

company name Limited Liability Company
NonDisclosure , Intellectual Property Assignment
, Operating Agreement

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1 Introduction

In order to form a limited liability company pursuant to and in accordance with the Texas Business Organization Code (BOC), as amended from time to time, the Members hereby agree as follows:

2 Company Name

The name of the limited liability company formed hereby shall be:

3 Company Purpose

The Company shall have the power (whether conducted directly or indirectly through any type of Investment in any type of Person) to engage in the following activities:

- acquiring
- owning
- holding
- maintaining
- improving
- developing
- operating
- managing
- leasing
- selling
- exchanging
- the financing of any of the foregoing activities
- and otherwise dealing with

All things related to

4 Grant Of Profit Interests To Members (capitalization table)

The Company desires to issue a percentage of the Company profits designated as “Profits Interest Units” to the Member in connection with Members performance of services for the benefit of the Company.

The parties intend that the Profits Interest Units issued pursuant to this Agreement constitute “profits interests,” as described in Section 4.01 of Rev. Proc. 93-27, 1993-2 C.B. 343, as clarified by Rev. Proc. 2001-43, 2001-34 I.R.B. 191, issued by the Internal Revenue Service.

The Company will revalue its assets as of the Effective Date in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(f)(5)(iii) and the Capital Accounts of the Members of the Company will be adjusted to reflect such revaluation.

In consideration of Members providing services for the benefit of the Company, the Company hereby issues to Members the percentage interests below:

FILLTHISIN

-
-
-

The above interests are fully vested.

- Reserved for future members pre SEAL capital raise :
- Reserved for SEAL raise :

The above two interests are subject to negotiation in regards to vesting.

FILLTHISIN (put vesting terms if any here) (or remove this whole section as desired)

5 Definitions

The following terms as used in this Agreement shall be defined as follows:

5.1 “Certificate of Formation”

means the document filed with the Texas Secretary of State required to form a limited liability company in Texas.

5.2 “Person”

whether capitalized or not, means any individual, sole proprietorship, joint venture, partnership, corporation, company, firm, bank, association, cooperative, trust, estate, government, governmental agency, regulatory authority, or other entity of any nature.

5.3 “Company”

means the organization defined in Section Company Name

5.4 “Membership Interest” or “Beneficial Interest”

means a Person’s right to share in the income, gains, losses, deductions, credit or similar items of, and to receive distributions from, the Company, but does not include any other rights of a Member, including the right to vote or to participate in management.

5.5 “Member”

means a Person who acquires a Membership Interest in the Company, as permitted under this Agreement, and who remains a Member of the Company.

5.6 “Assignee”

means a Person who has acquired a Member’s Membership Interest in the Company , through a Transfer in accordance with the terms of this Agreement.

5.7 “Board Of Directors”

means the collective group of persons hereafter designated as Board Of Directors in accordance with this Agreement.

5.8 “Director”

means any natural person elected to the Board Of Directors in accordance with this Agreement unti such time they are removed from the Board Of Directors in accordance with this Agreement.

5.9 “Indepdent Directors”

A natural person, that the Members and Board Of Directors has determined has ‘no material relationship’ with the Company, either directly or as a partner, shareholder or officer of an organization that has a relationship with the company.

5.10 “Accounting Policies and Procedures”

means the policies and procedures adapted from time to time by the Board Of Directors for preparation of the Company financial statement, financial projects and other accounting reports.

5.11 “Adverse Consequences”

means all actions, suits, proceedings, hearings, investigations, charges, complaints, demands, injunctions, judgments, orders, decrees, rulings, damages, dues, penalties, fines, costs, amounts paid in settlement, liabilities, obligations, liens, losses, expenses, and fees, including court costs and reasonable attorney’s fees and expenses.

5.12 “Affiliate”

means, with respect to a Person, another Person, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the Person in question. The term “control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled Person.

5.13 “Assigning Member”

means a Member who by means of a Transfer has transferred his or her Membership Interest in the Company to an Assignee.

5.14 “Business Day”

means any day other than Saturday, Sunday or other day on which commercial banks in Texas are authorized or required to be closed under the laws of the state of Texas.

5.15 “Capital Account”

means, as to any Member, a separate account maintained and adjusted in accordance with Section “Distributions To Members”.

5.16 “Capital Contribution”

means, with respect to any Member, the amount of money, the forgiveness of any debt, the Fair Market Value of any services or property (other than money) contributed to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take “subject to” under IRC Section 752) in consideration of a Percentage Interest held by such Member. Under no conditions shall a Capital Contribution be deemed a loan.

5.17 “Code” or “The Code” or “IRC”

means the Internal Revenue Code of 1986, as amended, and any successor provision.

5.18 “Company Property”

means all assets, real, personal and other, owned by the Company, whether or not contributed to the Company by a Member.

5.19 “Encumbrance”

means, with respect to any Membership Interest, or any element thereof, a mortgage, pledge, security interest, lien, proxy coupled with an interest (other

than as contemplated in this Agreement), option, or preferential right to purchase.

5.20 “Encumber”

means the act of creating or purporting to create an Encumbrance, whether or not perfected under applicable law.

5.21 “Fair Market Value” or “FMV”

means, with respect to any item Company Property, the item’s adjusted basis for federal income tax purposes, except as follows:

A. The Fair Market Value of any property contributed by a Member to the Company shall be the value of such property, as mutually agreed by the contributing Member and the Company Members; and

B. The Fair Market Value of any item of Company Property distributed to any Member shall be the value of such item of property on the date of distribution, as mutually agreed by the receiving Member and the Company.

5.22 “Family”

means, with respect to a specified individual, such individual’s lineal or adopted descendants, his or her parents, spouse, domestic partner, significant other, siblings, and lineal or adopted descendants of any thereof, and any family limited partnership, trust or other fiduciary or other entity solely for the benefit of (x) such individual, (y) such individual’s lineal or adopted descendants or (z) such individual’s parents, spouse, domestic partner, significant other, siblings or lineal or adopted descendants of any thereof.

5.23 “Fiscal Year”

shall be from January 1 of each year until or unless changed by a Majority Vote of the Members.

5.24 “Investment Entity”

means any Person in which the Company has an Investment.

5.25 “Involuntary Transfer”

means, with respect to any Membership Interest, or any element thereof, any Transfer or Encumbrance, whether by operation of law, pursuant to court order, foreclosure of a security interest, execution of a judgment or other legal process, or otherwise, including a purported transfer to or from a trustee in bankruptcy, receiver, or assignee for the benefit of creditors.

5.26 "Member Percentage Interest"

means the percentage set forth in the Company agreement.

5.27 "Profits and Losses"

means, for each fiscal year or other period specified in this Agreement, an amount equal to the Company's taxable income or loss for such year or period, determined in accordance with Section 703 (a) of the Code.

5.28 "Reserve Amount"

means the amount from time to time established by the Board Of Directors as a reserve to meet the reasonably anticipated working capital needs of the Company.

5.29 "Selling Member"

means a Member desires to sell any of his or her Membership Interests.

5.30 "Sharing Ratios"

means the percentages in which Members participate in and bear, certain items.

5.31 "Substituted Member"

means a Transferee, other than an existing Member, of the Membership Interest who may be admitted as a Member with respect to such Membership Interest.

5.32 "Successor in Interest"

means an Assignee, a successor of a Person by merger or otherwise by operation of law, or a transferee of all or substantially all of the business or assets of a Person.

5.33 "Cause"

means (A) a finding by a court or other government body or a plea or similar agreement admitting that an act or omission constitutes a felony under the laws of the United States or the state of Texas, or a violation of the securities law of any United States governmental or self-regulatory body, (B) a material and/or fiduciary breach of this agreement, or (C) fraudulent behavior.

5.34 "Adjusted Capital Account"

means, with respect to a Member, such Member's Capital Account as of the end of each fiscal year, as the same is specially computed to reflect the adjustments

required or permitted to be taken into account in applying Regulations Section 1.704-1(b)(2)(ii)(d) (including adjustments for Partnership Minimum Gain and Partner Nonrecourse Debt Minimum Gain).

5.35 “Code”

means the Internal Revenue Code of 1986, as amended from time to time, and any corresponding provisions of succeeding law.

5.36 “Depreciation”

means, for each taxable year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable with respect to an asset for the 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 the year or other period, Depreciation will be an amount which bears the same ratio to the beginning Gross Asset Value as the federal income tax depreciation, amortization or other cost recovery deduction for the year or other period bears to the beginning adjusted tax basis, provided that if the federal income tax depreciation, amortization, or other cost recovery deduction for the year or other period is zero, Depreciation will be determined with reference to the beginning Gross Asset Value using any reasonable method selected by the Board Of Directors.

5.37 “Partner Nonrecourse Debt”

has the meaning assigned to it in Regulations Sections 1.704-2(b)(4) and 1.752-2.

5.38 “Partner Nonrecourse Debt Minimum Gain”

has the meaning assigned to it in Regulations Section 1.704-2(i)(3).

5.39 “Partner Nonrecourse Deductions”

has the meaning assigned to it in Regulations Section 1.704-2(i)(2).

5.40 “Partnership Minimum Gain”

has the meaning assigned to it in Regulations Section 1.704-2(d).

5.41 “Profits” and “Losses”

mean, for each taxable year or other period, an amount equal to the Company’s taxable income or loss for the year or other period determined in accordance with Section 703(a) of the Code (including all items of income, gain, loss or deduction required to be stated separately under Section 703(a)(1) of the Code), with the following adjustments:

- Any income that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses will be added to taxable income or loss;
- Any expenditures described in Code Section 705(a)(2)(B) or treated as Section 705(a)(2)(B) expenditures under Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses, will be subtracted from taxable income or loss;
- Gain or loss resulting from any disposition of property with respect to which gain or loss is recognized for federal income tax purposes will be computed by reference to the Gross Asset Value of the property, notwithstanding that the adjusted tax basis of the property differs from its Gross Asset Value;
- In lieu of depreciation, amortization and other cost recovery deductions taken into account in computing taxable income or loss, there will be taken into account Depreciation for the taxable year or other period;

5.42 “Regulations”

means the regulations promulgated by the United States Department of the Treasury pursuant to and in respect of provisions of the Code. All references herein to sections of the Regulations shall include any corresponding provisions of succeeding, similar, substitute proposed or final Regulations.

6 Common terms and conditions

6.1 Not registered securities

THE LIMITED LIABILITY COMPANY UNITS REFERRED TO HEREIN (THE “UNITS”) HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “1933 ACT”).

SUCH INTERESTS ARE BEING OFFERED OR SOLD UNDER THE EXEMPTION PROVIDED BY SECTION 4(2) OF THE 1933 ACT AND RULE 506 THEREUNDER NOR HAVE THEY BEEN REGISTERED UNDER THE SECURITIES OR BLUE SKY LAWS OF ANY OTHER JURISDICTION.

A PURCHASER OR RECEIVER OF UNITS MUST BE PREPARED TO BEAR THE ECONOMIC RISK OF THE INVESTMENT FOR AN INDEFINITE PERIOD OF TIME BECAUSE THE UNITS HAVE NOT BEEN REGISTERED UNDER THE 1933 ACT AND, THEREFORE, CANNOT BE SOLD UNLESS THEY ARE SUBSEQUENTLY REGISTERED OR AN EXEMPTION FROM REGISTRATION IS AVAILABLE.

THERE IS NO OBLIGATION OF THE ISSUER TO REGISTER THE UNITS UNDER THE 1933 ACT.

6.2 Entire Agreement

All parties agree that this Agreement is the final, complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement.

This Agreement and its exhibits constitute the entire agreement between the parties. Except as otherwise provided herein, no amendments to this Agreement shall be binding upon any Member unless set forth in a document duly executed by such Member.

The parties will amend this agreement only by cosigned, written agreement.

6.3 Binding Arbitration and waiver of rights

IF FOR ANY REASON THIS ARBITRATION CLAUSE BECOMES NOT APPLICABLE, THEN EACH PARTY, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY OR BENCH TRIAL AS TO ANY ISSUE RELATING HERETO IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER MATTER INVOLVING THE PARTIES HERETO.

Any controversy, claim or dispute arising out of or relating to this Agreement, shall be settled by binding arbitration in Pflugerville TX at the companys primary place of business located at <>

All such controversies, claims or disputes shall be settled in this manner in lieu of any action at law or equity.

The following rights are irrevocably waived now and forever more:

- rights to sue in all possible venues
- trial by Judge
- trial by Judge/Jury
- trial by any other form either previously used, currently in use, or used in the future
- public or private disclosure of any Member conflict with the Company

Such arbitration shall be conducted in accordance with the then prevailing commercial arbitration rules of American Arbitration Association (“**AAA**”), with the following exceptions if in conflict:

- one arbitrator shall be chosen by the AAA (the “**Arbitrator**”);
- each party to the arbitration will pay its pro rata share of the expenses and fees of the arbitrator, together with other expenses of the arbitration incurred or approved by the Arbitrator;

- arbitration may proceed in the absence of any party if written notice (pursuant to the Arbitrator's rules and regulations) of the proceeding has been given to such party.
- The parties agree to abide solely by all decisions and awards rendered in such proceedings.
- Such decisions and awards rendered by the arbitrator shall be final and conclusive.
- The Arbitrator shall not have the right to award punitive damages or speculative damages to either party and shall not have the power to amend this Agreement.

6.4 Ownership of Property and No Right of Partition

- A Member's interest in the Company shall be personal property for all purposes.
- No Member shall have any right to partition the property owned by the Company.
- The Membership Interest:

IS NOT

and

SHALL NOT

be considered community property at any time (including but not limited to):

- before the execution of this Agreement
- after this Agreement is executed
- while the Agreement is in effect
- after the Agreement is no longer in effect due to resignation or expulsion
- By signing this agreement, Member hereby agrees that:
- any and all rights
- any and all interests

under this agreement (and applicable law incorporated by reference) are hereby:

- suspended
- revoked
- rendered null and void now and forever more.

for any

- spouse

- significant other
- domestic partner
- any future lawful definition of a similar type of close/constant party

6.5 Involvement of Members in Certain Proceedings

Should any Member become involved in legal proceedings unrelated to the Company's business in which the Company is required to provide books, records, an accounting, or other information, then such Member :

- shall indemnify the Company from all expenses incurred in conjunction therewith.
- Member agrees that this involvement in such a proceeding may be considered a:
 - material breach of contract
 - violation of Duty Of Care
 - violation of Fiduciary Duty

and agrees that the Member may face immediate expulsion for exposing the Company in such an irresponsible manner and that the Company may pursue the Member for any and all remedies under law.

6.6 No Third-Party Enforcement

Only the parties to this agreement may enforce rights under this agreement.

6.7 Waiver

No consent or waiver, express or implied, by any Member of any breach or default by any other Member in the performance by the other Member of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such other Member of the same or any other obligation hereunder. Failure on the part of any Member to complain of any act or to declare any other Member in default, irrespective of how long such failure continues, shall not constitute a waiver of rights hereunder.

6.8 Severability

If any provision of this Agreement or the application thereof to any Person or circumstances shall be judged by any court of competent jurisdiction to be unenforceable or invalid, to any extent, and such invalidity or unenforceability does not destroy the basis of the bargain between the parties, then the remainder of this Agreement and the application of such provisions to other Persons or

circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

6.9 Legal Relationship

The parties to this agreement remain independent parties. This agreement does not create any partnership, joint venture, agency, or similar relationship between the parties.

6.10 No Assignment or Delegation

- No party may assign any right or delegate any obligation under this agreement
- This Agreement is not assignable or transferable by Member
- Any attempt to assign or delegate will have no legal effect.
- No failure to exercise, and no delay in exercising, on the part of either party, any privilege, any power or any rights hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right or power hereunder preclude further exercise of any other right hereunder.

6.11 Governing Law

This Agreement and the obligations of the Members hereunder shall be construed and enforced in accordance with the laws of the State of Texas, excluding any conflicts of law rule or principle which might refer such construction to the laws of another state or country.

6.12 Signature

An electronically signed copy of this agreement delivered by e-mail or other electronic means has the same legal effect as delivering a printed and signed original.

6.13 Notices

- The parties shall send every notice, demand, consent, request, or other communication required or allowed by this agreement by e-mail to the e-mail address the other party provided with their signature
- All notices given in accordance with this Agreement shall be effective upon delivery at the e-mail address of the addressee.
- By giving written notice thereof, each Member shall have the right from time to time to change its address pursuant hereto.

6.14 No Agreement to Employ

Nothing in this Agreement shall affect any right that Participant may have to be employed or to maintain employment or a similar relationship (if applicable) with the Company or with any affiliated entity.

6.15 Captions, References

Pronouns wherever used herein, and of whatever gender, shall include natural persons and corporations and associations of every kind and character, and the singular shall include the plural wherever and as often as may be appropriate. Article and section headings are for convenience of reference and shall not affect the construction or interpretation of this Agreement. Whenever the terms “hereof,” “hereby,” “herein,” or words of similar import are used in this Agreement they shall be construed as referring to this Agreement in its entirety rather than to a particular section or provision, unless the context specifically indicates to the contrary. Any reference to a particular “Article” or a “Section” shall be construed as referring to the indicated article or section of this Agreement unless the context indicates to the contrary.

6.16 Place of Business and Office; Resident Agent

The address of the registered agent of the Company for service of process on the Company in the State of Texas (and also the Company primary office) is located at: <>

6.17 Term

The term of the Company shall commence upon the filing of the Certificate of Formation with the Texas Secretary of State and shall have perpetual existence unless it shall be dissolved and its affairs shall have been wound up as provided in Section Dissolution and Winding Up of Business.

6.18 Qualification in Other Jurisdictions.

The Company may register in any other jurisdiction upon the approval of the Board Of Directors.

6.19 No State Law Partnership.

The Company shall not be a partnership or joint venturer under any state or federal law, and no Member or Director shall be a partner or joint venture of any other Member or Director for any purposes; other than under the Code or other applicable tax laws, and this Agreement may not be construed otherwise.

6.20 General Restrictions on Dispositions of Membership Interests

A Member may not make an assignment, transfer or other disposition (voluntarily, involuntarily or by operation of law) (a “**Transfer**”) of all or any portion of his or her Membership Interest, nor pledge, mortgage, hypothecate, grant a security interest in, or otherwise encumber (an “**Encumbrance**”) all or any portion of its Membership Interest,

Any attempted Transfer of all or any portion of a Membership Interest, shall be void and result in the immediate (no vote required) expulsion of the Member and forfeiture of Member interest and the right of the Company to pursue the Member for any and all remedies under law.

#Profit Interests

6.21 Introduction

The Profits Interest Units below are issued to Party on the terms and conditions set forth in this Agreement.

Party shall make no Capital Contribution to the Company in connection with the Profits Interest Units issued hereunder and, as a result, Parties Capital Account balance in the Company immediately after their receipt of the Profits Interest Units shall be equal to zero.

Notwithstanding anything to the contrary contained in the LLC Agreement or set forth herein, with respect to the rights of Party related to, in respect of and in connection with the Company, Board Of Directors and other Members, Party and the Profits Interest Units owned thereby shall have only a right to share in or be allocated Net Profits and Net Losses and receive or share in distributions of the Company as set forth in the Agreement.

Party agrees to execute a counterpart signature page to the Agreement, in the form attached hereto and shall thereupon become a Member as of the Effective Date.

The Profits Interest Units acquired pursuant to this Agreement shall be fully subject to the terms and conditions contained in this Agreement, and Party hereby acknowledges that Participant has read and understands the terms and conditions contained therein.

6.22 Prohibition on Transfer of Profits Interest Units

The Profits Interest Units acquired pursuant to this Agreement may not be transferred, sold, pledged, hypothecated or otherwise disposed of, voluntarily or involuntarily, by operation of law or otherwise,

6.23 Investment Representations

Participant acknowledges that he or she is aware that the Profits Interest Units issued to him by the Company pursuant to this Agreement have not been registered under the Securities Act of 1933, as amended (the “Securities Act”), on the basis of certain exemptions from such registration requirement. In this connection,

6.24 Section 83(b) Election.

Participant shall execute and deliver to the Company with this executed Agreement, a copy of the Acknowledgment and Statement of Decision Regarding Election Pursuant to Section 83(b) of the Internal Revenue Code (the “Acknowledgment”) substantially in the form attached hereto.

Participant shall execute and submit with the Acknowledgment a copy of the Election Pursuant to Section 83(b) of the Internal Revenue Code, substantially in the form attached hereto if Participant has indicated in the Acknowledgment his or her decision to make such an election.

Participant represents that Participant is not relying on the Company with respect to such decision and has consulted any tax consultant(s) that Participant deems advisable in connection with the filing of an election under Section 83(b) of the Code and similar tax provisions.

Participant acknowledges that it is Participant’s sole responsibility and not the Company’s to timely file an election under Section 83(b) of the Code, even if Participant requests that the Company or any representative of the Company make such filing on Participant’s behalf.

Participant should consult his or her tax advisor to determine if there is a comparable election to file in the state of his or her residence and whether such filing is desirable under the circumstances.

6.25 Taxes

The Company and Party intend that (i) the Profits Interest Units be treated as “profits interests” within the meaning of the Code, Treasury Regulations promulgated thereunder, and any published guidance by the Internal Revenue Service with respect thereto, including, without limitation, Internal Revenue Service Revenue Procedure 93-27, as clarified by Internal Revenue Service Revenue Procedure 2001-43, (ii) the issuance of such interests not be a taxable event to the Company or Participant as provided in such Revenue Procedure, and (iii) the Agreement be interpreted consistently with such intent.

In furtherance of such intent, effective immediately prior to the issuance of the Profits Interest Units, the Company will cause the Gross Asset Value (as defined in the Agreement) of all Company assets to be adjusted to equal their respective

gross fair market values, and make the resulting adjustments to the Capital Accounts of the Members, in each case as set forth in the Agreement.

The Company may withhold from Participant's wages, or require Participant to pay to the Company, any applicable withholding or employment taxes resulting from the issuance of the Profits Interest Units hereunder, from the vesting or lapse of any restrictions imposed on the Profits Interest Units, or from the ownership or disposition of the Profits Interest Units.

6.26 Code Section 409A

The Profits Interest Units are not intended to constitute or provide for "nonqualified deferred compensation" within the meaning of Section 409A of the Code ("Section 409A"), and, provided that Section 409A of the Code, Treasury Regulations and related Department of Treasury guidance do not require otherwise, the Company shall not treat the Profits Interest Units as nonqualified deferred compensation. However, notwithstanding any other provision of this Agreement, if at any time the Board Of Directors determine that the Profits Interest Units may be subject to Section 409A, the Board Of Directors shall have the right, in their sole discretion, to adopt such amendments to this Agreement or take such other actions (including amendments and actions with retroactive effect) as the Board Of Directors determine are necessary or appropriate for the Profits Interest Units to be exempt from the application of Section 409A or to comply with the requirements of Section 409A; provided, however, if such action would diminish the value of the Profits Interest Units, such action may not be taken without Members written consent.

6.27 ACKNOWLEDGMENT AND STATEMENT OF DECISION REGARDING ELECTION PURSUANT TO SECTION 83(b) OF THE INTERNAL REVENUE CODE

The undersigned, a Member of the "Company" and holder of Profits Interest in the Company designated as "Profits Interest Units" (the "Award") of the Company, hereby states, as of the date of issuance of the Award, as follows:

1. The undersigned acknowledges receipt of a copy of the Agreement. The undersigned has carefully reviewed the Agreement.
2. The undersigned either [check as applicable]: _____ (a) has consulted, and has been fully advised by, the undersigned's own tax advisor,

_____,
whose business address is _____,
regarding the federal, state and local tax consequences of being issued the Award under the Agreement, and particularly regarding the advisability of making elections pursuant to Section 83(b) of the Internal Revenue Code

of 1986, as amended (the “Code”), and pursuant to the corresponding provisions, if any, of applicable state laws; or

_____ (b) has knowingly chosen not to consult such tax advisor.

3. The undersigned hereby states that the undersigned either [check as applicable]:

_____ (a) has decided to make an election pursuant to Section 83(b) of the Code and is submitting to the Company, together with the undersigned’s executed Agreement, a copy of an executed election form which is attached to the Agreement; or

_____ (b) has knowingly chosen not to make an election pursuant to Section 83(b) of the Code.

4. Neither the Company nor any subsidiary or representative of the Company has made any warranty or representation to the undersigned with respect to the tax consequences of the issuance of the Award to the undersigned pursuant to the Agreement or of the making or failure to make an election pursuant to Section 83(b) of the Code or corresponding provisions, if any, of applicable state law.
5. The undersigned is also submitting to the Company, together with the Agreement, a copy of an executed election form, if an election is made, of the undersigned pursuant to provisions of state law corresponding to Section 83(b) of the Code, if any, which are applicable to the issuance of the Award to the undersigned pursuant to the Agreement.

ELECTION PURSUANT TO SECTION 83(b) OF THE INTERNAL REVENUE CODE TO INCLUDE IN GROSS INCOME THE EXCESS OVER THE PURCHASE PRICE, IF ANY, OF THE VALUE OF PROPERTY TRANSFERRED IN CONNECTION WITH SERVICES

The undersigned hereby elects pursuant to Section 83(b) of the Internal Revenue Code of 1986, as amended, to include in the undersigned’s gross income for the taxable year the excess (if any) of the fair market value of the property described below, over the amount the undersigned paid for such property, if any, and supplies herewith the following information in accordance with the Treasury regulations promulgated under Section 83(b):

1. The undersigned’s name, address and taxpayer identification (social security) number are: Name:
Address:
TIN:
2. The property with respect to which the election is made consists of [•] Units in the Company designated as “Profits Interest Units” (the “Award”) of the Company representing an interest in the future profits, losses and distributions of the Company.

3. The date on which the above property was transferred to the undersigned was [•], and the taxable year to which this election relates is [•].
4. The above property is subject to the following restrictions:
 - (a) forfeiture and/or a right of repurchase by the Company if the undersigned ceases to be an employee of, or consultant or service provider to, the Company under certain circumstances pursuant to the LLC Agreement of the Company, as amended from time to time (the “LLC Agreement”), and
 - (b) certain other restrictions pursuant to the LLC Agreement should the undersigned wish to transfer the Award (in whole or in part).
5. The fair market value of the above property at the time of transfer (determined without regard to any restrictions other than those which by their terms will never lapse) is \$0.
6. The amount paid for the above property by the undersigned was \$0.
7. A copy of this election has been furnished to the Company, and the original will be filed with the income tax return of the undersigned to which this election relates.

7 Resignation and Removal of Members

7.1 Expulsion of a member for Cause

Expulsion of a Member requires an affirmative vote by a 2/3 or greater majority of the Board Of Directors (in accordance with the Board Manual and Charter in effect at that time) and by written unanimous consent of the Company Members.

The Member subject to expulsion is not eligible to vote in the proceeding.

The Member subject to expulsion forfeits all equity/interests/rights/contributions and any/all Membership interest immediately upon expulsion.

7.2 Self withdrawal of a Member

Self withdrawal of a Member requires an affirmative vote by a 2/3 or greater majority of the Board Of Directors (in accordance with the Board Manual and Charter in effect at that time) and by written unanimous consent of the Company Members.

The Member requesting self withdrawal is not eligible to vote in the proceeding.

The Member subject to expulsion forfeits all equity/interests/rights/contributions and any/all Membership interest immediately upon resignation.

8 Outside Capital Raising

insert any terms and conditions here. . . .

perhaps mention sources of revenue, markets being pursued etc. . .

8.1 Non Equity and Non Debt based

Capital will be primarily sought through the pursuit of abc from xyz (but not limited to):

-
-
-
-
-

8.2 Restrictions on Capital Sources

-
-

8.3 Equity Based Raises

8.3.1 General Conditions and Requirements

Any grant of equity in exchange for outside capital investment in the Company shall be on the following (or substantially similiar) terms and conditions , and require unanimous written consent of the Members and the Board Of Directors.

8.3.2 Terms and Conditions

[PUBLIC] Earnest Shared Earnings Agreement v1.3 SHARED EARNINGS AGREEMENT BETWEEN EARNEST CAPITAL AND Company.

Date

The following is a summary of the principal terms with respect to the proposed financing of _____ (the “Company”). Except for the section entitled “Confidentiality,” this summary of terms does not constitute a legally binding obligation. The parties intend to enter into a legally binding obligation only pursuant to definitive agreements to be negotiated and executed by the parties. Amount of Investment

\$ _____

Shared Earnings By the 10th day of each quarter, the Company will pay the Investor the Percentage (as defined below) of: the Company’s Founder Earnings

(as defined below) less the proportional Founder Earnings Threshold (as defined below),
in the preceding quarter.

Shared Earnings shall continue until the Investor has received the Shared Earnings Cap.

The Percentage The Percentage shall be ____%.

Net Income Net Income means net income determined in accordance with GAAP.

Founder Earnings Founder Earnings means Net Income, adding back any founders' salaries.

Founder Earnings Threshold \$_____ per founder per year.

Shared Earnings Cap The Shared Earnings Cap will be ___X the investment amount.

Equity Basis The Equity Basis will be the greater of (i) any unpaid portion of the Shared Earnings Cap, or (ii) the Amount of Investment.

Equity Conversion The Investor has the right, at its option, to convert the Equity Basis into the shares sold by the Company in its next fixed-price round of financing, at a price per share equal to the lesser of (i) the price of the securities sold in the next financing, or (ii) at a price per share calculated by dividing the Valuation Cap (defined below) by all issued and outstanding shares plus all shares reserved for issuance under any equity incentive plan at the time of the closing of the next financing.

Valuation Cap \$_____

Sale On a sale of the Company, the Investor is entitled to receive the greater of (i) any unpaid amount of the Shared Earnings Cap or (ii) the amount the Investor would be entitled to receive if it converted the Equity Basis at the Valuation Cap.

Information Rights The Investor is entitled to standard information and inspection rights including any records of accounting necessary to verify Shared Earnings calculations.

Board Observer The Investor will be entitled to attend Board Meetings as an observer upon its request, subject to executing a standard form observer confidentiality agreement.

Participation Rights The Investor will have the right to participate on a pro rata basis in subsequent issuances of Membership Interests, subject to customary exclusions.

Confidentiality Without the consent of the Investor, the Company shall not disclose these terms to anyone other than the Company's officers, directors, and key service providers.

COMPANY:

Name:

Title:

Date:

INVESTOR:

Name:

Title:

Date:

9 Creation of Additional Membership Interests

Additional Membership Interests may be created and issued to existing or new Members or Persons, and such other Persons may be admitted to the Company as Members in one or more classes, with the unanimous written consent of the Board Of Directors, and all Company Members on such terms and conditions as the Board Of Directors and Company Members may approve at the time of admission.

The creation of new Membership Interests, the admission of any new Members, or the creation of any new class or group of Members in accordance with this Agreement may

- (i) result in the dilution of the Sharing Ratios of existing Members
- (ii) be reflected as an amendment to this Agreement or a Supplement which shall be valid if executed by the entirety of the Board Of Directors, all existing Company Members and the new Member.

10 Rights to Company Information

In addition to the other rights specifically set forth in this Agreement, each Member is entitled to the following information under the circumstances and conditions set forth in the BOC:

- true and full information regarding the status of the business and financial condition of the Company
- promptly after becoming available, a copy of the Company's federal, state and local income tax returns for each year
- a current list of the name and last known business, or mailing address of each Member and Director
- a copy of this Agreement, the Company's Certificate of Formation, and all amendments to such documents

- true and full information regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each Member and which each Member has agreed to contribute in the future, and the date on which each became a Member
- other information regarding the affairs of the Company to which that Member is entitled pursuant to the BOC (including all the Company books and records)

11 Liability to Third Parties

No Member or Director, solely by reason of being a member or Director, shall be liable for the debts, obligations, or liabilities of the Company.

12 Management of the Company

12.1 Member authority

Company Members shall be fully empowered and authorized to implement the terms and provisions of the Board Of Directors approved Business Plan and Annual Budget on behalf of the Company, subject to the limitations set forth in Section “Major Decisions”.

The Company may rely upon any action taken or document executed by the any Officer without duty of further inquiry and may assume that such Officer has the requisite power and authority to take the action or execute the document in question.

12.2 Major Decisions

- causing the Company to enter into any agreement which would subject the Company or its assets to any recourse liability for borrowings, or for capital contributions to any Person;
- causing the Company to grant any interests in the assets, profit, and income of the Company;
- causing a dissolution of the Company;
- regarding the Company assets, any sale, transfer, exchange, mortgage, financing, hypothecation or encumbrance of all or any part thereof, or any modification of the terms of the foregoing;
- regarding the Company financial affairs, (A) determination of major accounting policies including selection of accounting methods and making various decisions regarding treatment and allocation of transactions for federal and state income, franchise or other tax purposes (B) determination

of the terms and conditions of all borrowings of the Company and the identity of the lender thereof (or (i) applicable Budget therefor;

- regarding the Company operations, approval of insurance coverages, the underwriters thereof and claims related thereto, the settlement of any litigation that is not fully covered by insurance involving more than \$1000.00, entering into any contract which obligates the Company for more than \$500.00 (except to the extent expressly set forth in an Annual Budget) or which cannot be cancelled without payment of a cancellation fee or other premium on not more than 30 days prior notice; and entering into any lease for office space;
- filing of any petition or consenting to the filing of any petition that would subject the Company to a bankruptcy or similar proceeding;
- any other action which, considered before the taking thereof, could reasonably be expected to have a material effect upon the business or affairs of the Company or is a breach of fiduciary duty.

12.3 Annual requirements of members

Not later than February 1 of each year, the Members shall deliver to the Board Of Directors a detailed proposed business plan (the “**Business Plan**”) for the Company’s next succeeding fiscal year, which shall include the proposed budget for such year (the “**Annual Budget**”).

12.4 Business Plan and Annual Budget

The Business Plan and Annual Budget shall contain such other information as the Members wishes to include and shall contain such information as the Board Of Directors may request.

The Board Of Directors will review the proposed Annual Budget and Business Plan, and subject to required revisions, approve the same for the next succeeding fiscal year no later than February 15 of each year.

The Business Plan and Annual Budget shall include projected revenues, expenses for the year in question, projected investment activities and such other matters as the Members and Board Of Directos may deem appropriate. If the Annual Budget provides for a contingency or similar line item, then unless otherwise specifically provided to the contrary therein, the Members shall be empowered to expend the amount set forth in such line item for the Company obligations. If the Business Plan is not approved by the date set forth above, then:

- any items or portions thereof that have been approved will become operative immediately
- with respect to the Annual Budget, the Members may expend, in respect of noncapital or recurring expenses in any quarter of the then current calendar

year, an amount equal to the budget amount for the corresponding quarter of the immediately preceding calendar year, as set forth on the last approved Annual Budget after giving effect to any material changes to the Company or its properties during the prior year; however, if any contract approved as a part of any prior approved Annual Budget or Business Plan provides for automatic increases in costs thereunder after the beginning of the then current calendar year, then the Members may expend the amount of that increase.

Following submission and recording of the final version of the Business Plan and Annual Budget, the Members shall be authorized to take the actions, incur obligations and make the expenditures therein expressly set forth. The Members shall not have any authority or power to take any action on behalf of the Company that would constitute a Major Decision, unless it has been expressly approved in writing by the Board Of Directors.

12.5 Compensation of Members

Except as otherwise specifically provided herein, no compensatory payment shall be made by the Company to any Member for the services to the Company.

12.6 Officers

The Board Of Directors may from time to time, designate one or more Persons to be officers or agents of the Company (an “**Officer**”). Any Officer so designated shall have such title and authority and perform such duties as the Board Of Directors may, from time to time, designate. Unless the Board Of Directors decides otherwise, if the title is one commonly used for officers of a business corporation, the assignment of such title shall constitute the delegation to such Officer of the authority and duties that are normally associated with that office, subject to any specific delegation of authority and duties made to such Officer by the Board Of Directors. Each Officer shall hold office until his successor shall be duly designated and shall qualify or until his death or until he shall resign or shall have been removed. The salaries or other compensation, if any, of the Officers and agents of the Company shall be fixed from time to time by the Board Of Directors. Any Officer may resign as such at any time. Any Officer may be removed as such, with or without Cause, by the Board Of Directors. Designation of an Officer shall not, in and of itself, create contract rights.

13 Duty of care

Each Member shall discharge their duties in a good and proper manner as provided for in this Agreement. Each Member, on behalf of the Company shall enforce agreements entered into by the Company and conduct or cause to be conducted the ordinary business and affairs of the Company in accordance with good industry practice and the provisions of this Agreement.

14 Indemnification; Reimbursement of Expenses; Insurance

To the fullest extent permitted by law, and subject to the limitations set forth in this Section, and with, in each case, the Board Of Directors prior approval:

- the Company may (at the Members sole discretion) indemnify each Director or Member for any Adverse Consequences that a Director or Member may suffer including, but not limited to, any Director, or Member who, is to be made a party to any pending or completed action, suit or proceeding (“**Proceeding**”), any appeal therein, or any inquiry or investigation preliminary thereto, solely by reason of the fact that he or she is or was a Director, Member and was acting within scope of duties or under the authority of the Company and was not in breach of agreements or violating fiduciary responsibility as determined by the Members;
- the Company may (at the Members sole discretion) pay a Director or Member for expenses incurred by him or her:
 - (1) in advance of any deposition of a Proceeding to which such Director or Member is a party, and
 - (2) in connection with his or her appearance as a witness or other participation in any Proceeding.

Such indemnification may also include counsel fees.

The Company may indemnify and advance expenses to an employee or agent of the Company to the same extent and subject to the same conditions under which it may indemnify and advance expenses to the Director or Members under the preceding sentence.

The provisions of this Section shall not be exclusive of any other right under any law, provision of the Certificate or this Agreement, or otherwise.

Notwithstanding the foregoing, this indemnity shall not apply to actions constituting :

- gross negligence
- simple negligence
- willful misconduct
- bad faith
- involving a material or fiduciary breach of this Agreement or the duties set forth herein,
- any other reason in the Members and/or Board Of Directors discretion which reason, in the Board Of Directors or Members reasonable opinion, causes a substantial loss to the Company.

14.1 Option to Purchase Insurance

The Company may purchase and maintain insurance to protect itself and any Director, Member, employee or agent of the Company, whether or not the Company would have the power to indemnify such Person under this Section.

14.2 Limits of Coverage

This indemnification obligation shall be limited to \$1,000.00 and no Member shall be required to make a Capital Contribution in respect thereof.

15 Accounts and Records

15.1 Records and Accounting; Reports; Fiscal Affairs

Proper and complete records and books of accounting of the business of the Company, including a list of names, addresses and interests of all Members, shall be maintained under the direction of the Board Of Directors at the Company's principal place of business. Each Member or his or her duly authorized representative may examine the books of account of the Company records, reports and other papers regarding the business and financial condition of the Company, make copies and extracts therefrom at such Member's expense, and discuss the affairs, finances and accounts of the Company with independent public accountants of the Company, all at such reasonable times and as often as may be reasonably requested.

The books and records of the Company shall be kept on a cash basis in accordance with generally accepted accounting principles applied on a consistent basis, and in all events shall conform with Generally Accepted Accounting Policies and Procedures.

15.2 Fiscal Year End

The fiscal year end of the Company shall be December 31.

15.3 Keeper of the Books

At all times during the term of existence of the Company, and beyond that term if deemed by Board Of Directors to be necessary, the CFO shall keep or cause to be kept the books of accounts referred to in this section and the following:

- A current list of the full name and last known business or residence address of each Member and Director, together with the Capital Contribution and the share in Profits and Losses of each Member;
- A copy of the Certificate of Formation, as amended;
- Executed counterparts of this Agreement, as amended;

- Executed Supplements and Consents, if any;
- Any powers of attorney under which the Company takes action;
- Copies of the Company's federal, state, and local income tax or information returns and reports, if any, for the six (6) most recent taxable years;
- Financial statements of the Company for the six (6) most recent fiscal years; and
- All Company records as they relate to the Company's internal affairs for the current and past four (4) fiscal years.

15.4 Member Examination of Records

Each Member, at its expense and under the circumstance and conditions set forth in the BOC, may at all reasonable times during usual business hours, audit, examine and make copies of account records, files and bank statements of the Company. Such right may be exercised by any Member or by its designated agents or employees.

15.5 Bank Accounts

All funds of the Company shall be deposited in one or more accounts with one or more recognized financial institutions in the name of the Company, at such locations as shall be determined by the Board Of Directors and CFO. Withdrawal from such accounts shall require the signature of such Person or Persons as the Board Of Directors and Members jointly designate.

15.6 Members' Tax Requirements

Within fifteen (15) days after the end of each taxable year, the Company shall forward to each Member all information necessary for the Members to complete their federal and state income tax or information returns, and a copy of the Company's federal, state, and local income tax or information returns for such year.

15.7 Membership Records

The

- name
- e-mail address
- Capital Contributions
- Percentage Interest

of each of the Members is set forth in Supplement 4.

16 Capital Contributions and Finance

16.1 Capital Contribution

No Member shall have any obligation to make any Capital Contribution. Company members, in their sole and absolute discretion, may at any time elect to fund or not fund further Capital Contributions with respect to the Company or any Investment, Investment Entity, without any liability whatsoever to the Company or any Member, even if such failure to contribute results in the loss of any opportunity or the forfeiture of any Investment or interest in any Investment Entity, or results in any other penalty or liability.

16.2 Return of Contributions

Except as expressly provided herein, no Member shall be entitled to the return of any part of its Capital Contributions, to be paid interest in respect of either its Capital Account or any Capital Contribution made by it or paid for the fair market value of its Membership Interest upon withdrawal or otherwise.

Unrepaid Capital Contributions shall not be a liability of the Company, or of any Member.

No Member shall be required to contribute or lend any cash or property to the Company to enable the Company to return any Member's Capital Contributions.

16.3 Member Guaranties

No Member shall undertake to guarantee or otherwise become liable for any obligation of the Company, or any Investment Entity.

16.4 Investments

Investments. All Investments by the Company shall be made on such terms and conditions as the Board Of Directors and Members may determine.

17 Distributions to Members

17.1 Distributions in General

From time to time, but not less often than monthly, the CEO and CFO shall determine (i) the amount, if any, by which the Company's funds then on hand exceed the Reserve Amount (such excess being referred to herein as "**Excess Funds**").

If the CEO and CFO determines that there are Excess Funds subject to distribution but that additional Capital Contributions will be required for future Company needs within the next two (2) calendar month period, then the CEO and CFO may elect to not make a distribution of such Excess Funds.

Not later than the 15th day of each calendar month, the Excess Funds derived from the business shall be distributed to the Company Members in accordance with their Sharing Ratios.

17.2 Withholding

The Company may withhold distributions or portions thereof if it is required to do so by any applicable rule, regulation, or law, and each Member hereby authorizes the Company to withhold from or pay on behalf of or with respect to such Member any amount of federal, state, local or foreign taxes that the Board Of Directors, CEO and CFO reasonably determines that the Company is required to withhold or pay with respect to any amount distributable or allocatable to such Member pursuant to this Agreement. Any amounts so paid or withheld with respect to a Member pursuant to this Section shall be treated as having been distributed to such Member and shall reduce any amounts otherwise distributable to such Member (either currently or in the future) pursuant to Section “Distributions to Members” or Section “Withdrawal, Dissolution, Liquidation and Termination”.

The Company desires to issue Units in respect of the Company designated as “Profits Interest Units” to Participant in connection with Participant’s performance of services to or for the benefit of the Company.

18 Withdrawal, Dissolution, Liquidation and Termination

18.1 Dissolution, Liquidation, and Termination Generally

The Company shall be dissolved upon the first to occur of any of the following:

- The sale or disposition of all assets of the Company and the receipt, in cash, of all consideration therefor, and the determination of the Board Of Directors and all Members not to continue the business of the Company directly or through an Investment Entity.
- The occurrence of any event which, as a matter of law, requires that the Company be dissolved.

18.2 Liquidation and Termination

Upon dissolution of the Company such Person as the Board Of Directors may designate shall act as liquidator. The liquidator shall proceed diligently to wind up the affairs of the applicable Company and make final distributions as provided herein. The costs of liquidation shall be a Company expense, as applicable. Until final distribution, the liquidator shall continue to operate the Company with all of the power and authority of the Board Of Directors, as applicable hereunder. The steps to be accomplished by the liquidator are as follows:

- as promptly as possible after dissolution and again after final liquidation, the liquidator shall cause a proper accounting to be made by a firm of certified public liquidator, which shall cause a proper accounting to be made by a firm of certified public accountants acceptable to the Board Of Directors of the Company’s assets, liabilities, and operations through the last day of the calendar month in which the dissolution shall occur or the final liquidation shall be completed, as applicable
- the liquidator shall cause the Company to satisfy all of the debts and liabilities of the Company and (whether by payment or the making of reasonable provision for payment thereof)
- all remaining assets of the Company shall be distributed to the Members as follows:
 - (a) the liquidator may sell any or all applicable Company property and the sum of:
 - (b) any resulting gain or loss from each sale plus
 - (c) the fair market value of such property that has not been sold shall be determined and (notwithstanding the provisions of Section Capital Accounts income, gain, loss, and deduction inherent in such property (that has not been reflected in the Capital Accounts previously) shall be allocated among the Members to the extent possible to cause the Capital Account balance of each Member to equal the amount distributable to such Member under this Section.
- Company property as applicable shall be distributed to the Members as provided in Section “Distributions to Members”.

18.3 Cancellation of Certificate.

In the case of the dissolution, liquidation and termination of the Company, on completion of the distribution of Company assets, the Board Of Directors (or such other Person as the BOC may require or permit) shall file a Certificate of Cancellation with the Secretary of State of Texas, cancel any other filings made pursuant to Section “Qualification in Other Jurisdictions”. and take such other actions as may be necessary to terminate the existence of the Company. In the case of the dissolution, liquidation and termination of the Company, the CEO shall file such certificates as may be required by the BOC or other law in respect thereof.

#Taxes

18.4 Members Bound

Members shall be bound by the provisions of this Section in reporting their shares of Company income for income tax purposes.

18.5 Tax Returns

The Board Of Directors shall cause to be prepared and filed all necessary federal and state income tax returns for the Company, including making the elections described in Section “Tax Elections”.

Each Member shall furnish to the Board Of Directors all pertinent information in its possession relating to Company operations that is necessary to enable such income tax returns to be prepared and filed.

18.6 Tax Elections.

The following elections shall be made on the appropriate returns of the Company:

- to adopt the calendar year as the Company’s fiscal year;
- to keep the Company’s books and records on the income-tax method;
- if there is a distribution of Company property as described in section 734 of the Code or if there is a transfer of a Company interest as described in section 743 of the Code, upon written request of any Member, to elect, pursuant to section 754 of the Code, to adjust the basis of Company properties; and
- to elect to amortize the organizational expenses of the Company ratably over a period of twelve (12) or sixty (60) months as permitted by section 709(b) of the Code.

No election shall be made by the Company or any Member to be excluded from the application of the provisions of subchapter K of chapter 1 of subtitle A of the Code or any similar provisions of applicable state laws.

18.7 Tax Matters Partner.

The Board Of Directors and CFO collectively shall be the “**tax matters partner**” of the Company pursuant to section 6231(a)(7) of the Code. As tax matters partner, they shall take such action as may be necessary to cause each other Member to become a “**notice partner**” within the meaning of section 6223 of the Code. Such Member shall inform each other Member of all significant matters that may come to its attention in its capacity as tax matters partner by giving notice thereof within ten days after becoming aware thereof and, within such time, shall forward to each other Member copies of all significant written communications it may receive in such capacity. Such Member shall not take any action contemplated by sections 6222 through 6232 of the Code without the consent of the Board Of Directors. This provision is not intended to authorize such Member to take any action left to the determination of an individual Member under sections 6222 through 6232 of the Code.

18.8 Allocations on Transfer of Interests.

The Company income, gain, loss or deduction allocable to any Member in respect of any interest in the Company which may have been transferred shall be allocated during such year based upon an interim closing of the Company's books as described in the first sentence of Treasury Regulations § 1.706-1(c)(2)(ii), taking into account the actual results of Company operations during the portion of the year in which such Member was the owner thereof, and the date, amount and recipient of any distribution which may have been made with respect to such interest.

19 Company NDA

19.1 Purpose

Joining the Company organization as a Member to discuss material non public information related to the Company

19.2 Governing State Law

Texas, USA

19.3 Parties involved and agreeing to Mutual Nondisclosure

"Disclosing Party" describes each party with respect to Confidential Information it discloses to the other party.

"Receiving Party" describes each party with respect to Confidential Information it receives from the other party.

19.4 Purpose

The parties anticipate disclosure of Confidential Information for the purpose on the accompanying standard form certificate (the "Purpose").

19.5 Confidential Information

19.5.1 Categories of Confidential Information

Subject to Section (Exclusions from Confidential Information), "Confidential Information" means the following kinds of information:

- information disclosed by Disclosing Party during the term of this agreement that is related to the business of Disclosing Party;
- the fact that the parties are pursuing the Purpose;
- the terms of this agreement;

- the fact that the parties have entered into this agreement; and
- other information derived from these kinds of information.

19.6 Exclusions from Confidential Information

- Public Information.

Information that is now public is not Confidential Information. Confidential Information that becomes public, other than as a result of breach of this agreement, ceases to be Confidential Information.

19.6.1 Otherwise Acquired Information

Information that Receiving Party receives other than from Disclosing Party is not Confidential Information, unless the disclosure breached a confidentiality obligation to Disclosing Party that Disclosing Party made known to Receiving Party.

- Independently Developed Information.

Information Receiving Party develops independently is not, or ceases to be, Confidential Information of Disclosing Party. Receiving Party shall bear the burden of proving independent development using contemporaneous documentary evidence.

19.7 Confidentiality Obligations

19.7.1 Nondisclosure

Except as described in Section (Permitted Disclosure), Receiving Party shall not disclose Confidential Information to anyone.

- (b) Permitted Disclosure.

Receiving Party may disclose Confidential Information to the following personnel:

- if Receiving Party is a legal entity, employees, independent contractors, officers, directors, and agents of Receiving Party (“Personnel”) who:
- have a need to know the Confidential Information to advance the Purpose;
- have entered written confidentiality agreements with Receiving Party that impose confidentiality obligations, affording as much or more protection as those of this agreement, that apply to the Confidential Information
- legal and financial advisers providing services to Receiving Party under confidentiality obligations imposed either by law or by professional rules (“Advisers”).
- (c) Limited Use.

Receiving Party shall use Confidential Information only to advance the Purpose.

- (d) Security Measures.

Receiving Party shall take measures to secure materials embodying Confidential Information at least as protective as those Receiving Party employs to secure its own Confidential Information, but in any event no less than reasonable measures.

- (e) Preserve Proprietary Notices.

Receiving Party shall not remove any proprietary notices attached to materials embodying Confidential Information.

- (f) No Illegal Dealing in Securities.

Receiving Party shall not break securities laws by purchasing, selling, or otherwise dealing in securities of Disclosing Party on the basis of Confidential Information that is material, nonpublic information. Receiving Party shall instruct anyone to whom it discloses Confidential Information that may be material, nonpublic information not to break securities laws by dealing in securities of Disclosing Party.

- (g) No Reverse Engineering.

Receiving Party shall not reverse engineer any material embodying Confidential Information.

- (h) Mitigate Legally Required Disclosure.

The following obligations apply when the law requires disclosure of Confidential Information and when Receiving Party reasonably expects that the law may require disclosure of Confidential Information:

- (i) Give Notice of Required Disclosure.

If legally permitted, Receiving Party shall promptly notify Disclosing Party of the nature of the requirement and the Confidential Information affected. If practical, Receiving Party shall give notice quickly enough to afford Disclosing Party practical chance to start a proceeding to protect the confidentiality of the Confidential Information. On Disclosing Party request, Receiving Party shall cooperate with Disclosing Party in any such proceeding by providing reasonable assistance.

- (ii) Reimburse Expenses of Cooperation.

Disclosing Party shall reimburse Receiving Party's reasonable out-of-pocket expenses of cooperating in any proceeding described in Section (Give Notice of Required Disclosure).

- (i) Give Notice of Leaks.

Receiving Party shall give Disclosing Party notice when Receiving Party becomes aware, suspects, or anticipates that Confidential Information has been or will be disclosed or used in breach of this agreement or other confidentiality agreements with Disclosing Party.

- (j) Return and Destruction.
- (i) Subject to Section (Records Policy), when this agreement terminates, Receiving Party shall promptly:
 - (A) return all materials embodying Confidential Information that Disclosing Party provided with request to return; and
 - (B) destroy all parts of other materials that embody Confidential Information.
- (k) Records Policy.

When this agreement terminates, if Receiving Party has a written records retention policy for the creation and scheduled destruction of archival or backup records, and only specialized personnel can routinely access those records, then Receiving Party may retain materials embodying Confidential Information until destroyed under that policy.

- (l) Comply with Export Controls.

Both parties shall comply with export and reexport laws with respect to Confidential Information.

- (m) Compliance and Oversight.
- (i) Receiving Party shall ensure that its Advisers abide by the confidentiality obligations of Receiving Party under this agreement. If Receiving Party is a legal entity, Receiving Party shall also ensure that its Personnel abide by the confidentiality obligations of Receiving Party under this agreement.

Breach of Receiving Party obligations by Receiving Party Personnel or Receiving Party Advisers will be deemed breach of this agreement by Receiving Party itself.

- (ii) If Receiving Party is a legal entity, Receiving Party shall provide Disclosing Party copies of confidentiality agreements with Personnel who receive Confidential Information on Disclosing Party request.

5. Clarifications.

- (a) No Obligation to Disclose. No terms of this agreement obligate Disclosing Party to disclose any Confidential Information.
- (b) No Obligation to Do Business. No terms of this agreement obligate either party to enter any business relationship or agreement, related to the Purpose or otherwise.
- (c) No License. No terms of this agreement grant any license for any patent, trademark, copyright, or other intellectual property.

- (d) No Warranty. Disclosing Party makes no warranty that Confidential Information will be complete or accurate.
 - (e) Freedom to Operate. No terms of this agreement prohibit either party from:
 - (i) entering into any business relationship with any non-party; or
 - (ii) assigning and reassigning Personnel and Advisers in its sole discretion.
6. 18 U.S.C. 1833(b) Notice.
- (a) An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that:
 - (i) is made:
 - (A) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and
 - (B) solely for the purpose of reporting or investigating a suspected violation of law; or
 - (ii) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.
 - (b) An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual:
 - (i) files any document containing the trade secret under seal; and
 - (ii) does not disclose the trade secret, except pursuant to court order.
7. Term.
- (a) Expiration. This agreement does not expire.
 - (b) Survival. Obligations under Section (Confidentiality Obligations) for Confidential Information disclosed during the term survive the term of this agreement as follows:
 - (i) Obligations for Confidential Information that Receiving Party knew or reasonably should have known constituted a trade secret survive as long as the Confidential Information remains a trade secret.
 - (ii) Obligations for other Confidential Information survive forever.

20 Company IP Assignment

20.1 Assignment of Intellectual Property

Member hereby assigns to Company exclusively and throughout the world and universe all right, title and interest (whether or not now existing) in

- (a) work done for the Company
- (b) all precursors, portions and works in progress with respect thereto
- (c) and all inventions, works of authorship, mask works, technology, information, know-how, materials and tools relating thereto or to the development, support or maintenance thereof
- (d) all copyrights, patent rights, trade secret rights, trademark rights, mask works rights, sui generis, database rights and all other intellectual and industrial property rights of any sort
- (e) all business, contract rights, causes of action, and goodwill in, incorporated or embodied in, used to develop, or related to any of the foregoing (collectively, “Intellectual Property”).

To the extent allowed by applicable law, this Section includes all rights of paternity (for example, including but not limited to the right to be identified as author), integrity, disclosure and withdrawal and any other rights that may be known as or referred to as moral rights, artist’s rights, droit moral or the like (collectively, “Moral Rights”).

To the extent Member retains any Moral Rights under applicable law, Member hereby ratifies and consents, and hereby provides all necessary ratifications and consents, to any action that may be taken with respect to such Moral Rights by or authorized by Company, and Member agrees not to assert any Moral Rights with respect thereto.

The foregoing applies to the subject matter enumerated in Exhibit A. Member will confirm any such ratification, consent or agreement from time to time as requested by Company.

20.2 Consideration

Company agrees to distribute to Member certain percentage of profit of the Company on an ongoing basis, pursuant to the provisions of this Agreement between Company and Member.

Such distributions shall be the only consideration required of Company with respect to the subject matter of this Agreement.

20.3 Further Assurances

Member agrees to assist Company in every proper way to evidence, record and perfect the Section (Assignment Of Intellectual Property) and to apply for and obtain recording of and from time to time enforce, maintain and defend the assigned rights.

If Company is unable for any reason whatsoever to secure Members signature to any document it is entitled to under this Section, Member hereby irrevocably designates and appoints Company and its duly authorized officers and agents, as his agents and attorneys-in-fact with full power of substitution to act for and on his behalf and instead of Member, only to execute and file any such document or documents and to do all other lawfully permitted acts to further the purposes of the foregoing with the same legal force and effect as if executed by Member.

20.4 Restrictions Of Use re Confidential Information and Intellectual Property of Third Parties

Member will not use, assign, disclose to the Company any technical or business information or plans of Third Parties , except to the extent Member can document that it is generally available (through no fault of Member) for use and disclosure by the public without any charge license or restriction, such as public domain or approved OSI licensed or CC licensed code/documentation,

Member recognizes and agrees that any breach or threatened breach of this Section will cause irreparable harm to Company for which damages would not be an adequate remedy, and, therefore, Company will be entitled to equitable relief (including without limitation, injunctions) with respect thereto in addition to any other civil or criminal remedies.

20.5 Warranty

Member represents and warrants to Company that Member

- (a) was the sole owner (other than Company) of all rights, title and interest in and to the Technology and Intellectual Property,
- (b) has not assigned, transferred, licensed, pledged or otherwise encumbered any Technology or Intellectual Property or agreed to do so,
- (c) has full power and authority to enter into this Agreement and to make the assignment provided in Section (Assignment Of Intellectual Property),
- (d) is not aware of any violation, infringement or misappropriation of any third party's rights (or any claim thereof) by the Technology or Intellectual Property,
- (e) was not acting within the scope of employment by any third party when conceiving, creating or otherwise performing any activity with

respect to anything purportedly assigned in Section (Assignment Of Intellectual Property)

- (f) is not aware of any questions or challenges with respect to the patentability or validity of any claims of any existing patents or patent applications relating to the Intellectual Property.

21 Closing

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, has duly executed this

- Company NDA
- Company IP Assignment
- Company Operating Agreement

22 Signature Page

The parties sign this Agreement on the date below by their electronic signatures.