

State of Indiana
Office of the Secretary of State

CERTIFICATE OF ORGANIZATION
of
JOHN M. DUNN, LLC

I, Connie Lawson, Secretary of State of Indiana, hereby certify that Articles of Organization of the above Domestic Limited Liability Company (LLC) has been presented to me at my office, accompanied by the fees prescribed by law and that the documentation presented conforms to law as prescribed by the provisions of the Indiana Business Flexibility Act.

NOW, THEREFORE, with this document I certify that said transaction will become effective Thursday, December 03, 2015.

In Witness Whereof, I have caused to be affixed my signature and the seal of the State of Indiana, at the City of Indianapolis, December 03, 2015



Connie Lawson

CONNIE LAWSON,
SECRETARY OF STATE

APPROVED AND FILED
CONNIE LAWSON
INDIANA SECRETARY OF STATE
12/3/2015 11:39 AM

ARTICLES OF ORGANIZATION

Formed pursuant to the provisions of the Indiana Business Flexibility Act.

ARTICLE I - NAME AND PRINCIPAL OFFICE

JOHN M. DUNN, LLC

300 S.E. RIVERSIDE DRIVE SUITE 100, EVANSVILLE, IN 47713

ARTICLE II - REGISTERED OFFICE AND AGENT

JOHN M. DUNN

300 S.E. RIVERSIDE DRIVE SUITE 100, EVANSVILLE, IN 47713

The Signator represents that the registered agent named in the application has consented to the appointment of registered agent.

ARTICLE III - GENERAL INFORMATION

What is the latest date upon which the entity is to Perpetual
dissolve?:

Who will the entity be managed by?: Managers

Effective Date: 12/3/2015

Electronic Signature: JOHN M. DUNN

OPERATING AGREEMENT

OF

JOHN M. DUNN, LLC

OPERATING AGREEMENT OF

JOHN M. DUNN, LLC

This Operating Agreement (this "Agreement") is entered into this 3rd day of December, 2015, by and among the signatories hereto.

Explanatory Statement

The initial Member of **John M. Dunn, LLC**, an Indiana limited liability company (the "Company"), has decided to set forth in writing an Operating Agreement for the purpose of establishing the management structure of the Company and to govern all other aspects of its operation. Therefore, it is agreed to organize and operate a limited liability company in accordance with the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the parties hereto, intending legally to be bound, agree as follows:

SECTION I

DEFINED TERMS

The following capitalized terms shall have the meanings specified in this Section I. Other terms are defined in the text of this Agreement; and, throughout this Agreement, those terms shall have the meanings respectively ascribed to them.

"Act" means the Indiana Limited Liability Company Act, as amended from time to time.

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

(i) The deficit shall be decreased by the amounts which the Interest Holder is obligated to restore pursuant to Section 5.4.2, or is deemed obligated to restore pursuant to Regulation Section 1.704-2(g)(1) and (i)(5) (i.e., the Interest Holder's portion of Minimum Gain and Member Minimum Gain); and

(ii) The deficit shall be increased by the items described in Regulation Section 1.704-1(b)(2)(ii)-(d)(4), (5), and (6).

"Adjusted Capital Balance" means as of any day, an Interest Holder's total Capital Contributions less all amounts actually distributed to the Interest Holder pursuant to Sections 5.2.3.4 and 5.4 hereof. If any Interest is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Adjusted Capital

Balance of the transferor to the extent the Adjusted Capital Balance relates to the Interest transferred.

"Agreement" means this Operating Agreement, as amended from time to time.

"Articles" means the Articles of Organization filed by the Company with the Indiana Secretary of State and as amended or restated from time to time.

"Assignee" means a transferee of a Member's Interest who has not been admitted as a Member.

"Capital Account" means the account maintained by the Company for each Interest Holder in accordance with the following provisions:

(i) An Interest Holder's Capital Account shall be credited with the Interest Holder's Capital Contributions, the amount of any Company liabilities assumed by the Interest Holder (or which are secured by Company property distributed to the Interest Holder), the Interest Holder's allocable portion of Profit and any item in the nature of income or gain specially allocated to such Interest Holder pursuant to the provisions of Section V (other than Section 5.3.3); and

(ii) An Interest Holder's Capital Account shall be debited with the amount of money and the fair market value of any Company property distributed to the Interest Holder, the Interest Holder's allocable portion of Loss, and any item in the nature of expenses or losses specially allocated to the Interest Holder pursuant to the provisions of Section V (other than Section 5.3.3).

If any Interest is transferred pursuant to the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent the Capital Account is attributable to the transferred Interest. If the book value of Company property is adjusted pursuant to Section 5.3.3, the Capital Account of each Interest Holder shall be adjusted to reflect the aggregate adjustment in the same manner as if the Company had recognized gain or loss equal to the amount of such aggregate adjustment. It is intended that the Capital Accounts of all Interest Holders shall be maintained in compliance with the provisions of Regulation Section 1.704-1(b), and all provisions of this Agreement relating to the maintenance of Capital Accounts shall be interpreted and applied in a manner consistent with that Regulation.

"Capital Contribution" means the total amount of cash and the fair market value of any other assets contributed (or deemed contributed under Regulation Section 1.704-1(b)(2)(iv)(d)) to the Company by a Member, net of liabilities assumed or to which the assets are subject.

"Capital Proceeds" means the gross receipts received by the Company from a Capital Transaction.

"Capital Transaction" means any transaction not in the ordinary course of business which results in the Company's receipt of cash or other consideration other than Capital Contributions, including, without limitation, proceeds of sales or exchanges or other dispositions of property not in the ordinary course of business, financings, refinancings, condemnations, recoveries of damage awards, and insurance proceeds.

"Cash Flow" means all cash funds derived from operations of the Company (including interest received on reserves) without reduction for any noncash charges, but less cash funds used to pay current operating expenses and to pay or reasonable reserves for future expenses, debt payments, capital improvements, and replacements as determined by the Member. Cash Flow shall not include Capital Proceeds but shall be increased by the reduction of any reserve previously established.

"Code" means the Internal Revenue Code of 1986, as amended, or any corresponding provision of any succeeding law.

"Company" means the limited liability company formed in accordance with this Agreement.

"Family Member" means (i) Gail Dunn, (ii) the descendants of John M. Dunn and Gail Dunn by birth or adoption living from time to time in all younger generations, or (iii) a trust where Gail Dunn is the beneficiary.

"Interest" means the entire ownership interest of a Person in the Company, including the economic rights in the Company, and if the Person is a Member further including the right of such Member to any and all benefits to which a Member is entitled as provided under the Act, the Articles, and this Agreement.

"Interest Holder" means any Person who holds an Interest, whether as a Member or as an unadmitted assignee of a Member or other Interest Holder.

"Involuntary Withdrawal" means, with respect to any Member, the occurrence of any of the following events:

(i) The Member makes an assignment for the benefit of creditors (Date of assignment is "Effective Date");

(ii) The Member files a voluntary petition in bankruptcy (Date of filing of petition is "Effective Date");

(iii) The Member is adjudged bankrupt or insolvent or there is entered against the Member an order for relief in any bankruptcy or insolvency proceeding (Date of judgment or order is "Effective Date");

(iv) The Member files a petition or answer seeking for the Member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or

similar relief under any statute, law, or regulation (Date of filing petition or answer is "Effective Date");

(v) The Member seeks, consents to, or acquiesces in the appointment of a trustee for, receiver for, or liquidation of the Member or of all or any substantial part of the Member's properties (Date of appointment is "Effective Date");

(vi) The Member files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Member in any proceeding described in Subsections (i) through (v) (Date of filing answer or other pleading is "Effective Date", or if there is a failure to contest, then the date of Order is "Effective Date");

(vii) The continuation of any proceeding against the Member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, for one hundred twenty (120) days after the commencement thereof; or the appointment of a trustee, receiver, or liquidator for the Member or all or any substantial part of the Member's properties without the Member's agreement or acquiescence, which appointment is not vacated or stayed for one hundred twenty (120) days or, if the appointment is stayed, for one hundred twenty (120) days after the expiration of the stay during which period the appointment is not vacated (Date of expiration of the applicable one hundred twenty (120) day period is "Effective Date");

(viii) If the Member is a partnership or another limited liability company, the dissolution (other than unintentional administrative dissolution) and commencement of winding up of the partnership or limited liability company (Date of filing of Articles of Dissolution is "Effective Date");

(ix) If the Member is a corporation, the dissolution (other than unintentional administrative dissolution) of the corporation (Date of filing of Articles of Dissolution is "Effective Date");

(x) If the Member is an estate or trust, the distribution by the fiduciary of all or any portion of the estate's or trust's Membership Units in the Company (except to the extent the Interest is distributed to a Family Member) with respect to the portion distributed (Date of distribution is "Effective Date");

(xi) The transfer of all or any portion of the Member's Units pursuant to a divorce decree (except to the extent that the Interest is transferred to a Family Member immediately prior to the divorce) with respect to the portion transferred (Date of transfer is "Effective Date"); or

(xii) The transfer of all or any portion of a Member's Units pursuant to an execution sale with respect to the portion transferred (date of execution sale is "Effective Date").

"Majority In Interest" means an affirmative vote of Members holding not less than 51% of the Percentages then held.

"Member" means each Person signing this Agreement and any Person who subsequently is admitted as a Member of the Company.

"Member Loan Nonrecourse Deductions" means any Company deductions that would be Nonrecourse Deductions if they were not attributable to a loan made or guaranteed by a Member within the meaning of Regulation Section 1.704-2(i).

"Member Minimum Gain" has the meaning set forth in Regulation Section 1.704-2(i) for "partner nonrecourse debt minimum gain".

"Minimum Gain" has the meaning set forth in Regulation Section 1.704-2(d). Minimum Gain shall be computed separately for each Interest Holder in a manner consistent with the Regulations under Code Section 704(b).

"Negative Capital Account" means a Capital Account with a balance of less than zero.

"Nonrecourse Deductions" has the meaning set forth in Regulation Section 1.704-2(b)(1). The amount of Nonrecourse Deductions for a taxable year of the Company equals the net increase, if any, in the amount of Minimum Gain during that taxable year, determined according to the provisions of Regulation Section 1.704-2(c).

"Percentage Interest" or **"Percentages"** means, the percentage of the total Interests in the Company represented by an Interest, as adjusted from time to time.

"Person" means and includes any individual, corporation, partnership, association, limited liability company, trust, estate, or other entity.

"Positive Capital Account" means a Capital Account with a balance greater than zero.

"Profit" and **"Loss"** means, for each taxable year of the Company (or other period for which Profit or Loss must be computed) the Company's taxable income or loss determined in accordance with Code Section 703 (a), with the following adjustments:

(i) All items of income, gain, loss, deduction, or credit required to be stated separately pursuant to Code Section 703(a)(1) shall be included in computing taxable income or loss;

(ii) Any tax-exempt income of the Company, not otherwise taken into account in computing Profit or Loss, shall be included in computing taxable income or loss;

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

(iv) Gain or loss resulting from any taxable disposition of Company property shall be computed by reference to the adjusted book value of the property disposed of, notwithstanding the fact that the adjusted book value differs from the adjusted basis of the property for federal income tax purposes;

(v) In lieu of the depreciation, amortization, or cost recovery deductions allowable in computing taxable income or loss, there shall be taken into account the depreciation computed based upon the adjusted book value of the asset; and

(vi) Notwithstanding any other provision of this definition, any items which are specially allocated pursuant to Section 5.3 hereof shall not be taken into account in computing Profit or Loss.

"Regulation" means the income tax regulations, including any temporary regulations, from time to time promulgated under the Code.

"Secretary of State" means the Secretary of State of Indiana.

"Transfer" means, when used as a noun, any voluntary sale, hypothecation, pledge, assignment, attachment, gift, or other transfer occurring during the lifetime of the transferor, and, when used as a verb, means voluntarily to sell, hypothecate, pledge, assign, give, or otherwise transfer during the life of the transferor.

"Voluntary Withdrawal" means a Member's dissociation with the Company by means other than a Transfer or an Involuntary Withdrawal.

SECTION II

FORMATION AND NAME; OFFICE; PURPOSE; TERM

2.1 **Organization**. The parties shall organize a limited liability company pursuant to the Act and the provisions of this Agreement. For that purpose, Articles of Organization were filed for record with the Secretary of State on December 3, 2015.

2.2 **Name of the Company**. The name of the Company shall be "John M. Dunn, LLC". The Company may do business under that name and under any other name or names which the Managers select. If the Company does business under a name other than that set forth in its Articles of Organization, then the Company shall file an assumed name business name certificate as required by law.

2.3 **Purpose**. The purpose of the Company shall be to perform all lawful acts and purposes permitted under the Act.

2.4 **Term**. The term of the Company began upon the acceptance of the Articles of Organization by the Secretary of State and shall continue perpetually, unless its existence is sooner terminated pursuant to this Agreement.

2.5 **Principal Office**. The principal office of the Company shall be as set forth in the Articles or at any other place which the Managers select.

2.6 **Registered Agent**. The name and address of the Company's registered agent shall be as set forth in the Articles.

SECTION III

MEMBERS

3.1 **Members**. The name, present mailing address and taxpayer identification number of each Member are set forth on **Exhibit A**. Each Member shall be required to update Company from time to time as necessary to enable Company to keep the information on **Exhibit A** up to date.

3.2 **Meetings**. A meeting of the Members may be called at any time by the Manager or by any Member of the Company. Meetings of Members shall be held at the Company's principal place of business or at any other place in Evansville, Indiana designated by the Person calling the meeting. Not less than ten (10) nor more than ninety (90) days before each meeting, the Person calling the meeting shall give written notice of the meeting to each Member entitled to vote at the meeting. The notice shall state the time, place and purpose of the meeting. Notwithstanding the foregoing provisions, each Member who is entitled to notice waives notice if before or after the meeting the Member signs a waiver of the notice which is filed with the records of Members' meetings, or is present at the meeting in person or by proxy. Unless this Agreement provides otherwise, at a meeting of Members, the presence in person or by proxy of Members holding not less than fifty-one percent (51%) of the Percentages then held by Members constitutes a quorum. A Member may vote either in person or by written proxy signed by the Member or by his duly authorized attorney in fact.

3.3 **Voting**. Except as otherwise provided in this Agreement or where a greater percentage is required by the Act, the affirmative vote of members holding fifty-one percent (51%) or more of the Percentages then held by Members shall be required to approve any matter coming before the Members.

3.4 **Action by Written Consent**. In lieu of holding a meeting, the Members may vote or otherwise take action by a written instrument indicating the consent of Members holding one hundred percent (100%) of the Percentages then held by Members.

3.5 **Participation in Meetings by Electronic Communications.** Any or all Members may participate in an annual or special meeting of the Members by, or through the use of, any means of communication by which all Members participating may simultaneously hear each other during the meeting. Participation by any such Member by this means shall be deemed to constitute presence in person at such meeting.

SECTION IV

CAPITAL CONTRIBUTIONS AND CAPITAL ACCOUNTS

4.1 **Membership Classes; Respective Rights.** There shall be one (1) class of members. Each Member's Percentage Interest in the Company shall be set forth on **Exhibit C** (or a separate Membership Roster in its place) which shall be updated from time to time as necessary to accurately and currently reflect ownership of all Percentage Interests.

4.2 **Reserved.**

4.3 **Initial Capital Contributions.** Each Member's initial contribution to the capital of the Company is described on **Exhibit B**. In consideration therefor, each Member has received the Percentage Interest described on **Exhibit C**.

4.4 **No Other Capital Contributions.** No Member shall be required to contribute any additional capital to the Company, and except as set forth in the Act, no Member shall have any personal liability for any obligations of the Company. No Member (or any other person) may make any additional contribution of capital to the Company without the prior written consent of Members holding one hundred percent (100%) of the Percentages then held by Members.

4.5 **No Interest on Capital Contributions.** Interest Holders shall not be paid interest on their Capital Contributions.

4.6 **Return of Capital Contributions.** Except in the event of dissolution of the Company, no Interest Holder shall have the right to receive the return of any Capital Contribution.

4.7 **Form of Return of Capital.** Except in the event of dissolution of the Company, if an Interest Holder is entitled to receive a return of a Capital Contribution, the Company may distribute cash, notes, property, or a combination thereof, in the Company's discretion, to the Interest Holder in return of the Capital Contribution.

4.8 **Capital Accounts.** A separate Capital Account shall be maintained for each Interest Holder.

4.9 **Loans**. Any Member may, at any time, make or cause a loan to be made to the Company in any amount and on those terms upon which the Member and the Manager agree.

4.10 **"T.O.D." Registration**. The Company does hereby adopt and authorize the use of the "transfer on death" registration consistent with and pursuant to the terms of the Uniform Act on Transfer on Death Securities as adopted by the State of Indiana and codified as IC 32-4-1.6-1 et seq. A membership interest in the Company may be transferred at the death of a Member pursuant to such "transfer on death" registration if such "transfer on death" registration is noted on the face of any membership certificate issued by the Company to evidence such Interest owned by the Member.

SECTION V

PROFIT, LOSS AND DISTRIBUTIONS

5.1 Distributions of Cash Flow and Allocations of Profit or Loss Other Than From Capital Transactions.

5.1.1 **Profit or Loss Other Than From a Capital Transaction**. After giving effect to the special allocations set forth in Section 5.3, for any taxable year of the Company, Profit or Loss (other than Profit or Loss resulting from a Capital Transaction, which Profit or Loss shall be allocated in accordance with the provisions of Sections 5.2.1 and 5.2.2) shall be allocated to the Interest Holders in proportion to their Percentage Interests.

5.1.2 **Cash Flow**. Cash Flow shall be distributed to the Interest Holders in proportion to their Percentage Interests at the discretion of the Member.

5.2 Distributions of Capital Proceeds and Allocation of Profit or Loss from Capital Transactions.

5.2.1 **Allocation of Profit**. After giving effect to the special allocations set forth in Section 5.3, Profit from a Capital Transaction shall be allocated as follows:

5.2.1.1 If one or more Interest Holders has a Negative Capital Account, to those Interest Holders, in proportion to their Negative Capital Accounts, until all of those Negative Capital Accounts have been reduced to zero.

5.2.1.2 Any Profit not allocated to increase Negative Capital Accounts to zero pursuant to Section 5.2.1.1 shall be allocated to the Interest Holders in proportion to their Percentage Interests.

5.2.2 **Allocation of Loss**. After giving effect to the special allocations set forth in Section 5.3, Loss from a Capital Transaction shall be allocated as follows:

5.2.2.1 If one or more Interest Holders has a Positive Capital Account, to those Interest Holders, in proportion to their Positive Capital Accounts, until all Positive Capital Accounts have been reduced to zero.

5.2.2.2 Any Loss not allocated to reduce Positive Capital Accounts to zero pursuant to Section 5.2.2.1 shall be allocated to the Interest Holders in proportion to their Percentage Interests.

5.2.3 **Distribution of Capital Proceeds.** Capital Proceeds shall be distributed and applied by the Company in the following order and priority:

5.2.3.1 To the payment of all expenses of the Company incident to the Capital Transaction; then

5.2.3.2 To the payment of debts and liabilities of the Company then due and outstanding (including all debts due to any Interest Holder); then

5.2.3.3 To the establishment of any reserves which the Member deems necessary for liabilities or obligations of the Company; then

5.2.3.4 At the discretion of the Members, the balance, or any part thereof, may be held by the Company for reinvestment, or distributed to the Interest Holders, and any part of the balance distributed to the Interest Holders shall be distributed first to the Interest Holders in proportion to their Positive Capital Accounts until all Positive Capital Accounts have been reduced to zero, and then to the Interest Holders in proportion to their Percentage Interests.

5.3 **Regulatory Allocations.**

5.3.1 **Qualified Income Offset.** No Interest Holder shall be allocated Losses or deductions if the allocation causes the Interest Holder to have an Adjusted Capital Account Deficit. If an Interest Holder receives (1) an allocation of Loss or deduction (or item thereof) or (2) any distribution, which causes the Interest Holder to have an Adjusted Capital Account Deficit at the end of any taxable year, then all items of income and gain of the Company (consisting of a pro rata portion of each item of Company income, including gross income and gain) for that taxable year shall be allocated to that Interest Holder, before any other allocation is made of Company items for that taxable year, in the amount and in proportions required to eliminate the excess as quickly as possible. This Section 5.3.1 is intended to comply with, and shall be interpreted consistently with, the "qualified income offset" provisions of the Regulations promulgated under Code Section 704(b).

5.3.2 **Minimum Gain Chargeback.** Except as set forth in Regulation Section 1.704-2(f)(2), (3) and (4), if, during any taxable year, there is a net decrease in Minimum Gain, each Interest Holder, prior to any other allocation pursuant to this

Section V, shall be specially allocated items of gross income and gain for such taxable year (and, if necessary, subsequent taxable years) in an amount equal to that Interest Holder's portion of the net decrease of Minimum Gain, computed in accordance with Regulation Section 1.704-2(g). Allocations of gross income and gain pursuant to this Section 5.3.2 shall be made first from gain recognized from the disposition of Company assets subject to nonrecourse liabilities (within the meaning of the Regulations promulgated under Code Section 752), to the extent of the Minimum Gain attributable to those assets, and thereafter, from a pro rata portion of the Company's other items of income and gain for the taxable year. It is the intent of the parties hereto that any allocation pursuant to this Section 5.3.2 shall constitute a "minimum gain chargeback" under Regulation Section 1.704-2(f).

5.3.3 Contributed Property and Book-Ups. In accordance with Code Section 704(c) and the Regulations thereunder, as well as Regulation Section 1.704-1(b)(2)(iv)(d)(3), income, gain, loss, and deduction with respect to any property contributed (or deemed contributed) to the Company shall, solely for tax purposes, be allocated among the Interest Holders so as to take account of any variation between the adjusted basis of the property to the Company for federal income tax purposes and its fair market value at the date of contribution (or deemed contribution). If the adjusted book value of any Company asset is adjusted as provided herein, subsequent allocations of income, gain, loss, and deduction with respect to the asset shall take account of any variation between the adjusted basis of the asset for federal income tax purposes and its adjusted book value in the manner required under Code Section 704(c) and the Regulations thereunder.

5.3.4 Code Section 754 Adjustment. To the extent an adjustment to the 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), to be taken into account in determining Capital Accounts, the amount of the adjustment to the 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 basis), and the gain or loss shall be specially allocated to the Interest Holders in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to that Section of the Regulations.

5.3.5 Nonrecourse Deductions. Nonrecourse Deductions for a taxable year or other period shall be specially allocated among the Interest Holders in proportion to their Percentage Interests.

5.3.6 Member Loan Nonrecourse Deductions. Any Member Loan Nonrecourse Deduction for any taxable year or other period shall be specially allocated to the Interest Holder who bears the risk of loss with respect to the loan to which the Member Loan Nonrecourse Deduction is attributable in accordance with Regulation Section 1.704-2(b).

5.3.7 **Guaranteed Payments.** To the extent any compensation paid to any Member by the Company is determined by the Internal Revenue Service not to be a guaranteed payment under Code Section 707(c) or is not paid to the Member other than in the Person's capacity as a Member within the meaning of Code Section 707(a), the Member shall be specially allocated gross income of the Company in an amount equal to the amount of that compensation, and the Member's Capital Account shall be adjusted to reflect the payment of that compensation.

5.3.8 **Unrealized Receivables.** If an Interest Holder's Interest is reduced (provided the reduction does not result in a complete termination of the Interest Holder's Interest), the Interest Holder's portion of the Company's "unrealized receivables" and "substantially appreciated inventory" (within the meaning of Code Section 751) shall not be reduced, so that, notwithstanding any other provision of this Agreement to the contrary, that portion of the Profit otherwise allocable upon a liquidation or dissolution of the Company pursuant to Section 5.4 4which is taxable as ordinary income (recaptured) for federal income tax purposes shall, to the extent possible without increasing the total gain to the Company or to any Interest Holder, be specially allocated among the Interest Holders in proportion to the deductions (or basis reductions treated as deductions) giving rise to such recapture, in the manner required by Regulation Section 1.1245-1(e)(2). Any questions as to the aforesaid allocation of ordinary income (recapture), to the extent such questions cannot be resolved in the manner specified above, shall be resolved by the Members.

5.3.9 **Withholding.** All amounts required to be withheld pursuant to Code Section 1446 or any other provision of federal, state, or local tax law shall be treated as amounts actually distributed to the affected Interest Holders for all purposes under this Agreement.

5.4 **Liquidation and Dissolution.**

5.4.1 **Distribution of Assets.** If the Company is liquidated, the assets of the Company shall be distributed first to the Interest Holders in proportion to their Positive Capital Accounts until all Positive Capital Accounts have been reduced to zero, and then to the Interest Holders in accordance with their Percentage Interests.

5.4.2 **Negative Capital Accounts.** No Interest Holder shall be obligated to restore a Negative Capital Account.

5.5 **General.**

5.5.1 **Determination Concerning Distributions.** Except as otherwise provided for in this Agreement the timing and amount of all distributions shall be determined by the Members.

5.5.2 **Distribution in Kind.** If any assets of the Company are distributed in kind to the Interest Holders, those assets shall be valued on the basis of their fair

market value, and any Interest Holder entitled to any interest in those assets shall receive that interest as a tenant-in-common with all other Interest Holders so entitled. Unless the Members otherwise agree, the fair market value of the assets shall be determined by an independent appraiser who shall be selected by the Members. The Profit or Loss for each unsold asset shall be determined as if the asset had been sold at its fair market value, and the Profit or Loss shall be allocated as provided in Section 5.2 and shall be properly credited or charged to the Capital Accounts of the Interest Holders prior to the distribution of the assets in liquidation pursuant to Section 5.4.

5.5.3 **Profit and Loss Allocation.** All Profit and Loss shall be allocated, and all distributions shall be made to the Persons shown on the records of the Company to have been Interest Holders as of the last day of the taxable year for which the allocation or distribution is to be made. Notwithstanding the foregoing, unless the Company's taxable year is separated into segments, if there is a Transfer or an Involuntary Withdrawal during the taxable year, the Profit and Loss shall be allocated between the original Interest Holder and the successor on the basis of the number of days each was an Interest Holder during the taxable year; provided, however, the Company's taxable year shall be segregated into two or more segments in order to account for Profit, Loss, or proceeds attributable to a Capital Transaction or to any other extraordinary non-recurring items of the Company.

5.5.4 **Amendment.** The Members are hereby authorized, upon the advice of the Company's tax counsel, to amend this Section V to comply with the Code and the Regulations promulgated under Code Section 704(b); provided, however, that no amendment shall materially affect distributions to an Interest Holder without the Interest Holder's prior written consent.

SECTION VI

MANAGEMENT: RIGHTS, POWERS AND DUTIES

6.1 **Management.**

6.1.1 **Manager.** The Company shall be managed by a manager designated as the Manager, who may, but need not, be a Member. **JOHN M. DUNN** is hereby designated to serve as the initial Manager. Upon the death or disability of John M. Dunn, **HOLLY DUNN PENDLETON** is hereby designated to serve as the successor or manager, without regard to the provisions of Sections 6.1.3 and 6.1.10 herein. "Disability" for purposes of this Section 6.1.1 means a certificate from a physician indicating that John M. Dunn is incapacitated.

6.1.2 **General Powers.** The Manager shall have full, exclusive, and complete discretion, power, and authority, subject in all cases to the other provisions of this Agreement and the requirements of applicable law, to manage, control, administer, and operate the business and affairs of the Company for the purposes herein stated,

market value, and any Interest Holder entitled to any interest in those assets shall receive that interest as a tenant-in-common with all other Interest Holders so entitled. Unless the Members otherwise agree, the fair market value of the assets shall be determined by an independent appraiser who shall be selected by the Members. The Profit or Loss for each unsold asset shall be determined as if the asset had been sold at its fair market value, and the Profit or Loss shall be allocated as provided in Section 5.2 and shall be properly credited or charged to the Capital Accounts of the Interest Holders prior to the distribution of the assets in liquidation pursuant to Section 5.4.

5.5.3 **Profit and Loss Allocation.** All Profit and Loss shall be allocated, and all distributions shall be made to the Persons shown on the records of the Company to have been Interest Holders as of the last day of the taxable year for which the allocation or distribution is to be made. Notwithstanding the foregoing, unless the Company's taxable year is separated into segments, if there is a Transfer or an Involuntary Withdrawal during the taxable year, the Profit and Loss shall be allocated between the original Interest Holder and the successor on the basis of the number of days each was an Interest Holder during the taxable year; provided, however, the Company's taxable year shall be segregated into two or more segments in order to account for Profit, Loss, or proceeds attributable to a Capital Transaction or to any other extraordinary non-recurring items of the Company.

5.5.4 **Amendment.** The Members are hereby authorized, upon the advice of the Company's tax counsel, to amend this Section V to comply with the Code and the Regulations promulgated under Code Section 704(b); provided, however, that no amendment shall materially affect distributions to an Interest Holder without the Interest Holder's prior written consent.

SECTION VI

MANAGEMENT: RIGHTS, POWERS AND DUTIES

6.1 **Management.**

6.1.1 **Manager.** The Company shall be managed by a manager designated as the Manager, who may, but need not, be a Member. **JOHN M. DUNN** is hereby designated to serve as the initial Manager. Upon the death or disability of John M. Dunn, **HOLLY KATHERINE DUNN** is hereby designated to serve as the successor or manager, without regard to the provisions of Sections 6.1.3 and 6.1.10 herein. "Disability" for purposes of this Section 6.1.1 means a certificate from a physician indicating that John M. Dunn is incapacitated.

6.1.2 **General Powers.** The Manager shall have full, exclusive, and complete discretion, power, and authority, subject in all cases to the other provisions of this Agreement and the requirements of applicable law, to manage, control, administer, and operate the business and affairs of the Company for the purposes herein stated,

and to make all decisions affecting such business and affairs, including, without limitation, for Company purposes, the power to:

6.1.2.1 acquire by purchase, lease, or otherwise, any real or personal property, tangible or intangible;

6.1.2.2 construct, operate, maintain, finance, and improve, and to own, sell, convey, assign, mortgage, or lease any real estate and any personal property;

6.1.2.3 sell, dispose, trade, or exchange Company assets in the ordinary course of the Company's business;

6.1.2.4 enter into agreements and contracts and to give receipts, releases and discharges;

6.1.2.5 purchase liability and other insurance to protect the Company's properties and business;

6.1.2.6 borrow money for and on behalf of the Company;

6.1.2.7 execute or modify leases with respect to any part or all of the assets of the Company;

6.1.2.8 prepay, in whole or in part, refinance, amend, modify, or extend any mortgages or deeds of trust which may affect any asset of the Company and in connection therewith to execute for and on behalf of the Company any extensions, renewals or modifications of such mortgages or deeds of trust;

6.1.2.9 execute any and all other instruments and documents which may be necessary or in the opinion of the Manager desirable to carry out the intent and purpose of this Agreement, including, but not limited to, documents whose operation and effect extend beyond the term of the Company;

6.1.2.10 make any and all expenditures which the Manager, in its sole discretion, deems necessary or appropriate in connection with the management of the affairs of the Company and the carrying out of its obligations and responsibilities under this Agreement, including, without limitation, all legal, accounting and other related expenses incurred in connection with the organization and financing and operation of the Company;

6.1.2.11 enter into any kind of activity necessary to, in connection with, or incidental to, the accomplishment of the purposes of the Company; and

6.1.2.12 invest and reinvest Company reserves in short-term instruments or money market funds.

6.1.2.13 to execute agreements on behalf of any limited partnership for which the Company acts as a general partner.

6.1.3 **Number, Tenure and Qualifications.** The number of Managers of the Company shall be fixed from time to time by the affirmative vote of a Majority in Interest. In no instance shall there be less than one Manager. Each Manager shall hold office until a successor shall have been elected and qualified. Except for the persons named in Section 6.1.1, a Manager shall be elected by the affirmative vote of a Majority in Interest. Managers need not be residents of the state of Indiana or Members.

6.1.4 **Liability for Certain Acts.** The Manager shall exercise business judgment in participating in the management of the business operations and affairs of the Company. Unless willful misconduct or recklessness be proved by a nonappealable court order, judgment, decree or decision, a Manager shall not be liable nor obligated to the Members for any mistake of fact or judgment or for the doing of any act or the failure to do any act in connection with the business, operations and affairs of the Company causing or resulting in any loss or damage to the Company or its Members. A Manager does not, in any way, guarantee the return of the Capital Contributions or a profit for the Members from the operations of the Company. A Manager shall not be responsible to any Members because of a loss of their investments or a loss from operations, unless the loss shall have been the result of willful misconduct or recklessness proved as aforesaid. A Manager shall incur no liability to the Company or to any of the Members as a result of engaging in any other business or venture, whether or not competitive, disclosed or undisclosed.

6.1.5 **Manager(s) Has No Exclusive Duty to Company.** A Manager shall not be required to have the management of the Company as its sole and exclusive function, and may have other business interests and may engage in other activities in addition to those relating to the Company. Neither the Company nor any Member shall have the right, by virtue of this Agreement, to prohibit, share or participate in such other investments or to any of the income or proceeds derived therefrom.

6.1.6 **Bank Accounts.** The Manager may open bank accounts in the name of the Company with any banking institution which it may select.

6.1.7 **Indemnity of the Manager.** Each Manager shall be indemnified by the Company to the extent provided in the Company's Articles of Organization.

6.1.8 **Resignation.** Any Manager may resign at any time by giving written notice to all of the Members. The resignation of any Manager shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be required for its effectiveness as expressed in the notice.

6.1.9 **Removal.** At a meeting called expressly for that purpose, any Manager may be removed at any time, with or without cause, by the unanimous vote of the Interests.

6.1.10 **Vacancies.** Any vacancy in the office of Manager occurring for any reason may be filled by (a) the affirmative vote of a majority of the remaining Managers, if any, or if no, (b) the affirmative of a Majority in Interest. Any Manager's position to be filled by reason of an increase in the number of Managers authorized by the members shall be filled by (c) the affirmative vote of a majority of the Managers then in office, or if not, (d) by the affirmative vote of a Majority in Interest. A Manager elected to fill a vacancy shall hold office until a successor shall be elected and qualified, or until an earlier death, resignation or removal. A Manager chosen to fill a position resulting from an increase in the number of Managers shall hold office until his or her death, resignation or removal.

6.1.11 **Salaries.** The salaries and other compensation of the Manager shall be fixed from time to time by affirmative vote of a Majority in Interest. No Manager shall be prevented from receiving such compensation solely by reason of the fact that the Manager is also a Member.

6.2 **Personal Services; No Requirement.** No Member shall be required to perform services for the Company solely by virtue of being a Member. Unless approved by the Members, no Member shall perform services for the Company or be entitled to compensation for services performed for the Company.

6.3 **Duties of Parties.**

6.3.1 **Time.** The Members shall devote such time to the business and affairs of the Company as is necessary to carry out the duties set forth in this Agreement.

6.3.2 **Business Activities.** Except as otherwise expressly provided in Section 6.3, nothing in this Agreement shall be deemed to restrict in any way the rights of any Member, or of any entity or person affiliated in any way with any Member, to conduct any other business or activity whatsoever, and the Member shall not be accountable to the Company or to any Member with respect to that business or activity even if the business or activity competes with the Company's business. The organization of the Company shall be without prejudice to the rights of each Member to maintain, expand or diversify such other interests and activities and to receive and enjoy profits or compensation therefrom. Each Member waives any rights the Member might otherwise have to portion or participate in such other interests or activities of any other Member or the entities or persons affiliated with any Member.

6.3.3 **Dealings With Affiliated Parties.** Each Member understands and acknowledges that the conduct of the Company's business may involve business dealings and undertakings with Members and entities or persons who are affiliated with

a Member. In any of those cases, those dealings and undertakings shall be at arm's length and on commercially reasonable terms.

6.4 **Liability and Indemnification.**

6.4.1 A Member shall not be liable, responsible, or accountable, in damages or otherwise, to any other Member or to the Company for any act performed by the Member with respect to Company matters, except for willful misconduct or recklessness or an intentional breach of this Agreement.

6.4.2 The Company shall indemnify each Member for any act performed by the Member with respect to Company matters to the fullest extent allowed by law, including attorney's fees and litigation expenses, except for willful misconduct or recklessness or an intentional breach of this Agreement.

SECTION VII

TRANSFER OF INTERESTS, ADMISSION AND WITHDRAWAL OF MEMBERS

7.1 **Transfer.** An interest may be assigned in whole or in part subject to and in accordance with the provisions of the Act. Nevertheless, the assignee of an Interest may become a Member only if the other Members unanimously consent in the manner provided for in the Act, unless the transfer is a transfer from John M. Dunn to a Family Member ("Permitted Transfer") in which case, no consent is needed.

7.2 **Voluntary Withdrawal of Member.** No Member shall be permitted to voluntarily withdraw from the Company prior to the dissolution and winding up of the Company absent the unanimous consent of all Members.

7.3 **Involuntary Withdrawal.** Immediately upon the occurrence of an Involuntary Withdrawal of a Member, the successor of the Withdrawn Member shall thereupon become an Interest Holder but shall not become a Member, unless admitted as a Member pursuant to the written consent of all Members.

7.4 **Option to Company Upon Involuntary Withdrawal.** In the event of the Involuntary Withdrawal of a Member, first the Company, and then the Members other than the withdrawing Member, shall have the option to purchase the Interest of the withdrawing Member on the terms set forth in Section 7.5.

7.5 **Terms of Option to Purchase.**

7.5.1 **Valuation Date.** The term "Valuation Date" shall be the Effective Date (as defined above) of the Involuntary Transfer that gives rise to the Option to Purchase.

7.5.2 **Fair Value of Interest.** The Fair Value of the Interest as of the Valuation Date shall be determined as follows:

7.5.2.1 **Definition of Fair Value of Interest.** The "Fair Value" of an Interest for purposes of this Section 7.5 shall mean the value of the Interest as agreed upon by the unanimous consent of the Members; provided, however, such agreed upon value was determined within six (6) months of the Valuation Date. In the absence of an agreed upon value, the "Fair Value" of an Interest for purposes of this Section 7.5 shall mean the fair market value of the Interest based on the Interest Holder's right to share in distributions from the Company, and taking into account any applicable premiums or discounts based on a majority or minority status of such Interest, the marketability of such Interest, and the voting power and control attributable to such Interest.

7.5.2.2 **Appraisal of Fair Value.** Absent a qualifying agreed upon Fair Value by the Members, an appraisal shall be obtained to determine the Fair Value of the Interest. The Company, on the one hand, and the withdrawing Member (or the person then owning the Interest of the withdrawing Member (hereafter "Option Seller") on the other hand, shall each select an appraiser to appraise the Fair Value of the Interest. The two appraisers so selected shall jointly select a third appraiser. The appraisers so selected shall be certified public accountants. The appraisers shall be selected within sixty (60) days after the Valuation Date, and they shall endeavor to complete their appraisal within thirty (30) days after their selection. The appraisers so selected shall jointly render an appraisal of the Fair Value of the Interest as of the Valuation Date. A copy of the appraisal so rendered shall, upon completion, be delivered by the appraisers to the Company, Option Seller, and each Member of the Company. The fees of the appraisers shall be paid by the Option Seller if this option to purchase is exercised, and by the Company if this option to purchase is not exercised.

7.5.2.3 **Agreement as to Single Appraiser/Valuation.** Notwithstanding the foregoing Section 7.5.2.2, if the Company, with the consent of all Members of the Company other than the Option Seller, on the one hand, and the Option Seller, on the other, can agree (1) to a single appraiser to perform the appraisal, then the appraisal shall be performed by the single appraiser, and the determination of Fair Value of the Interest by the single appraiser shall be binding on all parties, and/or (2) as to the Fair Value without necessity of an appraisal, Fair Value agreed upon by them shall govern, and an appraisal shall not be necessary.

7.5.2.4 **Purchase Price.** The purchase price for the Interest in the Company available for purchase pursuant to the options described in Section 7.4 ("Offered Interest") shall be One Hundred Percent (100%) of the Fair Value of the Offered Interest as determined under Section 7.5.2 ("Purchase Price").

7.5.2.5 **Payment at Closing.** Option Purchaser shall pay an amount equal to ten percent (10%) of the Purchase Price at closing of the transaction.

7.5.2.6 **Interest on Balance of Purchase Price.** Interest shall accrue and be due and payable on the unpaid balance of the Purchase Price (hereafter "Balance") at an annual rate equal to the prime rate published daily in the Wall Street Journal as the base rate on corporate loans at large U.S. money center banks.

7.5.2.7 **Payment of Interest.** The Option Purchaser shall pay interest monthly.

7.5.2.8 **Payment of Balance.** The Option Purchaser shall pay the entire remaining unpaid Balance in thirty-six (36) equal monthly installments beginning on the first anniversary of the Effective Date and continuing on each consecutive anniversary of the Effective Date.

7.5.2.9 **Prepayment.** Option Purchaser may prepay the Balance in full at any time. Option Purchaser may make a partial prepayment of the Balance at any time. All prepayments shall be applied first to interest accrued but unpaid, and then to Balance.

7.5.2.10 **Default.** In the event Option Purchaser fails to timely pay installment of interest or principal due and payable hereunder, and such failure of payment continues for a period of at least thirty (30) days after delivery to Option Purchaser, by the persons entitled to payment, of written notice of such failure of payment, then the persons entitled to payment shall be entitled to immediate payment of the entire Balance, together with interest accrued but unpaid. In such event, such persons shall be entitled to recover their attorneys' fees and other costs reasonably incurred by them in collecting such amount, and such amount shall be due and collectible without relief from valuation and appraisal laws.

7.5.2.11 **Memorialization in Promissory Note.** The foregoing terms of this Section 7.5.5 shall be memorialized in a promissory note ("Promissory Note") executed and delivered at closing by Option Purchaser.

7.5.2.12 **Closing.** Closing of the option purchase of the Offered Interest shall be held within thirty (30) days after Option Purchaser delivers written notice of exercise of the option; provided, such closing date shall be extended an additional thirty (30) days after receipt of any requisite appraisal of the Fair Value. At closing, the Option Seller shall transfer and deliver all of the Offered Interest to the Option Purchaser free and clear of any liens and encumbrances. Such transfer of the Offered Interest shall be completed by form of Assignment satisfactory to the Company to cause the transfer of such Offered Interest on its books and records.

7.6 **Assignment of Option to Purchase by Company.** Upon the unanimous written consent of the Members other than the Option Seller, as the case may be, the Company may assign any of its option to purchase granted under this Agreement to the Members, excluding the Option Seller. This assignment may be made by the Company at any time, and if such an assignment is made, the Members to whom the option is

assigned shall thereafter for all purposes take the place of Company as the option purchaser.

7.7 **Admission of Members.** An Interest Holder may be admitted as a Member upon the unanimous approval of the Members, unless it is a Permitted Transfer, in which case the transferee is automatically admitted as a Member.

7.8 **Nonparticipation/Voting of Transferring Member.** In any instance in which the Company is acting on the opportunity to exercise a first right of refusal or option to purchase arising under the terms of this Section VII, any Member whose Interest or any part thereof is the subject of the first right of refusal or option to purchase shall have no right to vote on the Company's exercise or non exercise of such right or the Company's assignment of such right or any other matter pertaining to the exercise or non exercise of such right, and the required consent of Members and/or vote of the percentages of Members necessary to take any action as to all such matters shall be determined as if the Member whose Interest or any part thereof is the subject of such right of refusal or option to purchase is not a Member of the Company.

SECTION VIII

DISSOLUTION, LIQUIDATION, AND TERMINATION OF THE COMPANY

8.1 **Event of Dissolution.** The Company shall be dissolved upon the happening of any of the following events:

8.1.1 **Judicial Dissolution.** Upon the entry of a decree of judicial dissolution; and

8.1.2 **No Members.** At the time the Company has had no Members for a period of ninety (90) consecutive days. At such time as the last Member of the Company ceases to be a Member, such Member's personal representative may prevent dissolution hereunder by agreeing in writing, within ninety (90) days after the occurrence of the event that caused the Company not to have a Member, (1) to continue the business of the Company, and (2) to the addition of the personal representative or the personal representative's nominee or designee to the Company as a Member, effective as of the time of the event that caused the last remaining Member to cease to be a Member.

8.1.3 **Vote of Members.** Upon the vote of Members holding one hundred percent (100%) or more of the Percentage Interests then held by Members.

8.2 **No Dissolution Upon Involuntary Withdrawal.** The Company shall not be dissolved upon the occurrence of an Involuntary Withdrawal of a Member.

8.3 **No Dissolution Except as Specifically Provided.** The Company shall not be dissolved except on the occurrence of one of the events specifically set forth in Section 8.1 of this Section VIII.

8.4 **Procedure for Winding Up and Dissolution.** If the Company is dissolved, the Members shall wind up its affairs. On winding up of the Company, the assets of the Company shall be distributed, first, to creditors of the Company, including Interest Holders who are creditors, in satisfaction of the liabilities of the Company, and then to the Interest Holders in accordance with Section 5.4. Upon dissolution, any and all real estate shall be distributed in kind to the Interest Holders as tenants in common.

8.5 **Filing of Articles of Dissolution.** If the Company is dissolved, the Manager(s) shall promptly file Articles of Dissolution with the Secretary of State. If there is no Manager, then the Articles of Dissolution shall be filed by the remaining Members; if there are no remaining Members, the Articles shall be filed by the last Person to be a Member; if there is no Member, remaining Member, or a Person who last was a Member, the Articles shall be filed by the legal or personal representatives of the Person who last was a Member.

SECTION IX

DISSOCIATION OF A MEMBER

9.1 **Rights of Dissociating Member.** Upon the occurrence of an Event of Dissolution as set out in Section VIII:

9.1.1 If the dissociation causes a dissolution and winding up of the Company under Section VIII, the dissociating Member shall be entitled to participate in the winding up of the Company to the same extent as any other Member except that, if the dissociation is a breach of this Operating Agreement, any distribution to which the Member would have been entitled shall be reduced by any damages sustained by the Company as a result of the dissolution and winding up;

9.1.2 If the dissociation does not cause a dissolution and winding up of the Company under Section VIII, the dissociating Member shall be entitled to receive any distribution that the Member is entitled to receive under the Act or this Agreement, but such Member shall not be entitled to receive the fair value of the Member's Interest, until such time, and in the manner, provided under Section VIII for the dissolution and winding up of the Company.

SECTION X

BOOKS, RECORDS, ACCOUNTING AND TAX ELECTIONS

10.1 **Bank Accounts.** All funds of the Company shall be deposited in a bank account or accounts maintained in the Company's name. The Manager shall determine

the institution or institutions 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.

10.2 **Books and Records.**

10.2.1 **Requirements.** The Manager shall keep or cause to be kept complete and accurate books and records of the Company and supporting documentation of the transactions with respect to the conduct of the Company's business. The records shall include, but not be limited to, complete and accurate information regarding the state of the business and financial condition of the Company, a copy of the articles of organization and operating agreement and all amendments to the articles and operating agreement; a current list of the names and last known business, residence, or mailing addresses of all Members; and the Company's federal, state and local tax returns.

10.2.2 **Inspection.** The books and records shall be maintained in accordance with sound accounting practices and shall be available at the Company's principal office for examination by any Member or the Member's duly authorized representative at any and all reasonable times during normal business hours.

10.2.3 **Costs.** Each Member shall reimburse the Company for all costs and expenses incurred by the Company in connection with the Member's inspection and copying of the Company's books and records.

10.3 **Annual Accounting Period.** The annual accounting period of the Company shall be its taxable year. The Company's taxable year shall be selected by the Members subject to the requirements and limitations of the Code.

10.4 **Reports.** Within seventy-five (75) days after the end of each taxable year of the Company, the Members shall cause to be sent to each Person who was an Interest Holder at any time during the taxable year then ended, that tax information concerning the Company which is necessary for preparing the Interest Holder's income tax returns for that year. At the request of any Member, and at the Member's expense, Members shall cause an audit of the Company's books and records to be prepared by the Members or the Company's accountants for the period requested by the Member.

10.5 **Tax Matters Partner.** The Manager shall serve as the Company's tax matters partner ("Tax Matters Partner"). The Tax Matters Partner shall have all powers and responsibilities provided in Code Section 6221, et seq. The Tax Matters Partner shall keep all Members informed of all notices from government taxing authorities which may come to the attention of the Tax Matters Partner. The Company shall pay and be responsible for all reasonable third-party costs and expenses incurred by the Tax Matters Partner in performing those duties. A Member shall be responsible for any costs incurred by the Member with respect to any tax audit or tax-related administrative or judicial proceeding against any Member, even though it relates to the Company. The

Tax Matters Partner may not compromise any dispute with the Internal Revenue Service without the written approval of Members holding fifty-one percent (51%) or more of the Percentages then held by Members.

10.6 **Tax Elections.** The Members shall have the authority to make all Company elections permitted under the Code, including, without limitation, elections of methods of depreciation and elections under Code Section 754.

10.7 **Title to Company Property.**

10.7.1 **Company Name.** Except as provided in Section 10.7.2, all real and personal property acquired by the Company shall be acquired and held by the Company in its name.

10.7.2 **Other.** The Members may direct that legal title to all or any portion of the Company's property be acquired or held in a name other than the Company's name. Without limiting the foregoing, the Members may cause title to be acquired and held in its name or in the names of trustees, nominees, or straw parties for the Company. It is expressly understood and agreed that the manner of holding title to the Company's property (or any part thereof) is solely for the convenience of the Company, and all of that property shall be treated as Company property.

SECTION XI

INVESTMENT REPRESENTATIONS

11.1 **Representations and Warranties.** By the execution of this Agreement each of the Members acknowledges, agrees, represents and warrants that:

a. The Member understands that investment in the Company involves a high degree of risk and is suitable only for sophisticated investors. The Member further understands that the Interests are being offered in reliance upon an exemption from registration provided by federal Securities Act of 1933, as amended.

b. The Member is purchasing the Member's Interest for the Member's own investment and not with a view to the distribution or resale thereof to any other Person.

c. The Company has disclosed to the undersigned, in writing, and the Member acknowledges, that the transferability of the Interest is severely limited and that the undersigned must continue to bear the economic risk of this investment for an indefinite period as these securities have not been registered under the Securities Act of 1933 or any state securities laws and therefore cannot be offered or sold unless they are subsequently registered under such acts or an exemption from such registration is available.

d. The Member agrees that in addition to other prohibitions of and restrictions on transfer under this Agreement, the Member's Interest will not be sold without registration under the Securities Act of 1933 and any applicable state securities law, or until the undersigned has obtained an opinion of counsel satisfactory to the Company that such registration is not required in connection with any such transaction, and in no event will any of the Member's Interest be sold within nine months of the issuance thereof.

e. The Member's principal residence is at the address for the Member noted in this Agreement.

f. The Member has and has had access to all material facts with respect to the Interest by reason of active involvement in the organization and/or management of the Company, or by reason of a family relationship with a person actively involved in the organization or management of the Company.

g. The Member is an "accredited investor" within the meaning of all applicable Federal and state securities laws, including the Indiana Securities Law, as amended.

h. No commission or other remuneration shall be paid to any person in connection with the offer or sale of the Interest.

i. The Member understands and agrees that the Member has no right to require the Company to register the Interest under Federal or state securities laws at any time, or to join in any future registration.

j. The Member agrees to hold the Company and each of its other Members, and any persons affiliated with any of them or with the distribution of Interest, harmless from all expenses, liabilities, and damages (including reasonable attorneys' fees) deriving from a disposition of the Interest in a manner in violation of the Securities Act of 1933, as amended, or of any applicable state securities law or which may be suffered by reason of a breach of any of the covenants, representation and warranties contained in this Section XI.

SECTION XII

GENERAL PROVISIONS

12.1 **Waiver of Partition**. The Members hereby waive any right of partition or any right to take any action which otherwise might be available to them for the purpose of severing the relationship to the Company or their interests in the assets held by the Company from the interest of the other Members.

12.2 **Assurances**. Each Member shall execute all such certificates and other documents and shall do all such filing, recording, publishing and other acts as the Member deems appropriate to comply with the requirements of law for the formation and operation of the Company and to comply with any laws, rules, and regulations relating to the acquisition, operation, or holding of the property of the Company.

12.3 **Notifications**. Any notice, demand, consent, election, offer, approval, request, or other communication (collectively a "notice") required or permitted under this Agreement must be in writing and delivered personally, sent by certified or registered mail, postage prepaid, return receipt requested, or sent by overnight delivery service providing evidence of delivery. Any notice to be given hereunder by, or to, the Company shall be given by, or to, the Members. A notice must be addressed to an Interest Holder at the Interest Holder's last known address on the records of the Company. A notice to the Company must be addressed to the Company's principal office. A notice delivered personally will be deemed given only when acknowledged in writing by the person to whom it is delivered. A notice that is sent by mail will be deemed given three (3) business days after it is mailed. Any party may designate, by notice to all of the others, substitute addresses or addressees for notices; and, thereafter, notices are to be directed to those substitute addresses or addressees.

12.4 **Specific Performance**. The parties recognize that irreparable injury will result from a breach of any provision of this Agreement and that money damages will be inadequate to fully remedy the injury. Accordingly, in the event of a breach or threatened breach of one or more of the provision of this Agreement, any party who may be injured (in addition to any other remedies which may be available to that party) shall be entitled to one (1) or more preliminary or permanent orders (i) restraining and enjoining any act which would constitute a breach or (ii) compelling the performance of any obligation which, if not performed, would constitute a breach.

12.5 **Complete Agreement**. This Agreement constitutes the complete and exclusive statement of the agreement among the Members. It supersedes all prior written and oral statements, including any prior representation, statement, condition, or warranty.

12.6 **Applicable Law**. All questions concerning the construction, validity, and interpretation of this Agreement and the performance of the obligations imposed by this Agreement shall be governed by the internal law, not the law of conflicts, of the State of Indiana.

12.7 **Section Titles**. The headings herein are inserted as a matter of convenience only, and do not define, limit, or describe the scope of this Agreement or the intent of the provisions hereof.

12.8 **Binding Provisions**. This Agreement is binding upon, and inures to the benefit of; the parties hereto and their respective heirs, executors, administrators, personal and legal representatives, successors, and permitted assigns.

12.9 **Jurisdiction and Venue**. Any suit involving any dispute or matter arising under this Agreement may only be brought in the United States District Court for the Southern District of Indiana or any Indiana State Court having jurisdiction over the subject matter of the dispute or matter. All Members hereby consent to the exercise of personal jurisdiction by any such court with respect to any such proceeding.

12.10 **Terms**. Common nouns and pronouns shall be deemed to refer to the masculine, feminine, neuter, singular and plural, as the identity of the Person may in the context require.

12.11 **Separability of Provisions**. Each provision of this Agreement shall be considered separable; and if, for any reason, any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid.

12.12 **Counterparts**. This Agreement may be executed contemporaneously in two (2) or more counterparts, each of which shall be deemed an original and all of which, when taken together, constitute one and the same document. The signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

12.13 **Amendments**. This Agreement may be amended only by the unanimous consent of the Members holding one hundred percent (100%) of the Percentages then held by Members.

IN WITNESS WHEREOF, the parties have executed this Agreement, under seal, as of the date set forth hereinabove.

MEMBER:

JOHN M. DUNN

"Exhibit A"

MEMBER OF JOHN M. DUNN, LLC

<u>Name</u>	<u>Mailing Address</u>	<u>Taxpayer Identification Number</u>
JOHN M. DUNN	300 S.E. Riverside Drive Suite 100 Evansville, IN 47713	_____

“Exhibit B”

INITIAL CAPITAL CONTRIBUTIONS OF MEMBER

<u>Member</u>	<u>Description of Capital Contribution</u>
JOHN M. DUNN	10 General Partner Units in Dunn Family, L.P.