

OPERATING AGREEMENT
OF

_____ [insert name of the legal entity]

This Operating Agreement (together with the schedules attached hereto, and as amended, restated, supplemented or otherwise modified from time to time, this “Agreement”) of _____ [insert name of the legal entity], a _____ [insert state of formation of the legal entity] limited liability company (the “Company”), dated as of _____, 2021, is executed by _____, as the sole equity member of the Company (the “Member”). Capitalized terms used and not otherwise defined herein have the meanings set forth on Schedule A attached hereto.

The Company is being formed pursuant to the filing of the initial Articles of Organization with the Secretary of State of the State of _____ [insert state of formation of the legal entity] (“State”) on _____ and the entering into of this Agreement. The Member hereby adopts this Operating Agreement pursuant to and in accordance with _____ [insert reference to the applicable LLC statute of the state of formation of the entity], as amended from time to time (the “Act”) and hereby declares as follows:

Section 1. Name. The name of the limited liability company governed by this Agreement is _____ [insert name of the legal entity].

Section 2. Principal Business Office. The principal business office of the Company shall be located at _____, or such other location as may hereafter be determined by the Member.

Section 3. Registered Office. The registered office and name and address of the registered agent of the Company for service of process on the Company in the State is _____ [insert name and address of statutory agent/registered agent]

Section 4. Member.

(a) The Member is hereby admitted to the Company as a member of the Company simultaneously with its execution of this Agreement.

(b) Unless otherwise expressly provided herein to the contrary, the Member may act by written consent.

Section 5. Certificates. The initial Articles of Organization have been executed, delivered and filed (such filing being hereby ratified and confirmed in all respects) with the Secretary of State of the State. The Member or an Officer shall execute, deliver and file any other certificates (and any amendments and/or restatements thereof) necessary for the Company to qualify to do business in any other jurisdiction in which the Company may wish to conduct business.



The existence of the Company as a separate legal entity shall continue until dissolution as provided in the Act and this Agreement.

Section 6. Purposes. The purposes to be conducted or promoted by the Company shall be to engage solely in the following activities:

[Select one]

[Insert description] _____, and matters incidental and related to the foregoing.

All matters permitted by applicable law.

Section 7. Powers. The Company, the Board, and the Officers on behalf of the Company (i) shall have and exercise all powers necessary, convenient, or incidental to accomplish the purposes of the Company set forth in Section 6 and (ii) shall have and exercise all of the powers and rights conferred upon limited liability companies formed pursuant to the Act.

Section 8. Managers. The Company is a manager-managed limited liability company.

(a) Board. The business and affairs of the Company shall be managed by or under the direction of a Board of one or more Managers. The Member may determine at any time in its sole and absolute discretion the number of Managers to constitute the Board. The authorized number of Managers may be increased or decreased by the Member at any time in its sole and absolute discretion, upon notice to all Managers. The initial number of Managers shall be _____ [inset quantity]. To the fullest extent permitted by applicable law, each Manager elected, designated or appointed by the Member shall hold office until a successor is elected and qualified or until such Manager's earlier death, resignation, expulsion, or removal. A Manager need not be a member of the Company. The initial Managers designated by the Member are listed on Schedule B attached hereto.

(b) Powers. The Board shall have the power to do any and all acts necessary, convenient, or incidental to or for the furtherance of the purposes described herein, including all powers, statutory or otherwise. The Board has the authority to bind the Company. Neither the Board nor any individual Manager shall cause or permit the terms governing the limited liability company interests of the Company to provide, through an amendment of this Agreement or otherwise, that such interests are securities governed by Article 8 of the UCC.

(c) Meetings of the Board. The Board may hold meetings, both regular and special, within or outside the State. Regular meetings of the Board may be held without notice at such time and at such place as shall from time to time be determined by the Board. Special meetings of the Board may be called by the President on not less than one day's notice to each Manager, by telephone, facsimile, mail, telegram or any other means of communication, and special meetings shall be called by the President or Secretary in like manner and with like notice upon the written request of any one or more of the Managers.



(d) Quorum; Acts of the Board. Except as otherwise provided in any other provision of this Agreement, at all meetings of the Board or any committee thereof, a majority of the Managers or such committee shall constitute a quorum for the transaction of business and, except as otherwise provided in any other provision of this Agreement, the act of a majority of the Managers present at any meeting of the Board or any committee thereof at which there is a quorum shall be the act of the Board or such committee. If a quorum shall not be present at any meeting of the Board or any committee thereof, a majority of the Managers present at such meeting may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present. Any action required or permitted to be taken at any meeting of the Board or of any committee thereof may be taken without a meeting if all members of the Board or committee, as the case may be, that are required at a meeting of the Board with respect to such action, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board or committee, as the case may be.

(e) Electronic Communications. Members of the Board, or any committee designated by the Board, may participate in meetings of the Board, or any committee, by means of telephone conference or similar communications equipment that allows all Persons participating in the meeting to hear each other, and such participation in a meeting shall constitute presence in person at the meeting. If all the participants are participating in a meeting by telephone conference or similar communications equipment, such meeting shall be deemed to have been held at the principal place of business of the Company.

(f) Committees of Managers.

(i) The Board may, by resolution passed by a majority of the Board, designate one or more committees, each committee to consist of one or more of the Managers of the Company. The Board may designate one or more Managers as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee.

(ii) In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member.

(iii) Any such committee, to the extent provided in the resolution of the Board, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Company. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board. Each committee shall keep regular minutes of its meetings and report the same to the Board when required.

(g) Compensation of Managers; Expenses. The Board shall have the authority to fix the compensation of Managers.

[Select one]

The Managers may be paid their expenses, if any, of attendance at meetings of the Board, which may be a fixed sum for attendance at each meeting of the Board, or a stated salary



as Manager. No such payment shall preclude any Manager from serving the Company in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed like compensation for attending committee meetings.

There shall be no compensation, stated salary or reimbursement of expenses of Members or Managers in attending meetings of the Board or any Committee thereof.

(h) Removal of Managers. Unless otherwise restricted by law, any Manager or the entire Board may be removed or expelled, with or without cause, at any time by the Member, and any vacancy caused by any such removal or expulsion may be filled by action of the Member.

(i) Managers as Agents. To the extent of their powers set forth in this Agreement, the Managers are agents of the Company for the purpose of the Company's business, and the actions of the Managers taken in accordance with the powers set forth in this Agreement shall bind the Company.

Section 9. Officers.

Select appropriate box:

The Company shall not have Officers

The Company shall have Officers. If this box is selected, the role of each Officer shall be as follows:

(a) Officers. The initial Officers of the Company shall be designated by the Member. The additional or successor Officers of the Company shall be chosen by the Board and may consist of at least a President, a Secretary and a Treasurer. The Board may also choose one or more Vice Presidents, Assistant Vice Presidents, Assistant Secretaries and Assistant Treasurers. Any number of offices may be held by the same Person. The Board may appoint such other Officers and agents as it shall deem necessary or advisable, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board. The salaries (if any) of all Officers and agents of the Company shall be fixed by or in the manner prescribed by the Board. The Officers of the Company shall hold office until their successors are chosen and qualified. Any Officer may be removed at any time, with or without cause, by the affirmative vote of a majority of the Board. Any vacancy occurring in any office of the Company shall be filled by the Board.

(b) President. The President shall be the chief executive Officer of the Company, shall preside at all meetings of the Board, shall be responsible for the general and active management of the business of the Company and shall see that all proper orders and resolutions of the Board are carried into effect. The President or any other Officer authorized by the President or the Board shall execute all bonds, mortgages and other contracts on the Company's behalf, except: (i) where required or permitted by law or this Agreement to be otherwise signed and executed; (ii) where signing and execution thereof shall be expressly delegated by the Board to some other Officer or agent of the Company, and (iii) as otherwise permitted by Section 9(c).



(c) Vice President. In the absence of the President or in the event of the President's inability to act, the Vice President, if any (or in the event there be more than one Vice President, the Vice Presidents in the order designated by the Managers, or in the absence of any designation, then in the order of their election), shall perform the duties of the President, and when so acting, shall have all the powers of, and be subject to all the restrictions upon, the President. The Vice Presidents, if any, shall perform such other duties and have such other powers as the Board may from time to time prescribe.

(d) Secretary and Assistant Secretaries. The Secretary shall be responsible for filing legal documents and maintaining records for the Company. The Secretary or Assistant Secretary shall attend all meetings of the Board and record all the proceedings of the meetings of the Company and of the Board in a book to be kept for that purpose and shall perform like duties for the standing committees when required. The Secretary shall give, or shall cause to be given, notice of all meetings of the Member, if any, and special meetings of the Board, and shall perform such other duties as may be prescribed by the Board or the President, under whose supervision the Secretary shall serve. The Assistant Secretary, or if there be more than one, the Assistant Secretaries in the order determined by the Board (or if there be no such determination, then in order of their election), shall, in the absence of the Secretary or in the event of the Secretary's inability to act, perform the duties and exercise the powers of the Secretary and shall perform such other duties and have such other powers as the Board may from time to time prescribe.

(e) Treasurer and Assistant Treasurers. The Treasurer shall have the custody of the Company funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Company and shall deposit all moneys and other valuable effects in the name and to the credit of the Company in such depositories as may be designated by the Board. The Treasurer shall disburse the funds of the Company as may be ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and to the Board, at its regular meetings or when the Board so requires, an account of all of the Treasurer's transactions and of the financial condition of the Company. The Assistant Treasurer, or if there shall be more than one, the Assistant Treasurers in the order determined by the Board (or if there be no such determination, then in the order of their election), shall, in the absence of the Treasurer or in the event of the Treasurer's inability to act, perform the duties and exercise the powers of the Treasurer and shall perform such other duties and have such other powers as the Board may from time to time prescribe.

(f) Officers as Agents. The Officers, to the extent of their powers set forth in this Agreement or otherwise vested in them by action of the Board not inconsistent with this Agreement, are agents of the Company for the purpose of the Company's business and the actions of the Officers taken in accordance with such powers shall bind the Company.

(g) Duties of the Board and Officers. Except to the extent otherwise provided herein, each Manager and Officer shall have a fiduciary duty of loyalty and care analogous to that of directors and officers of business corporations organized and existing under the laws of the State.

Section 10. Limited Liability. Except as otherwise expressly provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise,



shall be the debts, obligations and liabilities solely of the Company, and none of the Member or any Manager shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member or Manager of the Company.

Section 11. Capital Contributions. The Member has contributed the assets, services or other items to the Company identified on Schedule C hereto.

Section 12. Additional Contributions. The Member is not required to make any additional capital contribution to the Company. The Member may, however, make additional capital contributions to the Company at any time. The provisions of this Agreement, including this Section 12, are intended to benefit the Member and, to the fullest extent permitted by law, shall not be construed as conferring any benefit upon any creditor of the Company (other than Covered Persons; and no such creditor of the Company, other than Covered Persons, shall be a third-party beneficiary of this Agreement), and the Member shall not have any duty or obligation to any creditor of the Company to make any contribution to the Company or to issue any call for capital pursuant to this Agreement.

Section 13. Allocation of Profits and Losses. The Company's profits and losses shall be allocated to the Member.

Section 14. Distributions. Distributions shall be made, from time to time, to the Member at the times and in the aggregate amounts determined by the Board. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make a distribution to the Member on account of its interest in the Company if such distribution would violate the Act or any other applicable law.

Section 15. Fiscal Year; Books and Records. The fiscal year of the Company shall commence on _____ and end on _____ of each year. [Insert fiscal year information].

The Board shall keep or cause to be kept complete and accurate books of account and records with respect to the Company's business. The books of the Company shall at all times be maintained by the Board or any Officer designated by the Board. The Member and its duly authorized representatives shall have the right to examine the Company's books, records and documents during normal business hours. The Company, and the Board on behalf of the Company, shall not have the right to keep information confidential from the Member. The Company's books of account shall be kept using the method of accounting determined by the Member. The Company's independent auditor, if any, shall be an independent public accounting firm selected by the Member.

Section 16. Other Business. Notwithstanding any duty otherwise existing at law (whether common law or statutory) or in equity, the Member and any Affiliate of the Member may engage in or possess an interest in other business ventures (unconnected with the Company) of every kind and description, independently or with others, including any business venture that may compete with the business of the Company, and the Company shall not have any rights in or to such independent ventures or the income or profits therefrom by virtue of this Agreement.

Section 17. Exculpation and Indemnification.



(a) To the fullest extent permitted by law, none of the Member, any Officer, Manager or agent of the Company or any employee, officer, representative, agent or Affiliate of the Member or any Manager (each a “Covered Person” and collectively, the “Covered Persons”) shall be liable to the Company or any other Person that is a party to, or is otherwise bound by, this Agreement for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of the authority conferred on such Covered Person by this Agreement, except that a Covered Person shall be liable for any such loss, damage or claim incurred by reason of such Covered Person’s bad faith, gross negligence or willful misconduct.

(b) To the fullest extent permitted by applicable law, a Covered Person shall be entitled to indemnification from the Company for any loss, damage or claim incurred by such Covered Person by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of the authority conferred on such Covered Person by this Agreement, except that no Covered Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by such Covered Person by reason of such Covered Person’s bad faith, gross negligence or willful misconduct with respect to such acts or omissions; provided, however, that any indemnity under this Section 17 by the Company shall be provided out of and to the extent of Company assets only, and neither the Member nor any Affiliate thereof shall have personal liability on account thereof.

(c) To the fullest extent permitted by applicable law, expenses (including legal fees) incurred by a Covered Person defending any claim, demand, action, suit or proceeding shall, from time to time, be advanced by the Company prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by the Company of an undertaking by or on behalf of the Covered Person to repay such amount if it shall be determined that the Covered Person is not entitled to be indemnified as authorized in this Section 17.

(d) A Covered Person shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any Person as to matters the Covered Person reasonably believes are within such other Person’s professional or expert competence and who has been selected with reasonable care by or on behalf of the Company, including information, opinions, reports or statements as to the value and amount of the assets, liabilities or any other facts pertinent to the existence and amount of assets from which distributions to the Member might properly be paid.

(e) To the extent that, at law (whether common law or statutory) or in equity, a Covered Person has duties (including fiduciary duties) and liabilities relating thereto to the Company or to any other Person, a Covered Person acting under this Agreement shall not be liable to the Company or to any other Person bound by this Agreement for its good faith reliance on the provisions of this Agreement or any approval or authorization granted by the Company or any other Covered Person, except that a Covered Person shall not be exculpated from any such liability incurred by reason of such Covered Person’s bad faith, gross negligence or willful misconduct. The provisions of this Agreement, to the extent that they restrict or eliminate the duties and liabilities of a Covered Person to the Company or its members otherwise existing at law (whether common law or statutory) or in equity, are agreed by the Member, to the fullest extent permitted by law, to replace such other duties and liabilities of such Covered Person.



(f) The foregoing provisions of this Section 17 shall survive any termination of this Agreement.

Section 18. Assignment. To the fullest extent permitted by law and without, the Member may not assign, pledge or hypothecate, in whole or in part, its limited liability company interest in the Company.

Section 19. Resignation. Member may resign as the Member, so long as an additional Person shall be admitted as a member to the Company, subject to Section 20, upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement, which instrument may be a counterpart signature page to this Agreement. Such admission shall be deemed effective immediately prior to the resignation and, immediately following such admission, the resigning Member shall cease to be a member of the Company.

Section 20. Admission of Additional Members. One or more additional Members of the Company may be admitted to the Company with the written consent of the Member.

Section 21. Dissolution.

(a) The Company shall be dissolved, and its affairs shall be wound up, upon the first to occur of the following: (i) the termination of the legal existence of the last remaining member of the Company or the occurrence of any other event which terminates the continued membership of the last remaining member of the Company in the Company unless the Company is continued without dissolution in a manner permitted by this Agreement or the Act or (ii) the entry of a decree of judicial dissolution under the Act. If there shall, for any reason, nevertheless occur any event that causes the last remaining member of the Company to cease to be a member of the Company, to the fullest extent permitted by law, the personal representative of such member is hereby authorized to, and shall, within 90 days after the occurrence of the event that terminated the continued membership of such member in the Company, agree in writing (i) to continue the Company and (ii) to the admission of the personal representative or its nominee or designee, as the case may be, as a substitute member of the Company, effective as of the occurrence of the event that terminated the continued membership of such member in the Company.

(b) Notwithstanding any other provision of this Agreement, the bankruptcy of the Member shall not cause the Member to cease to be a member of the Company and upon the occurrence of such an event, the Company shall continue without dissolution.

(c) In the event of dissolution, the Company shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Company in an orderly manner), and the assets of the Company shall be applied in the manner, and in the order of priority, set forth in the Act.

(d) The Company shall terminate when (i) all of the assets of the Company, after payment of or due provision for all debts, liabilities and obligations of the Company, shall have been distributed to the Member in the manner provided for in this Agreement and (ii) the Articles of Organization shall have been canceled in the manner required by the Act.



Section 22. Waiver of Partition; Nature of Interest. Except as otherwise expressly provided in this Agreement, to the fullest extent permitted by law, the Member hereby irrevocably waives any right or power that such Person might have to cause the Company or any of its assets to be partitioned, to cause the appointment of a receiver for all or any portion of the assets of the Company, to compel any sale of all or any portion of the assets of the Company pursuant to any applicable law or to file a complaint or to institute any proceeding at law or in equity to cause the dissolution, liquidation, winding up or termination of the Company. The Member shall not have any interest in any specific assets of the Company. The interest of the Member in the Company is personal property.

Section 23. Benefits of Agreement; No Third-Party Rights. None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditor of the Company (other than Covered Persons) or by any creditor of the Member. Nothing in this Agreement shall be deemed to create any right in any Person (other than Covered Persons) not a party hereto, and this Agreement shall not be construed in any respect to be a contract in whole or in part for the benefit of any third Person (other than Covered Persons).

Section 24. Severability of Provisions. Each provision of this Agreement shall be considered severable and if for any reason any provision or provisions herein are determined to be invalid, unenforceable or illegal under any existing or future law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those portions of this Agreement which are valid, enforceable and legal.

Section 25. Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof.

Section 26. Governing Law. This Agreement shall be governed by and construed under the laws of the State (without regard to conflict or choice of law principles that would cause the application of the internal laws of any other jurisdiction), all rights and remedies being governed by said laws. Each of the parties hereto hereby consents to (i) the non-exclusive jurisdiction of the courts of the State and (ii) service of process in accordance with Section 29 or otherwise by mail.

Section 27. Amendments. This Agreement may only be modified, altered, supplemented or amended (a) pursuant to a written agreement executed and delivered by the Member, (b) upon seven days' prior written notice to each Manager, and (c) to cure any ambiguity contained in this Agreement.

Section 28. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original of this Agreement and all of which together shall constitute one and the same instrument.

Section 29. Notices. Any notices required to be delivered hereunder shall be in writing and personally delivered, mailed or sent by telecopy, electronic mail or other similar form of rapid transmission, and shall be deemed to have been duly given upon receipt (a) in the case of the Company, to the Company at its address in Section 2, (b) in the case of the Member, to the Member at its address as listed on Schedule B attached hereto and (c) in the case of either of the foregoing, at such other address as may be designated by written notice to the other party.



Section 30. Effectiveness. Pursuant to the Act, this Agreement shall be effective as of the time of filing of the initial Articles of Organization with the Office of the Secretary of State on _____ [insert date that the entity was legally formed].

Section 31. Disregarded Entity Status. It is intended that, for federal tax purposes, the Company be treated as a disregarded entity. None of the Company, the Member, any Manager, any Officer, or the Board shall take any action inconsistent with such treatment.

[Remainder of this page intentionally left blank.]



IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, have duly executed this Operating Agreement as of the date first written above.

MEMBER:

By: _____

Name:

Title:



SCHEDULE A

Definitions

A. Definitions. When used in this Agreement, the following terms not otherwise defined herein have the following meanings:

“Act” shall have the meaning set forth in the preamble to this Agreement.

“Affiliate” means, when used with respect to any specified Person, any other Person directly or indirectly controlling, controlled by or under common Control with, such Person.

“Agreement” means this Operating Agreement of the Company, together with the schedules and exhibits attached hereto, as amended, restated, supplemented or otherwise modified from time to time.

“Articles of Organization” means the initial Articles of Organization of the Company filed with the Secretary of State of the State on _____ [insert date the entity was legally formed], as amended, supplemented or otherwise modified from time to time.

“Board” means the board of Managers of the Company.

“Company” shall have the meaning set forth in the preamble to this Agreement.

“Control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise and “controlling” and “controlled” shall have meanings correlative thereto.

“Covered Persons” has the meaning set forth in Section 17(a).

“Managers” means the Persons elected to the Board from time to time by the Member, in their capacity as managers of the Company.

“Member” has the meaning set forth in the preamble to this Agreement, and includes any Person admitted as an additional or a substitute member of the Company pursuant to the provisions of this Agreement, each in its capacity as a member of the Company.

“Officer” means an officer of the Company described in Section 9.

“Person” means any natural person, corporation, business trust, joint venture, association, company, partnership, limited liability company, joint stock company, trust, unincorporated organization, governmental authority or other entity.

“UCC” means the Uniform Commercial Code as in effect from time to time in the specified jurisdiction or any applicable jurisdiction, as the case may be.



B. Rules of Construction. Definitions in this Agreement apply equally to both the singular and plural forms of the defined terms. The words “include” and “including” shall be deemed to be followed by the phrase “without limitation.” The terms “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Section, paragraph or subdivision. The Section titles appear as a matter of convenience only and shall not affect the interpretation of this Agreement. All Section, paragraph, clause, Exhibit or Schedule references not attributed to a particular document shall be references to such parts of this Agreement. All references to any agreement shall include such agreement as it may be amended, supplemented or otherwise modified from time to time hereafter in accordance with its terms.



SCHEDULE B

Member: [Insert Name]

Member's Address: _____

Initial Managers: [Insert names]

Initial Officers: [Insert names]



SCHEDULE C

Initial capital contribution by Member:

Insert Description: _____

