Growing Your Enterprise:

A Step-by-Step Guide to Launching a Farm Business

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Growing Your Enterprise: A Step-by-Step Guide to Launching a Farm Business

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SOUTHERN EXTENSION RISK MANAGEMENT EDUCATION

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Introduction

Establishing a business can provide numerous benefits to a farming operation, including reduced risk and increased capital. Starting a formal business does require additional paperwork, organization and filing, which may cause producers to avoid the hassle; however, producers should be encouraged to put in the extra work upfront in order to have more financial security and peace of mind as their operation grows.

This guide is designed to provide both new and experienced producers with step-by-step instructions to formally establish their operations[1] as businesses. Information regarding tax requirements for reporting income will be provided in a later publication. This guide was created for educational purposes only and does not serve as legal advice.

Sole Proprietorship

Sole Proprietorships are known for their simple establishment and tax filing. In Arkansas, there are no required establishment documents to form a sole proprietorship. If a sole proprietorship doesn't file documents, it will operate under the legal name and Social Security Number (SSN) of the individual owner. However, if one wishes to establish a new business with an official name, the following steps are required:

1. **CREATE A UNIQUE BUSINESS NAME.**
   Creating a business name is an important first step. It's critical to choose a name that is not too similar to one that already exists. To determine if a business name is available, search the Arkansas Secretary of State's database[2]. Unlike sole proprietorships and partnerships, which have the choice of operating under a DBA, corporations and LLCs must create a formal name, even if that new name is simply Your Name LLC. Consult the Secretary of State's website to determine if a name is available[2]. If you form an LLC but decide you want to do business under a name that is different from the LLC name, a DBA Certificate will need to be filed.

2. **FILE A DOING BUSINESS AS CERTIFICATE (DBA) WITH THE COUNTY.**
   To do business under a new name as a sole proprietorship in Arkansas, there is no required filing with the Secretary of State, but filing is required at the county level. Call or visit your local county clerk to learn how to file a DBA Certificate in your county. The cost is $25. Additionally, LPs and LLPs (discussed below) will need to file a DBA and Certificate of LP or LLP with the Secretary of State. The cost to file a DBA Certificate in the state of Arkansas is $15, and the Certificate of Organization is $50. This cannot be filed online, but forms are available on the Secretary of State's website[3].There is no added benefit to filing the above information as opposed to operating under your legal name; however, some people choose to take these steps to form an official business name, which can be desirable for marketing or advertising in certain industries. Whether a person chooses to file a DBA or operate under their legal name, the owner will still be responsible for all financial and legal obligations of the business, having no legal separation between personal assets or business assets (only under sole proprietorships and general partnerships).

3. **REQUEST AN EMPLOYER IDENTIFICATION NUMBER (EIN) THROUGH THE IRS.**
   If a business plans to hire additional employees, an EIN is required. However, even if one doesn't plan to hire additional labor, it might be wise to obtain an EIN, as financial institutions sometimes require an EIN to open a business account or obtain credit. There is no cost to obtain a new EIN, and it can be completed online[4].

4. **OPEN A BUSINESS BANK ACCOUNT (OPTIONAL).**
   Keeping the business' finances separate from personal ones will create less confusion. Regardless of whether a DBA is filed, opening another bank account solely for the business can eliminate the risk of personal assets being

[1] If you want to create a business for your operation but do not know which structure is best for you, please see a previous Fact Sheet titled "A Guide to Business Structures".
[2] This website is a name search database through the Arkansas Secretary of State to determine if a business name is available: https://www.ark.org/corp-search/index.php.
[3] This website provides forms to start or alter a Partnership in Arkansas: https://www.sos.arkansas.gov/business-commercial-services-bcs/forms-fees/partnerships.
[4] This website is an online EIN application: https://sa.www4.irs.gov/modiein/individual/index.jsp.

mixed into business assets. When working with multiple people, such as in a partnership or multiple-member LLC, creating a bank account specifically for business operations can help avoid confusion and build trust between members.

5. **OBTAIN LICENSES AND PERMITS, IF NECESSARY.**
   Requirements for business licenses vary by industry/type of business and location. The local County Clerk will know the requirements for your specific county. The Arkansas Department of Agriculture provides extensive information on permits required for each agricultural industry, including pesticide application, regulations for poultry houses and more[5].

6. **CONSIDER PURCHASING BUSINESS INSURANCE (OPTIONAL).**
   Sole proprietorships and general partnerships do not separate personal and business liability, so purchasing business insurance could protect you in the event of an accident. It could be beneficial for all business types to purchase insurance in the even that disasters occur on the farm. Contact an insurance agent to determine what plan will work best for your needs.

Partnership

General Partnerships are very similar to sole proprietorships and only have a few establishment steps. If partnership members do not want to create an official business name, steps one and two do not have to be completed, and the business will operate as the legal names of the partners. When establishing a partnership, refer to steps one through six above then complete the following actions:

7. **DECIDE ON THE TYPE OF PARTNERSHIP.**
   There are three different types of partnerships, and each provides different benefits. General Partnerships do not protect personal assets and they don't protect partners from one another's actions. Limited Partnerships (LPs) have one general partner with unlimited liability. Other partners have limited liability, but usually don't have as much control over the business. Limited Liability Partnerships (LLPs) protect the personal assets of all partners and protect each partner from the actions of other partners, so there isn't a risk of being held liable for someone else's mistakes. Considering these options and determining what is best for an operation's needs is important.

8. **WRITE A PARTNERSHIP AGREEMENT.**
   Although optional, writing a partnership agreement is arguably the most important part of forming a partnership. Doing business with other people carries risk since people are often unpredictable, so a partnership agreement can ensure that all partners are on the same page in terms of how the business will be run. Writing a partnership agreement can appear overwhelming, but it simply lays out the plans and operations for the business. The added security and protection make writing an agreement worth the additional time. There are numerous templates available online to guide business owners in writing a partnership agreement. Partnership agreements should be specific and include the following:

   - Business name (if using a DBA) or names of all partners.
   - Contributions of partners. This includes what each person is providing to the business, whether it be money, equipment, land or labor. There should also be values for each item, such as the amount of land and its value or the value of the equipment or money contributed.

[5]This website provides all information on laws, regulations, and permits needed for each agricultural industry: https://www.agriculture.arkansas.gov/.

- Percentage of ownership. This is usually determined by the value of each partner's contributions but can also be divided in equal ways if all parties agree on the arrangement.
- Distribution profits and losses. The agreement should specifically detail how profits and losses will be divided between partners. This is normally based on the percentage of ownership. This section should also include payment expectations such as salary and timing of payments to each partner.
- Designation of the binding partner. The binding partner is responsible for signing loan documents and other legal agreements.
- Dispute resolution process. Include a clause on how arguments will be handled to avoid the necessity of consulting an attorney each time a dispute arises.
- Plan for the future of the business. Life is unpredictable, and it is good to be prepared in the event of tragedy. The partnership agreement should include a clause on what will happen to the business if one partner becomes unable to operate. This section could also include the names of people who will eventually take over the business. Designating this in the partnership agreement can make the transition smoother and reduce the risk of dispute.

After writing a partnership agreement, all partners should sign it, as signatures make the agreement legally binding. The agreement does not need to be officially filed in Arkansas but should be kept in a safe place and referred to when necessary. Creating a partnership agreement can be done at no cost, but if an attorney helps prepare or review the document, there will be an added cost. An example partnership agreement can be found in appendix 1.

9. REPORT BENEFICIAL OWNERSHIP INFORMATION TO FINCEN.

FinCEN is the Financial Crimes Enforcement Network. They promote national security by combating financial crimes such as money laundering and its related crimes. By January 1, 2025, all legal entities will be required to disclose all owners that control 25 percent or more of the operation. Fines for failing to do this before Jan. 1, 2025, are very expensive. The filing can be completed at the following link: https://fincen.gov/boi.

10. TRANSFER ASSETS AND LIABILITIES TO THE BUSINESS.

After completing the above steps, a producer must ensure that the business becomes the new legal owner of all business assets. This is especially important if establishing an LLP, LLC, or corporation because without moving assets to the businesses name, there is no limited liability and there will be no protection of personal assets in the event of business failure. This also ensures that property being used by the business will be owned by the business and not the individuals who contributed it. Producers should work with their County Clerk to move ownership of farm assets to the name of the partnership. After that, if there are active loans on property, machinery, equipment or operating loans, producers should contact their lender to put the loan under the businesses name. These steps come at varying costs but are necessary to have limited liability.

Limited Liability Company (LLC)

Limited liability companies provide the separation of personal and business liabilities as a corporation would, but the establishment and tax filing are much easier. Forming an LLC will require one to complete the steps above; however, there are differences to step eight, which will be discussed below under its respective number.

8. WRITE AN OPERATING AGREEMENT.

Operating agreements are similar to partnership agreements. They are not required in Arkansas, but they detail important business operations. Operating agreement templates are available online. An example of an operating agreement can be found in Appendix 2. Operating agreements should include the following information:

- Business name and names of members.
- Power of members. This section details if there will be a managing member and who it will be. The agreement should also name the authorized member who can sign legally binding documents.
- Percent of ownership. If there is a single-member LLC, then the owner will have 100 percent interest. If there are more members in the LLC, percentage of ownership can be divided anyway the owners agree on.
- Contributions of members. This includes what each person is providing to the business, whether it be money, equipment, land or labor. There should also be values for each item, such as the amount of land and its value and the value of the equipment or money contributed.
- Distribution of profits and losses. Profits and losses are typically divided by shares of ownership.
- Dispute resolution process. Include a clause on how arguments will be handled to avoid the necessity of consulting an attorney each time a dispute arises.
- Plan for the future of the business. Life is unpredictable, and it is good to be prepared in the event of tragedy. The operating agreement should include a clause on what will happen to the business if one member becomes unable to operate. This section could also include the names of people who will eventually take over the business. Designating this in the operating agreement can make the transition smoother and reduce the risk of dispute.

11. FILE ARTICLES OF ORGANIZATION.

Articles of Organization can be filed on the Arkansas Secretary of State's website[6] or by mail. This step simply registers and notifies the state that a new business is forming. The cost to file online is $45.

Corporation

Corporations are the most complex business to establish and maintain, but they provide substantial security from risk. Since there are several types of corporations (S-corp, C-corp, nonprofit, etc.) and different sectors to operate in (public or private), the steps to start a corporation are not necessarily straightforward. The following steps are the general actions taken to start a corporation. They will differ depending on the type of corporation being started. If a corporation wishes to enter the public sector to sell stock, additional steps are necessary. Complete steps one through eleven above to start a corporation, but take note of the changes to steps eight and eleven below:

8. ESTABLISH CORPORATE BYLAWS.

Corporate bylaws are required for all corporations in Arkansas, though they do not have to be filed with the state. Bylaws will include the following items:

- Names of directors.
- Description of business.

[6]This website provides forms to start or alter an LLC in Arkansas: https://www.sos.arkansas.gov/business-commercial-services-bcs/forms-fees/llc.

- Schedule of meetings.
- The minimum members needed at a meeting.
- Procedures for amending the business in any way.

An example of corporate bylaws can be found in Appendix 3.

11. FILE ARTICLES OF INCORPORATION

Articles of Incorporation are filed through the Arkansas Secretary of State[7]. They can be filed online for $45.

Corporations are more regulated than other business structures, so it takes more time, effort and diligence to establish them. Large, risky businesses might benefit from a corporation. Otherwise, forming an LLC would likely offer sufficient protection with simpler filing and income reporting.

Conclusion

Establishing a business can seem intimidating and time consuming; however, the additional work upfront is worth it for the added risk management, financial organization and management structure in the long run. Following the steps above when creating a business will make the process more straightforward.

This guide provides a helpful starting point for those working to establish a new business, but this is not a comprehensive guide. All businesses are unique, and one business may need to take steps that another business will not. Working closely with the local County Clerk will help to create a seamless transition, as they are familiar with filing and recording standards specific to certain locations.

References

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[7]This website provides forms to start or alter a Corporation in Arkansas: https://www.sos.arkansas.gov/business-commercial-services-bcs/forms-fees/corporations.

Appendix 1

Partnership Agreement

Sample Partnership Agreement

THIS PARTNERSHIP AGREEMENT is made this _____ day of _____ 2XXX , by and between Partner 1 and Partner 2.

Explanatory Statement

The parties hereto desire to enter into the business of purchasing, acquiring, operating, leasing, owning and selling Grape acreage and other specialty crop(s), including but not limited to that certain parcel of land, and all improvements constructed thereon, described as [specify address] and engaging in any other lawful phase or aspect of viticulture or specialty crop agriculture. In order to accomplish their aforesaid desires, the parties hereto desire to join together in a general partnership under and pursuant to the Uniform Partnership Act, amended from time to time (the "Act").

NOW THEREFORE, in consideration of their mutual promises, covenants, and agreements, and the Explanatory Statement, which Explanatory Statement is incorporated by reference herein and made a substantive part of this Partnership Agreement, the parties hereto do hereby promise, covenant and agree as follows:

Section 2. Principal Place of Business

The principal office and place of business of the Partnership (the "Office") shall be located at Angell Road.

Section 3. Business and Purpose

3.1. The business and purposes of the Partnership are to manage, and operate, grape vineyards. (the "Vineyards"), or interest therein, including but not limited to that certain parcel of land and such other businesses and purposes as the Partners may from time to time determine in accordance with Section 8 of this Agreement.

Section 4. Term

The Partnership shall commence upon the date of this Agreement, as set forth above. Unless sooner terminated pursuant to the further provisions of this Agreement, the Partnership shall continue without defined term.

Section 5. Capital Contribution

5.1. The original capital contributions to the Partnership of each of the Partners shall be

made concurrently with their respective execution, acknowledgement, sealing and delivery of this Agreement in the following dollar amounts set forth after their respective names:

Partner 1: Capital contribution includes his existing grape acreage as of January 1, 2010. Grape acreage is estimated, with a 5% margin of error, at 190 acres valued at approximately 775,000. An additional cash capital contribution of $180,000 will also be made. Capital contribution does not include any equipment, buildings, or open land.

Partner 2: Capital contribution is $180,000 to be financed by Partner 1 or another lender.

5.2. Except as specifically provided in this Agreement, or as otherwise provided by and in accordance with law to the extent such law is not inconsistent with this Agreement, no Partner shall have the right to withdraw or reduce his or her contributions to the capital of the Partnership.

Section 6. Profit and Loss

6.1. The percentages of Partnership Rights and Partnership Interest of each of the Partners shall be as follows:

Partner 1:	84%
Partner 2:	16%

6.2. Except as provided in Section 7.3. of this Agreement, for purposes of Sections 702 and 704 of the Internal Revenue Code of 1954, or the corresponding provisions of any future federal internal revenue law, or any similar tax law of any state or jurisdiction, the determination of each Partner's distributive share of all items of income, gain, loss, deduction, credit or allowance of the Partnership for any period or year shall be made in accordance with, and in proportion to, such Partner's percentage of Partnership Interest as it may then exist.

Section 7. Distribution of Profits

7.1. Generally, gross cash distribution in proportion to Partners percentages of partnership interest, will be made based on the scheduled payments of processors or within 60 days of payments being made. The gross cash distribution

7.2 Generally, operating expenses will be shared at the time those expenses are realized in proportion to Partners percentages of partnership interest. While each purchase will not require an accounting of partnership interest, reimbursement to the

payor, based on share, will be resolved every 30 days.

7.3 Exception to section 7.2: Partner 2 will not be responsible for any operating expenses for the first ___ year. His share of expenses during that time will be limited to his capital contribution payments.

Section 8. Management of the Partnership Business

8.1. All decisions respecting the management, operation and control of the Partnership business and determination made in accordance with the provisions of this Agreement shall be made based upon a majority share of the partnership in favor of the decision. Majority owner Partner 1 has the full intention of increasing the responsibility and stake of Partner 2's management, operation and control of the Partnership. Succession of such powers will take place, at first on a day to day basis. Later, based on performance, a management agreement will be incorporated into this Partnership

8.2. Nothing herein contained shall be construed to constitute any Partner or the agent of another Partner, except as expressly provided herein, or in any manner to limit the Partnership to the carrying on of their own respective businesses or activities. Any of the Partners, or any agent, servant or employee of any of the Partners, may engage in and possess any interest in other businesses or ventures of every nature and description, independently or with other persons, whether or not, directly or indirectly, in competition with the business or purpose of the Partnership, and neither the Partnership nor any of the Partners shall have any rights, by virtue of this Agreement or otherwise, in and to such independent ventures or the income or profits derived therefrom, or any rights, duties or obligations in respect thereof.

8.3. The Partners shall devote to the conduct of the Partnership business so much of their respective time as may be reasonably necessary for the efficient operation of the Partnership business. That will include a significant amount of time during harvest in order to secure the use of Partner 1's custom harvest equipment and other equipment owned by Partner 1 for Partnership use during the growing season. At this time both partners expect to contribute approximately 2,500 hours annually. To the extent that partners cannot devote adequate time to the business due to health, outside ventures, jobs or other reasons said partner will be responsible for finding replacement labor and covering the costs of said labor.

Section 9. Salaries

Unless otherwise agreed by the Partners in accordance with Section 8 of this Agreement, no Partner shall receive any salary for services rendered to or for the Partnership. At the discretion of majority partner the minority partner will be eligible to

receive up to 1% of the total equity interest in the operation per year based on performance of the Partner and the Partnership. It is the intent of the majority partner to begin making this transfer after ___ years.

Section 10. Legal Title to Partnership Property

Legal title to the property of the Partnership shall be held in the name of or in such other name or manner as the Partners shall determine to be in the best interest of the Partnership. Without limiting the foregoing grant of authority, the Partners may arrange to have title taken and held in their own names or in the names of trustees, nominees or straw parties for the Partnership. It is expressly understood and agreed that the manner of holding title to property (or any part thereof) of the Partnership is solely for the convenience of the Partnership, and that all such property shall be treated as Partnership property subject to the terms of this Agreement.

Section 12. Fiscal Year Audits

This partnership is the expansion of a small business built in family and trust. Records will be imperfect but maintained to current standards of the business. Audits would be impractical and expensive and rather than relying on outside auditors the partners will rely on themselves to fairly apportion expenses and profits.

Section 11. Banking

All revenue of the Partnership shall be deposited regularly in the Partners private savings and checking accounts at such bank or banks as shall be selected by the Partners. The partners will not borrow any money by or on behalf of, the Partnership.

Section 13. Transfer of Partnership Interest and Partnership Rights

Except as otherwise provided in Sections 14, 15 and 16 hereof, no Partner (hereinafter referred to as the "Offering Partner") shall, during the term of the Partnership, sell, hypothecate, pledge, assign or otherwise transfer with or without consideration (hereinafter collectively referred to as a "Transfer") any part or all of his Partnership Interest or Partnership Rights in the Partnership to any other person (a "Transferee"), without first offering (hereinafter referred to as the "Offer") that portion of his Partnership Interest and Partnership Rights in the Partnership subject to the contemplated transfer (hereinafter referred to as the "Offered Interest") first to the Partnership, and secondly, to the other Partners, at a purchase price (hereinafter referred to as the "Transfer Purchase Price") and in a manner as follows:

13.1. The Transfer Purchase Price shall be 93% of the Appraised Value (as defined in Section 18.1.) except that start up assistance shall be deducted from the appraised

value until 2025. Start up assistance is valued at $45,000

13.1.1. The Offer shall be made by the Offering Partner first to the Partnership by written notice (hereinafter referred to as the "Offering Notice). Within twenty (20) days (hereinafter referred to as the "Partnership Notice"), whether or not the Partnership shall accept the Offer and shall purchase all but not less than all of the Offered Interest. If the Partnership accepts the Offer to purchase the Offered Interest, the Partnership Notice shall fix a closing date not more than sixty (60) days (hereinafter referred to as the "Partnership Closing Date") after the expiration of the Partnership Offer Period.

13.1.2. In the event the Partnership decides not to accept the Offer, the Offering Partner or the Partnership, at his or its election, shall, by written notice (hereinafter referred to as the "Remaining Partner Notice") given within that period (hereinafter referred to as the "Partner Offer Period") terminating ten (10) days after the expiration of the Partnership Offer Period, make the Offer of the Offered Interest to the other Partners, each of whom shall then have a period of twenty-five (25) days (the "Partner Acceptance Period") after the expiration of the Partner Offer Period within which to notify in writing the Offering Partner whether or not he intends to purchase all but not less than all of the Offered Interest. If two (2) or more Partners of the Partnership desire to accept the Offer to purchase the Offered Interest, then, in the absence of an agreement between them, such Partners shall have the right to purchase the Offered Interest in the proportion which their respective percentage of Partnership Interest in the Partnership bears to the percentage of Partnership Interest of all of the Partners who desire to accept the Offer. If the other Partners intend to accept the Offer and purchase the Offered Interest, the written notice required to be given by them shall fix a closing date not more than sixty (60) days after the expiration of the Partner Acceptance Period (hereinafter referred to as the "Partner Closing Date").

13.2. The aggregate dollar amount of the Transfer Purchase Price shall be payable in cash on the Partnership closing date or on the Partner Closing date, as the case may be, unless the Partnership or the purchasing Partners shall elect prior to or on the Partnership Closing Date or the Partner Closing Date, as the case may be, to purchase such Offered Interest in installments pursuant to the provisions of Section 19.

13.3. If the Partnership or the other Partners fail to accept the Offer or, if the Offer is accepted by the Partnership or the other Partners and the Partnership or the other Partners fail to purchase all of the Offered Interest at the Transfer Purchase Price within the time and in the manner specified in this Section 13, then the Offering Partner shall be free, for a period (hereinafter referred to as the "Free Transfer Period") of ninety (90) days from the occurrence of such failure, to transfer the Offered Interest shall be liquidated based on the following method. To transfer interest to a third party the

Partners will agree on which parcel or parcels of grape acreage should be liquidated. To the extent possible the liquidation will be limited to whole parcels totaling the offered interest. Either partner has the right to reject liquidation of a partial parcel. Partner 1 has the right to reject the liquidation of Angell Road.

13.4. No transfer made pursuant to this Section 13 shall dissolve or terminate the Partnership or cause the Partnership to be wound-up, but instead, the business of the Partnership shall be continued as if such Transfer had not occurred.

Buy Sell Agreement

The parties agree to enter into a buy/sell agreement to effect purchase of the deceased partner's share upon such partner's death, to be funded by life insurance policies.

Section 15. Purchase Upon Bankruptcy or Retirement.

15.1. Upon the Bankruptcy or Retirement from the Partnership of any Partner (the "Withdrawing Partner"), the Partnership shall neither be terminated nor wound-up, but, instead, the business of the Partnership shall be continued as if such Bankruptcy or Retirement, as the case may be, had not occurred, and the Partnership shall purchase and the Withdrawing Partner shall sell all of the Partnership Interest and Partnership Rights (the "Withdrawing Partner's Interest") owned by the Withdrawing Partner in the Partnership on the date of such Bankruptcy or retirement (the "Withdrawal Date"). The Partnership shall, by written notice addressed to the Withdrawing Partner or to the legal representative of a bankrupt Partner, fix a closing date for such purchase which shall be not less than seventy-five (75) days after the Withdrawal Date. The Withdrawing Partner's Interest shall be purchased by the Partnership on such closing date at a price (the "Withdrawing Purchase Price"), which shall be 93% Appraised Value less the startup assistance of $45,000 (as defined in Section 18.1 of this Agreement.)

15.2. The aggregate dollar amount of the Withdrawing Purchase Price shall be payable in cash on the closing date, unless the Partnership shall elect prior to or on the closing date to purchase the Withdrawing Partner's Interest in installments as provided in Section 19 of this Agreement.

Section 16. Certain Further Events Giving Rights to Purchase Option.

16.1. In the event that any Partner (the "Defaulting Partner"):

16.1.1. Shall have filed against him any tax lien respecting all or substantially all of his property and such tax lien shall not be discharged, removed or bonded within sixty (60) days of the date on which it was filed; or

16.1.2. Shall subject his Partnership Interest or Partnership Rights or any part thereof or interest therein to a charging order entered by any court of competent jurisdiction; then, immediately upon the occurrence of either of said events (the "Occurrence Date"), the Partnership shall have the right and option, exercisable by written notice to the Defaulting Partner, within thirty (30) days of the Occurrence Date, to purchase from the Defaulting Partner, who shall sell to the Partnership, all of the Partnership Interest and Partnership Rights (the "Defaulting Partner's Interest) owned by the Defaulting Partner in the Partnership on the Occurrence Date. The Partnership shall, by written notice delivered to the Defaulting Partner or his successors, fix a closing date for such purchase, which shall be not less than forty (40) days after the Occurrence Date, but in no event longer than seventy-five (75) days after the Occurrence Date. The Defaulting Partner's Interest shall be purchased by the Partnership on such closing date at a price (the "Defaulting Partner's Purchase Price"), which shall be the Value (as defined in Section 18.1 of this Agreement).

16.2. The aggregate dollar amount of the Defaulting Partner's Purchase Price shall be payable in cash on the closing date, unless the Partnership shall elect prior to or on the closing date to purchase the Defaulting Partner's Interest in installments as provided in Section 19 of this Agreement.

Section 17. Certain Tax Aspects Incident to Transactions Contemplated by this Agreement.

It is the intention of the parties that the Transfer Purchase Price, the Decedent Purchase Price, the Withdrawing Purchase Price and the Defaulting Partner's Purchase Price shall constitute and be considered as made in exchange for the interest of the retired Partner in partnership property, including good will, within the meaning of Section 736(b) of the Internal Revenue Code of 1954, as amended.

Section 18. The Appraised Value

18.1. The term "Appraised Value" as used in this Agreement shall be the dollar amount equal to the product obtained by multiplying (a) the percentage of Partnership Interest and Partnership Rights owned by a Partner by (b) the Fair Market Value of the Partnership's assets, as determined in accordance with Section 18.2.

18.2. The Fair Market Value of the Partnership's assets shall be determined in the following manner:

18.2.1. Within thirty (30) days of the date of the Offering Notice, date of the death of a Decedent, the Withdrawal Date or the Occurrence Date, as the case may be, the remaining Partners shall select an appraiser (the "Partnership Appraiser") to determine

the Fair Market Value of the Partnership's assets, and the Partnership Appraiser shall submit his determination thereof within thirty (30) days after the date of his selection (the "Appraisal Due Date").

18.2.2. If the appraisal made by Partnership Appraiser is unsatisfactory to the Offering Partner, the personal representatives of the Decedent or Heir, the Withdrawing Partner or the Defaulting Partner, as the case may be, then within fifteen (15) days after the date of the Appraisal Due Date, the Offering Partner, the personal representatives of the Decedent or Heir, the Withdrawing Partner or the Defaulting Partner, as the case may be, shall select an appraiser (the "Partner's Appraiser") to determine the Fair Market Value of the Partnership's assets, and such appraiser shall submit his determination thereof within thirty (30) days after the date of his selection.

18.2.3. If the appraisal made by the Partner's Appraiser is unsatisfactory to the remaining Partners, then the Partnership Appraiser and the Partner's Appraiser shall select a third appraiser (the "Appraiser") to determine the Fair Market Value of the Partnership's assets and such Appraiser shall submit his determination thereof within thirty (30) days after the date of his selection. The Appraiser's determination thereof shall be binding upon the Partnership, the remaining Partners and the Offering Partner, the personal representatives of the Decedent or Heir, the Withdrawing Partner or the Defaulting Partner, as the case may be.

18.3. Any and all appraisers selected in accordance with the provisions of this Section 18 shall be Chautauqua County area appraisers, who shall conduct appraisals provided for in this Section 18 in accordance with generally accepted appraising standards.

18.4 Cost of the Partnership Appraiser shall be borne by the partnership; costs of the Partner’s Appraiser shall be borne by the Partner or his estate. Cost of the Appraiser shall be borne equally by the remaining Partners, and the Offering partner, the personal representatives of the Decedent or Heir, the Withdrawing or the Defaulting Partner, as the case may be.

Section 19. Installment Payments.

19.1. In the event that there shall be an election pursuant to the provisions of Sections 13.2, 14.2, 15.2 or 16.2 hereof to purchase (the Partner or the Partnership so purchasing shall be hereinafter, where appropriate, referred to as the "purchasing person", the Offering Partner's interest, the Decedent's Interest, the Withdrawing Partner's Interest or the Defaulting Partner's Interest, as the case may be (hereinafter where appropriate, referred to as the "Interest"), on an installment basis, then the terms and conditions of such installment purchase shall be as set forth in Section 19.1.1 and Section 19.1.2 in the case of an election pursuant to Section 13.2 or Section 14.2 and as set forth in

Section 19.1.2 and Section 19.1.3 in the case of an election pursuant to Section 15.2 or Section 16.2 hereof.

19.1.1. XXX (XX%) of the aggregate purchase price due for such Interest (hereinafter, where appropriate, referred to as the "Aggregate Purchase Price') shall be paid on the closing date; and

19.1.2. The remainder of the Aggregate Purchase Price shall be paid in XX (XX) equal consecutive annual installments on each anniversary of the closing date over a period, beginning with the year following the calendar year in which the sale occurred (hereinafter referred to as the "Installment Payment Period").

19.1.3. XXX (XX%) of the aggregate purchase price due for such Interest (hereinafter, where appropriate, referred to as the "Special Aggregate Purchase Price") shall be paid on the closing date; and

19.1.4. The remainder of the Special Aggregate Purchase Price shall be paid in XX (XX) equal consecutive annual installments on each anniversary of the closing date over a period, beginning with the year following the calendar year in which the date occurred (hereinafter referred to as the "Special Installment Payment Period").

19.1.5. Anything contained in this Section 19 to the contrary notwithstanding, the entire unpaid balance of the Aggregate Purchase Price and Special Aggregate Purchase Price shall become immediately due and payable upon the sale, exchange, transfer or other disposition of all or substantially all of the Property or assets of the Partnership.

19.1.6. The purchasing person shall pay interest at a rate equal to the Consumer Price Index on each anniversary of the closing date during the Installment Payment Period or Special Installment Payment Period, as the case may be.

19.2. So long as any part of the Aggregate Purchase Price or Special Aggregate Purchase Price remains unpaid, the Partners shall permit the Offering Partner, the personal representatives of the Decedent or the Heir, the Withdrawing Partner (or the legal representative of the Withdrawing Partner in the event of the bankruptcy of the Withdrawing Partner) or the Defaulting Partner, as the case may be, and the attorneys and accountants of each of the foregoing persons, to examine the books and records of the Partnership and its business following the event that shall have given rise to the election referred to in Section 19.1 hereof during regular business hours from time to time upon reasonable prior notice and to receive copies of the annual accounting reports and tax returns of the Partnership.

Section 20. Delivery of Evidence of Interest

On the closing date, upon payment of the Aggregate Purchase Price for the purchase of the Interest hereunder or, if payment is to be made in installments pursuant to the provisions of Section 19 hereof, upon the first payment, the Offering Partner, the Withdrawing Partner, the personal representative of the Withdrawing Partner (in the event of the bankruptcy of the Withdrawing Partner) or the Defaulting Partner, as the case may be, shall execute, acknowledge, seal and deliver to the purchasing person such instrument or instruments of transfer to evidence the purchase of the Interest (the "Instrument of Transfer") that shall be reasonably requested by counsel to the purchasing person in form and substance; reasonably satisfactory to such counsel. If a tender of the Aggregate Purchase Price or Special Aggregate Purchase Price or, if payment is to be made in installments pursuant to the provisions of Section 19.1 hereof, the tender of the first payment thereof, shall be refused, or if the Instrument of Transfer shall not be delivered contemporaneously with the tender of the Aggregate Purchase Price or Special Aggregate Purchase Price or of the first payment thereof, as aforesaid, then the purchasing person shall be appointed, and the same is hereby irrevocably constituted and appointed the attorney-in-fact with full power and authority to execute, acknowledge, seal and deliver the Instrument of Transfer.

Section 21. Family Members.

For purposes of this Agreement, members of the "immediate family" of a Partner are hereby defined to be such person's spouse or children.

Section 22. Notices.

Any and all notices, offers, acceptances, requests, certifications and consents provided for in this Agreement shall be in writing and shall be given and be deemed to have been given when personally delivered against a signed receipt or mailed by registered or certified mail, return receipt requested, to the last address which the addressee has given to the Partnership. The address of each partner is set under his signature at the end of this Agreement, and each partner agrees to notify the Partnership of any change of address. The address of the Partnership shall be its principal office.

Section 23. Governing Law.

It is the intent of the parties hereto that all questions with respect to the construction of this Agreement and the rights, duties, obligations and liabilities of the parties shall be determined in accordance with the applicable provisions of the laws of the State of New York.

Section 24. Miscellaneous Provisions.

hereto, their personal and legal representatives, guardians, successors, and their assigns to the extent, but only to the extent, that assignment is provided for in accordance with, and permitted by, the provisions of this Agreement.

24.2. Nothing herein contained shall be construed to limit in any manner the Partners, or their respective agents, servants, and employees, in carrying on their own respective businesses or activities.

24.3. The Partners agree that they and each of them will take whatever action or actions as are deemed by counsel to the Partnership to be reasonably necessary or desirable from time to time to effectuate the provisions of intent of this Agreement, and to that end, the Partners agree that they will execute, acknowledge, seal and deliver any further instruments or documents which may be necessary to give force and effect to this Agreement or any of the provisions hereof, or to carry out the intent of this Agreement, or any of the provisions hereof.

24.4. Throughout this Agreement, where such meanings would be appropriate: (a) the masculine gender shall be deemed to include the feminine and the neuter and vice-versa, and (b) the singular shall be deemed to include the plural, and vice-versa. The headings herein are inserted only as a matter of convenience and reference, and in no way define, limit or describe the scope of this Agreement, or the intent of any provisions thereof.

24.5. This Agreement and exhibits attached hereto set forth all (and are intended by all parties hereto to be an integration of all) of the promises, agreements, conditions, understandings, warranties and representations, oral or written, express or implied, among them other than as set forth herein.

24.6. Nothing contained in this Agreement shall be construed as requiring the commission of any act contrary to law. In the event there is any conflict between any provision of this Agreement and any statute, law, ordinance or regulation contrary to which the Partners have no legal right to contract, the later shall prevail, but in such event the provisions of this Agreement thus affected shall be curtailed and limited only to the extent necessary to conform with said requirement of law. In the event that any part, article, section, paragraph or clause of this Agreement shall be held to be indefinite, invalid or otherwise unenforceable, the entire Agreement shall not fail on account thereof, and the balance of this Agreement shall continue in full force and effect.

24.7. Each married party to this Agreement agrees to obtain the consent and approval of his or her spouse, to all the terms and provisions of this Agreement; provided, however, that such execution shall be for the sole purpose of acknowledging such spousal consent and approval, as aforesaid, and nothing contained in this Section 24.7 shall be

deemed to have constituted any such spouse a Partner in the Partnership.

24.8. Each partner agrees to insert in his Will or to execute a Codicil thereto directing and authorizing his personal representatives to fulfill and comply with the provisions hereof and to sell and transfer his percentage of Partnership Interest and Partnership Rights in accordance herewith.

24.9. The Partnership shall have the right to make application for, take out and maintain in effect such policies of life insurance on the lives of any or all of the Partners, whenever and in such amounts as the Partners shall determine in accordance with Section 8 of this Agreement. Each Partner shall exert his best efforts and fully assist and cooperate with the Partnership in obtaining any such policies of life insurance.

IN WITNESS WHEREOF, the parties hereunto set their hands and seals and acknowledged this Agreement as of the date first above written.

Appendix 2

Operating Agreement

OPERATING AGREEMENT

OF

SAMPLE COMPANY, LLC

(NOTE: THE SBDC DOES NOT PROVIDE LEGAL ADVICE. THIS SAMPLE IS PROVIDED FOR REFERENCE ONLY. WE STRONGLY SUGGEST THAT YOU SEEK THE COUNSEL OF AN ATTORNEY IN THE PREPARATION OF YOUR OWN OPERATING AGREEMENT.)

One of the advantages of LLCs is their great flexibility. An attorney will help you understand what that means for your particular company. In reading this sample you should keep in mind that many of the sections in here can be changed to meet your particular company needs. This sample represents only one set of choices for LLC operations. It may not be the best for your company.

THIS OPERATING AGREEMENT, dated _____, with an effective date of _____, by and among the undersigned parties, who by their execution of this Operating Agreement have become members of SAMPLE COMPANY, LLC, a Colorado limited liability company (the "Company"), provided as is stated in this agreement.

1. RECITALS

1.1. ***Intent.*** The undersigned parties have caused the Company to be organized as a limited liability company under the laws of the state of Colorado, and they wish to enter into this Operating Agreement to set forth the terms and conditions on which the management, business and financial affairs of the Company shall be conducted.

1.2. ***Agreement.*** In consideration of the mutual promises, covenants and conditions contained in this agreement, the receipt and sufficiency of which are acknowledged, the parties covenant and agree as stated in this agreement.

2. DEFINITIONS

2.1. ***"Act"*** shall mean the Colorado Limited Liability Company Act, CRS § 7-80-101 *et seq.*, as amended and in force from time to time.

2.2. ***"Articles"*** shall mean the Articles of Organization of the Company, as amended and in force from time to time.

2.3. ***"Capital Account"*** shall mean as of any given date the amount calculated and maintained by the Company for each Member as provided in this agreement.

2.4. ***"Capital Contribution"*** shall mean any contribution to the capital of the Company by a Member in cash, property or services, or a binding obligation to contribute cash, property or services, whenever made.

2.5. ***"Initial Capital Contribution"*** shall mean the initial contribution to the capital of the Company by a Member, as determined pursuant to this agreement.

2.6. ***"Code"*** shall mean the Internal Revenue Code of 1986 or corresponding provisions of subsequent superseding federal revenue laws.

2.7. ***"Company"*** shall refer to SAMPLE COMPANY, LLC.

2.8. ***"Entity"*** shall mean any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or other association.

2.9. ***"Member"*** shall mean each Person that is identified as an initial Member or is admitted as a Member (either as a transferee of a Membership Interest or as an additional Member) as provided in this agreement. A Person shall cease to be a Member at such time as he no longer owns any Membership Interest.

2.10. ***"Membership Interest"*** shall mean the ownership interest of a Member in the Company, which may be expressed as a percentage equal to such Member's Capital Account divided by the aggregate Capital Accounts of all Members. The Membership Interests may be recorded from time to time on a schedule attached to this Operating Agreement.

2.11. ***"Operating Agreement"*** shall mean this agreement, as originally executed and as amended from time to time.

2.12. ***"Person"*** shall mean any natural person or Entity, and the heirs, executors, administrators, legal representatives, successors, and assigns of such Person where the context so admits.

3. Initial Matters

3.1. ***Purposes***. The purposes of the Company shall be to:

3.1.1. Acquire, own, buy, sell, invest in, trade, manage, finance, refinance, exchange, or otherwise dispose of stocks, securities, partnership interests, certificates of deposit, mutual funds, commodities, and any and all investments whatsoever, that the Members may from time to time deem to be in the best interests of the Company;

3.1.2. Own, acquire, manage, develop, operate, buy, sell, exchange, finance, refinance, and otherwise deal with real estate, personal property, and any type of business, as the Members may from time to time deem to be in the best interests of the Company; and

3.1.3. Engage in such other activities as are related or incidental to the foregoing purposes.

3.2. ***Powers.*** The Company shall have all powers and rights of a limited liability company organized under the Act, to the extent such powers and rights are not proscribed by the Articles.

3.3. ***Names and Addresses of Members.*** The names and addresses of the Members are as follows:

3.3.1. FILL IN HERE

3.3.2. FILL IN HERE

3.3.3. ***Principal Office.*** The principal office of the Company shall initially be _____

3.4. . The Members may change the principal office from time to time.

4. MEMBERS

4.1. ***Majority Vote of Members Required.*** Unless the express terms of this Operating Agreement specifically provide otherwise, the affirmative vote of the Members holding a majority of the Membership Interests shall be necessary and sufficient in order to approve or consent to any other matters that require the approval or consent of the Members. With regard to all matters coming before the Members for consideration, each Member shall be entitled to a vote equal to their respective Membership Interest.

4.2. ***Annual Meeting.*** The annual meeting of the Members shall be held on the first DAY AND MONTH of each year at TIME. or at such other time as shall be determined by the Members for the purpose of the transaction of such business as may come properly before the meeting.

4.3. ***Special Meetings.*** Special meetings of the Members, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the Members, and shall be called by the Members at the request of any two Members, or such lesser number of Members as are Members of the Company.

4.4. ***Place of Meeting.*** The place of any meeting of the Members shall be the principal office of the Company, unless the Members designate another place, either within or outside the State of Colorado.

4.5. ***Notice of Meetings.*** Written notice stating the place, day and hour of any meeting of the Members and, if a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than sixty days before the date of the meeting, either personally or by mail, by or at the direction of the Members, to each Member, unless the Act or the Articles require different notice.

4.6. ***Conduct of Meetings.*** All meetings of the Members shall be presided over by a chairperson of the meeting, who shall be a Manager, or a Member designated by the Members. The chairperson of any meeting of the Members shall determine the order of business and the procedure at the meeting, including regulation of the manner of voting and the conduct of discussion, and shall appoint a secretary of such meeting to take minutes of the meeting.

4.7. ***Participation by Telephone or Similar Communications.*** Members may participate and hold a meeting by means of conference telephone or similar communications equipment by means of which all Members participating can hear and be heard, and such participation shall constitute attendance and presence in person at such meeting.

4.8. ***Waiver of Notice.*** When any notice of a meeting of the Members is required to be given, a waiver thereof in writing signed by a Member entitled to such notice, whether given before, at, or after the time of the meeting as stated in such notice, shall be equivalent to the proper giving of such notice.

4.9. ***Action by Written Consent.*** Any action required or permitted to be taken at a meeting of Members may be taken without a meeting if one or more written consents to such action complying with the Act are signed by all the Members who are entitled to vote on the matter indicating unanimous adoption of the action or approval of the matter on behalf of the Company.

5. MANAGEMENT

5.1. ***Manager Members***. The management of the Company shall be vested in the members. The Manager Members shall have the duties and obligations prescribed by the Colorado Limited Liability Company Act ("Act"), which include, but are not limited to, the following:

5.1.1. Entering into, making and performing contracts, agreements and other undertakings binding the Company that may be necessary, appropriate or advisable in furtherance of the purposes of the Company.

5.1.2. Opening and maintaining bank accounts, investment accounts and other arrangements, drawing checks and other orders for the payment of money, and designating individuals with authority to sign or give instructions with respect to those accounts and arrangements. Company funds shall not be commingled with funds from other sources and shall be used solely for the business of the Company.

5.1.3. Collecting funds due to the Company.

5.1.4. Acquiring, utilizing for the Company's purposes, maintaining and disposing of any assets of the Company.

5.1.5. To the extent that funds of the Company are available, paying debts and obligations of the Company.

5.1.6. Borrowing money or otherwise committing the credit of the Company for Company activities, and voluntarily prepaying or extending any such borrowings.

5.1.7. Employing from time to time persons, firms or corporations for the operation and management of various aspects of the Company's business, including, without limitation, managing agents, contractors, subcontractors, architects, engineers, laborers, suppliers, accountants and attorneys on such terms and for such compensation as the Members shall determine, notwithstanding the fact that the Members or any Member may have a financial interest in such firms or corporations.

5.1.8. Making elections available to the Company under the Code.

5.1.9. Registering the Company as a tax shelter with the Secretary of the Treasury and furnishing to such Secretary lists of investors in the Company, if required pursuant to applicable provisions of the Code.

5.1.10. Obtaining general liability, property and other insurance for the Company, as the Members deem proper.

5.1.11. Taking such actions as may be directed by the Members in furtherance of their approval of any matter requiring approval of the members.

5.1.12. Doing and performing all such things and executing, acknowledging and delivering any and all such instruments as may be in furtherance of the Company's purposes and necessary and appropriate to the conduct of its business.

5.2. ***Execution of Documents and Other Actions.*** The Members may delegate to one or more of their number the authority to execute any documents or take any other actions deemed necessary or desirable in furtherance of any action that they have authorized on behalf of the Company.

5.3. ***Reliance by Other Persons.*** Any Person dealing with the Company, other than a Member, may rely on the authority of a particular Member in taking any action in the name of the Company, if such Member provide to such Person a copy of the applicable provision of this Operating Agreement or the resolution or written consent of the Member or Members granting such authority, certified in writing by such Member to be genuine and correct and not to have been revoked, superseded or otherwise amended.

5.4. ***Competition.*** During the existence of the Company, the Members shall devote such time to the business of the Company as may reasonably be required to conduct its business in an efficient and profitable manner. The Members, for their own account and for the account of others, may engage in business ventures, including the acquisition of interests in real estate properties and the development, operation, management and syndication of interests in real estate properties, which may compete with the business of the Company. Each Member expressly consents to the continued and future ownership and operation by the other Members or the Members of any such properties and waives any right to participate or claim for damages or otherwise.

5.5. ***Indemnification.*** The Company shall indemnify each Member, whether serving the Company or, at its request, any other Entity, to the full extent permitted by the Act. The foregoing rights of indemnification shall not be exclusive of any other rights to which the Members may be entitled. The Members may, upon the approval of the Members, take such action as is necessary to carry out these indemnification provisions and may adopt, approve

and amend from time to time such resolutions or contracts implementing such provisions or such further indemnification arrangements as may be permitted by law.

6. Contributions and Distributions

6.1. ***Initial Capital Contributions.*** The Members have made as initial Capital Contributions the amounts shown on Exhibit A, which is attached to this agreement, which contributions reflect their respective Membership Interests. The initial Capital Contribution to be made by any Person who hereafter is admitted as a Member and acquires a Membership Interest from the Company shall be determined by the Members.

6.2. ***Additional Capital Contributions.*** No Member shall be required to make any Capital Contribution in addition to the Member's Initial Capital Contribution. The Members may make additional Capital Contributions to the Company only if such additional Capital Contributions are made pro rata by all the Members or all the Members consent in writing to any non-pro rata contribution. The fair market value of any property other than cash or widely traded securities to be contributed as an additional Capital Contribution shall be (i) agreed upon by the contributing Member and a majority in interest of the Members before contribution, or (ii) determined by a disinterested appraiser selected by the Members.

6.3. ***Interests and Return of Capital Contribution.*** No Member shall receive any interest on the Member's Capital Contribution. Except as otherwise specifically provided for in this agreement, the Members shall not be allowed to withdraw or have refunded any Capital Contribution.

6.4. ***Capital Accounts.*** Separate Capital Accounts shall be maintained for each Member in accordance with the following provisions:

6.4.1. To each Member's Capital Account there shall be credited the fair market value of such Member's Initial Capital Contribution and any additional Capital Contributions, such Member's distributive share of profits, and the amount of any Company liabilities that are assumed by such Member.

6.4.2. To each Member's Capital Account there shall be debited the amount of cash and the fair market value of any Property distributed to such Member pursuant to any provision of this Operating Agreement, such Member's distributive share of losses, and the amount of any liabilities of such Member that are assumed by the Company or that are secured by any property contributed by such Member to the Company.

6.4.3. The Capital Account shall also include a pro rata share of the fair market value of any property contributed by a person who is not a Member, such value to be the same value reported for federal gift tax

purposes if a gift tax return is filed, and if not, the value in the case of real property shall be determined by an independent M.A.I. appraiser actively engaged in appraisal work in the area where such property is located and selected by the Members, and otherwise by the certified public accountant or accountants then serving the Company.

6.4.4. If any Member makes a non-pro rata Capital Contribution to the Company or the Company makes a non-pro rata distribution to any Member, the Capital Account of each Member shall be adjusted to reflect the then fair market value of the assets held by the Company immediately before the Capital Contribution or distribution.

6.5. ***Loans to the Company.*** If the Company has insufficient funds to meet its obligations as they come due and to carry out its routine, day-to-day affairs, then, in lieu of obtaining required funds from third parties or selling its assets to provide required funds, the Company may, but shall not be required to, borrow necessary funds from one or more of the Members as designated by the Members; provided that the terms of such borrowing shall be commercially reasonable and the Company shall not pledge its assets to secure such borrowing.

6.6. ***Effect of Sale or Exchange.*** In the event of a permitted sale or other transfer of a Membership Interest in the Company, the Capital Account of the transferor shall become the Capital Account of the transferee in proportion to the percentage of the transferor's interest transferred.

6.7. ***Distributions.*** All distributions of cash or other property (except upon the Company's dissolution, which shall be governed by the applicable provisions of this agreement) shall be made to the Members in proportion to their respective Membership Interests. All distributions of cash or property shall be made at such time and in such amounts as determined by the Members. All amounts withheld pursuant to the Code or any provisions of state or local tax law with respect to any payment or distribution to the Members from the Company shall be treated as amounts distributed to the relevant Member or Members pursuant to this Section.

6.8. ***Allocations.*** Except as otherwise provided below concerning allocation with respect to property, all items of income, gain, loss, deduction and credit, whether resulting from the Company's operations or in connection with its dissolution, shall be allocated to the Members for federal, state and local income tax purposes in proportion to their respective Membership Interests.

6.9. ***Allocation with Respect to Property.*** If, at any time during the Company's existence, any Member contributes to the Company property with an adjusted basis to the contributing Member which is more or less than the agreed fair market value and such property is accepted by the Company at the time of its contribution, the taxable income, gain, loss, deductions and credits with respect to such contributed property for tax purposes only (but not for purposes of calculating the Members' respective Capital Accounts) shall be shared among the

Members so as to take account of the variation between the basis of the property to the Company and its agreed fair market value at the time of contribution, pursuant to § 704(c) of the Code.

7. Records and Reports

7.1. ***Records.*** The Company shall maintain and make available to the Members its records to the extent provided in the Act.

7.2. ***Financial and Operating Statements and Tax Returns.*** Within seventy-five days from the close of each fiscal year of the Company, the Members shall cause to be delivered to each Member a statement setting forth such Member's allocable share of all tax items of the Company for such year, and all such other information as may be required to enable each Member to prepare his federal, state and local income tax returns in accordance with all then applicable laws, rules and regulations. The Members also shall cause to be prepared and filed all federal, state and local income tax returns required of the Company for each fiscal year.

7.3. ***Banking.*** The funds of the Company shall be kept in one or more separate bank accounts in the name of the Company in such banks or other federally insured depositories as may be designated by the Members, or shall otherwise be invested in the name of the Company in such manner and upon such terms and conditions as may be designated by the Members. All withdrawals from any such bank accounts or investments established by the Members hereunder shall be made on such signature or signatures as may be authorized from time to time by the Members. Any account opened by the Members for the Company shall not be commingled with other funds of the Members or interested persons.

7.4. ***Power of Attorney.*** Each Member does hereby irrevocably constitute and appoint the Members serving in office from time to time, and each of them, as such Member's true and lawful attorney, in his name, place and stead, to make, execute, consent to, swear to, acknowledge, record and file from time to time any and all of the following:

7.4.1. Any certificate or other instrument that may be required to be filed by the Company or the Members under the laws of the State of Colorado or under the applicable laws of any other jurisdiction in order to conduct business in any such jurisdiction, to the extent the Members deem any such filing to be necessary or desirable.

7.4.2. Any amendment to the Articles adopted as provided in this Operating Agreement.

7.4.3. Any certificates or other instruments that may be required to effect the dissolution and termination of the Company pursuant to the provisions of this Operating Agreement.

7.4.4. It is expressly understood, intended and agreed by each Member for himself, his successors and assigns that the grant of the power of attorney to the Members is coupled with an interest, is irrevocable, and shall survive the death or legal incompetency of the Member or such assignment of his Membership Interest.

7.4.5. One of the ways that the aforementioned power of attorney may be exercised is by listing the names of the Members and having the signature of the Manager or Members, as attorney-in-fact, appear with the notation that the signatory is signing as attorney-in-fact of the listed Members.

8. Assignment of Membership and Resignation

8.1. ***Assignment Generally.*** Except as provided in this Operating Agreement, each Member hereby covenants and agrees that he will not sell, assign, transfer, mortgage, pledge, encumber, hypothecate or otherwise dispose of all or any part of his interest in the Company to any person, firm, corporation, trust or other entity without first offering in writing to sell such interest to the Company. The Company shall have the right to accept the offer at any time during the thirty days following the date on which the written offer is delivered to the Company. The consent of all the Members shall be required to authorize the exercise of such option by the Company. If the Company shall fail to accept the offer within the thirty day period, such interest may during the following sixty days be disposed of free of the restrictions imposed by this Operating Agreement; provided, however, that the purchase price for such interest shall not be less and the terms of purchase for such interest shall not be more favorable than the purchase price and terms of purchase that would have been applicable to the Company had the Company purchased the interest. Any interest not so disposed of within the sixty-day period shall thereafter remain subject to the terms of this Operating Agreement. Notwithstanding the preceding sentences, no assignee of a Membership Interest shall become a Member of the Company except upon the consent of a majority of the non-assigning Members; or, if there are no non-assigning Members, upon the consent of a majority of the non-assigning Members.

8.2. ***Gift to Family Member.*** Notwithstanding other provisions of this agreement, a Member shall not be required to offer to sell his Membership Interest to the Company prior to transferring his Membership Interest to his spouse or any of his descendants, or to a trust the sole beneficiaries of which are one or more of his spouse and his descendants, provided that such transfer is by way of *inter vivos* gift or testamentary or intestate succession. Notwithstanding the preceding sentence, no assignee of a Membership Interest by way of *inter vivos* gift shall become a Member of the Company except upon the consent of a majority of the non-assigning Members; or, if there are no non-assigning Members, upon the consent of a majority of the non-assigning Members.

8.3. ***Transfers from Custodianships.*** Notwithstanding other provisions of this agreement, any Membership Interest that is held by a custodian for a minor under the laws of the state of Colorado or any other state shall be fully transferable and assignable to the minor, without an offer being made to the Company, when the minor reaches the age of termination of such custodianship under the applicable statute.

8.4. ***Purchase of Certain Membership Interests.*** If an Option Event (as defined below) occurs with respect to any Member (an "Option Member"), the Company shall have the option to purchase the Option Member's Membership Interest upon the terms and conditions set forth in this section. For purposes of the foregoing, an "Option Event" shall mean (i) the death of a Member, (ii) the inability of a Member to pay his debts generally as they become due, (iii) any assignment by a Member for the benefit of his creditors, (iv) the filing by a Member of a voluntary petition in bankruptcy or similar insolvency proceedings, or (v) the filing against a Member of an involuntary petition in bankruptcy or similar insolvency proceeding that is not dismissed within ninety days thereafter. The term "Option Member" shall include an Option Member's personal representative or trustee in bankruptcy, to the extent applicable.

8.4.1. Upon any Option Event occurring to an Option Member, the Option Member shall deliver written notice of the occurrence of such Option Event to the Company. The Company shall have the option, but not the obligation, to purchase the Option Member's Membership Interest at any time during the sixty-day period immediately following the date on which it receives notice of the occurrence of the Option Event. Such option shall entitle the Company to purchase such Membership Interest for the fair market value of such Membership Interest. The fair market value of the interest shall be the amount that the Option Member would receive in exchange for his entire interest in the Company if the Company sold all of its assets, subject to their liabilities, at their fair market value as of the date on which the Option Event occurred and distributed the net proceeds from such sale in complete liquidation of the Company. The consent of all the Members shall be required to authorize the exercise of such option by the Company. Such option must be exercised by delivery of a written notice from the Company to the Option Member during the aforementioned period. Upon delivery of such notice, the exercise of such option shall be final and binding on the Company and the Option Member.

8.4.2. If the foregoing option is not exercised, the business of the Company shall continue, and the Option Member shall retain his Membership Interest.

8.4.3. The fair market value of the Option Member's Membership Interest shall be determined as expeditiously as possible by a disinterested appraiser mutually selected by the Option Member and the Company (the Company's selection being made by the Members). If the Option Member and the Company are unable to agree on a disinterested appraiser, then

the Option Member and the Company shall each select a disinterested appraiser and if the disinterested appraisers selected are not able to agree as to the fair market value of the interest, then the two disinterested appraisers shall select a third disinterested appraiser who shall determine the fair market value. The determination of the fair market value of the Option Member's Membership Interest by the appraiser or appraisers shall be conclusive and binding on all parties. All costs of an appraiser mutually selected by the Option Member and the Company or the two disinterested appraisers shall be shared equally by the Option Member and the Company. All costs of an individually selected appraiser shall be borne by the parties selecting such appraiser.

8.4.4. If the option to purchase the Option Member's Membership Interest is exercised by the Company, then not later than thirty days after the date on which the appraisal described above is complete (the "Appraisal Date"), the Company shall make a distribution of property (which may be cash or other assets of the Company) to the Option Member with a value equal in amount to the fair market value of the Option Member's Membership Interest; provided, however, that at the election of the Company such distribution to the Option Member may be made in five (5) equal annual installments, the first of which shall be made on the thirtieth (30th) day after the Appraisal Date and one of which shall be made on the same date in each of the four years thereafter, provided, further, however, that notwithstanding an election by the Company to make the distribution to the Option Member in five equal annual installments, the Company may accelerate without penalty all of such installments at any time or any part of such installment at any time. If the Company elects to make distributions to the Option Member in five equal annual installments as provided in this agreement, the Company, in addition to such annual installments, shall pay the Option Member additional amounts computed as if the Option Member were entitled to interest on the undistributed amount of the total distribution to which the Option Member is entitled hereunder at an annual rate equal to the annual Federal Mid-Term Rate in effect under Section 1274(d) of the Code, as determined on the thirtieth day after the Appraisal Date, which additional amounts, computed like interest, shall be due and payable on the same dates as the annual installments of the distribution payable to the Option Member hereunder. Any unpaid capital contributions of the Option Member and any damages occurring to the Company as a result of the Option Event shall be taken into account in determining the net amount due the Option Member at the closing, and any excess of such unpaid capital contributions or damages over the amount due at closing shall be netted against subsequent installment payments as they become due.

8.4.5. If at a time when the Company has an option to purchase an Option Member's Membership Interest, it is prohibited from purchasing all or any portion of such Membership Interest pursuant to the Act or any

loan agreement or similar restrictive agreement, the Option Member and the remaining Members shall, to the extent permitted by law, take appropriate action to adjust the value of the Company's assets from book value to a fair valuation based on accounting practices and principles that are reasonable under the circumstances in order to permit the Company to purchase such Membership Interest. If the Company becomes obligated to purchase an Option Member's Membership Interest under this Section and the above action cannot be taken or does not create sufficient value to permit the Company to do so, the Company shall be obligated to purchase the portion of the Membership Interest it is permitted to purchase.

8.4.6. In order to fund any obligations under this Operating Agreement, the Company or the Members may maintain such life insurance policies on the lives of one or more Members as the Members determine from time to time to be desirable.

8.5. ***Absolute Prohibition.*** Notwithstanding any other provision in this agreement, the Membership Interest of a Member, in whole or in part, or any rights to distributions therefrom, shall not be sold, exchanged, conveyed, assigned, pledged, hypothecated, subjected to a security interest or otherwise transferred or encumbered, if, as a result thereof, the Company would be terminated for federal income tax purposes in the opinion of counsel for the Company or such action would result in a violation of federal or state securities laws in the opinion of counsel for the Company.

8.6. ***Members Acquiring Membership Interest from Company.*** Except for the existing Members, no Person who acquires a Membership Interest from the Company shall be admitted as a Member of the Company without the unanimous written consent of the Members.

8.7. ***Resignation.*** Any Member may elect to resign from the Company and to sell his entire interest in the Company to the Company at any time by serving written notice of such election upon the Company. Such notice shall set forth the date upon which such resignation shall become effective, which shall be not less than sixty days and not more than ninety days from the date of such notice. The purchase price for a Resigning Member's interest in the Company shall be _____.

8.8. ***Effect of Prohibited Action.*** Any transfer or other action in violation of this Article shall be void *ab initio* and of no force or effect whatsoever.

8.9. ***Rights of an Assignee.*** If an assignee of a Membership Interest is not admitted as a Member because of the failure to satisfy the requirements of this agreement, such assignee shall nevertheless be entitled to receive such distributions from the Company as the assigning Member would have been entitled to receive under provisions of this Operating Agreement with respect to

such Membership Interest had the assigning Member retained such Membership Interest.

9. Dissolution and Termination

9.1. ***Events of Dissolution.*** The Company shall be dissolved upon the first to occur of the following:

9.1.1. Any event that under the Act or the Articles requires dissolution of the Company, provided that the death, resignation, retirement, expulsion, bankruptcy, or dissolution of a member or occurrence of any other event that terminates the continued membership of a member in the Company shall not cause the dissolution of the Company;

9.1.2. The unanimous written consent of the Members to the dissolution of the Company; and

9.1.3. The entry of a decree of judicial dissolution of the Company as provided in the Act.

9.2. ***Liquidation.*** Upon the dissolution of the Company, it shall wind up its affairs and distribute its assets in accordance with the Act by either or a combination of both of the following methods as the Members shall determine:

9.2.1. Selling the Company's assets and, after the payment of Company liabilities, distributing the net proceeds therefrom to the Members in proportion to their Membership Interests and in satisfaction thereof; or

9.2.2. Distributing the Company's assets to the Members in kind with each Member accepting an undivided interest in the Company's assets, subject to its liabilities, in satisfaction of his Membership Interest. The interest conveyed to each Member in such assets shall constitute a percentage of the entire interests in such assets equal to such Member's Membership Interest.

9.3. ***Orderly Liquidation.*** A reasonable time as determined by the Members not to exceed eighteen months shall be allowed for the orderly liquidation of the assets of the Company and the discharge of liabilities to the creditors so as to minimize any losses attendant upon dissolution.

9.4. ***Distributions.*** Upon liquidation, the Company assets (including any cash on hand) shall be distributed in the following order and in accordance with the following priorities:

9.4.1. First, to the payment of the debts and liabilities of the Company and the expenses of liquidation, including a sales commission to the selling agent, if any; then

9.4.2. Second, to the setting up of any reserves that the Members (or the person or persons carrying out the liquidation) deem reasonably necessary for any contingent or unforeseen liabilities or obligations of the Company. At the expiration of such period as the Members (or the person or persons carrying out the liquidation) shall deem advisable, but in no event to exceed 18 months, the Company shall distribute the balance thereof in the manner provided in the following subsection; then

9.4.3. Third, to the Members in proportion to their respective Membership Interests.

9.4.4. In the event of a distribution in liquidation of the Company's property in kind, the fair market value of such property shall be determined by a qualified and disinterested appraiser, selected by the Members (or the person or persons carrying out the liquidation), and each Member shall receive an undivided interest in such property equal to the portion of the proceeds to which he would be entitled under the immediately preceding subsection if such property were sold at such fair market value.

9.5. ***Taxable Gain or Loss.*** Taxable income, gain and loss from the sale or distribution of Company property incurred upon or during liquidation and termination of the Company shall be allocated to the Members as provided in Section 6.08 above.

9.6. ***No Recourse Against Members.*** Except as provided by law, upon dissolution, each Member shall look solely to the assets of the Company for the return of his Capital Contribution. If the Company property remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the Capital Contribution of each Member, such Member shall have no recourse against any other Member.

10. General Provisions

10.1. ***Arbitration.*** Any controversy or claim arising out of or relating to this agreement or the breach of this agreement shall be settled by arbitration, pursuant to the following:

10.1.1. Should the parties be unable to agree upon an arbitrator and a procedure for accomplishing the arbitration, by written notice, one party may designate a qualified arbitrator and demand upon the other parties to the controversy or claim to furnish the names of qualified arbitrators within ten days from the giving of such notice. A qualified arbitrator shall be a licensed professional with expertise in the area about which the

parties disagree. In the event the other parties submit no name, then the qualified arbitrator designated by the demanding party shall be the arbitrator. In the event the other parties provide names of qualified arbitrators, the demanding party may name one of those persons arbitrator, or the qualified arbitrators named by each party may be asked to select a qualified arbitrator who shall become the arbitrator. If for any reason this process does not cause an arbitrator to be named within thirty days of the giving of the initial notice by the demanding party, then the demanding party, or any other party, by written notice may again designate a qualified arbitrator and demand upon the other parties to each provide the name of a qualified arbitrator and the above-described process shall be repeated until a qualified arbitrator has been appointed and has accepted such appointment.

10.1.2. Immediately after a qualified arbitrator has accepted appointment pursuant to the above-described procedure, the arbitrator shall affix a date for the arbitration hearing, which date shall not be sooner than thirty nor later than ninety days from the date the appointment as arbitrator is accepted.

10.1.3. The rules for the procedure and conduct of the arbitration shall be those agreed upon by the parties, but in the event the parties cannot agree within ten days prior to the arbitration hearing, then the rules for the procedure and conduct for the arbitration shall be as determined by the arbitrator.

10.1.4. The fees and expenses of the arbitrator and the arbitration process shall be shared equally by the parties to the arbitration.

10.1.5. The arbitrator's award shall be final and binding upon the parties to the arbitration.

10.2. ***Attorneys' Fees.*** In the event any Member brings an action to enforce any provisions of this Operating Agreement against the Company or any other Member, whether such action is at law, in equity or otherwise, the prevailing party shall be entitled, in addition to any other rights or remedies available to it, to collect from the non-prevailing party or parties the reasonable costs and expenses incurred in the investigation preceding such action and the prosecution of such action, including but not limited to reasonable attorney's fees and court costs.

10.3. ***Notices.*** Whenever, under the provisions of the Act or other law, the Articles or this Operating Agreement, notice is required to be given to any Person, it shall not be construed to mean exclusively personal notice unless otherwise specifically provided, but such notice may be given in writing, by mail, addressed to the Company at its principal office from time to time and to any other Person at his address as it appears on the records of the Company from time to time, with postage thereon prepaid. Any such notice shall be deemed to

have been given at the time it is deposited in the United States mail. Notice to a Person may also be given personally or by telegram or telecopy sent to his address as it appears on the records of the Company. The addresses of the Members as shown on the records of the Company shall originally be those set forth in Article III hereof. Any Person may change his address as shown on the records of the Company by delivering written notice to the Company in accordance with this Section.

10.4. ***Application of Colorado Law.*** This Operating Agreement, and the interpretation hereof, shall be governed exclusively by its terms and by the laws of the state of Colorado, without reference to its choice of law provisions, and specifically the Act.

10.5. ***Amendments.*** No amendment or modification of this Operating Agreement shall be effective except upon the unanimous written consent of the Members.

10.6. ***Construction.*** Whenever the singular number is used in this Operating Agreement and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa.

10.7. ***Headings.*** The headings in this Operating Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Operating Agreement or any provision hereof.

10.8. ***Waivers.*** The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Operating Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.

10.9. ***Rights and Remedies Cumulative.*** The rights and remedies provided by this Operating Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any or all other remedies. Such rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

10.10. ***Severability.*** If any provision of this Operating Agreement or the application thereof to any Person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Operating Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

10.11. ***Heirs, Successors and Assigns.*** Each and all of the covenants, terms, provisions and agreements in this agreement contained shall be binding upon and inure to the benefit of the parties to this agreement and, to the extent

permitted by this Operating Agreement, their respective heirs, legal representatives, successors and assigns.

10.12. ***Creditors.*** None of the provisions of this Operating Agreement shall be for the benefit of or enforceable by any creditor of the Company.

10.13. ***Counterparts.*** This Operating Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

10.14. ***Entire Agreement.*** This Operating Agreement sets forth all of the promises, agreements, conditions and understandings between the parties respecting the subject matter of this agreement and supersedes all prior negotiations, conversations, discussions, correspondence, memoranda and agreements between the parties concerning such subject matter.

The undersigned, being all the Members of the Company, agree, acknowledge and certify that the foregoing Operating Agreement constitutes the sole and entire Operating Agreement of the Company, unanimously adopted by the Members of the Company as of the date first written above.

MEMBERS:

_____
YOUR NAME

_____
YOUR NAME

EXHIBIT A

MEMBER	CONTRIBUTION	MEMBERSHIP INTEREST
NAME	AMOUNT	PERCENT

DO THIS FOR EACH MEMBER

STATE OF COLORADO)
) *ss.*
COUNTY OF _____)

Subscribed, sworn to and acknowledged before me by _____ and _____, on _____, 2006.

My Commission Expires: _____.

Witness my hand and official seal.

_____
Notary Public

Appendix 3

Corporate Bylaws

CORPORATE BYLAWS

of

_____

ARTICLE 1
Company Formation

1.01 **FORMATION.** This Corporation is formed pursuant to the Arkansas Business Corporation Act of 1987 (the "Act"), Arkansas Model Registered Agents Act (the "MRAA") and the laws of the State of Arkansas.

1.02 **CORPORATE ARTICLES COMPLIANCE.** The Board of Directors (the "Board") acknowledges and agrees that they caused the Corporation's Articles of Incorporation ("Articles") to be filed with the Arkansas Secretary of State and all filing fees have been paid and satisfied.

1.03 **REGISTERED OFFICE & REGISTERED AGENT.** Per Section 4-20-105 of the MRAA, the Board agrees that the Corporation's registered agent for service of process is located in the State of Arkansas, as stated in the Articles. The Corporation may change its registered agent by resolution of the Board and filing a statement with the Secretary of State setting forth the change. Pursuant to the Section 4-27-1601 of the Act, the Board is obligated to maintain and update the corporate records on file with the Corporation's registered agent.

1.04 **OTHER OFFICES.** The Corporation may have other offices as selected by the Board per Section 4-27-302 of the Act.

1.05 **CORPORATE SEAL.** Pursuant to Section 4-27-302 of the Act, the Board may adopt a corporate seal with the form and inscription of their choosing. The adoption and use of a corporate seal is not required.

1.06 **PURPOSE.** Pursuant to Section 4-27-301 of the Act, this Corporation is formed to engage in any lawful business purpose.

1.07 **ADOPTION OF BYLAWS.** Pursuant to Section 4-27-206 of the Act, the Board has caused the adoption of these corporate bylaws on behalf of the Corporation.

ARTICLE 2
Board of Directors

2.01 **INITIAL MEETING OF THE BOARD.** The Board has conducted and completed the initial, organizational meeting necessary to begin the business operations of the Corporation in accordance with Section 4-27-205 of the Act.

2.02 **POWERS AND NUMBERS.** Pursuant to Section 4-27-801 of the Act, the management of all the Corporation's affairs, property, and interests shall be managed by or under the direction of the Board. Per Section 4-27-803 of the Act, the Board of the Corporation shall be comprised of the number of directors listed in the Articles, unless expressly altered by these Bylaws. In accordance with Section 4-27-803 of the Act, the Board consists of at least one (1) natural person, and all additional directors must also be natural persons. Directors, as stated in Sections 4-27-728, 4-27-803, and 4-27-805 of the Act, are to be elected at the first annual shareholder meeting elected for a term of one (1) year, and hold office until their successors are duly elected and qualified at the following annual shareholder meeting. Per Section 4-27-802 of the Act, directors need not be shareholders or residents of the State of Arkansas.

2.03 **DIRECTOR LIABILITY.** Each director is required, individually and collectively, to act in good faith, with reasonable and prudent care, and in the best interest of the Corporation. If a director acts in accordance with Section 4-27-830 of the Act, then they shall be immune from liability arising from official acts on behalf of the Corporation. Directors are presumed to act in compliance with Section 4-27-830 of the Act.

Directors who fail to comply with Sections 4-27-640 and 4-27-830 of the Act shall be personally liable to the Corporation for any improper distributions and as otherwise described in Section 4-27-833 of the Act and these Bylaws.

2.04 **CLASSES OF DIRECTORS.** Until such time as these Bylaws are accordingly amended, the Corporation does not have classes of directors.

2.05 **CHANGE OF NUMBER.** The number of directors may be changed at any time by amendment of these Bylaws, pursuant to the process outlined in Article 10 of these Bylaws. A decrease in number does not have the effect of shortening the term of any incumbent director. In the event the established number of directors is decreased, the directors shall hold their positions until the next shareholder meeting occurs and new directors are elected and qualified.

2.06 **ELECTION & REMOVAL OF DIRECTORS.** Pursuant to Section 4-27-805 of the Act, Directors are to be voted on and elected at each annual shareholder meeting, unless a special meeting is expressly called to remove a director and/or fill a vacancy. Pursuant to Section 4-27-808 of the Act, one or more directors of the Board may be removed by an affirmative vote by the holders of a majority of stock entitled to vote at any meeting of shareholders called expressly for that purpose. In the event that a director is elected, but is not yet qualified to hold office, then the previous director shall holdover until such time that the newly elected director is so qualified.

2.07 **VACANCIES.** Per Section 4-27-810 of the Act, all vacancies in the Board may be filled by the affirmative vote of a majority of the remaining directors, *provided* that any such director who fills a vacancy is qualified to be a director and shall only hold the office until a new director is elected by the shareholders at the next meeting of the shareholders. Any director who fills a vacancy on the Board shall not be considered unqualified or disqualified solely by virtue of being an interim director. Pursuant to Section 4-27-805 of the Act, any director elected by the shareholders to fill a vacancy which results from the removal of a director shall serve the remainder of the annual term of the removed director and until a successor is elected by the shareholders and qualified. Any vacancy to be filled due to an increase in the number of directors may be filled by the Board for a term lasting until the next annual election of directors by the shareholders at the annual meeting or a special meeting called for the purpose of electing directors.

2.08 **REGULAR MEETINGS.** Pursuant to Section 4-27-820 of the Act, the meetings of the Board or any committee may be held at the Corporation's principal office or at any other place designated by the Board or its committee, including by means of remote communication which allows all persons participating in the meeting to hear each other at the same time. The annual meeting of the Board will be held without notice immediately after the adjournment of the annual meeting of shareholders.

2.09 **SPECIAL MEETINGS.** Pursuant to Section 4-27-820 of the Act, special meetings of the Board may be held at any place and at any time, including by means of remote communication which allows all persons participating in the meeting to hear each other at the same time, and may be called by the Chairman of the Board, the President, Vice President, Secretary, or Treasurer, or at least two (2) directors. Any special meeting of the Board must be preceded by at least forty-eight (48) hours' notice of the date, time, place, and purpose of the meeting, unless these Bylaws require otherwise.

2.10 **ACTION BY DIRECTORS WITHOUT A MEETING.** Pursuant to Section 4-27-821 of the Act, any action which may be taken at a meeting of the Board, or its committee, may be taken without a meeting, *provided* all directors or committee members unanimously agree and sign a consent that sets forth the action taken taken by the Board. The signed consent is to be filed with the minutes of the proceeding.

2.11 **NOTICE OF MEETINGS.** Pursuant to Section 4-27-822 of the Act, the regular meetings of the Board shall be held without notice of the date, time, place, or purpose of the meeting, provided the meeting of the Board follows the adjournment of the annual shareholder meeting. Notice may be given personally, by facsimile, by mail, or in any other lawful manner, so long as the method for notice comports with Article 8 of these Bylaws. Oral notification is sufficient only if a written record of the notice is included in the Corporation's minute book. Notice is effective at the earliest of:

(a) Receipt;

(b) Delivery to the proper address or telephone number of the director(s) as shown in the Corporation's records; or

(c) Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if correctly addressed and mailed with first-class postage prepaid.

2.12 **WAIVER OF NOTICE.** Pursuant to Section 4-27-823 of the Act, a director waives the notice requirement if that director attends or participates in the meeting, unless a director attends for the express purpose of promptly objecting to the transaction of any business because the meeting was not lawfully called or convened. Under Section 4-27-823 of the Act, a director may waive notice by a signed writing, delivered to the Corporation for inclusion in the minutes before or after the meeting.

2.13 **QUORUM.** Per Section 4-27-824 of the Act, a majority of the entire Board constitutes a quorum, and a quorum is necessary at all meetings to constitute a quorum to transact business.

2.14 **REGISTERING DISSENT.** Pursuant to Section 4-27-824 of the Act, a director who is present at a meeting at which an action on a corporate matter is taken is presumed to have assented to such action, unless the director expressly dissents to the action. A valid dissent must be entered in the meeting's minutes, filed with the meeting's acting Secretary before its adjournment, or forwarded by registered mail to the Corporation's Secretary within twenty-four (24) hours after the meeting's adjournment. These options for dissent do not apply to a director who voted in favor of the action or failed to express such dissent at the meeting.

2.15 **EXECUTIVE AND OTHER COMMITTEES.** As permitted by Section 4-27-825 of the Act, the Board may create committees to delegate certain powers to act on behalf of the Board, provided the Board passes a resolution indicating such creation or delegation. Notwithstanding the power to create committees, no committee may issue stock, recommend shareholder actions, nor amend these Bylaws. The Board may delegate to a committee the power to appoint directors to fill vacancies on the Board. All committees must record regular minutes of their meetings and keep the minute book at the corporation's office. The creation or appointment of a committee does not relieve the Board or its members from their standard of care described in Section 2.03 of these Bylaws or in Section 4-27-830 of the Act.

2.16 **COMPENSATION.** In accordance with Section 4-27-811 of the Act, the Board may adopt a resolution which results in directors being paid a reasonable compensation for their services rendered as directors of the Corporation. Directors may also be paid a fixed sum and expenses, if any, for attendance at each regular or special meeting of such Board. Nothing contained in these Bylaws precludes a director from receiving compensation for serving the Corporation in any other capacity, including any services rendered as an officer or employee. If the Board accordingly passes a resolution, then committee members may be allowed like compensation for attending committee meetings.

A resolution of the Board that grants compensation to a director may be challenged by a shareholder, provided the shareholder requests a special shareholder meeting specifically addressing the resolution related to director compensation. Any Board resolution that relates to director compensation can be overturned by a majority vote of shareholders.

2.17 **LOANS.** The Corporation may not make loans to the directors without the approval of a majority of shareholders entitled to vote.

2.18 **INDEMNIFICATION.** Provided the director complies with the standard of care described in Section 2.03 of these Bylaws and Sections 4-27-640 and 4-27-830 of the Act, the Corporation

shall indemnify any director made a party to a proceeding, brought or threatened, as a consequence of the director acting in their official capacity. In the event a director is entitled to indemnification by the Corporation, the director shall be indemnified pursuant to the process outlined in Section 4-27-850 of the Act.

ARTICLE 3
Stock

3.01 **AUTHORITY TO ISSUE.** Subject to Sections 4-27-601, 4-27-603, and 4-27-621 of the Act and the Corporation's Articles, the Corporation is authorized to issue any class of stock or securities convertible into stock of any class. Before any stock of the Corporation may be issued, the Board must pass a resolution which authorizes the issuance, sets the minimum consideration for the stock or security (or a formula to determine the minimum consideration), and fairly describes any non-monetary consideration.

3.02 **RESTRICTIONS.** Stock may only be issued in accordance with the Corporation's Articles, and through the process described in these Bylaws. Any issuance of stock in excess of the amount described in the Corporation's Articles must be authorized by the Board and approved by the affirmative vote by a majority of shareholders. Per Section 4-27-627 of the Act, any restriction on the transferability of stock shall be fully furnished to the shareholder, upon shareholder request, and without any charge to the shareholder. Per Section 4-27-627 of the Act, any failure to furnish such information to the shareholder or a transferee without actual knowledge of the restriction renders the restriction on stock transferability invalid or unenforceable.

As provided in Section 4-27-630 of the Act, no shareholder has a preemptive right to subscribe to any subsequent or additional issuance of stock.

3.03 **STOCK CERTIFICATES.** Under Section 4-27-625 of the Act, shareholders are entitled to stock certificates that certify the shares of the Corporation's stock held by the shareholder. Notwithstanding the shareholders' rights to stock certificates, the Board may authorize the issuance of some or all shares of any class or series of stock without certificates, provided the Board shall provide to a shareholder a written statement that contains the information required to be on stock certificates, per Section 4-27-626 of the Act.

As required by Section 4-27-625 of the Act, each stock certificate must contain on its face:

(a) The name of the Corporation and that the Corporation is organized under the laws of this State;

(b) The name of the shareholder (or person to whom the stock is issued);

(c) The number and class of shares and the designation of the series, if any, the certificate represents; and

(d) The signature of two officers designated in these Bylaws or by the Board; or

(e) The Clerk and an officer designated in the Bylaws or by the Board.

For the sake of clarity, in the event that an individual serves multiple roles within the Corporation, that person *cannot* countersign any document which that person has already signed in their official or individual capacity. If an officer who has signed or whose facsimile signature appears on any stock certificate ceases to be an officer before the certificate is issued to the shareholder, it may be issued by the Corporation and is valid as if the person were an officer on the date of issuance. The certificate may be sealed with the Corporation's seal.

3.04 **MUTILATED, LOST, OR DESTROYED CERTIFICATES.** Pursuant to Section 4-27-206 of the Act, in the instance of any mutilation, loss, or destruction of any stock certificate, another may be issued in its place on proof of such mutilation, loss or destruction. The Board may impose conditions on such issuance and may require the giving of a satisfactory bond or indemnity to the Corporation. The Board may establish other procedures as they deem necessary.

3.05 **FRACTIONAL SHARES OR SCRIP.** Subject to Section 4-27-604 of the Act, the Corporation may:

(a) Issue fractions of a share which entitle the holder to exercise voting rights, to receive dividends, and to participate in any of the Corporation's assets in the event of liquidation;

(b) Arrange for the disposition of fractional interests by those entitled thereto;

(c) Pay the fair market value, in cash, of fractions of a share as of the time when those entitled to receive such shares are determined; or

(d) Issue scrip in a form which entitles the holder to receive a certificate for the full share upon surrender of such scrip aggregating a full share.

3.06 **TRANSFER.** So long as there is no transferability restriction on the stock, as described in Section 3.02 of these Bylaws, the stock of the Corporation is freely transferable. Transfers of stock must be made upon the corporation's stock transfer books. Stock transfer books shall be kept in the manner described in Article 7 of these Bylaws.

Before a new certificate is issued, the old certificate must be surrendered for cancellation. The Board may, by resolution, open a share register in any state of the United States, and may employ an agent or agents to keep such register, and to record transfers or shares therein.

3.07 **REGISTERED OWNER.** The Corporation shall recognize an individual as the registered owner of a given stock, *provided* that individual is determined as the shareholder of record by the record date as set out in Section 4.07 of these Bylaws. Shareholders may agree to confer the right to vote or represent their stock to third parties, including trustees, proxies, or fiduciaries. The Board may resolve to adopt a procedure by which a shareholder of the Corporation may certify in writing to the Corporation that all or a portion of the stock registered in the shareholder's name are held for the account of a specified person or persons. The resolution must set forth:

(a) The classification of shareholder who may certify;

(b) The purpose or purposes for which the certification may be made;

(c) The form of certification and information to be contained therein;

(d) If the certification is with respect to a record date or closing of the stock transfer books, the date within which the certification must be received by the Corporation; and

(e) Other provisions with respect to the procedure as are deemed necessary or desirable.

Upon receipt of a certification complying with this procedure, the Corporation must treat the persons specified in the certification as the holders of record for the number of shares specified in place of the shareholder making the certification.

3.08 **CLASSES OR SERIES OF STOCK.** Until such time that these Bylaws are amended accordingly, the stock of the Corporation is not classified, and is not in series. In the event the Board decides to classify or reclassify the stock or alter any shareholder rights or restrictions, then the Board shall cause an amendment to its Articles to be filed with the Secretary of State. The amendment must describe the rights and restrictions which are being modified or altered, along with a statement (if any) that the stock has been classified or reclassified. Pursuant to Sections 4-27-1001 through 4-27-1003 and 4-27-1005 of the Act, the amendment shall be acknowledged and signed by either a director or an executive officer on behalf of the Board, or an agent authorized to submit filings on the Corporation's behalf.

3.09 **STOCK OWNED BY ENTITIES.** Per Section 4-27-721 of the Act, shares of stock in the Corporation held by another corporation may be voted by that other corporation's officer, agent, or proxy chosen by its board of directors, or, in the absence of such determination, by the president of that other corporation. Per Section 4-27-721 of the Act, shares of stock in the Corporation held by a fiduciary of the named shareholder may be voted or represented by the fiduciary.

Subject to Section 4-27-721 of the Act, the Corporation may vote or represent stock that it holds in itself, *provided* the Corporation holds such stock in a fiduciary capacity. If the Corporation holds stock in itself in such a fiduciary capacity, then such stock shall be counted in determining the total number of outstanding shares of stock at a given time.

ARTICLE 4
Shareholders' Meetings

4.01 **MEETING PLACE.** Per Section 4-27-701 of the Act, all shareholder meetings must be held at the Corporation's principal office or other place predetermined by the Board. As permitted by Section 4-27-701 of the Act, shareholders may participate in the meeting by means virtual or remote conference, *provided* the participants can hear each other in real time.

4.02 **ANNUAL MEETING TIME.** The annual shareholder meeting for the election of directors and the transaction of such other business properly before the meeting, must be held each year on _____, at the hour of _____. If that date is a legal holiday, then the meeting must be held on the day following, at the same hour. Pursuant to Section 4-27-701 of the Act, failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action.

4.03 **ANNUAL MEETING – ORDER OF BUSINESS.** Pursuant to Section 4-27-701 of the Act, the order of business at the annual shareholder meeting is as follows:

(a) Calling the meeting to order;
(b) Proof of notice of meeting (or filing of waiver);
(c) Reading of minutes of last annual meeting;
(d) Officer reports;
(e) Committee reports;
(f) Election of directors;
(g) Disclosures to shareholders; and
(h) Miscellaneous business.

4.04 **SPECIAL MEETINGS.** Subject to Section 4-27-702 of the Act, special shareholder meetings, for any purpose, may be called at any time by the President, the Board, or the Secretary. A special shareholder meeting may also be held upon request if said request is signed, dated, and delivered to the Secretary by the holders of at least one-tenth of all shares entitled to vote at the meeting.

4.05 **NOTICE.** Pursuant to Section 4-27-705 of the Act, the Secretary shall cause notice to be given to each shareholder of record at least ten (10) days, but no more than sixty (60) days, before the shareholders' meeting. Notice shall be by electronic transmission, mailing, or personal delivery, and shall state the time, place, and purpose of the meeting (including instructions for how to virtually attend and participate). Notice is considered given to a shareholder when it is personally provided to the shareholder, left at the shareholder's residence or usual place of business, mailed to the shareholder's address of record, or by electronic transmission to the shareholder's address or number of record on file with the Corporation. A single notice can be delivered to multiple shareholders sharing the same address, unless the Corporation receives a request from a shareholder that more than a single notice be delivered.

Notice by electronic transmission shall be considered ineffective if the Corporation is unable to deliver two (2) consecutive notices and the individual responsible for sending notices to shareholders is made aware of the delivery failures. A shareholder meeting, and any actions taken by shareholders, shall not be invalidated due to an inadvertent failure to deliver notice.

Pursuant to Section 4-27-705 of the Act, the notice must include the record date, as detailed in Section 4.07 of this Article, for determining the shareholders entitled to vote at the meeting, if such date is different than the record date for determining shareholders entitled to notice of the meeting.

4.06 **WAIVER OF NOTICE.** As stated in Section 4-27-706 of the Act, a shareholder who is entitled to notice may waive the notice requirement if they provide a signed written waiver of the required notice, before or after the stated meeting time, or the shareholder is present at the meeting in person or by proxy and fails to object to the holding of the meeting or particular matter at the meeting outside the purpose described in the notice.

4.07 **RECORD DATE.** Consistent with Sections 4-27-707 and 4-27-720 of the Act, at least ten (10) days before each shareholder meeting, a complete record of the shareholders entitled to vote at the meeting must be made and maintained in the books and records of the Corporation. This list must be arranged in alphabetical order and include the address of and number of shares of stock held by each shareholder. This record must be kept on file at the Corporation's principal office for a period of ten (10) days prior to the meeting. The records must also be kept open for inspection at shareholder meetings.

4.08 **CLOSING OF TRANSFER BOOKS AND FIXING RECORD DATE.** Subject to Section 4-27-707 of the Act, the Board may order the stock transfer books to be closed in order to determine which shareholders are entitled to notice of or to vote at any shareholder meeting, or any adjournment thereof, or entitled to receive payment of any dividend. Instead of closing the stock transfer books, the Board may fix in advance a record date for determination of such shareholders. The record date must not be more than sixty (60) days or less than ten (10) days prior to the date of the meeting, adjournment, or payment.

4.09 **SHAREHOLDER LIABILITY.** Consistent with Section 4-27-622 of the Act, shareholders are not liable to the Corporation or its creditors, except that in the event the agreed upon price or consideration for the stock has not been fully paid. In the event that a subscription price or consideration for stock has not been fully paid, the following people are not personally liable for the unpaid balance:

(a) a transferee or assignee who acquires the stock or subscription in good faith and without knowledge or notice of the nonpayment;

(b) a person who holds the stock as a fiduciary, although the estate in the hands of the fiduciary is liable for the nonpayment; and

(c) a pledgee or other person who holds stock as security.

4.10 **VOTING RIGHTS.** Pursuant to Section 4-27-721 of the Act, each outstanding share of stock is entitled to one (1) vote on each matter submitted to a vote at a shareholder meeting, provided the voted or represented shares are held in compliance with any payment plan, subscription, or stock purchase agreement.

4.11 **PROXIES.** As permitted by Section 4-27-722 of the Act, a shareholder may vote either in person or by proxy, signed in writing by the shareholder or the shareholder's duly authorized attorney-in-fact. No proxy is valid after eleven (11) months from the date signed, unless the proxy states otherwise. A proxy is revocable by a shareholder at any time, unless the proxy states that it is irrevocable and is coupled with an interest.

4.12 **QUORUM.** As provided in Section 4-27-725 of the Act, the presence, in person or by proxy, of shareholders entitled to cast a majority of all the outstanding voting stock constitutes a quorum. If a quorum is present at a shareholder meeting, then a majority of all the votes cast at the meeting is sufficient to approve any matter properly brought before the meeting.

4.13 **ACTION BY SHAREHOLDERS WITHOUT A MEETING.** As permitted by Section 4-27-704 of the Act, any action which may be taken at any annual or special shareholder meeting

may be taken without a meeting if all of the shareholders entitled to vote on the subject consent to the action in writing. Such consent has the same force and effect as a unanimous vote of the shareholders.

ARTICLE 5
Officers

5.01 **DESIGNATIONS.** In accordance with Section 4-27-840 of the Act, the Corporation shall have a President, a Secretary, and a Treasurer, who will be elected by the directors at their first meeting after the annual shareholder meeting. The Corporation may also have one or more Vice-Presidents (one shall serve as Executive Vice-President) and Assistant Secretaries and Assistant Treasurers as the Board may designate. An elected officer will hold office for one year or until a successor is elected and qualified. For the sake of clarity and the avoidance of doubt, the same person may hold any two or more offices concurrently, except the offices of President, Vice-President, and Secretary shall be held by at least two separate individuals. All officers may be removed at any time, with or without cause, pursuant to Section 4-27-843 of the Act.

5.02 **THE PRESIDENT.** Pursuant to Section 4-27-841 of the Act, the President shall preside over all meetings of shareholders and directors, shall have general supervision of the Corporation's affairs, and perform all other duties as are incident to the office or are properly required by a resolution passed by the Board.

5.03 **VICE PRESIDENT.** During the absence or disability of the President, the Executive Vice-President may exercise all functions of the President. Each Vice-President shall have such powers and fulfill such duties as may be assigned by a resolution of the Board.

5.04 **SECRETARY AND ASSISTANT SECRETARIES.** Pursuant to Sections 4-27-840 and 4-27-841 of the Act, the Secretary must:

(a) Issue notices for all meetings and actions of the Board or shareholders;
(b) Accept all requests for special meetings of the Board or shareholders;
(c) Accept all notices of proxy appointments and revocations;
(d) Keep the minutes of all meetings;
(e) Accept delivery of any dissent announced at any meeting of the Board or shareholders;
(f) Acknowledge and execute any stock certificates;
(g) Have charge of the corporate seal and books; and
(h) Make reports and perform duties as are incident to the office, or are properly required of him or her by the Board.

The Assistant Secretary, or Assistant Secretaries (in the order designated by the Board), will perform all of the duties of the Secretary during the absence or disability of the Secretary, and at other times may perform such duties as are directed by the President or the Board.

5.05 **THE TREASURER.** Pursuant to Section 4-27-841 of the Act, the Treasurer shall:

(a) Have custody of all the Corporation's monies and securities and keep regular books of account;

(b) Disburse the Corporation's funds in payment of the just demands against the Corporation or as may be ordered by the Board, taking proper vouchers for such disbursements; and

(c) Provide the Board with an account of all his or her transactions as Treasurer and of the financial conditions of the office properly required of him or her by the Board.

If selected, the Assistant Treasurer, or Assistant Treasurers (in the order designated by the Board), must perform the duties of the Treasurer in the absence or disability of the Treasurer, and at other times may perform such other duties as are directed by the President or the Board.

5.06 **DELEGATION.** In the absence or inability to act of any officer and of any person authorized to act in their place, the Board may delegate the officer's powers or duties to any other officer, director, or other person, subject to Section 5.01 of these Bylaws. Vacancies in any office arising from any cause may be filled by the Board, subject to Section 5.01 of these Bylaws, at any regular or special board meeting.

5.07 **OTHER OFFICERS.** Per Section 4-27-840 of the Act, the Board may appoint other officers and agents as they deem necessary or expedient. The term, powers, and duties of such officers will be determined by the Board and described in the resolution authorizing the appointment.

5.08 **LOANS.** Notwithstanding the language in Section 4-27-206 of the Act or any duty to indemnify, no loans may be made by the Corporation to any officer, unless first approved by a two-thirds majority vote of all the outstanding the voting shares entitled to vote on the matter.

5.09 **BONDS.** The Board may resolve to require any officer to give bonds to the Corporation, with sufficient surety or sureties, conditioned upon the faithful performance of the duties of their offices and compliance with other conditions as required by the Board.

5.10 **SALARIES.** Officers' salaries will be fixed from time to time by the Board. Officers are not prevented from receiving a salary by reason of the fact that he or she is also a director of the Corporation.

5.11 **INDEMNIFICATION.** Subject to Section 4-27-850 of the Act, officers shall be indemnified by the Corporation, so long as the officer acted in a manner substantially similar to and consistent with the standard of care described in Section 4-27-842 of the Act. Any officer indemnification shall be limited to proceedings that are directly related to or have arisen out of the officer's acts on behalf of the Corporation.

ARTICLE 6
Capital & Finance

6.01 **DIVIDENDS.** Subject to Section 4-27-640 of the Act, dividends may be declared by the Board and paid by the Corporation out of the net earnings of the unreserved and unrestricted earned surplus of the Corporation, or out of the unreserved and unrestricted net earnings of the current

fiscal year, or in treasury shares of the Corporation, subject to the conditions and limitations imposed by the State of Arkansas. The stock transfer books may be closed by the Board and Sections 3.07 and 4.07 of these Bylaws. The Board, without closing the Corporation's books, may declare dividends payable only to holders of record at the close of business on any business day not more than sixty (60) days prior to the date on which the dividend is paid.

6.02 **RESERVES.** Pursuant to Section 4-27-640 of the Act, the Board may, in their absolute discretion, set aside out of the Corporation's earned net surplus as they deem expedient for dividend, while maintaining any corporate property, or any other purpose, before making any distribution of earned surplus.

6.03 **DEPOSITORIES.** The Corporation's monies must be deposited in the Corporation's name in a bank or trust company or trust companies designated by resolution of the Board. Corporate monies may be drawn out only by check or other order for payment signed by such persons and in such manner as may be determined by resolution of the Board.

ARTICLE 7
Books and Records

7.01 **MEETING MINUTES.** As required by these Bylaws and Section 4-27-1601 of the Act, the Corporation must keep a complete and accurate accounting and minutes of the proceedings of its shareholders and Board.

7.02 **SHAREHOLDER LIST.** In accordance with Section 4-27-720 of the Act, the Corporation must keep a list of its shareholders at its registered office, principal place of business, or other designated location. Such list must include the names and addresses of all shareholders and the number and class of shares held.

7.03 **LEGIBILITY OF RECORDS.** Any books, records, and minutes may be in any form, provided such form is capable of being converted into written form within a reasonable time.

7.04 **RIGHT TO INSPECT.** Subject to Section 4-27-1603 of the Act, any director, shareholder or shareholder representative has the right, upon written request delivered to the Corporation, to inspect and copy during usual business hours the following documents of the Corporation:

(a) The Corporate Articles (initial, restated, and as amended);
(b) These Bylaws;
(c) Minutes of any proceedings;
(d) Annual statements of affairs;
(e) The books of account and stock ledger of the Corporation;
(f) Any voting trust agreements;
(g) All written communications to shareholders from the last three (3) years;
(h) Accounting records of the Corporation; and
(i) Record of the shareholders.

The Corporation elects to assume any obligations that may be related to this Article of these bylaws which would otherwise attach to the registered agent of the Corporation. The Corporation acknowledges and agrees that any obligation to produce corporate documents under this Article of the Bylaws shall attach to the Secretary as part of the duties described in Section 5.04 of these Bylaws.

ARTICLE 8
Notices

8.01 **MAILING OF NOTICE.** Except as may otherwise be required by law, any notice to any shareholder or director may be delivered personally or by mail. If mailed, the notice will be deemed to have been delivered on the close of business of the third business day following the day when deposited in the United States mail with postage prepaid and addressed to the recipient's last known address in the records of the Corporation.

8.02 **E-NOTICE PERMITTED.** Any communications required by the Act, these Bylaws, or other laws may be made by digital or electronic transmission to the recipient's known electronic address or number as known to the Corporation at the time of notice.

8.03 **DUTY TO NOTIFY.** All shareholders, directors, officers, employees, and representatives of the Corporation are required to notify the Corporation of any changes to the individual's contact information. Pursuant to the obligations under this Section of these Bylaws, the individual must notify the Corporation that electronic transmissions of notice are impracticable, impossible, frustrated, or otherwise improper and ineffective.

ARTICLE 9
Special Corporate Acts

9.01 **EXECUTION OF WRITTEN INSTRUMENTS.** All contracts, deeds, documents, and instruments that acquire, transfer, exchange, sell, or dispose of any assets of the Corporation must be executed by the President to bind the Corporation. This Section does not apply to any checks, money orders, notes, or other financial instruments for direct payment of corporate funds which are subject to Section 9.02 of these Bylaws.

9.02 **SIGNING OF CHECKS OR NOTES.** All authorizations to distribute, pay, or immediately draw upon the financial resources of the Corporation must be signed by the Treasurer, including any expense reimbursement or compensation payments to directors, officers, employees, representatives, service providers, or contractors of the Corporation.

9.03 **SPECIAL SIGNING POWERS.** To duly bind the Corporation to an agreement or instrument in the event the President holds an interest which exists outside of the capacity of being President, then any agreement involving such interest must be signed by an officer pursuant to either Section 5.03 or 9.02 of these Bylaws.

9.04 **SHAREHOLDER APPROVAL.** Pursuant to Section 4-27-1201 of the Act, and until these Bylaws require otherwise, no shareholder approval is required to acquire, transfer, exchange, sell, or dispose of any assets of the Corporation in the ordinary course of business or after dissolving the Corporation. Notwithstanding any other provisions of these Bylaws, and consistent with Section 4-27-1202 of the Act, shareholder approval is required prior to any non-routine business operations, such as a merger, consolidation, share-exchange, conversion, or dissolution, and any loans that may be provided under Section 5.08 of these Bylaws.

9.05 **MERGERS & CONVERSIONS.** Following the approval from the shareholders, in order for any consolidation, merger, conversion, or other organizational restructuring to be effective, it must follow the respective process(es) set out in Subchapter 11 of the Act.

9.06 **DISSOLUTION.** Following the approval of the shareholders, in order for the Corporation to properly be dissolved, it must follow the process set out in Subchapter 14 of the Act.

ARTICLE 10
Amendments

10.01 **BY SHAREHOLDERS.** These Bylaws may be altered, amended or repealed by the affirmative vote of a majority of the voting stock issued and outstanding at any regular or special shareholder meeting.

10.02 **BY DIRECTORS.** Subject to Section 4-27-1020 of the Act, the Board has the power to make, alter, amend, and repeal the Corporation's Bylaws. Any alteration, amendment, or repeal of the Bylaws, may be changed or repealed by the holders of a majority of the stock entitled to vote at any shareholders meeting.

10.03 **EMERGENCY BYLAWS.** Consistent with Section 4-27-207 of the Act, the Board may adopt emergency Bylaws, subject to a vote to repeal or modify by the shareholders, which operate during any emergency in the Corporation's conduct of business resulting from an attack on the United States or a nuclear or atomic disaster.

10.04 **COMPLIANCE WITH STATE LAW.** Any amendment to the Corporation's articles or these Bylaws shall be consistent with the Act.

These Bylaws are adopted by resolution of the Corporation's Board of Directors on this ____ day of _____, 20____.

_____

Director

Notes

DIVISION OF AGRICULTURE

RESEARCH & EXTENSION

University of Arkansas System

United States Department of Agriculture, University of Arkansas, and County Governments Cooperating

MP581 5/2024