NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director
625 Broadway, 12th Floor, Albany, New York 12233-7011
P: (518) 402-9706 I F: (518) 402-9020
www.dec.ny.gov

CorrVentures, LLC
Stephen Read
360 Rileyville Road
Ringoes, NJ 08551

DEC – 6 2019

RE: Site Name: Hudson Valley Paperboard
Site No.: C442041
Location of Site: 1900 River Road, Rensselaer County
Castleton-On-Hudson, NY 12033

Dear Mr. Read:

To complete your file, attached is a fully executed copy of the Brownfield Cleanup Agreement for the Hudson Valley Paperboard Site.

If you have any further questions relating to this matter, please contact the project attorney for this site, Stephen Repsher, Esq., NYS Department of Environmental Conservation, Office of General Counsel, 1130 N. Westcott Rd., Schenectady, NY 12306 or by email at stephen.repsher@dec.ny.gov.

Sincerely,

Michael J. Ryan, P.E.
Director
Division of Environmental Remediation

Enclosure

ec: Drew Hoffert, Project Manager

cc: Stephen Repsher, Esq.
Jennifer Andaloro, Esq./Dale Thiel

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
BROWNFIELD CLEANUP PROGRAM
ECL §27-1401 *et seq.*

In the Matter of a Remedial Program for

BROWNFIELD SITE CLEANUP AGREEMENT
Index No. C442041-10-19

Hudson Valley Paperboard
DEC Site No:C442041
Located at: 1900 River Road
Rensselaer County
Castleton-On-Hudson, NY 12033
Hereinafter referred to as "Site"

by:
CorrVentures, LLC
360 Rileyville Road, Ringoes, NJ 08551
Hereinafter referred to as "Applicant"

WHEREAS, the Department of Environmental Conservation ("Department") is authorized to administer the Brownfield Cleanup Program ("BCP") set forth in Article 27, Title 14 of the Environmental Conservation Law ("ECL"); and

WHEREAS, the Applicant submitted an application received by the Department on June 14, 2019; and

WHEREAS, the Department has determined that the Site and Applicant are eligible to participate in the BCP;

NOW, THEREFORE, IN CONSIDERATION OF AND IN EXCHANGE FOR THE MUTUAL COVENANTS AND PROMISES, THE PARTIES AGREE TO THE FOLLOWING:

I. Applicant Status

The Applicant, CorrVentures, LLC, is participating in the BCP as a Volunteer as defined in ECL 27-1405(1)(b).

II. Tangible Property Tax Credit Status

The Site is not located in a City having a population of one million or more. It is therefore presumed that the Site is eligible for tangible property tax credits.

III. Real Property

The Site subject to this Brownfield Cleanup Agreement (the "BCA" or "Agreement") consists of approximately 44.610 acres and does not include lands below the mean high water mark of the Moordener Kill, a Map of which is attached as Exhibit "A", and is described as follows:

Tax Map/Parcel No.: 198.12-1-3.1 (portion of)
Street Number: 1900 River Road, Castleton-on-Hudson
Owner: Rensselaer County

IV. Communications

A. All written communications required by this Agreement shall be transmitted by United States Postal Service, by private courier service, by hand delivery, or by electronic mail.

1. Communication from Applicant shall be sent to:

Drew Hoffert
New York State Department of Environmental Conservation
Division of Environmental Remediation
1130 North Westcott Rd
Schenectady, NY 12306
drew.hoffert@dec.ny.gov

Note: one hard copy (unbound) of work plans and reports is required, as well as one electronic copy.

Christine Vooris (electronic copy only)
New York State Department of Health
Bureau of Environmental Exposure Investigation
Empire State Plaza
Corning Tower Room 1787
Albany, NY 12237
christine.vooris@health.ny.gov

Stephen Repsher, Esq. (correspondence only)
New York State Department of Environmental Conservation
Office of General Counsel
1130 N. Westcott road
Schenectady, NY 12306
stephen.fre@dec.ny.gov

2. Communication from the Department to Applicant shall be sent to:

CorrVentures, LLC
Attn: Stephen Read
360 Rileyville Road
Ringoes, NJ 08551
stephenread@verizon.net

B. The Department and Applicant reserve the right to designate additional or different addressees for communication on written notice to the other. Additionally, the Department reserves the right to request that the Applicant provide more than one paper copy of any work plan or report.

C. Each party shall notify the other within ninety (90) days after any change in the addresses listed in this paragraph or in Paragraph III.

V. Miscellaneous

A. Applicant acknowledges that it has read, understands, and agrees to abide by all the terms set forth in Appendix A - "Standard Clauses for All New York State Brownfield Site Cleanup Agreements" which is attached to and hereby made a part of this Agreement as if set forth fully herein.

B. In the event of a conflict between the terms of this BCA (including any and all attachments thereto and amendments thereof) and the terms of Appendix A, the terms of this BCA shall control.

C. The effective date of this Agreement is the date it is signed by the Commissioner or the Commissioner's designee.

DATED:

DEC - 6 2019

THIS BROWNFIELD CLEANUP AGREEMENT IS HEREBY APPROVED, Acting by and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: _____

Michael J. Ryan, P.E., Director
Division of Environmental Remediation

CONSENT BY APPLICANT

Applicant hereby consents to the issuing and entering of this Agreement, and agrees to be bound by this Agreement.

CorrVentures, LLC

By: Steven Read

Title: President & CEO

Date: 10.30.19

STATE OF ~~NEW YORK~~ NEW JERSEY)
) ss:
COUNTY OF MERCER)

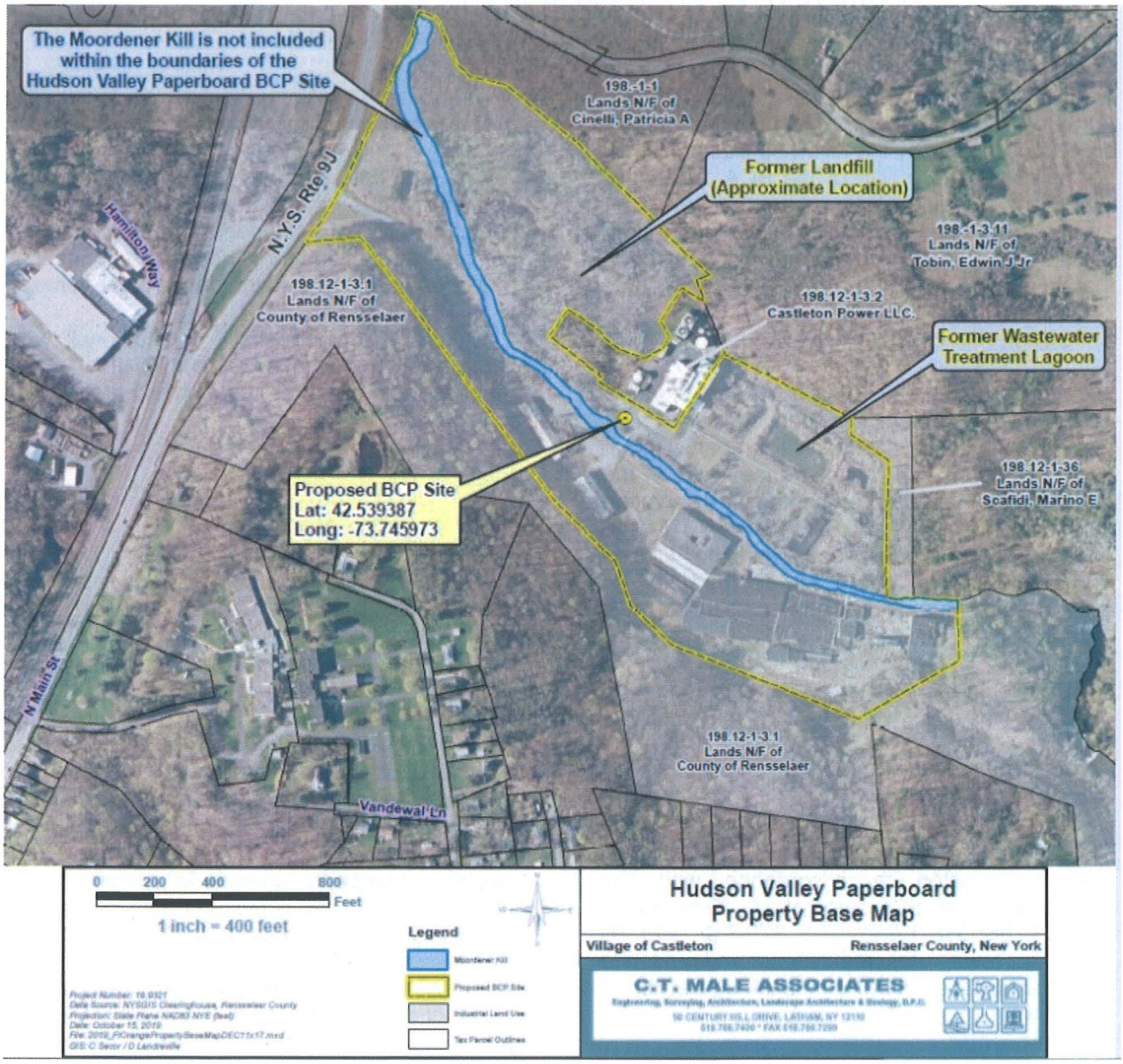
On the 30th day of OCTOBER in the year 2019, before me, the undersigned, personally appeared STEVEN R READ, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Lorraine Bonacci Coryell

Signature and Office of individual
taking acknowledgment

Lorraine Bonacci Coryell
Notary Public
New Jersey
My Commission Expires 8-1-2022
No. 2289335

EXHIBIT A
SITE MAP



APPENDIX A

STANDARD CLAUSES FOR ALL NEW YORK STATE BROWNFIELD SITE CLEANUP AGREEMENTS

The parties to the Brownfield Site Cleanup Agreement (hereinafter "BCA" or "Agreement") agree to be bound by the following clauses which are hereby made a part of the BCA. The word "Applicant" herein refers to any party to the Agreement, other than the New York State Department of Environmental Conservation (herein after "Department").

I. Citizen Participation Plan

Within twenty (20) days after the effective date of this Agreement, Applicant shall submit for review and approval a written citizen participation plan prepared in accordance with the requirements of Environmental Conservation Law (ECL) § 27-1417 and 6 NYCRR §§ 375-1.10 and 375-3.10. Upon approval, the Citizen Participation Plan shall be deemed to be incorporated into and made a part of this Agreement.

II. Development, Performance, and Reporting of Work Plans

A. Work Plan Requirements

The work plans ("Work Plan" or "Work Plans") under this Agreement shall be prepared and implemented in accordance with the requirements of ECL Article 27, Title 14, 6 NYCRR §§ 375-1.6(a) and 375-3.6, and all applicable laws, rules, regulations, and guidance documents. The Work Plans shall be captioned as follows:

1. "Remedial Investigation Work Plan" if the Work Plan provides for the investigation of the nature and extent of contamination within the boundaries of the Site and, if the Applicant is a "Participant", the extent of contamination emanating from such Site. If the Applicant is a "Volunteer" it shall perform a qualitative exposure assessment of the contamination emanating from the Site in accordance with ECL § 27-1415(2)(b) and Department guidance;

2. "Remedial Work Plan" if the Work Plan provides for the development and implementation of a Remedial Program for contamination within the boundaries of the Site and, if the Applicant is a "Participant", the contamination that has emanated from such Site;

3. "IRM Work Plan" if the Work Plan provides for an interim remedial measure; or

4. "Site Management Plan" if the Work Plan provides for the identification and implementation of institutional and/or engineering controls as well as any necessary monitoring and/or operation and maintenance of the remedy.

5. "Supplemental" if additional work plans other than those set forth in II.A.1-4 are required to be prepared and implemented.

B. Submission/Implementation of Work Plans

1. The first proposed Work Plan to be submitted under this Agreement shall be submitted no later than thirty (30) days after the effective date of this Agreement. Thereafter, the Applicant shall submit such other and additional work plans as determined in a schedule to be approved by the Department.

2. Any proposed Work Plan shall be submitted for the Department's review and approval and shall include, at a minimum, a chronological description of the anticipated activities to be conducted in accordance with current guidance, a schedule for performance of those activities, and sufficient detail to allow the Department to evaluate that Work Plan. The Department shall use best efforts in accordance with 6 NYCRR § 375-3.6(b) to approve, modify, or reject a proposed Work Plan within forty-five (45) days from its receipt or within fifteen (15) days from the close of the comment period, if applicable, whichever is later.

i. Upon the Department's written approval of a Work Plan, such Department-approved Work Plan shall be deemed to be incorporated into and made a part of this Agreement and shall be implemented in accordance with the schedule contained therein. All work undertaken as part of a remedial program for a Site must be detailed in a department-approved Work Plan or a submittal approved in form and content by the Department.

ii. If the Department requires modification of a Work Plan, the reason for such modification shall be provided in writing and the

provisions of 6 NYCRR § 375-1.6(d)(3) shall apply.

iii. If the Department disapproves a Work Plan, the reason for such disapproval shall be provided in writing and the provisions of 6 NYCRR § 375-1.6(d)(4) shall apply.

3. A Site Management Plan, if necessary, shall be submitted in accordance with the schedule set forth in the IRM Work Plan or Remedial Work Plan.

C. Submission of Final Reports

1. In accordance with the schedule contained in an approved Work Plan, Applicant shall submit a Final Report for an Investigation Work Plan prepared in accordance with ECL § 27-1411(1) and 6 NYCRR § 375-1.6. If such Final Report concludes that no remediation is necessary, and the Site does not meet the requirements for Track 1, Applicant shall submit an Alternatives Analysis prepared in accordance with ECL § 27-1413 and 6 NYCRR § 375-3.8(f) that supports such determination.

2. In accordance with the schedule contained in an approved Work Plan, Applicant shall submit a Final Engineering Report certifying that remediation of the Site has been performed in accordance with the requirements of ECL §§ 27-1419(1) and (2) and 6 NYCRR § 375-1.6. The Department shall review such Report, the submittals made pursuant to this Agreement, and any other relevant information regarding the Site and make a determination as to whether the goals of the remedial program have been or will be achieved in accordance with established timeframes; if so, a written Certificate of Completion will be issued in accordance with ECL § 27-1419, 6 NYCRR §§ 375-1.9 and 375-3.9.

3. Within sixty (60) days of the Department's approval of a Final Report, Applicant shall submit such additional Work Plans as it proposes to implement. In addition, Applicant shall include with every report submitted to the Department a schedule for the submission of any subsequent work plan required to meet the requirements of ECL Article 27 Title 14. Failure to submit any additional Work Plans within such period shall, unless other Work Plans are under review by the Department or being implemented by Applicant, result in the termination of this Agreement pursuant to Paragraph XII.

D. Review of Submittals other than Work Plans

1. The Department shall timely notify Applicant in writing of its approval or disapproval of each submittal other than a Work Plan in accordance with 6 NYCRR § 375-1.6. All Department-approved submittals shall be incorporated into and become an enforceable part of this Agreement.

2. If the Department disapproves a submittal covered by this Subparagraph, it shall specify the reason for its disapproval and may request Applicant to modify or expand the submittal. Within fifteen (15) days after receiving written notice that Applicant's submittal has been disapproved, Applicant shall elect in writing to either (i) modify or expand it within thirty (30) days of receipt of the written notice of disapproval; (ii) complete any other Department-approved Work Plan(s); (iii) invoke dispute resolution pursuant to Paragraph XIII; or (iv) terminate this Agreement pursuant to Paragraph XII. If Applicant submits a revised submittal and it is disapproved, the Department and Applicant may pursue whatever remedies may be available under this Agreement or under law. All work undertaken as part of a remedial program, including work undertaken pursuant to submittals other than Work Plans, must be approved by the department prior to implementation by the Applicant.

E. Department's Determination of Need for Remediation

The Department shall determine upon its approval of each Final Report dealing with the investigation of the Site whether remediation, or additional remediation as the case may be, is needed for protection of public health and the environment.

1. If the Department makes a preliminary determination that remediation, or additional remediation, is not needed for protection of public health and the environment, the Department shall notify the public of such determination and seek public comment in accordance with ECL § 27-1417(3)(f). The Department shall provide timely notification to the Applicant of its final determination following the close of the public comment period.

2. If the Department determines that additional remediation is not needed and such determination is based upon use restrictions, Applicant shall cause to be recorded an Environmental Easement in accordance with 6 NYCRR § 375-1.8(h).

3. If the Department determines that remediation, or additional remediation, is needed, Applicant may elect to submit for review and approval a proposed Remedial Work Plan (or modify an existing Work Plan for the Site) for a remedy selected upon due consideration of the factors set forth in ECL § 27-1415(3) and 6 NYCRR § 375-1.8(f). A proposed Remedial Work Plan addressing the Site's remediation will be noticed for public comment in accordance with ECL § 27-1417(3)(f) and the Citizen Participation Plan developed pursuant to this Agreement. If the Department determines following the close of the public comment period that modifications to the proposed Remedial Work Plan are needed, Applicant agrees to negotiate appropriate modifications to such Work Plan. If Applicant elects not to develop a Work Plan under this Subparagraph then this Agreement shall terminate in accordance with Paragraph XII. If the Applicant elects to develop a Work Plan, then it will be reviewed in accordance with Paragraph II.D above.

F. Institutional/Engineering Control Certification

In the event that the remedy for the Site, if any, or any Work Plan for the Site, requires institutional or engineering controls, Applicant shall submit a written certification in accordance with 6 NYCRR §§ 375-1.8(h)(3) and 375-3.8(h)(2).

III. Enforcement

Except as provided in Paragraph V, this Agreement shall be enforceable as a contractual agreement under the laws of the State of New York. Applicant shall not suffer any penalty except as provided in Paragraph V, or be subject to any proceeding or action if it cannot comply with any requirement of this Agreement as a result of a Force Majeure Event as described at 6 NYCRR § 375-1.5(b)(4) provided Applicant complies with the requirements set forth therein.

IV. Entry upon Site

A. Applicant hereby agrees to provide access to the Site and to all relevant information regarding activities at the Site in accordance with the provisions of ECL § 27-1431. Applicant agrees to provide the Department upon request with proof of access if it is not the owner of the Site.

B. The Department shall have the right to periodically inspect the Site to ensure that the use of the property complies with the terms and conditions of this Agreement. The Department will generally conduct such inspections during business hours, but retains the right to inspect at any time.

C. Failure to provide access as provided for under this Paragraph may result in termination of this Agreement pursuant to Paragraph XII.

V. Payment of State Costs (Applicable only to Applicants with Participant Status)

A. Within forty-five (45) days after receipt of an itemized invoice from the Department, Applicant shall pay to the Department a sum of money which shall represent reimbursement for State Costs as provided by 6 NYCRR § 375-1.5 (b)(3)(i).

B. Costs shall be documented as provided by 6 NYCRR § 375-1.5(b)(3)(ii). The Department shall not be required to provide any other documentation of costs, provided however, that the Department's records shall be available consistent with, and in accordance with, Article 6 of the Public Officers Law.

C. Each such payment shall be made payable to the "Commissioner of NYSDEC" and shall be sent to:

Director, Bureau of Program Management
Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-7012

D. Each party shall provide written notification to the other within ninety (90) days of any change in the foregoing addresses.

E. If Applicant objects to any invoiced costs under this Agreement, the provisions of 6 NYCRR §§ 375-1.5 (b)(3)(v) and (vi) shall apply.

Objections shall be sent to the Department as provided under subparagraph V.C above.

F. In the event of non-payment of any invoice within the 45 days provided herein, the Department may seek enforcement of this provision pursuant to Paragraph III or the Department may commence an enforcement action for non-compliance with ECL § 27-1409(2) and ECL § 71-4003.

VI. Liability Limitation

Subsequent to the issuance of a Certificate of Completion pursuant to this Agreement, Applicant shall be entitled to the Liability Limitation set forth at ECL § 27-1421, subject to the terms and conditions stated therein and to the provisions of 6 NYCRR §§ 375-1.9 and 375-3.9.

VII. Reservation of Rights

A. Except as provided in Subparagraph VII.B, Applicant reserves all rights and defenses under applicable law to contest, defend against, dispute, or disprove any action, proceeding, allegation, assertion, determination, or order of the Department, including any assertion of remedial liability by the Department against Applicant, and further reserves all rights including the rights to notice, to be heard, to appeal, and to any other due process respecting any action or proceeding by the Department, including the enforcement of this Agreement. The existence of this Agreement or Applicant's compliance with it shall not be construed as an admission of any liability, fault, wrongdoing, or violation of law by Applicant, and shall not give rise to any presumption of law or finding of fact which shall inure to the benefit of any third party.

B. Notwithstanding the foregoing, Applicant hereby waives any right it may have to make a claim pursuant to Article 12 of the Navigation Law with respect to the Site and releases the State and the New York Environmental Protection and Spill Compensation Fund from any and all legal or equitable claims, suits, causes of action, or demands whatsoever with respect to the Site that Applicant may have as a result of Applicant's entering into or fulfilling the terms of this Agreement.

VIII. Indemnification

Applicant shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless from any claim, suit, action, and cost of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Agreement by Applicant prior to the Termination Date except for those claims, suits, actions, and costs arising from the State's gross negligence or willful or intentional misconduct by the Department, the State of New York, and/or their representatives and employees during the course of any activities conducted pursuant to this Agreement. In the event that the Applicant is a Participant, this provision shall also include the Trustee of the State's Natural Resources. The Department shall provide Applicant with written notice no less than thirty (30) days prior to commencing a lawsuit seeking indemnification pursuant to this Paragraph.

IX. Change of Use

Applicant shall notify the Department at least sixty (60) days in advance of any change of use, as defined in ECL § 27-1425, which is proposed for the Site, in accordance with the provisions of 6 NYCRR § 375-1.11(d). In the event the Department determines that the proposed change of use is prohibited, the Department shall notify Applicant of such determination within forty-five (45) days of receipt of such notice.

X. Environmental Easement

A. Within thirty (30) days after the Department's approval of a Remedial Work Plan which relies upon one or more institutional and/or engineering controls, or within sixty (60) days after the Department's determination pursuant to Subparagraph II.E.2 that additional remediation is not needed based upon use restrictions, Applicant shall submit to the Department for approval an Environmental Easement to run with the land in favor of the State which complies with the requirements of ECL Article 71, Title 36 and 6 NYCRR § 375-1.8(h)(2). Applicant shall cause such instrument to be recorded with the recording officer for the county in which the Site is located within thirty (30) days after the Department's approval of such instrument. Applicant shall provide the Department with a copy of such instrument certified by the recording officer to be a true and faithful copy within thirty (30) days of such recording (or such longer period of time as may be required to obtain a certified copy

provided Applicant advises the Department of the status of its efforts to obtain same within such thirty (30) day period), which shall be deemed to be incorporated into this Agreement.

B. Applicant or the owner of the Site may petition the Department to modify or extinguish the Environmental Easement filed pursuant to this Agreement at such time as it can certify that the Site is protective of public health and the environment without reliance upon the restrictions set forth in such instrument. Such certification shall be made by a Professional Engineer or Qualified Environmental Professional as defined at 6 NYCRR § 375-1.2(ak) approved by the Department. The Department will not unreasonably withhold its consent.

XI. Progress Reports

Applicant shall submit a written progress report of its actions under this Agreement to the parties identified in Subparagraph III.A.1 of the Agreement by the 10th day of each month commencing with the month subsequent to the approval of the first Work Plan and ending with the Termination Date, unless a different frequency is set forth in a Work Plan. Such reports shall, at a minimum, include: all actions relative to the Site during the previous reporting period and those anticipated for the next reporting period; all approved activity modifications (changes of work scope and/or schedule); all results of sampling and tests and all other data received or generated by or on behalf of Applicant in connection with this Site, whether under this Agreement or otherwise, in the previous reporting period, including quality assurance/quality control information; information regarding percentage of completion; unresolved delays encountered or anticipated that may affect the future schedule and efforts made to mitigate such delays; and information regarding activities undertaken in support of the Citizen Participation Plan during the previous reporting period and those anticipated for the next reporting period.

XII. Termination of Agreement

Applicant or the Department may terminate this Agreement consistent with the provisions of 6 NYCRR §§ 375-3.5(b), (c), and (d) by providing written notification to the parties listed in Paragraph IV of the Agreement.

XIII. Dispute Resolution

A. In the event disputes arise under this Agreement, Applicant may, within fifteen (15) days after Applicant knew or should have known of the facts which are the basis of the dispute, initiate dispute resolution in accordance with the provisions of 6 NYCRR § 375-1.5(b)(2).

B. All cost incurred by the Department associated with dispute resolution are State costs subject to reimbursement pursuant to Paragraph V of Appendix A of this Agreement, if applicable.

C. Notwithstanding any other rights otherwise authorized in law or equity, any disputes pursuant to this Agreement shall be limited to Departmental decisions on remedial activities. In no event shall such dispute authorize a challenge to the applicable statute or regulation.

XIV. Miscellaneous

A. If the information provided and any certifications made by Applicant are not materially accurate and complete, this Agreement, except with respect to Applicant's obligations pursuant to Paragraphs V, if applicable, and VII.B, and VIII, shall be null and void ab initio fifteen (15) days after the Department's notification of such inaccuracy or incompleteness or fifteen (15) days after issuance of a final decision resolving a dispute pursuant to Paragraph XIII, whichever is later, unless Applicant submits information within that fifteen (15) day time period indicating that the information provided and the certifications made were materially accurate and complete. In the event this Agreement is rendered null and void, any Certificate of Completion and/or Liability Limitation that may have been issued or may have arisen under this Agreement shall also be null and void ab initio, and the Department shall reserve all rights that it may have under law.

B. By entering into this Agreement, Applicant agrees to comply with and be bound by the provisions of 6 NYCRR §§ 375-1, 375-3 and 375-6; the provisions of such subparts that are referenced herein are referenced for clarity and convenience only and the failure of this Agreement to specifically reference any particular regulatory provision is not intended to imply that such provision is not applicable to activities performed under this Agreement.

C. The Department may exempt Applicant from the requirement to obtain any state or local

permit or other authorization for any activity conducted pursuant to this Agreement in accordance with 6 NYCRR §§ 375-1.12(b), (c), and (d).

D. 1. Applicant shall use "best efforts" to obtain all Site access, permits, easements, approvals, institutional controls, and/or authorizations necessary to perform Applicant's obligations under this Agreement, including all Department-approved Work Plans and the schedules contained therein. If, despite Applicant's best efforts, any access, permits, easements, approvals, institutional controls, or authorizations cannot be obtained, Applicant shall promptly notify the Department and include a summary of the steps taken. The Department may, as it deems appropriate and within its authority, assist Applicant in obtaining same.

2. If an interest in property is needed to implement an institutional control required by a Work Plan and such interest cannot be obtained, the Department may require Applicant to modify the Work Plan pursuant to 6 NYCRR § 375-1.6(d)(3) to reflect changes necessitated by Applicant's inability to obtain such interest.

E. The paragraph headings set forth in this Agreement are included for convenience of reference only and shall be disregarded in the construction and interpretation of any provisions of this Agreement.

F. 1. The terms of this Agreement shall constitute the complete and entire agreement between the Department and Applicant concerning the implementation of the activities required by this Agreement. No term, condition, understanding, or agreement purporting to modify or vary any term of this Agreement shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion, or comment by the Department shall be construed as relieving Applicant of its obligation to obtain such formal approvals as may be required by this Agreement. In the event of a conflict between the terms of this Agreement and any Work Plan submitted pursuant to this Agreement, the terms of this Agreement shall control over the terms of the Work Plan(s). Applicant consents to and agrees not to contest the authority and jurisdiction of the Department to enter into or enforce this Agreement.

2. i. Except as set forth herein, if Applicant desires that any provision of this Agreement be changed, Applicant shall make timely written application to the Commissioner with copies to the parties in Subparagraph IV.A.1 of the Agreement.

ii. If Applicant seeks to modify an approved Work Plan, a written request shall be made to the Department's project manager, with copies to the parties listed in Subparagraph IV.A.1 of the Agreement.

iii. Requests for a change to a time frame set forth in this Agreement shall be made in writing to the Department's project attorney and project manager; such requests shall not be unreasonably denied and a written response to such requests shall be sent to Applicant promptly.

G. 1. If there are multiple parties signing this Agreement, the term "Applicant" shall be read in the plural, the obligations of each such party under this Agreement are joint and several, and the insolvency of or failure by any Applicant to implement any obligations under this Agreement shall not affect the obligations of the remaining Applicant(s) under this Agreement.

2. If Applicant is a partnership, the obligations of all general partners (including limited partners who act as general partners) under this Agreement are joint and several and the insolvency or failure of any general partner to implement any obligations under this Agreement shall not affect the obligations of the remaining partner(s) under this Agreement.

3. Notwithstanding the foregoing Subparagraphs XIV.G.1 and 2, if multiple parties sign this Agreement as Applicants but not all of the signing parties elect to implement a Work Plan, all Applicants are jointly and severally liable for each and every obligation under this Agreement through the completion of activities in such Work Plan that all such parties consented to; thereafter, only those Applicants electing to perform additional work shall be jointly and severally liable under this Agreement for the obligations and activities under such additional Work Plan(s). The parties electing not to implement the additional Work Plan(s) shall have no obligations under this Agreement relative to the activities set forth in such Work Plan(s). Further, only those Applicants electing to implement such additional Work Plan(s) shall be

eligible to receive the Liability Limitation referenced in Paragraph VI.

4. Any change to parties pursuant to this Agreement, including successors and assigns through acquisition of title, is subject to approval by the Department, after submittal of an application acceptable to the Department.

H. Applicant shall be entitled to receive contribution protection and/or to seek contribution to the extent authorized by ECL § 27-1421(6) and 6 NYCRR § 375-1.5(b)(5).

I. Applicant shall not be considered an operator of the Site solely by virtue of having executed and/or implemented this Agreement.

J. Applicant and Applicant's agents, grantees, lessees, sublessees, successors, and assigns shall be bound by this Agreement. Any change in ownership of Applicant including, but not limited to, any transfer of assets or real or personal property, shall in no way alter Applicant's responsibilities under this Agreement.

K. Unless otherwise expressly provided herein, terms used in this Agreement which are defined in ECL Article 27 or in regulations promulgated thereunder shall have the meaning assigned to them under said statute or regulations.

L. Applicant's obligations under this Agreement shall not be deemed to constitute any type of fine or penalty.

M. In accordance with 6 NYCRR § 375-1.6(a)(4), the Department shall be notified at least 7 days in advance of, and be allowed to attend, any field activities to be conducted under a Department approved work plan, as well as any pre-bid meetings, job progress meetings, substantial completion meeting and inspection, and final inspection and meeting; provided, however that the Department may be excluded from portions of meetings where privileged matters are discussed.

N. In accordance with 6 NYCRR § 375-1.11(a), all work plans; reports, including all attachments and appendices, and certifications, submitted by a remedial party shall be submitted in print, as well as in an electronic format acceptable to the Department.

O. This Agreement may be executed for the convenience of the parties hereto, individually or in combination, in one or more counterparts, each of which shall be deemed to have the status of an executed original and all of which shall together constitute one and the same.

Execution Version

CORRVENTURES, LLC

A Delaware Limited Liability Company

AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT

Dated as of May 14, 2019

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, ASSIGNED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER SUCH ACT OR UNLESS THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY AND ITS COUNSEL THAT SUCH REGISTRATION IS NOT REQUIRED.

PLEASE SEE P. 26 - ARTICLES 7.2.1 & 7.2.2

AUTHORIZATION TO BIND

President & CEO - CORRVENTURES LLC

TABLE OF CONTENTS

CORRVENTURES, LLC
AMENDED AND RESTATED
LIMITED LIABILITY COMPANY OPERATING AGREEMENT

THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT is made and entered into as of May 14, 2019 (the "**Effective Date**") by and among CorrVentures, LLC (the "**Company**"), a Delaware limited liability company, and the Persons identified as the Shareholders on the Share Register attached hereto as **Schedule A** and each other Person who becomes a member of the Company in accordance with the terms of this Agreement (collectively, the "**Shareholders**"). Any reference in this Agreement to a Shareholder shall include such Shareholder's successors to the extent such successors have become Additional Shareholders in accordance with the provisions of this Agreement.

RECITALS

WHEREAS, the Company was organized on February 27, 2018 under the name CorrVentures, LLC by filing a certificate of formation (the "**Certificate**") with the office of the Secretary of State of the State of Delaware pursuant to the provisions of the Delaware Limited Liability Company Act, as amended from time to time (the "**Act**");

WHEREAS, this Agreement amends and restates that certain Limited Liability Company Agreement of the Company, dated as of March 2, 2018 in its entirety;

WHEREAS, each Shareholder executing this Agreement desires to be a member of the Company for the purposes of the Act; and

WHEREAS, the purpose of this Agreement is to set out the respective rights, obligations, and duties of the Shareholders regarding the Company and its business, management, and operations.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the undersigned Persons, being (a) the Company and (b) the Shareholders hereby agree as follows:

AGREEMENT

ARTICLE 1
DEFINITIONS

As used in this Agreement, the following terms have the following meanings:

"**Accounting Period**" means (i) the Company's Fiscal Year if there are no changes in the Shareholders' respective interests in Company income, gain, loss or deductions during such Fiscal Year except on the first day thereof or (ii) any other period beginning on the first day of a Fiscal Year, or any other day during a Fiscal Year, upon which occurs a change in such respective interests, and ending on the last day of a Fiscal Year, or on the day preceding an earlier day upon which any change in such respective interest shall occur.

"**Accruing Dividends**" means dividends that accrue on the Preferred Shares from and after the date of the issuance of any such Preferred Shares at the rate per annum of fifteen percent (15.0%) calculated based on a 360-day year and applied to the principal amount outstanding on the last business day of the prior month; provided, however, that from and after the occurrence of an Event of Default (as defined herein), the accruing dividend rate shall be increased to the lesser of 25% or the maximum allowable rate by law.

"**Act**" has the meaning given such term in the recitals to this Agreement.

"**Additional Shareholder**" shall mean any Person who or which, with respect to an issuance of Shares by the Company, is admitted to the Company as an Additional Shareholder pursuant to Section 5.5 of this Agreement.

"**Adjusted Capital Account Deficit**" means, with respect to the Capital Account of any Shareholder as of the end of any Fiscal Year, the amount by which the balance in such Capital Account is less than $0.00, after giving effect to the following adjustments:

(a) Each Shareholder's Capital Account shall be increased by the amount, if any, such Shareholder is obligated to contribute or is treated as being obligated to contribute to the Company pursuant to Treasury Regulation Section 1.704-1(b)(2)(ii)(c) or Treasury Regulation Sections 1.704-2(g)(1) and 1.704-2(i); and

(b) Each Shareholder's Capital Account shall be decreased by the amount of any of the items described in Treasury Regulation Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

"**Affiliate**" means, with respect to any specified Person, (a) any other Person which directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with, such specified Person and (b) if such specified Person is an individual, any Immediate Family Member of such specified Person; provided, however, that for purposes of this definition, (i) "control", as used with respect to any Person, means the power to, directly or indirectly, direct the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise, and (ii) the terms "controls" and "controlled" have correlative meanings.

"**Agreement**" means this Amended and Restated Limited Liability Company Operating Agreement, as may be amended, modified, supplemented or restated from time to time, as the context requires.

"**Board of Directors**" has the meaning given such term in Section 6.1.

"**Book Value**" means, with respect to any asset, such asset's adjusted basis for federal income tax purposes, except as follows: (a) the initial Book Value of any asset contributed by a Shareholder to the Company shall be the gross Fair Market Value of such asset, as agreed to by the contributing Shareholder and the Majority of the Board of Directors; (b) for purposes of "adjusting" the Capital Accounts of Shareholders to reflect changes in the value of the Company upon certain occasions, the Book Value of all Company assets shall be adjusted to equal their respective gross Fair Market Values, as determined by the Majority of the Board of Directors, as of the following times: (i) the acquisition of an additional interest in the Company by any new or

existing Shareholder in exchange for more than a de minimis Capital Contribution or for substantial services rendered to or on behalf of the Company; (ii) the distribution by the Company to a Shareholder of more than a de minimis amount of Company assets as consideration for an interest in the Company; and (iii) the liquidation of the Company within the meaning of Treasury Regulation Section 1.704-l(b)(2)(ii)(g); and (c) the Book Value of any Company asset distributed to any Shareholder shall be the gross Fair Market Value of such asset on the date of distribution, as determined by the Shareholder receiving such distribution and the Majority of the Board of Directors. If the Book Value of an asset has been determined or adjusted pursuant to paragraphs (a) or (b) above, such Book Value shall thereafter be adjusted by the depreciation taken into account with respect to such asset for purposes of computing Net Profit and Net Loss.

"**Capital Account**" has the meaning given such term in Section 3.2.

"**Capital Contribution**" means the aggregate contributions made (or deemed to be made) by a Shareholder to the Company pursuant to Article 3 as of the date in question, as reflected on the books of the Company or as shown opposite such Shareholder's name on the Share Register, as the same may be amended from time to time.

"**Certificate**" has the meaning given such term in the recitals to this Agreement.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Common Share Issue Price**" means **$0.01** per Common Share.

"**Common Shares**" has the meaning given such term in Section 3.6.1.

"**Company**" has the meaning given such term in the recitals to this Agreement.

"**Damages**" has the meaning given such term in Section 8.2.2.

"**Deemed Liquidation Event**" means each of the following events: (a) a sale, merger or consolidation in which the Company is a constituent party or a subsidiary of the Company is a constituent party and the Company issues Shares (whether now or hereinafter authorized) pursuant to such sale, merger or consolidation, except any such sale, merger or consolidation involving the Company or a subsidiary in which the Shares of the Company outstanding immediately prior to such sale, merger or consolidation continue to represent, or are converted into or exchanged for Shares that represent, immediately following such sale, merger or consolidation, at least a majority, by voting power, of the Shares of the surviving or resulting company or if the surviving or resulting company is a wholly owned subsidiary of another company immediately following such sale, merger or consolidation, the parent company of such surviving or resulting company; and (b) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Company or any subsidiary of the Company of all or substantially all the assets of the Company and its subsidiaries taken as a whole, or the sale or disposition (whether by merger or otherwise) of one or more subsidiaries of the Company if substantially all of the assets of the Company and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale,

lease, transfer, exclusive license or other disposition is to a wholly-owned subsidiary of the Company.

"**Director**" means each member of the Board of Directors of the Company.

"**Dissolution**" has the meaning given such term in Section 10.1.

"**Effective Date**" has the meaning given such term in the first paragraph of this Agreement.

"**Equity Incentive Plan**" has the meaning given such term in Section 3.6.3.

"**Event of Default**" means the Company's failure to (i) complete task 1a and 1b set forth in the Greystone Engineering Proposal no later than 150 days following the Effective Date; (ii) execute or complete, as applicable, all pre-closing requirements by NYDEC and potential project lenders, as set forth on Exhibit A attached hereto, by 160 days following the Effective Date; (iii) finalize a EPC (Engineering, Procurement, and Construction) contract for the Project for execution by 150 days following the Effective Date; (iv) execute lead off-take agreement by 100 days following the Effective Date; (v) execute sourcing/supply agreements by 100 days following the Effective Date; (vi) finalize Project offering documents by 165 days following the Effective Date, or (vii) perform its obligations under this Agreement and the Subscription Agreement, and the Company does not cure such breach described in this subsection (vii) within 5 days of receipt of written notice from the Preferred Shareholder, in each case, in a manner and, with respect to each agreement, document or instrument described herein with terms and conditions satisfactory to the Preferred Shareholder.

"**Fair Market Value**" shall be determined by the Majority of the Board of Directors after taking into consideration all factors which it deems appropriate, including, without limitation, recent sale and offer prices of the Shares of the Company in private transactions negotiated at arm's length; revenues and operating earnings of the Company for the most recent twelve (12) month period; projected revenues and operating earnings of the Company for the next twelve (12) month period; the positive cash flow of the Company; the nature and timing of any product releases, product orders and product shipments; generation of significant orders, cash flow from operations, and consummation of relationships with strategic partners; the value of the Company's assets as recorded on the most recently prepared balance sheet of the Company; the price/earnings multiples of comparable publicly-traded companies; and other pertinent factors determined by the Majority of the Board of Directors.

"**FATCA**" has the meaning given such term in Section 9.2.

"**Financial Closing**" means any sale or issuance of the Company's securities, whether in a single transaction or a series of related transactions, which sale or issuance results in gross proceeds to the Company of at least $500,000.

"**Fiscal Year**" of the Company means the calendar year unless another year is required under the Code.

"**Founders**" mean each of Stephen R. Read, Charles P. Klass, Jan Lambert, Eric J. Lawrence.

"**Greystone Engineering Proposal**" means that certain engineering proposal, dated as of May 7, 2019, prepared by Greystone Engineering, PLLC, a copy of which is attached hereto as Exhibit B.

"**Hurdle Value**" has the meaning given such term in Section 3.9.2.

"**Immediate Family Member**" means, with respect to any individual, (a) each spouse and each child or other descendant of such individual, (b) each trust, family limited partnership or similar entity created solely for the benefit of such individual or one or more of the Persons described in clause (a) above and their respective spouses and (c) each custodian or guardian of any property of one or more of the Persons described in clauses (a) and (b) above in his or her capacity as such custodian or guardian.

"**Incentive Shares**" has the meaning given such term in Section 3.6.1.

"**Indemnitee**" has the meaning given such term in Section 8.2.2.

"**LLC Officer**" has the meaning given such term in Section 7.1.

"**Majority of the Board of Directors**" means the whole number of members of the Board of Directors that exceeds fifty percent (50%) of the total number of members of the entire Board of Directors (which majority in all cases must include Mark Froot for so long as the Preferred Shares remain outstanding).

"**Net Profit**" and "**Net Loss**" mean, for each Accounting Period or other period, an amount equal to the Company's taxable income or loss for such Accounting Period or other period, determined in accordance with Section 703(a) of the Code, which for this purpose shall include all items of income, gain, loss or deduction required to be stated separately pursuant to Section 703(a)(1) of the Code, with the following adjustments:

(a) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Net Profit or Net Loss pursuant to this definition shall be added to such taxable income or subtracted from such taxable loss;

(b) Any expenditures of the Company described in Section 705(a)(2)(B) of the Code or treated as Section 705(a)(2)(B) expenditures pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)*(i)* (other than expenses in respect of which an election is properly made under Section 709 of the Code), and not otherwise taken into account in computing Net Profit or Net Loss pursuant to this definition, shall be subtracted from such taxable income or added to such taxable loss;

(c) If the Book Value of any Company property is adjusted pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)*(e)* (in connection with a distribution of such property) or *(f)* (in connection with a revaluation of Capital Accounts), the amount of such adjustment shall be taken into account as gain or loss from the disposition of such property for purposes of computing Net Profit or Net Loss;

(d) Gain or loss resulting from the disposition of Company property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Book Value of such property, notwithstanding that the adjusted tax basis of such Company property may differ from its Book Value; and

(e) With respect to Company property having a Book Value that differs from its adjusted basis for tax purposes, in lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing taxable income or loss, there shall be taken into account depreciation, amortization and cost recovery deductions computed by reference to the property's Book Value in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)*(g)*.

Notwithstanding the foregoing, all items of income, gain, loss, deduction or credit that are specifically allocated pursuant to Appendix A shall be excluded from the computation of Net Profit and Net Loss.

"**Partnership Representative**" has the meaning set forth in Section 9.2.

"**Partnership Tax Audit Rules**" means Sections 6221 through 6241 of the Code, as amended by Section 1101 of the Bipartisan Budget Act of 2015, Pub. L. No. 114-74 and Section 411 of the Protecting Americans from Tax Hikes Act of 2015, Pub. L. 114-113, div. Q, together with any guidance issued thereunder or successor provisions and any similar provision of state or local tax laws.

"**Percentage Interest**" means, with respect to any Shareholder at any particular time, a percentage equal to a fraction, the numerator of which is the number of Common Shares and Incentive Shares held by such Shareholder at such time and the denominator of which is the aggregate number of Common Shares and Incentive Shares held by all Shareholders at such time, in each case as reflected in the books and records of the Company.

"**Person**" means any individual, corporation, partnership, trust, limited liability company, association or other entity.

"**Preference Amount**" has the meaning given such term in Section 4.1.2.2.

"**Preferred Shareholder**" means HVP Bridge LLC.

"**Preferred Share Original Issue Price**" means $1 per share (based on 805,000 Preferred Shares).

"**Preferred Shares**" has the meaning given such term in Section 3.6.1.

"**Prime Rate**" means the "prime rate" published in the *Wall Street Journal* on a date determined by the Majority of the Board of Directors in their sole and absolute discretion.

"**Profits Interests**" has the meaning given such term in Section 4.1.3.1.

"**Project**" means the development project of the Hudson Valley Paperboard project, undertaken by the Company.

"**Reorganization Plan**" has the meaning given such term in Section 3.7.

"**Sale Plan**" has the meaning given such term in Section 3.8.

"**Share(s)**" has the meaning given such term in Section 3.6.1.

"**Share Register**" means the **Schedule A** attached to this Agreement entitled "Share Register," as such schedule may be amended by the Majority of the Board of Directors or Chief Executive Officer from time to time in accordance with this Agreement.

"**Share Restriction Agreement**" means an agreement entered into between the Company and the holder of Shares imposing vesting restrictions, repurchase rights or similar restrictions on such Shares.

"**Shareholder**" means each Person who hereby or hereafter executes this Agreement as a Shareholder in accordance with the terms of this Agreement and the Act. The Shareholders shall constitute the "members" (as defined in the Act) of the Company.

"**Subscription Agreement**" means that certain Subscription Agreement, dated as of the Effective Date, by and between the Company and the Preferred Shareholder.

"**Tax Liability**" has the meaning given such term in Section 9.1.

"**Tax Percentage**" means, with respect to any item of taxable income allocated to a Shareholder during a particular Fiscal Year, 40%, which rate shall be increased or decreased to the extent the top marginal federal income tax rate is subsequently increased or decreased.

"**Taxable Year**" means the taxable year of the Company determined under federal income tax law, and may constitute a period of less than a full calendar year.

"**Transfer**" means any sale (including, without limitation, a sale by a trustee or debtor in bankruptcy or arising out of any manner of creditor's proceeding), assignment, transfer (including, without limitation, a transfer by will or intestate distribution or any court order for sale or transfer pursuant to a decree including, without limitation, a divorce decree), exchange, mortgage, pledge, foreclosure, execution, garnishment, attachment, sheriff's sale, gift, or other disposition or encumbrance (whether voluntarily or involuntarily or by operation of law) of, or the granting of a security interest in, all or any portion of a Shareholder's Shares or other interests in the Company.

"**Treasury Regulations**" means the final and temporary regulations promulgated under the Code, as amended from time to time.

"**Vested,**" as it relates to Shares, means Shares that are not subject to a risk of forfeiture pursuant to an applicable Share Restriction Agreement.

"**Withdrawal**" has the meaning given such term in Section 5.3.

Other terms defined in this Agreement have the meanings so given them.

ARTICLE 2
FORMATION OF LIMITED LIABILITY COMPANY

2.1 Formation and Tax Classification. The Company has formed as a limited liability company under and pursuant to the Act. Each Shareholder represents and warrants that such Shareholder is duly authorized to join in this Agreement and that the Person executing this Agreement on its behalf is duly authorized to do so. The Shareholders intend that the Company will and shall continue to be classified as a partnership for federal, state and local income and franchise tax purposes and each Shareholder and the Company shall file all tax returns and shall otherwise take all tax and financial reporting positions in a manner consistent with such treatment. The Shareholders intend that the Company shall not be a partnership (including, without limitation, a limited partnership) for any other purpose.

2.2 Company Name. The name of the Company is "CorrVentures, LLC." The business of the Company shall be conducted under such name or such other names as the Shareholders may from time to time determine.

2.3 Term of Company. The term of the Company shall be deemed to have commenced on the date that the Certificate was initially filed with the Secretary of State of the State of Delaware and shall continue until dissolved or otherwise terminated pursuant to this Agreement or the laws of the State of Delaware.

2.4 Purposes. The purpose of the Company is to engage in any lawful act, activity or business for which a limited liability company may be formed under the Act.

2.5 Merger. Subject to the provisions of this Agreement, the Company may merge with, or consolidate into, another limited liability company (organized under the laws of the State of Delaware or any other state), a corporation (organized under the laws of the State of Delaware or any other state) or other business entity, regardless of whether the Company is the survivor of such merger or consolidation.

ARTICLE 3
CAPITALIZATION; SHARES

3.1 Capital Contributions.

3.1.1 Upon the execution of this Agreement, each Shareholder confirms that it has contributed to the Company the Capital Contribution, in the amount set forth on the Share Register, payable by such member for the Common Shares or Preferred Shares purchased by such Shareholder. Notwithstanding anything to the contrary contained herein, (i) the Preferred Shareholder's Capital Contribution shall be contributed to the Company on such dates and in such increments as shall be determined in the Preferred Shareholder's sole discretion and in accordance with the terms and conditions set forth in the Subscription Agreement, (ii) the Preferred Shareholder, in its sole discretion, may cease making payments to the Company before the Preferred Shareholder's entire Capital Contribution is contributed, (iii) any decision by the Preferred Shareholder in accordance with subsection (ii) of this sentence shall not reduce the number of Common Shares or Preferred Shares received by the Preferred Shareholder on or after

the Effective Date. From time to time on or after the Effective Date, at the direction of the Preferred Shareholder, the Company shall amend the Share Register to appropriately give effect to any additional increments of Capital Contribution that the Preferred Shareholder may make after the Effective Date, without any further action on the part of the Company or any other party hereto.

3.1.2 Upon subsequent sales of Shares by the Company, each Shareholder purchasing such Shares shall pay to the Company such Capital Contribution as may be required by the Majority of the Board of Directors.

3.1.3 Capital Contributions may be in the form of cash, cancellation or conversion of indebtedness of the Company, contribution of intellectual property, contribution of license rights, conversion of the right to receive deferred compensation or fees, conversion of debt or other indebtedness for money borrowed, or any combination of such methods, or upon the approval of the Majority of the Board of Directors, any other form of property.

3.1.4 Shareholders shall not be required to contribute additional capital to the Company, except as otherwise set forth herein.

3.2 Establishment and Determination of Capital Accounts. An individual capital account shall be established and maintained for each Shareholder in accordance with the rules of Treasury Regulations Section 1.704-1(b)(2)(iv) (a "**Capital Account**"). Each Shareholder's initial Capital Account balance shall be increased by (a) the amount of money contributed by such Shareholder to the Company, (b) the Fair Market Value of property contributed by such Shareholder to the Company (net of liabilities secured by the contributed property that the Company is considered to assume or take subject to under Section 752 of the Code), and (c) allocations to such Shareholder of Net Profit (or items thereof). Each Shareholder's Capital Account shall be decreased by (i) the amount of money distributed to such Shareholder by the Company, (ii) the Fair Market Value of property distributed to such Shareholder by the Company (net of liabilities secured by the distributed property that the Shareholder is considered to assume or take subject to under Section 752 of the Code), (iii) allocations to such Shareholder of Net Loss (or items thereof). The Capital Accounts also shall be maintained and adjusted as permitted by the provisions of Treasury Regulation Section 1.704-1(b)(2)(iv)(f) and as required by the other provisions of Treasury Regulation Section 1.704-1(b)(2)(iv), Treasury Regulation Section 1.704-1(b)(4). On the Transfer of all or a portion of a Shareholder's Shares, the Capital Account of the transferor that is attributable to the transferred Shares shall carry over to the transferee Shareholder in accordance with the provisions of Treasury Regulation Section 1.704-1(b)(2)(iv)(1).

3.3 Negative Capital Accounts. Except as otherwise required by any non-waivable provision of the Act or other applicable law, or as provided in any guaranty or other form of credit enhancement by one or more Shareholders: (a) no Shareholder shall be personally liable for any debt, liability or other obligation of the Company; and (b) no Shareholder shall, by virtue thereof, have any liability to any Person in excess of (i) the amount of its Capital Contributions to the Company, and (ii) without duplication, its share of any assets and undistributed profits of the Company. Except as otherwise provided by law, no Shareholder shall be required to pay to the Company or any other Shareholder any deficit or negative balance which may exist from time to time in such Shareholder's Capital Account.

3.4 Company Capital. Except as otherwise expressly and specifically provided in this Agreement, no Shareholder shall be paid interest on any Capital Contribution to the Company or on such Shareholder's Capital Account, and no Shareholder shall have any right (a) to demand the return of such Shareholder's Capital Contribution or any other distribution from the Company (whether upon resignation, withdrawal or otherwise).

3.5 Loans by Shareholders. No Shareholder, as such, shall be required to lend any funds to the Company. Any Shareholder may, with the approval of the Majority of the Board of Directors, make loans to the Company, and any loan by a Shareholder to the Company shall not be considered to be a Capital Contribution.

3.6 Shares.

3.6.1 Authorized Shares. The Company shall have three (3) classes of shares: Common Shares ("**Common Shares**"), Preferred Shares ("**Preferred Shares**") and a class of shares to be granted as profits interests pursuant to Section 3.9 below to employees, officers, directors, consultants and other service providers to be known as Incentive Shares (the "**Incentive Shares**" and, together with the Common Shares and the Preferred Shares, "**Shares**") which may be issued pursuant to a separately established incentive plan. The holders of Common Shares are entitled to one vote for each Common Share held at all meetings of Shareholders. The holders of Incentive Shares are entitled to one vote for each Incentive Share held at all meetings of Shareholders. The holders of Preferred Shares are entitled to one vote for each Preferred Share held at all meetings of the Shareholders. Except as provided in Section 3.1.1. with respect to the Preferred Shareholder, upon making the Capital Contributions (if any) listed on the Share Register, attached hereto, a Shareholder shall own the number and class of Shares listed opposite his, her or its name on the Share Register.

3.6.2 General Terms.

3.6.2.1 Common Shares shall have all the rights, restrictions and preferences of the Common Shares, as set forth herein, and may be subject to vesting or other restrictions, as set forth in an applicable Share Restriction Agreement, if any.

3.6.2.2 Preferred Shares shall have all the rights, restrictions and preferences of the Preferred Shares, as set forth herein.

3.6.2.3 Except as otherwise expressly provided herein or in any Share Restriction Agreement, Incentive Shares shall have all the rights, restrictions and preferences of the Common Shares, as set forth herein.

3.6.3 Authorization and Issuance of New Shares; Event of Default.

3.6.3.1 Subject to provisions of this Agreement, including this Section 3.6.3, the Company, with the consent of the Majority of the Board of Directors, shall have the authority to issue Shares in addition to those issued as of the date hereof (including, without limitation, Shares which are subject to vesting or other substantial risks of forfeiture) and to fix and determine the relative rights, preferences, powers, privileges and restrictions of such Shares, if applicable, without any further action on the part of any party. The Majority of the Board of Directors shall have the authority to determine the Capital Contribution, if any, required to be made

for newly issued Shares and the Percentage Interest represented by any newly issued Shares. Upon each issuance of new Shares, the Percentage Interests of the Shareholders immediately prior to the issuance shall be adjusted proportionately based upon the Percentage Interest assigned to the new Shares.

3.6.3.2 The Majority of the Board of Directors may at a future time adopt an equity incentive plan (the "**Equity Incentive Plan**") pursuant to which the Company may issue Common Shares, Incentive Shares and/or options to purchase Common Shares of the Company. The number of Common Shares and/or Incentive Shares that may be issued pursuant to the Equity Incentive Plan may be subsequently increased pursuant to the provisions of the Equity Incentive Plan, subject to any Shareholder approval required by this Agreement and the limitations, if any, on the authorized number of Common Shares or Incentive Shares, as the case may be, of the Company set forth herein. Options granted pursuant to the Equity Incentive Plan may be subject to such vesting, repurchase options and other restrictions as the Majority of the Board of Directors may deem appropriate on the terms set forth in the Equity Incentive Plan.

3.6.3.3 From and after the occurrence of an Event of Default, the Company shall issue additional Common Shares in an amount equal to 1% ownership interest in the Company (as determined immediately prior to the Event of Default) to the Preferred Shareholder for each ten (10) day period following the occurrence of such Event of Default until such Event of Default is cured (each, a "**Default Issuances**"); provided, however, that the aggregate Default Issuances shall in no event exceed 10% of the fully diluted capitalization of the Company; and provided further, that in lieu of the Default Issuances, the Shareholders (other than the Preferred Shareholder), in their sole discretion, shall have the option to pay the Preferred Shareholder an amount equal to $75,000 in cash per 1% of equity accrued. If the Preferred Shareholder concludes that the issuance of Incentive Shares would be preferable to Common Shares for tax purposes, the Company will issue to the Preferred Shareholder Incentive Shares in lieu of Common Shares under this Section. From time to time on or after the Effective Date, at the direction of the Preferred Shareholder, the Company shall amend the Share Register to appropriately give effect to the foregoing, without any further action on the part of the Company or any other party hereto. Notwithstanding the foregoing, any action or inaction taken by the Company at the direction of the Preferred Shareholder with the sole purpose and intent to cause an Event of Default to occur shall not result in an Event of Default under this Section 3.6.3.3.

3.6.4 Amendment of Agreement upon Issuance of New Shares. When new Shares are issued, the Share Register shall be updated to reflect such issuance. From time to time on or after the Effective Date, at the direction of the Preferred Shareholder, the Company shall amend the Share Register to appropriately give effect to the foregoing, without any further action on the part of the Company or any other party hereto.

3.6.5 Share Certificates. The Company may, in the discretion of the Majority of the Board of Directors, but need not, issue certificates evidencing the Shares issued by the Company. Any such certificates shall contain the following legends (in addition to any legend required under applicable state securities laws):

> THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**") AND MAY NOT BE OFFERED, SOLD OR OTHERWISE

TRANSFERRED, ASSIGNED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER THE ACT OR UNLESS THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY AND ITS COUNSEL THAT SUCH REGISTRATION IS NOT REQUIRED.

THE SALE, TRANSFER OR ASSIGNMENT OF THESE SECURITIES ARE SUBJECT TO THE TERMS OF AN AGREEMENT BETWEEN THE COMPANY AND THE HOLDER HEREOF OR ITS PREDECESSOR IN INTEREST. COPIES OF SUCH AGREEMENT MAY BE OBTAINED BY WRITTEN REQUEST MADE BY THE HOLDER OF RECORD OF THIS CERTIFICATE TO THE SECRETARY OF THE COMPANY.

3.7 Conversion to Corporate Form. In the event that the Majority of the Board of Directors determines that it would be advisable for the Company to convert or reorganize into the corporate form of organization, the Majority of the Board of Directors shall, on behalf of the Company, formulate a plan of conversion or reorganization (the "**Reorganization Plan**") to effectuate such conversion. If the holders of a majority of the Shares approve such Reorganization Plan, then subject to this Section 3.7, each Shareholder shall take whatever reasonable action is required under such Reorganization Plan to effect the transactions contemplated therein. Except as otherwise provided in a duly approved Reorganization Plan, in such conversion:

3.7.1 each holder of Shares shall receive, with respect to such Shares, capital stock of the successor corporation having economic, voting, governance and contractual protections and rights corresponding to the greatest extent possible with those inherent in the applicable Shares, provided that the capital stock received in respect of any Incentive Share constituting a Profits Interest shall be reduced to the extent necessary to reflect the relative economic rights of such Incentive Shares to participate in Company sale and liquidation proceeds pursuant to Section 4.1.3.1, as determined in the sole discretion of the Majority of the Board of Directors; and

3.7.2 each holder of Shares, shall receive, with respect to such Shares: (A) relative voting rights equivalent to those of such Shares; (B) the same restrictions on transfer as were applicable to such Shares prior to the conversion; (C) the same redemption, vesting, forfeiture and repurchase rights and restrictions as were applicable to such Shares prior to the conversion; and (D) any other rights or restrictions as were applicable to such Shares prior to the conversion.

3.8 Deemed Liquidation Event. In the event that the Majority of the Board of Directors determines that it would be in the best interests of the Shareholders to complete a Deemed Liquidation Event, the Majority of the Board of Directors shall, on behalf of the Company, adopt a plan of merger or sale (the "**Sale Plan**") to effectuate such transaction. The consummation of the Deemed Liquidation Event will be subject to the approval of the holders of a majority of the Common Shares. Except as otherwise provided in a duly approved Sale Plan, in connection with such transaction:

3.8.1 Each holder of Vested Shares (including any Shares which vest as a result of such transaction) shall participate in the proceeds of such transaction in the manner and priority set forth in Section 4.1.2.

Each holder of unvested Shares outstanding at the time of the consummation of such Deemed Liquidation Event shall receive, with respect to such unvested Shares, an amount of cash or property (including stock of the acquiror) equal to the lesser of: (a) such holder's original cost for such unvested Shares; and (b) their fair market value as of the time of such Deemed Liquidation Event, or such other amount as determined in accordance with an applicable Share Restriction Agreement.

Each holder of unvested Shares shall be treated as having such unvested Shares redeemed immediately prior to such Deemed Liquidation Event and have no further rights with respect to such unvested Shares, unless otherwise provided in the applicable Share Restriction Agreement.

3.8.2 If any assets of the Company distributed to Shareholders in connection with this Section 3.8 are other than cash, then the value of such assets shall be their Fair Market Value, except that any securities to be distributed to Shareholders in a liquidation, dissolution or winding up of the Company shall be valued as follows:

3.8.2.1 The method of valuation of securities not subject to investment letter, escrow or other restrictions on free marketability shall be as follows:

3.8.2.1.1 unless otherwise specified in a definitive agreement for the acquisition of the Company, if the securities are then traded on a national securities exchange or the Nasdaq National Market (or a similar national quotation system), then the value shall be deemed to be the average of the closing prices of the securities on such exchange or system over the thirty (30) day period ending three (3) days prior to the distribution;

3.8.2.1.2 if Section 3.8.2.1.1 above does not apply but the securities are actively traded over-the-counter, then, unless otherwise specified in a definitive agreement for the acquisition of the Company, the value shall be deemed to be the average of the closing bid prices over the thirty (30) day period ending three (3) days prior to the distribution; and

3.8.2.1.3 if there is no active public market, then the value shall be the fair market value thereof, as determined in good faith by the Majority of the Board of Directors of the Company.

3.8.2.2 The method of valuation of securities subject to investment letter, escrow or other restrictions on free marketability shall be to make an appropriate discount from the market value determined as in Section 3.8.2.1 above to reflect the approximate fair market value thereof, as determined in good faith by the Majority of the Board of Directors of the Company.

3.9 Profits Interests. All Incentive Shares are intended to constitute "profits interests," as such term is used by Rev. Proc. 93-27 and IRS Revenue Procedure 2001-43 and the provisions of this Agreement shall be interpreted and applied consistently with such intent.

Issuances of Incentive Shares pursuant to this Article 3 are intended to be nontaxable to their recipients to the fullest extent permitted by law, although neither the Shareholders, nor the Company, makes any representation as to the tax consequences of the issuance of Incentive Shares pursuant to Sections 3.6 and 3.9. Except as set forth herein and in any unit grant agreement, any Incentive Shares issued pursuant to Section 3.6 shall have all the rights incident to Common Shares that do not themselves constitute a "profits interest."

3.9.1 Immediately prior to each issuance of Incentive Shares pursuant to Sections 3.6 and 3.9 (each a "**P-Series**" of Incentive Shares, to be consecutively designated as "Series P-1," "Series P-2," etc. of the Incentive Shares), the Book Value of all Company property shall be adjusted to equal their respective gross Fair Market Values (taking Section 7701(g) of the Code into account) as determined by the Majority of the Board of Directors in its sole discretion.

3.9.2 Each P-Series of Incentive Shares shall entitle its record owner to share in the appreciation in the Fair Market Value of the Company from the date of issuance of such P-Series of Incentive Shares with respect to amounts distributable pursuant to Section 4.1, subject to any preferences or priorities payable to the other classes of Shares, and not in any Fair Market Value of the Company accrued prior to the issuance of such P-Series of Incentive Shares. In order to accomplish the above, the Majority of the Board of Directors shall establish a hurdle value (the "**Hurdle Value**") which shall not be less than the Fair Market Value of the Company on the date of issuance of such P-Series of Incentive Shares and such Incentive Shares shall share only in appreciation in the Fair Market Value in excess of such Hurdle Value and Section 4.1 shall be interpreted consistently herewith. For this purpose, the Fair Market Value of the Company shall be determined in a manner where all of the assets of the Company are sold for their respective Fair Market Value to an independent third party at arm's length and the net proceeds of such sale, after the payment of all of the Company's liabilities, are distributed to the Shareholders pursuant to Section 4.1.2.

3.9.3 In connection with the issuance of each P-Series of Incentive Shares pursuant to Sections 3.6 and 3.9 using the Hurdle Value of the Company determined above in Section 3.9.2, the Majority of the Board of Directors (or its authorized designee) shall promptly thereafter effectively amend Section 4.1 (through attachment of a completed Schedule B to this Agreement approved by the Majority of the Board of Directors and executed by the Majority of the Board of Directors or any authorized designee of the Majority of the Board of Directors) to provide for a subsection corresponding to each P-Series of Incentive Shares and establishing the then Hurdle Value of the Company as the minimum aggregate distribution amount that must be made pursuant to Section 4.1 with respect to all of the Common Shares of the Company issued and outstanding prior to the issuance of such P-Series of Incentive Shares before such P-Series of Incentive Shares shall share in distributions made to Common Shares pursuant to Section 4.1.2 (i.e., the Hurdle Value of such P-Series of Incentive Shares).

3.10 Anti-Dilution Protection.

3.10.1 In the event the Company shall at any time after the Effective Date issue Additional Common Shares without consideration or for a consideration per share less than the Common Share Issue Price (except pursuant to Section 3.6.3.3 or Section 12.4.1), then the Company shall issue additional Common Shares to the Preferred Shareholder in such amount as

is consistent with the number of conversion shares that would be deemed issued pursuant to the anti-dilution adjustment provided by a customary full ratchet formula consistent with a transaction of this type and assuming for this purpose that the Common Shares held by the Preferred Shareholder were preferred shares with an original issue price and conversion price initially equal to the Common Share Issue Price.

3.10.2 "**Additional Common Shares**" shall mean any Common Shares issued by the Company on or after the Effective Date other than (A) Incentive Shares, in such number as may be authorized from time to time in accordance with the terms of this Agreement; (B) Common Shares issued as a dividend or distribution on the Common Shares; (C) Common Shares issued pursuant to the acquisition of another limited liability company, corporation or other entity by the Company by merger, purchase of substantially all of the assets or other reorganization or to a joint venture agreement, provided that such issuances are approved by the Majority of the Board of Directors; (D) Common Shares issued in connection with a Default Issuance; or (E) Common Shares issued in connection with an initial public offering.

3.10.3 No fractional Shares shall be issued to the Preferred Shareholder and the aggregate number of Common Shares to be issued to the Preferred Shareholder shall be rounded down to the nearest whole Share and the Company shall pay in cash the Fair Market Value of any fractional Shares as of the time when entitlement to receive such fraction is determined.

ARTICLE 4
DISTRIBUTIONS; ALLOCATIONS OF PROFITS AND LOSSES

4.1 Distributions and Payments.

4.1.1 Mandatory Distributions.

4.1.1.1 Subject to applicable law and any limitations contained elsewhere in this Agreement, after the end of each Fiscal Year, if there is net taxable income to allocate, the Company shall distribute cash to each Shareholder in an amount equal to the product of (a) the Tax Percentage; and (b) such Shareholder's distributive share of the Company's taxable income for such Fiscal Year determined in accordance with Section 703(a) of the Code as (or to be) reflected on the Shareholder's Schedule K-1.

4.1.2 Discretionary Distributions; Dissolution or Deemed Liquidation Event; Exercise of Put Option. Subject to the terms of this Section and Section 4.1.3, the Majority of the Board of Directors may, in its sole discretion, cause the Company to distribute cash or property from time to time to the Shareholders in such amounts as the Majority of the Board of Directors deems appropriate. Except as otherwise provided in Sections 4.1.1 and 4.1.3, any such distributions shall be made to the Shareholders in either of the following manners and in the following priorities:

4.1.2.1 Subject to Subsection 4.1.2.2, upon the declaration of a dividend or distribution which is not pursuant to a Dissolution or Deemed Liquidation Event distributions, distributions may be made to all holders of Shares in proportion to their Percentage Interests.

4.1.2.2 Upon the earlier of a Dissolution or Deemed Liquidation Event or the exercise of the Put Option, distributions shall be made first to each holder of Preferred Shares

on a *pari passu* basis in proportion to amounts distributable under this Section 4.1.2.2 equal to the Preferred Share Original Issue Price for each Preferred Share *plus* the amount of Accruing Dividends on such Preferred Shares (which amount shall only paid in cash); provided, however, that in no event shall any amounts paid under this Section 4.1.2.2 be less than the Preferred Share Original Issue Price on each Preferred Share plus the amount of Accruing Dividends that would have accrued between the Effective Date and the one (1) year anniversary of the Effective Date (such amount, the "**Preference Amount**"). The Preferred Shares shall be deemed retired after payment in full of the Preference Amount, and such Preferred Shares shall not participate in any further distributions. For the avoidance of doubt, payment in full of the Preference Amount shall be payment in full of the Put Option.

4.1.2.3 Thereafter, upon a Dissolution or Deemed Liquidation Event, and following the satisfaction of all outstanding debt and other accrued liabilities, distributions shall be made to all Shareholders in the proportion that the number of Common Shares owned by such Shareholders bears to the number of all of the Common Shares outstanding (subject to the limitations and preferences set forth in Section 4.1.3.1 below).

4.1.2.4 Notwithstanding anything to the contrary contained herein, distributions made during a particular Fiscal Year to any Shareholder pursuant to Section 4.1.1 shall not reduce the distributions to which such Shareholder is entitled with respect to such Fiscal Year pursuant to Section 4.1.2.

4.1.3 Limitations on Distributions; Special Rules. Notwithstanding any other provision of this Agreement:

4.1.3.1 With respect to any Incentive Shares intended to constitute a "profits interest" (within the meaning of IRS Revenue Procedure 93-27 and as clarified by the IRS Revenue Procedure 2001-43, a "**Profits Interest**") issued on any particular date, the holder of such Profits Interest shall be entitled to distributions pursuant to Section 4.1.2.3 only to the extent that the aggregate distributions pursuant to Section 4.1.2.3 exceed the Hurdle Value for such P-Series. The Majority of the Board of Directors will consult with advisors, as and if necessary, to determine the appropriate distribution limitations for each Profits Interest and shall reflect the applicable limitation for each Profits Interest on Schedule B as of the date such Profits Interest is issued. Any amounts that would otherwise be payable to such Profits Interest holder but for the application of the Hurdle Value, shall be payable to the other holders of Common Shares and Incentive Shares in accordance with Section 4.1.2.3.

4.1.3.2 No distribution (including distributions in redemption of Shares or upon Deemed Liquidation Event or Dissolution) shall be made to any Shareholder to the extent that, after giving effect to the distribution, all liabilities of the Company (other than liabilities to Shareholders on account of their Shares) would exceed the fair market value of the Company's assets.

4.1.3.3 Except as required by Section 4.1.1 and Section 4.1.2, nothing shall require the Company to distribute any amount to the Shareholders.

4.1.4 Unvested Shares. Notwithstanding anything to the contrary set forth in this Agreement, unless otherwise determined by the Majority of the Board of Directors, any

amounts otherwise distributable with respect to Shares that are not Vested shall be retained by the Company and shall not be distributed until such Shares are Vested. Any amount retained with respect to Shares that never become Vested may be redistributed among the remaining Shareholders in accordance with the distribution priorities set forth in this Section 4.1, or may be retained and used in the Company's operations, as determined by the Majority of the Board of Directors in its sole discretion.

4.2 Allocation of Profits and Losses. Subject to Appendix A, Net Profit and Net Loss for each Fiscal Year shall be allocated to the Shareholders in amounts that would result in Capital Account balances for each Shareholder, increased by such Shareholder's share of partnership minimum gain (as determined according to Treasury Regulation Section 1.704-2(g)) and such Shareholder's partner nonrecourse debt minimum gain (as defined in Treasury Regulation Section 1.704-2(i)(2)), equal to all amounts required to be distributed pursuant to Section 4.1.2 in the priority and manner provided therein on a hypothetical liquidation of the Company. In determining the amounts distributable to the Shareholders under Section 4.1.2 upon a hypothetical liquidation, it shall be presumed that (i) all of the Company's remaining assets are sold at their respective Book Values, (ii) all Company liabilities are satisfied (limited with respect to each nonrecourse liability to the Book Value securing that liability), (iii) all Shares are Vested and (iv) the proceeds of such hypothetical sale are applied and distributed in accordance with Section 4.1.2.

4.3 Withholding. All amounts withheld pursuant to the Code or any provision of tax laws with respect to the allocation of any income or any payment or distribution to the Shareholders from the Company shall be treated as amounts distributed to the Shareholder or Shareholders subject to such withholding obligation in accordance with this Agreement.

ARTICLE 5
SHAREHOLDERS AND VOTING

5.1 Number. The Company shall at all times have one or more Shareholders, who shall constitute the "members" of the Company for all purposes of the Act.

5.2 Investment Opportunities. Subject to Section 5.8.2 below, no Shareholder shall have any obligation to offer investment opportunities to the Company or any other Shareholder.

5.3 Withdrawal of a Shareholder. For purposes of this Agreement, a Shareholder shall be deemed to have withdrawn as a Shareholder if he, she or it dies, withdraws, is removed or becomes bankrupt, incompetent, insane or permanently incapacitated (a "**Withdrawal**").

5.3.1 Removal. Any Shareholder who is an employee, consultant or independent contractor of the Company may be removed and his or her services for the Company terminated by the Company for any reason, or for no reason, with or without notice, unless otherwise provided for in the written terms of an employment agreement or contract between the Company and the Shareholder. This Agreement does not constitute a guarantee of employment or other service relationship.

5.3.2 Bankruptcy. A Shareholder shall be deemed bankrupt if a petition is filed by or against such Shareholder as "Debtor" and the petition is approved under the

provisions of the bankruptcy laws of the United States or if such Shareholder shall make an assignment for the benefit of creditors or if a receiver shall be appointed for the property and affairs of such Shareholder.

5.3.3 Incompetency. A Shareholder shall be deemed incompetent if he or she shall be judged incompetent by a decree of a court of appropriate jurisdiction or if he or she is determined by competent medical authority or authorities selected by the Company to be incompetent and unable to perform the material functions of a Shareholder of the Company.

5.3.4 Permanent Incapacity. A Shareholder shall be deemed permanently incapacitated whenever he or she is determined by competent medical authority or authorities selected by the Company to be permanently physically or mentally unable to perform the material functions of a Shareholder of the Company.

5.3.5 Effect of Withdrawal of Shareholder.

5.3.5.1 In General. In the event of a Withdrawal of a Shareholder, such Shareholder's Capital Account balance, Shares and the interest in Net Profits, Net Losses and distributions represented thereby shall:

5.3.5.1.1 be determined pursuant to any vesting provisions contained in any Share Restriction Agreement previously entered into by and between the Company and such Shareholder (or such Shareholder's predecessor) concurrently with such Shareholder's admission to the Company; or

5.3.5.1.2 if no such Share Restriction Agreement or similar agreement was entered into, become an interest with the same Capital Account balance as of the date of Withdrawal, and such Shareholder shall retain his, her or its Vested Shares and the interest in Net Profits, Net Losses and distributions represented thereby.

Any Share Restriction Agreement may include a right of the Company or the Shareholders holding Shares to repurchase all or a portion of such Shareholder's unvested and Vested Shares and may also require a forfeiture of any unvested Shares and unvested balance in such Shareholder's Capital Account. The Share Register shall be amended appropriately to give effect to the foregoing.

5.3.5.2 Right to Distributions. Except as otherwise expressly provided herein, a withdrawing Shareholder is not entitled to receive any payment in redemption of such Shareholder's Shares, except:

(a) upon a liquidating distribution (and then only to the extent otherwise provided in this Agreement); or

(b) as determined by the Majority of the Board of Directors in its sole discretion, or as otherwise determined in a written agreement between such Shareholder and the Company.

5.4 **Meetings of Shareholders.**

5.4.1 Place of Meetings. Meetings of the Shareholders shall be held at such place, either within or without the State of Delaware, as may be designated from time to time by the Majority of Board of Directors in its sole discretion.

5.4.2 Annual Meeting. The Majority of the Board of Directors, in its sole discretion, may elect to hold annual meetings of Shareholders and shall have the authority to determine which business shall be conducted at such meetings, including whether any matters will be submitted to a vote of Shareholders.

5.4.3 Special Meetings. Special meetings of the Shareholders may be called, for any purpose or purposes, by the Majority of the Board of Directors, and shall be held at such place, on such date, and at such time as the Majority of the Board of Directors shall fix.

5.4.4 Notice of Meetings. Except as otherwise provided by law, notice (which may be given in writing, facsimile transmission, telephone or by electronic transmission) of each meeting of Shareholders shall be given not less than five (5) nor more than sixty (60) days before the date of the meeting to each Shareholder entitled to vote at such meeting, such notice to specify the place, date and hour and purpose or purposes of the meeting. Notice of the time, place and purpose of any meeting of Shareholders may be waived in writing, signed by the Person entitled to notice thereof, either before or after such meeting, and will be waived by any Shareholder by his attendance thereat in Person or by proxy, except when the Shareholder attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Any Shareholder so waiving notice of such meeting shall be bound by the proceedings of any such meeting in all respects as if due notice thereof had been given.

5.4.5 Quorum. At all meetings of Shareholders, except where otherwise provided by statute, the Certificate, or this Agreement, the presence, in person or by proxy duly authorized, of the holders of a majority of the Shares entitled to vote shall constitute a quorum for the transaction of business. In the absence of a quorum, any meeting of Shareholders may be adjourned, from time to time in accordance with Section 5.4.6, but no other business shall be transacted at such meeting. The Shareholders present at a duly called or convened meeting, at which a quorum is present, may continue to transact business until adjournment, notwithstanding the withdrawal of enough Shareholders to leave less than a quorum. The above notwithstanding and regardless of the number in attendance, a vote of Shareholders holding a majority of the outstanding Shares is required for Shareholder action.

5.4.6 Adjournment and Notice of Adjourned Meetings. Any meeting of Shareholders, whether annual or special, may be adjourned from time to time either by the Majority of the Board of Directors or by the vote of the holders of a majority of the Shares casting votes, excluding abstentions. When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Company may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days or if after the adjournment a new record date is fixed for

the adjourned meeting, a notice of the adjourned meeting shall be given to each Shareholder of record entitled to vote at the meeting.

5.4.7 Action Without Meeting. Unless otherwise provided in the Certificate, any action required by statute to be taken at any annual or special meeting of the Shareholders, or any action which may be taken at any annual or special meeting of the Shareholders, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding Shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Shares entitled to vote thereon were present and voted. Meetings of the Shareholders may be conducted in person and/or by conference telephone or electronic meetings (such as GoToMeeting). Consents may be delivered in writing, by facsimile or PDF, or by email voting if a copy of the email is forwarded to a Director or LLC Officer.

5.4.8 Conduct of Meetings. The Majority of the Board of Directors shall be entitled to make such rules or regulations for the calling and conduct of meetings of Shareholders as the Majority of the Board of Directors shall deem necessary, appropriate or convenient.

5.5 Admission of Additional Shareholders. Subject to the terms of this Agreement, any Person acceptable to the Majority of the Board of Directors may become an Additional Shareholder of the Company by the purchase of new Shares for such consideration as the Majority of the Board of Directors shall determine in accordance with the terms of this Agreement. Each Additional Shareholder shall: (i) agree to be bound by the provisions of this Agreement; (ii) execute and deliver such documents as the Majority of the Board of Directors deems appropriate in connection therewith; and (iii) contribute to the Company the agreed upon Capital Contribution in exchange for the Shares purchased by such Additional Shareholder. Each Additional Shareholder shall have all the rights and obligations of a Shareholder holding the class and series of Shares purchased by such Additional Shareholder as specified on the Share Register. The admission of Additional Shareholders shall not be a cause for dissolution of the Company. Upon the admission of any Additional Shareholders pursuant to this Section 5.5, the Share Register shall be appropriately amended.

5.6 Rights to Information. In addition to any other information rights set forth herein, Shareholders shall have the right to receive from the Chief Executive Officer, upon request, a copy of the Certificate and of this Agreement, as amended from time to time, and such other information regarding the Company as is required by the Act, subject to reasonable conditions and standards established by the Majority of the Board of Directors or Chief Executive Officer as permitted by the Act, which may include, without limitation, withholding of, or restrictions on, the use of confidential information.

5.7 Specific Approval of Shareholders. Notwithstanding the generality of the foregoing, and in addition to other acts expressly prohibited by this Agreement or by law, neither the Board nor any LLC Officer may cause the Company to do any of the following ((i) for so long as any Preferred Shares remain outstanding, without the prior written consent or approval of the Preferred Shareholder and a majority of the Common Shares, and (ii) when and if the Preferred Shares are no longer outstanding, without the prior written consent or approval of a majority of the Common Shares):

5.7.1 make any changes to this Agreement, the Certificate, or any other governing documents of the Company (subject to Section 13.15 hereof);

5.7.2 consummate any merger, acquisition or change in control;

5.7.3 loan money, guarantee loans, pledge assets, advance money, or transfer assets;

5.7.4 otherwise engage in any act to diminish the value of the Company including, without limitation: (i) unless approved by the Preferred Shareholder, incurring any additional indebtedness (other than customary trade credit in the ordinary course of business or to pay any amounts due to holders of the Preferred Shares), which indebtedness would be expressly subordinate to any amounts due to the holders of Preferred Shares, (ii) incurring or guarantying any further investment or debt senior or pari passu to the Preferred Shares, (iii) granting a security interest in any of the Company's assets, (iv) selling any Company assets or assets outside the ordinary course of business, or (v) engaging in other unlawful acts;

5.7.5 make any distribution to holders of Shares;

5.7.6 make any payments of principal, or make any material amendments to the outstanding debt;

5.7.7 raise any additional funds from new investors (unless the foregoing is conducted to pay off the amount due under Section 4.1.2.2 or pursuant to the Put Option); or

5.7.8 hire, fire or change the compensation of management of the Company.

5.8 Additional Rights of the Preferred Shareholder.

5.8.1 Veto Power. Notwithstanding the generality of the foregoing, and in addition to other acts expressly prohibited by this Agreement, the Preferred Shareholder shall, for so long as any Preferred Shares remain outstanding, hold final and absolute veto power/control on any major business decisions, which major decisions shall include, without limitation:

5.8.1.1 hiring, engaging or firing third party service providers or consultants;

5.8.1.2 approving any scope of work with any providers; and

5.8.1.3 decisions for the Company to enter into contracts relating to normal business for the development of the Project.

5.8.2 Preferred Shareholder's Right of First Investment Option. For a period of the later of (x) three (3) years following the date of this Agreement, or (y) three (3) years following the date of the Financial Closing, the Preferred Shareholder shall have a right of first option to provide future development capital for any and all projects similar either in scope or nature in any manner to the Project developed (directly or indirectly) by the Company or any other Shareholder. In addition, the Preferred Shareholder shall receive a right of participation in future mezzanine or equity issuances in subsequent financing rounds of the Company.

5.8.3 Approval. The Preferred Shareholder shall hold final approval of all expenses (in excess of $1,000 individually or $5,000 in the aggregate) and key business decisions regarding third party service providers, site location and diligence, structuring of land lease/purchase option, economic development incentives, project financial structure, private equity and lender presentations, financing proposals, corporate management structure, including appointment of members of the Board of Directors and admission of new shareholders (other than as otherwise set forth herein), framework of day-to-day control, all material purchase agreements, and any other items deemed the normal course of business for the Project.

5.8.4 Budget. The Preferred Shareholder and the Company shall work to establish a mutually agreeable budget for the Project (the "**Budget**"). The Company shall update the Preferred Shareholder, orally or in writing (in the Preferred Shareholder's sole discretion), each week on the status of the Budget.

ARTICLE 6
BOARD OF DIRECTORS

6.1 Generally. Except as specifically set forth in this Agreement, the Shareholders hereby delegate all power and authority to manage the business and affairs of the Company to the Directors, who shall act as the managers of the Company subject to and in accordance with the terms of this Agreement. Such Directors shall constitute the board of directors (the "**Board of Directors**") and such term may be used in this Agreement to refer to such Directors. Such term is used for convenience only and is not intended by the parties to confer to the Board of Directors any additional power or authority other than that expressly and specifically conferred pursuant to and in accordance with the terms of this Agreement. Each Director shall participate in the direction, management and control of the business of the Company, as a member of the Board of Directors, to the best of such Director's ability. Subject to Section 6.9, the Directors shall in all cases act as a group through actions in meetings of the Board of Directors and shall have no authority to act individually. The Majority of the Board of Directors may adopt such rules and procedures for the management of the Company not inconsistent with this Agreement or the Act. Any power not otherwise delegated pursuant to this Agreement or by the Majority of

the Board of Directors in accordance with the terms of this Agreement shall remain with the Board of Directors.

6.2 Number of Directors. The Board of Directors shall consist of one or more individuals, with the number fixed by the Shareholders at the annual meeting of the Shareholders or by the Majority of the Board of Directors. Except as otherwise provided in this Agreement, the Directors shall be elected by the Shareholders at the annual meeting of Shareholders; provided, however, that (i) for so long as any Preferred Shares remain outstanding, the Preferred Shareholder shall have the power to designate at least a majority of the members on the Board of Directors, and (ii) thereafter, the Preferred Shareholder shall have the power to designate at least one third (1/3) of the members on the Board of Directors (each, a "**Preferred Director**") (and all Shareholders shall vote their Shares consistent therewith) and the other directors shall be chosen by a majority of the Founders (the "**Founder Seat(s)**"). Subject to the rights of the Preferred Shareholder set forth herein, the number of authorized Directors may be changed from time to time by the Shareholders at the annual meeting of the Shareholders or by the Majority of the Board of Directors.

6.3 Initial Board of Directors. Effective upon the date of this Agreement, the size of the Board of Directors is set at three (3) directors, which initial directors shall be Charles P. Klass, Mark Froot, and Kenneth Froot. Charles P. Klass is the Chairman of the Board as of the date of this Agreement. A majority of the Founders shall have the right from time to time and at their discretion to designate, remove or replace any of the directors occupying the (or either of the, as the case may be) Founder Seat(s).

6.4 Vacancy. If a vacancy occurs on the Board of Directors, including a vacancy resulting from an increase in the number of Directors: (a) the Shareholders may fill the vacancy; (b) the Majority of the Board of Directors may fill the vacancy; or (c) if the Directors remaining in office constitute fewer than a quorum of the Board of Directors, they may fill the vacancy that will occur at a specific later date may be filled before the vacancy occurs but the new Director may not take office until the vacancy occurs; provided that with respect to a vacancy in any Preferred Director seat, only the Preferred Shareholder may designate the replacement director for such seat (and all Shareholders shall vote their Shares consistent therewith).

6.5 Tenure. The terms of all Directors shall expire at the next Shareholder's meeting at which Directors are elected. A decrease in the number of Directors does not shorten an incumbent Director's term. The term of a Director elected to fill a vacancy shall expire at the next Shareholder's meeting at which Directors are elected. Despite the expiration of a Director's term, he or she shall continue to serve until his or her successor is elected and qualified or until there is a decrease in the number of Directors.

6.6 Resignation. A Director may resign at any time by delivering written notice of resignation to the Board of Directors, its chairman, or to the Company. A resignation is effective when the notice is delivered unless the notice specified a later effective date.

6.7 Removal. The Shareholders may remove one or more Directors with or without cause; provided that, a Preferred Director may only be removed by the Preferred Shareholder (and all Shareholders shall vote their Shares consistent therewith). A Director may be removed for cause by the Directors by vote of Majority of the Board of Directors. A Director may be

removed by the Shareholders or the Directors only at a meeting called for the purpose of removing him or her, and the meeting notice must state that the purpose, or one of the purposes, of the meeting is removal of the Director.

6.8 Meetings of Directors.

6.8.1 Regular meetings of the Board of Directors shall be held at such times, mutually convenient places and dates as determined by the Majority of the Board of Directors. The officers and other executives of the Company may attend meetings of the Board of Directors with the prior approval of the Majority of the Board of Directors.

6.8.2 Directors may participate in a meeting through use of conference telephone or similar communication equipment, so long as all Directors participating in such meeting can hear one another. Such participation constitutes presence in person at such meeting.

6.8.3 Special meetings of the Board of Directors for any purpose may be called by any Director.

6.8.4 Each Director shall receive notice of the date, time and place of all meetings of the Board of Directors at least three (3) business days (twenty-four (24) hours if given personally by electronic transmission, facsimile transmission, or telephone) before the meeting. Such notice shall be delivered in writing (which may be by facsimile) to each Director. Such notice may be given by the Secretary of the Company or by the Person or Persons who called the meeting. Such notice shall specify the purpose of the meeting. Notice of any meeting of the Board of Directors need not be given to any Director who signs a waiver of notice of such meeting or a consent to holding the meeting, either before or after the meeting, or who attends the meeting without protesting prior to such meeting or at the commencement thereof. All such waivers, consents and approvals shall be filed with the records of the Company.

6.8.5 Meetings of the Board of Directors may be held at any place that has been designated in the notice of the meeting.

6.8.6 Any meeting of the Board of Directors, whether or not a quorum is present, may be adjourned to another time and place by the affirmative vote of at least a majority of the Directors present. If the meeting is adjourned for more than twenty-four (24) hours, notice of such adjournment to another time or place shall be given prior to the time of the adjourned meeting to the Directors who were not present at the time of the adjournment.

6.8.7 Any action required or permitted to be taken by the Board of Directors may be taken without a meeting of the Board of Directors if the Majority of the Board of Directors consent in writing, or by electronic transmission, facsimile transmission, or telephone to such action. Such written consent or consents shall be filed with the corporate records of the Company. Such action by written consent shall have the same force and effect as a vote of the Directors at a meeting. Meetings of the Directors may be conducted in person and/or by conference telephone or electronic meetings (such as GoToMeeting). Consents may be delivered in writing, by facsimile or PDF, or by email voting if a copy of the email is forwarded to another Director or LLC Officer.

6.9 Quorum and Transaction of Business. The number of Directors that constitutes a quorum for the transaction of business at a properly noticed meeting of the Board of Directors shall be the Majority of the Board of Directors. Except as required by the Act or as otherwise set forth in this Agreement, the affirmative vote of the Majority of the Board of Directors shall constitute the act of the Directors.

6.10 Directors Have No Exclusive Duty to Company. The Directors shall not be required to manage the Company as their sole and exclusive function, and the Directors may have other business interests and may engage in other activities in addition to those relating to the Company. Neither the Company nor any Shareholder shall have any right, by virtue of this Agreement, to share or participate in such other investments or activities of the Directors or to the income or proceeds derived therefrom.

6.11 Exculpation of Directors. Neither any Director nor any Affiliate of any Director shall be liable to the Shareholders for any act or failure to act pursuant to this Agreement, except where such act or failure to act constitutes a breach of this Agreement, gross negligence or willful misconduct and has not been expressly authorized by the Shareholders. The Directors shall be entitled to rely upon the advice of legal counsel, independent public accountants and other experts, including financial advisors, and any act of or failure to act by the Directors in good faith reliance on such advice shall in no event subject the Directors or any such other Person to liability to the Company or any Shareholder.

6.12 Creation of Committees. The Majority of the Board of Directors may create committees to assist the Board of Directors and the officers in the governance of areas of importance to the Company. Subject to the terms of this Agreement, such committees shall have such powers and perform such duties as may be prescribed by the resolution or resolutions creating such committees. Each member of any such committee shall be a Director.

ARTICLE 7
OFFICERS; ADVISORY BOARD

7.1 Appointment of Officers. The Majority of the Board of Directors may appoint the Chief Executive Officer and President of the Company. The Majority of the Board of Directors may delegate day-to-day management responsibilities to the Chief Executive Officer and President, and such officers shall have the authority to contract for, negotiate on behalf of and otherwise represent the interests of the Company as authorized by the Majority of the Board of Directors in any job description created by the Majority of the Board of Directors. The Majority of the Board of Directors may appoint the other officers of the Company (collectively, with the Chief Executive Officer and President, the "**LLC Officers**") that may include, but shall not be limited to: (a) one or more Executive Vice Presidents or Vice Presidents; (b) Secretary; and (c) Treasurer and/or Chief Financial Officer. The Chief Executive Officer may delegate his day-to-day management responsibilities to any such officers, and such officers shall have the authority to contract for, negotiate on behalf of and otherwise represent the interests of the Company as authorized by the Chief Executive Officer in any job description created by the Chief Executive Officer.

7.2 Tenure and Duties of Officers. The Chief Executive Officer and President shall hold office at the pleasure of the Majority of the Board of Directors and until their successors

shall have been duly elected and qualified, unless sooner removed. The Chief Executive Officer and President may be removed at any time by the Majority of the Board of Directors. All officers, other than the Chief Executive Officer and President, shall hold office at the pleasure of the Chief Executive Officer and until their successors shall have been duly elected and qualified, unless sooner removed. Any such officer may be removed at any time by the Chief Executive Officer. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Majority of the Board of Directors or the Chief Executive Officer, as applicable, in accordance with Section 7.1.

7.2.1 Duties of Chief Executive Officer. The Chief Executive Officer shall preside at all meetings of the Board of Directors, unless the Majority of the Board of Directors shall have appointed another Person to so preside and such Person is present. The Chief Executive Officer shall, subject to the control of the Majority of the Board of Directors, have general supervision, direction and control of the business and officers of the Company. The Chief Executive Officer shall perform other duties commonly incident to a president of a Delaware corporation and shall also perform such other duties and have such other powers as the Majority of the Board of Directors shall designate from time to time. **Stephen R. Read** is the Chief Executive Officer as of the date of this Agreement.

7.2.2 Duties of President. The President shall preside at all meetings of the Shareholders and of the Board of Directors, unless the Chairman of the Board of Directors or the Chief Executive Officer has been appointed and is present. Unless some other officer has been elected Chief Executive Officer of the Company, the President shall be the chief executive officer of the corporation and shall, subject to the control of the Majority of the Board of Directors, have general supervision, direction and control of the business and officers of the Company. The President shall perform other duties commonly incident to his office and shall also perform such other duties and have such other powers as the Majority of the Board of Directors shall designate from time to time. **Stephen R. Read** is the President as of the date of this Agreement.

7.2.3 Duties of Vice Presidents. The Vice Presidents may assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. The Vice Presidents shall perform other duties commonly incident to a vice president of a Delaware corporation and shall also perform such other duties and have such other powers as the Majority of the Board of Directors shall designate from time to time.

7.2.4 Duties of Secretary. The Secretary shall attend all meetings of the Shareholders and the Board of Directors and shall record all acts and proceedings thereof in the minute book of the Company. The Secretary shall give notice in conformity with this Agreement of all meetings of the Shareholders and the Board of Directors requiring notice. The Secretary shall perform all other duties given him or her in this Agreement and other duties commonly incident to a secretary of a Delaware corporation and shall also perform such other duties and have such other powers as the Majority of the Board of Directors shall designate from time to time. The President may direct any Assistant Secretary to assume and perform the duties of the Secretary in the absence or disability of the Secretary, and each Assistant Secretary shall perform other duties commonly incident to the office of assistant secretary in a Delaware corporation and shall also perform such other duties and have such other powers as the Majority of the Board of

Directors, the Chief Executive Officer, or the President shall designate from time to time. **Jan Lambert** is the EVP Project Development & Secretary as of the date of this Agreement.

7.2.5 Duties of Chief Financial Officer or Treasurer. The Chief Financial Officer or Treasurer shall keep or cause to be kept the books of account of the Company in a thorough and proper manner and shall render statements of the financial affairs of the Company in such form and as often as required by this Agreement, the Majority of the Board of Directors or the President. The Chief Financial Officer or Treasurer, subject to the order of the Majority of the Board of Directors, shall have the custody of all funds and securities of the Company. The Chief Financial Officer or Treasurer shall perform other duties commonly incident to the office of Chief Financial Officer or Treasurer in a Delaware corporation and shall also perform such other duties and have such other powers as the Majority of the Board of Directors or the President shall designate from time to time. The President may direct any Assistant Treasurer to assume and perform the duties of the Chief Financial Officer or Treasurer in the absence or disability of the Chief Financial Officer or Treasurer, and each Assistant Treasurer shall perform other duties commonly incident to the office the Chief Financial Officer or Treasurer of a Delaware corporation and shall also perform such other duties and have such other powers as the Majority of the Board of Directors, the Chief Executive Officer, or the President shall designate from time to time. **Eric J. Lawrence** is the EVP Corporate Development & Treasurer as of the date of this Agreement.

7.3 Advisory Board. The Majority of the Board of Directors may appoint an Advisory Board to assist the Board of Directors in the operation of the Company. The Advisory Board shall have the powers and duties assigned to it by the Majority of the Board of Directors.

7.4 Tenure of Officers, Committee Shareholders and Advisory Board Members. The LLC Officers, committee members and Advisory Board members shall hold office at the pleasure of the Majority of the Board of Directors.

7.5 Approval of Board of Directors. No LLC Officer nor the Advisory Board shall cause the Company to take any action without the approval of the Majority of the Board of Directors if the action would require the approval of the Board of Directors if the Company were a Delaware corporation.

ARTICLE 8
LIABILITY; INDEMNIFICATION

8.1 Limited Liability. Except as otherwise provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and the Shareholders and the Directors of the Company shall not be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Shareholder or Director of the Company.

8.2 Indemnification.

8.2.1 No Director, LLC Officer, Partnership Representative of the Company shall be liable, in damages or otherwise, to the Company or any Shareholder for any act or omission performed or omitted to be performed by it in good faith (except for gross negligence

or willful misconduct) pursuant to the authority granted to such Director, LLC Officer, Partnership Representative of the Company by this Agreement or by the Act.

8.2.2 To the fullest extent permitted by the laws of the State of Delaware and any other applicable laws, the Company shall indemnify and hold harmless the Directors, each LLC Officer, the Partnership Representative (each, an "**Indemnitee**"), from and against any and all losses, claims, demands, costs, damages, liabilities (joint or several), expenses of any nature (including reasonable attorneys' fees and disbursements), judgments, fines, settlements and other amounts ("**Damages**") arising from any and all claims, demands, actions, suits or proceedings, whether civil, criminal, administrative or investigative, in which an Indemnitee may be involved, or threatened to be involved, as a party or otherwise, arising out of or incidental to the business of the Company, regardless of whether an Indemnitee continues to be a Director, an LLC Officer, Partnership Representative or an agent of the Company at the time any such liability or expense is paid or incurred, except for any Damages based upon, arising from or in connection with any act or omission of an Indemnitee committed without authority granted pursuant to this Agreement or in bad faith or otherwise constituting gross negligence or willful misconduct.

8.2.3 Expenses (including reasonable attorneys' fees and disbursements) incurred in defending any claim, demand, action, suit or proceeding, whether civil, criminal, administrative or investigative, subject to Section 8.2.2 hereof, may be paid (or caused to be paid) by the Company in advance of the final disposition of such claim, demand, action, suit or proceeding upon receipt of an undertaking by or on behalf of the Indemnitee to repay such amount if it shall ultimately be determined, by a court of competent jurisdiction from which no further appeal may be taken or the time for any appeal has lapsed (or otherwise, as the case may be), that the Indemnitee is not entitled to be indemnified by the Company as authorized hereunder or is not entitled to such expense reimbursement.

8.2.4 Any indemnification hereunder shall be satisfied only out of the assets of the Company, and the Shareholders shall not be subject to personal liability by reason of these indemnification provisions.

8.2.5 The indemnification provided by this Section 8.2 shall be in addition to any other rights to which each Indemnitee may be entitled under any agreement or vote of the Shareholders, as a matter of law or otherwise, both as to action in the Indemnitee's capacity as a Shareholder or as an officer, director, employee, shareholder, member or partner of a Shareholder or of an Affiliate, and shall inure to the benefit of the heirs, successors, assigns, administrators and personal representatives of the Indemnitee.

8.2.6 The Company may purchase and maintain insurance on behalf of one (1) or more Indemnitees and other Persons against any liability which may be asserted against, or expense which may be incurred by, any such Person in connection with the Company's activities, whether or not the Company would have the power to indemnify such Person against such liability under the provisions of this Agreement.

8.2.7 An Indemnitee shall not be denied indemnification in whole or in part under this Section 8.2 because the Indemnitee had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by the terms of this Agreement.

8.2.8 The provisions of this Section 8.2 are for the benefit of each Indemnitee and its heirs, successors, assigns, administrators and personal representatives, and shall not be deemed to create any rights for the benefit of any other Persons.

ARTICLE 9
ACCOUNTING

9.1 Tax Payments and Obligations.

9.1.1 If the Company incurs an obligation to pay directly any amount in respect of taxes with respect to amounts allocated or distributed to one or more Shareholders, including but not limited to withholding taxes imposed on any Shareholder's or former Shareholder's share of the Company's gross or net income or gains (or items thereof), income taxes, and any interest, penalties or additions to tax or any taxes or other liabilities under Section 9.2 (a "**Tax Liability**"), or if the amount of a payment or distribution of cash or other property to the Company is reduced as a result of withholding by other parties in satisfaction of any such Tax Liability:

i. All payments made by the Company in satisfaction of such Tax Liability and all reductions in the amount of a payment or distribution that the Company otherwise would have received shall be treated, pursuant to this Section 9.1, as distributed to those Shareholders or former Shareholders to which the related Tax Liability is attributable at the time;

ii. Notwithstanding any other provision of this Agreement, Capital Accounts of the Shareholders may be adjusted by the Majority of the Board of Directors in an equitable manner so that, to the extent feasible, the burden of taxes withheld at the source or paid by the Company is borne by those Shareholders to which such tax obligations are attributable; and

iii. The Majority of the Board of Directors may, in their sole and absolute discretion treat any Tax Liability attributable to a Shareholder or former Shareholder as a loan to such Person, and the Majority of the Board of Directors or an LLC Officer shall give prompt written notice to such Person of the amount of such loan.

9.1.2 Repayment of Any Amounts Treated as Loans. Each Shareholder covenants, for itself, its successors, assigns, heirs and personal representatives, that such Person shall repay any loan described in Section 9.1.1(iii) not later than 30 days after the Majority of the Board of Directors delivers a written demand for such repayment (whether before or after the withdrawal of such Shareholder from the Company or the dissolution of the Company). If any such repayment is not made within such 30-day period:

i. such Person shall pay interest to the Company at the Prime Rate, compounded monthly, for the entire period commencing on the date on which the Company paid such amount and ending on the date on which such Person repays such

amount to the Company together with all accrued but previously unpaid interest; and

ii. the Company, at the sole and absolute discretion of the Majority of the Board of Directors, shall collect such unpaid amounts (including interest) from any distributions that otherwise would be made by the Company to such Person, treating the amount so collected or subtracted as having been distributed to such Person at the time so collected or subtracted.

9.1.3 Company Obligation. For purposes of this Section 9.1, any obligation to pay any amount in respect of taxes (including withholding taxes and any interest, penalties or additions to tax) incurred by the Company or the Board of Directors with respect to income of or distributions made to any Shareholder or former Shareholder shall constitute a Company obligation.

9.1.4 Tax Liability. Notwithstanding anything in this Agreement to the contrary, the Majority of the Board of Directors, in their sole and absolute discretion will determine the amount, if any, of any Tax Liability attributable to any Shareholder or former Shareholder.

9.2 Tax Matters

9.2.1 For each Taxable Year that the Partnership Tax Audit Rules are applicable to the Company, the following provisions shall apply:

i. **Stephen R. Read** is hereby designated as the "partnership representative" within the meaning of Section 6223(a) of the Code (the "**Partnership Representative**"). The Company and each Shareholder agree that they shall be bound by the actions taken by the Partnership Representative, as described in Section 6223(b) of the Code. The Shareholders consent to the election set forth in Section 6226(a) of the Code and agree to take any action, and furnish the Partnership Representative with any information necessary, to give effect to such election if the Partnership Representative decides to make such election. Any imputed underpayment imposed on the Company pursuant to Code Section 6232 of the Code (and any related interest, penalties or other additions to tax) that the Partnership Representative reasonably determines is attributable to one or more Shareholders shall be promptly paid by such Shareholders to the Company (pro rata in proportion to their respective shares of such underpayment) within 15 days following the Partnership Representative's request for payment (and any failure to pay such amount shall result in a subsequent reduction in distributions otherwise payable to such Shareholder plus interest on such amount calculated at the Prime Rate plus 2%). For the avoidance of doubt, (i) the costs of any action taken by or on behalf of the Partnership Representative, the Company or their respective Affiliates pursuant to this paragraph shall be borne by the Shareholder (together with the other Shareholders similarly benefitting from such action as determined by the Partnership Representative in its reasonable discretion), (ii) the Partnership Representative will be entitled to rely conclusively on the advice of the

Company's independent accountant or other tax advisor in making any determination in respect of the partnership tax audit rules prescribed by the Partnership Tax Audit Rules, and (iii) the Partnership Representative shall not be required to indemnify any Shareholder or the Company with respect to any taxes incurred under such partnership tax audit rules.

ii. All expenses incurred by the Partnership Representative, in its capacity as such (including reasonable professional fees for such accountants, attorneys and agents as the Partnership Representative in its sole and absolute discretion determines are necessary to or useful in the performance of its duties in that capacity) shall be borne by the Company.

iii. Each Shareholder shall provide to the Company upon request such information, forms or representations which the Partnership Representative may reasonably request with respect to the Company's compliance with applicable tax laws, including, any information, forms or representations requested by the Partnership Representative to assist in obtaining any exemption, reduction or refund of any withholding or other taxes imposed by any taxing authority or other governmental agency upon the Company or amounts paid to the Company.

iv. Each Shareholder shall provide to the Board of Directors upon request such information, forms or representations that the Majority of the Board of Directors may reasonably request with respect to the Company's compliance with applicable tax laws. Without limiting the foregoing, each Shareholder agrees to promptly provide to the Board of Directors such information regarding the Shareholder and its beneficial owners, and any forms with respect thereto, as the Majority of the Board of Directors may request from time to time in order for the Company to comply with its obligations under Sections 1471 through 1474 of the Code, all rules, regulations and other guidance issued thereunder, and all administrative and judicial interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code, and all applicable intergovernmental agreements entered into between the United States and another country (or local country legislation enacted pursuant to such intergovernmental agreement) (collectively, "FATCA"). Notwithstanding anything to the contrary in this Agreement, each Shareholder hereby waives the application of any non-U.S. law to the extent that such law would prevent the Company or the Board of Directors from reporting to the U.S. Internal Revenue Service and/or the U.S. Treasury or any other governmental authority any information required to be reported under FATCA with respect to such Shareholder and its beneficial owners.

v. Notwithstanding any provision of this Agreement to the contrary, each Shareholder further agrees that, if such Shareholder fails to comply with any of the requirements of this Section 9.2 in a timely manner or if the Majority of the Board of Directors determines that such Shareholder's participation in the Company would otherwise have a material adverse effect on the Company or the Shareholders as a result of FATCA, then (i) the Majority of the Board of Directors, in their sole discretion, may (a) cause such Shareholder to transfer its

Shares to a third party (including, without limitation, an existing Shareholder) or otherwise withdraw from the Company in exchange for consideration which the Majority of the Board of Directors, in their sole discretion, after taking into account all relevant facts and circumstances surrounding such transfer or withdrawal (including, without limitation, the desire to effect such transfer or withdrawal as expeditiously as possible in order to minimize any adverse effect on the Company and the other Shareholders as a result of FATCA), deems to be appropriate or (b) take any other action the Majority of the Board of Directors deems in good faith to be reasonable to minimize any adverse effect on the Company and the other Shareholders as a result of FATCA; and (ii) unless otherwise agreed by the Majority of the Board of Directors in writing, such Shareholder shall, to the maximum extent permitted by applicable law, indemnify the Company for all losses, costs, expenses, damages, claims, and demands (including, but not limited to, any withholding tax, penalties, or interest suffered by the Company) arising as a result of such Shareholder's failure to comply with the above requirements in a timely manner.

9.2.2 Any cost or expense incurred by the Partnership Representative in connection with such Person's duties in such capacity shall be paid by the Company, and the Company shall promptly reimburse the Partnership Representative for their respective reasonable out-of-pocket costs and expenses incurred in such capacities, including travel expenses and the costs and expenses incurred to engage accountants, legal counsel, or experts to assist the Partnership Representative in discharging their duties hereunder.

9.2.3 Except as otherwise expressly provided in this Agreement, the Majority of the Board of Directors shall have full and absolute discretion over all tax matters with respect to the Company, including, but not limited to, the filing of tax returns, tax proceedings, and tax elections.

9.2.4 Notwithstanding any provision of this Agreement to the contrary, the provisions of this Section 9.1 and Section 9.2 will survive the liquidation or dissolution of the Company and each Shareholder agrees to continue to be bound to the terms of this Section 9.1 and Section 9.2 following such Shareholder's withdrawal from the Company.

9.3 Reserves. Reasonable cash reserves may be established from time to time by the Chief Executive Officer or Treasurer, with the approval of the Majority of the Board of Directors.

9.4 Company Funds. The Company may not commingle the Company's funds with the funds of any Shareholder, or the funds of any Affiliate of any Shareholder.

9.5 Safe Harbor Election. The Shareholders acknowledge the proposed revenue procedure set forth in Notice 2005-43, 2005-24 I.R.B. 1 (May 20, 2005), and expressly intend that the Company shall be enabled to make a "Safe Harbor Election" and to issue "Safe Harbor Partnership Interests" within the meaning thereof. If such proposed revenue procedure (or a substantial equivalent) is promulgated in final, effective form, the Majority of the Board of Directors shall (without the need for further action by the Shareholders) have all necessary authority under this Agreement to give effect to the intention set forth in the preceding sentence

(including the authority to make any applicable tax election on behalf of the Company and the Shareholders).

9.6 Fiscal Year. The Fiscal Year and taxable year of the Company shall be the calendar year, unless the Code requires a different Fiscal Year.

ARTICLE 10
DISSOLUTION; TERMINATION

10.1 Events of Dissolution. The Company shall survive in perpetuity and shall not be dissolved except upon the approval of the Majority of the Board of Directors and the holders of at least a majority of the Shares or upon a judicial decree of dissolution (a "**Dissolution**"). Dissolution of the Company shall be effective on the date of such event (unless otherwise specified in such approval), but the Company shall not terminate until the assets of the Company shall have been distributed as provided herein and a certificate of dissolution of the Company has been filed with the Secretary of State of the State of Delaware.

10.2 Liquidation and Termination. On Dissolution of the Company, a Person shall be designated by the Majority of the Board of Directors to act as liquidator(s). The liquidator(s) shall proceed diligently to wind up the affairs of the Company and make final distributions as provided herein and in the Act. The costs of liquidation shall be borne as a Company expense. Until final distribution, the liquidator(s) shall continue to operate the Company properties with all of the power and authority of Shareholders and the Board of Directors; *provided, however*, that such liquidator(s) may be removed and replaced at any time and for any reason by the Majority of the Board of Directors. The steps to be accomplished by the liquidator(s) are as follows:

10.2.1 The liquidator(s) shall pay, satisfy or discharge from Company funds all of the debts, liabilities and obligations of the Company (including, without limitation, all expenses incurred in liquidation) or otherwise make adequate provision for payment and discharge thereof (including, without limitation, the establishment of a cash fund for contingent liabilities in such amount and for such term as the liquidator may reasonably determine).

10.2.2 All remaining assets of the Company shall be distributed to the Shareholders in the manner and priority set forth in Section 4.1.2 of this Agreement.

10.3 Certificate of Cancellation. On completion of the distribution of Company assets as provided herein, the Company is terminated, and shall conduct only such activities as are necessary to windup its affairs. The liquidator shall file a certificate of cancellation with the Secretary of State of the State of Delaware, cancel any other relevant filings and take such other actions as may be necessary to terminate the Company.

ARTICLE 11
TRANSFER RESTRICTIONS

11.1 Transfer. Each holder of Shares (other than the Preferred Shareholder) agrees not to make any Transfer of all or any interest in the Company without complying with the terms of this ARTICLE 11. Any attempted Transfer by any Person (other than the Preferred Shareholder)

of an interest or right, or any part thereof, in or in respect of the Company other than in accordance with this ARTICLE 11 shall be, and is hereby declared, null and void ab initio. For avoidance of doubt and notwithstanding anything to the contrary in this Agreement or in any other agreement between the Company, the Preferred Shareholder, and/or the other Shareholders, the Preferred Shareholder shall be permitted to Transfer all or any portion of the Shares held by the Preferred Shareholder in its sole discretion.

11.1.1 For an individual Shareholder, a "Permitted Transferee" is (i) such Shareholder's spouse, siblings, lineal ancestors or lineal descendants, (ii) any entity established by such Shareholder solely for the benefit of such Shareholder and such Shareholder's spouse, siblings, lineal ancestors or lineal descendants of such Shareholder, and (iii) any Person who receives a Shareholder's Shares via will or intestate distribution; provided that, in each case, such transferring Shareholder shall retain, and the Permitted Transferee shall not receive or attempt to exercise, any voting rights with respect to such transferred Shares (except in the case of a Transfer via will or intestate distribution).

11.2 Additional Restrictions. Notwithstanding anything else in this Agreement, no Transfer of Shares (including without limitation those to a Permitted Transferee) may be made if such transfer would (i) violate any applicable laws or regulations, (ii) result in the Company being taxable as a corporation, (iii) cause a termination of the Company under Section 708(b)(1)(B) or any other section of the Code, (iv) result in the Company becoming a "publicly traded partnership" within the meaning of Section 7704of the Code, (v) be an event which would constitute a violation or breach (or, with the giving of notice or passage of time, would constitute a violation or breach) of any law, regulation, ordinance, agreement or instrument by which the Company, or any of its properties or assets, is bound or (vi) require the Company to register under the Investment Company Act of 1940, as amended.

11.3 Right of First Refusal.

11.3.1 Except for a Transfer to a Permitted Transferee or pursuant to the Put Option, no holder of Shares (other than the Preferred Shareholder) shall Transfer any of the Shares of the Company or any right or interest therein except by a Transfer which meets the requirements hereinafter set forth:

11.3.1.1 If any Shareholder (other than the Preferred Shareholder) (the "**ROFR Seller**") desires to Transfer any Shares, then such Shareholder shall give written notice to the Company (the "**First ROFR Sale Notice**"), which shall name the proposed transferee (the "***Proposed Transferee***") and state the number of Shares to be transferred, the proposed consideration, and all other terms and conditions of the proposed Transfer.

11.3.1.2 For thirty (30) days following receipt by the Company of the First ROFR Sale Notice, the Company shall have the option to purchase all (but not fewer than all) of the Shares specified in the First ROFR Sale Notice at the price and upon the terms set forth in the First ROFR Sale Notice; provided, however, that, with the consent of the ROFR Seller, the Company shall have the option to purchase fewer than all of the Shares specified in the First ROFR Sale Notice at the price and upon the terms set forth therein. In the event the Company elects to purchase all of the Shares or, with consent of the ROFR Seller, fewer than all

of the Shares, it shall give written notice to the ROFR Seller of its election and settlement for said Shares shall be made as provided below.

11.3.1.3 In the event the Company and/or its assignee(s) elects to acquire any of the Shares of the ROFR Seller as specified in the First ROFR Sale Notice, the Company shall so notify the ROFR Seller and settlement thereof shall be made in cash within thirty (30) days after the Company receives the First ROFR Sale Notice; provided that if the terms of payment set forth in the First ROFR Sale Notice were other than cash against delivery, the Company and/or its assignee(s) shall pay for said Shares on the same terms and conditions set forth in the First ROFR Sale Notice.

11.3.1.4 In the event that the Company and/or its assignee(s) does not elect to acquire all of the Shares specified in the First ROFR Sale Notice, the ROFR Seller shall promptly give written notice (the "**Second ROFR Sale Notice**") to each of the Shareholders, which shall set forth the number of Shares not purchased by the Company and which shall include the terms set forth in the First ROFR Sale Notice. Each Shareholder shall then have the right, exercisable upon written notice to the ROFR Seller (the "**ROFR Buy Notice**") within ten (10) days after receipt of the Second ROFR Sale Notice, to purchase its *pro rata* share of the Shares subject to the Second ROFR Sale Notice and on the same terms and conditions as set forth therein. The Shareholders who so exercise their rights shall effect the purchase of the Shares, including payment of the purchase price, not more than five (5) days after delivery of the **ROFR Buy Notice**. The *pro rata* share of each Shareholder shall be equal to the product obtained by multiplying (i) the aggregate number of Common Shares covered by the Second ROFR Sale Notice and (ii) a fraction, the numerator of which is the number of Shares held by such Shareholder and the denominator of which is the total number of Shares other than those held by the ROFR Seller.

11.3.1.5 Subject to Section 11.3.1.6, in the event the Company and/or its assignee(s) does not elect to acquire all of the Shares specified in the First ROFR Sale Notice and other Shareholders do not elect to acquire all of the Shares specified in the Second ROFR Sale Notice, the ROFR Seller may, within the 60-day period following the expiration of the option rights granted to the Company and/or its assignees(s) and the other Shareholders herein, Transfer the Shares specified in the Second ROFR Sale Notice which were not acquired by either the Company and/or its assignee(s) or the other Shareholders as specified in the Second ROFR Sale Notice to a Proposed Transferee who is not already a Shareholder in the Company, on terms not more favorable than those described in the First ROFR Sale Notice and Second ROFR Sale Notice. All Shares so sold by said ROFR Seller shall continue to be subject to the provisions of this Agreement in the same manner as before said Transfer.

11.3.1.6 If the ROFR Seller is permitted to sell Shares to a Proposed Transferee pursuant to the terms of Section 11.3.1.5, such ROFR Seller shall also give each of the remaining Shareholders the right to require the Proposed Transferee to purchase their Shares in the Company, on a pro rata basis, at the same price per share and on the same terms and conditions as the proposed sale ("**Tag-Along Rights**") by delivering a written notice to such Shareholders following the expiration of the option rights granted to such Shareholders in this Section 11.3 (the "**Tag-Along Notice**"). A Shareholder may exercise his, her or its Tag-Along Rights by giving written notice to one or more of the ROFR Sellers within ten (10) days of

receipt of the Tag-Along Notice. If the Proposed Transferee does not purchase the Shares of all the remaining Shareholders who exercise their Tag-Along Rights on the same terms and conditions as the Shares of the ROFR Seller, then the ROFR Seller shall not sell his, her or its Shares to the Proposed Transferee.

11.3.2 The certificates, if any, representing Shares of the Company shall bear on their face the following legend so long as the foregoing right of first refusal remains in effect:

> "THE MEMBERSHIP INTERESTS REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A RIGHT OF FIRST REFUSAL OPTION IN FAVOR OF THE COMPANY AND/OR ITS ASSIGNEE(S), AS PROVIDED IN THE LIMITED LIABILITY COMPANY OPERATING AGREEMENT OF THE COMPANY."

11.4 Admission of Transferee. A Person to whom an interest in the Company is transferred in accordance with this Agreement has the right to be admitted to the Company as a Shareholder only upon approval of the Majority of the Board of Directors (which approval shall not be unreasonably withheld) (except that approval of the Majority of the Board of Directors shall not be required for a Person to whom an interest in the Company was transferred from the Preferred Shareholder), and execution by the transferee of such instruments as the Majority of the Board of Directors may deem necessary or advisable to effect the admission of such transferee as a Shareholder, including, without limitation, the written acceptance and adoption by such transferee of the provisions of this Agreement and any other agreement to which the transferring Shareholder is bound with respect to the transferred interest. A Person to whom Shares are transferred will have no right to vote such Shares or otherwise participate in the management or operations of the Company or receive information concerning the Company unless such Person is approved for admission as a Shareholder by the Majority of the Board of Directors (except that approval of the Majority of the Board of Directors shall not be required for a Person to whom an interest in the Company was transferred from the Preferred Shareholder). If Shares are transferred to a Person in accordance with this Agreement and the transferee is not admitted as a Shareholder, the transferring Shareholder will continue to vote the transferred Shares and receive information concerning the Company until such time as the transferring Shareholder withdraws from the Company.

11.5 Put Option.

11.5.1 Upon the earlier of a (i) Financial Closing, (ii) nine (9) months following the Effective Date, or (iii) an Event of Default, the holders of Preferred Shares shall have the right to require the Company to purchase all or any portion of the Preferred Shares at the Preference Amount (the "**Put Option**"); provided, however, the holders of a majority of the Common Shares shall have the right to extend the Put Option by up to three (3) months, exercisable in one month increments by delivering written notice of such extension to the Preferred Shareholder. The Company covenants to reasonably consider any financing proposals that are sourced by the Founders for the purpose of raising sufficient capital in order to satisfy in full the Put Option. Notwithstanding the foregoing, any such considerations or actions by the Board shall in no way effect or impair in any way the rights of the Preferred Shareholder to exercise the Put Option and its remedies under 11.5.2.

11.5.2 If a holder of Preferred Shares exercises the Put Option (an "**Exercising Shareholder**") and the Company is unable to consummate the transaction within 30 calendar days after all applicable extensions (if exercised), such Exercising Shareholder shall have the right (at his sole discretion) to (i) institute a sale process conducted by a third party advisor (which third-party advisory shall be selected by the Company and approved by the Exercising Shareholder) to sell the Company in an arms' length transaction to a third party, (ii) conduct a Financial Closing within twenty (20) days pursuant to which the Company would raise an amount necessary to consummate the purchase of the Exercising Shareholder's Preferred Shares and, to the extent such holder holds any such Common Shares and wishes to sell such Common Shares, the Exercising Shareholder's Common Shares, or (iii) exercise the rights of the Exercising Shareholder to the Pledged Collateral (as defined below) in accordance with Section 12.3. For the avoidance of doubt, payment of the Preference Amount under Section 4.1.2.2 shall be satisfaction in full of the Put Option.

ARTICLE 12
ADDITIONAL BUSINESS PROVISIONS

12.1 Development Fee. The Preferred Shareholder shall be entitled to receive the greater of 0.50% of the total financing or 50% of the aggregate development fee agreed upon by lenders and equity holders upon Financial Closing for the Project. This shall be deemed separate from any proceeds paid in respect of the Preferred Shares or Common Shares hereunder.

12.2 Option to Purchase. On or about the date of this Agreement, (i) the Company has entered into an agreement (the "**Option Agreement**") with Rensselaer County, a municipal corporation ("**County**"), pursuant to which County has granted to the Company the exclusive right to purchase all of County's right, title, and interest in Parcel No. 1 (defined in the Option Agreement), and (ii) the Company has assigned the Option Agreement, including all rights and obligations therein, to the Preferred Shareholder. On or before the Financial Closing for the Project, the Company shall purchase from the Preferred Shareholder (and the Preferred Shareholder shall sell to the Company) Parcel No. 1 or the option to acquire Parcel No. 1 contained in the Option Agreement at the cost plus any expenses the Preferred Shareholder incurred to acquire Parcel No. 1 or such option (provided that any portion of such costs or expenses actually paid or incurred by the Company shall be netted out of the purchase amount to be paid to the Preferred Shareholder pursuant to this Section 12.2). For avoidance of doubt, any amount paid to the Preferred Shareholder pursuant to this Section 12.2 shall be in addition to, and not subtracted from, the Preference Amount.

12.3 Pledge and Guaranty. Each Founder hereby pledges, hypothecates, assigns, transfers, sets over, and delivers to the Preferred Shareholder, and grants the Preferred Shareholder a security interest in all of such Founder's right, title, and interest in, to his Shares in the Company whether or not certificated (collectively, the "**Pledged Collateral**") as collateral for payment of the Preference Amount. Upon the failure by the Company to make any payment to the Preferred Shareholder when due, the Preferred Shareholder shall have all rights and remedies afforded to a secured party under the Uniform Commercial Code as in effect in the State of Delaware and may sell any or all of the Pledged Collateral at a public or private sale. Each Founder shall, from time to time, as may be required by the Preferred Shareholder, with respect to the Pledged Collateral, take all actions as may be requested by the Preferred Shareholder to perfect its security interest in the Pledged Collateral, including, without

limitation, taking all actions as may be requested from time to time by the Preferred Shareholder so that control of such Pledged Collateral is obtained and at all times held by the Preferred Shareholder. All of the foregoing shall be at the sole cost and expense of such Founder. Each Founder hereby irrevocably authorizes the Preferred Shareholder, at any time and from time to time, to file in any relevant jurisdiction any financing statements and amendments thereto that contain the information required by Article 9 of the Uniform Commercial Code of each applicable jurisdiction for the filing of any financing statement or amendment relating to the Pledged Collateral, without the signature of such Founder where permitted by law. Each Founder agrees to provide all information required by the Preferred Shareholder pursuant to this Section 12.3 promptly to the Preferred Shareholder, or its designee, upon request. If any of the Shares become certificated, all certificates or instruments representing or evidencing the Pledged Collateral shall be promptly delivered by the Founder to the Preferred Shareholder in suitable form for transfer by the Founder or accompanied by a duly executed endorsement. In addition, on the Effective Date, each of Stephen R. Read, Jan Lambert, and Eric J. Lawrence have executed a "Bad Boy Guaranty" in substantially the form attached as Exhibit C hereto.

12.4 Salary Matters.

12.4.1 For so long as the Preferred Shares remain outstanding, (i) no Founder other than Stephen R. Read shall be entitled to salary, (ii) there will be a cap of one hundred twenty thousand dollars ($120,000) advanced for salary with a weekly maximum amount equal to five thousand dollars ($5,000) and with advancements (if any) to be at Stephen R. Read's election (provided that the advancement of such salary shall be in the Preferred Shareholder's sole discretion) and (iii) to the extent that any funds are paid to Stephen R. Read for salary purposes, Shares owned by Stephen R. Read shall be automatically transferred on the books of the Company to the Preferred Shareholder in the following amounts: for every $24,000 that is paid to Stephen R. Read, Common Shares owned by Stephen R. Read representing 1% of the issued and outstanding Common Shares of the Company (as proportionally adjusted for amounts less than $24,000) shall be automatically transferred on the books of the Company to the Preferred Shareholder with no further action required of Stephen R. Read or the Company. From time to time on or after the Effective Date, at the direction of the Preferred Shareholder, the Company shall amend the Share Register to appropriately give effect to the foregoing, without any further action on the part of the Company or any other party hereto. If at any time a Founder makes any payment to the Preferred Shareholder under a guaranty or otherwise, the Preference Amount shall be reduced on a dollar-for-dollar basis in the amount of such payment to the extent that such amount otherwise would have been included in the Preference Amount.

12.4.2 On the date of Stephen R. Read's initial salary advancement (if any) pursuant to Section 12.4.1 and as a condition to receipt of such advancement, (i) the Company shall execute and delivery a promissory note in favor of the Preferred Shareholder, in substantially the form attached as Exhibit D hereto (the "**Note**"), and (ii) Stephen R. Read shall execute and deliver an unconditional guarantee of all obligations due under the Note, in substantially the form attached as Exhibit E hereto. The Company hereby authorizes the Preferred Shareholder to amend the principal amount of the Note in the amount of each additional salary advancement provided to Stephen R. Read. Upon the Preferred Shareholder's exercise of the Put Option, the Note shall amortize over a thirty-six (36) month period with a ten

percent (10%) interest rate. For the avoidance of doubt, Founders (other than Stephen R. Read) shall have no liability hereunder for salaries drawn for Stephen R. Read.

12.5 Reporting. The Company shall provide the Preferred Shareholder with copies of any reports, documents and/or instruments of any nature or kind supplied to any other managing body of, investor in, or lender to the Company. In addition, for so long as the Preferred Shares remain outstanding or for so long as Common Shares held by the Preferred Shareholder remain outstanding, the Company shall provide the Preferred Shareholder: (i) management financials within twenty (20) business days after month-end, and (ii) copies of its tax returns with ten (10) business days of filing. The Preferred Shareholder or its designee may make periodic site visits and tours and will receive other customary financial documents related to the security or ongoing monitoring of its investment in the Company as and when requested by the Preferred Shareholder.

12.6 Insurance. For so long as the Preferred Shares remain outstanding, the Company shall maintain directors' and officers' insurance with a limit of no less than $1,250,000 and commercial risk insurance covering the customary risks for a business of its nature and all collateral capable of being insured.

12.7 Piggyback Registration Rights

12.7.1 Whenever the Company proposes to register any securities and the registration form to be used may be used for the registration of Registrable Securities (a "***Piggyback Registration***"), the Company shall give prompt written notice (in any event within three (3) Business Days) to all holders of Registrable Securities of its intention to effect such a registration and shall include in such registration all Registrable Securities with respect to which the Company has received written requests for inclusion therein within twenty (20) days after the receipt of the Company's notice. For purposes of this Agreement, "***Registrable Securities***" shall mean the Preferred Shares.

12.7.2 If a Piggyback Registration is an underwritten primary registration on behalf of the Company and the managing underwriters advise the Company in writing that in their reasonable and good faith opinion the number of securities requested to be included in such registration exceeds the number that can be sold in an orderly manner in such offering within a price range acceptable to the Company, the Company shall include in such registrations (i) first, the securities the Company proposes to sell, (ii) second, the Registrable Securities requested to be included in such registration, based upon each Shareholder's pro rata share of Common Shares represented by the Registrable Securities requested to be included by each Shareholder electing to participate in the offering relative to the pro rata share of all Registrable Securities requested to be included in the offering by all Shareholders in the aggregate, and (iii) third, other equity securities requested to be included in such registration.

ARTICLE 13
MISCELLANEOUS

13.1 Offset. Whenever the Company is obligated to make a distribution or payment to any Shareholder (other than the Preferred Shareholder), any amounts that such Shareholder owes the Company may be deducted from said distribution or before payment by the Company.

13.2 Notices. Any and all notices, consents, offers, elections and other communications required or permitted under this Agreement shall be deemed adequately given only if in writing and the same shall be delivered either:

13.2.1 by hand, facsimile or electronic transmission; or

13.2.2 by mail or Federal Express or similar expedited commercial carrier, addressed to the recipient of the notice, postage prepaid and first class mail, postage prepaid (if by mail), or with all freight charges prepaid (if by Federal Express or similar carrier).

All notices, demands, and requests to be sent hereunder shall be deemed to have been given for all purposes of this Agreement upon the date of receipt or refusal. All such notices, demands and requests shall be addressed: (i) if to the Company, at its principal executive offices; or (ii) if to a Shareholder, at the address set forth on the Share Register attached hereto or to such other address as such Shareholder may have designated for himself, herself or itself by written notice to the Company in the manner herein prescribed.

13.3 Word Meanings; Construction. The singular shall include the plural and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires. Unless otherwise indicated, all references to Articles and Sections refer to Articles and Sections of this Agreement, and all references to Schedules are to schedules attached hereto, each of which is made a part hereof for all purposes.

13.4 Binding Provisions. The covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the heirs, legal representatives, successors and assigns of the respective parties hereto.

13.5 Applicable Law. This Agreement is governed by and shall be construed in accordance with the Act, excluding any conflict-of-laws rule or principle that might refer the governance or the construction of this Agreement to the law of another jurisdiction. In the event of a conflict between any provision of this Agreement and any non-mandatory provision of the Act, the provision of this Agreement shall control and take precedence.

13.6 Severability of Provisions. Each Section of this Agreement constitutes a separate and distinct undertaking, covenant and/or provision hereof. In the event that any provision of this Agreement shall finally be determined to be invalid, illegal or unenforceable in any respect under any applicable law, then:

13.6.1 all such provisions shall be deemed severed from this Agreement;

13.6.2 every other provision of this Agreement shall remain in full force and effect; and

13.6.3 in substitution for any such provision held invalid, illegal or unenforceable, there shall be substituted a provision of similar import reflecting the original intent of the parties hereto to the extent permissible under applicable law.

13.7 Section Titles. Section titles are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

13.8 Further Assurance. The Shareholders shall execute and deliver such further instruments and do such further acts and things as may be required to carry out the intent and purposes of this Agreement.

13.9 Directly or Indirectly. Where any provision in this Agreement refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether the action in question is taken directly or indirectly by such Person.

13.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original of this Agreement.

13.11 Effect of Waiver and Consent. A waiver or consent, express or implied, to or of any breach or default by any Person in the performance by that Person of its obligations hereunder or 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 hereunder or 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 hereunder or 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.

13.12 Waiver of Certain Rights. Each Shareholder (other than the Preferred Shareholder) irrevocably waives any right it may have to demand any distributions or withdrawal of property from the Company or to maintain any action for dissolution (except pursuant to Section 18-802 of the Act) of the Company or for partition of the property of the Company.

13.13 Notice of Provisions. By executing this Agreement, each Shareholder acknowledges that it has actual notice of (i) all of the provisions hereof and (ii) all of the provisions of the Certificate.

13.14 Entire Agreement. This Agreement together with the other agreements and instruments entered into in connection herewith constitutes the entire agreement among the parties hereto with respect to the transactions contemplated herein, and supersedes all other prior understandings or agreements among the Shareholders with respect to such transactions.

13.15 Amendments. Except as otherwise provided herein (including without limitation Sections 3.1, 3.6, and 12.4.1), the Certificate and this Agreement may be amended by the holders of a majority of the Shares; provided that, for so long as any Preferred Shares remain outstanding, the consent of the Preferred Shareholder and a majority of the holders of the Common Shares shall be required to effect any amendment hereunder; and, provided further that, when and if the Preferred Shares are no longer outstanding, this Agreement may not be amended or modified and the observance of any term hereunder may not be waived with respect to the Preferred Shareholder without the written consent of the Preferred Shareholder, if such amendment, modification or waiver would adversely affect the rights of the Preferred Shareholder in a manner disproportionate to any adverse effect such amendment, modification or waiver would have on the rights of the other Shareholders under this Agreement.

13.16 Remedies. The Shareholders acknowledge and agree that, in addition to all other remedies available (at law or otherwise) to the Company, the Company shall be entitled to equitable relief (including injunction and specific performance) as a remedy for any breach or threatened breach of any provision of this Agreement. The Shareholders further acknowledge and agree that the Company shall not be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any remedy referred to in this Section, and the Shareholders waive any right any of them may have to require that the Company obtain, furnish or post any such bond or similar instrument.

13.17 Specific Performance. Each party acknowledges and agrees that each party hereto will be irreparably damaged in the event any of the provisions of this Agreement are not performed by the parties in accordance with their specific terms or are otherwise breached. Accordingly, it is agreed that each of the Company and the Shareholders shall be entitled to an injunction to prevent breaches of this Agreement, and to specific enforcement of this Agreement and its terms and provisions in any action instituted in any court of the United States or any state having subject matter jurisdiction.

13.18 Counsel. The Shareholders acknowledge that Foley & Lardner LLP has been selected as counsel to the Company ("Counsel"), and in this capacity is representing only the Company, and none of other Shareholders individually in the preparation of this Agreement and the related Exhibits, Schedules or documents. Therefore, Counsel will look only to the Company's Shareholders, as expressed by the Majority of the Board of Directors for instructions regarding both the legal services to be performed by Counsel for the Company and the resolution of any issues that may arise in the course of such services. Each Shareholder acknowledges that the Company's best interests may be inconsistent with your individual Shareholder interests. As such, Counsel may be required to give the Company advice or to take action on its behalf that may not be in a Shareholder's individual best interests. In such a case, there would exist a conflict of interest among the Company and one or more of the Shareholders as members. Each Shareholder is again advised that each remains completely free to seek independent counsel at any time. An officer or Manager may execute on behalf of the Company and the Shareholder(s) any consent to the representation of the Company that Counsel may request pursuant to the Rules of Professional Conduct for attorneys ("Rules"). Each Shareholder acknowledges that in the negotiation and preparation of this Agreement, Counsel has not represented any Shareholder, and that in the absence of a clear and explicit written agreement with such other Shareholders, Counsel shall owe no duties directly to a Shareholder. EACH SHAREHOLDER FURTHER ACKNOWLEDGES, REPRESENTS AND WARRANTS THAT SUCH SHAREHOLDER HAS BEEN ADVISED TO CONSULT WITH SUCH SHAREHOLDER'S OWN ATTORNEY REGARDING THIS AGREEMENT AND ANY RELATED AGREEMENTS AND HAS DONE SO TO THE EXTENT THAT SUCH SHAREHOLDER CONSIDERS NECESSARY OR HAS WAIVED SUCH SHAREHOLDER'S RIGHT TO DO SO.

* * * *

IN WITNESS WHEREOF, the undersigned has executed and delivered this Agreement as of the day and year first above written, and agree to and acknowledge all of its terms and those of the attached Schedules and Exhibits.

THE COMPANY:

CORRVENTURES, LLC

Stephen R. Read

Stephen R. Read
President & Chief Executive Officer

IN WITNESS WHEREOF, the undersigned Shareholders have executed and delivered this Agreement as of the day and year first above written, and agree to and acknowledge all of its terms and those of the attached Schedules and Exhibits.

Stephen R. Read Stephen R. Read _____ Address: 360 Rileyville Road Ringoes, NY 08551 Email: _____	**Charles P. Klass** _____ Address: 118 131st Avenue East Unit C Madeira Beach, FL 33708 Email: chuck@klassassociates.com
Jan Lambert _____ Address: c/o First Fiber 90 S. Newtown St. Rd. Suite 9 Newtown Square, PA 19073 Email: jlambert@ffcoa.com	**Eric J. Lawrence** _____ Address: 6118 Walnut Landing Way Chesterfield, VA 23831 Email: eric.lawrence7@gmail.com
HVP Bridge LLC By:_____ Name: Mark Froot Title: Manager Address: 373 Washington Street Boston, MA 02108 Email: mark.froot@acornstreetcap.com	

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HVP Bridge LLC By:_____ Name: Mark Froot Title: Manager Address: 373 Washington Street Boston, MA 02108 Email: mark.froot@acornstreetcap .com	

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