Alcohol & Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
https://www.commerce.alaska.gov/web/amco
Phone: 907.269.0350

Alaska Marijuana Control Board

Cover Sheet for Marijuana Establishment Applications

What is this form?

This cover sheet **must** be completed and submitted any time a document, payment, or other marijuana establishment application item is emailed, mailed, or hand-delivered to AMCO's main office.

Items that are submitted without this page will be returned in the manner in which they were received.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Rainforest Farms, LLC	**License Number:**	10050		
License Type:	Retail Marijuana Store				
Doing Business As:	RAINFOREST FARMS, LLC				
Physical Address:	216 2nd Street				
City:	Juneau	**State:**	AK	**Zip Code:**	99801
Designated Licensee:					
Email Address:	rainforestjames@gmail.com				

Section 2 – Attached Items

List all documents, payments, and other items that are being submitted along with this page.

Attached Items:	Entity Documents -Certificate of Organization. -Officials/Member/Manager documentation.

OFFICE USE ONLY					
Received Date:		Payment Submitted Y/N:		Transaction #:	

Alaska Entity #10025351

State of Alaska
Department of Commerce, Community and Economic Development
Corporations, Business and Professional Licensing

Certificate of Organization

The undersigned, as Commissioner of Commerce, Community and Economic Development of the State of Alaska, hereby certifies that a duly signed and verified filing pursuant to the provisions of Alaska Statutes has been received in this office and has been found to conform to law.

ACCORDINGLY, the undersigned, as Commissioner of Commerce, Community and Economic Development, and by virtue of the authority vested in me by law, hereby issues this certificate to

Rainforest Farms, LLC

IN TESTIMONY WHEREOF, I execute the certificate and affix the Great Seal of the State of Alaska effective November 21, 2014.

Fred Parady
Commissioner

5598613

AK Entity #: 10025351
Date Filed: 03/21/2016
State of Alaska, DCCED

DO NOT STAMP ABOVE THIS BOX

Office Use Only **CORP**

RECEIVED
Juneau
MAR 21 2016
CBPL

✓25 ✓

State of Alaska
Division of Corporations, Business and Professional Licensing
CORPORATIONS SECTION
PO Box 110806
Juneau, AK 99811-0806
Phone: (907) 465-2550
Fax: (907) 465-2974
Website: www.commerce.alaska.gov/occ

NOTICE OF CHANGE OF OFFICIALS
Domestic Limited Liability Company
AS 10.50.765

[X] **$25.00 Filing Fee (non-refundable)**

Pursuant to Alaska Statutes 10.50.765, the following will apply to the members and/or managers on record:

ITEM 1: Name of the Entity:

Name of the Entity	Alaska Entity #:
Rainforest Farms, LLC	10025351

ITEM 2: Prior and new information:

Prior member/manager	New (replacement) member/manager	New (replacement) mailing address	X if Member	X if Manager	% of interest held
James Barrett			X	X	47.5
	Giono Barrett	PO Box 21366 Juneau, AK 99802	X	X	47.5
	Michael Healy	PO Box 946 Skagway, AK 99840	X		5

Attach an additional sheet if necessary.

ITEM 3: The Statement must be signed by a manager, member, or Attorney-in-Fact.

Signature	Printed name	Title	Date
	James Barrett	Manager	11/17/2016

NOTE: Persons who sign documents filed with the commissioner that are known to the person to be false in material respects are guilty of a class A misdemeanor.

Mail the Notice of Change of Officials and non-refundable $25.00 filing fee in U.S. dollars to:
State of Alaska, Corporations Section, PO Box 110806, Juneau, AK 99811-0806

STANDARD PROCESSING TIME for complete and correct applications submitted to this office is approximately 10-15 business days. All applications are reviewed in the date order they are received.

K1546908

The Operating Agreement
of
RAINFOREST FARMS, LLC

an Alaska Limited Liability Company
EIN 47-4174535

Rainforest Farms, LLC
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Securities Law Disclosure

The Membership Interests or percentages of ownership of Rainforest Farms, LLC (*Company*) have not been and will not be registered under the Securities Act of 1933, as amended (*Securities Act*); under any other federal securities laws; or under the securities laws of any state. The Membership Interests or percentages of ownership are offered and sold without registration based on exemptions from the registration requirement of the Securities Act and laws and regulations enacted by the Securities and Exchange Commission.

The Company will not be subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, and will not file reports, proxy statements, or other information with the Securities and Exchange Commission or with any state securities commission.

The Limited Liability Company Membership Interests of the Company may not be offered for sale, sold, pledged, or otherwise transferred unless registered or qualified under applicable securities laws, or unless exempted from registration or qualification. Counsel for the owner of the Interest must appropriately register or qualify that Interest or establish any applicable exemption from registration or qualification; this opinion of counsel must be reasonably satisfactory to the Company.

No Member may register any Interest in the Company under any federal or state securities law without the express written consent of all Members.

The Members understand that some of the restrictions inherent in this form of business, and specifically set forth in this Agreement, may have an adverse impact on the fair market value of the Membership Interests if a Member attempts to sell or borrow against the Membership Interest in the Company.

Member Acknowledgment

By signing this Agreement, each Member agrees to the following provisions.

Exempt from Registration

Investment in the Member's Interest (*Shares*) in the Company involves a high degree of risk and is suitable only for sophisticated investors. Shares are being offered in reliance upon one or more exemptions from registration under the Securities Act, and any Securities Act of Alaska.

Member's Personal Investment

The Member is purchasing the Shares/Interest for the Member's own investment and with no intent to distribute or resell to any other person.

Registration or Opinion of Counsel before Transfer

In addition to other prohibitions and restrictions on transfer under this Agreement, the Shares will not be sold publicly without registration under the Securities Act and any applicable state securities law. Before any public sale, the selling Member must first obtain opinion of counsel that registration is not required in connection with any transaction; this opinion must be satisfactory to the Company. In no event may any Shares be sold within 12 months of original issue to that Member.

Member's Principal Address

This Agreement notes each Member's principal address. Each Member shall notify the Company in writing within five days of any change to this address.

Access to Facts

Each Member has had and continues to have access to all material facts regarding the Shares and is satisfied as to the advisability of making this investment.

No Right to Registration

No Member may require the Company to register any Shares under federal or state securities laws at any time, or to join in any future registration.

Hold Harmless

Each Member agrees to hold the Company and its Manager, Members, Member Principals, Organizers, controlling Persons (as defined in the Securities Act), and any

persons affiliated with any of them or with the distribution of the Shares, harmless from all expenses, liabilities, and damages (including reasonable attorneys' fees) arising from a disposition of the Shares/Interest in any manner that violates the Securities Act, any applicable state securities law, or this Agreement.

Article 1
Company Formation

Section 1.01 The Limited Liability Company

Rainforest Farms, LLC, an Alaska limited liability company (the "Company") was duly formed and organized on November 14, 2014 upon the filing of the Articles of Organization with the Alaska Department of Commerce, Corporations, Businesses, Professional Licensing, establishing a limited liability company pursuant to the Alaska Limited Liability Company Act, Alaska Statutes 10.50.010 et seq. (the "Act").

The Manager(s) and Member(s), as described in Exhibit A, attached hereto and incorporated in by reference, now approve and authorize this Operating Agreement (the "Agreement"), dated , 2015 (the "Effective Date"), which sets forth the rights, duties, obligations, and responsibilities of the Manager(s) and Members regarding the Company.

The Manager, Members, its Membership Interest, Sweat Equity Contribution, and Capital Contribution is identified in Exhibit A, attached hereto and incorporated in by reference. In consideration of the mutual promises, obligations, and agreements set forth in this Agreement, the Manager and Members agrees to be legally bound by the terms and obligations of this Agreement.

Section 1.02 The Company's Name

The Company's name is Rainforest Farms, LLC, an Alaska limited liability company. The Manager may change the name of the Company or operate the Company under different names.

Section 1.03 Company to Be Taxed as a Subchapter S Corporation

The Members intends to establish an entity that is subject to taxation as a Subchapter S corporation. However, due to the changing and evolving law regarding cannabis businesses, the taxation may need to be modified pending advise from competent Certified Public Accountant. The members agree that the Managers have the authority to hire a Certified Public Accountant to assist with the selection of the most favorable taxation and to generally advise and assist in limiting tax liability and preparation and filing of Company's tax documents.

Section 1.04 Company's Purpose and Scope

The Company's purpose and scope is to fulfill the goals and objectives outlined in the Company's Business Plan, which each member confirms they have received a copy. In summary, the Company's purpose is to obtain proper licensing from the State of Alaska, create a branded line of cannabis flower and related products, utilizing the Rainforest Farms brand name, and then to commercially cultivate high quality cannabis, in varying strains, cannabis concentrate and extractions, manufacture cannabis infused edibles, wholesale some of the Company's products, and sell the majority of the Company's product line in a retail store located in Juneau, Alaska and possible other locations throughout the state. In order to accomplish these purposes, the Company may:

> own, acquire, manage, develop, operate, buy, sell, exchange, finance, refinance, and otherwise deal with real, personal, tangible, and intangible property, and any type of business, as the Manager determines from time to time to be in the best interests of the Company;
>
> own, acquire, manage, develop, create, buy, sell, exchange, various cannabis related strains of genetics, products, apparel, and any and all equipment, lighting, nutrients, goods necessary, as the Manager determines from time to time to be in best interests of the Company; and
>
> conduct any lawful business and investment activity permitted under the laws of Alaska and in any other jurisdiction in which the Company may have a business or investment interest in order to accomplish these objectives.

The Company may engage in any other activities that are related or incidental to these purposes, as the Manager may determine with sole and absolute discretion, with the exception of purchases of or the sale of Company owned equipment, real property, or otherwise, valued over the amount of $50,000.00, or encumber the Company, Company assets, over the amount of $50,000.00. The Managers shall send out a request for approval to all members – in the event the Managers are not in agreement on the purchase over $50,000.00 or encumbrance over $50,000.00, then majority consent of the remaining (non-manager interest) member interest is necessary to approve request. If Managers are in agreement on the purchase or encumbrance, then 85% of the *remaining* non-managing interest must consent to the purchase or encumbrance to approve request. If the Managers Members must respond to the request within 48 hours of the request. If no response is given from any one member, then that member is deemed to have consented to the request. Owners/members voting rights are limited to the proportion of their ownership percentage interest as discussed more fully in Section 8.09.

Licensing Decisions, sales and purchase agreements, royalty agreements, new retail branches, etc.: The Company may not engage in a contract to license the Company's name, wholesale the product, enter into any royalty agreements without first consulting with the members and obtaining 85% of all membership interest agreement.

Section 1.05 Purpose of Company Restrictions

This Company is formed by those who know and trust one another and who, in forming this Limited Liability Company, have surrendered certain management rights.

Capital is material to the business, scope and purpose objectives of the Company and its licensing requirements under the State of Alaska and future rules and regulations to be promulgated by the Marijuana Control Board of the State of Alaska. An unauthorized transfer of a Member's Interest could create a substantial hardship to the Company, jeopardize its capital base, future licenses, and adversely affect its tax structure. As a result, certain restrictions expressed in this Agreement attach to and affect the ownership and transfer of Membership Interests. These restrictions are not intended to penalize, but are intended to protect and preserve the existing trust-based relationships, the Company's capital, and the Company's financial ability to operate.

Section 1.06 The Company's Principal Office and Location of Records

The street address of the principal office in the United States where the Company maintains its records is:

327 Distin Ave.
Juneau, Alaska 99801

or where the Manager otherwise determines. The records maintained by the Company must include all records that the law requires the Company to maintain. The Company must maintain a records office in any jurisdiction that requires a records office and the Company must maintain all records required by applicable law at each records office.

Section 1.07 Registered Agent and Registered Office

The Company's initial registered agent is James Barrett, and the Company's initial registered office is located at:

327 Distin Ave.
Juneau, Alaska 99801

Section 1.08 The Company's Term

The Company's duration is perpetual. The Company begins on the date the Articles of Organization are filed with the Secretary of State of Alaska and continues until terminated or dissolved by this Agreement.

Section 1.09 Venue

Venue for any dispute arising under this Operating Agreement or any disputes among any Members or the Company will be in the county/borough of the Company's Registered Office.

Article 2
Tax Matters

Section 2.01 Taxable Year and Accounting Matters

The Company's Taxable Year is the calendar year. The Manager will determine the Company's accounting method and the Company will file tax returns using that accounting method. The Manager is responsible for all accounting matters of the Company. The Manager may hire a Certified Public Accountant to advise the Company on tax matters.

Section 2.02 Entity Classification Election

The Members shall elect to have the Company treated as a small business corporation for federal, state, and local income tax purposes under Internal Revenue Code Section 1362(a), and must promptly file Internal Revenue Service Form 2553 and any other applicable tax form or document required by the Internal Revenue Code or applicable Treasury Regulations in the manner provided at the time of the election.

Neither the Company nor any Member may take any action that jeopardizes the Company's S Corporation election. Specifically, the Company may not do any of the following:

issue interests in the Company that would constitute a second class of stock under Subchapter S;

borrow funds from its Members or third parties that would constitute a second class of stock under Subchapter S;

have more than 100 Members;

have a nonresident alien as a Member; or

have any Member who would not be a permissible interest holder under Subchapter S.

Section 2.03 Tax Elections

The Manager has the sole authority to make all Company elections for federal, state, and local income tax matters permitted under the Internal Revenue Code. The Manager has sole and absolute discretion concerning any election. Each Member consents to any election and shall sign any documentation necessary to effect any elections.. If the Members unanimously agree to revoke or terminate the Subchapter S election, then all Members must comply with any Internal Revenue Code requirements necessary to affect the revocation or termination and specify the revocation's effective date.

Section 2.04 No Partnership Intended for Any Purpose

The Members have formed the Company under the Act, and expressly do not intend to form a partnership under any partnership or limited partnership act. The Members do not intend to be partners with each other or with any third party. If any Member represents to another person that any other Member is a partner or that the Company is a partnership, the Member making the wrongful representation will be liable to any other Member who incurs personal liability because of the erroneous representation.

Section 2.05 Savings Clause

The Manager may adjust the Company's accounting methodology without providing prior notice to the Members in order to comply with the Internal Revenue Code then in effect.

Section 2.06 Termination of a Member's Interest

If a Member's Interest is terminated while the Company is taxed under Subchapter S, then Members owning 85% of the Membership Interests may, in their sole and absolute discretion, determine if items of income (including tax-exempt income), loss, deduction, or credit will be allocated to the withdrawing Member:

on a *pro rata* basis as set forth in Internal Revenue Code Section 1377(a)(1); or

as if the Taxable Year consisted of two taxable years, the first of which ends on the date the Member's Interest terminates.

If the latter alternative is elected, all Members who were Members during the Taxable Year must consent to the election. All Members who were Members in the Company at any time during the Taxable Year must promptly sign all documents necessary to make the election and deliver them to the Company.

Section 2.07 Preservation of S Corporation Election

The Company and the Members shall take all necessary action to preserve the Company's Subchapter S election under the Internal Revenue Code. If the Company's Subchapter S election would be terminated unintentionally because it fails to qualify as a *small business corporation* for any reason, then the Manager shall take the steps necessary to restore the Company's status as an S Corporation.

Within a reasonable time after discovery of the event resulting in unintentional termination, the Company and each person who was a Member of the Company at any time during the period the Company failed to qualify for treatment under Subchapter S must make all adjustments required by the Internal Revenue Service to restore the Company's Subchapter S status.

Article 3
Membership Interests

Section 3.01 Membership Interest Represented by Shares

Each Member's Membership Interest is the percentage interest shown in the attached Exhibit A.

To determine the respective voting rights of the Members, adjustments to Membership Interests of the Members resulting from Additional Contributions or Distributions will be effective the first day of the month immediately following the contribution or distribution date.

Members' voting power is equivalent to their membership interest in the Company. For example, if Member A owns 20% of the Company then their vote counts for 20% of the total 100% voting membership.

The Manager shall maintain a correct record of all Members and their Membership Interests together with amended and revised schedules of ownership caused by changes in the Members and changes in Membership Interests. Any revised or amended schedules must be distributed to all members within 7 business days of the change.

Section 3.02 Valuing Membership Interests in the Company

For all purposes, the value of the Company as an entity and of Membership Interests will be their respective fair market values. A written Qualified Appraisal by a Qualified Appraiser selected by the Manager will resolve any dispute, contest, or issue of fair market value.

Article 4
Capital Contributions

Section 4.01 Initial Capital Contributions

As their Initial Capital Contributions to the Company, the Members shall contribute all of their right, title, and interest in and to the property described in Exhibit A. The Members agree that the property described in Exhibit A has the fair market value (net of liabilities assumed or taken subject to or by the Company) listed opposite the scheduled property.

The Manager shall update Exhibit A from time to time, as may be necessary to accurately reflect the agreements of the Members with respect to the information therein. Any amendment or revision by the Manager to Exhibit A shall not be deemed an amendment of this Agreement requiring the consent of any Member. Any reference in this Agreement to Exhibit A shall be deemed to be a reference to Exhibit A, as amended from time to time and in effect at the time. Any updates, amendments, and/or revisions to Exhibit A shall be distributed to all members within 7 business days.

Section 4.02 Voluntary Additional Capital Contributions

The Members may make Additional Capital Contributions to the Company. Any Additional Capital Contribution must be made *pro rata* according to the Member's Membership Interest, unless otherwise agreed by the consent of a Majority of the Membership Interests of the Company. Consent does not need to be in writing, and will be presumed to have been obtained unless there is clear and convincing evidence to the contrary.

The fair market value of any property other than cash or publicly traded securities to be contributed as an Additional Capital Contribution will be as agreed upon by the contributing Member and 85% of the Membership Interests of the Company at the time

of contribution. Alternatively, a disinterested appraiser selected by the Manager may determine the fair market value of any contributed property.

In the event additional capital is needed for the Company to operate, the Company will first use best efforts to secure a loan from existing members at an agreed upon interest rate. If no member of the Company wants to loan the funds to the Company, the Company shall use best efforts to obtain a loan from a third party or financial institution at an agreed upon interest rate. If the Company is unable to secure a loan, the option to contribute additional capital for increased membership interest must first be offered to all existing members before membership interest may be offered to a non-member in exchange for capital. In the event an existing member agrees to provide the company with additional capital, that member's interest of ownership in the Company will increase in proportion to the membership interests fair market value pursuant to the valuation method detailed in Section 3.02 of this Agreement. All other members' interest in the company will be equally diluted on a *pro rata* basis, with the exception of Mike Healy (total of 5 percent held by Mike Healy) interest which shall not be subject to dilution.

In the event additional capital is needed for the Company to operate, after first offering existing members the opportunity to contribute or loan additional capital to the company, the Company shall, with the majority interest written consent of the members, offer a trusted third party to contribute such capital in exchange for a membership interest in the Company or in the form of a loan and agreed upon interest rate. In the event the Company, after majority interest of the members written consent of the members, has to exchange membership interest for capital, said membership interest of all members will be equally diluted on a *pro rata* basis with the exception of Mike Healy (total of 5 percent held by Mike Healy) interest which shall not be subject to dilution.

The Company will only accept and solicit additional capital if absolutely necessary for the Company's operation and success, and only if there is not adequate funds saved by the Company to cover the operation and expenses – the Company will first attempt to secure debt financing prior to engaging in negotiations for the exchange of capital for membership interest. Any exchange of capital for membership interest must be consented to in writing by the majority interest of the members.

Section 4.03 No Mandatory Loans

The Manager may not compel any Member to make loans of additional capital to the Company.

Section 4.04 Adjusting Members' Interests

In exchange for any Member's Capital Contribution, the Company will adjust the Membership Interests of all Members proportionately to reflect the value of the contribution, but the contributing Member's Interest will be reduced by any income tax liability attributable to the Member's additional contribution.

Section 4.05 Mandatory Additional Capital Contributions Prohibited

The Company has no authority to require Additional Capital Contributions.

Article 5
Allocations and Distributions

Section 5.01 Allocating Profit and Loss

The Company shall allocate all net profits and losses for each calendar year of the Company to each Member *pro rata* in accordance with the Member's respective Membership Interest during the period the profits and losses accrue. For purposes of this Section, *profits and losses* include every item of income, deduction, depreciation, gain, loss, and credit for the calendar year.

Section 5.02 Distributions to Members

The Company must retain and save fifty (50) percent of its earnings for the first two (2) years of operation. Thereafter, the voting membership owners shall vote on whether retained earnings percentage saved shall be adjusted. An 85% consent to change the amount of retained earnings saved is needed to approve such a modification.

Capital Contributions must be repaid prior to Distributions that are based on Ownership interest:

Net profits, minus the fifty (50) percent retained earnings that will be saved, shall be distributed initially to repay capital investment first based on percentage of total capital contributed to initial capital contributions. Table 1 below details the repayment percentage of capital repayment and contribution:

TABLE 1

Owner	Percentage of Total Capital Contributed	Capital Contributed

James Barrett	8%	$80,000.00
Giono Barrett	8%	$80,000.00
Mike Healy	5%	$50,000.00
TOTAL:	capital contribution	$210,000.00 total capital contribution

Once the capital contributions as identified in Table 1 are repaid, then distributions of net profits are paid to owners based on their ownership percentage. In the event the initial capital contributions are not recouped within 5 years from the date the Company can legally open its doors to the public and commence sale of its goods, then the Company will repay any outstanding capital contribution from the Company's retained earnings.

When any distributions of funds or other Company assets are made, the Manager shall satisfy those distributions on a *pro rata* basis in accordance with the Members' Interests. Table 2 below sets out the ownership percentage:

TABLE 2

Owner	Ownership Percentage
James Barrett	45%
Giono Barrett	45%
Mike Healy	5%

Article 6
Company Management

Section 6.01 Manager(s)'s General Authority

James Barrett and Giono Barrett are the Managers of the Company. Subject to the specific rights given the Members in this Agreement, the Manager(s) may make all decisions concerning any matter affecting or arising out of the Company's business

conduct. The Manager(s) has the exclusive right and full authority to manage, conduct, and operate the Company business.

Tiebreaker: In the event that the Managers disagree on a material decision relating to the Company – the Managers shall submit their respective positions to the Advisory Committee. The Advisory Committee shall consist of (1) individual: Michael Healy. After considering both Managers positions regarding the disagreement on a material decision relating to the Company, the Advisory Committee shall vote, within 48 hours of positions being presented by the Managers. All three individuals on the Advisory Committee shall have equal voting power when voting as an Advisory Committee member and a majority vote in favor of one position or another shall be the tiebreaker between the Managers.

The Manager shall manage and administer the Company according to this Agreement and as provided by the laws of the State of Alaska.

Section 6.02 A Majority in Interest of Managers Required to Control

When more than one Manager is acting, the concurrence of a majority in interest of the Managers controls in all matters pertaining to the Company's administration. When only two Managers are acting, the concurrence and joinder of both is required.

Section 6.03 Limitations on the Manager's Authority

This Section limits the authority of the Manager.

(a) Acts Requiring Approval of a Majority Membership Interests

The consent of a majority of the Membership Interests is required to confess a judgment against the Company or to file or consent to filing a petition for or against the Company under any federal or state bankruptcy, insolvency, or reorganization act.

(b) Acts Requiring Unanimous Approval of the Members

The Manager may not do any of the following without the unanimous written consent of all Members:

sell substantially all of the property in liquidation or cease the Company's business before the Company's actual termination;

admit any substitute or additional Members into the Company except as otherwise permitted by this Agreement;

change or reorganize the Company into any other legal form;

expel a Member; or

dissolve and liquidate the Company.

(c) Members Who Are under Court Orders

The vote, consent, or participation of any Member under any kind of court order charging, restraining, prohibiting, or in any way preventing any Member from participating in Company matters is not required in order to obtain the necessary percentage vote or consent or participation for the Company to act upon any proposed action.

Section 6.04 Delegation among the Managers

When more than one Manager is serving, a Manager may delegate to any other Manager the power to exercise any or all powers this Agreement grants the Manager, including discretionary powers, if allowed by law. The delegating Manager may revoke this delegation at will. Any delegation of power, modification of delegation of power, or revocation of delegation of power must be in a written and signed by the delegating Manager.

As long as any delegation of power is in effect, the Manager to whom the power is delegated may unilaterally exercise the delegated powers with the same force and effect as if the delegating Manager had personally joined in the exercise of the power. In the event that the managers are not in agreement and are equally split, then the Advisory Committee shall serve as the tiebreaker.

Section 6.05 Delegation to Agents and Others

The Manager may employ agents, employees, accountants, attorneys, consultants, and other persons necessary or appropriate to carry out the business and affairs of the Company, whether or not the person or persons are Affiliated Persons, or are employed by an Affiliated Person.

The Manager may direct the Company to pay reasonable fees, costs, expenses, salaries, wages, and other compensation as the Manager determines to be appropriate as an expense of the Company. Such fees, costs, expenses, are subject to approval if over $5,000.00 pursuant Section 1.04. Those expenses may include payment or

reimbursement for all fees, costs, and expenses incurred in the formation and organization of the Company.

The Manager may delegate management functions to any corporation, partnership, limited liability company or other entity qualified to manage the property and to conduct the business activities of the Company. Delegation of management powers will not relieve the Manager from personal liability for management decisions and operations of the Company. Any delegation of authority is to be considered in compensating the Manager for services to the Company.

Section 6.06 Powers

In pursuing its lawful purposes, the Company may do all things that limited liability companies are permitted to do under the Act.

Section 6.07 Authorization to Sign Certain Instruments

Regarding all obligations, powers, and responsibilities under this Agreement, the Manager may sign and deliver any notes and other evidence of indebtedness, contracts, agreements, assignments, deeds, leases, loan agreements, mortgages, and other security instruments and agreements in any form on behalf of the Company as the Manager determines to be proper.

Section 6.08 Affidavit of Manager's Authority

Any third party dealing with the Company may rely on a notarized writing signed by the Manager stating the Manager's authority to act for the Company. The Manager may use the following as an example of a valid writing:

Sample Written Statement of Authority of the Manager
of
RAINFOREST FARMS, LLC

On my oath and under penalty of perjury, I swear that I am the duly appointed Manager of Rainforest Farms, LLC, an Alaska Limited Liability Company. I certify that I have not been removed as Manager and have the authority to act for and bind Rainforest Farms, LLC in business transactions for which this affidavit is given as affirmation of my authority.

James Barrett, Manager
Giono Barrett, Manager

Sworn and subscribed before me the undersigned authority, by James and Giono Barrett on _____, 20____.

Notary Public

This example may be modified to reflect the Manager's fiduciary duty.

Section 6.09 Advisory Committee

The Company shall have an advisory committee (*Advisory Committee*) consisting of two or more Members; beneficiaries of trusts that are Members; or legal, financial, or other advisors to the Manager or any Member. The sole member of the current Advisory Committee is Michael Healy. An 85% vote of all ownership interest is necessary to change the individuals whom serve on the Advisory Committee.

(a) Annual Meetings

If the Advisory Committee is established, the Manager shall call a meeting of the Advisory Committee at least once per calendar year. The purpose of the meeting is to generally inform the Advisory Committee of the business and operations of the Company since the last Advisory Committee meeting. The Advisory Committee may make a report of the meeting to the Members.

(b) Committee Is Advisory Only

The Advisory Committee may make recommendations to or otherwise advise and consult with the Manager regarding the business and operation of the Company, but the Advisory Committee may not take any action on behalf of the Company or compel the Manager or any Member to take any action. However, the Committee shall serve as a tiebreaker as indicated in Section 7.01.

(c) Payment of Expenses Authorized

Advisory Committee members are entitled to payment from the Company for their reasonable expenses of attending Advisory Committee meetings.

Article 7
The Manager

Section 7.01 Manager(s)

James Barrett and Giono Barrett are appointed as Managers (hereinafter referred to collectively as "Manager" or "Managers") of the Company. The Manager shall manage and administer the Company's property and perform all other duties prescribed for a Manager by Alaska law. The Company must have at least one Manager at all times. No other person may act for or bind the Company except as permitted in this Agreement or as required by law. No Manager will be personally liable for the obligations of the Company. Advisory Committee will serve as a tiebreaker in the event of a disagreement between the Managers.

Reports to Members: In addition to the duties detailed in this agreement, for the first two years after the signing of this Agreement, the Managers shall provide monthly written reports to the members that give an overview of events, status of affairs, progress,

business decisions, and actions that were taken on behalf of the business for that month. After two years, the Owners shall vote on whether this practice shall be continued past the initial two years.

Section 7.02 Extent and Scope of Services

The Managers are devoting their sweat equity to the business as part of their contribution as reflected in their majority share of the ownership. Managers shall take monthly or weekly draws from the Company proceeds, which shall be accounted for against their distribution percentage. The remaining membership shall have the discretion, upon majority vote of non-managing ownership, to bonus and/or provide a stipend to each manager based on performance of the business from the Company proceeds, regardless of the Managers' draws.

Manager shall adequately promote the interest of the Company and the mutual interest of the Members, and shall commit the necessary time and effort to do so. The Manager is required to devote full-time hours to Company business.

(a) Other Ventures

The Manager may not compete with the Company through any independent venture or engage in any self-dealings relating to the Company and its activities.

The Managers owe a Fiduciary duty to the Company and the Members of the Company, the Manager is under the obligation to present any investment opportunity to the Company or any business opportunity that may be beneficial to the Company.

(b) Manager's Fiduciary Duty

In carrying out the duties of Manager under this Agreement, the Manager shall act as a fiduciary for the Members. In fulfilling this fiduciary duty, the Manager shall act in good faith and loyalty in a manner the Manager reasonably believes to be in the best interests of the Company and its Members, and with such care as an ordinary prudent person in a similar position would use under similar circumstances.

Accordingly, the Manager may not:

act in any manner contrary to this Agreement;

receive extra compensation not provided in this Agreement;

commingle Company funds;

abandon the Company;

fail to disclose material facts involving transfers to or from the Company; or

derive any personal profit from dealing with the Company.

The Manager must account to the Company for any benefit received by the Manager without the consent of the Member from any transaction connected with the formation, conduct, or liquidation of the Company, or from any use by the Manager of Company property. The Manager shall hold any benefits he or she receives under this provision as trustee for the benefit of the Company.

(c) Employing Professionals

The Manager may employ any brokers, agents, accountants, attorneys, or other advisors as the Manager determines appropriate for managing the Company business.

Section 7.03 Manager's Power to Amend

The Manager may, without the consent of the Members, amend any provision of this Agreement or the Articles of Organization, and prepare and deliver any documents necessary to reflect:

a change in the Company's name or its principal office location;

a change that the Manager, pursuant to this agreement, determines to be necessary or advantageous to qualify or to maintain qualification as a limited liability company or a company in which the Members have limited liability under the laws of any jurisdiction, or to ensure that the tax treatment of the Company does not change, other than under Article Two;

a change that does not adversely affect the Members in any material respect or that is required or contemplated by this Agreement; or

any other similar amendments.

Any other amendments require the written consent of 85% of the Membership Interests unless other provisions of this Agreement require a higher percentage of the Members (such as liquidating the Company before its term expires).

Section 7.04 Indemnification and Hold-Harmless Provision

To the extent possible, this provision is intended to supersede any provision of Alaska law to the contrary.

The Manager is not liable to any Member for any loss or damage incurred on behalf of the Company because of any act, omission, or forbearance if the Manager acted in good faith, in a manner that the Manager reasonably believed to be for the best interests of the Company, and within the scope of the authority granted to the Manager by this Agreement.

(a) Gross Negligence or Willful Misconduct

A Manager is personally liable if the Manager is guilty of fraud, intentional breach of this Agreement, gross negligence, or willful misconduct regarding an act, omission, or forbearance.

(b) Good-Faith Acts, Omissions, and Forbearances

Any act, omission, or forbearance by a Manager on advice of counsel to the Company must be conclusively presumed to have been in good faith, with the exception of any counsel directly related to or is an owner of the Company. Reliance of counsel directly related to or is an owner of the Company, shall have the presumption of reliance in good faith, but said presumption is rebuttable on a showing of evidence to the contrary.

(c) No Personal Liability for Capital Contributions

The Manager is not personally liable for the return of any portion of any Member's Capital Contribution. Any return of capital will only be made from Company assets.

(d) Indemnity Provisions

The Company shall indemnify and hold the Manager harmless from any loss, expense, or damage resulting from any act, omission, or forbearance of the Manager relating to the Company. The Company is not required to indemnify the Manager for any loss, claim, expense, or damage incurred because of the Manager's willful misconduct, gross negligence, or fraud.

Section 7.05 Manager's Voluntary Resignation

Subject to any contract between the Company and the Manager, any Manager may resign at any time, without prejudice to any Company rights under any contract to which the Manager is a party, by giving written notice to the Members. Any resignation will take

effect on the date the notice is received or later if specified in the resignation notice. Unless otherwise specified, acceptance of the resignation notice is not required to make the Manager's resignation effective.

A Manager's resignation will not prejudice the Company's rights under any contract to which the Manager is a party on behalf of the Company.

Section 7.06 Manager Removal

A Manager may be removed as Manager for cause by the affirmative vote of at least 60% of the Membership Interests, excluding the Manager at issue if the Manager is also a Member of the Company. For purposes of this provision, the term *for cause* includes:

> any material act of self-dealing by a Manager;
>
> any material act constituting gross negligence, willful misconduct, or fraud;
>
> any act constituting the willful and intentional disregard of a directive of the Members by a vote on a matter in which the Members have a vote under this Agreement or under the laws of the State of Alaska.

The term *material* means a significant monetary damage to the Company as the result of the act, omission, or forbearance by a Manager constituting self-dealing, gross negligence, or fraud. The term *material* does not include:

> incidental or insignificant monetary damage to the Company;
>
> monetary damage incurred by someone who is not a Member and for which the Company is not liable; nor
>
> an intangible loss or damage that cannot be valued under the fair market valuation standards of federal tax law as reflected in pronouncements such as Revenue Ruling 59-60.

If a court of competent jurisdiction or an arbitrator in binding arbitration conducted under the terms of this Agreement or by agreement of the Manager conclusively resolves the issues of self-dealing, willful misconduct, gross negligence, fraud, and material damage to the Company against the Manager, any voting attributes of a Manager who is also a Member will be disregarded in the vote to remove the Manager.

Section 7.07 Events Not Considered Withdrawal of Manager

Despite any provision in the Act, neither of the following events automatically causes a withdrawal:

the Manager becoming the subject of an order for relief or being declared insolvent in any federal or state bankruptcy or insolvency proceeding, nor

an entity Manager's charter revocation and the expiration of the 90-day reinstatement period or revocation without a reinstatement of its charter.

Section 7.08 Additional Managers

Upon the unanimous consent of the Members and any then-serving Manager or Managers, any person (including a Member) may be designated a Manager at any time.

Section 7.09 Vacancy in the Office of Manager

If all of the Managers withdraw, are removed, or otherwise cannot serve as Managers for any reason, a majority of the Membership Interests of the Members shall, within 90 days after the date the last remaining Manager stops serving, designate one or more new Managers. The appointed Manager or Managers will automatically have the rights, authorities, duties, and obligations of a Manager under this Agreement.

Section 7.10 Expenses of Manager

The Manager is entitled to reimbursement for reasonable costs and expenses the Manager incurs in conducting Company business.

Section 7.11 No Bond Required

Except to the extent required by law, no Manager is required to furnish bond or other security in order to serve as Manager.

Section 7.12 Manager's Responsibility to File Necessary Forms and Make or Terminate Elections

The Manager shall take all action necessary to assure prompt and timely filing of:

the Articles of Organization and any amendments thereto according to this Agreement;

all required state and federal tax returns, reports, and forms; and

all state and federal tax elections or election terminations as determined by the Manager to be in the best interest of the Company.

Article 8
The Members

Section 8.01 Members' Names and Addresses

The Manager shall maintain an updated list of all past and present Members of the Company, and their last known mailing addresses. The list must be kept as part of the Company records.

Section 8.02 Limited Liability of Members

Except under Article Four, no Member will be required to contribute capital to the Company for the payment of any losses or for any other purposes, and no Member will be responsible or obligated to any third party for any debts or liabilities of the Company in excess of the amount of:

that Member's unpaid required contributions to the Company's capital;

unrecovered contributions to the Company's capital; and

that Member's share of any undistributed Company profits.

Section 8.03 No Right to Participate in Management

No Member may participate in the management and operation of the Company's business and its business operations or bind the Company to any obligation or liability whatsoever. But a Member may exercise any power authorized by the Act that a Member may exercise without being considered to be taking part in the control of the business of the Company.

(a) Title Transfer to Company Assets

A Member may not transfer legal or beneficial title to property of the Company unless the Member acts according to the limited authority prescribed by the laws of the State of Alaska relating to the winding up of the Company in the absence of a qualified Manager. Any Member who acts in that capacity may do so only after first submitting an affidavit of fact stating the conditions under which the Member serves. Any affidavit prepared according to this provision must be kept with the Company records.

(b) Members Must Not Bind the Company

A Member must not perform any act that would bind the Company or any other Member.

(c) Members Must Not Incur Expenditures

A Member must not incur any expenditure on the Company's behalf.

Section 8.04 Restrictions on Members' Withdrawal Rights

No Member may withdraw from the Company or receive a return of any contributions to the Company until the Company is terminated and its affairs wound up according to the Securities Act and this Agreement or without 85% of the written consent of the total membership interest. Any Member who does any of the following has breached this Agreement:

attempt to withdraw from the Company;

interfere in the management of the Company affairs;

engage in conduct that results in the Company losing its tax status as a Company;

engage in conduct that discredits the Company;

own a Membership Interest that becomes subject to a charging order, attachment, garnishment, or similar legal proceedings;

breach any confidentiality provisions of this Agreement;

bring any legal action against the Company to force the dissolution of the Company, to force any distribution of Company assets, or to appoint a receiver; or

fail to discharge a legal duty to the Company.

Any Member who breaches this Agreement is liable to the Company for damages caused by the breach, including attorney's fees and expenses of litigation. The Company may offset damages against any distributions or return of capital to the Member who has breached this Agreement.

Section 8.05 Restrictions on Assignees' Withdrawal Rights

No Assignee has the right to receive a return of any contributions (whether the contributions were made by the Assignee or by an Assignor) until the Company is terminated and its affairs wound up according to the Act and this Agreement. Any

Assignee who does any of the following will be considered to have breached this Agreement:

interfere in the management of the Company affairs;

engage in conduct that results in the Company losing its tax status as a Company;

engage in conduct that discredits the Company;

breach any confidentiality provisions of this Agreement;

bring any legal action against the Company to force the dissolution of the Company, to force any distribution of Company assets, or to appoint a receiver; or

fail to discharge a legal duty to the Company.

Any Assignee who breaches this Agreement is liable to the Company for damages caused by the breach. The Company may offset damages against any distributions or return of capital to the Assignee who has breached this Agreement.

Section 8.06 No Right to Cause Dissolution

No Member may cause the dissolution and winding up of the Company by court decree or otherwise.

Section 8.07 Partition Waiver

Each Member, individually and on behalf of the Member's successors and assigns, expressly waives any right to have any Company property partitioned.

Section 8.08 Member Expulsion

The Company may only expel a Member for violating this Agreement or for failing to make the Capital Contributions as required in Article Four. A Member may only be expelled on the unanimous consent of all Members, excluding the Member to be expelled, under Section 6.03(b). If a Member to be expelled is a Managing Member, the Managing Member will first be removed as a Manager under Section 7.06.

An expelled Member loses all rights as a Member of the Company, and the expelled Member's Interests are converted to that of an Assignee.

Section 8.09 Voting

The terms "vote," "consent," "written consent," or "oral consent" used throughout this Agreement are intended to be analogous to voting rights and have the meaning of voting and are used interchangeable throughout this Agreement. Members may only vote on the following matters:

removing a Manager, subject to the provisions of Section 7.06;

electing a successor Manager, subject to the provisions of Section 7.08;

terminating and dissolving the Company;

amending this Agreement; and

any matter requiring the vote of the Members as set out elsewhere in this Agreement or in the Act.

Members may vote by written consent, with or without a formal meeting. Assignees may not vote.

Section 8.10 Access to Information

Subject to the provisions of this Section, each Member is entitled to all information regarding the Company under the circumstances and subject to the conditions stated in this Agreement and the Act. Assignees have no right to information regarding the Company.

All Members and any Assignees who obtain any information are subject to the confidentiality provisions of this Section.

(a) Confidential Information

The Members acknowledge that they may receive confidential information regarding the Company, the release of which may be damaging to the Company or to persons with whom it does business. Each Member shall hold in strict confidence any information regarding the Company that is confidential, and may not disclose it to any person other than another Member, except for disclosures:

compelled by law (but the Member must notify the Manager promptly of any request for that information before disclosing it, if practicable);

to a Member's advisors or representatives, but only if they have agreed to be bound by the provisions of this Section; or

that the Member also has received from a source independent of the Company that the Member reasonably believes was obtained without breach of any obligation of confidentiality.

(b) Enforcement through Specific Performance

The Members acknowledge that disclosure of confidential information may cause irreparable injury to the Company for which monetary damages are inadequate, difficult to compute, or both. Accordingly, the provisions of this Section may be enforced by specific performance.

Article 9
Meetings and Notice

Section 9.01 Special Meetings

A majority in interest of the Members or Managers may only call special meetings of the Members or Managers. Special meetings of the Members or Managers may only be called upon delivery to the Members or Managers of notice of a special meeting of the Members or Managers given according to this Agreement.

Section 9.02 Meeting Notice

The Manager shall deliver notice to each Member or Manager of record entitled to vote at the meeting at the address as appears in the Company records at least two but no more than 30 days before the meeting date. The notice must state the date, time, and place of any meeting of the Members or Managers and a description of the meeting's purpose.

Section 9.03 Waiving Meeting Notice

A Member or Manager may waive notice of any meeting, before or after the date and time of the meeting as stated in the notice, by delivering a signed waiver to the Company to include in the minutes. If a Member or Manager attends any meeting in person or by proxy, the Member or Manager waives objection to lack of notice or to defective notice of the meeting, unless the Member or Manager objects to holding the meeting or transacting business at the meeting. The Member or Manager waives objection to consideration of a particular matter at the meeting that is not within the purposes

described in the meeting notice, unless the Member or Manager objects to considering the matter when it is presented.

Section 9.04 Voting by Proxy

The Members or Managers may appoint a proxy to vote or otherwise act for the Members or Managers under a written appointment form signed by the Member, Managers, or the person's attorney in fact. A proxy appointment is effective when received by the secretary or other Officer or agent of the Company authorized to tabulate votes. A fiduciary's general proxy is given the same effect as the general proxy of any other Member or Manager. A proxy appointment is valid for 11 months unless otherwise specifically stated in the appointment form, or unless the authorization is revoked by the Member or Manager who issued the proxy.

Section 9.05 Action by Consent

Any Action required or permitted to be taken at a meeting of the Members or Managers may be taken without a meeting if all the Members take the action or Managers entitled to vote on the action. The action must be evidenced by one or more written consents describing the action taken. These consents, in the aggregate, must be signed by all of the Members or Managers entitled to vote on the action and delivered to the Company to be included in the minutes.

Section 9.06 Quorum

For any meeting of the Members, a quorum requires the presence of Members holding at least 85% of the Membership Interests.

Section 9.07 Presence

Any Member or Manager may participate in any meeting through the use of any means of communication by which all Members or Managers participating may simultaneously hear each other during the meeting. Any Member or Manager participating in this way will be considered present in person at the meeting.

Section 9.08 Conduct of Meetings

At any meeting of the Members or Managers, the Manager presides and the Members appoint a person to act as secretary of the meeting. The secretary of the meeting shall prepare minutes of the meeting, to be kept with the Company records.

Section 9.09 Approval or Consent of Members

Unless provided otherwise by the Securities Act or this Agreement, any action of the Members requires a vote or written consent of simple majority or 2/3 vote of the Members in favor of the action.

Article 10
Books, Records, and Bank Accounts

Section 10.01 Books and Records

The Manager shall keep books of account regarding the operation of the Company at the principal office of the Company, or at any other place the Manager determines. All Members and their duly authorized representatives will have access to the books at all reasonable times. The Manager shall keep the following records:

a current list of the full name and last known address of each Manager and Member;

a copy of the Articles of Organization (together with any amendments) and copies of any powers of attorney under which any certificate has been signed;

copies of the Company's federal, state, and local income tax returns and any reports for the three most recent years;

copies of this Agreement (together with any amendments);

copies of any financial statements of the Company for the three most recent years; and

any other documents required by law.

Section 10.02 Accounting and Taxable Year

The Manager shall keep books of account consistent with any method authorized or required by the Internal Revenue Code and as determined by the Manager. The Manager shall close and balance the books at the end of each Company year. The Company's Taxable Year is the period authorized or required by the Internal Revenue Code, and as determined by the Manager.

Section 10.03 Reports

Within a reasonable time after the end of each Taxable Year, the Manager shall provide all Members with the information necessary to prepare and file their respective tax returns. The Manager shall prepare all financial statements at the Company's expense.

As indicated in Section 7.01, for the first two years after the signing of this Agreement, the Managers shall provide monthly written reports to the members that give an overview of events, status of affairs, progress, business decisions, and actions that were taken on behalf of the business for that month. For the first two (2) years, Managers will provide quarterly reports of financial matters, utilizing QuickBooks software, after two years, Managers shall provide to members annual financial reports, however any member may request financial reports quarterly. After two years, the Owners shall vote on whether this practice shall be continued past the initial two years.

Section 10.04 Bank Accounts and Company Funds

The Manager shall deposit all cash receipts in the Company's depository accounts. All accounts used by or on behalf of the Company are property of the Company, and will be received, held, and disbursed by the Manager for the purposes specified in this Agreement. The Manager must not commingle Company funds with any other funds. Due to Federal law and implications of those laws and regulations on banking institutions, the Company will do its best to hold cash in a banking/depository account(s) but the Company may also hold cash in a safe on a premises disclosed only to the Members and certain key employees of the company. At any one time no more than three (3) people shall have access to the safe's code to access the cash. Said cash shall be monitored and any incoming or outgoing cash shall be accounted for. Any access to the safe shall be recorded.

Article 11
Admitting Additional Members

Section 11.01 Admission by Unanimous Written Consent of Membership Interest; Prerequisites

Additional Members may only be added after the unanimous written consent of the Membership interest. Before being admitted as a Member, a prospective Member must first:

> provide evidence satisfactory to the Manager that admission of the prospective Member will not violate any applicable securities law, cause a termination of the Company under applicable provisions of the Code, or alter the status of any tax election made by the Company;
>
> pay all reasonable expenses connected with admission as a Member, including professional fees incurred in obtaining opinions or valuations; and
>
> agree to be bound by all of the terms of this Agreement by signing the Agreement.

Section 11.02 Admissions Must Not Violate This Article

Any attempt to admit an additional Member that violates this Article will be null and void.

Article 12
Transfer of Membership Interests by a Member

Section 12.01 Transfer Restrictions

Except as provided in this Article, and in footnote 1 of this Agreement, no Member may transfer any Membership Interest either voluntarily or involuntarily by any means without the consent of the Manager and written consent of 85% of the membership interest. The Manager is not required to consent to any attempted transfer and will not be subject to any liability for withholding consent.

Any attempted transfer of a Membership Interest or the admission of a Substitute Member in violation of this Article is null and void.

Section 12.02 Transfer of Interest

No Member may transfer any Membership Interest without first offering in writing to sell the Interest to the Company and to all other Members as provided in this Section.

(a) Notice

A Member who intends to transfer a Membership Interest must first give notice of the intent to transfer to the Company and to all other Members. Any notice of intent to transfer must include the following information.

(1) Writing Explaining Terms of Offer

If the Member received a written offer, a copy of that written offer must be attached to the notice. If the Member received only an oral offer, a written explanation of the oral offer must be attached to the notice.

The written explanation must completely detail the purchase price and payment terms.

(2) Certification of Genuine Offer

The Manager shall certify in the written notice that the offer is genuine to the best of the Manager's knowledge.

(b) Company's Priority Right to Purchase

The Company has the first right to purchase all or any portion of the Membership Interest according to the terms of any written notice of an offer except as the Company may elect to modify the terms under Section 12.02(d) below. The Company may exercise this first right to purchase by giving written notice of the Company's intent to purchase to the selling Member within 90 days of receiving the written notice of the offer.

(c) Other Members' Priority Right to Purchase

If the Company does not provide written notice of an intent to purchase the Membership Interest within 90 days of receiving the written notice of the offer or if the Company provides written notice of an intent not to purchase the Membership Interest, any Member may purchase any portion of the Membership Interest according to the terms of the offer except as the Member may elect to modify the terms under Section 12.02(d) below. A Member may exercise this right to purchase by giving notice of intent to

purchase to the selling Member within 120 days of receiving the written notice of the offer.

If more than one Member exercises the right to purchase the same Membership Interest, each Member may purchase a *pro rata* share of the Membership Interest in proportion to each Member's respective Membership Interest in the Company before the offer of sale.

(d) Payment Terms under Company's or Members' Priority Right to Purchase

If the Company or a Member exercises the priority right to purchase a Membership Interest as provided above, then the Company or purchasing Member may, at the buyer's discretion, pay the purchase price either:

> according to the payment terms specified in the written notice of the offer provided by the selling Member, or
>
> by delivering an unsecured promissory note made by the buyer for the purchase price.

If the buyer chooses to pay the purchase price according to a promissory note, the note will bear a market rate of interest on the unpaid balance of principal. The principal amount of the note will be payable in 10 equal annual payments of principal and amortized interest. The first payment will be due on the first anniversary of the note. Subsequent payments will be due on each anniversary date until the note is paid in full. The note must provide for a 60-day right to cure after notice of any default on any payment before acceleration of the unpaid balance of principal and interest. The buyer may prepay the note in whole or in part at any time without penalty.

(e) Closing on Purchase by the Company or a Member

The closing of any purchase of a Membership Interest under this Section will occur at the Company's principal office within 150 days from the date of the notice of intent to sell.

(f) Transfer to Third Party after Non-Exercise of Priority Right

If neither the Company nor any Member exercises their respective priority right to purchase the Membership Interest, the selling Member may transfer its Membership Interest to the party that made the original offer

for the purchase price and on the terms in the original offer, only if 85% of the existing membership interest consents by written consent.

The closing on any transfer to a third party under this Section must occur within 60 days from the earlier of:

the expiration of the Company's and the other Members' priority rights to purchase; and

the date on which the Company and all other Members have provided written notice of their intent not to exercise their respective priority rights to purchase.

If the Membership Interest is not sold to the prospective purchaser within the specified time, the Company and the other Members will again be offered an opportunity to exercise their respective priority rights to purchase the Membership Interest under Section 12.02(b) and Section 12.02(c) above.

Section 12.03 Additional Transfer Restrictions

If any proposed transfer of Membership Interests or addition of a Substitute Member will terminate the Company under either Internal Revenue Code Section 708(b) or the Act, then the transfer is prohibited unless the Manager specifically approves the transfer. If not approved by the Manager, the attempted transfer will be disregarded and void *ab initio*.

But the Manager may not approve any transfer or addition of a Substitute Member that violates any applicable federal or state securities law.

Section 12.04 Transferee Treated as an Assignee until Admitted as a Substitute Member

The transferee of a Membership Interest will hold the interest only as an Assignee until the transferee satisfies all the requirements of Section 12.05 to become a Substitute Member. As an Assignee, the transferee will have only those rights in Section 12.06.

Section 12.05 Conditions Required to Become a Substitute Member

An Assignee will not become a Substitute Member and will not have any rights as a Member until all of the conditions, consents, and procedures in this Section have been fully satisfied.

(a) Members' and Manager's Consent

All Members, other than the assigning Member, and the Manager must consent in writing to the admission of the Assignee as a Substitute Member.

(b) Executing All Other Agreements

The assigning Member and the Assignee shall sign, acknowledge, and deliver instruments of transfer and assignments to the Company, in the form and substance satisfactory to the Company. These instruments include the written acceptance and adoption by the Assignee of this Agreement, together with the Assignee's signing, acknowledgment, and delivery of a power of attorney to the Manager in the form and with the content specified in Section 15.02.

(c) Reasonable Transfer Fee

An Assignee shall pay a reasonable transfer fee to the Company. The Manager may, with sole discretion, establish the transfer fee amount on a case-by-case basis.

(d) Effective Date of Admission as Substitute Member

The effective date of an admission as a Substitute Member is the date on which all the remaining Members and Manager vote to accept the Assignee as a Substitute Member under this Agreement.

Section 12.06 Assignee's Rights and Limitations

An Assignee is entitled to receive distributions from the Company to the same extent that the transferring Member would receive distributions under this Agreement. Until the effective date that an Assignee is admitted as a Substitute Member, both the Company and the Members will treat the Assignor of the transferred Membership Interest as the absolute owner of the transferred Membership Interest except regarding any Member distributions made that are attributable to the transferred Membership Interest.

An Assignee has substantially fewer rights than a Member. Assignees only hold a right to receive economic benefits when distributed from the Company in respect to the assigned Membership Interest. Other limitations on Assignees' rights include:

access only to those Company records and information specifically authorized for the Assignees under the Act;

no right to vote in any Company matters; and

no other legal or economic rights.

Section 12.07 Permitted Transfers

A Member may only transfer a Membership Interest with the Manager's consent to a trust for his or her benefit, to a trust for the benefit of his or her spouse, his or her spouse, to his or her immediate family or to a trust for the benefit of his or her immediate family, so long as the proposed transfer does not:

cause the Company to terminate for federal income tax purposes;

result in any event of default as to any secured or unsecured obligation of the Company;

cause a reassessment of any real property owned by the Company; or

cause other adverse material impact to the Company – whether the adverse impact is considered material will be voted on by the non-transferring membership interest and a majority consent is necessary to approve permitted transfers under this Section 12.07.

The transferee of a Membership Interest transfer permitted by this Section will be admitted as a Substitute Member without the necessity of compliance with Section 12.05, but the Company may require the transferee to accept this Agreement in writing.

Section 12.08 Amending Operating Agreement and Articles of Organization

If required by law, upon the admission of a new Member, the Manager shall amend the Operating Agreement or the Articles of Organization to reflect any substitution of Members.

(a) Substitute Member Acceptance upon Amendment

Until the Operating Agreement or Articles of Organization are amended under this Section, an Assignee will not become a Substitute Member.

(b) Assessing Fees

If a Substitute Member's entry into the Company requires an amendment, the Manager may assess any fees, costs, or other expenses of any required amendment against that Substitute Member.

Section 12.09 Member Disability

The agent of a disabled Member acting under a durable power of attorney or the Legal Representative of a disabled Member may exercise all of the Member's rights and voting

authority, and is entitled to receive distributions of cash or other property from the Company on behalf of the Member, but only if the agent or Legal Representative is a person or entity specifically listed as a permitted transferee in Section 12.07. If more than one agent or Legal Representative is entitled to act for a disabled Member, the Manager will designate in writing which agent or Legal Representative may act on behalf of the disabled Member.

Section 12.10 Death of a Member

Except for transfers to those persons or entities specifically listed: a trust for the benefit of his or her spouse, his or her spouse, to his or her immediate family, any interest that is transferred because of the death of a Member will be an Assignee interest.

Except for transfers to those persons or entities specifically listed as permitted transferees in Section 12.07, any Membership Interest that is transferred because of a Member's death will be an Assignee interest.

A transferee of any transfer under this Section will be bound by all of the terms of this Agreement.

Section 12.11 Voting Rights of Transferred Interests

A Member who transfers a Membership Interest to an Assignee will continue to hold all voting rights associated with the assigned Interest until the Assignee of the transferred Interest satisfies all of the requirements to become a Substitute Member under Section 12.05.

In the case of an Assignee who holds an Interest received because of the death of a Member, the voting rights associated with the transferred Interest will be suspended and disregarded for purposes of calculating votes until the Assignee of the transferred Interest satisfies all of the requirements to become a Substitute Member under Section 12.05.

Section 12.12 Non-Recognition of an Unauthorized Transfer or Assignment; Accumulation of Amounts to Be Distributed

The Company is not required to recognize the purported Interest of any transferee or Assignee who alleges to have received any Interest other than by an authorized transfer or Assignment under this Agreement. If the ownership of a Membership Interest is in doubt, or if there is reasonable doubt as to who is entitled to a distribution attributable to an Interest, the Manager may accumulate the amounts to be distributed until this issue is finally determined and resolved.

Section 12.13 Creditor Rights; Charging Order Sole Exclusive Remedy

If a creditor obtains a judgment by a court of competent jurisdiction against any Member or Assignee, the court may charge the Member or Assignee's Interest with payment of the unsatisfied amount of the judgment from distributions attributable to the affected Interest, but only to the extent permitted by the Securities Act. To the extent any interest is charged with satisfaction of a judgment, the judgment creditor will receive no more than the rights of an Assignee; the creditor will not be admitted as a Member of the Company.

The charging order is the exclusive remedy by which a judgment creditor of a Member or an Assignee of a Membership Interest may obtain any satisfaction from the Company toward any judgment against the Member or Assignee. This Section does not deprive any Member or Assignee of rights under any exemption laws available to the Member or Assignee.

Section 12.14 Company's Unilateral Purchase Option for Interest Acquired without Consent

The Company will have the unilateral option to purchase any Interest acquired by any transferee under this Section For purposes of establishing the value of the Interest under this provision, the Interest will be considered the Interest of an Assignee.

(a) Circumstances Triggering Purchase Option

Any of the following circumstances will trigger the Company's unilateral right to purchase a transferee's Interest. Collectively these events are referred to as *triggering events*.

The Membership Interest of a deceased Member passes to an individual or entity other than as permitted under Section 12.10.

Any individual, entity, organization, or agency obtains a Member's Interest, whether inclusive or exclusive of voting rights, because of:

any valid courts order that the Company is required by law to recognize;

being subject to a lawful charging order by a court of competent jurisdiction;

a levy, voluntary or involuntary bankruptcy proceeding, or other transfer of a Membership Interest, with voting rights, that the Company has not approved but that the Company is required by law to recognize; or

any decree of divorce or equitable division of property that transfers a Membership Interest in the Company.

If the Company's unilateral purchase option is exercised, the Company will purchase the affected Interest of the transferee for the fair market value of the Interest, valued as the Interest of an Assignee.

If the Interest is transferred subject to a divorce decree or equitable division of property, the Company's unilateral option as to the transferred Interest will be suspended for a period of 90 days, and the divorcing Member will have all of the rights of the Company in this Section. If the divorcing Member fails to initiate exercise of the option within the 90-day period, the Company's unilateral option right will be restored.

(b) Terms and Conditions of Exercisable Purchase Option

If the Company elects to exercise its unilateral purchase option, the following terms and conditions will apply to the transaction.

(1) Written Notice of Intent to Purchase

The Company will provide written notice to the Assignee or transferee within 90 days of the triggering event that the Company intends to purchase the Interest. If the Company does not provide written notice within 90 days of the triggering event, the Company's unilateral purchase option will lapse.

(2) Exercise of Option and Date of Valuation

If the Company provides written notice of its intent to exercise its purchase option, then the Company may exercise the option within 180 days from the first day of the month following the month in which the Company provided the notice.

The valuation date for the Interest to be purchased will be the first day of the month following the month in which notice is delivered.

(3) Written Appraisal Requirement

Unless the Company and the transferee or Assignee agree otherwise, the fair market value of any Interest subject to the Company's purchase option will be determined by Qualified Appraisal performed by a Qualified Appraiser selected by the Company. The Qualified Appraiser must be qualified to perform business appraisals and to value limited liability company or partnership interests.

(4) Acceptance or Rejection of Valuation

If the transferee objects to the appraiser's valuation report, the transferee must deliver written notice of the objection to the Manager within 30 days from the date the transferee is provided with written notice of the valuation report. If the transferee does not object in writing within the required period, the report will be considered accepted as written.

If the transferee objects to the valuation report, closing of the sale will be postponed for a reasonable time until the valuation of the Interest is resolved.

(5) No Voting Rights during Purchase-Option Period

Until the closing, the transferee will not be allowed to exercise any vote attributable to the Interest that is subject to the purchase option. The transferee will be entitled to all items of income, deduction, gain, or loss from the Interest. The transferee of the Interest will be an Assignee unless all conditions have been satisfied for the transferee to become a Substitute Member as described in Section 12.05.

(6) Location and Date of Closing

Closing of any sale under this Section will occur at the principal office of the Company within 45 days of the date on which the valuation report is accepted by the transferee

or the date on which the valuation of the Interest is otherwise resolved.

(7) Payment of Terms upon Exercise of Option

In order to prevent unduly burdening the Company's resources, the Company may unilaterally elect to pay any purchase-money obligation in 30 equal annual installments. If the remaining term of the Company is less than 30 years, the Company may make equal annual installments over the remaining term of the Company. Interest on any unpaid principal amount will be determined at market rates determined as of the closing date and, at the option of the Company, may be adjusted annually as of the first day of each Taxable Year.

In determining whether the remaining term of the Company is less than 30 years, the Company may assume that any option to extend the Company term will be exercised by the Members. If the option to continue is not exercised, then the balance will become due immediately upon dissolution of the Company.

The first installment of principal and interest will be due on the first day of the Taxable Year following the closing date. Subsequent annual installments will be due on the first day of each subsequent Taxable Year until the entire obligation is fully paid. The Company may prepay any part of any purchase-money obligation at any time without premium or penalty.

Section 12.15 Assignee or Charging Order Holder Assumes Tax Liability

The Assignee of a Membership Interest and any person who acquires a charging order against a Membership Interest shall report income, gains, losses, deductions, and credits regarding the interest for the period in which the Assignee Interest is held or for the period the charging order is outstanding.

Article 13
Dissolution and Termination

Section 13.01 Dissolving the Company

The Company will be dissolved only if an event described in this Section occurs only upon **unanimous written consent of all members**.

(a) Date Designated by the Manager

The Company will be dissolved on a date designated by the Manager with the **unanimous written consent of the Members**.

(b) Judicial Dissolution

The Company will be dissolved upon the entry of a decree of judicial dissolution by a court of competent jurisdiction.

After dissolution, the Company shall conduct only activities necessary to wind up its affairs.

Section 13.02 Liquidating the Company Property

After dissolving the Company, the Manager, or a liquidator appointed by a majority of the Members, shall liquidate the Company property; apply and distribute the proceeds from the liquidation of the property under this Agreement; and cause the cancellation of the Company's Articles of Organization.

(a) Creditor Payment and Provision for Reserves

First, the proceeds from the liquidated property will be applied toward or paid to any non-Member creditor of the Company in the order of payment required by applicable law. After paying liabilities owed to non-Member creditors, the Manager, or liquidator shall set up a reserve of assets as the Manager, or liquidator determines is reasonably necessary for any contingent or unforeseen liabilities or obligations of the Company.

(1) Creating an Escrow Account

The Manager, or liquidator may, but need not, pay over any reserves for contingent liabilities to a bank to hold in escrow for later payment.

(2) Distributing Reserves

The Manager, or liquidator shall distribute any remaining reserves after the Manager, or liquidator is reasonably satisfied that any liabilities have been adequately resolved. The remaining reserves will be distributed to the Members or their assigns in the order of priority for Member distributions set forth in this Agreement.

(b) Distributing Property after Paying Liabilities and Establishing Reserves

After paying liabilities and establishing reserves, the Manager, or liquidator shall satisfy any debts owed to Members with any remaining net assets of the Company, and then distribute any remaining assets to the Members in proportion to their Membership Interests.

(c) Non-Cash Assets

If any part of the net assets distributable to the Members consists of notes, accounts receivable, or other non-cash assets, the Manager, or liquidator may take whatever steps it considers to be appropriate to convert the assets into cash or any other form to facilitate distribution. If any in-kind assets of the Company are to be distributed, those assets will be distributed using their fair market value at the distribution date, as determined by the Manager, or liquidator.

Section 13.03 Company Property Sole Source

Company property is the sole source for the payment of any debts or liabilities owed by the Company. Any return of Capital Contributions or liquidation amounts to the Members or Assignees (or both if the Company has Members and Assignees) will be satisfied only to the extent that the Company has adequate assets. If the Company does not have adequate assets to return the Capital Contributions, neither the Members nor Assignees will have any recourse against the Company or any other Members or Assignees, except to the extent that other Members may have outstanding debts or obligations owing to the Company.

Section 13.04 Company Asset Sales during Term of the Company

The sale of Company assets during the term of the Company does not constitute liquidation, dissolution, or termination of the Company as defined under this Article. The Manager may reinvest the sale proceeds in other assets consistent with the business

purposes for the Company. Further, the Manager may participate in any real property exchange as defined in Code Section 1031 if the exchange fulfills the business purposes of the Company.

Article 14
Dispute Resolution Provisions

The provisions of this Article supersede any rules governing mediation or arbitration under the law of Alaska or any other jurisdiction.

Section 14.01 Resolving Disputes among Members and within the Company

The Members and Manager shall use the procedure outlined in this Article to resolve any dispute, contest, or claim that may result among any of the Members or between one or more of the Members or Managers and the Company that may relate to this Agreement. The purpose of the alternative dispute resolution procedures in this Article is to resolve all disputes, contests, and claims without litigation.

Section 14.02 Notice of Controversy and Designating Authorized Representatives

Any person (*claimant*) who has any dispute relating to the Company shall provide written notice to all Members and to any other person that has an interest in the controversy (*respondents*) describing the general nature of the controversy. The notice must designate an Independent Person as an authorized representative who is empowered to fully settle the controversy on behalf of the claimant. Two or more claimants may designate a common authorized representative.

Each respondent shall also designate an Independent Person as an authorized representative who is empowered to fully settle the controversy on behalf of the respondent. Two or more respondents may designate a common authorized representative.

Written notice of the designation of the authorized representatives must be delivered to each party within 10 business days from the date the respondents receive notice of the controversy.

Section 14.03 Beginning the Dispute Resolution Procedure

The authorized representatives shall conduct an initial meeting within 30 days from the date the claimant's notice is delivered to the respondents. The authorized representatives are entitled to collect and review all relevant evidence pertaining to the controversy and

to negotiate and resolve the controversy. Resolution of any controversy by the authorized representatives is conclusive and binds all parties.

If the authorized representatives do not resolve the controversy within 30 days from the date of their initial meeting, they shall discontinue direct negotiations and submit the controversy to mediation.

Section 14.04 Selecting a Mediator

Within five days of discontinuing direct negotiations, the authorized representatives shall exchange written lists of persons whom they consider to be qualified to serve as a mediator. Within 15 days after they exchange these lists, the authorized representatives shall agree upon one mediator to mediate the controversy.

If the authorized representatives do not agree on a mediator, the controversy will be submitted to binding arbitration under Section 14.10.

Section 14.05 Time and Place for Mediation Conference

The authorized representatives shall promptly designate a mutually convenient time and place for the mediation. If the authorized representatives fail to do so, the controversy will be submitted to binding arbitration under Section 14.10.

Section 14.06 Discovery and Exchange of Information

The authorized representatives are entitled to fully discover, obtain, and review all information relevant to resolving any controversy.

Section 14.07 Delivery of Written Summaries; Authority to Obtain Professional Assistance

At least seven days before the first mediation conference, each authorized representative shall deliver to the mediator a concise written summary of fact and law about the issues. The authorized representatives and the mediator may retain legal counsel, accountants, appraisers, and other experts whose opinions may assist the mediator in resolving the controversy.

Section 14.08 Conducting Mediation

The mediator determines the format for mediation conferences, ensuring the authorized representatives have an equal opportunity to review the evidence and any relevant technical and legal presentations. The mediator shall determine the time schedule for

resolving the mediation and shall attempt to facilitate the parties' efforts to achieve final resolution of all disputed issues.

If the mediator is unable to facilitate a final resolution of all issues, any unresolved issues will be submitted to arbitration under Section 14.10.

Section 14.09 Final Determinations Bind All Parties

Any final determination made by the authorized representatives, mediator, or arbitrator binds each party who receives notice of a controversy, even if the party does not respond or designate a representative, or if the party's authorized representative fails or refuses to participate in the designation of a mediator.

Section 14.10 Arbitration

If any controversy is not finally resolved according to the alternative dispute resolution procedures in this Article, the parties to the controversy shall submit to mandatory and binding arbitration. The controversy will be settled by arbitration according to the Commercial Arbitration Rules of the American Arbitration Association. The arbitrator's judgment may be entered in any court having competent jurisdiction. If the arbitrator determines that the evidence produced through the arbitration process is insufficient to support a decision, the arbitrator may conclude the arbitration proceedings without a decision.

Section 14.11 Settlement during Mediation or Arbitration

At any time before the conclusion of any mediation or arbitration, the authorized representatives may enter an agreement to resolve the controversy. Any settlement agreement will be conclusive and bind all parties.

Section 14.12 Qualified Appraisals

If a Qualified Appraisal of the value of a Membership Interest is required in order to resolve a dispute, each of the parties to the dispute may choose a Qualified Appraiser to provide a valuation. In the alternative, the parties may agree to select one Qualified Appraiser. The mediator or arbitrator will determine to what extent the Qualified Appraisal will be used in resolving any dispute.

Section 14.13 Right to Seek Equitable Relief

If a party materially breaches this Agreement and if the other parties determine in good faith that immediate relief is necessary, the parties alleging the material breach may seek

temporary restraining orders, preliminary injunctions, or similar temporary and equitable relief in a court of competent jurisdiction.

Section 14.14 Prevailing Party Is Entitled to Recover All Reasonable Costs

The prevailing party in any dispute between any Member or Manager and the Company or between the Members themselves is entitled to recover from the losing party all reasonable costs incurred, including any attorney's fees and any costs of mediation, arbitration, court fees, appraisals, and expert-witnesses.

Article 15
General Matters

Section 15.01 Successors and Assigns

Subject to the restrictions on transfer in this Agreement, this Agreement binds and inures to the benefit of the Members, and to their respective successors, personal representatives, heirs, and assigns.

Section 15.02 Irrevocable Durable Power of Attorney

By signing this Agreement, each Member (including any Substitute Member) irrevocably appoints the Manager as the Member's agent and attorney in fact, with all necessary powers to prepare and deliver any documents required to carry out this Agreement, including:

- the Company's Articles of Organization and any necessary amendments;
- the Company's dissolution if the Company is terminated;
- any amendment to this Agreement to be signed by the Members;
- any documents required by law to conduct Company business; and
- any documents concerning the acquisition, management, sale, or encumbrance of Company property that the Manager determines is necessary to conduct Company business, subject to the consent requirements in this Agreement.

The Members acknowledge that this power of attorney is coupled with an interest and is irrevocable and will continue in effect if any Member becomes incapacitated. This power of attorney also survives the assignment of any Membership Interest and empowers the Manager to act to the same extent for any Substitute Members or Assignees.

Any Manager may exercise the power by a facsimile signature or by listing all of the Members signing the instrument with a signature of the Manager as the attorney in fact for all of them.

The Manager may not exercise this power of attorney in any way that would increase the liability of any Member beyond the Member's liability as set forth in this Agreement.

Section 15.03 No Waiver

Any Member's failure to insist upon strict performance of any provision or obligation of this Agreement, irrespective of the length of time for which the failure continues, is not a waiver of that Member's right to demand strict compliance in the future. An express or implied consent to or waiver of any breach or default in the performance of any obligations under this Agreement is not consent to or waiver of any other breach or default in the performance of the same or any other obligation.

Section 15.04 Definitions

For purposes of this Agreement, the following terms have the following meanings.

(a) Act

Act means the A.R.S. § 29-601 et seq., as amended from time to time.

(b) Additional Member

Additional Member means a Member who is admitted to the Company after this Agreement is signed, but who is not a Substitute Member.

(c) Additional Capital Contribution

See *Capital Contribution.*

(d) Affiliated Person

Affiliated Person means a Member, a member of an individual Member's Immediate Family, a Legal Representative, successor, Assignee, or trust for the benefit of a Member and members of the Immediate Families of the individual Member, and any corporation or other legal entity of which a majority of the voting interest is owned by any one or more Affiliated Persons.

(e) Agreement

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

(f) Articles of Organization

Articles of Organization means the Articles of Organization filed with the Secretary of State of Alaska as required by the Act, or any other similar instrument required to be filed by the laws of any other state in which the Company intends to conduct business.

(g) Assignee

Assignee means the recipient of a Membership Interest by *Assignment*.

(h) Assignment

Assignment means any method—direct or indirect, voluntary or involuntary—by which the legal or beneficial ownership of any interest in the Company is transferred or changed, including:

> any sale, exchange, gift, or any other form of conveyance, assignment, or transfer;
>
> a change in the beneficial interests of any trust or estate that holds any interest in the Company and a distribution from any trust or estate;
>
> a change in the ownership of any Member or Assignee that is a corporation, partnership, limited liability company, or other legal entity, including the dissolution of the entity;
>
> a change in legal or beneficial ownership or other form of transfer resulting from the death or divorce of any Member or Assignee or the death of the spouse of any Member or Assignee;
>
> any transfer or charge under a charging order issued by any court; and
>
> any levy, foreclosure, or similar seizure associated with the exercise of a creditor's rights in connection with a mortgage, pledge, encumbrance, or security interest.

Assignment does not include any mortgage, pledge, or similar voluntary encumbrance or grant of a security interest in any Interest in the Company.

(i) Bankrupt

Bankrupt means filing a petition in voluntary bankruptcy, an assignment taken voluntarily or involuntarily by a Member for the benefit of creditors,

or other action under any federal or state law for the benefit of an insolvent party. *Bankrupt* does not include filing a petition of involuntary bankruptcy against a Member if the petition is dismissed within 45 days from the filing date, nor does it include the issuance of a charging order against a Member's Interest if the charging order is removed within 10 days of being served.

(j) Capital Contribution

Capital Contribution means the total cash and other consideration contributed and agreed to be contributed to the Company by each Member. Each *Initial Capital Contribution* is shown in Exhibit A, attached and incorporated into this Agreement. *Additional Capital Contribution* means the total cash and other consideration contributed to the Company by each Member other than the Initial Capital Contribution. Any reference in this Agreement to the Capital Contribution of a current Member includes any Capital Contribution previously made by any prior Member regarding that Member's Interest. The value of a Member's Capital Contribution is the amount of cash plus the fair market value of other property contributed to the Company.

(k) Cash-Flow Earnings

Cash-Flow Earnings means the net income, including capital gains income, realized by the Company for the Taxable Year, reduced or increased according to the following guidelines.

(1) Net Income Reductions

Net income will be reduced by the actual payment of items that are not deductible by the Company for federal income tax purposes, including nondeductible travel and entertainment expenses, charitable contributions, nondeductible interest payments, the payment of debt principal and interest, the acquisition of depreciable property during the Taxable Year to the extent that the cost is not fully deductible in the year of acquisition, and any other payment that represents an actual decrease in the cash available to the Company.

(2) Net Income Increases

Net income will be increased by the amount expended for intangible expenses for federal income tax purposes. Intangible expenses include depreciation, depletion, and amortization costs reported as deductions for federal income tax purposes, but do not include depreciation reported as an expense that is deductible under Internal Revenue Code Section 179.

(3) Treatment of Gain on Asset Sale

The gain from the sale of a Company asset will be included in determining the Company's net income for distribution purposes to the extent of payments of the gain amount actually received by the Company for the Taxable Year. Deferred payments of gain under an installment sale or other deferred payment arrangement will be considered income in the year a payment is actually received.

The computation of Cash-Flow Earnings does not include income from a partnership, trust, limited liability company, or other organization classified by federal tax law as a pass-through entity to the extent that distributions of income from the pass-through entity are not actually received during the Taxable Year or within 60 days after the close of the Taxable Year. Subsequent distributions to the Company from a pass-through entity that are attributable to income realized and reported for a prior year will increase the Cash-Flow Earnings for distribution purposes.

Cash-Flow Earnings determined for distribution purposes do not include reasonable reserves. Reserves are amounts needed for working capital, debt service, deferred maintenance, and for anticipated capital improvements.

Cash-Flow Earnings take into account the obligation of the Company to the payment obligations of interest to Members who have advanced funds to the Company as loans and the payment of any guaranteed payment obligations of the Company. The distribution of earnings may be deferred for a reasonable time to the extent that the Company does not have available cash to satisfy the distribution amount. The term *available cash*

indicates the actual cash of the Company in checking accounts, money market funds, and 90-day Treasury Bills.

(l) Charity

Charity includes any organization of a type described in Internal Revenue Code Sections 170(c), 2055(a), and 2522(a).

(m) Charitable Trusts

Charitable Trust includes any charitable remainder trust created under Internal Revenue Code Section 664 or any charitable income trust created under Treasury Regulations Section 1.170A-6(c); Treasury Regulations Section 25.2522(c); or Treasury Regulations Section 20.2055-2(e).

(n) Company

Company means Rainforest Farms, LLC, an Alaska Limited Liability Company.

(o) Delivery

Delivery means:

> personal delivery to a party;
>
> mailing by certified United States mail to the last known address of the party to whom delivery is made, with return receipt requested to the party making delivery;
>
> facsimile transmission to a party when receipt is confirmed in writing or by electronic transmission back to the sending party; or
>
> electronic mail transmission to a party when receipt is confirmed in writing or by electronic mail transmission back to the sending party.

The effective date of delivery is the date of personal delivery or the date of the return receipt, if received by the sending party. If no return receipt is provided, then the effective date will be the date the transmission would have normally been received by certified mail if there is evidence of mailing.

(p) Disability

Disability of a Member means that any one of the following has occurred:

the Member has been declared incompetent, incapacitated, or otherwise legally unable to effectively manage his or her property or financial affairs by a court of competent jurisdiction;

Two licensed physicians have certified the Member's incapacity in writing, one of which is the Member's personal physician, after examining the Member;

the Member has disappeared or is absent for unexplained reasons, causing the Member to be unable to manage his or her property or financial affairs effectively; or

the Member is being detained under duress or under law, causing the Member to be unable to manage his or her property or financial affairs effectively.

A Member's disappearance, absence, or detention under duress may be established by an affidavit of any Manager; or, if the individual in question is the only Manager, by the affidavit of any other Member. The affidavit must describe the circumstances of the individual's disappearance, absence, or detention. Any third party dealing in good faith with the Company may rely upon the affidavit.

Upon regaining capacity, a formerly incapacitated Member will have all the rights, power, and authority originally granted to the Member by this Agreement.

(q) Immediate Family

Immediate Family means any Member's spouse (but not a spouse who is legally separated from the person under a decree of divorce or separate maintenance), parents, children, brothers, and sisters.

(r) Including and Includes

In this Agreement, the words *include, include*, and *including* mean *include* without limitation, *includes* without limitation, and *including* without limitation, respectively. *Include, includes,* and *including* are words of illustration and enlargement, not words of limitation or exclusivity.

(s) Independent Person

Independent Person means an individual who is not related to or subordinate to a claimant or respondent of any controversy concerning the

Company, is not a Member of the Company, and has no financial stake in the resolution of the controversy other than fair and reasonable compensation for services provided to resolve the controversy.

(t) Initial Capital Contribution

See *Capital Contribution*.

(u) Internal Revenue Code

References to the *Internal Revenue Code* or to its provisions are to the Internal Revenue Code of 1986, as amended from time to time, and any corresponding Treasury Regulations. References to the *Treasury Regulations* are to the Treasury Regulations under the Internal Revenue Code in effect. If a particular provision of the Internal Revenue Code is renumbered or a subsequent federal tax law supersedes the Internal Revenue Code, any reference is to the renumbered provision or to the corresponding provision of the subsequent law, unless the result would be clearly contrary to the Members' intent as expressed in this Agreement. The same rule applies to Treasury Regulations references.

(v) Legal Representative or Personal Representative

The terms *Legal Representative* and *Personal Representative* mean a person's guardian, conservator, executor, administrator, Trustee, or any other person or entity personally representing a person or the person's estate.

(w) Majority in Interest; 85% in Interest of the Members

Majority in Interest means that 51 % or more votes out of 100% total ownership interest votes that may be cast will determine the matter subject to the vote. Note that this definition is intended to clarify the membership interest percentage is a members voting power, not the number of members – members do not have equal voting power, their voting power is based on their ownership percentage of the Company.

85% in interest of the Members means that at least 85 ownership interest voted out of the total voting interest that may be cast will determine the matter subject to the vote.

(x) Manager

Manager means any individual or legal entity designated in this Agreement as a Manager. A Manager conducts the business of the

Company and is authorized to exercise the powers and duties of Manager detailed in this Agreement.

(y) Market Rate of Interest or Market Rate

The terms *market rate of interest* and *market rate* mean the rate of interest identified as the *prime rate* by the *Wall Street Journal* in its "Money Rates" column; or, if two or more rates are reported as the prime rate, the average of the two or more. If Internal Revenue Code Sections 483 and 1274A apply to this transaction, the minimum rate of interest of the purchase money obligation will be fixed at the rate of interest then required by those Sections.

(z) Member

Member means any person or legal entity designated in this Agreement as a Member or any person or legal entity who becomes a Member under this Agreement.

(aa) Members

The term *Members* means all of the Members of the Company.

(bb) Membership Interest

Membership Interest means the ownership interest, voting rights, and rights of a Member in the Company, including the Member's right to a distributive share of the profits and losses, the distributions, and the property of the Company and the right to consent or approve Company actions. All Membership Interests are subject to the restrictions on transfer imposed by this Agreement. Each Member's Interest is personal property and no Member will acquire any interest in any of the assets of the Company.

Each holder of a Membership Interest will have the right to vote the holder's proportionate interest in the Company regarding all matters that Members have a right to vote on under this Agreement or by law.

> **Example:** A Member with a Membership Interest of 35.5% will have a 35.5% ownership interest in the Company, and will have 35.5 votes out of 100 votes that may be cast on matters that require the consent or affirmative action of the Members.

Membership Interests may be adjusted from time to time under Article Three.

(cc) Person

Person has the same broad meaning as defined in Internal Revenue Code Section 7701(a)(1). The term specifically includes the Company; its successors and assigns; each Member or Assignee, and their successors, assigns, heirs, and personal representatives. The phrase *each other person* identifies any individual, corporation, partnership, limited liability company, trust, or other party whose interest may be affected, adversely or otherwise, by the resolution of any dispute, contest, or claim.

(dd) Property

Property means all Company property and any property—real or personal, tangible or intangible—otherwise acquired by the Company.

(ee) Qualified Appraiser and Qualified Appraisal

A *Qualified Appraiser* means an appraiser who is a Member of the American Society of Appraisers, Business Valuations Division and accredited to perform business appraisals or valuations by this organization; or, alternatively, a certified public accountant accredited in business valuation by the American Institute of Certified Public Accountants. A *Qualified Appraisal* means any appraisal performed by a Qualified Appraiser.

(ff) Securities Act

Securities Act refers to the Securities Act of 1933, as amended.

(gg) Shares

Because the Company has elected to be taxed as a corporation under Internal Revenue Code Subchapter S, Membership Interests will be represented by Shares issued by the Company. *Share* means a unit of ownership of the right to receive allocations of Company tax items and distributions of Company cash or other assets.

(hh) Substitute Member

Substitute Member means any person not previously a Member who acquires a Membership Interest and is admitted as a Substitute Member according to the terms of Section 12.05 of this Agreement.

(ii) Taxable Year

Taxable Year means the calendar year or any other accounting period selected by the Manager. Taxable Year is synonymous with fiscal year for all purposes of this Agreement.

Section 15.05 Changing the Company's Situs

The Company's situs may be changed only by the unanimous written consent of all of the Members and the Manager.

Section 15.06 No Duty to Mail Articles of Organization

The Manager does not have an obligation to deliver or mail copies of the Articles of Organization or any amendments to the Members unless required to do so by the Act.

Section 15.07 General Matters

The following general provisions and rules of construction apply to this Agreement:

(a) Multiple Originals; Validity of Copies

This Agreement may be signed in any number of counterparts, each of which will be deemed an original.

Any person may rely on a copy of this Agreement that the Manager certifies to be a true copy to the same effect as if it were an original.

(b) Singular and Plural; Gender

Unless the context requires otherwise, words denoting the singular may be construed as plural and words of the plural may be construed as denoting the singular. Words of one gender may be construed as denoting another gender as is appropriate within the context. The word *or,* when used in a list of more than two items, may function as both a conjunction and a disjunction as the context requires or permits.

(c) Headings of Articles, Sections, and Subsections

The headings of Articles, Sections, and Subsections used within this Agreement are included solely for the reader's convenience and reference. They have no significance in the interpretation or construction of this Agreement.

(d) Governing Law

This Agreement is governed, construed, and administered according to the laws of Alaska, as from time to time amended, except as to trust property required by law to be governed by the laws of another jurisdiction, and unless the situs of administration is changed under Section 15.05.

(e) Notices

Unless otherwise stated, whenever this Agreement calls for notice, the notice must be in writing and must be personally delivered with proof of delivery, or mailed postage prepaid by certified mail, return receipt requested, to the last known address of the party requiring notice. Notice is effective on the date personally delivered or on the date of the return receipt. If a party giving notice does not receive the return receipt but has proof that he or she mailed the notice, notice will be effective on the date it would normally have been received by certified mail. If notice is required to be given to a minor or incapacitated individual, notice must be given to the minor or incapacitated individual's parent or Legal Representative.

(f) Severability

The invalidity or unenforceability of any provision of this Agreement does not affect the validity or enforceability of any other provision of this Agreement. If a court of competent jurisdiction determines that any provision is invalid, the remaining provisions of this Agreement are to be construed as if the invalid provision had never been included in this Agreement.

(g) Acceptance

Each Manager and Member has reviewed this Agreement, accepts all its provisions, and agrees to be bound by all the terms, conditions, and restrictions contained in this Agreement.

IN WITNESS WHEREOF, the Managers and Members have executed the Operating Agreement as of the Effective Date.

MANAGERS:

By:

Name: James Barrett

Its: Manager

By:

Name: Giono Barrett

Its: Manager

MEMBERS:

By:

Name: James Barrett

Its: Member

By:

Name: Giono Barrett

Its: Member

Name: Michael Healy

Its: Member

EXHIBIT A

Description of Members, Membership Interest and Capital Contributions & Sweat Equity Contribution & Chart Reflecting Current Member and Manager Mailing Address

Name	Membership Interest	Capital Contribution & Sweat Equity
James Barrett	47.5%	
Giono Barrett	47.5%	
Michael Healy	5%	Described in "Exhibit B"

Member & Manager Contact and Mailing Information for Notices – however all members have a rainforest email account and use of that account is sufficient for sending notices and obtain votes – the contact info contained in this chart is only for having additional contact info:

Name	Contact Number & Email	Address
James Barrett Manager & Member	(907) 957-4751 rainforestjames@gmail.com	327 Distin Ave. Juneau, Alaska 99801
Giono Barrett Manager & Member	(907)209-5310 rainforestgiono@gmail.com	327 Distin Ave. Juneau, Alaska 99801
Michael Healy Member	michealrhealy@gmail.com	PO Box 946 Skagway, Alaska 99840

Agreed and consented to by Rainforest Farm, LLC owners:

James Barrett

Mike Healy

Giono Barrett