director, officer, manager, member, employee, representative or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, manager, employee, representative or agent of another corporation, limited liability company, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Section 11.1 with respect to the resulting or surviving corporation as he or she would have with respect to such constituent corporation if its separate existence had continued.

(h) The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 11.1 shall continue as to a Person who has ceased to be a Director, Member, officer, employee, representative or agent and shall inure to the benefit of the heirs, executors and administrators of such Person.

(i) Notwithstanding anything in this Article XI to the contrary, the Company will not have the obligation of indemnifying any Person with respect to proceedings, claims or actions initiated or brought voluntarily by such Person and not by way of defense.

Section 11.2 Insurance. The Company may purchase and maintain insurance or another arrangement on behalf of any Person who is or was a Director, Member, officer, employee, agent or other Person identified in Section 11.1 against any liability asserted against such Person or incurred by such Person in such a capacity or arising out of the status of such a Person, whether or not the Company would have the power to indemnify such Person against that liability under Section 11.1 or otherwise.

Section 11.3 Limit on Liability of Members. The indemnification set forth in this Article XI shall in no event cause the Members to incur any personal liability beyond their total Capital Contributions, nor shall it result in any liability of the Members to any other Person.

ARTICLE XII
DISSOLUTION AND WINDING UP

Section 12.1 Events Causing Dissolution. The Company shall be dissolved upon the first of the following events to occur:

(a) the unanimous written consent of the Members at any time to dissolve and wind up the affairs of the Company;

(b) the death, retirement, resignation, expulsion, Bankruptcy or dissolution of a Member or the occurrence of any other event that terminates the continued membership of a

Member in the Company, unless the business of the Company is continued by Majority Vote of the Members (excluding the affected Members) within ninety (90) days following the occurrence of any such event; or

(c) the occurrence of any other event that requires the dissolution of a limited liability company under the Act, unless the Members (excluding any Member which may have caused such occurrence), by Majority Vote, decide to continue the business of the Company.

Section 12.2 Winding Up. If the Company is dissolved pursuant to Section 12.1, the Company's affairs shall be wound up as soon as reasonably practicable in the manner set forth below.

(a) The winding up of the Company's affairs shall be supervised by a liquidator (the "Liquidator"). The Liquidator shall be the Board of Directors or, if the Members prefer, a liquidator or liquidating committee selected by the holders of at least a majority of the outstanding Units.

(b) In winding up the affairs of the Company, the Liquidator shall have full right and unlimited discretion, in the name of and for and on behalf of the Company to:

(i) Prosecute and defend civil, criminal or administrative suits;

(ii) Collect Company assets, including obligations owed to the Company;

(iii) Settle and close the Company's business;

(iv) Dispose of and convey all Company Property for cash, and in connection therewith to determine the time, manner and terms of any sale or sales of Company Property, having due regard for the activity and condition of the relevant market and general financial and economic conditions;

(v) Pay all reasonable selling costs and other expenses incurred in connection with the winding up out of the proceeds of the disposition of Company Property;

(vi) Discharge the Company's known liabilities and, if necessary, to set up, for a period not to exceed five (5) years after the date of dissolution, such cash reserves as the Liquidator may deem reasonably necessary for any contingent or unforeseen liabilities or obligations of the Company;

(vii) Distribute any remaining proceeds from the sale of Company Property to the Members in accordance with Section 12.4;

(viii) Prepare, execute, acknowledge and file articles of dissolution under the Act and any other certificates, tax returns or instruments necessary or advisable under any applicable law to effect the winding up and termination of the Company; and

(ix) Exercise, without further authorization or consent of any of the parties hereto or their legal representatives or successors in interest, all of the powers conferred

upon the Board of Directors under the terms of this Agreement to the extent necessary or desirable in the good faith judgment of the Liquidator to perform its duties and functions. The Liquidator (if not a Director or the Board of Directors) shall not be liable as a Director to the Members and shall, while acting in such capacity on behalf of the Company, be entitled to the indemnification rights set forth in the Certificate of Formation and in Article XI.

Section 12.3 Compensation of Liquidator. The Liquidator appointed as provided herein shall be entitled to receive such reasonable compensation for its services as shall be agreed upon by the Liquidator and the holders of at least a majority of the outstanding Units.

Section 12.4 Distribution of Company Property and Proceeds of Sale Thereof. (a) Upon completion of all desired sales of Company Property, and after payment of all selling costs and expenses, the Liquidator shall distribute the proceeds of such sales, and any Company Property that is to be distributed in kind, to the following groups in the following order of priority:

(i) to satisfy Company liabilities to creditors, including Members and Directors who are creditors, to the extent otherwise permitted by law (other than for past due Company distributions), whether by payment or establishment of reserves;

(ii) to satisfy Company obligations to Members and former Members to pay past due Company distributions;

(iii) to the Members, in accordance with the positive balances in their respective Capital Accounts determined after allocating all items for all periods prior to and including the date of distribution, including items relating to sales and distributions pursuant to this Article XII; and

(iv) if any amounts remain, to the Members, in proportion to their respective Percentage Interests.

All distributions required under this Section 12.4 shall be made to the Members as soon as practicable after the date of such liquidation.

(b) The claims of each priority group specified above shall be satisfied in full before satisfying any claims of a lower priority group. If the assets available for disposition are insufficient to dispose of all of the claims of a priority group, the available assets shall be distributed in proportion to the amounts owed to each creditor or the respective Capital Account balances or Percentage Interests, as applicable, of each Member in such group.

Section 12.5 Final Audit. Within a reasonable time following the completion of the liquidation, the Liquidator shall supply to each of the Members a statement that shall set forth the assets and the liabilities of the Company as of the date of complete liquidation and each Member's pro rata portion of distributions pursuant to Section 12.4.

Section 12.6 Deficit Capital Accounts. Notwithstanding anything to the contrary contained in this Agreement, and notwithstanding any custom or rule of law to the

contrary, to the extent that the deficit, if any, in the Capital Account of any Member results from or is attributable to deductions and losses of the Company (including non-cash items such as depreciation), or distributions of money pursuant to this Agreement to all Members in proportion to their respective Percentage Interests, upon dissolution of the Company such deficit shall not be an asset of the Company and such Members shall not be obligated to contribute any portion of such amount to the Company to reduce the deficit balance of such Member's Capital Account.

ARTICLE XIII
CONVERSION TO CORPORATION IN CONNECTION WITH AN INITIAL PUBLIC OFFERING

Section 13.1 Conversion to Corporation in Connection With an Initial Public Offering. (a) In anticipation of or otherwise in connection with an initial public offering registered under the Securities Act of securities of the Company (an "Initial Public Offering"), the Board of Directors shall, by Majority Vote, have the power and authority to effect the conversion of the Company's business form from a limited liability company to a Delaware corporation or the merger of the Company with or into a new or previously established but dormant Delaware corporation having no assets or liabilities, debts or other obligations of any kind whatsoever other than those that are *de minimus* in amount and that are associated with its formation and initial capitalization (such conversion or merger being referred to as a "Conversion" and such Delaware corporation being referred to as "Newco"). No Member shall have the power to veto such decision of the Board of Directors to effect a Conversion. Upon any such Conversion, the terms of this Agreement and all of the parties rights and obligations hereunder with respect to the Units shall continue in effect, *mutatis mutandis*, with respect to the Newco capital securities issued on account of the Units as provided in this Section 13.1. Any such Conversion shall result in no change to the business or operations of the Company.

(b) Upon the consummation of a Conversion, the Units held by each holder thereof shall thereupon be converted into, or exchanged for, a number of shares of one or more classes of Newco's capital securities containing the economic and other terms and rights relative to each other holder of Units as the Board of Directors by a Super-Majority Vote shall determine to be as nearly as practicable in all material respects the same as such holder's Units as provided herein, including, without limitation, the proportionate ownership interests of the Members in Newco. The determination by the Board of Directors by Super-Majority Vote of the number of shares of Newco capital securities that each Member receives upon a Conversion shall be final and binding on the holders of Units absent manifest arithmetic error.

(c) In connection with an Initial Public Offering, each Member hereby covenants and agrees to take any and all actions, and to execute and deliver any and all documents and instruments, to effect a Conversion as may be reasonably requested by the Board of Directors, including transferring or tendering such Member's Units to Newco in exchange or as consideration for shares of capital stock or other equity interests of Newco. No Member shall have or be entitled to exercise any dissenter's rights, appraisal rights or any other similar rights in connection with such Conversion. The restrictions on Transfer set forth in Article VI will expire immediately prior to the closing of any such Initial Public Offering and the shares of stock or other equity interests issued to Members in connection with any such Conversion shall be subject to (i) applicable restrictions under federal and state securities laws and (ii) any

restrictions set forth in the agreements and other instruments relating to the Initial Public Offering and/or any Conversion entered into in anticipation or contemplation of such Initial Public Offering.

ARTICLE XIV
MISCELLANEOUS PROVISIONS

Section 14.1 Conference Telephone Meetings. Meetings of the Members or the Board of Directors may be held by means of conference telephone or similar communications equipment so long as all Persons participating in the meeting can hear each other. Participation in a meeting by means of conference telephone shall constitute presence in person at such meeting, except where a Person participates in the meeting for the express purpose of objecting to the transaction of any business thereat on the ground that the meeting is not lawfully called or convened.

Section 14.2 Counterparts. This Agreement may be executed in several counterparts, each of which will be deemed an original but all of which will constitute one and the same.

Section 14.3 Entire Agreement. This Agreement constitutes the entire agreement among the parties hereto and contains all of the agreements among such parties with respect to the subject matter hereof. This Agreement supersedes any and all other agreements, either oral or written, between such parties with respect to the subject matter hereof.

Section 14.4 Partial Invalidity. Wherever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law, but in case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision shall be ineffective to the extent, but only to the extent, of such invalidity, illegality or unenforceability without invalidating the remainder of such invalid, illegal or unenforceable provision or provisions or any other provisions hereof, unless such a construction would be unreasonable.

Section 14.5 Amendment. Except as expressly provided herein and in addition to the Super-Majority Vote of the Board of Directors required pursuant to Section 8.4(a)(i), this Agreement or the Certificate of Formation may be amended only upon the written consent of the holders of 75% of the then-outstanding Class A Units held by the Members; provided, however, that if any such amendment disproportionately adversely affects the rights, interests or obligations of any Member or class of Members relative to the other Members, then the approval of such amendment shall include the written consent of the Member so disproportionately affected.

Section 14.6 Binding Effect. Subject to the provisions of this Agreement relating to transferability, this Agreement will be binding upon and shall inure to the benefit of the parties, and their respective distributees, heirs, successors and assigns.

Section 14.7 Governing Law. This Agreement shall be governed by and construed in accordance with the local, internal laws of the State of Delaware. In particular, this Agreement is intended to comply with the requirements of the Act and the Certificate of

Formation. In the event of a direct conflict between the provisions of this Agreement and the mandatory provisions of the Act or any provision of the Certificate of Formation, the Act and the Certificate of Formation, in that order of priority, will control.

Section 14.8 Effect of Consent or Waiver. A consent or waiver, express or implied, to or of any breach or default by any Person in the performance by that Person of its obligations with respect to the Company is not a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person with respect to the Company. Failure on the part of a Person to complain of any act of any Person or to declare any Person in default with respect to the Company, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that default until the applicable statute-of-limitations period has run.

Section 14.9 Further Assurances. In connection with this Agreement and the transactions contemplated hereby, each Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement and such transactions.

* * * * * *

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

Michael A. Lubin

LUBIN PARTNERS, LLC

By: _____
Name: Michael A. Lubin
Title: Managing Member
Entity: Its Managing Member

ORA ASSOCIATES LLC

By: _____
Name: William Shulevitz
Title: Managing Member

_____
William B. Conner

_____
Marilyn Lubin

_____
Warren Delano

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

Michael A. Lubin

LUBIN PARTNERS, LLC

By:
Name:
Title:
Entity: Its Managing Member

ORA ASSOCIATES LLC

By:
Name: William Shulevitz
Title: Managing Member

William B. Conniet

Marilyn Lubin

Warren Delano

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

_____
Michael A. Lubin

LUBIN PARTNERS, LLC

By: _____
Name:
Title:
Entity: Its Managing Member

ORA ASSOCIATES LLC

By: _____
Name: William Shulevitz
Title: Managing Member

William B Conner
William B. Conner

_____
Marilyn Lubin

_____
Warren Delano

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

_____
Michael A. Lubin

LUBIN PARTNERS, LLC

By: _____
Name:
Title:
Entity: Its Managing Member

ORA ASSOCIATES LLC

By: _____
Name: William Shulevitz
Title: Managing Member

_____
William B. Conner

_____
Marilyn Lubin

_____
Warren Delano

SCHEDULE I

MEMBERS, UNITS AND PERCENTAGE INTERESTS

Member	Initial Cash Capital Contributions	Initial Capital Accounts	Number of Class A Units	Number of Class B Units	Percentage Interest
Michael A. Lubin c/o Lubin Delano & Company 800 Third Avenue New York, NY 10022	$1,000,000	$1,000,000	1,000	-0-	17.6%
Lubin Partners LLC c/o Lubin Delano & Company 800 Third Avenue New York, NY 10022	$2,785,000	$2,785,000	2,785	-0-	49.0%
ORA Associates LLC 155 West 70th Street Suite 3A New York, NY 10023	$500,000	$500,000	500	-0-	8.8%
William B. Conner 1030 State Street Erie, PA 16501	$1,000,000	$1,000,000	1,000	-0-	17.6%
Marilyn Lubin c/o Lubin Delano & Company 800 Third Avenue New York, NY 10022	$200,000	$200,000	200	-0-	3.5%
Warren Delano c/o Lubin Delano & Company 800 Third Avenue New York, NY 10022	$200,000	$200,000	200	-0-	3.5%
TOTALS	$5, 685,000	$5,685,000	5,685	-0-	100%

SCHEDULE II

INITIAL BOARD OF DIRECTORS

Michael A. Lubin, as a designee of Michael A. Lubin

Warren Delano, as a designee of Michael A. Lubin

Kenneth J. Vivlamore, as a designee of Michael A. Lubin

William Shulevitz, as the designee of ORA Associates LLC

William B. Connor, as the designee of William B. Conner