

**OPERATING AGREEMENT**

**OF**

**SUNCOAST PROFESSIONAL CENTER, LLC**

**Dated as of August 16th, 2006**

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THE MEMBER INTERESTS REPRESENTED BY THIS INSTRUMENT HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS, EITHER PURSUANT TO APPLICABLE EXEMPTIONS OR BECAUSE THE MEMBER INTERESTS ARE NOT SECURITIES. WITHOUT SUCH REGISTRATION, THESE MEMBER INTERESTS MAY NOT BE SOLD, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED IN THE UNITED STATES AT ANY TIME WHATSOEVER, EXCEPT UPON DELIVERY TO THE COMPANY OF AN OPINION OF COUNSEL SATISFACTORY TO THE MANAGING MEMBER OF THE COMPANY THAT REGISTRATION IS NOT REQUIRED FOR SUCH TRANSFER OR THE SUBMISSION TO THE MANAGING MEMBER OF THE COMPANY OF SUCH OTHER EVIDENCE AS MAY BE SATISFACTORY TO THE MANAGING MEMBER TO THE EFFECT THAT ANY SUCH TRANSFER WILL NOT BE IN VIOLATION OF THE SECURITIES ACT OF 1933, AS AMENDED, OR OTHER APPLICABLE STATE OR FEDERAL SECURITIES LAWS OR ANY RULE OR REGULATION PROMULGATED THEREUNDER. ADDITIONALLY, ANY SALE OR OTHER TRANSFER OF THESE MEMBER INTERESTS IS SUBJECT TO CERTAIN RESTRICTIONS THAT ARE SET FORTH IN THIS AGREEMENT.

**OPERATING AGREEMENT**  
**OF**  
**SUNCOAST PROFESSIONAL CENTER, LLC**

**THIS OPERATING AGREEMENT** (“Agreement”) is made and entered into effective as of the \_\_\_\_ day of \_\_\_\_\_, 2006 (“Effective Date”), by and among **SUNCOAST PROFESSIONAL CENTER, LLC**, a Florida limited liability company (“Company”), **GLOBAL OF SUNCOAST, LLC**, a Florida limited liability company (“Global”), and those other Persons identified on Schedule B hereto (Global and such other Persons sometimes hereinafter referred to individually as “Member” and collectively as “Members”).

**W I T N E S S E T H**

**WHEREAS**, Articles of Organization ("Articles") legally creating the Company have been filed with the Department of State of the State of Florida, and the Articles are approved and the filing thereof ratified; and

**WHEREAS**, the Members desire to participate together as a member-managed limited liability company formed under Chapter 608 of the Florida Statutes to engage in the business described in Section 2.04 hereof; and

**WHEREAS**, the Members desire to express in writing their mutual understandings and agreements with respect to the formation and operation of the Company; and

**WHEREAS**, the Members believe that the best means to accomplish the foregoing is to supersede any prior agreements or understandings among them by setting forth in this Agreement all the terms, provisions, conditions and covenants by which the Company will be governed.

**NOW, THEREFORE**, in consideration of these premises and the mutual covenants and conditions contained herein, the parties hereto, each intending to be legally bound, hereby agree as follows:

**ARTICLE I**  
**INCORPORATION; DEFINITIONS**

1.01 Incorporation. The foregoing recitals are true and correct and, together with any Schedules and Exhibits attached hereto, are hereby incorporated herein and made a part hereof.

1.02 Definitions. Capitalized terms used, but not otherwise defined, herein shall have the meanings hereafter set forth.

(a) Additional Capital Contributions. This shall have the meaning set forth in Section 3.02 hereof.

(b) Adjusted Capital Account Deficit. With respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant Fiscal Year, after giving effect to the following adjustments:

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

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

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

(c) Affiliate. When used with reference to a specified Person, (a) any Person who, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with the specified Person, (b) any Person who is an officer, director, member or manager of, partner in or trustee of, or serves in a similar capacity with respect to, the specified Person or of which the specified Person is an officer, director, manager, member, partner or trustee, or with respect to which the specified Person serves in a similar capacity, (c) any Person who, directly or indirectly, is the legal or beneficial owner of more than ten percent (10%) of any class of equity securities of, or otherwise has a substantial beneficial interest in, the specified Person or of which the specified Person is directly or indirectly the legal or beneficial owner of more than ten percent (10%) of any class of equity securities or in which the specified Person has a substantial beneficial interest, (d) any Person which owns more than ten percent (10%) of the voting interests of the specified Person, or in which the specified Person owns more than ten percent (10%) of the voting interests, or (e) any Person who is the parent, sibling, spouse, child, or grandchild of a specified Person.

(d) Agreement. This Agreement or any restatements hereof, as originally executed or as may be amended from time to time.

(e) Assignee. Any Person who acquires (by purchase, gift, inheritance, judgment, Transfer or otherwise), or has an ownership or security interest (including any charging lien) in or against the Company or any Member Interest, but who has not been admitted as a Member of the Company in accordance with this Agreement.

(f) Assignment Purchase Price. This shall have the meaning set forth in Section 7.06 hereof.

(g) Available Cash. The cash funds, including debt, equity and tax exempt income, generated by Company operations during a Fiscal Year (or other specified period), without deduction for non-cash expenses, but after deduction of cash funds used to pay all other expenses and obligations of the Company (other than the Loans) whether or not deductible for tax purposes, including, without limitation, principal and interest payments on Company indebtedness (including any loans made by a Member or its Affiliates, but specifically excluding the Loans), capital expenditures, operating expenditures, prepayments of indebtedness (other than with respect to the Loans), any fees or costs payable to the Managing Member, and any reasonable amounts set aside for Reserves by the Company in the discretion of the Managing Member, whether for current operations or future investment. Available Cash shall not include or reflect any proceeds received or expenses incurred in connection with a Capital Transaction.

(h) Bankruptcy. As used in this Agreement, the term "Bankruptcy," with respect to the Company or a Member, as the case may be, shall refer to: (i) the appointment of a receiver, conservator, rehabilitator or similar officer for the Company or Member, unless the appointment of such officer shall be challenged in an application filed within thirty (30) days after the appointment and the appointment is vacated and such officer discharged within one hundred twenty (120) days of the appointment; (ii) the taking of possession of, or the assumption of control over, all or any substantial part of the property of the Company or Member by any receiver, conservator, rehabilitator or similar officer or by the United States government or any agency thereof, unless such possession or control is challenged in an application filed within thirty (30) days after such possession or control is taken and property is relinquished within one hundred twenty (120) days of the taking; (iii) the filing of a petition in bankruptcy or the commencement of any proceeding under any present or future federal or state law relating to bankruptcy, insolvency, debt relief or reorganization of debtors by or against the Company or Member, provided, if filed against (and not by) the Company or Member, such petition or proceeding is not challenged within thirty (30) days after it is filed and if so challenged is not dismissed within one hundred twenty (120) days of the filing of the petition or the commencement of the proceeding; or (iv) the making of an assignment for the benefit of creditors or a private composition, arrangement or adjustment with the creditors of the Company or Member.

(i) Capital Account. An account that, throughout the full term of the Company, shall be established, determined and maintained separately for each Member in accordance with the following provisions:

(i) To each Member's Capital Account there shall be credited such Member's Capital Contributions, such Member's distributive share of Profits and any items in the nature of income or gain which are specially allocated pursuant to Sections 4.05, 4.06 or 4.07 hereof, and the amount of any Company liabilities assumed by such Member or which are secured by any Company property distributed to such Member.

(ii) To each Member's Capital Account there shall be debited the amount of cash and the Gross Asset Value of any Company property distributed to such Member pursuant to any provision of this Agreement, such Member's distributive share of Losses and any items in the nature of expenses or losses which are specially allocated pursuant to Sections 4.05, 4.06 or 4.07 hereof, and the amount of any liabilities of such Member assumed by the Company or which are secured by any property contributed by such Member to the Company.

(iii) In the event all or a portion of an interest in the Company is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred interest.

(iv) In determining the amount of any liability for purposes of (i) and (ii) of this definition, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulation Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such Regulation. In the event the Managing Member shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities that are secured by contributed or distributed property or that are assumed by the Company or the Members), are computed in order to comply with such Regulations, the Managing Member may make such modification, provided that it is not likely to have a material effect on the amounts distributable to any Member pursuant to Section 9.02 hereof upon the dissolution of the Company. The Members shall (1) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Members and the amount of Company capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Regulation Section 1.704-1(b)(2)(iv)(g), and (2) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Regulation Section 1.704-1(b).

(j) Capital Contribution. The amount of cash or the agreed fair market value of property contributed by each Member to the capital of the Company, as reflected in the books of the Company.

(k) Capital Transaction. A Capital Transaction refers to an "Interim Capital Transaction" or a "Terminating Capital Transaction." An Interim Capital Transaction shall mean a transaction pursuant to which the Company borrows funds (including a refinancing), a sale,

condemnation, exchange, abandonment, or other disposition of a portion (which is less than substantially all) of the assets of the Company, or an insurance recovery or any other transaction which, in accordance with generally accepted accounting principles, is considered capital in nature, other than a Terminating Capital Transaction. Sale of individual buildings or condominium units or parcels shall be deemed Interim Capital Transactions. A Terminating Capital Transaction shall mean a sale, condemnation, exchange, or other disposition, whether by foreclosure, abandonment, or otherwise, of all or substantially all of the then remaining assets of the Company (other than in the ordinary course of business) or a transaction that will result in a dissolution of the Company.

(l) Code. The Internal Revenue Code of 1986, as amended from time to time, or any corresponding provision or provisions of any federal internal revenue law enacted in substitution of the Internal Revenue Code of 1986.

(m) Company. Suncoast Professional Center, LLC, a Florida limited liability company.

(n) Company Accountants. Such independent accountants as may be selected, from time to time, by the Managing Member.

(o) Company Minimum Gain. This shall have the meaning set forth in Regulation Sections 1.704-2(b) and (d) for “partnership minimum gain.”

(p) Company’s Business. This shall have the meaning set forth in Section 2.04 hereof.

(q) Distributions. Any cash or the fair market value of property distributed to the Members in their capacities as Members, whether from Available Cash, Net Proceeds of a Capital Transaction, or distributions following dissolution of the Company.

(r) Effective Date. The effective date of this Agreement as set forth in the opening paragraph hereof.

(s) Event of Dissolution. Any of the events that result in a dissolution of the Company as set forth in Section 9.02 hereof.

(t) Final Offering Date. The last date on which the Company may accept subscriptions for Notes or Member Interests pursuant to the Offering, which date is initially September 15, 2006, subject to extension, at the discretion of the Managing Member, up to an additional one hundred twenty (120) days.

(u) Fiscal Year. The calendar year.

(v) Global. This shall have the meaning set forth in the opening paragraph hereof.

(w) Gross Asset Value. With respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

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

(i) The Gross Asset Values of all Company assets shall be adjusted to equal their respective gross fair market values, as determined by the Managing Member as of the following times: (1) the acquisition of an additional interest in the Company by any new or existing Member in exchange for more than a de minimis Capital Contribution; (2) the Distribution by the Company to a Member of more than a de minimis amount of property as consideration for an interest in the Company; and (3) the liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g); provided, however, that adjustments pursuant to clauses (1) and (2) shall be made only if the Managing Member reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company;

(ii) The Gross Asset Value of any Company asset distributed to any Member shall be adjusted to equal the gross fair market value of such asset on the date of Distribution as determined by the distributee and the Managing Member; and

(iii) The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulation Section 1.704-1(b)(2)(iv)(m) and Section 4.07(a) hereof; provided, however, that Gross Asset Values shall not be adjusted to the extent the Member determines that an adjustment pursuant to subparagraph (ii) of this definition is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subparagraph.

If the Gross Asset Value of an asset has been determined or adjusted pursuant to subparagraphs (i), (ii) or (iv) of this definition, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

For purposes of the foregoing provision, "Depreciation" means, for each Fiscal Year, an amount equal to the depreciation, amortization or other cost recovery deduction allowable with respect to an asset for such Fiscal Year, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such Fiscal Year, Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value as the depreciation, amortization or other cost recovery deduction for income tax purposes for such Fiscal Year bears to such beginning adjusted tax basis; provided, however, that if the

adjusted basis for income tax purposes of an asset at the beginning of such Fiscal Year is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Managing Member.

(x) Interim Capital Transaction. This shall have the meaning ascribed to such term in the definition of Capital Transaction in this Section.

(y) IRS. The Internal Revenue Service of the Department of Treasury of the United States of America, or if the Internal Revenue Service ceases to exist, such other, subsequent or successor governmental agency that is charged with the task of, or otherwise responsible for, collecting taxes and administering the Code.

(z) Law. The Florida Limited Liability Company Act, as amended from time to time.

(aa) Loans. Shall have the meaning set forth in Section 3.03.

(bb) Managing Member. Global, or any other Member who may be appointed as Managing Member after the date hereof in accordance with this Agreement. As long as Global is the Managing Member, references to the Managing Member shall not encompass any Member Interests held by the members of Global or any of their Affiliates, which Member Interests shall entitle such Persons to all rights of a Member under this Agreement.

(cc) Member. The owner of a Member Interest in the Company who, as of the Effective Date, is identified on Schedule B, including the Managing Member, and such other Person to whom a Member Interest is issued or Transferred, after the Effective Date, if such Person is admitted as a Member pursuant to ARTICLE VII hereof.

(dd) Member Interest or Member Interests. The entire ownership interest of a Member in the Company at any particular time, including such Member's rights to any and all Distributions, allocations and other incidents of participation in the Company to which such Member may be entitled as provided in this Agreement and under applicable law, together with the obligations of such Member to comply with all of the terms and provisions of this Agreement and the Law, and further including its Capital Account hereunder.

(ee) Member Minimum Gain. An amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if such Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in the same manner as "partner minimum gain" pursuant to Regulation Section 1.704-2(i).

(ff) Member Nonrecourse Debt. Any nonrecourse debt (for the purposes of Regulation Section 1.1001-2) of the Company for which any Member bears the "economic risk of loss" within the meaning of Regulation Section 1.752-2.

(gg) Member Nonrecourse Deductions. These shall have the meaning set forth in Regulation Section 1.704-2(i) for "partner nonrecourse deductions." The amount of Member Nonrecourse Deductions with respect to Member Nonrecourse Debt for any Fiscal Year equals

the excess, if any, of (i) the net increase, if any, in the amount of Member Minimum Gain attributable to such Member Nonrecourse Debt during such Fiscal Year, over (ii) the aggregate amount of any Distributions during that Fiscal Year to the Member that bears the economic risk of loss for such Member Nonrecourse Debt to the extent such Distributions are from the proceeds of such Member Nonrecourse Debt and are allocable to an increase in Member Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulation Section 1.704-2(i).

(hh) Member Percentages. The respective percentage interest of each Member in the Company as set forth on Schedule B hereto as same may be amended from time to time. The Member Percentage of the Managing Member shall be forty-five percent (45%). The Member Percentage of each Member, other than the Managing Member, shall be the product of multiplying fifty-five percent (55%) by a fraction, the numerator of which is the Capital Contribution of that Member and the denominator of which is the aggregate Capital Contributions of all Members, other than the Managing Member.

(ii) Net Proceeds of a Capital Transaction or Net Proceeds of an Interim Capital Transaction or Net Proceeds of a Terminating Capital Transaction. The proceeds received by the Company in connection with a Capital Transaction which is either an Interim Capital Transaction or a Terminating Capital Transaction after (i) payment of all costs and expenses incurred by the Company in connection with such Capital Transaction, including, without limitation, brokers' commissions, loan fees, loan payments, and other closing costs, (ii) payment of any Company indebtedness intended to be repaid if the Capital Transaction is a financing or refinancing, and further reduced by (iii) any Reserves deemed necessary or appropriate by the Managing Member in its sole discretion, and (iv) by any amounts reinvested or held for reinvestment by the Managing Member.

(jj) Nonrecourse Deductions. Deductions of the Company described in Regulation Section 1.704-2(b)(1).

(kk) Nonrecourse Liability. A liability of the Company described in Regulation Sections 1.704-2(b)(3) and 1.752-1(a)(2).

(ll) Note Holders. Shall have the meaning set forth in Section 3.03.

(mm) Notes. Shall have the meaning set forth in Section 3.03.

(nn) Offering. The private placement by the Company of a minimum of Four Million Dollars (\$4,000,000.00) and a maximum of Eight Million Dollars (\$8,000,000.00) of Notes and Member Interests, in any combination, other than to the Managing Member.

(oo) Permitted Transferee. Any Person entitled to be the recipient of a Transfer of a Member Interest pursuant to Section 7.05 hereof.

(pp) Person. Any individual, partnership, corporation, limited liability company, trust, unincorporated or incorporated association, or other entity.

(qq) Preferred Return. Preferred Return means an amount determined by multiplying ten percent (10%) per annum by each Member's Unreturned Capital, other than the Managing Member, which amount shall commence to accrue for a Member as of the day after the Property Closing (or such earlier date as may be determined by the Managing Member in its sole discretion).

(rr) Profits and Losses. Profits and Losses means, for each Fiscal Year, an amount equal to the Company's taxable income or loss for such Fiscal Year, including gain or loss from Capital Transactions, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(i) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this definition of "Profits" and "Losses" shall be added to such taxable income or loss;

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

(iii) In the event the Gross Asset Value of any Company asset is adjusted pursuant to subparagraphs (ii) or (iii) of the definition of "Gross Asset Value," the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Profits or Losses;

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

(v) In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Fiscal Year, computed in accordance with the definition of "Depreciation";

(vi) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Regulation Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a Distribution other than in complete liquidation of a Member's Member Interest, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the

adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Profits or Losses; and

(vii) Any items which are specially allocated pursuant to Section 4.05 or 4.06 shall not be taken into account in computing Profits or Losses.

The amounts of the items of Company income, gain, loss or deduction available to be specially allocated pursuant to Section 4.05 and 4.06 shall be determined by applying rules analogous to those set forth in subparagraphs (i) through (vi) above.

(ss) Property. The real property generally described in Section 2.04 hereof and a complete legal description of which is set forth in the Purchase Contract.

(tt) Property Closing. The date the Company acquires the Property pursuant to the Purchase Contract.

(uu) Purchase Contract. The agreement providing for acquisition by the Company of the Property, a copy of which is annexed hereto as Exhibit 3.01.

(vv) Regulation. Regulation shall mean a regulation interpreting the Code promulgated by the United States Treasury Department.

(ww) Required Vote. The affirmative vote of the Members entitled to vote owning, in the aggregate, more than fifty percent (50%) of the Member Percentages of all of the Members entitled to vote on a matter. Except as provided in the following sentence, each Member, excluding the Managing Member but including any Affiliate of the Managing Member that is a Member herein, shall be entitled to vote on every matter as to which the Members are to vote, regardless of whether the Member has a personal interest or other conflict of interest with respect to the outcome of such vote. Solely for the purpose of removing a Managing Member under Section 5.01(e) hereof, any Member that is an Affiliate of the Managing Member shall not be entitled to vote.

(xx) Reserves. Reserves shall mean, with respect to any fiscal period, funds set aside during such period which shall be maintained in amounts deemed sufficient by the Managing Member for working capital, to pay taxes, insurance, debt service, replacements, capital improvements or repairs, contingent liabilities, or other costs and expenses, incident to the ownership or operation of the Company's assets.

(yy) Securities Laws. The Securities Act of 1933, as amended, and any other applicable securities laws of any other jurisdiction, including, in each case, the rules and regulations promulgated thereunder.

(zz) Stipulated Rate. The rate of interest, calculated annually, equal to two percent (2%) per annum plus the annual rate of simple interest reported from time to time by The Wall Street Journal as the "Prime Rate," but not higher than the highest nonusurious rate of

simple interest for commercial loans under applicable law, nor lower than the lowest interest rate that may be charged without causing the imputation of interest for federal income tax purposes.

(aaa) Terminating Capital Transaction. This shall have the meaning ascribed to such term in the definition of Capital Transaction in this Section.

(bbb) Transfer. The sale, transfer, conveyance, gift, assignment, syndication, pledge, hypothecation, encumbrance or other disposition of all or any part of a Member Interest, either voluntarily, involuntarily, by operation of law or otherwise. If a Member Interest is held by a Person other than a natural person, a change in fifty percent (50%) or more of the equity ownership or voting control of such Person from the manner in which such ownership or voting control was held on the date such Person became a Member, shall be deemed a Transfer.

(ccc) Unpaid Preferred Return. With respect to any Member other than the Managing Member, as of any given time, the excess of (i) the cumulative amount of such Member's Preferred Return since the date it began to accrue, over (ii) all amounts theretofore distributed to such Member since the inception of the Company pursuant to Sections 4.01(a)(iv) and/or 9.02(a)(vii) hereof.

(ddd) Unreturned Capital. With respect to any Member other than the Managing Member, as of any given time, the excess of (i) its Capital Contributions theretofore made to the Company, over (ii) all Distributions made to such Member pursuant to Sections 4.01(a)(iii) and/or 9.02(a)(vi) hereof.

## **ARTICLE II** **FORMATION, NAME, BUSINESS, TERM**

2.01 Formation. The Members have formed the Company for the purposes set forth herein. The Members shall execute any and all certificates or other documents, and take whatever action is required, in order to authorize the Company to conduct business as a limited liability company under the Law and other the laws of other jurisdiction applicable to the business of the Company. The rights and liabilities of the Members shall be as provided in the Articles and the Law, except as otherwise provided herein.

2.02 Name. The business of the Company shall be conducted under the name of the Company and under any other name(s) which the Managing Member selects. If deemed necessary or advisable by the Managing Member, the Managing Member may prepare and file an amendment to the Articles changing the name of the Company, without the prior consent or approval of any other Members.

2.03 Principal Place of Business; Recordkeeping Office. The principal place of business for the transaction of the business of the Company shall be at such location as hereinafter may be determined by the Managing Member. The registered agent and registered office for the service of process on the Company in the State of Florida shall be the Person at the address set forth in the Articles on file at the Florida Secretary of State's office, as same may be

amended from time to time. In the event the registered agent ceases to act as such for any reason, or the registered office changes for any reason, the Managing Member shall have the power and authority to designate a replacement registered agent and cause such documents to be filed with any appropriate governmental agencies to reflect any such changes.

2.04 Purposes of the Company. The purpose for which the Company is organized is to acquire approximately 15.6 acres of vacant real estate located in unincorporated Pasco County, Florida ("Property"), own, hold, manage, operate, improve, rent, lease, maintain and repair, construct improvements upon, sell or otherwise dispose of and mortgage or otherwise encumber all or portions of the Property and debt or equity interests therein, and to do any and all things incidental thereto or in connection therewith ("Company's Business"). The business plan for the Company anticipates that the Company will obtain additional financing (other than Loans and Capital Contributions), acquire the Property, obtain all necessary governmental approvals, construct and develop, in phases, approximately 180,000 square feet of medical and office improvements in one and two story buildings on the Property, possibly partition some of the buildings on the Property into individual condominium units and sell the buildings and/or individual units. It is expected that the Property will be developed in two (2) phases, and will take approximately forty-eight (48) months to complete, after the Property Closing. If the Managing Member determines, based upon market conditions, that it is in the best interests of the Company to convert or hold some or all of the buildings or units therein to investment properties held for rental, the Managing Member may do so. Without in any way limiting the generality of the foregoing, the Company may: (i) enter into, perform and carry out contracts and agreements as may be necessary, appropriate or incidental to the accomplishment of the purposes of the Company; (ii) sell, exchange, lease, mortgage or otherwise dispose of all or any part of the properties and assets of the Company for cash, stock, other securities or other property or any combination thereof; (iii) borrow money and evidence the same by notes or other evidences of indebtedness and secure the same with liens on all or any portion of the assets of the Company in furtherance of any of or all of the purposes of the Company; and (iv) do all other acts and things which may be necessary, appropriate or incidental to the carrying out of the business and purposes of the Company.

2.05 Scope and Jurisdiction. The Company is authorized to engage in all business permitted by the Law. The Company may do business in foreign jurisdictions.

2.06 Term. The term of the Company as a limited liability company commenced with the filing of the Articles, and shall continue in full force and effect until terminated in accordance with ARTICLE IX of this Agreement or as otherwise provided by the Law.

2.07 Title. Legal title to Company property, whether real, personal or mixed, shall be held in the name of the Company. In no event shall any party dealing with the Managing Member, with respect to any Company property, or to whom Company property (or any part thereof) shall be conveyed, contracted to be sold, leased, mortgaged or refinanced (which term "refinanced" is hereby defined for all purposes of this Agreement to include recast, modified, extended or increased) by the Managing Member, be obligated to see to the application of any purchase money, rent or money borrowed or advanced thereon, or be obligated to see that the terms of this Agreement have been complied with, or be obligated to inquire into the necessity or

expediency of any act or action of the Managing Member, and every contract, agreement, deed, mortgage, lease, promissory note or other instrument or document authorized to be executed by the Managing Member, with respect to any of the Company property, shall be conclusive evidence in favor of any and every Person relying thereon or claiming thereunder that: (i) at the time or times of the execution and/or delivery thereof, the Company was in full force and effect; (ii) such instrument or document was duly executed and authorized and is binding upon the Company; and (iii) the Managing Member was duly authorized and empowered to execute and deliver any and every such instrument or document for and on behalf of the Company. The foregoing shall not affect the liability of the Managing Member for a breach of this Agreement.

2.08 Dealings with the Company; Other Activities. The fact that any Member or Affiliate thereof is directly or indirectly interested in or connected with any Person employed by the Company to render or perform services, or from, or to which the Company may buy or sell merchandise, services, material or other property shall not prohibit the Company from employing such Person or from otherwise dealing with them, provided that, in each case, the terms of such employment, retention, purchase or sale are in the ordinary course of and pursuant to the reasonable requirements of the Company's Business and comparable to what the Company would obtain in an arm's length transaction with a Person not a Member or Affiliate. Unless otherwise agreed in a separate agreement, document or other instrument with the Company, neither the Managing Member, the Members, nor any of their Affiliates are required to devote their full time or efforts to the business of the Company. Unless otherwise stated in this Agreement or another agreement with the Company, the Managing Member, Members and their respective Affiliates are each permitted to have business interests independent of the Company and the other Members which may be in competition with the Company. Neither the Company nor the other Members or Affiliates shall have any interest or rights with respect to any such business interest, and the Managing Member, Members and their Affiliates shall not be deemed to have breached their duty of care, duty of loyalty, or duty of good faith and fair dealing under the Law by participating in such activities or by failing to present any such opportunity to the Company. The Members expressly acknowledge and agree that the Managing Member and/or its Affiliates may enter into business relationships with parties who purchase all or portions of the Property with respect to the development and/or marketing thereof, and neither the Company nor its Members shall have any right to participate in any proceeds of such business relationships. The Members specifically acknowledge that the Company may engage the Managing Member or its Affiliate to perform certain services on behalf of the Company in addition to those described in Section 2.09 hereof, including, without limitation, real estate brokerage and mortgage brokerage services, and marketing and advertising services.

2.09 Managing Member Fees. The Members each acknowledge and agree that the Company may pay the following fees to the Managing Member, or an Affiliate of the Managing Member, notwithstanding anything to the contrary set forth in this Agreement or elsewhere:

(a) *Acquisition Fee.* A fee equal to Six Hundred Ninety Thousand Dollars (\$690,000.00) shall be paid to the Managing Member and/or one or more of its Affiliates as reimbursement for the services performed in organizing the Company and the Managing

Member, performing due diligence on the Property and negotiating and executing the Purchase Contract. This fee will be earned and paid upon the Property Closing.

(b) *Guarantee Fee.* If any one or more Affiliates of the Managing Member execute a personal guarantee of a construction loan (“Guaranteed Loan”) to the Company, the Company shall pay a fee to such guarantors in an aggregate amount equal to two percent (2%) of the lesser of (i) the maximum principal amount that may be outstanding at any given time under such Guaranteed Loan, or (ii) the maximum liability of such guarantors under all such Guaranteed Loans, which guarantee fee shall be earned and paid to such Affiliates simultaneously with the closing of such Guaranteed Loan and execution of such guarantees. It is anticipated that the Company will obtain a revolving construction loan that permits a maximum principal amount of \$12,500,000.00 to be outstanding at any given time.

(c) *Project Management and Overhead Fee.* A fee equal to Seven Hundred Seventy-Five Thousand Dollars (\$775,000.00), which shall compensate the Managing Member and/or one or more of its Affiliates for management and overhead expenses in connection with preparing for, managing and coordinating the development and construction of improvements to the Property. This fee shall be paid in increments over the course of each phase of development of the Property, until paid in full. Payment of the fee in the first phase may commence prior to the Property Closing, and payment of the fee in a subsequent phase may commence prior to completion of the prior phase, if development of such subsequent phase commences prior to completion of the prior phase.

(d) *Disposition Fee.* A contingent disposition fee equal to up to two percent (2%) of the gross sales price of all or any portion of the Property or improvements thereon, which amount, if payable, shall be paid to the Managing Member (and/or one or more of its Affiliates) in return for the Managing Member’s (or its Affiliate’s) services in connection with arranging and consummating such sales, which fee may be in addition to other amounts paid to affiliated and/or unaffiliated parties for providing brokerage or other services in connection with the sale. The disposition fee shall be paid following dissolution of the Company, as expenses payable under Section 9.02(a)(ii) hereof, only if and to the extent that Distributions to the Members (other than the Managing Member), from the Effective Date through the wind-up and termination of the Company, have been sufficient to result in such Members realizing at least a 31.94% annual percentage return on equity investment, after payment of the disposition fee.

(e) *Property Management Fee.* In the event the Company determines to use any of the Property for the generation of income other than by sale, the Managing Member (and/or one or more of its Affiliates) shall be entitled to a fee of two percent (2%) of the gross revenues derived by the Company, on a monthly basis, from such income producing activity, notwithstanding that the Company may retain an unaffiliated party to provide such property management services; provided, however, that the amount paid to the Managing Member (and/or its Affiliates) and such third party for such services shall not exceed, in the aggregate, five percent (5%) of the gross revenues derived from such income producing activity.

To the extent that any of the above-referenced fees are not paid when due, such fees shall accrue and be paid as soon as funds are available for payment of same; provided, however, the foregoing shall not obligate the Managing Member or any of its Affiliates to continue providing services without timely payment. Any amount paid to the Managing Member or its designated Affiliate shall be treated as an item of expense for determining Profit and Losses.

### **ARTICLE III** **CAPITAL CONTRIBUTIONS; LOANS**

#### 3.01 Capital Contributions.

(a) In exchange for their Member Interests, the Members, other than the Managing Member, will make their Capital Contributions to the Company in the amount shown opposite each Member's name on Schedule B, and such Member will receive a credit to its Capital Account in the amount of the Capital Contribution and the Member Percentage set forth on Schedule B beside their name.

(b) As its Capital Contribution, the Managing Member shall, on or before the Effective Date, assign all its right to the Purchase Contract, or otherwise cause the Purchase Contract to be assigned, to the Company and may, at its sole discretion, contribute cash to the Company and, in exchange, shall receive a forty-five percent (45%) Member Interest in the Company, and a credit to its Capital Account equal to the amount of its cash Capital Contribution, if any.

3.02 Additional Capital Contributions. Except as otherwise provided in this Agreement or the Law, no Member shall be required to make any Capital Contributions in addition to their initial Capital Contributions as set forth on Schedule B ("Additional Capital Contributions"). If the Managing Member determines at any time, or from time to time, that Additional Capital Contributions are needed by the Company ("Capital Call"), the Managing Member shall deliver notice ("Call Notice") to the other Members setting forth the total Additional Capital Contribution required and the amount required from each Member, other than the Managing Member. No Capital Call shall be made unless first approved, in writing, by the Required Vote of the Members. If approved by Required Vote of the Members, all Members, other than the Managing Member, shall be required to make an Additional Capital Contribution. Any such Additional Capital Contributions shall be made by the Members (other than the Managing Member) in proportion to their Member Percentages, or as otherwise agreed in writing by Members, on or before ten (10) business days after the date of the Call Notice. If any Member ("Non-Contributing Member") fails to make the Additional Capital Contribution, all or any of the other Members, excluding the Managing Member (the "Contributing Members"), may make the Additional Capital Contributions not made by the Non-Contributing Members, in proportion to the Member Percentages of such Contributing Members or as they may otherwise unanimously agree. If appropriate, the Managing Member shall adjust the Member Percentages on Schedule B as a result of the Additional Capital Contributions. The only remedy against the Non-Contributing Members shall be the dilution of their Member Percentages.

### 3.03 Loans.

(a) In the event that at any time or from time to time additional funds in excess of the Capital Contributions of the Members are required by the Company for or in respect of its business or any of its obligations, the Managing Member may, but shall not be obligated to, apply on behalf of the Company to borrow such required additional funds with interest payable at the then prevailing rates, from Persons other than Members, including, but not limited to, commercial banks, savings and loan associations or other lending institutions.

(b) In the event that the Managing Member is unable or chooses not to cause the Company to borrow said required additional funds from a Person pursuant to Section 3.03(a), any Member (or an Affiliate of any Member) may, but is not required to, lend such funds to the Company. In the event that a Member or their Affiliate elects to provide the additional funds in the form of a loan to the Company, any such loan may be evidenced by a negotiable promissory note of the Company and shall bear interest at a rate per annum specified in such note, or if no note is issued, at a fixed rate equal to the Stipulated Rate as of the date of such loan. In no event shall any such loan bear interest at a rate in excess of the highest lawful nonusurious rate permitted by the law applicable to the loan. Any interest paid pursuant to this Section shall be deemed an expense of the Company and repayment of such loan(s) shall not affect the Capital Account of the Member.

(c) Notwithstanding anything to the contrary in this Agreement, the Company may issue Notes, on or before the Final Offering Date, in return for loans to the Company (the “Loans”) from Persons designated by the Managing Member at its sole discretion (the “Note Holders”), pursuant to the following terms and conditions:

(i) The Loans shall be subordinated to any other loans, mortgages or debts of the Company in connection with the Property (including, without limitation, any mortgage loans and construction loans) and, pursuant to Sections 4.01 and 9.02 hereof, the interest on and principal of such Loans shall be entitled to certain repayment priorities before any Preferred Returns are made to the Members, all subject to Section 4.01(b) hereof. The Loans shall be treated for federal tax purposes as a transaction between the Company and one who is not a Member pursuant to Code Section 707(a)(1); and

(ii) To evidence its obligation to repay the Loans, the Company, contemporaneously with its receipt of the proceeds of the Loans, shall sign and deliver to each such Note Holder a subordinated promissory note in the form attached hereto as Exhibit 3.03(c) (the “Notes”).

Schedule A annexed hereto, as same may be amended from time to time by the Managing Member to reflect new Loans or Loan transfers, shall set forth the name of each Note Holder and the original principal amount of the Loan made or to be made by such Note Holder.

### 3.04 Other Matters Relating to Capital and Loans.

(a) Interest earned on Company funds shall inure solely to the benefit of the Company, and, except as specifically provided in this Agreement, no interest shall be paid upon any contributions or advances to the capital of the Company or upon any undistributed or reinvested income or profits of the Company. Notwithstanding the foregoing, the Company has agreed to pay to each Member, other than the Managing Member, an amount equal to five percent (5%) per annum on such Member's Capital Contribution for the period commencing from the date on which the Company received cleared funds representing such Member's Capital Contribution (including cleared funds held by an escrow agent pending the Company's acceptance of subscriptions) through the date of the Property Closing (or such earlier date that the Managing Member determines to begin accruing Preferred Returns), which amounts shall be distributed to each Member within thirty (30) days after the Property Closing. If a Property Closing does not occur as described in Section 9.02(d), the Members shall not be entitled to receive any interest on their Capital Contributions.

(b) The Capital Contributions of the Members shall be utilized for carrying out the purposes of the Company as set forth in this Agreement and for payment of any expenses incurred in connection therewith, including payment or reimbursement of expenses paid or incurred on behalf of the Company, whether prior or subsequent to the execution of this Agreement.

(c) Loans by a Member to the Company (including those arising by virtue of payment under a guaranty or indemnity of the Company's obligations) shall not be considered contributions to the capital of the Company and shall not increase the Capital Account of the lending Member. Subject to the limitations contained in Section 4.07, the Company's deduction for interest paid in respect to any loan from any Member shall be allocated to that Member.

(d) Except as specifically provided herein, no Member shall be entitled to withdraw its Capital Contribution, or to a return of any part of its Capital Contribution or to receive property or assets other than cash in return thereof without the consent of the Managing Member, and the Managing Member shall not be liable for the return of all or any portion of the Members' Capital Contributions.

(e) No Member shall be entitled to priority over any other Member, either with respect to a return of his Capital Contribution or to allocations of taxable income, gains, losses or credits, or to Distributions, except as provided in this Agreement.

**ARTICLE IV**  
**ALLOCATIONS AND DISTRIBUTIONS**

4.01 Distribution of Available Cash and Net Proceeds from Interim Capital Transactions.

(a) Subject to subsection (b) hereof, the Available Cash, if any, and the Net Proceeds from Interim Capital Transactions, if any, shall be distributed to the Note Holders and Members from time to time in the discretion of the Managing Member as follows:

(i) First, on a monthly basis, one hundred percent (100%) to the Note Holders for payment of any currently due or past due Interest (as defined in the Notes) payments on the Notes, pro rata in accordance with the aggregate current and past due Interest balances on all of the Notes;

(ii) Next, one hundred percent (100%) to the Note Holders in repayment of the principal balances on the Notes, pro rata in accordance with the aggregate remaining principal balances on all the Notes until the Notes are all paid in full;

(iii) Next, one hundred percent (100%) to the Members, other than the Managing Member, pro rata in accordance with their respective Unreturned Capital, until the Unreturned Capital of the Members, other than the Managing Member, if any, is reduced to zero;

(iv) Next, one hundred percent (100%) to the Members, other than the Managing Member, pro rata in accordance with their respective Unpaid Preferred Returns, until the Unpaid Preferred Returns of each of the Members (other than the Managing Member), if any, is reduced to zero; and

(v) Last, one hundred percent (100%) to the Members, including the Managing Member, in accordance with their then existing Member Percentages.

(b) Notwithstanding the foregoing provisions of this Section 4.01, as a priority to the Distributions under Section 4.01(a), on or before April 15 of any year, each Member, including the Managing Member, may in the discretion of the Managing Member be distributed an amount equal to the excess of (A) the product of (i) the aggregate Profits of the Company allocated to such Member for the preceding years, net of any Losses allocated to such Member in all preceding years multiplied by (ii) the highest marginal federal income tax rate applicable to individuals, over (B) any amounts actually distributed to such Member pursuant to Sections 4.01(a)(iv), 4.01(a)(v) and 9.02(a)(vii) in all preceding years and prior to April 15 of the year in which the calculation is being made. Distributions made under this subsection shall be treated as Distributions to the Members pursuant to, and in the order of, Sections 4.01(a)(iii), (iv) and (v). Upon dissolution of the Company, if the Managing Member has received during the Term, as a result of this subsection, more Distributions than it would have received had there been no Distributions to the Managing Member pursuant to this subsection, then the Managing Member

shall reimburse such difference to the Company to be distributed to the other Members pro rata in accordance with their Member Percentages.

4.02 Distribution of Net Proceeds from a Terminating Capital Transaction. The Distribution of Net Proceeds from a Terminating Capital Transaction shall be made in accordance with the provisions of Section 9.02 hereof.

4.03 Distribution in Cash Only. No Member shall have the right to demand or receive property from the Company for any reason whatsoever and no Member shall have the right to sue for partition of the Company or of the Company's assets. The Company may make Distributions in cash, notes, property, or other form of distribution, or any combination thereof, at the sole discretion of the Managing Member. Distributions of property, other than cash, may be made to liquidating trusts for the benefit of the Members, in accordance with their respective interests in such Distributions, and the Managing Member or designees of the Managing Member shall serve as the liquidating trustee.

4.04 Allocations of Profits and Losses.

(a) Subject to the other provisions of this Agreement regarding tax allocations, Profits shall be allocated among the Members as follows:

(i) First, to the Members, including the Managing Member, in an amount equal to any Losses previously allocated to the Members in prior years in the reverse chronological order that such Losses were allocated among the Members;

(ii) Second, to each Member, other than the Managing Member, an amount of Profits equal to the excess, if any, of (x) the cumulative amounts of the Distributions made to such Member (other than the Managing Member) for that year and all prior years pursuant to Sections 4.01(a)(iv) and 9.02(a)(vii) hereof, over (y) the cumulative Profits allocated to such Member (other than the Managing Member) pursuant to this Section 4.04(a)(ii) for all prior years, until such time as such Member has been allocated an aggregate amount of Profit for that year and all prior years pursuant to this Section 4.04(a)(ii) equal to the aggregate amount of Distributions made to such Member pursuant to Sections 4.01(a)(iv) and 9.02(a)(vii) hereof for that year and all prior years; and

(iii) Third, any remaining Profits shall be allocated to the Members, including the Managing Member, pro rata in accordance with their respective Member Percentages.

(b) Subject to the other provisions of this Agreement regarding tax allocations, Losses shall be allocated as follows:

(i) First, to the Managing Member, to reverse any Profit previously allocated to the Managing Member pursuant to Section 4.04(a)(iii);

(ii) Second, to the extent Profit has been allocated to the Members, other than the Managing Member, pursuant to Sections 4.04(a)(ii), Losses shall be allocated to reverse such allocation of Profit;

(iii) Third, to the Managing Member, up to the amount of its Capital Account;

(iv) Fourth, to the Members, other than the Managing Member, pro rata in accordance with their respective Capital Accounts at the time of such allocation; and

(v) Fifth, all other Losses shall be allocated one hundred percent (100%) to the Managing Member.

4.05 Special Allocations. The following special allocations shall be made in the following order:

(a) Minimum Gain Chargeback. Except as otherwise provided in Regulation Section 1.704-2(f), and notwithstanding any other provision of this ARTICLE IV, if there is a net decrease in Company Minimum Gain during any Fiscal Year, each Member shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Member's share of the net decrease in Company Minimum Gain, determined in accordance with Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Regulation Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section is intended to comply with the minimum gain chargeback requirement in Regulation Section 1.704-2(f) and shall be interpreted consistently therewith.

(b) Member Minimum Gain Chargeback. Except as otherwise provided in Regulation Section 1.704-2(i)(4) and notwithstanding any other provision of this ARTICLE IV, if there is a net decrease in Member Nonrecourse Debt Minimum Gain attributable to a Member Nonrecourse Debt during any Fiscal Year, each Member who has a share of the Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulation Section 1.704-2(i)(5), shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Member's share of the net decrease in Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulation Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Regulation Sections 1.704-2(i)(4) and 1.704-2(j)(2). This Section is intended to comply with the minimum gain chargeback requirement in Regulation Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(c) Qualified Income Offset; Loss Limitation.

(i) If any Member unexpectedly receives any adjustment, allocation, or Distribution described in Regulation Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6) which causes or increases a deficit capital account balance (“Adjusted Capital Account Deficit”) in such Member's Capital Account (as determined in accordance with such Regulations), items of Company income and gain shall be allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of such Member, provided that such allocations shall be made only if and to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this ARTICLE IV have been tentatively made as if this Section were not in the Agreement. This provision is intended to be a "qualified income offset," as defined in Regulation Section 1.704-1(b)(2)(ii)(d), such Regulations being specifically incorporated herein by reference.

(ii) The Losses allocated pursuant to Section 4.04 hereof shall not exceed the maximum amount of Losses that can be so allocated without causing any Member to have an Adjusted Capital Account Deficit at the end of any Fiscal Year. In the event some but not all of the Members would have Adjusted Capital Account Deficits as a consequence of an allocation of Losses pursuant to Section 4.04 hereof, the limitation set forth in this Section 4.05(c)(ii) shall be applied on a Member by Member basis so as to allocate the maximum permissible Losses to each Member under Section 1.704-1(b)(2)(ii)(d) of the Regulations.

(d) Gross Income Allocation. In the event any Member has a deficit in its Capital Account at the end of any Fiscal Year which is in excess of the sum of (i) the amount such Member is obligated to restore pursuant to any provision of this Agreement, and (ii) the amount such Member is deemed to be obligated to restore pursuant to the penultimate sentences of Regulation Sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Member shall be specially allocated items of Company income and gain in the amount of such excess, provided that an allocation pursuant to this Section shall be made only if and to the extent that such Member would have a deficit in its Capital Account in excess of such sum after all other allocations provided for in this ARTICLE IV have been made as if Section 4.04(c) hereof and this Section were not in this Agreement.

(e) Nonrecourse Deductions. Nonrecourse Deductions for any Fiscal Year shall be specially allocated to each Member based upon their respective Member Percentages.

(f) Member Nonrecourse Deductions. Any Member Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Member who bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Regulation Section 1.704-2(i)(1).

(g) Excess Nonrecourse Liabilities. Solely for purposes of determining a Member's proportionate share of the “excess nonrecourse liabilities” of the Company within the

meaning of Regulation Section 1.752-3(a)(3), the Members' interests in Company profits are based upon their respective Member Percentages.

(h) Distributions with Respect to Nonrecourse Liabilities. To the extent permitted by Regulation Section 1.704-2(h)(3), the Managing Member shall endeavor to treat Distributions as having been made from the proceeds of a Nonrecourse Liability or a Member Nonrecourse Debt only to the extent that such Distributions would not cause or increase an Adjusted Capital Account Deficit for any Member.

(i) Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulation Section 1.704-1(b)(2)(iv)(m)(2) or Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a Distribution to a Member in complete liquidation of its Member Interest, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in accordance with their Member Percentages in the event that Regulation Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Member to whom such Distribution was made in the event that Regulation Section 1.704-1(b)(2)(iv)(m)(4) applies.

4.06 Curative Allocations. The allocations set forth in Section 4.05 (the "Regulatory Allocations") are intended to comply with certain requirements of the Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss or deduction pursuant to this Section. Therefore, notwithstanding any other provision of this ARTICLE IV (other than the Regulatory Allocations), the Managing Member shall make such offsetting special allocations of Company income, gain, loss or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Member's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of the Agreement and all Company items were allocated pursuant to Section 4.04.

4.07 Tax Allocations: Code Section 704(c).

(a) In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss, and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its initial Gross Asset Value (computed in accordance with subparagraph (i) of the definition of "Gross Asset Value").

(b) In the event the Gross Asset Value of any Company asset is adjusted pursuant to subparagraph (ii) of the definition of "Gross Asset Value," subsequent allocations of income, gain, loss, and deduction with respect to such asset shall take account of any variation

between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder.

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

(d) Except as otherwise provided in this Agreement, all items of Company income, gain, loss, deduction, and any other allocations not otherwise provided for shall be divided among the Members in the same proportions as they share Profits or Losses, as the case may be, for the Fiscal Year.

#### 4.08 Other Allocation Rules.

(a) Profits, Losses and any other items of income, gain, loss or deduction shall be allocated to the Members pursuant to this ARTICLE IV as of the last day of each Fiscal Year; provided that Profits, Losses and such other items shall also be allocated at such times as the Gross Asset Values of Company property are adjusted pursuant to subparagraph (ii) of the definition of Gross Asset Value.

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

(c) All allocations to the Members pursuant to this ARTICLE IV shall, except as otherwise provided, be divided among them in proportion to the Member Percentages held by each.

(d) The Members are aware of the income tax consequences of the allocations made by this ARTICLE IV and hereby agree to be bound by the provisions of this ARTICLE IV in reporting their shares of Company income and loss for income tax purposes, except to the extent otherwise required by law.

4.09 Allocations to Transferred Interests. Company Profits and Losses which are allocable to a Member Interest that was Transferred or assigned during a Fiscal Year shall be further allocated between or among the transferor and transferee Members/Assignees in proportion to the number of days during the Fiscal Year that each such Member/Assignee owned said Member Interest or in any other proportion authorized by the Code and selected by the Managing Member, without regard to the actual Company Profits or Losses as of the date of such Transfer or assignment and without regard to any Distributions made with respect to such Member Interest.

**ARTICLE V**  
**MANAGEMENT OF THE COMPANY**

5.01 Managing Member.

(a) Rights, Powers and Duties. Subject to Section 5.02 hereof, the overall management and control of the day-to-day aspects of the business and operations of the Company is hereby delegated by the Members to Global, as Managing Member, and, subject to this Agreement, such power shall be vested exclusively in the Managing Member. The Managing Member shall have all the rights and powers provided in this Agreement, the Law and the Articles and any action taken by the Managing Member shall constitute the act of and serve to bind the Company. The Managing Member shall conduct the day-to-day operations of the Company and shall use good faith efforts to carry out the business of the Company as set forth herein. With respect to all of its obligations, powers and responsibilities and the limitations thereon as provided in this Agreement, the Managing Member is authorized to execute and deliver, for and on behalf of the Company, such agreements or instruments as the Managing Member may deem necessary or desirable, all on such terms and conditions as it may deem necessary or desirable, and the execution of such agreements, instruments or other documents by the Managing Member shall be sufficient to bind the Company. Without limiting the generality of the foregoing, but subject to Section 5.02, the Managing Member has the right, power and authority, on behalf of the Company, to:

(i) Execute, on behalf of the Company, any and all agreements, contracts, documents, certificates and instruments necessary or convenient in connection with the Company's Business;

(ii) Employ such agents, employees, managers, accountants, attorneys, consultants and other professionals as it may deem necessary or desirable for the conduct of the Company's Business and pay from Company assets such fees, expenses, salaries, wages and other compensation to such parties (whether Members, Affiliates of Members or non-Members) as it may determine;

(iii) Hire, retain or employ, fire and coordinate the services of all employees, supervisors, project managers, attorneys, accountants, consultants, independent contractors and other Persons necessary or appropriate to carry out the business of the Company (whether they be Members, Affiliates of Members or non-Members);

(iv) Decide on a final development plan for the Property, and obtain all permits, licenses and other authorizations and permissions to develop and construct on the Property in furtherance of the Company's Business;

(v) Pay fees to the Managing Member and its Affiliates as authorized by this Agreement;

(vi) Pay commissions, not to exceed seven percent (7%), to finders (who need not be registered brokers) and/or registered securities brokers who identify for the Company Persons who become Note Holders and/or Members;

(vii) Obtain debt financing through the issuance of the Notes, or otherwise pursuant to Section 3.03 hereof, borrow money secured by a mortgage, pledge or other encumbrance against any Company assets, or name the Company as guarantor or indemnitor for any loan or borrowing to a third party;

(viii) Pay from Company assets, and prepay in accordance with ARTICLES III and IV hereof, the Notes and any other obligations of the Company;

(ix) Pay from Company assets, extend, renew, modify, adjust, submit to arbitration, prosecute, defend or compromise upon such terms as it may determine, and upon such evidence as it may deem sufficient, any obligation, suit, liability, cause of action or claim, including taxes, either in favor of or against the Company;

(x) Make from Company assets any and all expenditures that it may deem necessary or desirable for the conduct of the Company's Business and the carrying out of its obligations and responsibilities under this Agreement to the extent permissible under any other agreements (including mortgages) to which the Company is a party;

(xi) Declare and make Distributions of capital or income, in cash or property, to Members;

(xii) Make or have made for the Company such market research reports, economic and statistical data, evaluations, analyses, opinions and recommendations as it may deem necessary or desirable with respect to the business of the Company;

(xiii) Purchase, at the expense of the Company, liability and other insurance to protect the Company and the Company's assets and business;

(xiv) Invest the Company's assets in bank and savings and loan association savings accounts, commercial paper, government securities, certificates of deposit, bankers' acceptances, other short term interest bearing obligations and any other investments in the sole and absolute discretion of the Managing Member;

(xv) Maintain, at the expense of the Company, adequate records and accounts of all operations and expenditures and furnish the Members with annual statements of accounts as of the end of each Company Fiscal Year, together with tax reporting information;

(xvi) Make, refrain from making, or revoke such elections under the tax laws of the United States, the several States and other relevant jurisdictions as to the

treatment of items of Company income, gain, loss, deduction, and credit and as to all other relevant matters (including, without limitation, elections under Section 754 of the Code), as it believes necessary or desirable, in its sole and absolute discretion;

(xvii) Enter into any leases for property, real or personal, in the ordinary course of the Company's Business;

(xviii) Acquire the Property and any other land or real property interest, in connection with Company's Business;

(xix) Make any purchases for, on behalf of, or in the name of, the Company in the ordinary course of the Company's Business;

(xx) Enter into any joint venture, partnership or other profit sharing relationship with any Person, or acquire any securities of or ownership interests in any Person, in either case in connection with the Company's Business and subject to Section 5.02(a);

(xxi) Implement a Capital Call under Section 3.02 following receipt of approval from the Required Vote of the Members;

(xxii) Amend the Member Percentages of the Members, as set forth on Schedule B attached hereto, to give effect to Transfers, Additional Capital Contributions or the issuance of new Member Interests in accordance with the Agreement;

(xxiii) Issue new Member Interests, subject to Section 5.02 and ARTICLE VII hereof;

(xxiv) Consent to assignments and Transfers of Notes and Member Interests, subject to ARTICLE VII hereof;

(xxv) Exercise the Company's option to repurchase or redeem all or a portion of a Member's Member Interest pursuant to either Section 3.01 or Section 7.06 hereof;

(xxvi) Repurchase all or a portion of the Member Interest of a Member, with such Member's consent;

(xxvii) Enter into Interim Capital Transactions including, without limitation, the sale of buildings located on the Property or the sale of condominium parcels or units created from the Property and improvements thereto;

(xxviii) Establish and maintain Reserves, in such amount as the Managing Member determines to be appropriate, in its reasonable discretion under the then existing circumstances; and

(xxix) Take any and all other action permitted under the Law and that is reasonably related to Company purposes.

(b) Compensation. Except as set forth in this Agreement or otherwise agreed in writing by the Required Vote of the Members, the Managing Member shall serve in its capacity as Managing Member of the Company without additional compensation, Distributions or allocation from the Company.

(c) Contractual Provisions. Except as expressly provided herein, the Managing Member shall have the right and authority to require a provision in all Company contracts that it not be personally liable thereon and that the Person contracting with the Company is to look solely to the Company and its assets for satisfaction.

(d) Delegation of Authority. The Managing Member shall have the right and authority to delegate, at the Company's expense, to one or more Persons (including, but not limited to, delegation among the Members) the Managing Member's authority to manage and control the business, investments and affairs of the Company, including to delegate to members, managers, agents, Affiliates and employees of the Managing Member or the Company.

(e) Removal.

(i) The Members may by Required Vote, without the consent of the Managing Member, remove the Managing Member as Managing Member of the Company, "with cause." For purposes of the foregoing, "with cause" shall mean the Managing Member has been found, in a final, non-appealable judgment of a court of competent jurisdiction, to have engaged in acts or omissions that constitute gross negligence, willful misconduct or fraud as to the Company or the Members.

(ii) The Members may, by unanimous affirmative vote of all Members other than the Managing Member and Members that are Affiliates of Managing Member, remove the Managing Member, without consent of the Managing Member, as Managing Member of the Company, without cause, at any time.

(iii) Upon removal, the removed Managing Member shall immediately cease to have any authority to act as a Managing Member for the Company. Any of the Company funds or other property in the possession or under the control of such removed Managing Member shall immediately be released and transferred to its successor. The removed Managing Member shall cooperate in the orderly transition of affairs to its successor.

(iv) The removal of the Managing Member shall not affect the Managing Member's rights as a Member, and shall not constitute a withdrawal or redemption of the Member.

(f) Election of Successor Managing Member. Within ninety (90) days after the removal of the Managing Member, the Members by Required Vote shall elect a successor Managing Member. The failure of the Members to so elect a Managing Member shall constitute an Event of Dissolution under Section 9.01.

5.02 Limitations on Authority. Notwithstanding anything to the contrary contained herein, without the prior written consent of the Required Vote of the Members, the Managing Member shall have no authority to:

(a) Do any act in contravention of this Agreement or of any written policy restricting the authority of the Managing Member (“Restrictive Policy”), which Restrictive Policies may, at any time and from time to time, be adopted by the Required Vote of the Members;

(b) Subject to the provisions of ARTICLE VII hereof, admit Persons as Members, other than substituted Members;

(c) Initiate a voluntary Bankruptcy of the Company;

(d) Confess a judgment against the Company;

(e) Implement a Capital Call pursuant to Section 3.02 hereof;

(f) Knowingly perform any act that would subject any Member to liability as a member or general partner in any jurisdiction;

(g) Sell all or substantially all the assets of the Company in a single transaction which is not (1) in the ordinary course of the Company’s Business, or (2) pursuant to Section 5.01(a)(xx);

(h) Enter into any merger or consolidation of the Company with or into any other entity; or

(i) Dissolve or terminate the Company, or convert the Company into any other form of business entity, other than in accordance with this Agreement.

5.03 Liability and Indemnification of Managing Member.

(a) Neither the Managing Member, its designees, members, managers, employees, contractors or agents, nor any of their Affiliates, designees, successors or assigns (the “Indemnified Principals”) shall be liable to the Company or the Members for any loss or damage incurred by reason of any act performed or omitted in connection with the activities of the Company or in dealing with third parties on behalf of the Company, unless such act or omission was taken or omitted by the Indemnified Principal in bad faith, or such act or omission constitutes fraud, gross negligence or willful breach of fiduciary duty.

(b) The Company, its receiver or its trustee, shall indemnify and save harmless the Indemnified Principals from any claim, liability, loss, judgment or damage incurred by them by reason of any act performed or omitted to be performed in connection with the activities of the Company or in dealing with third parties on behalf of the Company, including costs and attorneys’ and paralegals’ fees (which costs and fees may be paid as incurred) and any amounts expended in the settlement of any claims of liability, loss or damage, provided that the act or omission of the Indemnified Principal is not found, by a final, non-appealable ruling of a court of competent jurisdiction, to have resulted from an act or omission of the Indemnified Principal taken in bad faith, or that constitutes fraud, gross negligence or willful breach of fiduciary duty. The Company shall advance all sums required to indemnify and hold the Indemnified Principals harmless as provided herein from the initiation of any claim against such Indemnified Principals, subject to acknowledgment in writing by such Indemnified Principals of the obligation to reimburse the Company in the event that, following the entry of a final, non-appealable judgment, it is determined that the Company was not obligated to indemnify such Indemnified Principal pursuant to this Agreement. All judgments against the Company and any one or more Indemnified Principals, wherein an Indemnified Principal is entitled to indemnification, must first be satisfied from Company assets before the Indemnified Principal shall be responsible for such obligations. The Company shall not pay for any insurance covering liability of the Indemnified Principals for actions or omissions for which indemnification is not permitted hereunder; provided, that nothing contained herein shall preclude the Company from purchasing and paying for such types of insurance, including extended coverage liability and casualty and worker’s compensation, as would be customary for any person owning comparable property and engaged in a similar business or from naming any or all of the Indemnified Principals as additional insured parties thereunder. Nothing contained herein shall constitute a waiver by any Member of any right which it may have against any party under federal or state securities laws. The provisions of this Section shall survive the termination of the Company.

**ARTICLE VI**  
**MATTERS REGARDING MEMBERS**

6.01 Liability and Indemnification of Members.

(a) Except as may be provided in this Agreement or the law, the Members shall not be bound by, or personally liable for, obligations or liabilities of the Company beyond the amount of their initial Capital Contributions and any Additional Capital Contributions to the Company; provided, however, the Members are obligated, to the extent required by the Law, to

return a Distribution from the Company to the extent that, immediately after giving effect to the Distribution, all liabilities of the Company, other than liabilities to Members on account of their interest in the Company and liabilities as to which recourse of creditors is limited to specified property of the Company, exceed the fair value of the Company assets, provided that the fair value of any property that is subject to a liability as to which recourse of creditors is so limited shall be included in the Company assets only to the extent that the fair value of the property exceeds this liability. In addition, each Member shall be liable to the Company and the other Members, including the Managing Member, for any damages arising from the breach of such Member's representations and warranties set forth in this Agreement.

(b) The Company will indemnify, to the extent of Company assets, each Member against any claim of liability asserted by any Person other than the Company or another Member against a Member solely because the Member is a Member of the Company, except for claims of fraud, gross negligence or intentional or willful breach of this Agreement.

6.02 Management. Other than the Managing Member to which all the Members have exclusively delegated such authority, no individual Member shall be authorized to act as an agent of the Company solely by virtue of being a Member. Other than the Managing Member, no Member has the right, power or authority to sign for, act for or bind the Company solely by virtue of being a Member. Except for their right to take or consent to certain actions as provided herein, and in particular Section 5.02 hereof, the Members in their capacities as Members shall not participate in the operation or management of the business of the Company, or transact any business for or in the name of the Company. Any Member who signs for, takes any action for, or binds the Company in violation of this Section 6.02 shall be solely responsible for any loss and expense incurred as a result of the unauthorized action and shall indemnify and hold the Company harmless with respect to the loss or expense. However, in the sole discretion of the Managing Member, the Company is entitled to keep any benefit to the Company (including but not limited to any revenue, income or profit) resulting from any action taken by a Member in violation of this Section 6.02.

6.03 Limitation of Certain Rights. The Members shall not have the right or power to: (i) withdraw or reduce their Capital Contributions to the Company except as a result of the dissolution of the Company or as otherwise provided in this Agreement or by the Law; (ii) bring an action for partition against the Company or with respect to any of its property; or (iii) cause the termination or dissolution of the Company by court decree or as may be permitted by the Law, such rights being specifically waived by the Members.

6.04 Voting. Whenever the Members are entitled by this Agreement to vote on any particular matter, each Member, other than the Managing Member but including (except for purposes of Section 5.01(e)) Affiliates of the Managing Member who are Members, shall be entitled to vote in proportion to the then-existing Member Percentage of such Member as set forth on Schedule B, as amended. Except as specifically provided to the contrary herein, all actions of the Members shall be authorized by Required Vote of the Members, either (i) at a duly convened meeting in person, pursuant to Section 6.05 hereof, or (ii) by written consent executed by Members owning the Member Percentages sufficient to constitute the Required Vote. If action is taken by the Members by written consent in lieu of a meeting, notice of such action

shall be given to the Members that did not execute such written consent within ten (10) days after such action is effective; provided that failure to give such notice shall not affect the validity and binding effect of any such action by written consent. If a Member Interest is owned by a married couple in tenancy, then unless both spouses comprising such Member have delivered a written notice to the Manager designating one spouse to act for the Member and such designation notice remains effective, whenever such Member is entitled to vote on any particular matter, the first vote cast by (or consent received by the Company from) either spouse of such Member shall be deemed such Member's vote.

#### 6.05 Meetings of the Members.

(a) Meetings of the Members for any purpose may be called by the Managing Member, and shall be called by the Managing Member upon receipt of a request in writing signed by any Member(s) owning, individually or in the aggregate, at least a ten percent (10%) Member Percentage. Such request shall state the purpose or purposes of the proposed meeting and the business to be transacted. Such meetings shall be held at a location specified by the Managing Member, which shall be in Palm Beach County, Miami-Dade County or Broward County, Florida. Notice of any such meeting shall be delivered to all Members entitled to vote at such meeting in the manner prescribed in Section 11.02 of this Agreement within ten (10) days after receipt of such request and no fewer than fifteen (15) days or more than ninety (90) days before the date of such meeting. The notice shall state the place, date, hour and purpose of the meeting. Notwithstanding the foregoing provisions, each Member who is entitled to notice waives objections to the place, date, hour and purpose of the meeting if before or after the meeting the Member signs a waiver of the notice which is filed with the records of Members' meetings, or participates in the meeting in person or by proxy other than for the sole purpose of objecting to the notice. At each meeting the Members present or represented by proxy shall adopt such rules for the conduct of such meeting as they shall deem appropriate. A list of the names and addresses of all Members shall be maintained as part of the books and records of the Company.

(b) The presence in person or by proxy of the Required Vote of the Members shall constitute a quorum at all meetings; provided, however, that if there be no such quorum, Members (or their proxies) owning more than fifty percent (50%) of the Member Percentages of the Members present at such meeting may adjourn the meeting from time to time without further notice, until a quorum shall be obtained.

(c) Each Member may authorize any Person(s) to act for it by proxy in all matters in which a Member is entitled to participate. Every proxy must be signed by the Member or its attorney-in-fact (other than the Managing Member). No proxy shall be valid after the expiration of six (6) months from the date thereof. Every proxy shall be recoverable and rescindable (if rescinded prior to any vote) by the Member executing it.

#### 6.06 Special Power of Attorney.

(a) Each Member, by his execution of the Member's signature page to this Agreement, irrevocably makes, constitutes and appoints the Managing Member, as such Person

may exist from time to time, with full power of substitution, as his true and lawful attorney-in-fact, for him and in his name, place and stead, to make, execute, sign, acknowledge, swear to, deliver, record and file any document or instrument which may be considered necessary or desirable by the Managing Member to carry out the provisions of this Agreement, including, without limitation, the following:

(i) Any amendment to this Agreement made with such consents, if any, of the Members as provided herein, any separate certificate of membership, any certificate of doing business under any assumed name, and any other certificate, instrument or document which may be required to be filed, or which the Managing Member deems advisable to file, under the laws of any state or the regulations of any governmental agency, as well as any amendments to the foregoing;

(ii) Any instrument or document which may be required or appropriate to carry out the purposes of the Agreement or effect the continuation of the Company; and

(iii) Any instrument or document which may be required to approve the choice of and admit any additional or substituted Member, dissolve and terminate the Company, or consent to the return to the Members of all or a part of their respective Capital Contributions by reason of Distributions to the Members, to the extent that the foregoing may be required or helpful to effectuate a transaction elsewhere authorized in this Agreement or approved by Required Vote of the Members pursuant to Section 5.02 hereof.

(b) The foregoing special power of attorney granted by each Member shall be one which:

(i) Is a special power of attorney coupled with an interest, is irrevocable and shall survive the death or legal incapacity of the granting Member;

(ii) May be exercised by the Managing Member for each Member by a facsimile signature or by executing any instrument with a single signature as attorney-in-fact for all Members; and

(iii) Shall survive the delivery of any attempted assignment by a Member of any of his Member Interest, except that where the Assignee has been approved by the Managing Member for admission to the Company as a substituted Member, this special power shall survive the delivery of such assignment for the sole purpose of enabling the Managing Member to execute, acknowledge and file any instrument or document necessary to effect such substitution.

6.07 No Withdrawal of Members. No Member may voluntarily withdraw or resign as a Member of the Company, prior to the dissolution and winding up of the Company, without the Managing Member's prior written consent.

6.08 Nature of Members' Interest. Member Interests in the Company shall be personal property for all purposes. No Member, or its successor, representative or assign, shall have any right, title or interest in specific Company property.

6.09 No Appraisal Rights. The Members each hereby agree that no Member shall be entitled to any appraisal rights otherwise provided in the Law. To the extent not eliminated, each Member hereby waives all right such Member may have had to any appraisal rights.

## **ARTICLE VII** **ISSUANCE AND TRANSFERS OF MEMBER INTERESTS**

7.01 Prohibition. Except as provided in this ARTICLE VII, absent the Required Vote of the Members and approval of the Managing Member, no Member shall Transfer all or any portion of its Member Interest or any interest or right therein. Subject to Section 7.06 hereof, any purported Transfer of a Member Interest in violation of the provisions of this Agreement shall be void ab initio, the transferee thereof shall only have the rights of an Assignee, and the Member shall continue to have all rights, duties and obligations as a Member of the Company.

7.02 Rights of Assignee. An Assignee shall be entitled to share in such Profits and Losses, to receive such Distribution(s), and to receive such allocation of income, gain, loss, deduction, or credit or similar item to which the assignor was entitled, to the extent assigned. Any interest in the Company or any Member Interest acquired by an Assignee is subject to the terms and conditions of this Agreement and the Articles. An Assignee shall not be admitted as a Member of the Company unless (i) the Managing Member approves such Assignee becoming a Member, which consent may be withheld in the sole and absolute discretion of the Managing Member, with or without reason, and (ii) the other conditions specified in Section 7.04 hereof are satisfied. An Assignee has no rights or entitlements in respect to the Company or any Member Interest except as specifically granted to the Assignee in this Agreement or the Articles. By way of illustration and not limitation, an Assignee shall have no (i) voting or consent rights of any nature or kind, or (ii) rights to require any information or accounting of the Company's transactions or finances or to inspect Company books. If, however, an Assignee is admitted to the Company as a Member pursuant to this Section and Section 7.04, such admission shall vest in such Assignee all rights, powers, authorities, obligations and responsibilities inuring to and imposed upon Members hereunder.

7.03 Additional Member Interests. Except for Persons whose subscriptions in the Offering were accepted on or prior to the Final Offering Date and who may be admitted as Members as determined solely by the Managing Member in accordance with the terms of the Offering, no additional Members shall be admitted into the Company by creation of additional Member Interests without the prior written consent of the Managing Member and the Required Vote of the Members, which consent may be withheld in the sole and absolute discretion of the Managing Member or any other Member, with or without reason. The Managing Member is authorized to issue additional Member Interests to Persons, who are not already Members ("Potential New Member"), from time to time when it is determined by the Required Vote of the Members and the Managing Member that it is in the best interests of the Company to do so. The

Capital Contributions to be required, the Member Percentage to be given, and the other terms and conditions of any issuance of additional Member Interests shall be determined by the Managing Member and approved by the Required Vote of the Members, and the Member Percentages of the Members, other than the Managing Member, existing prior to such issuance shall be diluted proportionately as required to issue the new Member Interest. Any additional Member admitted into the Company shall comply with such additional requirements of admission as determined by the Managing Member, provided such requirements are not inconsistent with the provisions of this Agreement.

7.04 Admission of Members. An Assignee or Potential New Member will be admitted to the Company as a successor or additional Member only if all of the following conditions are met:

(a) The Managing Member consents in writing, in accordance with Section 7.02 hereof as to Assignees, and with approval of the Required Vote of the Members pursuant to Section 7.03 hereof as to Potential New Members, to the admission of the Assignee or Potential New Member as a Member;

(b) The Assignee or Potential New Member agrees in writing to be bound by the provisions of this Agreement;

(c) The Assignee or Potential New Member executes any and all documents, including an amendment to this Agreement, required to effectuate or evidence its admission to the Company as a Member, and delivers to the Company its (i) taxpayer identification number; and (ii) initial tax basis in the Transferred Interest;

(d) The Assignee or Potential New Member reimburses the Company for all reasonable costs and expenses (including reasonable attorney's fees) incurred in connection with the Transfer and admission, if applicable;

(e) The Assignee or Potential New Member is not a minor or legally incompetent;

(f) The Transfer of the existing Member Interest or issuance of additional Member Interest does not constitute a default under any agreement to which the Company is bound; and

(g) If deemed necessary by the Managing Member, an opinion of counsel is delivered to the Managing Member in form, substance and from counsel satisfactory to the Managing Member to the effect that: (i) the proposed Transfer or issuance of additional Member Interest does not require registration under the Securities Laws; and (ii) that such action will not cause the Company's election for pass through tax treatment to be terminated for federal income tax purposes pursuant to Code Section 708.

7.05 Permitted Transfer. Except as set forth in this Section, the prohibitions and restrictions on Transfers of Member Interests set forth in this ARTICLE VII shall not apply to a Transfer of all or any portion of a Member's Member Interest to any of the following Persons ("Permitted Transferees"): (i) an entity controlled solely by such Member or to a revocable trust established by the Member for such Member and/or one or more of such Member's Affiliates, with the Member as sole trustee or co-trustee of such trust and where the Member retains sole voting control over such Member Interest, (ii) another Member or an entity controlled solely by such other Member, or (iii) any Person if the Transfer is by will or intestate succession. Any Transfer to a Permitted Transferee shall still be subject to compliance with the provisions of Sections 7.04(b)-7.04(g); provided, however, that if the Transfer is to another Member, the requirements of Sections 7.04(b) and 7.04(c) shall be deemed satisfied.

7.06 Option to Purchase Member Interest Upon Assignment.

(a) If a Member attempts to Transfer all or a portion of its Member Interest in violation of this Agreement, or otherwise voluntarily permits or causes a Person not already a Member to become an Assignee of all or a portion of the Member Interest of such Member ("Assignor"), the Assignor will immediately notify the Company in writing ("Assignment Notice") of such Transfer or purported Transfer and the Company will have the option ("Purchase Option") for a period of one (1) year from the later of the Assignment Notice date or the date the Company otherwise has knowledge of such non-Member becoming an Assignee to purchase the Assignor's entire Member Interest, including all rights and interests therein and including any interest therein claimed by an Assignee, at an amount ("Assignment Purchase Price") equal to the lower of (i) the fair market value of such Assignor's Member Interest, as determined by the Company Accountants and the Manager in consultation with such business valuers, appraisers or banks as they deem necessary, or (ii) the Assignor's Capital Account balance as of the date of such Transfer or purported Transfer. If the Assignment Purchase Price is determined to be a negative number, it shall instead be increased to one dollar (\$1). The Assignment Purchase Price shall be offset against any amounts owed by the Assignor or such Assignee to the Company, and if requested by another Member, by any amount owed to such requesting Member, to the extent the Assignment Purchase Price exceeds zero.

(b) The closing ("Purchase Option Closing") of the acquisition of the Assignor's Member Interest pursuant to a Purchase Option shall take place on a Business Day determined by the Managing Member. At the Purchase Option Closing, the Assignor shall: (i) represent and warrant that the Assignor is the sole owner of the Member Interest being sold, that such Member Interest is held free and clear of any and all pledges, claims, liens, encumbrances and rights of others (other than of the Assignor's Assignee or as otherwise set forth in this Agreement) and that the Assignor has the full power, right and authority to consummate the transaction, subject only to such Assignee's claims, if any; (ii) resign and cause the Assignor's appointees to resign from all offices and/or managerial positions held with the Company; and (iii) deliver to the Company all other documents necessary to transfer such Member Interest. At the Purchase Option Closing, the Assignor hereby consents to the Company delivering all or a portion of the net Assignment Purchase Price to the Assignor's Assignee on behalf of the Assignor in full or partial satisfaction of such Assignee's claim against Assignor, if any, and the

Company shall deliver the balance of the net Assignment Purchase Price, if any, to the Assignor by delivering an unsecured promissory note to the Assignor, which promissory note shall bear interest at the lowest Applicable Federal Rate (AFR) as provided in Section 1274 of the Code on the Business Day immediately preceding the Purchase Option Closing, shall be payable in thirty-six (36) equal monthly installments of principal and interest, with the first payment due one month after the Purchase Option Closing date, and shall allow for prepayments without penalty or interest. If the Assignor disputes the amount of the Assignment Purchase Price to which Assignee claims it was entitled, the Company may deposit the Assignment Purchase Price pursuant to an interpleader action filed against Assignor and Assignee in any court of competent jurisdiction, and such deposit shall be deemed compliance with the Company's payment obligation at the Purchase Option Closing and title to such Member Interest shall transfer as determined by the Company.

7.07 Rights of a Member's Representative. Upon the death, incompetence or Bankruptcy of an individual who is a Member, his personal representative, guardian, trustee or Person serving in a similar capacity, as the case may be, shall have all of the rights of a Member for the purpose of settling or managing his estate, and such power as the decedent, incompetent, or bankrupt possessed to constitute a successor, other than a Permitted Transferee, as an Assignee and to join with such Assignee in making application under this ARTICLE VII to substitute such Assignee as a Member. Upon the adjudication of Bankruptcy, dissolution or other cessation of existence as a legal entity of a Member which is not an individual, the authorized representative of such entity shall have all of the rights of a Member for the purpose of effecting the orderly winding-up and disposition of the business of such entity and such power as such entity possessed to constitute a successor, other than a Permitted Transferee, as an Assignee and to join with such Assignee in making application to substitute such Assignee as a Member. However, such representative or trustee shall not, by virtue of that capacity alone, have the right to become a substituted Member in the place of his predecessor in interest unless the conditions of Section 7.04 are satisfied, or if such Person is a Permitted Transferee, the applicable conditions of Section 7.04 are satisfied.

## **ARTICLE VIII** **FISCAL MATTERS**

8.01 Books and Records. The Managing Member shall keep, or cause to be kept, full and accurate books and records of all transactions of the Company using such method of accounting as determined by the Managing Member in consultation with the Company Accountants. All organizational records of the Company and other records required to be kept by the Company under the Law, shall, at all times, be maintained at the Company's record keeping office, and shall be open during ordinary business hours for inspection and copying upon the reasonable request of the Members and their authorized representatives, at the Company's expense, or if deemed by the Managing Member, at the expense of the requesting Member.

## 8.02 Reports and Statements.

(a) Within one hundred twenty (120) days after the end of each Fiscal Year, the Company shall, at its expense, cause to be delivered to the Members the following unaudited financial statements, which obligation may be satisfied by delivery to the Members of a copy of the Company's federal tax return:

- (i) A profit and loss statement for such period; and
- (ii) A balance sheet of the Company as of the end of such period.

(b) The Managing Member shall, at the expense of the Company prepare, or cause to be prepared, for delivery to the Members prior to the due date thereof, all federal and any required state and local income tax returns for the Company for each Fiscal Year of the Company and such other periodic or special reports regarding the business and affairs of the Company as the Managing Member deems appropriate.

8.03 Appointment of Tax Matters Partner. The Managing Member is hereby designated pursuant to Code Section 6231(a)(7) as the Company's "Tax Matters Partner," and is responsible for acting as the liaison between the Company and the IRS. The Tax Matters Partner shall have the duties of a tax matters partner as provided in the Code, in addition to such other duties as are provided under this Agreement. The Tax Matters Partner shall be reimbursed by the Company for all out-of-pocket expenses, costs and liabilities expended or incurred by the Tax Matters Partner in acting as the Company's Tax Matters Partner.

8.04 Tax Status. Any provision hereof to the contrary notwithstanding, solely for United States federal income tax purposes, each of the Members hereby recognizes that the Company will be subject to all provisions of Subchapter K of Chapter 1 of Subtitle A of the Code. The Members intend that the Company be taxed as a partnership for United States income tax purposes. The Members intend that all special allocations be considered to have economic effect under the "qualified income offset" provisions described in Regulation Section 1.704-1(b)(2)(ii)(d). All questions of construction and interpretation shall be resolved consistently with that intent.

8.05 Tax Elections. The Managing Member shall from time to time determine whether or not to make or attempt to revoke any and all tax elections regarding depreciation methods and recovery periods, capitalization of construction period expenses, amortization of organizational and start-up expenditures, basis adjustments upon admission or retirement of Members, and any other federal, state, or local income tax elections.

8.06 Bank Accounts. All funds of the Company shall be deposited in one or more bank account(s) opened in the Company's name. The Managing Member shall determine the institution(s) at which the accounts will be opened and maintained, the types of accounts, and the Persons who will have authority with respect to the accounts and the funds therein.

**ARTICLE IX**  
**DISSOLUTION**

9.01 Dissolution. The Company shall be dissolved only upon the occurrence of any of the following:

- (a) The sale of all or substantially all of the assets of the Company;
- (b) The written election by the Managing Member and the Required Vote of the Members that the Company should be dissolved;
- (c) The Company's Managing Member has been removed as such, and the Members did not elect a successor Managing Member within the time required by Section 5.01(f) hereof.
- (d) The date on which the Company suffers a Bankruptcy;
- (e) The Company is required to be dissolved under the Law;
- (f) Upon a determination by the Managing Member that a closing under the Purchase Contract has not or will not occur, for any reason, on or before February 1, 2007, or such later date consented to by the Required Vote of the Members, or any other time that the Managing Member determines in its sole discretion that a closing under the Purchase Contract will not occur for any reason whatsoever; or
- (g) The principal of the Notes is not paid in full on or before the Maturity Date thereof, unless Note Holders owning a majority of the then outstanding Loan amount consent, in writing, to waive this provision.

Unless expressly stated otherwise in this Agreement, the Members agree that the Company shall not be dissolved upon any of the following events, without the need for any consent of the Members at or after the time of any such event: (i) the death, withdrawal, retirement, resignation, expulsion, Bankruptcy, dissolution or permanent disability of a Member, or (ii) any other Transfer of a Member's entire Member Interest.

9.02 Wind-Up of Affairs.

(a) Upon dissolution, the Managing Member shall proceed with dispatch and without any unnecessary delay to sell or otherwise liquidate the Company's assets. The Capital Account of each Member shall be determined. Profits or Losses to the date of termination, including realized profits or losses arising from a sale of all of the assets of the Company (whether or not recognized for federal income tax purposes), and unrealized profits and losses on any assets to be distributed in kind (determined as if such assets had been sold by the Company for prices equal to their respective fair market value) shall be allocated as set forth in ARTICLE IV and credited or charged to the Capital Accounts of the Members. The Managing Member

shall distribute the net proceeds and any other liquid assets of the Company, subject to Section 9.02(d) hereof, in the manner hereinafter set forth:

- (i) First, to the expenses of any such sale or disposition;
- (ii) Next, to the payment of just debts and liabilities of the Company, other than the Loans, including to Members in the order provided by law;
- (iii) Next, to the establishment of any reserve that the Managing Member may deem reasonably necessary for any contingent or unforeseen liabilities and other obligations of the Company or of the Members arising out of or in conjunction with the Company's affairs;
- (iv) Next, to the payment of Interest on Notes to the Note Holders (including any Note Holders who are also Members), until the accrued Interest on such Notes are paid in full;
- (v) Next, to the payment of principal on the Notes to the Note Holders (including any Note Holders who are also Members), until the Notes are paid in full;
- (vi) Next, one hundred percent (100%) to the Members (other than the Managing Member), pro rata in accordance with their respective Unreturned Capital, until the Unreturned Capital of each of the Members is reduced to zero;
- (vii) Next, one hundred percent (100%) to the Members (other than the Managing Member), pro rata in accordance with their respective Unpaid Preferred Returns, until the Unpaid Preferred Return of each of the Members, if any, is reduced to zero; and
- (viii) Finally, to the Members, an amount equal to their then existing positive Capital Account balances, as determined after taking into account all Capital Account adjustments for the Company's taxable year during which such liquidation occurs.

(b) The wind-up of the affairs of the Company shall be conducted exclusively by the Managing Member, which is hereby authorized to do any and all acts and things authorized by law for such purposes. Notwithstanding anything to the contrary in this ARTICLE IX, if the event causing the dissolution is that pursuant to Section 9.01(c) hereof, the Members shall by Required Vote select one (1) Person (whether or not a Member) to wind-up the affairs of the Company, and if the Members cannot so select a Person within ten (10) Business Days following the effective date of the event causing the dissolution pursuant to Section 9.01(c) hereof, then any Member may petition a court of competent jurisdiction to appoint a receiver to wind-up the affairs of the Company. The Person(s) conducting the wind-up of the affairs of the Company shall receive no separate compensation for conducting the wind-up of the affairs of the Company, unless a court appoints a receiver and orders that such receiver be paid certain

compensation. In liquidating the assets of the Company, all tangible assets of a saleable value shall be sold at such price and terms as the Managing Member in good faith determines to be fair and equitable. Any partnership, corporation or other entity in which all or any of the Members are in any way interested may purchase such assets at such sale. It shall not be necessary to sell any intangible assets of the Company. A reasonable time shall be allowed for the orderly liquidation of the assets of the Company and the discharge of liabilities to creditors so as to enable the Company to minimize the losses normally occurring upon a liquidation.

(c) If any assets of the Company are to be distributed in kind, such assets shall be distributed on the basis of the then fair market value thereof (after adjusting the Capital Accounts of all Members for any unrealized gain or loss inherent in such property, as set forth above). The fair market value shall be determined by the Managing Member, or, if requested by the Members, by an independent appraiser who shall be selected by the Required Vote of the Members. In the discretion of the Managing Member, all or any portion of the Distributions that would otherwise be made to the Members pursuant to this ARTICLE IX may be:

(i) Distributed to a trust established for the benefit of the Members solely for the purposes of liquidating Company property, collecting amounts owed to the Company, and paying any contingent or unforeseen liabilities or obligations of the Company or of the Members arising out of or in connection with the Company. A Distribution to such a trust for the Members shall be treated, based upon the fair market value of the distributed assets, as a Distribution of Net Proceeds of a Capital Transaction. The assets of any such trust shall be distributed to the Members from time to time, in the reasonable discretion of the Managing Member in the same proportions as the amount distributed to such trust by the Company would otherwise have been distributed to the Members pursuant to this ARTICLE IX; or

(ii) Withheld to provide a reasonable reserve for Company liabilities (contingent or otherwise) and to allow for the collection of the unrealized portion of any installment obligations owed to the Company, provided that such withheld amounts shall be distributed to the Members as soon as practicable.

The portion of the Distributions that would otherwise have been made to each of the Members that is instead distributed to a trust or withheld to provide a reserve pursuant hereto shall be determined in the same manner as the expense or deduction would have been allocated if the Company had realized an expense equal to such amounts immediately prior to Distributions being made pursuant to this ARTICLE IX.

(d) Notwithstanding anything in this Agreement or the Law to the contrary, if the event causing the dissolution of the Company is that pursuant to Section 9.01(f) hereof, the Managing Member shall promptly make a Capital Contribution to the Company in an amount necessary to allow the Company to return (i) all Capital Contributions to the Members (other than the Managing Member), without Preferred Returns and without interest, and (ii) all the principal amount of the Loans to the Note Holders, without interest, and the Company shall return all such funds to the Members and Note Holders, as applicable. In accordance with the

Members' and Note Holders' subscriptions for Member Interests and Notes, respectively, in the event the Company is dissolved pursuant to Section 9.01(f) hereof, the Members and Note Holders hereby consent to waive any entitlement they otherwise have to such Preferred Returns and interest on Loans (pursuant to the Notes), as applicable.

9.03 Termination. The Company shall terminate when all Company assets shall have been disposed of.

## **ARTICLE X** **REPRESENTATIONS OF THE MEMBERS**

By their execution below, each Member represents and warrants to the Managing Member and the Company as follows:

(a) The Member is either an “accredited investor” (as defined in Rule 501(a) of the Securities Act of 1933, as amended) or is a sophisticated investor by virtue of his education, training and/or numerous prior investments made on his own behalf or through entities which he, alone or with others, controls. The Member is knowledgeable and experienced in financial and business matters, especially in investments which involve the acquisition, development and sale of real property and/or are similar to the Company’s Business, and which have risks similar to those which may be encountered by the Company. The Member is capable of evaluating the merits and risks of an investment in the Company and is capable of exercising the control over the operations of the Company to the full extent permitted by this Agreement.

(b) All of the Member’s representations and warranties made in the Subscription Agreement with the Company (the “Subscription Agreement”) are true and correct as of the Effective Date and are incorporated herein by this reference as if separately stated herein.

(c) The Member has been furnished or otherwise obtained all information necessary to enable him to evaluate the merits and risks of his prospective investment in the Company. The Member recognizes that the Company has no prior operating history, may be highly leveraged and involves substantial risks, including, without limitation, those provided in the Subscription Agreement (including Annex A thereto). The Member understands that an investment in the Company is highly speculative and the Member may suffer a complete loss of his investment. The Member has carefully considered all such risks before deciding to acquire its Member Interests and entering into this Agreement.

(d) The Member has been furnished or has had access to any and all material documents and information regarding the Company, the Managing Member and the members and managers of the Managing Member. The Member has had an opportunity to question the Managing Member and its members and managers, and receive adequate answers to such questions. The Member hereby acknowledges that the Company has made available to the Member prior to any investment in the Company all information requested by the Member and

reasonably necessary to enable the Member to evaluate the risks and merits of an investment in the Company. The Member, after a review of this information and other information he has obtained, is aware of the speculative nature of any investment in the Company.

(e) The Member is aware that the Member will have to make the Capital Contributions required hereunder. The Member can bear the economic risk of the investment in the Company (including the possible loss of his entire cash payment) without impairing the Member's ability to provide for himself and/or his family in the same manner that the Member would have been able to provide prior to making an investment in the Company. The Member understands that he must continue to bear the economic risk of the investment in the Company for an indefinite period of time.

(f) The Member understands that the Member Interests have not been registered under the Securities Laws, inasmuch as the offering of Member Interests is either not an offering of a security because of the powers vested in the Members to manage the Company and replace the Managing Member, or because the offering is being made to a limited group of potential investors. The Member understands that he has no rights whatsoever to request, and that the Company is under no obligation whatsoever to furnish, a registration of the Member Interests under the Securities Laws.

(g) The Member Interests that the Member is acquiring are being acquired solely for his account and are not being purchased with a view to, or for resale in connection with, any distribution within the meaning of the Securities Laws. The Member will not resell or offer to resell any Member Interests except in accordance with the terms of this Agreement and in compliance with all applicable Securities Laws.

(h) The Member acknowledges that there is no current market for the Member Interests and none is anticipated to develop. Moreover, there are substantial restrictions on the Transfer of the Member Interests. Therefore, the Member has considered its prospective investment in the Company to be a long-term illiquid investment acceptable because the Member is willing and can afford to accept and bear the substantial risks of the investment for an indefinite period of time.

(i) The Member is aware that there is no assurance, representation or warranty, by any Person, that the Property and the other assets anticipated to be acquired by the Company will operate at a profit, will generate sufficient cash flow for Distribution to the Members, or will appreciate in value or be sold at a profit. The Managing Member is authorized to incur indebtedness on behalf of the Company, to pay costs incurred in conducting and completing the Company's Business, to establish and maintain reserves for working capital, taxes, insurance and other costs and expenses, to raise substantial debt financings, and to use Company revenues to pay the organization costs and debt costs of the Company. The use of Company revenues for such purposes will delay the Member's receipt of Distributions from the Company, and may require the Member to report and pay tax on Company income without having received contemporaneous Distributions, even if the Company is profitable.

(j) The Member understands that if he receives a Distribution from the Company at a time when the liabilities of the Company exceed the fair market value of the Company's assets, the Member will be liable to the Company for the amount of such Distribution. In addition, the Member will be liable to the Company and/or its creditors as provided by the Law.

(k) The Member understands that major changes were made by tax laws enacted in the past, and more will likely be enacted in the future. The Member is aware that he should understand that the tax consequences of an investment in the Company are subject to change. The Member is further aware that this Agreement contains complex tax attribute allocations. The Member agrees that the Company and the Managing Member have not, will not, and cannot assure the Member that such allocations will be respected for federal income tax purposes by the IRS. Depending on which allocations were to be disregarded if challenged by the IRS, the Member's share of income, gains, losses, deductions and credits of the Company could be affected and could change. In such an event, the Member may have to amend its tax return for the year or years of such change(s).

(l) The Member understands that the federal income tax treatment of the Company and the ownership of interests therein, whether direct or indirect, are complex and, in many cases, uncertain. Statutory provisions and administrative regulations have been interpreted inconsistently by the courts. Additionally, some statutory provisions remain to be interpreted by administrative regulations. It is possible that the IRS may successfully challenge the tax treatment accorded certain items by the Company.

(m) The Member is aware that the IRS may audit the income tax returns of the Company and may audit the Member's income tax return as the result of the Member's investment in or claimed deductions or losses from its investment in the Company. Such deductions and losses, when taken together with other items reported on the Member's tax return, may prompt the IRS to examine the Member's return, both as to income and deductions relating to the Company and as to other matters. The Company and the Managing Member cannot assure the Member that such an audit or examination will not occur or that the Member will not incur additional liability and costs as a result of any such audit or examination.

(n) The Member understands that the Company's Managing Member may have the authority to negotiate, settle and compromise matters with the IRS relating to all Members of the Company. The Managing Member may take positions on issues or effect compromises binding on all Members of the Company which the Managing Member believes are in the best interests of the Company, but which may not be in the best interests of individual Members, including the Member. In the event of audit, each Member must consult with its own tax advisor with respect to such Member's rights and obligations.

**ARTICLE XI**  
**MISCELLANEOUS**

11.01 Amendments. Except as expressly provided in this Section or elsewhere in this Agreement to the contrary, this Agreement may be amended at any time with written consent of, in each case, the Managing Member and (a) the Required Vote of the Members in every instance other than those described in clauses (b) and (c); (b) all of the Members, if an amendment affects a Member's obligations to make Capital Contributions or a Member's allocable share of Profits and Losses or share of Distributions; and (c) without the consent of any of the Members if the amendment is (i) to substitute or add Members, or modify the Member Percentages, to the extent provided for in this Agreement; (ii) to add to the representations, duties or obligations of the Managing Member or surrender any right or power granted to the Managing Member herein, for the benefit of the Members; (iii) to cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Agreement which will not be inconsistent with the provisions of this Agreement; (iv) to preserve the status of the Company as a "partnership" for federal income tax purposes; (v) to delete or add any provision of this Agreement required to be so deleted or added by the staff of the Securities and Exchange Commission or other federal agency or by a state "Blue Sky" commission or official or similar such official, which addition or deletion is deemed by such commission, agency or official to be for the benefit or protection of the Members; (vi) if such amendment is, in the opinion of counsel for the Company, necessary or appropriate to satisfy the requirements of Code Section 704(b) or the regulations promulgated thereunder; or (vii) to give effect to an amendment to the Articles. The Members, including the Managing Member, acknowledge that pursuant to the terms of the Notes, certain Distribution priorities provided in Section 4.01 and Section 9.02 hereof may not be amended without the Note Holders' consent. If amended, the Managing Member shall file, or cause to be filed, an amendment of the Articles with the appropriate authorities in the event that the Managing Member determines the filing of such amendment to be necessary or appropriate to comply with the Law or the Securities Laws.

11.02 Notices. Any notice required or permitted to be delivered to any party hereto under the provisions of this Agreement shall be deemed to have been duly given (a) upon hand delivery thereof, (b) upon telefax and written confirmation of transmission, (c) upon receipt of any overnight deliveries, or (d) on the third (3<sup>rd</sup>) business day after mailing United States registered or certified mail, return receipt requested, postage prepaid, addressed to each party as set forth on Schedule B hereto or at such other address, or to such other Person and at such address for that Person, as any party shall designate in writing to the other parties in the manner hereinabove set forth.

11.03 Agency. Except as provided herein, nothing herein contained shall be construed to constitute any Member hereof the agent of any other Member hereof or to limit in any manner the Members in the carrying on of their own respective businesses or activities. Any Member may engage in and/or possess any interest in other business ventures of every nature and description, independently or with others, whether existing as of the date hereof or hereafter

coming into existence; and neither the Company nor any Member hereof shall have any rights in or to any such independent ventures or the income or profits derived therefrom.

11.04 Further Assurances. The Members will execute and deliver such further instruments and do such further acts and things as may be required to carry out the intent and purposes of this Agreement.

11.05 Headings. The headings of the various sections of this Agreement are intended solely for convenience of reference, and shall not be deemed or construed to explain, modify or place any construction upon the provisions hereof.

11.06 Successors and Assigns. This Agreement and any amendments hereto shall be binding upon and, to the extent expressly permitted by the provisions hereof, shall inure to the benefit of the Members, their respective heirs, legal representatives, successors and assigns.

11.07 Applicable Law; Venue; Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without giving effect to the principles of conflicts of law thereof. Agreed upon venue, to the extent permitted by law, shall be Broward County, Florida. Each party consents to the jurisdiction of the federal courts of the United States located in the Southern District of the State of Florida and the state courts of the State of Florida located in Broward County, Florida. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations of the jurisdictions in which the Company does business.

11.08 Entire Agreement. This Agreement sets forth all (and is intended by all parties hereto to be an integration of all) of the promises, agreements, conditions, understandings, warranties and representations among the parties hereto as to the subject matter hereof, and there are no promises, agreements, conditions, understandings, warranties or representations, oral or written, express or implied, except as set forth herein.

11.09 Counterparts. This Agreement and any amendments hereto may be executed in counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument. Any party hereto may execute this Agreement by facsimile signature and the other parties shall be entitled to rely on such facsimile signature as evidence that such party has duly executed this Agreement. Any party executing this Agreement by facsimile signature shall immediately forward to the Managing Member an original signature page by overnight mail, but the failure of such timely delivery shall not invalidate the validity of the facsimile signature.

11.10 Gender. Wherever the context requires, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter in form thereof and the singular form of any nouns and pronouns herein may be deemed to mean the corresponding plural and vice versa as the case may require.

11.11 Remedies. Each of the Members acknowledges and agrees that in the event that a Member shall violate any of the restrictions or fails to perform any of the obligations hereunder, the Company or the other Members will be without adequate remedy at law and will therefore be entitled to enforce such restrictions or obligations by temporary or permanent injunctive or mandatory relief obtained in an action or proceeding instituted in any court of competent jurisdiction without the necessity of proving damages and without prejudice to any other remedies it may have at law or in equity.

11.12 Attorney Fees. If the Company or any party hereto is required to engage in litigation, arbitration or mediation against any other party hereto, either as plaintiff or as defendant, in order to enforce or defend any rights under this Agreement, and such litigation or proceeding results in a final judgment or ruling in favor of such party ("Prevailing Party"), then the party or parties against whom said final judgment or ruling is obtained shall reimburse the Prevailing Party for all direct, indirect or incidental expenses incurred, including, but not limited to, all attorneys' fees (including paralegal fees), court costs, and other expenses incurred throughout all negotiations, proceedings, trials or appeals undertaken in order to enforce the Prevailing Party's rights hereunder.

11.13 No Third Party Beneficiary. This Agreement is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns subject to the express provisions hereof relating to successors and assigns, and no other Person shall have any rights, interest or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third party beneficiary or otherwise.

11.14 No Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

11.15 No Recordation. Neither this Agreement nor any memorandum thereof shall be recorded amongst the public records of any governmental authority without the prior written consent of the Managing Member.

11.16 Provisions Severable. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations of the jurisdiction in which the parties do business. If any provision of this Agreement, or the application thereof to any person or circumstance shall, for any reason or to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

11.17 No Foreign Person Withholding. Unless otherwise signified opposite the Member's name on the signature pages hereto, each of the Members hereby represents and warrants that it is not a "foreign person" within the meaning of Code Section 1445.

11.18 Legal Representation. The Company may retain one or more legal counsel (“Law Firm”), from time to time, to represent the Company on specified matters and the Members hereby recognize and acknowledge that representation of the Company shall not establish any attorney-client relationship between the Members and the Law Firm. It is further expressly acknowledged and agreed by the Members, that any Law Firm representing the Company may also represent the Managing Member or any of its Affiliates.

11.19 Conflict Waiver. The Members hereby acknowledge and agree that: (i) Ruden, McClosky, Smith, Schuster & Russell, P.A. ("Firm") has represented the Company and Managing Member, not the other Members, in the preparation of this Agreement and may hereafter represent the Company and Managing Member in other matters; (ii) the Firm has also represented the Managing Member and/or its Affiliates in the past and may do so in the future; (iii) Harry Rosen, Esq., a principal of the Managing Member, is also an attorney of counsel with the Firm; (iv) each Member has waived any conflict of interest that exists as a result of such representation; and (v) each Member has been advised to consult with independent legal counsel before entering into this Agreement, and has consulted such counsel as it deemed appropriate.

11.20 No Broker. The Members, other than the Managing Member if applicable, have not entered into any agreement, arrangement or understanding with any Person which will result in the obligation to pay any finder’s fee, brokerage commission or similar payment in connection with the transactions contemplated hereby.

11.21 Patent Errors. The Members hereby authorize and direct the Managing Member to correct patent errors and to fill in any blanks, which blanks shall not be substantive to the terms hereof, in this Agreement or in any exhibit, instrument, document or agreement related hereto and to attach hereto or thereto any exhibits or schedules which are a part hereof or thereof.

11.22 Survival of Terms. The termination of this Agreement for any reason shall not release any party from any liabilities or obligations set forth in this Agreement which (a) the parties have expressly agreed shall survive any such expiration or termination, (b) remain to be performed, or (c) by their nature would be intended to be applicable following any such termination. The termination of this Agreement shall not affect or limit any of the parties’ indemnification obligations or any other matters set forth in this Agreement that should survive in order to carry out their intended purpose.

11.23 Construction. Every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any party hereto. This Agreement shall not be construed against any party by virtue of a party being deemed the Agreement’s drafter.

11.24 Schedules and Exhibits. Each Schedule and Exhibit referred to in this Agreement forms an essential part of this Agreement, and if not physically attached hereto, should nonetheless be treated as part of this Agreement, and are hereby incorporated herein by reference.

[THIS SPACE INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement effective as of the day and year first above written.

Social Security or  
Federal Employer ID Number:  
 Mark "X" if a "Foreign  
Person" under Code Section 1445

\_\_\_\_\_

**COMPANY:**

**SUNCOAST PROFESSIONAL CENTER, LLC**

By: GLOBAL OF SUNCOAST, LLC, as its Managing  
Member

By:  \_\_\_\_\_  
David Ortiz, a Manager

**[SIGNATURE PAGE CONTINUED ON NEXT PAGE]**

**SUNCOAST PROFESSIONAL CENTER, LLC**

**[OPERATING AGREEMENT SIGNATURE PAGE CONTINUED]**

**MEMBERS:**

Social Security or  
Federal Employer ID Number:

Mark "X" if a "Foreign  
Person" under Code Section 1445

\_\_\_\_\_  
S.S. or I.D. No.

\_\_\_\_\_  
Signature

Print Name: \_\_\_\_\_

*If Subscriber is an entity:*

Entity Name: \_\_\_\_\_

Title of Person Signing: \_\_\_\_\_

*If Subscriber consists of two (2) persons:*

\_\_\_\_\_  
Second Signature

Print Name: \_\_\_\_\_

SSN: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

**SCHEDULE A**  
**NOTE HOLDERS**

<b>Name and Address</b>	<b>Original Loan Amount</b>
_____ _____ _____	\$ _____
_____ _____ _____	\$ _____
_____ _____ _____	\$ _____
_____ _____ _____	\$ _____

**SCHEDULE B**

**MEMBERS**

<b><u>Name &amp; Address</u></b>	<b><u>Member Percentage</u></b>	<b><u>Capital Contribution</u></b>
Global of Suncoast, LLC 17160 Royal Palm Blvd. Suite 2 Weston, FL 33326	45% *	Assignment of Purchase Contract** (see attached Exhibit 3.01)
_____ _____ _____	___%	\$ _____
_____ _____ _____	___%	\$ _____
_____ _____ _____	___%	\$ _____
_____ _____ _____	___%	\$ _____
_____ _____ _____	___%	\$ _____

For purposes of delivering Notices pursuant to Section 11.02 of this Agreement, copies of all Notices required or permitted to be delivered to the Company and/or the Managing Member shall be delivered to: Ruden, McClosky, Smith, Schuster & Russell, P.A., 200 East Broward Boulevard, 15<sup>th</sup> Floor, Fort Lauderdale, Florida 33301, Attn: Michael H. Krul, Esq.

\* Note: Except pursuant to Section 4.01(b), if any, no Distributions will be made to the Managing Member until such time as all Note Holders have been paid in full and all Members have received their Preferred Return and repayment of their Capital Contributions.

\*\* Note: Directly or indirectly, pursuant to Section 3.01 of this Agreement.

**EXHIBIT 3.01**

**PURCHASE CONTRACT**

See attached.

**EXHIBIT 3.03(c)**

**FORM OF PROMISSORY NOTE**

See attached.