NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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

Ranalli/Taylor St., LLC
James Ranalli
450 Tracy Street
Syracuse, NY 13204

OCT 02 2017

RE: Site Name: Former Coyne Textile
Site No.: C734144
Location of Site: 140 Cortland Avenue, Onondaga County, Syracuse, NY 13202

Dear Mr. Ranalli,

To complete your file, attached is a fully executed copy of the Brownfield Cleanup Agreement for the Former Coyne Textile Site.

If you have any further questions relating to this matter, please contact the project attorney for this site, Margaret Sheen, Esq., NYS Department of Environmental Conservation, Office of General Counsel, 615 Erie Blvd W Syracuse, NY 13204, or by email at margaret.sheen@dec.ny.gov

Sincerely,

Robert W. Schick, P.E.
Director
Division of Environmental Remediation

Enclosure

ec: Stephanie Fitzgerald, Project Manager

cc: Margaret Sheen, Esq.
A. Guglielmi, Esq. /M. Mastroianni

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. C734144-05-17

Former Coyne Textile
DEC Site No.: C734144
Located at: 140 Cortland Avenue
Onondaga County
Syracuse, NY 13202

Hereinafter referred to as "Site"

by:

Ranalli/Taylor St., LLC
450 Tracy Street, Syracuse, NY 13204

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 January 30, 2017; 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, Ranalli/Taylor St., 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 3.450 acres, a Map of which is attached as Exhibit "A", and is described as follows:

Tax Map/Parcel No.: 094.-05-06.0
Street Number: 120-154 Cortland St. S, Syracuse
Owner: Ranalli/Taylor St., LLC

Tax Map/Parcel No.: 094.-20-01.0
Street Number: 1002-1022 Salina St S. & Cortland Av, Syracuse
Owner: Ranalli/Taylor St., LLC

Tax Map/Parcel No.: 094.-20-02.0
Street Number: 1024-40 Salina St. S & Tallman St., Syracuse
Owner: Ranalli/Taylor St., LLC

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:

Stephanie Fitzgerald
New York State Department of Environmental Conservation
Division of Environmental Remediation
615 Erie Blvd W
Syracuse, NY 13204
stephanie.fitzgerald@dec.ny.gov

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

Krista Anders (electronic copy only)
New York State Department of Health
Bureau of Environmental Exposure Investigation
Empire State Plaza
Corning Tower Room 1787
Albany, NY 12237
krista.anders@health.ny.gov

Margaret Sheen, Esq. (correspondence only)
New York State Department of Environmental Conservation
Office of General Counsel
615 Erie Blvd W
Syracuse, NY 13204
margaret.sheen@dec.ny.gov

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

Ranalli/Taylor St., LLC
Attn: James Ranalli
450 Tracy Street
Syracuse, NY 13204
jamesranalli@unitedautosupply.com

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: October 2, 2017

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

By: _____

Robert W. Schick, P.E., Director
Division of Environmental Remediation

JESSICA L CLARK
Notary Public, State of New York
No. 01CL6272782
Qualified in Onondaga County
Commission Expires 11/19/20

CONSENT BY APPLICANT

Applicant hereby consents to the issuing and entering of this Agreement, waives Applicant's right to a hearing herein as provided by law, and agrees to be bound by this Agreement.

Ranalli/Taylor St., LLC

By: James P Ranalli

Title: Member

Date: 06/27/2017

STATE OF NEW YORK)
) ss:
COUNTY OF Onondaga)

On the 27 day of June in the year 2017, before me, the undersigned, personally appeared James P Ranalli, 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.

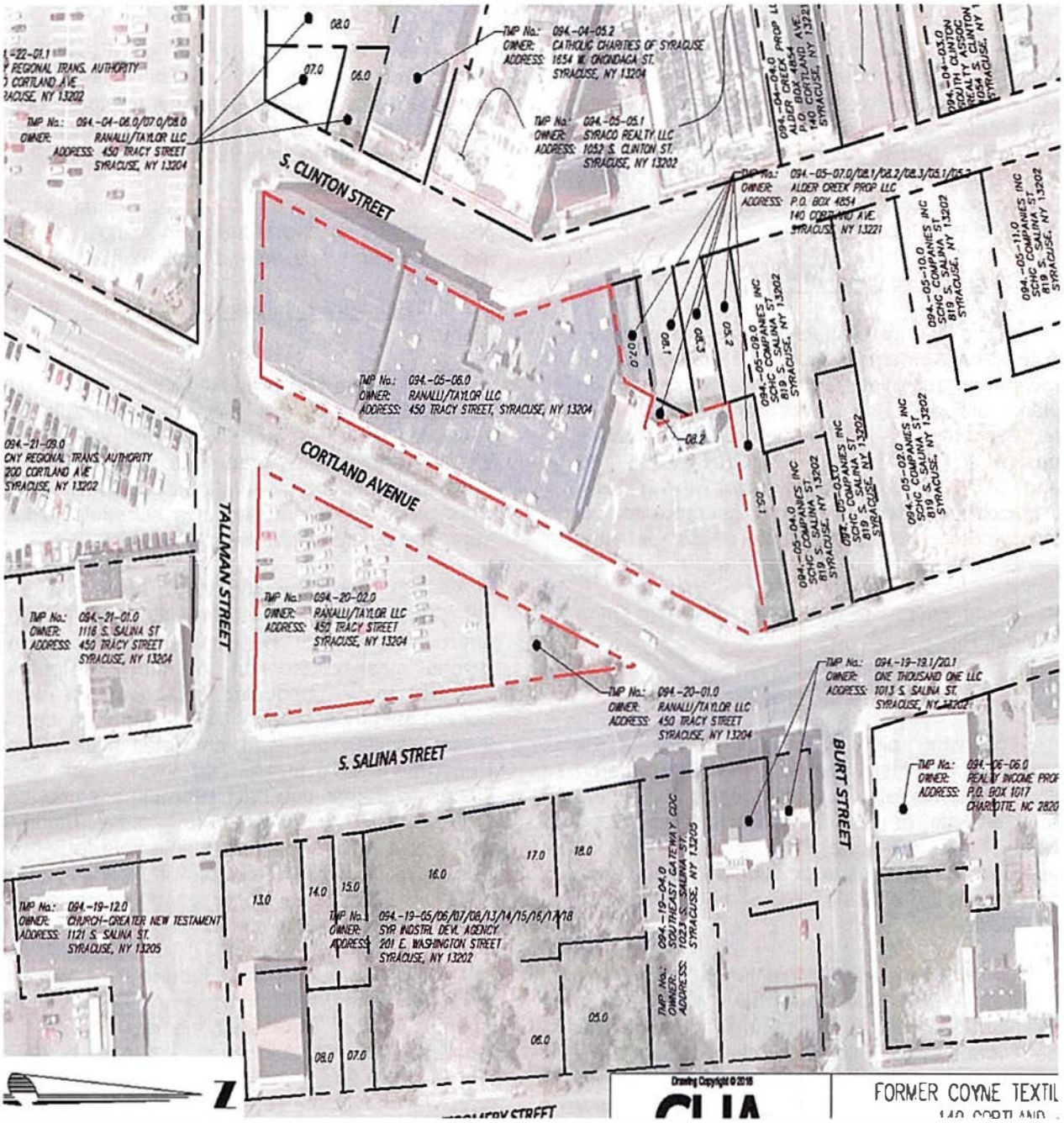
Jessica L Clark

Signature and Office of individual taking acknowledgment

JESSICA L CLARK
Notary Public, State of New York
No. 01CL6272162
Qualified in Onondaga County
Commission Expires 11/13/20 20

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.

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.

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.

OPERATING AGREEMENT
of
RANALLI/TAYLOR ST., LLC

TABLE OF CONTENTS

OPERATING AGREEMENT

of

RANALLI/TAYLOR ST. LLC

THIS OPERATING AGREEMENT is entered into and shall be effective as of the 24th day of February, 2016 by and among **JAMES P. RANALLI**, an individual residing at 153 Seitz Drive, Camillus, New York 13031 ("**Ranalli**") (the "**Manager**"), and each and all of the individuals and entities listed on **Exhibit "A"** annexed hereto (each individually a "**Member**" and collectively the "**Members**") with respect to **RANALLI HOLDINGS LLC**, a New York limited liability company (the "**Company**").

WHEREAS, the Members desire to form a limited liability company pursuant to the Act and on the terms and conditions herein contained; and

WHEREAS, the Members desire to adopt this Agreement as the Operating Agreement of the Company.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

SECTION 1
DEFINED TERMS

1.1 DEFINITIONS. The defined terms used in this Agreement (as indicated by the first letter of each word in the term being capitalized) shall, unless the context clearly requires otherwise, have the meanings specified in **Appendix "A"** and **Appendix "B"** at the end of this Agreement.

SECTION 2
THE COMPANY

2.1 FORMATION. The parties hereby agree to form a limited liability company pursuant to the provisions of the Act and upon the terms and conditions of this Agreement.

2.2 NAME. The name of the Company is Ranalli/Taylor St. LLC, a New York limited liability company, and all business of the Company shall be conducted in such name. The Management Committee may change the name of the Company upon ten (10) days notice to the Members. The Company shall hold all of its assets and Property in the name of the Company and not in the name of any Member. The Company may conduct business under an assumed name by filing an assumed name certificate where required in the manner prescribed by applicable law.

2.3 PURPOSE. The purpose of the Company is to engage in any business which may be engaged in by limited liability companies under the provisions of the Act. The Company shall have the power and authority to enter into all transactions which are provided for in this Agreement and as may be necessary or incidental to accomplish or implement the purposes of the Company including such powers as may be authorized by this Agreement or permitted under the Act but in all events consistent with the terms, conditions and restrictions set forth in this Agreement. In no event shall the Company engage in any activity which is proscribed by the laws of the State of New York.

2.4 PRINCIPAL PLACE OF BUSINESS. The principal place of business of the Company shall be 450 Tracy Street, Syracuse, New York 13204. The Management Committee may change the principal place of business of the Company upon ten (10) days notice to the Members.

2.5 TERM. The term of the Company shall be perpetual unless the Company is dissolved earlier as set forth in this Agreement.

2.6 FILINGS.

(a) The Articles of the Company have been filed in the office of the Secretary of State of the State of New York in accordance with the provisions of the Act. The Management Committee shall take any and all other actions reasonably necessary to perfect and maintain the status of the Company as a limited liability company under the laws of the State of New York. The Management Committee shall cause amendments to the Articles to be filed whenever required by the Act. Such amendments may be executed by any Manager or by any Person duly authorized by the Management Committee to authorize such amendments.

(b) The Management Committee shall execute and cause to be filed original or amended certificates and shall take any and all other actions as may be reasonably necessary to perfect and maintain the status of the Company as a limited liability company or similar type of entity under the laws of any other states or jurisdictions in which the Company engages in business.

SECTION 3
MEMBERS; CAPITAL CONTRIBUTIONS

3.1 MEMBERSHIP UNITS; MEMBERS. The ownership of the Company shall be represented by Membership Units. The initial number of Membership Units the Company is authorized to issue is three thousand (3,000). The Management Committee may, at any time and from time to time, increase the number of authorized Membership Units. The names and addresses of the Members are set forth on **Exhibit "A"**. Such Persons are hereby admitted as Members of the Company.

3.2 CAPITAL CONTRIBUTIONS. Simultaneously with the execution of this Agreement, each Member shall contribute to the Company the property set forth opposite such Member's name on **Exhibit "B"** hereof. As consideration for such Capital Contribution, each Member shall receive the number of Membership Units set forth opposite such Member's name on **Exhibit "C"**.

3.3 RETURN OF CAPITAL. Except as otherwise provided in this Agreement, no Unit Holder shall be entitled to have his Capital Contribution returned to him. Under circumstances requiring a return of any Capital Contributions, no Unit Holder shall have the right to receive Property other than cash except as may be specifically provided herein.

3.4 INTEREST. No Unit Holder shall receive any interest, salary or drawing with respect to his Capital Contribution or his Capital Account or for services rendered on behalf of the Company or otherwise in his capacity as a Unit Holder, except as otherwise provided in this Agreement.

3.5 LIMITED LIABILITY. The Members shall not be liable for the debts, liabilities, contracts or any other obligations of the Company. Except as otherwise provided by applicable state law or this Agreement (including, but not limited to, **Section 3.7** hereof), a Unit Holder

shall not be required to lend any funds to the Company or to make any additional Capital Contributions to the Company. No Manager shall have any personal liability for the repayment of any Capital Contributions of the Unit Holders; provided, however, nothing in this Section shall be deemed to relieve any Manager of any liability resulting from such Manager's bad faith, intentional misconduct, knowing violation of law or breach of any fiduciary duty.

3.6 LOANS. Any Unit Holder or Manager or any Affiliate of a Unit Holder or Manager may, with the approval of the Management Committee, lend or advance money to the Company. If any Unit Holder, Manager or Affiliate thereof shall make any loan to the Company or advance money on its behalf, the amount of any such loan or advance shall not be treated as a Capital Contribution but shall instead, be a debt due from the Company. The amount of any such loan or advance shall be repayable out of the Company's cash and shall have priority over any distributions made pursuant to **Section 5** hereof. All such loans or advances shall bear interest at the same rate the Company could have borrowed such funds from the Institutional Lender that the Company normally does business with or if there is no such Institutional Lender or if such Institutional Lender would decline to advance such funds, at the Prime Rate *plus* two percentage points. Except as otherwise set forth in this Agreement, no Unit Holder shall be obligated to make any loan or advance to the Company.

3.7 DEFICIT CASH FLOW CONTRIBUTIONS.

(a) Notwithstanding any provisions contained herein to the contrary, each Unit Holder hereby agrees to make additional cash Capital Contributions from time to time, on or before the Contribution Date specified in any duly given Deficit Contribution Notice, equal to such Unit Holder's share of the Cash Flow Deficit identified in such Deficit Contribution Notice (the "**Additional Capital Contribution**"). The contribution required from each Unit Holder shall be equal to the total Additional Capital Contributions specified in the Deficit Contribution Notice multiplied by the Unit Holder's then Membership Percentage. The Management Committee may give any number of Deficit Contribution Notices during the term of the Company.

(b) In lieu of requiring the Unit Holders to make Additional Capital Contributions pursuant to **Section 3.7(a)** hereof, the Management Committee, in its sole and absolute discretion, may cause the Company to borrow funds to satisfy a Cash Flow Deficit. The borrowing may be from any third party or from any Manager or Member provided the terms are commercially reasonable.

(c) In the event a Unit Holder fails to make any Additional Capital Contribution when due and such failure continues for a period of ten (10) days after notice from the Company to said Unit Holder (the "**Default**") (such Unit Holder(s) being referred to as the "**Defaulting Unit Holder(s)**"), the Defaulting Unit Holder(s) shall be in default under this Agreement and, while such Default continues, the Management Committee, without prejudice to any other right of the Company, may elect in the sole and absolute discretion of the Management Committee: (i) not to pay the Defaulting Unit Holder(s) any distribution pursuant to **Section 5** of this Agreement to which the Defaulting Unit Holder(s) would otherwise be entitled and in lieu thereof to apply any undistributed amounts theretofore or thereafter distributable to the Unit Holder(s) pursuant to **Section 5** towards the obligation of such Defaulting Unit Holder(s) to make such Additional Capital Contribution; and (ii) for purposes of any provision of this Agreement providing for the consent or the action of Members or the Managers to deem the Defaulting Unit Holder(s) not to

be a Member or a Manager, if applicable. In addition to the foregoing, if the Default continues in existence for a thirty (30) day period, the Management Committee, in its sole and absolute discretion, may elect to pursue the following additional remedies: (i) elect to treat such default as an Adverse Act; (ii) issue to the Member(s) who actually made the required Additional Capital Contributions, additional Membership Units in the Company in an amount determined by the Management Committee, in its sole and absolute discretion, and dilute only the Membership Percentage of the Defaulting Unit Holder(s); or (iii) to sue the Defaulting Unit Holder(s) to collect the unpaid amount of any such Additional Capital Contribution (together with interest thereon from the date such contribution was due at the lower of (A) Prime Rate plus three (3) percentage points or (B) the highest lawful rate in the State of New York), plus any collection expenses incurred by the Company, including, but not limited to, the reasonable fees and disbursements of counsel to the Company. For purposes of this **paragraph (c)**, the term Management Committee shall be deemed to exclude any Manager who is also a Defaulting Unit Holder.

(d) It is specifically recognized and understood that the provisions of this **Section 3.7** may only be enforced by the Management Committee and in no way will the provisions of this **Section 3.7** be deemed to expand the liability of the Unit Holders to creditors of or other third parties dealing with the Company.

3.8 GUARANTEE OF INSTITUTIONAL LOANS. The Unit Holders acknowledge that it may be necessary for the Unit Holders from time to time, to, jointly and severally, guarantee any Institutional Loans made to the Company by Institutional Lenders (the "**Guarantees**"). In connection with any such Guarantees, each Unit Holder hereby agrees as follows:

(a) Upon the request of the Management Committee, each Unit Holder shall execute and deliver any and all documentation reasonably requested by any Institutional Lender to evidence such Guarantees.

(b) Notwithstanding the fact that it may be necessary from time to time to, jointly and severally, guarantee an Institutional Loan, it is the intent of the Members that each Unit Holder only be liable for such Unit Holder's pro-rata share (based on Membership Percentages) of any payments made pursuant to a Guaranty. In the event a Unit Holder is, for any reason, required to pay more than such Unit Holder's pro-rata share of any payments made pursuant to a Guaranty (*i.e.*, the percentage of such payment equal to the Membership Percentage of such Unit Holder), the other Unit Holders shall promptly reimburse such Unit Holder for any such excess payment on a pro-rata basis.

(c) A breach of the provisions of this **Section 3.8** shall constitute an Adverse Act.

SECTION 4
ALLOCATIONS

4.1 ALLOCATIONS. After giving effect to the special allocations set forth in **Appendix "B"** hereto, Profits and Losses for any fiscal year shall be allocated to the Unit Holders in proportion to their Membership Percentages. The provisions set forth in **Appendix "B"** attached hereto are hereby incorporated by this reference and shall be deemed a part of this **Section 4** as if fully set forth herein.

SECTION 5
DISTRIBUTIONS

5.1 NET AVAILABLE CASH. Except as otherwise provided in **Section 11.2** hereof relating to the liquidation of the Company, Net Available Cash shall be distributed to the Unit Holders in proportion to their Membership Percentages at such times and in such amounts as the Management Committee shall determine.

5.2 AMOUNTS WITHHELD. All amounts withheld pursuant to the Code or any provision of state or local law with respect to any payment or distributions by the Company to the Unit Holders shall be treated as amounts distributed to the Unit Holders pursuant to this **Section 5** for all purposes under this Agreement. The Management Committee may allocate any such amounts among the Unit Holders in any manner that is in accordance with applicable law.

SECTION 6
MANAGEMENT

6.1 MANAGEMENT COMMITTEE.

(a) The management of the Company shall be vested in a committee of Managers (the "**Management Committee**") designated by the Members. The number of Managers shall be one (1) unless otherwise provided herein. Ranalli has been appointed as the initial member of the Management Committee (the "**Initial Manager**"). The Initial Manager shall serve as a Manager until he resigns, is removed, dies or is otherwise unable or unwilling to serve.

(b) The Initial Manager shall have the right to designate a replacement Manager (a "**Designated Successor Manager**"). The initial designation of the Designated Successor Manager for the Manager is set forth on **Exhibit "E"** hereto. The Initial Manager shall have the right, exercisable at any time while such Person is serving as a Manager, to change his Designated Successor Manager, in which event the Company shall amend **Exhibit "E"** to reflect such change. Such change in the Designated Successor Manager shall only be effective when the Initial Manager delivers written notice of the same to the Company.

(c) In the event the Initial Manager resigns, dies or is unwilling or unable to serve as such (the "**Resigning Manager**"), such Initial Manager's Designated Successor Manager shall automatically become a Manager replacing the Resigning Manager. If there is no Designated Successor Manager, or if the Designated Successor Manager is unable or unwilling to serve, the Members shall, by majority vote thereof, promptly designate a successor Manager (a "**Successor Manager**").

(d) A Designated Successor Manager may be removed at any time, with or without cause, by the vote of a Supermajority of the Members. A Successor Manager may be removed at any time, with or without cause, by Majority Vote of the Members.

(e) All actions requiring the approval of the Management Committee shall require the majority vote of all members of the Management Committee with each Manager being entitled to cast one (1) vote.

6.2 AUTHORITY OF THE MANAGERS. Except to the extent otherwise provided herein, the Management Committee shall have the sole and exclusive right to manage the business of the Company and shall have all of the rights and powers which may be possessed by managers under the Act including, without limitation, the right and power to:

(a) acquire by purchase, lease or otherwise any real or personal property which may be necessary, convenient or incidental to the accomplishment of the purposes of the Company;

(b) operate, maintain, finance, improve, construct, own, grant options with respect to, sell, convey, assign, mortgage and lease any real estate and any personal property necessarily convenient or incidental to the accomplishment of the purposes of the Company;

(c) execute any and all agreements, contracts, documents, certifications and instruments necessary or convenient in connection with the management, maintenance and operation of the assets and Property of the Company;

(d) borrow money and issue evidences of indebtedness necessary, convenient or incidental to the accomplishment of the purposes of the Company, and secure the same by pledge or other lien on any Property;

(e) execute, in furtherance of any or all of the purposes of the Company, any deed, lease, mortgage, deed of trust, mortgage note, promissory note, bill of sale, contract or other instrument purporting to convey or encumber any or all of the assets or Property of the Company;

(f) prepay in whole or in part, refinance, recast, increase, modify or extend any liabilities affecting the assets or Property of the Company and, in connection therewith, execute any extensions or renewals of encumbrances on any or all of the assets or Property of the Company;

(g) care for and distribute funds to the Members by way of cash, income, return of capital, or otherwise, all in accordance with the provisions of this Agreement, and perform all matters in furtherance of the objectives of the Company or this Agreement;

(h) subject to the provisions of **Section 6.8** hereof, contract on behalf of the Company for the employment and services of employees and/or independent contractors and delegate to such Persons the duty to manage or supervise any of the assets or operations of the Company;

(i) expend the capital and income of the Company to the extent permitted by this Agreement;

(j) ask for, collect and receive any rents, issues and profits or income from the assets or Property of the Company or any part or parts thereof and to disburse Company funds for Company purposes to those Persons entitled to receive the same;

(k) purchase from or through others, contracts of liability, casualty or other insurance for the protection of the Property or affairs of the Company or the Members or for any purpose convenient or beneficial to the Company;

(l) institute, prosecute, defend, settle, compromise and dismiss lawsuits or other judicial or administrative proceedings brought on or in behalf of, or against the Company or the Members or the Managers in connection with activities arising out of connected with or incidental to this Agreement and to engage counsel or others in connection therewith;

(m) engage in any kind of activity and perform and carry out contracts of any kind (including contracts of insurance covering risks to the Property and Manager liability) necessary

or incidental to, or in connection with, the accomplishment of the purposes of the Company, as may be lawfully carried on or performed by a limited liability company under the laws of each state in which the Company is then formed or qualified;

(n) form, transfer assets of the Company to and manage the business and affairs of one or more subsidiary limited liability companies; and

(o) make any and all elections for federal, state and local tax purposes including, without limitation, any election, if permitted by applicable law: (i) to adjust the basis of Company Property pursuant to Code Sections 754, 734(b) and 743(b) or the comparable provisions of state or local law, in connection with transfers of interests in the Company and Company distributions; (ii) to extend the statute of limitations for assessment of tax deficiencies against Unit Holders with respect to adjustments to the Company's federal, state or local tax returns; and (iii) to represent the Company and the Unit Holders before taxing authorities or courts of competent jurisdiction in tax matters affecting the Company and the Unit Holders in their capacity as Unit Holders and to execute any agreements or other documents relating to or affecting such tax matters, including agreements or other documents that bind the Unit Holders with respect to such tax matters or otherwise affect the rights of the Company or the Unit Holders. Ranalli is specifically authorized to act as the "Tax Matters Partner" under the Code and in any similar capacity under state or local law until such time, if ever, that the Management Committee designates in writing a different individual to serve as the Tax Matters Partner.

6.3 RIGHT TO RELY ON MANAGER. Any Person dealing with the Company may rely upon a certificate signed by any Manager as to:

(a) the identity of any Manager or Unit Holder and/or the identity of any individual authorized to represent a Manager;

(b) the existence or nonexistence of any fact or facts which constitute a condition precedent to acts by a Manager or which are in any other manner germane to the affairs of the Company;

(c) the Persons who are authorized to execute and deliver any instrument or document on behalf of the Company; or

(d) any act or failure to act by the Company or any other matter whatsoever involving the Company or any Unit Holder.

6.4 PROHIBITED TRANSACTIONS.

(a) Notwithstanding any other provision of this Agreement, the Management Committee shall not, without the consent of all Members:

(i) do any act in contravention of this Agreement;

(ii) do any act which would make it impossible to carry on the ordinary business of the Company;

(iii) confess a judgment against the Company or submit a Company claim in excess of $100,000 to arbitration;

(iv) possess Company assets or assign rights in specific Company assets for other than a Company purpose; or

(v) knowingly perform any act that would subject any Members to liability in any jurisdiction.

(b) Notwithstanding any other provision of this Agreement, the Management Committee shall not, without a Majority Vote of the Members:

(i) enter into any agreement or make any payments to any Affiliates of a Member or a Manager;

(ii) except as otherwise expressly permitted by this Agreement (including, but not limited to, **Section 3.7** hereof), issue any additional Membership Units;

(iii) sell or otherwise dispose of all or substantially all of the Property of the Company, either in a single transaction or a series of related transactions;

(iv) merge or consolidate the Company with or into another entity;

(v) except as otherwise expressly permitted by this Agreement, borrow money from any Member, Manager or Affiliate thereof;

(vi) dissolve the Company;

(vii) loan any funds to any Member or Manager or any Affiliate of a Member or Manager; or

(viii) guarantee, secure or collateralize any loan made by a third party to any other Person.

(c) Notwithstanding anything contained in this Agreement to the contrary, except as set forth in **Section 6.1** hereof, in no event shall the Members be entitled to take any action with respect to the Company, its business, assets or affairs, unless such action has first been approved by the Management Committee.

6.5 DUTIES AND OBLIGATIONS OF THE MANAGERS.

(a) The Managers shall cause the Company to conduct its business and operations separate and apart from that of any Unit Holder or Manager or any Affiliates thereof, including, without limitation: (i) segregating Company assets and not allowing funds or other assets of the Company to be commingled with the funds or other assets of, held by, or registered in the name of, any Unit Holder or Manager or any Affiliate thereof; (ii) maintaining books and financial records of the Company separate from the books and financial records of any Unit Holders or Manager or any Affiliates thereof, and observing all Company procedures and formalities, including, without limitation, maintaining minutes of Company meetings and acting on behalf of the Company only pursuant to due authorization of the Members; (iii) causing the Company to pay its liabilities from assets of the Company; and (iv) causing the Company to conduct its dealings with third parties in its own name and as a separate and independent entity.

(b) The Managers shall take all actions which may be necessary or appropriate: (i) for the continuation of the Company's valid existence as a limited liability company under the laws of the State of New York and of each other jurisdiction in which such existence is necessary to protect the limited liability of the Members or to enable the Company to conduct the business of the Company, and (ii) for the accomplishment of the Company's purposes, in accordance with the provisions of this Agreement and applicable laws and regulations.

(c) The Managers shall have a fiduciary duty to conduct the affairs of the Company in the best interests of the Company and of the Members, including the safekeeping and use of all of the Company Property for the exclusive benefit of the Company whether or not in the immediate possession or control of the Managers and shall not employ or permit another to employ Company Property except for the benefit of the Company.

6.6 INDEMNIFICATION OF THE MANAGERS.

(a) No Manager or Member of the Company shall be liable to the Company or its Members for monetary damages for any act or omission in such person's capacity as a Manager or Member, except for: (i) acts or omissions which the Manager or Member knew at the time of the acts or omissions were clearly in conflict with the interests of the Company; (ii) any transaction from which the Manager or Member derived an improper personal benefit; or (iii) acts or omissions occurring prior to the date of this Agreement. If the Act is amended to authorize action further eliminating or limiting the liability of managers, then the liability of the Managers and Members shall be eliminated or limited to the fullest extent permitted by the Act as so amended. Any repeal or modification of the governing sections of the Act shall not adversely affect the right or protection of a Manager or Member existing immediately before such repeal or modification.

(b) The Company shall indemnify each Manager and Member to the fullest extent permitted or required by the Act, as amended from time to time. The Company may advance expenses incurred by a Manager or Member upon the approval of the disinterested Managers and the receipt by the Company of an undertaking by such Manager or Member to reimburse the Company unless it shall ultimately be determined that such Manager or Member is entitled to be indemnified by the Company against such expenses. The Company may also indemnify its employees and other representatives or agents up to the fullest extent permitted under the Act or other applicable law, provided that the indemnification in each such situation is first approved by the Management Committee.

(c) The indemnification provided by this Agreement shall: (i) not be deemed exclusive of any other rights to which a person seeking indemnification may be entitled under any statute, agreement, Majority Vote of the Members or disinterested Managers, or otherwise, both as to action in official capacities and as to action in another capacity while holding such office; (ii) continue as to a person who ceases to be a Manager or Member; (iii) inure to the benefit of the estate, heirs, executors, administrators or other successors of an indemnitee; and (iv) not be deemed to create any rights for the benefit of any other Person.

6.7 COMPENSATION AND EXPENSES OF MANAGERS.

(a) Each Manager may charge the Company for any reasonable expenses incurred in connection with the Company business provided such reimbursement has been approved by the Management Committee.

(b) Except as otherwise set forth in this Agreement, no Manager shall receive any fees or other compensation for serving as a Manager, unless such fees or other compensation are approved by Majority Vote of the Members. However, each Manager (if such Manager is also a Member) shall be entitled to the distributions and allocations provided for elsewhere in this Agreement.

6.8 OPERATING RESTRICTIONS.

(a) No rebates, kickbacks, or reciprocal arrangements may be received or entered into by any Manager, nor may any Manager participate in any business arrangement which would circumvent this Agreement.

(b) Subject to any approval requirements, the signature of any one (1) of the Managers shall be sufficient to convey title to any Property owned by the Company or to execute any promissory notes, trust deeds, mortgages or other instruments of hypothecation, and the Unit Holders agree that a copy of this Agreement may be shown to the appropriate parties in order to confirm the same. The Unit Holders further agree that, except as otherwise provided herein, the signature of any one (1) of the Managers shall be sufficient to execute any documents necessary to effectuate any provision of this Agreement.

(c) The Management Committee may at any time and from time to time enter into contracts and agreements with any Member or Manager or any Affiliate of a Member or Manager for the furnishing or leasing of goods or services, or the loaning of money to the Company. Any such contract or agreement shall be subject to the following conditions:

(i) Any such agreement or contract shall be fully and promptly disclosed to the Members and shall be embodied in written document which precisely describe the subject matter thereof and all compensation to be paid pursuant thereto; and

(ii) The compensation, fee, price, charge or other consideration to be paid pursuant thereto shall be comparable to and competitive with that of any other Person rendering comparable services, selling or leasing comparable goods, or binding funds which would reasonably be available to the Company.

6.9 OFFICERS. The Management Committee may, at any time and from time to time, designate one or more Persons as officers of the Company. Such Persons shall have such titles and responsibilities and shall be entitled to such compensation as the Management Committee shall, in its discretion, determine. Any such Person may be removed by the Management Committee at any time, with or without cause.

6.10 MEETINGS OF THE MANAGEMENT COMMITTEE.

(a) The Management Committee shall not be required to hold regular meetings. Special meetings of the Management Committee may be called by any Manager. Notice of each such special meeting shall be given to each Manager by telephone, telecopy, telegram, electronic means (*i.e.*, e-mail) or similar method (in each case, notice shall be given at least thirty-six (36) hours before the time of the meeting) or sent by first class mail (in which case, notice shall be given at least five (5) days before the meeting), unless a longer notice period is established by the Management Committee. Each such notice shall state (i) the time, date, place (which shall be at the principal place of business of the Company unless otherwise agreed to by all Managers) or other means of conducting such meeting and (ii) the purpose of the meeting to be so held. No actions other than those specified in the notice may be considered at any special meeting unless unanimously approved by the Managers. Any Manager may waive notice of any meeting in writing before, at, or after such meeting. The attendance of a Manager at a meeting shall constitute a waiver of notice of such meeting, except when a Manager attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not properly called.

(b) Any action required to be taken at a meeting of the Managers, or any action that may be taken at a meeting of the Managers, may be taken at a meeting held by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other. Participation in such a meeting shall constitute presence in person at such meeting.

(c) Notwithstanding anything to the contrary in this **Section 6.10**, the Managers may take without a meeting any action that may be taken by the Managers under this Agreement if such action is approved by the unanimous written consent of the Managers.

SECTION 7
ROLE OF MEMBERS; VOTING RIGHTS; MEETINGS; COVENANTS

7.1 RIGHTS OR POWERS. No Member shall be entitled to vote on any matter affecting the management or control of the Company or its business and affairs except with respect to those matters specifically requiring a vote of the Members pursuant to this Agreement and except for those matters specifically reserved for a member vote in the Act and which cannot be waived by the Act.

7.2 VOTES. Each Member shall be entitled to cast one (1) vote (or fraction of a vote) for each Membership Unit (or fraction of a Membership Unit) then held by such Member on all matters properly submitted to a vote of the Members. Except as otherwise provided in this Agreement: (i) a matter shall not be submitted to a vote of the Members unless first approved by the Management Committee; and (ii) any action which requires the approval of the Members shall be deemed approved if the action receives a Majority Vote of the Members.

7.3 MEETINGS OF THE MEMBERS.

(a) The Company shall not be required to hold an annual meeting of the Members. Special meetings of the Members may be called by any Manager and shall be called upon the written request of any Member or Members collectively owning more than ten percent (10%) of the then outstanding Membership Units. The call shall state the location of the meeting and the nature of the business to be transacted. Notice of any such meeting shall be given to all Members not less than three (3) business days nor more than thirty (30) days prior to the date of such meeting. Members may participate in such meeting either in person, by proxy or by means of conference telephone or similar communications equipment by means of which all Persons participating in such meeting can hear each other. Such participation shall constitute presence in person at such meeting. Members may waive advance notice of such meeting. Whenever the vote or consent of Members is permitted or required under the Agreement, such vote or consent may be given at a meeting of the Members or may be given in accordance with the procedure prescribed in this **Section 7.3**.

(b) For purposes of determining the Members entitled to vote on, or to vote at, any meeting of the Members or any adjournment thereof, the Management Committee may fix, in advance, a date as the record date for any such determination. Such date shall not be more than thirty (30) days nor less than ten (10) days before any such meeting.

(c) Each Member may authorize any Person or Persons to act for such Member by proxy on all matters in which such Member is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Every proxy must be signed by the Member or his attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from

the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the Member executing the same.

(d) Each meeting of Members shall be conducted by the Managers or such other individual Person as the Managers deem appropriate.

(e) Notwithstanding the above, the Company may take any action contemplated under this Agreement without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken shall be signed by Members holding not less than the minimum number of Membership Units that would be necessary to authorize or take such action at a meeting at which all of the Members entitled to vote thereon were present and voted. Each such consent shall be dated, be in writing and be delivered to the office of the Company, its principal place of business or to a Manager. Delivery may be made by hand, or by certified or registered mail, return receipt requested.

7.4 WITHDRAWAL. Except as otherwise expressly permitted by this Agreement, each Unit Holder hereby covenants and agrees not to: (i) withdraw or attempt to withdraw from the Company; or (ii) exercise any power under the Act to dissolve the Company.

7.5 PARTITION. Each Unit Holder hereby irrevocably waives any right he may have to maintain any action for partition with respect to any Property of the Company.

7.6 OTHER INSTRUMENTS. Each Unit Holder hereby agrees to execute and deliver to the Company within five (5) days after receipt of a written request therefor, such other and further documents and instruments, statements of interest and holdings, designations, powers of attorney and other instruments and to take such other action as the Management Committee deems necessary, useful or appropriate to comply with any laws, rules or regulations or as may be required by any Institutional Lender.

7.7 INDEPENDENT ACTIVITIES. Each Manager and each Unit Holder may, notwithstanding any other provision of this Agreement, engage in whatever activity he chooses, whether the same are competitive with the activities of the Company or otherwise, without having or incurring any obligation to offer any interest in such activities to the Company or to any Unit Holder. Neither this Agreement nor any activity undertaken pursuant hereto shall prevent any Manager or Unit Holder (or any Affiliate of a Manager or Unit Holder) from engaging in such activities, or require any Manager or Unit Holder (or any Affiliate of a Manager or Unit Holder) to permit the Company or any Unit Holder to participate in any such activities and, as a material part of the consideration for the execution of this Agreement by each Member and Manager, the Company and each Member, on behalf of such Member and any Assignee thereof, hereby waives, relinquishes and renounces any such right or claim of participation.

7.8 INSURANCE. The Members hereby acknowledge that the Company may obtain life insurance from time to time to assist the Company to purchase Membership Units. Each Unit Holder hereby agrees to submit to any physical examination reasonably requested by the Management Committee in connection with obtaining any such insurance.

SECTION 8
BOOKS AND RECORDS

8.1 BOOKS AND RECORDS. The Company shall keep adequate books and records at its place of business, setting forth a true and accurate account of all business transactions arising out of and in connection with the conduct of the Company and shall maintain all records required to be maintained by the Act. Any Member or any Member's designated representative shall have the right, at any reasonable time and at the Member's own expense, to have access to and inspect and copy the contents of such books or records. Within a reasonable period after the end of each Company fiscal year, each Member shall be furnished with an annual report containing a balance sheet as of the end of such fiscal year, statements of income, Members' equity, changes in financial position and cash flow and any necessary tax information for the year then ended.

SECTION 9
AMENDMENTS

9.1 AMENDMENTS.

(a) Amendments to this Agreement may only be proposed by a Manager. Following such proposal, the Management Committee shall submit to the Members a verbatim statement of any proposed amendment. The Management Committee shall seek the written vote of the Members on the proposed amendment or shall call a meeting in accordance with **Section 7.3** hereof to vote thereon and to transact any other business that the Management Committee may deem appropriate. For purposes of obtaining a written vote, the Management Committee may require a response from each Member within a reasonable specified time, but not less than fifteen (15) days. Failure to respond in such time period shall constitute a vote in favor of such amendment.

(b) Notwithstanding **Section 9.1(a)** hereof:

(i) This Agreement shall not be amended without the consent of each Member adversely affected if such amendment would: (A) modify the limited liability of a Member; (B) increase the obligation of any Member to make contributions; (C) allow the obligation of a Member to make a contribution to be compromised by less than unanimous consent; (D) decrease the affirmative vote or consent required for any action set forth herein requiring the vote of the Members; or (E) alter the interest of a Member in Profits, Losses, other items or any Company distribution.

(ii) This Agreement may be amended by the Management Committee without the consent of any of the Members: (A) to add to the representations, duties or obligations of the Management Committee or surrender any right or power granted to the Management Committee herein for the benefit of the Members; (B) to cure any ambiguity, to correct or supplement any provision hereof which may be inconsistent with any other provisions hereof, or to make any other provision with respect to matters or questions arising under this Agreement not inconsistent with the intent of this Agreement; and/or (C) to change any provision of this Agreement required to be so changed by the staff of the Securities and Exchange Commission or other federal agency or by a state "Blue Sky" commissioner or similar official, which change is deemed by such commissioner, agency or official to be for the benefit or protection of the Members, provided that no amendment shall be adopted pursuant to this

Section 9.1(b)(ii) unless the adoption thereof (i) is for the benefit of or not adverse to the interests of the Members, and (ii) does not violate **Section 9.1(b)(i)** hereof.

SECTION 10
TRANSFERS OF MEMBERSHIP UNITS

10.1 RESTRICTION ON TRANSFERS. Except as otherwise permitted by this Agreement, no Member shall Transfer all or any portion of his Membership Units without the consent of the Management Committee (exclusive of any member of the Management Committee who is also a transferring Member). If the Member desiring to Transfer his Membership Units is the sole member of the Management Committee, the Majority Vote of the Members shall be required for any Transfer. Any Transfer or attempted Transfer by a Member in violation of the preceding sentence shall be null and void and of no effect whatsoever and shall constitute an Adverse Act. Each Member hereby acknowledges the reasonableness of the restrictions on Transfer imposed by this Agreement in view of the Company purposes and the relationship of the Members and agrees that the restrictions on Transfer contained herein shall be specifically enforceable. Each Member hereby further agrees to hold the Company and each Member (and each Member's successors and assigns) wholly and completely harmless from any cost, liability, or damage (including, without limitation, any incremental tax liability and attorneys' fees and expenses and costs of enforcing this indemnity) incurred by any such indemnified Persons as a result of a Transfer or any attempted Transfer in violation of this Agreement.

10.2 PERMITTED TRANSFERS. Subject to the conditions and restrictions set forth in **Section 10.3** hereof, a Member may Transfer all or any portion of his Membership Units to any one or more of the following (a "**Permitted Transferee**"): (a) any other Member; (b) any member of the transferor's Family; (c) any Affiliate of the transferor; (d) if the Member is a trust, to any beneficiary of such trust or to another trust which a beneficiary is also a beneficiary; (e) any Person approved by the Management Committee as a Permitted Transferee; or (f) any Purchaser in accordance with **Section 10.4** hereof (any such Transfer being referred to in this Agreement as a "**Permitted Transfer**"). A Permitted Transferee shall be admitted as a Member only in accordance with **Section 10.10** hereof.

10.3 CONDITIONS TO PERMITTED TRANSFERS. A Transfer shall not be treated as a Permitted Transfer under **Section 10.2** hereof unless and until the following conditions are satisfied:

(a) The transferor (or his personal representative, as the case may be) and the transferee shall execute and deliver to the Company such documents and instruments of conveyance as may be necessary or appropriate, in the opinion of counsel to the Company, to effect such Transfer and to confirm the agreement of the transferee to be bound by the provisions of this **Section 10**.

(b) If requested by the Management Committee, the transferor (or his personal representative, as the case may be) shall furnish to the Company an opinion of counsel, which opinion shall be satisfactory to the Management Committee, that the Transfer will not cause the Company to terminate for federal income tax purposes.

(c) The transferor (or his personal representative, as the case may be) and the transferee shall furnish the Company with the transferee's taxpayer identification number, sufficient information to determine the transferee's initial tax basis in the Membership Units

Transferred, and any other information reasonably necessary to permit the Company to file all required federal and state tax returns and other legally required information statements or returns.

(d) Either: (i) the Membership Units being Transferred shall be registered under the Securities Act of 1933, as amended, and any applicable state securities laws; or (ii) the transferor (or his personal representative, as the case may be) shall, if requested by the Management Committee, provide an opinion of counsel, which opinion of counsel shall be satisfactory to the Management Committee, to the effect that such Transfer is exempt from all applicable registration requirements and that such Transfer will not violate any applicable laws regulating the Transfer of securities.

(e) The transferor (or his personal representative, as the case may be) shall provide an opinion of counsel, which opinion shall be reasonably satisfactory to the Management Committee, to the effect that such Transfer will not cause the Company to be deemed to be an "investment company" under the Investment Company Act of 1940.

(f) The Company shall be reimbursed by the transferor for all reasonable costs and expenses incurred by the Company (including attorneys' fees) in connection with the Transfer.

(g) At the time of the Transfer, the Transferring Unit Holder may not also be an Adverse Unit Holder.

10.4 RIGHT OF FIRST REFUSAL. In addition to the other limitations and restrictions set forth in this **Section 10**, except as permitted by clauses **(a)** through **(e)** of **Section 10.2** hereof, no Member shall Transfer all or any portion of his Membership Units (the "**Offered Units**") unless such Member (the "**Seller**") first offers to sell the Offered Units pursuant to the terms of this **Section 10.4**.

(a) No Transfer may be made under this **Section 10.4** unless the Seller has received a bona fide written offer (the "**Purchase Offer**") from a Person (the "**Purchaser**") to purchase the Offered Units for a purchase price denominated and payable in United States dollars at closing or according to specified terms, with or without interest. The Purchase Offer shall be in writing signed by the Purchaser and shall be irrevocable for a period ending no sooner than the day following the end of the Offer Period, as hereinafter defined.

(b) Prior to making any Transfer that is subject to the terms of this **Section 10.4**, the Seller shall give to the Company and each other Member written notice (the "**Offer Notice**") which shall include a copy of the Purchase Offer and an offer (the "**Firm Offer**") to sell the Offered Units to the other Members (the "**Offerees**") for the price equal to the lower of (i) the price set forth in the Purchase Offer or (ii) an amount determined pursuant to **Section 10.6** hereof (the "**Offer Price**"), payable according to the same terms as (or more favorable terms than) those contained in the Purchase Offer, provided that the Firm Offer shall be made without regard to the requirement of any earnest money or similar deposit required of the Purchaser prior to closing, and without regard to any security (other than the Offered Units) to be provided for any deferred portion of the Offer Price.

(c) The Firm Offer shall be irrevocable for a period ending at 11:59 P.M., local time at the Company's principal place of business, on the later of: (i) the date the Purchase Offer expires; or (ii) the thirtieth day following the date all parties are notified of the determination of the Offer Price (the "**Offer Period**").

(d) Any Offeree may accept the Firm Offer as to all or any portion of the Offered Units, by giving written notice of such acceptance to the Seller and the Management Committee which notice shall indicate the maximum number of Offered Units that such Offeree is willing to purchase. In the event the Offerees (the "**Accepting Offerees**"), in the aggregate, accept the Firm Offer with respect to all of the Offered Units, the Firm Offer shall be deemed to be accepted and each such Accepting Offeree shall be deemed to have accepted that portion of the Offered Units that corresponds to the ratio of the Offered Units that such Accepting Offeree indicated a willingness to purchase to the aggregate number of the Offered Units all Accepting Offerees indicated a willingness to purchase. If the Offerees do not accept the Firm Offer as to all of the Offered Units during the Offer Period, the Firm Offer shall be deemed to be rejected in its entirety.

(e) In the event the Firm Offer is accepted in the manner hereinabove provided, the closing of the sale of the Offered Units shall take place within thirty (30) days after the Firm Offer is accepted.

(f) In the event the Firm Offer is not accepted in the manner hereinabove provided, the Seller may sell the Offered Units to the Purchaser at any time within sixty (60) days after the last day of the Offer Period, provided that such sale shall be made on terms no more favorable to the Purchaser than the terms contained in the Purchase Offer and provided further that such sale complies with all other terms, conditions, and restrictions of this Agreement that are applicable to sales of Membership Units and are not expressly made inapplicable to sales occurring under this **Section 10.4**. In the event the Offered Units are not sold within said sixty (60) days after the last day of the Offer Period, the Offered Units may not be sold until the terms and conditions contained in this **Section 10.4** have again been met.

10.5 ADVERSE ACT PURCHASE.

(a) Upon the occurrence of an Adverse Act with respect to a Unit Holder (the "**Adverse Unit Holder**"), such Adverse Unit Holder shall automatically be deemed to have offered to sell each and all of his Membership Units to the Company on the terms and conditions contained in this **Section 10.5** and **Sections 10.6** and **10.7** hereof. The Management Committee (exclusive of the Adverse Unit Holder if the Adverse Unit Holder is a member of the Management Committee) shall have ninety (90) days from the determination of the purchase price in accordance with **Section 10.6** hereof during which to accept or reject the deemed offer to sell (the "**Option Period**"). During the Option Period, the Adverse Unit Holder shall cease to have any rights as a Member and a Manager, if applicable, and shall not be entitled to vote on any matters to be determined by the Members or the Management Committee, if applicable. The Membership Units of the Adverse Unit Holder shall be excluded in determining whether a particular quorum requirement has been satisfied or whether the requisite approval of an action or decision has been obtained. In the event the Company fails to exercise its right to purchase the Adverse Unit Holder's Membership Units within the Option Period, the specific event giving rise to the Company's right of election shall be deemed not to have occurred, the Adverse Unit Holder shall thereafter have all of the rights of a Member and Manager, if applicable, and the Adverse Unit Holder shall be entitled to his allocable share of Profits, Losses and distributions during the Option Period.

(b) In the event the Company exercises its right to purchase the Adverse Unit Holder's Membership Units, the closing of the purchase and sale shall occur at such time and

place as determined by the Management Committee; provided, however, in no event shall the closing take place later than one hundred twenty (120) days from the date the Company exercises its option to purchase the Adverse Unit Holder's Membership Units.

10.6 PURCHASE PRICE. For purposes of this **Section 10**, the purchase price shall be the Fair Market Value of the Membership Units being sold as of the Valuation Date.

10.7 PAYMENT OF PURCHASE PRICE. In the event of the purchase of Membership Units pursuant to **Section 10.5** hereof, the purchase price shall be paid as follows:

(a) There shall be paid in cash at the closing an amount equal to ten percent (10%) of the purchase price.

(b) The balance of the purchase price shall be evidenced by a promissory note from the Company (the "**Purchase Note**"). The Purchase Note shall bear interest at the Prime Rate in effect on the closing date *plus* two (2) percentage points and shall be paid in forty (40) equal quarterly installments of principal and interest on an amortized basis. The first installment on the Purchase Note shall be due and payable on the first day of the fourth month following the month during which the closing occurs (together with interest from the date of the closing to the first day of the month following the month during which the closing occurs). The Purchase Note shall permit the prepayment thereof, either in whole or in part, at any time or from time to time, without penalty. The Purchase Note shall contain a provision requiring the mandatory prepayment of the entire amount due thereunder upon the sale by the Company of all or substantially all of its assets or upon such time as the Members immediately after the purchase and/or their Affiliates and members of their respective Families collectively own less than fifty percent (50%) of the Membership Units owned by all Members. If required by any Institutional Lender with which the Company does business on the date of the closing, the Purchase Note shall be subordinate to any existing indebtedness due and owing to such Institutional Lender and the Unit Holder's personal representative shall execute any documentation reasonably requested to evidence such subordination including, without limitation, an inter-creditor agreement. Payment of the Purchase Note shall be solely the responsibility of the Company. The selling Unit Holder or the selling Unit Holder's personal representative (as the case may be) shall have no recourse with respect to the Purchase Note against any Manager or any of the remaining Members. Neither the Company nor any of the remaining Members shall be required to give any security for the payment of the Purchase Note.

(c) The Company may offset any amounts due pursuant to this **Section 10.7** against any amounts due the Company by the selling Unit Holder.

10.8 TRANSFER DOCUMENTS. Whenever a Unit Holder shall sell all or any portion of his Membership Units to the Company or another Member, the selling Unit Holder and the purchaser shall each execute such documents and instruments as may be necessary or appropriate to confirm the Transfer of the Membership Units.

10.9 RIGHTS OF UNADMITTED ASSIGNEES.

(a) A Person who acquires one or more Membership Units but who is not admitted as a Member with respect to such Membership Units in accordance with this Agreement shall be entitled only to allocations and distributions with respect to such Membership Units in accordance with this Agreement (the "**Economic Rights**"), shall have no right to any information or accounting of the affairs of the Company, shall not be entitled to

participate in the management of the Company, shall not be entitled to inspect the books or records of the Company, and shall not have any of the rights of a Member under the Act or this Agreement (collectively, the "**Non-Economic Rights**").

(b) In the event of a Transfer of Membership Units to a Person who is not admitted as a Member with respect to such Membership Units, the Transferring Member shall automatically be deemed to have sold, assigned and conveyed to the Company all of the Non-Economic Rights associated with the Transferred Membership Units.

(c) Any Person who is the Assignee of any Membership Units as herein permitted and who is not admitted as a Member with respect to such Membership Units and who desires or who shall be required to make a further assignment of any such Membership Units shall be subject to all of the provisions of this **Section 10** to the same extent and in the same manner as any Member desiring to make a Transfer of any Membership Units.

10.10 ADMISSION OF ASSIGNEES AS MEMBERS. Subject to the other provisions of this **Section 10**, a Permitted Transferee of any Membership Units may be admitted to the Company as a Member with respect to such Membership Units only upon satisfaction of the conditions set forth below:

(a) All of the non-transferring Managers consent to such admission, which consent may be given or withheld in the sole and absolute discretion of such Managers. If there are no such Managers, the remaining Members, by Majority Vote thereof, must consent to such admission, which consent may be given or withheld in the sole and absolute discretion of the Members;

(b) The Membership Units with respect to which the transferee is being admitted were acquired by means of a Permitted Transfer;

(c) The transferee becomes a party to this Agreement as a Member and executes such documents and instruments as the Management Committee may reasonably request (including, without limitation, amendments to the Articles) as may be necessary or appropriate to confirm such transferee as a Member in the Company and such transferee's agreement to be bound by the terms and conditions of this Agreement;

(d) The transferee pays or reimburses the Company for all reasonable legal, filing, and publication costs that the Company incurs in connection with the admission of the transferee as a Member with respect to the Transferred Membership Units; and

(e) If the transferee is not an individual of legal majority, the transferee provides the Company with evidence satisfactory to counsel for the Company of the authority of the transferee to become a Member and to be bound by the terms and conditions of this Agreement.

10.11 LEGEND. Each Unit Holder hereby agrees that the following legend may be placed upon any counterpart of this Agreement, the Articles, or any other document or instrument evidencing ownership of Membership Units:

> The Membership Units represented by this document have not been registered under any securities laws and the transferability of such Membership Units is restricted. Such Membership Units may not be sold, assigned or transferred, nor will any assignee, vendee, transferee or endorsee thereof be recognized by the issuer as having acquired any such

Membership Units for any purposes, unless (1) a registration statement under the Securities Act of 1933, as amended, with respect to such Membership Units shall then be in effect and such transfer has been qualified under all applicable state securities laws, or (2) the availability of an exemption from such registration and qualification shall be established to the satisfaction of counsel to the Company.

The Membership Units represented by this document are subject to further restriction as to their sale, transfer, hypothecation, or assignment as set forth in the Operating Agreement and agreed to by each Member. Said restriction provides, among other things, that no Membership Units may be transferred without first offering such Membership Units to the other Members, and that no vendee, transferee, assignee, or endorsee of a Member shall have the right to become a substituted Member without the consent of the Management Committee which consent may be given or withheld in the sole and absolute discretion of the Management Committee.

10.12 DISTRIBUTIONS AND ALLOCATIONS IN RESPECT TO TRANSFERRED MEMBERSHIP UNITS. If any Membership Units are Transferred during any fiscal year in compliance with the provisions of this **Section 10**, Profits, Losses, each item thereof, and all other items attributable to the Transferred Membership Units for such fiscal year shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during such fiscal year in accordance with Code Section 706(d), using any conventions permitted by law and selected by the Management Committee. Neither the Company nor any Manager shall incur any liability for making allocations and distributions in accordance with the provisions of this **Section 10**, whether or not any Manager or the Company has knowledge of any Transfer of ownership of any Membership Units.

SECTION 11
DISSOLUTION AND WINDING UP

11.1 DISSOLUTION. The Company shall dissolve upon the first to occur of any of the following events (each a "**Liquidating Event**"):

(a) The sale by the Company of all or substantially all its Property;

(b) The vote of the Management Committee and the Members to dissolve the Company;

(c) The happening of any other event that makes it unlawful, impossible or impractical to carry on the business of the Company; or

(d) A complete cessation of the Company's business.

The Members hereby agree that, notwithstanding any provision of the Act, the Company shall not dissolve prior to the occurrence of a Liquidating Event. If it is determined by a court of competent jurisdiction that the Company has dissolved prior to the occurrence of a Liquidating Event then the Members hereby agree to continue the business of the Company without winding up or liquidation.

11.2 WINDING UP. Upon dissolution of the Company, the Management Committee or court appointed trustee if there is no Manager shall take full account of the Company's liabilities and assets. The assets and Properties of the Company shall be liquidated as promptly as is consistent with obtaining the fair value thereof, and the proceeds therefrom, to the extent sufficient therefor, shall be applied and distributed in the following order:

(a) First, to the payment and discharge of all of the Company's debts and liabilities (other than to Unit Holders), including the establishment of any necessary reserves;

(b) Second, to the payment and discharge of all of the Company's debts and obligations to Unit Holders; and

(c) The balance, to the Unit Holders in accordance with their Capital Accounts after giving effect to all contributions, distributions and allocations for all periods.

11.3 COMPLIANCE WITH TIMING REQUIREMENTS OF REGULATIONS. In the event the Company is "liquidated" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), distributions shall be made pursuant to this **Section 11** (if such liquidation constitutes a dissolution of the Company) or **Section 5** hereof (if it does not) to the Unit Holders who have positive Capital Accounts in compliance with Regulations Section 1.704-1(b)(2)(ii)(b)(2). If any Unit Holder has a deficit balance in his Capital Account (after giving effect to all contributions, distributions and allocations for all fiscal years, including the fiscal year such liquidation occurs) such Unit Holder shall have no obligation to make any contribution to the capital of the Company with respect to such deficit, and such deficit shall not be considered a debt owed to the Company or any other Person.

11.4 ESTABLISHMENT OF TRUST. In the discretion of the Management Committee, a pro-rata portion of the distributions that would otherwise be made to the Unit Holders pursuant to **Section 11.2** hereof may be distributed to a trust established for the benefit of the Unit Holders for the purposes of liquidating Company assets, collecting amounts owed to the Company, and paying any contingent or unforeseen liabilities or obligations of the Company or of the Management Committee arising out of or in connection with the Company. The assets of any such trust shall be: (a) distributed to the Unit Holders from time to time, in the reasonable discretion of the Management Committee, in the same proportions as the amount distributed to such trust by the Company would otherwise have been distributed to the Unit Holders pursuant to this Agreement; or (b) withheld to provide a reasonable reserve for Company liabilities (contingent or otherwise) and to reflect the unrealized portion of any installment obligations owed to the Company provided that such withheld amounts shall be distributed to the Unit Holders as soon as practicable.

11.5 RIGHTS OF UNIT HOLDERS. Except as otherwise provided in this Agreement, each Unit Holder shall look solely to the assets of the Company for the return of his Capital Contribution and shall have no right or power to demand or receive property other than cash from the Company. No Unit Holder shall have priority over any other Unit Holder as to the return of his Capital Contributions, distributions, or allocations.

11.6 DEEMED DISTRIBUTION AND RECONTRIBUTION. Notwithstanding any other provision of this **Section 11**, in the event the Company is liquidated within the meaning of Regulation Section 1.704-1(b)(2)(ii)(g) but no Liquidating Event has occurred, the assets and the Property of the Company shall not be liquidated, the Company's debts and other liabilities shall

not be paid or discharged and the Company's affairs shall not be wound up. Instead, solely for federal income tax purposes, the Company shall be deemed to have contributed its assets and Properties in kind to a new limited liability company in exchange for an interest in such company and, immediately thereafter, the Company will be deemed to liquidate by distributing such interests in the new company to the Members.

SECTION 12
REPRESENTATIONS AND WARRANTIES

12.1 REPRESENTATIONS AND WARRANTIES OF THE MEMBERS. Each Member hereby, represents, warrants and acknowledges to each of the other Members as follows:

(a) The Member the full power, legal capacity and authority to enter into this Agreement and to perform his obligations hereunder. This Agreement has been duly executed and delivered by the Member and (assuming the due authorization, valid execution and delivery hereof by each of the other Members) is a legal, valid and binding obligation of such Member, enforceable against such Member in accordance with its terms, except (i) as the same may be limited by bankruptcy, insolvency, reorganization or other laws or equitable principles relating to or affecting the enforcement of creditors' rights, and (ii) that the granting of specific performance is subject to the discretion of a court of equity;

(b) Neither the execution, delivery or performance of this Agreement by the Member nor the performance by the Member of his obligations hereunder (i) will result in any material breach of or default by the Member under any provision of any contract or agreement of any kind to which the Member is a party or by which the Member or to which any property or asset of the Member is subject, (ii) is prohibited by, or requires the Member to obtain or make any consent, authorization, approval, registration or filing under, any statute, law, ordinance, regulation, rule, judgment, decree or order of any court or governmental agency, board, bureau, body, department or authority, or of any other person, (iii) will cause any acceleration of maturity of any note, instrument or other obligation to which the Member is a party or by which the Member is bound or with respect to which the Member is an obligor or guarantor, or (iv) will result in the creation or imposition of any security interest or other lien, or give to any other person any interest or right (including any right of termination or cancellation) in or with respect to, any of the properties, assets, business, agreements or contracts of the Member;

(c) There are no actions, suits, proceedings or investigations, either at law or in equity, or before any commission or other administrative authority in any United States or foreign jurisdiction, of any kind now pending or threatened or proposed against the Member regarding any business being conducted by the Member. Neither the Member nor any of the Member's properties or assets are subject to any judicial or administrative judgment, order, decree or restraint;

(d) The Member is not in violation of any law, rule or regulation, or any order, judgment or decree, in any case applicable to the Member or by which any of such Member's properties or assets are bound or affected;

(e) The Member has filed all foreign, federal, state and local tax returns that are required to be filed by such Member and has paid all taxes shown as due on such returns as well as all other taxes, assessments and governmental charges that are due and payable;

(f) The Member is acquiring the Membership Units for the Member's own account and not for the account of others. The Membership Units are not being acquired with a view to their distribution and the Member has no present intent of reselling or otherwise distributing the Membership Units. The Member was not formed for the purpose of making an investment in the Company;

(g) The Member has been advised that the Membership Units have not and shall not be registered under the Securities Act or any applicable state securities laws and, therefore, cannot be resold unless such Membership Units are registered under the Securities Act and all applicable state securities laws or unless exemptions from registration are available;

(h) Neither the Company nor anyone else has made any representation or warranty as to the period of time the Member shall be required to own the Membership Units. The Member is aware that the Membership Units may have to be held by the Member for an indefinite period of time;

(i) No state or other governmental authority has made any finding or determination relating to the fairness or substantive merit of an investment in the Company;

(j) The Member has, either alone or with such Member's personal representative (as that term is defined in Rule 501(h) of the Securities Act of 1933) such knowledge and experience in financial and business matters that such Member is capable of evaluating the merits and risks of an investment in the Company;

(k) The Member is aware that an investment in the Company is highly speculative and is capable of bearing the economic risk of such investment; and

(l) The Company has made available to such Member, a reasonable time prior to such Member's acquisition of any Membership Units, the opportunity to ask questions and receive adequate answers concerning the terms and conditions of such acquisition and the Company and to request and obtain any information which the Company possesses or can acquire without unreasonable effort or expense regarding the Company or investment.

12.2 EFFECT OF BREACH. Each Unit Holder hereby acknowledges and agrees that a material breach of any representation or warranty contained herein by a Unit Holder shall constitute an Adverse Act by such Unit Holder.

SECTION 13
MISCELLANEOUS

13.1 NOTICES. Any notice, payment, demand or communication required or permitted to be given by any provision of this Agreement shall be in writing and shall be delivered personally to the Person or to an officer of the Person to whom the same is directed, or sent by regular, registered, or certified mail, or by recognized overnight carrier, addressed as follows: if to the Company, to the Company at the address set forth in **Section 2.4** hereof, or to such other address as the Management Committee may from time to time specify by notice to the Members; if to a Manager, to such Manager at the address set forth in **Exhibit "D"** hereto or to such other address as a Manager may from time to time specify by notice to the Company; and if to a Member, to such Member at the address set forth on **Exhibit "A"** hereto or to such other address as such Member may from time to time specify by notice to the Company. Any such notice shall be deemed to be delivered, given and received for all purposes as of the date (i) actually received, if

delivered personally or if sent by regular mail or overnight carrier or (ii) as of the date on which the same was deposited in a regularly maintained receptacle for the deposit of United States mail, if sent by registered or certified mail, postage and charges prepaid.

13.2 BINDING EFFECT. Except as otherwise provided in this Agreement, every covenant, term and provision of this Agreement shall be binding upon and inure to the benefit of the Members and their respective heirs, legatees, legal representatives, successors, transferees and assigns.

13.3 CONSTRUCTION. It is the intention of the parties that every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any party (notwithstanding any rule of law requiring an agreement to be for or against the drafting party), it being understood that the parties to this Agreement are sophisticated and have had adequate opportunity and means to retain counsel to represent their respective interests and to otherwise negotiate the provisions of this Agreement.

13.4 HEADINGS. Section and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

13.5 SEVERABILITY. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Agreement.

13.6 INCORPORATION BY REFERENCE. Every exhibit, schedule and other appendix attached to this Agreement and referred to herein is hereby incorporated in this Agreement by reference.

13.7 ADDITIONAL DOCUMENTS. Each Member, upon the request of any Manager, agrees to perform all further acts and execute, acknowledge and deliver any documents that may be reasonably necessary, appropriate or desirable to carry out the provisions of this Agreement.

13.8 VARIATION OF PRONOUNS. All pronouns and any variations thereof shall be deemed to refer to masculine, feminine or neuter, singular or plural, as the identity of the Person or Persons may require.

13.9 NEW YORK LAW. This Agreement, and any matter or dispute arising out of, in connection with or related to this Agreement, of any type or nature, shall be construed in accordance with, subject to and governed by the internal laws of the State of New York without giving effect to any conflicts of laws or other provisions which might result in the application of laws other than the internal laws of the State of New York. Each Unit Holder hereby agrees that the federal and state courts located within Onondaga County, New York shall have the exclusive jurisdiction to determine any and all disputes arising out of or in connection with this Agreement and hereby irrevocably consents to the personal and subject matter jurisdictions of such court with respect thereto.

13.10 COUNTERPART EXECUTION; SIGNATURES. This Agreement may be executed in any number of counterparts with the same effect as if all of the Members had signed the same document. All counterparts shall be construed together and shall constitute one agreement. Signatures received by facsimile or by electronic mail shall be deemed original signatures for all purposes of this Agreement.

13.11 SPECIFIC PERFORMANCE. The parties acknowledge that they will be irreparably harmed in the event any of the provisions of this Agreement are violated and that the damages that may result therefrom will be difficult, if not impossible, to calculate. Should any dispute arise concerning any matter provided for in this Agreement, the parties agree that an injunction may be issued restraining any of the foregoing events pending the resolution of the controversy. In the event of any controversy concerning any right or obligation of a party, such right or obligation shall be enforceable in a court of equity by a decree of specific performance. Any such remedy, however, shall be cumulative and not exclusive, and shall be in addition to any other remedies which the parties hereto may have.

13.12 WAIVER OF JURY TRIAL. EACH UNIT HOLDER HEREBY IRREVOCABLY WAIVES, ON BEHALF OF HIMSELF OR ITSELF AND HIS OR ITS HEIRS, BENEFICIARIES, PERSONAL REPRESENTATIVES, EXECUTORS, ADMINISTRATORS, SUCCESSORS AND ASSIGNS, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT SUCH UNIT HOLDER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY MATTER, DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY DOCUMENT OR INSTRUMENT EXECUTED IN CONNECTION WITH THIS AGREEMENT. EACH UNIT HOLDER HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER UNIT HOLDER HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER UNIT HOLDER WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT SUCH UNIT HOLDER AND THE OTHER UNIT HOLDER HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS CONTAINED IN THIS SECTION.

13.13 ENTIRE AGREEMENT. This Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof and supersedes any previous understanding whether oral or written.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the parties have entered into this Operating Agreement as of the date first above set forth.

THE JAMES P. RANALLI 2012 IRREVOCABLE TRUST #2

By: James P Ranalli Tr
Its: Trustee

THE JAMES P. RANALLI 2012 IRREVOCABLE TRUST #3

By: James P Ranalli Tr
Its: Trustee

JAMES P. RANALLI
Manager

EXHIBIT "A"

OPERATING AGREEMENT

OF

RANALLI HOLDINGS LLC

MEMBERS

Name	**Address**
The James P. Ranalli 2012 Irrevocable Trust #2	153 Seitz Drive Camillus, New York 13031
The James P. Ranalli 2012 Irrevocable Trust #3	153 Seitz Drive Camillus, New York 13031

EXHIBIT "B"

OPERATING AGREEMENT

OF

RANALLI HOLDINGS LLC

CAPITAL CONTRIBUTIONS

Name	Capital Contributions
The James P. Ranalli 2012 Irrevocable Trust #2	$10
The James P. Ranalli 2012 Irrevocable Trust #3	$10

EXHIBIT "C"

OPERATING AGREEMENT

OF

RANALLI HOLDINGS LLC

MEMBERSHIP UNITS

Name	Membership Units
The James P. Ranalli 2012 Irrevocable Trust #2	1,000
The James P. Ranalli 2012 Irrevocable Trust #3	1,000

EXHIBIT "D"

OPERATING AGREEMENT

OF

RANALLI HOLDINGS LLC

MANAGER

Name	**Address**
James P. Ranalli	153 Seitz Drive Camillus, New York 13031

EXHIBIT "E"

OPERATING AGREEMENT

OF

RANALLI HOLDINGS LLC

DESIGNATED SUCCESSOR MANAGER

Initial Manager	**Designated Successor Manager**
James P. Ranalli	James P. Ranalli, III

APPENDIX "A"

TABLE OF DEFINITIONS

"Accepting Offerees" has the meaning set forth in **Section 10.4** hereof.

"Act" means the Limited Liability Company Act of the State of New York as set forth in Chapter 34 of the Consolidated Laws of the State of New York as the same may be amended from time to time (or any corresponding provisions of succeeding law).

"Additional Capital Contribution" has the meaning set forth in **Section 3.7** hereof.

"Adverse Act" means, with respect to any Unit Holder, any of the following:

(a) a Transfer or attempted Transfer of all or any portion of such Unit Holder's Membership Units in the Company except as expressly permitted or required by this Agreement;

(b) an Event of Bankruptcy occurring with respect to any Unit Holder;

(c) any other occurrence or transaction that is expressly provided elsewhere in this Agreement as constituting an Adverse Act.

"Adverse Unit Holder" has the meaning set forth in **Section 10.5** hereof.

"Affiliate" means with respect to any Person: (i) any Person directly or indirectly controlling, controlled by or under common control with such Person; (ii) any Person owning or controlling 10 percent or more of the outstanding voting securities of such Person; (iii) any officer, director, manager or general partner of such Person; or (iv) any Person who is an officer, director, manager, general partner, trustee or holder of 10 percent or more of the voting securities of any Person described in clauses (i) through (iii) of this sentence.

"Agreement" or **"Operating Agreement"** means this Operating Agreement as the same may be subsequently amended from time to time. Words such as "herein," "hereinafter," "hereof," "hereto," and "hereunder" refer to this Agreement as a whole, unless the context otherwise requires.

"Articles" means the Articles of Organization filed on behalf of the Company with the Secretary of State of the State of New York on February 26, 2016.

"Assignee" means a Person who is a transferee of all or part of a Member's Membership Units which Person is not admitted as a Member with respect to such Membership Units. "Assignees" means all such Persons.

"Cash Flow Deficit" means the amount, as reasonably determined by the Management Committee, required to meet the Company's projected cash requirements for a specified period of time, not to exceed one (1) year (the "Notice Period"). In determining the Cash Flow Deficit, the Management Committee may include the projected cost of: (a) normal and ordinary Company operations; (b) maintenance and improvement of any Property owned by the Company; (c) retiring liabilities as they become due during the Notice Period; and (d) the establishment of any reasonable reserves for the foregoing purposes.

"Company" means the limited liability company formed pursuant to this Agreement and the limited liability company continuing the business of this Company in the event of dissolution as herein provided.

"Default" has the meaning set forth in **Section 3.7** hereof.

"Defaulting Unit Holder(s)" has the meaning set forth in **Section 3.7** hereof.

"Deficit Contribution Notice" means a written notice given by the Management Committee to the Unit Holders which shall: (a) state the amount that the Management Committee has determined to be the Cash Flow Deficit that the Company is likely to incur during the Notice Period; (b) summarize with reasonable particularity the basis for such determination; (c) identify a date (the "Contribution Date"), not sooner than thirty (30) days after the date of the Deficit Contribution Notice upon which the Additional Capital Contribution to fund such Cash Flow Deficit shall be due; and (d) specify the Membership Percentage of each Unit Holder.

"Designated Successor Manager" has the meaning set forth in **Section 6.1** hereof.

"Economic Rights" has meaning set forth in **Section 10.9** hereof.

"Event of Bankruptcy" means, with respect to any Unit Holder, any of the following:

(a) filing a voluntary petition in bankruptcy or for reorganization or for the adoption of an arrangement under the Bankruptcy Code (as now or in the future amended) or an admission seeking the relief therein provided;

(b) making a general assignment for the benefit of creditors;

(c) consenting to the appointment of a receiver for all or a substantial part of such Person's property;

(d) in the case of the filing of an involuntary petition in bankruptcy, the entry of an order for relief;

(e) the entry of a court order appointing a receiver or trustee for all or a substantial part of such Person's property without such Person's consent; or

(f) the assumption of custody or sequestration by a court of competent jurisdiction of all or substantially all of such Person's property.

"Fair Market Value" shall mean such fair market value as may be mutually agreed to by the Unit Holder (or his personal representative as the case may be) who is offering or is deemed to be offering to sell his Membership Units pursuant to **Section 10** hereof (the "Offering Unit Holder"), on the one hand, and the Management Committee (exclusive of the selling Unit Holder if such Offering Unit Holder is also a Manager) (the "Remaining Managers"), on the other hand. If the Offering Unit Holder and the Remaining Managers are unable to mutually agree upon a fair market value within thirty (30) days from the date the Offering Unit Holder shall have offered (or have been deemed to have automatically offered) the Membership Units for sale, the Fair Market Value shall be determined as follows:

The Offering Unit Holder and the Remaining Managers shall attempt for a period of thirty (30) days to jointly select a "Qualified Appraiser" who shall establish the Fair Market Value of the Membership Units being Transferred. In the event the Offering Unit Holder and the Remaining Managers are unable to agree on a Qualified Appraiser, the Offering Unit Holder, on the one hand, and the Remaining Managers, on the other hand, shall each have the opportunity to appoint, at his or their own cost, a Qualified Appraiser within twenty (20) days following the expiration of the thirty (30) day period set forth above. If either party shall fail to appoint a

Qualified Appraiser within this twenty (20) day period, the one Qualified Appraiser so appointed shall, within thirty (30) days of his appointment, unilaterally establish the Fair Market Value of the Membership Units being Transferred. If both parties appoint a Qualified Appraiser within this twenty (20) day period, the two Qualified Appraisers shall jointly establish the Fair Market Value of the Membership Units being Transferred. If the two Qualified Appraisers cannot agree on the Fair Market Value within thirty (30) days of the appointment of the latter of them, the two Qualified Appraisers shall together not later than the thirtieth day appoint a third Qualified Appraiser. The third Qualified Appraiser shall establish the Fair Market Value of the Membership Units being Transferred within ten (10) days of his appointment. In determining the Fair Market Value of the Membership Units being Transferred, no consideration shall be given to any proceeds of any insurance policies (including any dividends and paid up additions) to be received by the Company as a result of the death of a Unit Holder except to the extent of the cash surrender value thereof. The determination of the Qualified Appraiser(s) shall be binding and conclusive on the parties absent a showing of gross error or fraud. The cost and expenses of the third Qualified Appraiser shall be borne by that party whose Qualified Appraiser's value differs the most in absolute dollars from the Fair Market Value established by the third Qualified Appraiser.

"Family" means a Member's spouse and a Member's natural or adoptive lineal ancestors or descendants and trusts for his or their exclusive benefit.

"Firm Offer" has the meaning set forth in **Section 10.4** hereof.

"Guarantees" has the meaning set forth in **Section 3.8** hereof.

"Initial Manager" has the meaning set forth in **Section 6.1** hereof.

"Institutional Lender" means any banking institution (including but not limited to saving and loan associations or savings banks), insurance company, pension or profit sharing plan or fund, educational institution, or real estate investment trust.

"Institutional Loan" means a loan from an Institutional Lender.

"Liquidating Event" has the meaning set forth in **Section 11.1** hereof.

"Majority Vote" means the affirmative vote of Persons holding more than fifty percent (50%) of the total number of Membership Units then held by all Persons entitled to vote on the matter.

"Management Committee" has the meaning set forth in **Section 6.1** hereof.

"Manager" means the Initial Manager and each Person who becomes a Manager pursuant to the terms of this Agreement and has not ceased to be a Manager pursuant to the terms of this Agreement. "Managers" means all such Persons.

"Members" means all Persons set forth on **Exhibit "A"** hereof and any Person subsequently admitted to the Company as a Member pursuant to the terms hereof for so long as such Persons have not ceased to be a Member pursuant to the terms of this Agreement. "Member" means any one of the Members.

"Membership Percentage" means for each Person, the ratio (expressed as a percentage) at the time the Membership Percentage is being determined, of the number of Membership Units

held by such Person to the total number of Membership Units outstanding. "Membership Percentages" means the total percentages held by all Persons.

"**Membership Unit**" means an ownership interest in the Company including any and all benefits to which the holder of such Membership Units may be entitled as provided in this Agreement, together with all obligations of such Person to comply with the terms and provisions of this Agreement.

"**Net Available Cash**" means the gross cash proceeds of the Company whether from Company operations, sales or other dispositions or refinancing of Company assets, less the portion thereof used to pay or establish reserves for all Company expenses, guaranteed payments, debt payments, capital improvements, replacement and contingencies, all as determined by the Management Committee. "Net Available Cash" shall not be reduced by depreciation, amortization, cost recovery deductions or similar allowances, but shall be increased by any reductions of reserves previously established.

"**Non-Economic Rights**" has the meaning set forth in **Section 10.9** hereof.

"**Offer Notice**" has the meaning set forth in **Section 10.4** hereof.

"**Offer Period**" has the meaning set forth in **Section 10.4** hereof.

"**Offer Price**" has the meaning set forth in **Section 10.4** hereof.

"**Offered Units**" has the meaning set forth in **Section 10.4** hereof.

"**Offerees**" has the meaning set forth in **Section 10.4** hereof.

"**Option Period**" has the meaning set forth in **Section 10.5** hereof.

"**Permitted Transfer**" has the meaning set forth in **Section 10.2** hereof.

"**Permitted Transferee**" has the meaning set forth in **Section 10.2** hereof.

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

"**Prime Rate**" means the prime rate (or base rate) reported in the "Money Rates" column or section of *The Wall Street Journal* as being the base rate on corporate loans at larger U.S. Money Center banks on the last business day immediately prior to the date on which it is necessary to determine such Prime Rate; provided, however, in the event *The Wall Street Journal* ceases publication of the Prime Rate, then the "Prime Rate" shall mean the "prime rate" or "base rate" announced by the bank with which the Company has its principal banking relationship (whether or not such rate has actually been charged by that bank) or as otherwise designated by the Management Committee. In the event that bank discontinues the practice of announcing that rate, Prime Rate shall mean the highest rate charged by that bank on short-term, unsecured loans to its most credit-worthy large corporate borrowers, unless otherwise designated by the Management Committee.

"**Profits" and "Losses**" means, for each fiscal year or other period, an amount equal to the Company's taxable income or loss for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), 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 Profits or Losses pursuant to this Section shall be added to such taxable income or Loss;

(b) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv), and not otherwise taken into account in computing Profits or Losses pursuant to this Section shall be subtracted from such taxable income or loss;

(c) In the event the Gross Asset Value of any Company asset is adjusted pursuant to **subsections (b)** or **(d)** of the definition of Gross Asset Value hereof the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Profits or Losses;

(d) Gain or loss resulting from any disposition of Company assets with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;

(e) In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such fiscal year or other period; and

(f) Notwithstanding any other provision of this Section, any items which are specially allocated pursuant to **Section (b)** or **Section (c)** of **Appendix "B"** hereof shall not be taken into account in computing Profits or Losses pursuant to this Section.

"Property" means the property, both real, personal, tangible and intangible owned by the Company from time to time.

"Purchase Note" has the meaning set forth in **Section 10.7** hereof.

"Purchase Offer" has the meaning set forth in **Section 10.4** hereof.

"Purchaser" has the meaning set forth in **Section 10.4** hereof.

"Qualified Appraiser" means any professional appraiser or certified public accountant who is qualified by experience and ability to appraise assets and businesses similar to that owned or being conducted by the Company.

"Ranalli" means James P. Ranalli.

"Resigning Manager" has the meaning set forth in **Section 6.1** hereof.

"Seller" has the meaning set forth in **Section 10.4** hereof.

"Successor Manager" has the meaning set forth in **Section 6.1** hereof.

"Supermajority Vote" means the affirmative vote of Persons holding more than seventy five percent (75%) of the Membership Units then held by all Persons entitled to vote on the matter.

"Transfer" means, as a noun, any transfer, sale, pledge, hypothecation or other disposition, whether voluntary, involuntary or by operation of law, and, as a verb, to transfer,

sell, pledge, hypothecate or otherwise dispose of in any manner whatsoever, whether voluntarily, involuntarily or by operation of law.

"Unit Holder" means a Person who is the holder of Membership Units regardless of whether such Person has been admitted as a Member with respect to such Membership Units.

"Valuation Date" means the last day of the calendar month immediately preceding: (i) the date of the Offer Notice, in the case of a purchase pursuant to **Section 10.4** hereof; and (ii) the date of the occurrence of the Adverse Act, in the case of a purchase pursuant to **Section 10.5** hereof.

APPENDIX "B"

TAX PROVISIONS

(a) Definitions. For purposes of this Agreement, including this **Appendix "B"**, the following terms (as indicated by the first letter of each word being capitalized) shall, unless the context clearly requires otherwise, have the following meanings:

"Adjusted Capital Account Deficit" means with respect to any Unit Holder, the deficit balance, if any, in such Person's Capital Account as of the end of the relevant fiscal year, after giving effect to the following adjustments:

(a) Credit to such Capital Account any amounts which such Person is obligated to restore or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(b) Debit to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.704-1(b)(2)(ii)(d)(6) of the Regulations.

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

"Capital Account" means with respect to any Unit Holder, the Capital Account maintained for such Person in accordance with the following provisions:

(a) To each Person's Capital Account, there shall be credited such Person's Capital Contributions, such Person's distributive share of Profits, and any items in the nature of income or gain that are specially allocated pursuant to **Section (b)** or **(c)** of this **Appendix "B"**, and the amount of any Company liabilities that are assumed by such Person or that are secured by any Company asset distributed to such Person;

(b) To each Person's Capital Account there shall be debited the amount of cash and the Gross Asset Value of any Company asset distributed to such Person pursuant to any provision of this Agreement, such Person's distributive share of Losses, any items in the nature of expenses or losses that are specially allocated pursuant to **Section (b)** or **(c)** of this **Appendix "B"**, and the amount of any liabilities of such Person that are assumed by the Company or that are secured by any property contributed by such Person to the Company;

(c) In the event any interest in the Company is Transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the Transferred interest; and

(d) In determining the amount of any liability for purposes of **subsections (a)** and **(b)** above, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such Regulations. In the event the Management Committee shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including without limitation, debits or credits

relating to liabilities that are secured by contributed or distributed property or that are assumed by the Company or the Unit Holders), are computed in order to comply with such Regulations, the Management Committee may make such modifications, provided it is not likely to have a material effect on the amounts distributed to any Unit Holder pursuant to **Section 12** of the Agreement upon the dissolution of the Company. The Management Committee also shall (i) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Unit Holders and the amount of Company capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(q) and (ii) make any appropriate modifications in the event unanticipated events (for example, the acquisition by the Company of oil or gas properties) might otherwise cause this Agreement not to comply with Regulation Section 1.704-1(b).

"Capital Contribution" means, with respect to any Unit Holder, the amount of money and the initial Gross Asset Value of any property (other than money) contributed to the Company with respect to the Membership Units in the Company held by such Unit Holder.

"Code" means the Internal Revenue Code of 1986, as amended from time to time (or any corresponding provisions of succeeding law).

"Company Minimum Gain" has the meaning set forth in Sections 1.704-2(b)(2) and 1.704-2(d) of the Regulations substituting the term "company" for the term "partnership" whenever the context requires.

"Depreciation" means, for each fiscal year or other period, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable under the Code with respect to an asset for such year or other period, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; provided, however, that if the federal income tax depreciation, amortization or other cost recovery deduction for such year is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Management Committee.

"Gross Asset Value" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(a) The initial Gross Asset Value of any asset contributed by a Unit Holder to the Company shall be the gross fair market value of such asset, as determined by the contributing Unit Holder and the Company;

(b) The Gross Asset Values of all Company assets shall be adjusted to equal their respective gross fair market values, as determined by the Management Committee, as of the following times: (i) the acquisition of an additional interest in the Company by any new or existing Unit Holder in exchange for more than a de minimis Capital Contribution; (ii) the distribution by the Company to a Unit Holder of more than a de minimis amount of assets as consideration for an interest in the Company; (iii) in connection with the grant of an interest in the Company to a Unit Holder (other than a de minimis interest) as consideration for the provision of services to or for the benefit of the Company by an existing Unit Holder acting in a

Member capacity or by a new Unit Holder acting in a Member capacity or in anticipation of becoming a Member; and (iv) the liquidation of the Company within the meaning of Regulations 1.704-1(b)(2)(ii)(g); provided, however, that the adjustments pursuant to clauses (i), (ii) and (iii) above shall be made only if the Management Committee reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Unit Holders in the Company;

(c) The Gross Asset Value of any Company asset distributed to any Unit Holder shall be the gross fair market value of such asset on the date of distribution; and

(d) The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulation 1.704-1(b)(2)(iv)(m) and **Section (b)(iii)** of this **Appendix "B"**; provided, however, that Gross Asset Values shall not be adjusted pursuant to this subsection (d) to the extent the Management Committee determines that an adjustment pursuant to **subsection (b)** is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this **subsection (d)**. If the Gross Asset Value of an asset has been determined or adjusted pursuant to **subsections (a), (b)** or **(d)** hereof, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

"Member Nonrecourse Debt" has the meaning set forth in Sections 1.704-2(i)(1) and 1.704-2(i)(2) of the Regulations substituting the term "member" for the term "partner" whenever the context requires.

"Member Nonrecourse Debt Minimum Gain" means an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if such Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Section 1.704-2(i)(3) of the Regulations substituting the term "member" for the term "partner" whenever the context requires.

"Member Nonrecourse Deductions" has the meaning set forth in Sections 1.704-2(i)(1) and 1.704-2(i)(2) of the Regulations.

"Nonrecourse Deductions" has the meaning set forth in Section 1.704-2(b)(1) of the Regulations substituting the term "member" for the term "partner" whenever the context requires.

"Nonrecourse Liability" has the meaning set forth in Section 1.704-2(b)(3) of the Regulations.

"Regulations" means the Income Tax Regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

(b) Special Allocations: Items in the Nature of Income or Gain.

(i) In the event any Unit Holder unexpectedly receives any adjustments, allocations or distributions described in Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), or 1.704-1(b)(2)(ii)(d)(6) of the Regulations, items of Company income and gain shall be specially allocated to such Unit Holder in an amount and manner sufficient to eliminate the

Adjusted Capital Account Deficit of such Unit Holder as quickly as possible; provided, however, that an allocation pursuant to this **Section (b)(i)** shall be made if and only to the extent that such Unit Holder would have an Adjusted Capital Account Deficit after all other allocations provided for in **Section 4** and this **Appendix "B"** have been tentatively made as if this **Section (b)(i)** of this **Appendix "B"** were not in this Agreement.

(ii) If, after giving effect to the allocation provisions of **Section 4** and this **Appendix "B"** (other than this **(b)(ii)**) and the distribution provisions of **Section 5** hereof for a particular fiscal year, any Unit Holder would have a deficit Capital Account at the end of such fiscal year in excess of the sum of (i) the amount such Unit Holder is obligated to restore and (ii) the amount such Unit Holder is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5) such Unit Holder shall be specially allocated items of gross income in the amount of such excess as quickly as possible provided that an allocation pursuant to this **Section (b)(ii)** of this **Appendix "B"** shall be made if and only to the extent such Unit Holder would have a deficit Capital Account in excess of such sum after all other allocations provided for in **Section 4** and **Appendix "B"** have been tentatively made and as if **Sections (b)(i)** and **(b)(ii)** were not in this Agreement.

(iii) Except as otherwise provided in Section 1.704-2(f) of the Regulations and notwithstanding any other provision of **Section 4** and this **Appendix "B"** if there is a net decrease in Company Minimum Gain during any Company fiscal year, each Unit Holder shall be specially allocated items of Company income and gain for such year (and, if necessary, subsequent years) in an amount equal to the portion of such Person's share of the net decrease in Company Minimum Gain, determined in accordance with Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Unit Holder pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(f)(6) and 1.704-2(j)(2) of the Regulations. This **Section (b)(iii)** is intended to comply with the minimum gain charge back requirement in Section 1.704-2(f) of the Regulations and shall be interpreted consistently therewith.

(iv) Except as otherwise provided in Section 1.704-2(i)(4) of the Regulations and notwithstanding any other provision of **Section 4** and this **Appendix "B"** except **Section (b)(ii)** above, if there is a net decrease in Member Nonrecourse Debt Minimum Gain attributable to a Member Nonrecourse Debt during any Company fiscal year, each Person who has a share of the Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Section 1.704-2(i)(5) of the Regulations, shall be specially allocated items of Company income and gain for such year (and, if necessary, subsequent years) in an amount equal to the portion of such Person's share of the net decrease in Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Unit Holder pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(i)(4) and 1.704-2(j)(2) of the Regulations. This **Section (b)(iv)** is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(i)(4) of the Regulations and shall be interpreted consistently therewith.

(v) Any Member Nonrecourse Deductions for any fiscal year or other period shall be specially allocated to the Unit Holder who bears the economic risk of loss with respect to the

Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i)(1).

(vi) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Sections 734(b) or Section 743(b) of the Code is required to be taken into account in determining Capital Accounts as the result of a distribution to a Unit Holder in complete liquidation of his interest in the Company, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if such adjustment increases the basis of the assets) or loss (if such adjustment decreases such basis) and such gain or loss shall be specifically allocated to the Unit Holders in accordance with their interests in the Company in the event Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies or to the Unit Holders to whom such distribution was made in the event Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

(vii) Nonrecourse Deductions for any fiscal year or other period shall be specifically allocated to the Unit Holders in proportion to their respective Membership Percentages.

(viii) All allocations to the Unit Holders made pursuant to **Section 4** and this **Appendix "B"** shall, except as otherwise provided herein, be divided among them in proportion to their respective Membership Percentages.

(c) Curative Allocations. The allocations set forth in **Sections (b)(i)** through **(b)(viii)** hereof (the **"Regulatory Allocations"**) are intended to comply with certain requirements of the Regulations. It is the intent of the Unit Holders that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss or deductions pursuant to this **Section (c)**. Therefore, notwithstanding any other provisions of **Section 4** and this **Appendix "B"** (other than the Regulatory Allocations) the Management Committee shall make such offsetting special allocations of Company income, gain, loss or deduction in whatever manner they determine appropriate so that after such offsetting allocations are made, each Unit Holder's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Unit Holder would have had if the Regulatory Allocations were not part of the Agreement and all Company items were allocated pursuant to **Section 4**. In exercising its discretion under this **Section (c)** of this **Appendix "B"** the Management Committee shall take into account future Regulatory Allocations under **Sections (b)(iii)** and **(b)(iv)** that, although not yet made, are likely to offset other Regulatory Allocations previously made under **Section (b)(v)** and **Appendix "B"**.

(d) Other Allocations Rules.

(i) For purposes of determining the Profits, Losses or any other items allocable to any period, Profits, Losses and any such other items shall be determined on a daily, monthly or other basis, as determined by the Management Committee using any permissible method under Code Section 706 and the Regulations thereunder.

(ii) Except as otherwise provided in this Agreement, all items of income, gain, loss, deduction and any other allocations not otherwise provided for shall be divided among the Unit Holders in the same proportions as they share Profits and Losses, as the case may be, for the year.

(iii) In the event that the Company has taxable income that is characterized as ordinary income under the recapture provisions of the Code, each Unit Holder's allocable share

of taxable gain or loss from the sale of Company Property (to the extent possible) shall include a proportionate share of this recapture income equal to that Unit Holder's prior cumulative depreciation deductions with respect to the assets that gave rise to the recapture income.

(iv) The Unit Holders are aware of the income tax consequences of the allocations made by **Section 4** and this **Appendix "B"** and hereby agree to be bound by the provisions of **Section 4** and this **Appendix "B"** in reporting their shares of income and loss for income tax purposes.

(v) Nonrecourse Liabilities will be allocated among the Unit Holders based upon any methodology permitted under Treasury Regulations §1.752-3.

(vi) To the extent permitted by Section 1.704-2(h)(3) of the Regulations, the Management Committee shall endeavor to treat distributions of Net Available Cash as having been made from the proceeds of a Nonrecourse Liability or a Member Nonrecourse Debt only to the extent that such distributions would cause or increase an Adjusted Capital Account Deficit for any Unit Holders.

(vii) Losses allocated to the Unit Holders shall not exceed the maximum amount of Losses that can be allocated without causing the Unit Holders to have an Adjusted Capital Account Deficit at the end of any fiscal year. If some but not all of the Unit Holders would have Adjusted Capital Account Deficits as a consequence of an allocation of Losses the foregoing limitations shall be applied on a Unit Holder-by-Unit Holder basis so as to allocate the maximum Loss to each Unit Holder under Section 1.704-1(b)(2)(ii)(d) of the Regulations.

(viii) Each Unit Holder authorizes and directs the Company to elect to have the "Safe Harbor" described in the proposed Revenue Procedure set forth in Internal Revenue Service Notice 2005-43 (the **"Notice"**) apply to any interest in the Company transferred to a service provider by the Company on or after the effective date of such Revenue Procedure in connection with services provided to the Company. For purposes of making such Safe Harbor election, the Tax Matters Partner is hereby designated as the "partner who has responsibility for federal income tax reporting" by the Company and, accordingly, execution of such Safe Harbor election by the Tax Matters Partner constitutes execution of a "Safe Harbor Election" in accordance with Section 3.03(1) of the Notice. The Company and each Unit Holder hereby agree to comply with all requirements of the Safe Harbor described in the Notice, including, without limitation, the requirement that each Unit Holder shall prepare and file all federal income tax returns reporting the income tax effects of each Safe Harbor Membership Interest issued by the Company in a manner consistent with the requirements of the Notice.

The Company and any Unit Holder may pursue any and all rights and remedies it may have to enforce the obligations of the Company and the Unit Holder in the Company (as applicable) under Paragraph (d)(viii), including, without limitation, seeking specific performance and/or immediate injunctive or other equitable relief from any court of competent jurisdiction (without the necessity of showing actual money damages, or posting any bond or other security) in order to enforce or prevent any violation of the provisions of Paragraph (d)(viii). The obligations of a Unit Holder to comply with the requirements of this Paragraph (d)(viii) shall survive the cessation of such Unit Holder being a holder of a membership interest in the Company and/or the termination, dissolution, liquidation and winding up of the Company, and, for purposes of this Paragraph (d)(viii), the Company shall be treated as continuing in existence.

Each Unit Holder authorizes the Management Committee to amend Paragraph (d)(viii) to the extent necessary to achieve substantially the same tax treatment with respect to any interest in the Company transferred to a service provider by the Company in connection with services provided to the Company as set forth in Section 4 of the Notice (*e.g.*, to reflect changes from the rules set forth in the Notice in subsequent Internal Revenue Service guidance), provided that such amendment is not materially adverse to such Unit Holder (as compared with the after-tax consequences that would result if the provisions of the Notice applied to all interests in the Company transferred to a service provider by the Company in connection with services provided to the Company).

(ix) If and to the extent that any Unit Holder is deemed to recognize any item of income, gain, deduction or loss as a result of any transaction between such Unit Holder and the Company pursuant to Sections 83, 482, or 7872 of the Code or any similar provision now or hereafter in effect, the Management Committee shall use their reasonable best efforts to allocate any corresponding Net Profit or Net Loss of the Company to the Unit Holder who recognizes such item in order to reflect the Unit Holders' economic interest in the Company.

(e) Tax Allocations: Code Section 704(c). In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Unit Holders so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its initial Gross Asset Value.

In the event the Gross Asset Value of any asset is adjusted pursuant to the provisions of this **Appendix "B"** hereof dealing with the definition of Gross Asset Value, subsequent allocations of income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder.

Any elections or other decisions relating to such allocations shall be made by the Management Committee in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this **Section (e)** are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken. into account in computing, any Person's Capital Account or share of Profits, Losses, other items, or distributions pursuant to any provision of this Agreement.