



**RESOURCE+LAND**  
CONSULTANTS

## **APPENDIX A:** SPA Application Form

**Shore Protection Act Permit Application**  
**O.C.G.A. 12-5-230**

Date: February 11, 2025

**Mailing Address:**

21st Street Partners, LLC  
c/o Jeff Meskin  
108 E 21st St.  
Sea Island, Georgia 31561

**Project Location:**

108 East 21st Street  
Sea Island Georgia 31561

Telephone: 901-484-6863

Fax: \_\_\_\_\_

Name, address, and title of authorized agent for application coordination (if desired):

Resource & Land Consultants, LLC  
Attn: Daniel H. Bucey  
41 Park of Commerce Way  
Suite 101, Savannah GA 31405

Telephone: 912-480-4403 ext. 1006  
Fax: 912-443-5898

Name and addresses of adjoining property owners (attach additional sheets as needed):

Uppercase Properties LLC  
700 Colorado Boulevard, Suite 121  
Denver, CO 80206

Coastal Georgia LLC  
16 The Little Boltons London  
United Kingdom

Describe the proposed activity (attach additional sheets as needed): Install native landscaping.

Statement: I have made inquiry to the appropriate authorities that the proposed project is not over a landfill or hazardous waste site and that the site is otherwise suitable for the proposed project.

Signature of Applicant (not agent):  Date: 2/12/25



**RESOURCE+LAND**  
CONSULTANTS

## **APPENDIX B:** Warranty Deed and Operating Agreement

D: DEED B: 4887 P: 483

09/29/2023 12:21 PM

0632023009283 Pages: 2 Recording Fee: \$25.00

Transfer Tax: \$11500.00

Ronald M. Adams

Clerk of Superior Court, Glynn County, GA

After Recording Return to:

Bishop Law Firm  
465 Sea Island Road  
St. Simons Island, Georgia 31522  
BLF File # 2023-454

STATE OF GEORGIA  
COUNTY OF GLYNN

Parcel No. 05-01359

**LIMITED WARRANTY DEED**

A CONVEYANCE, made effective as of the 26<sup>th</sup> day of September, 2023 from  
**Cottage 83, LLC**, a Georgia limited liability company, as the First Party, to **21st Street Partners,  
LLC**, a Georgia limited liability company, as the Second Party.

W I T N E S S E T H:

FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00), cash to it in hand  
paid by the Second Party, at or before the sealing and delivery of these presents, the receipt of  
which is confessed, and of other good and valuable consideration, the First Party hereby grants  
and conveys unto the Second Party, its successors and assigns, the following described real  
property, to-wit:

All of that lot, tract or parcel of land situate, lying and being in Glynn County,  
Georgia, as described on that certain plat of survey prepared by Shupe Surveying  
Company, P.C., certified by Robert N. Shupe, Georgia Registered Land Surveyor No.  
2224, entitled: "ALTA/ACSM Land Title Survey of: Tracts A, B, C, Lots 545, 546,  
547 & a portion of Ribault Lance, Block '53', Sea Island Subdivision No. 1 (G.M.D.  
25, Sea Island, Glynn County, Georgia)", dated October 23, 2014, recorded in the  
Office of the Clerk of the Superior Court of Glynn County, Georgia, in Plat Book 32,  
Pages 479 and 480, as ALL OF TRACT A, BLOCK 53, SEA ISLAND SUBDIVISION  
NO. 1.

Reference is hereby made to said plat and to the record thereof for further purposes  
of description and identification of said property and for all other purposes.

Together with those rights or easements benefiting said property described in the  
Restrictive Covenant Agreement Affecting Real Property Owned by Sea Island

Company made by Sea Island Company dated August 17, 2009, recorded in the Office of the Clerk of Superior Court of Glynn County, Georgia in Deed Book 2624, Page 8.

Parcel No.: 05-01359

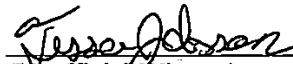
Property Address: 108 E. Twenty First Street, Sea Island, Georgia 31561

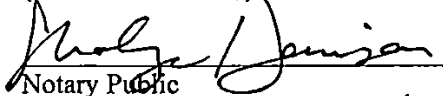
**TO HAVE AND TO HOLD** the real property above described and hereby conveyed, together with the improvements thereon, if any, and all and singular the rights, members and appurtenances thereunto belonging or in any manner appertaining, unto the Second Party, its successors and assigns, forever in fee simple.

**AND THE FIRST PARTY HEREBY WARRANTS** and will forever defend unto the Second Party, its successors and assigns, the right and title hereby conveyed in and to the real property above described as against the lawful claims and demands against the claims of any persons owning, holding or claiming by, through or under First Party.

**IN WITNESS WHEREOF**, First Party has hereunto set its hand and affixed its seal as of the day and year first above written.

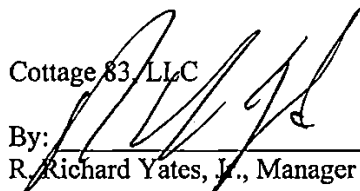
Signed, sealed and delivered  
in the presence of:

  
(Unofficial Witness)

  
Notary Public

My commission expires: 10/24/25  
[NOTARY SEAL]

Cottage 83, LLC

By:   
R. Richard Yates, Jr., Manager



**OPERATING AGREEMENT OF  
21<sup>st</sup> Street Partners, LLC**

Any securities created by this operating agreement have not been registered under the Georgia Securities Act of 1973, as amended, in reliance upon the exemption from registration set forth in Section 10-5-9(13) of such Act. In addition, any securities created by this operating agreement, if any, have not been registered with the United States Securities and Exchange Commission in reliance upon an exemption from such registration set forth in the Securities Act of 1933 provided by Section 4(2) thereof, nor have they been registered under the securities or Blue Sky laws of any other jurisdiction. The interests created hereby have been acquired for investment purposes only and may not be offered for sale, pledged, hypothecated, sold or transferred except in compliance with the terms and conditions of this operating agreement and in a transaction which is either exempt from registration under such Acts or pursuant to an effective registration statement under such Acts.

THIS OPERATING AGREEMENT is made and entered into effective the 11<sup>th</sup> day of September, 2023, by the parties who have executed this Operating Agreement as indicated on the signature pages attached.

**ARTICLE 1. DEFINITIONS**

**1.1. Definitions.** The following terms used in this Operating Agreement shall have the following meanings (unless otherwise expressly provided herein);

**“Adjusted Capital Account Balance”** shall mean with respect to any Member, the balance in such Member’s Capital Account as of the end of the relevant Fiscal Year, after giving effect to the following adjustments:

(i) credit to such Capital Account any amounts which such Member is obligated to restore, because of a promissory note to the Company or otherwise pursuant to Regulation Section 1.704-1(b)(2)(ii)(c), or is deemed to be obligated to restore pursuant to the penultimate sentence in each of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

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

This definition of Adjusted Capital Account Balances is intended to comply with the “alternative economic effect” test of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistent with such Regulations.

**"Affiliate."** With respect to any Person, (i) in the case of an individual, any relative of such Person, (ii) any officer, director, trustee, partner, member, manager, employee or holder of ten percent (10%) or more of any class of the voting securities of or equity interest in such Person; (iii) any corporation, partnership, limited liability company, trust or other entity controlling, controlled by or under common control with such Person; or (iv) any officer, director, trustee, partner, member, manager, employee or holder of ten percent (10%) or more of the outstanding voting securities of any

corporation, partnership, limited liability company, trust or other entity controlling, controlled by or under common control with such Person.

**"Approved by the Members"** or **"Approval of the Members"** shall mean approval by the Members holding at least 51% of the Voting Interests.

**"Articles of Organization."** The Articles of Organization of 21<sup>st</sup> Street Partners, LLC, as filed with the Secretary of State of Georgia, as the same may be amended from time to time.

**"Capital Account."** shall have the meaning set forth in Section 8.4.

**"Capital Contribution."** when used with respect to any Member shall mean the aggregate amount of capital contributed to the Company by or on behalf of such Member (the amount of money and the Gross Asset Value of any property net of any liabilities assumed by the Company or subject to the contributed property under Code Section 752 and the Regulations thereunder).

**"Code."** The Internal Revenue Code of 1986, as amended from time to time.

**"Company."** 21<sup>st</sup> Street Partners, LLC, a Georgia limited liability company.

**"Depreciation"** shall mean, for each Fiscal year or other period, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable with respect to an asset for such year or other period, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, except as required by Regulation Section 1.704-3(d), Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; provided, however, that if the federal income tax depreciation, amortization, or other cost recovery deduction for such year is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method Approved by the Members.

**"Distributable Cash."** All cash received by the Company from Company operations, plus any cash that becomes available from Reserves, less the sum of the following to the extent paid or set aside by the Company: (i) all principal and interest payments on indebtedness of the Company and all other sums paid to lenders; (ii) all cash expenditures incurred in the operation of the Company's business; and (iii) Reserves.

**"Economic Interest."** An Interest Holder's share of one or more of the Company's Net Profits, Net Losses and rights to distributions of the Company's assets pursuant to this Operating Agreement and the Georgia Act. A Member and an Economic Interest Owner are both an Interest Holder and both have an Economic Interest in the Company.

**"Economic Interest Owner."** The owner of an Economic Interest who is not a Member; each Person who executes this Operating Agreement or a counterpart thereof as an Economic Interest Owner and each of the Persons who may hereafter become Economic Interest Owner as provided in this Operating Agreement and as reflected on Exhibit "B" attached hereto and made a part hereof.

The liability of an Economic Interest Owner shall be limited to the capital contribution made by the Economic Interest Owner.

**"Entity."** Any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or association or any foreign trust or foreign business organization.

**"Event of Dissolution."** An event defined in Section 14.1

**"Fiscal Year."** The Company's fiscal year, which shall be the calendar year.

**"Georgia Act."** The Georgia Limited Liability Company Act at O.C.G.A. §14-11-100, et seq.

**"Gross Asset Value"** shall mean with respect to any asset, the adjusted basis of such asset for federal income tax purposes, except as follows:

(i) The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset, as Approved by the Members;

(ii) The Gross Asset Values of all Company assets shall be adjusted to equal their respective gross fair market values, as Approved by the Members, at each of the following times: (a) the acquisition of an additional interest in the Company by any new or existing Member for more than a *de minimis* contribution; (b) the distribution by the Company to a Member of more than a *de minimis* amount of Company property as consideration for an interest in the Company; (c) the grant of an interest in the Company (other than a *de minimis* interest) as consideration for the provision of services to or for the benefit of the Company by any new or existing Member; and (d) the liquidation of the Company within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Regulations; provided, however, that the adjustments pursuant to clauses (a), (b) and (c) above shall be made only if Members owning a Majority Interest reasonably determine that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company.

(iii) The Gross Asset Value of any Company asset distributed to any Member shall be the gross fair market value of such asset on the date of distribution as Approved by the Members;

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



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

**"Initial Capital Contribution."** The initial contribution to the capital of the Company made by a Member pursuant to this Operating Agreement.

**"Interest."** Any interest in the Company, either a Membership Interest or an Economic Interest.

**"Interest Holder."** The holder or owner of any Interest in the Company, either a Membership Interest or an Economic Interest.

**"Majority Interest."** Ownership Percentages of Members which, taken together, constitute a majority of all Ownership Percentages.

**"Majority Vote."** Vote or written consent of Persons holding a majority of the Membership Interests held by all such Members entitled to vote on or consent to the issue in question and all voting shall be determined by Majority Vote unless otherwise stated in this agreement.

**"Manager."** One or more Managers designated pursuant to this Operating Agreement. Specifically, Manager shall mean Jeffrey B. Meskin, or any other Person(s) that succeed such Person(s) in the capacity as Manager pursuant to this Agreement. A Manager need not be a Member of the Company.

**"Member."** Each Person who executes this Operating Agreement or a counterpart thereof as a Member and each of the Persons who may hereafter become Members as provided in this Operating Agreement and as reflected on Exhibit "A" attached hereto and made a part hereof. If a Person is a Member immediately prior to the purchase or other acquisition by such Person of an Economic Interest, such Person shall have all the rights of a Member with respect to such purchased or otherwise acquired Interest.

**"Membership Interest."** A Member's entire Interest in the Company including such Member's Economic Interest and the right to participate in the management of the business and affairs of the Company, including the right to vote on, consent to, or otherwise participate in any decision or action of or by the Members granted pursuant to this Operating Agreement or the Georgia Act.

**"Net Profit" or "Net Loss"** shall mean for each Fiscal Year the Company's taxable income or taxable loss for such Fiscal Year, as determined under Section 703(a) of the Code, (including all items required to be separately stated under Section 703(a)(1) of the Code) and Regulation Section 1.703-1, but with the following adjustments:

(i) Any tax exempt income, as described in Section 705(a)(1)(B) of the Code, realized by the Company during such Fiscal Year shall be added to such taxable income or taxable loss;

(ii) Any expenditures of the Company described in Section 705(a)(2)(B) of the Code for such Fiscal Year or treated as being so described in Regulation Section 1.704-1(b)(2)(iv)(i) and not otherwise taken into account in this subsection shall be subtracted from such taxable income or taxable loss;

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

(iv) Any item of income, gain, loss or deduction that is required to be specially allocated to a Member under this Agreement, including without limitation, Sections 10.5, 10.6, 10.7(b) or 10.8 hereof, shall not be taken into account in computing such taxable income or taxable loss;

(v) The amount of any gain or loss required to be recognized by the Company during such Fiscal Year by reason of a sale or other disposition of Company property, or any part thereof, shall be computed as if the Company's adjusted basis in such property for income tax purposes were equal to the adjusted Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its then Gross Asset Value; and

(vi) In lieu of depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Fiscal Year or other period.

If the Company's taxable income or taxable loss for such Fiscal Year, as adjusted in the manner provided above in clauses (i) through (vi) above, is a positive amount, such amount shall be the Company's Net Profit for such Fiscal Year, and if it is a negative amount, such amount shall be the Company's Net Loss for such Fiscal Year.

**"Officer."** One or more individuals appointed by the Members to whom the Members delegate specified responsibilities. The Members may, but shall not be required to, create such offices as they deem appropriate, including, but not limited to, President, Executive Vice President, Senior Vice Presidents, Vice Presidents, Secretary and Treasurer. The Officers shall have such duties as are assigned to them by the Members from time to time. All Officers shall serve at the pleasure of the Members may remove any Officer from office without cause and any Officer may resign at any time.

**"Operating Agreement."** This Operating Agreement as originally executed and as amended from time to time.

**"Ownership Percentage."** For each Member and Economic Interest Owner, the percentage determined at any given time by dividing the aggregate Capital Contributions made by such Interest Holder as of such time by the aggregate Capital Contributions made by all Members and Economic Interest Owners as of such time. The initial Ownership Percentages of the Members and Economic Interest Owners are as follows:

<u>Members Name</u>	<u>Units Held</u>	<u>Membership Percentage</u>	<u>Ownership Percentage</u>
The Laurie P. Meskin 2021 Family Legacy Trust	5.00%	5,000.00	5.00%
Laurie P. Meskin 2013 Family Trust	13.00%	13,000.00	13.00%
Jeffrey B. Meskin 2012 Family Trust	17.00%	17,000.00	17.00%
The Jeffrey B. Meskin 2021 Family Legacy Trust	25.00%	25,000.00	25.00%
Jeffrey B Meskin	20.00%	20,000.00	20.00%
Laurie P. Meskin	20.00%	20,000.00	20.00%

<u>Economic Interest Owners Name</u>	<u>Units Held</u>	<u>Interest Percentage</u>	<u>Ownership Percentage</u>
The Laurie P. Meskin 2021 Family Legacy Trust	5.00%	5,000.00	5.00%
Laurie P. Meskin 2013 Family Trust	13.00%	13,000.00	13.00%
Jeffrey B. Meskin 2012 Family Trust	17.00%	17,000.00	17.00%
The Jeffrey B. Meskin 2021 Family Legacy Trust	25.00%	25,000.00	25.00%
Jeffrey B Meskin	20.00%	20,000.00	20.00%
Laurie P. Meskin	20.00%	20,000.00	20.00%

For purposes of the provisions hereof relating to actions taken or approval by Members, including voting, written consents or other approval, only Ownership Percentages held by Members shall be taken into account.

**"Person."** Any individual or Entity, and the heirs, executors, administrators, legal representatives, successors, and assigns of such "Person" where the context so permits.

**"Reserves."** Funds set aside and amounts allocated to reserves in amounts determined by the Manager for working capital and to pay taxes, insurance, debt service or other costs or expenses incident to the ownership or operation of the Company's business.

**"Treasury Regulations" or "Regulations."** The federal income tax regulations, including temporary regulations, promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

**"Voting Interests."** An Interest in the Company which has the right to vote on matters requiring the vote of Members; currently Membership Interests are the only Voting Interests in the Company.

**1.2 Terms; Generally.** For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms defined in this Article (or elsewhere herein) include both the plural and the singular;

(b) the words "herein" "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision; and

(c) the words "including" and "include" and other words of similar import shall be deemed to be followed by the phrase "without limitation."

**1.3 Other Definitions.** In addition to the terms defined in Section 1.1, other terms will have the definitions provided elsewhere in this Agreement.

## **ARTICLE II. FORMATION OF COMPANY**

**2.1 Formation.** On September 11, 2023, the Company was formed as a Georgia limited liability company by the filing of the Articles of Organization with the Secretary of State of Georgia in accordance with the provisions of the Georgia Act.

**2.2 Name.** The name of the Company is **21<sup>st</sup> Street Partners, LLC**.

**2.3 Principal Place of Business.** The principal place of business of the Company within the State of Georgia is 465 Sea Island Road, St. Simons Island, Georgia 31522. The Company may locate its places of business and registered office at any other place or places as the Members may from time to time deem advisable.

**2.4 Registered Office and Registered Agent.** The Company's registered office is 465 Sea Island Road, St. Simons Island, Georgia 31522. The registered agent is James A. Bishop, Jr. The registered

office and registered agent may be changed from time to time pursuant to the Georgia Act and the applicable rules promulgated thereunder.

**2.5 Term.** The term of the Company commenced on the date the Articles of Organization were filed with the Secretary of State of Georgia and shall continue until the Company is dissolved and its affairs wound up in accordance with the provisions of this Operating Agreement.

**2.6 Representations and Warranties.** Each Member hereby represents and warrants that:

(a) his or her execution and delivery of this Agreement and the performance of his or her obligations hereunder will not conflict with, result in a breach of or constitute a default (or any event that, with notice or lapse of time, or both, would constitute a default) or result in the acceleration of any obligation under any of the terms, conditions or provisions of any material agreement or instrument to which it is a party or by which it is bound or to which any of his or her property or assets are subject, or violate any statute or any order, rule or regulation of any Court or governmental or regulatory agency, body or official, that would materially and adversely affect the performance of his or her duties hereunder; such Member has obtained any consent, approval, authorization or order of any court or governmental agency or body required for the execution, delivery and performance by such Member of his or her obligations hereunder;

(b) there is no action, suit or proceeding pending against such Member or, to his or her knowledge, threatened in any court or by or before any other governmental agency or instrumentality that could adversely affect or would prohibit his or her entering into or performing his or her obligations under this Agreement;

(c) he or she has taken all necessary corporate, partnership, limited liability company or other action necessary for it to enter into and perform this Agreement, and this Agreement is a legal, valid and binding agreement on the part of such Member enforceable in accordance with his or her terms against such Member, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar law of general application relating to or affecting the enforcement of creditors' rights and by general equitable principles;

(d) he or she is acquiring his or her Interest for his or her own account for investment purposes only and not with a view to the distribution or resale thereof in connection with any distribution or public offering thereof within the meaning of the Securities Act of 1933, or other applicable securities laws or rules, in whole or in part, and agrees that it will not Transfer all or any part of his or her Interest, or solicit offers to buy from or otherwise approach or negotiate in respect thereof with any Person or Persons whomsoever, all or any portion of his or her Interest in any manner that would violate or cause the Company or any Interest Holder to violate applicable federal or state securities laws; and

(e) he or she is a sophisticated and knowledgeable investor with experience in making investments such as the one it is making in the Company, he or she has been provided with, or has had access to, such information as he or she deems necessary to evaluation of the merits, risks and tax consequences of an investment in the Company and of making an informed investment decision.

### **ARTICLE III. BUSINESS OF COMPANY**

The business of the Company shall be to engage in any lawful activity. Specifically, the Company exists to invest in real estate. In furtherance thereof, the Company may exercise all powers necessary to or reasonably connected with the Company's business which may be legally exercised by limited liability companies under the Georgia Act, and may engage in all activities necessary, customary, convenient, or incident to any of the foregoing.

### **ARTICLE IV. NAMES AND ADDRESSES OF MEMBERS, ECONOMIC INTEREST OWNERS**

The names and addresses of the Members are set out on Exhibit "A" attached hereto and incorporated herein. The names and addresses of the Economic Interest Owners are set out on Exhibit "B" attached hereto and incorporated herein.

### **ARTICLE V. RIGHTS AND DUTIES OF THE MANAGER**

**5.1 Management.** The business and affairs of the Company shall be managed by its Manager. The Manager shall have full and complete authority, power and discretion to manage and control the business, affairs and properties of the Company, to make all decisions regarding those matters and to perform any and all other acts or activities customary or incident to the management of the Company's business. Except as otherwise provided, herein, at any time when there is more than one Manager, all decisions and actions of the Manager shall be approved by a majority of the managers if there are more than two Managers and the unanimous consent of the Managers if there are two Managers. The election of the Manager shall be by a majority vote of the Members and all reports provided by the Manager shall be to the Members only, as Economic Interest Owners have no right or opportunity to elect, question, or interface with the Manager. The Manager is not required to be a Member of the Company.

**5.2 Number, Tenure and Qualifications.** The Company has one Manager as of the date of this Agreement. Jeffrey B. Meskin shall serve as the initial Manager. Any successor Manager shall be approved by a Majority Vote of the Members. The Manager need not be a resident of the State of Georgia and need not be a Member of the Company.

**5.3 Certain Powers of the Manager.** Without limiting the generality of Section 5.1, the Manager shall have power and authority, on behalf of the Company:

(a) To acquire property from any Person as the Manager may determine. The fact that a Manager or a Member is directly or indirectly affiliated or connected with any such Person shall not prohibit the Managers from dealing with that Person;

- (b) To borrow money for the Company from banks, other lending institutions, Managers, Members, or Affiliates of the Managers or Members on such terms as the Manager deem appropriate, and in connection therewith, to hypothecate, encumber and grant security interests in the assets of the Company to secure repayment of the borrowed sums. No debt shall be contracted or liability incurred by or on behalf of the Company except by the Manager, or by agents or employees of the Company expressly authorized to contract such debt or incur such liability by the Manager;
- (c) To purchase liability, property, flood, and other insurance to protect the Company's property and business;
- (d) To hold and own any Company real and/or personal properties in the name of the Company;
- (e) To invest any Company funds temporarily (by way of example but not limitation) in time deposits, short-term governmental obligations, commercial paper, limited partnerships, securities, or other investments;
- (f) Subject to Section 6.4, to sell or otherwise dispose of all or substantially all of the assets of the Company as part of a single transaction or plan so long as such disposition is not in violation of or a cause of a default under any other agreement to which the Company may be bound;
- (g) To execute on behalf of the Company all instruments and documents, including, without limitation: checks; drafts; notes and other negotiable instruments; mortgages or deeds of trust; security agreements; financing statements; documents providing for the acquisition, mortgage or disposition of the Company's property; assignments; bills of sale; leases; partnership agreements, limited partnership agreements, operating agreements of other limited liability companies; and any other instruments or documents necessary, in the opinion of the Managers, to the business of the Company;
- (h) To employ accountants, legal counsel, contractors, architects, engineers, managing agents or other experts to perform services for the Company and to compensate them from Company funds;
- (i) To enter into any and all other agreements on behalf of the Company, with any other Person for any purpose, in such forms as the Managers may approve;
- (j) To create offices and designate Officers, who need not be Members; and
- (k) To do and perform all other acts as may be necessary or appropriate to the conduct of the Company's business.

Unless authorized to do so by the Manager of the Company, no attorney-in-fact, employee or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable pecuniarily for any purpose. No Member shall have any power or authority to bind the Company unless the Member has been authorized by the Manager to act as an agent of the Company in accordance with the previous sentence.

**5.4 Liability for Certain Acts.** No Manager has guaranteed or shall have any obligation with respect to the return of a Member's Capital Contributions or profits from the operation of the

Company. Notwithstanding Section 14-11-305(1) of the Georgia Act, no Manager shall be liable to the Company or to any Member for any loss or damage sustained by the Company or any Member except loss or damage resulting from intentional misconduct or knowing violation of law or a transaction for which such Manager received a personal benefit in violation or breach of the provisions of this Operating Agreement. Each Manager shall be entitled to rely on information, opinions, reports or statements, including but not limited to financial statements or other financial data prepared or presented by: (i) any one or more Members, Manager, officers or employees of the Company whom the Manager reasonably believes to be reliable and competent in the matter presented, (ii) legal counsel, public accountants, or other persons as to matters the Manager reasonably believes are within the person's professional or expert competence, or (iii) a committee of Manager of which he or she is not a member if the Manager reasonably believes the committee merits confidence.

**5.5 Manager Has No Exclusive Duty to Company.** A Manager shall not be required to manage the Company as the Manager's sole and exclusive function and any Manager may have other business interests and may engage in other activities in addition to those relating to the Company. Neither the Company nor any Member shall have any right, by virtue of this Operating Agreement, to share or participate in such other investments or activities of the Manager or to the income or proceeds derived therefrom. The Manager shall incur no liability to the Company or to any of the Members as a result of engaging in any other business or ventures.

**5.6 Bank Accounts.** The Manager may from time to time open bank accounts in the name of the Company, and designated Manager(s) shall be the sole signatories thereon as determined by majority vote of the Members, unless the Manager determines otherwise.

**5.7 Indemnity of the Manager, Members, Employees and Other Agents.** To the fullest extent permitted by Section 14-11-306 of the Georgia Act, the Company shall indemnify each Manager and Member and make advances for expenses to each Manager and Member arising from any loss, cost, expense, damage, claim or demand, in connection with the Company, the Manager's or Member's status as a Manager or Member of the Company, the Manager's or Member's participation in the management, business and affairs of the Company or such Manager's or Member's activities on behalf of the Company. To the fullest extent permitted by Section 14-11-306 of the Georgia Act, the Company shall also indemnify its Officers, employees and other agents who are not Manager or Members arising from any loss, cost, expense, damage, claim or demand in connection with the Company, any such Person's participation in the business and affairs of the Company or such Person's activities on behalf of the Company.

**5.8 Resignation.** Any Manager of the Company may resign at any time by giving written notice to the Members of the Company. The resignation of any Manager shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The resignation of a Manager as a Manager shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of the Manager as a Member or an Event of Dissolution as to the Manager.

**5.9 Removal.** At a meeting called expressly for that purpose, all or any lesser number of Managers may be removed at any time, with or without cause, by a unanimous vote of the Members. The



removal of a Manager as a Manager shall not affect the Manager's rights as a Member and shall not constitute a withdrawal by such Manager as a Member or an Event of Dissolution as to such Manager.

**5.10 Vacancies.** Any vacancy occurring for any reason in the number of Managers of the Company may be filled by the affirmative vote of a majority of the Members. Such vacancy may occur by the resignation, removal or inability to serve by the Manager and the election by the Members of a successor Manager shall occur as soon as is reasonably practical after the vacancy occurred.

**5.11 Salaries.** The salaries and other compensation of the Manager shall be fixed from time to time as Approved by the Members, and no Manager shall be prevented from receiving such salary by reason of the fact that the Manager is also a Member of the Company.

## **ARTICLE VI. RIGHTS AND OBLIGATIONS OF MEMBERS AND ECONOMIC INTEREST OWNERS**

**6.1 Limitation on Liability.** Each Member's liability shall be limited as set forth in the Georgia Act.

**6.2 No Liability for Company Obligations.** No Member will have any personal liability for any debts or losses of the Company other than as required by any lending institution. Members may choose to personally guarantee an obligation of the Company. Under no circumstance shall an Economic Interest Owner have any liability for an obligation of the Company.

**6.3 List of Members.** Upon written request of any Member, the Company shall provide a list showing the names, addresses and Membership Interest and Economic Interest of all Members and the other information required by the Georgia Act and maintained pursuant to Section 11.2.

**6.4 Approvals of Members.** The Members shall have the right, by the Majority Vote of the Members, (i) to approve the sale, exchange or other disposition of all, or substantially all, of the Company's assets which is to occur as part of a single transaction or plan within the meaning of Section 14-11-308(b)(3) of the Georgia Act, or (ii) the merger of the Company within the meaning of Section 14-11-308(b)(2) of the Georgia Act. Except as otherwise provided in this Operating Agreement, the other actions identified in Section 14-11-308(b) of the Georgia Act may be taken by the Manager without any further consent or approval of the Members.

**6.5 Voting Rights.** The voting rights of the Company shall vest in Members, and Members only. Members shall exercise the right to vote on matters of the Company, which are subject to the vote of the Members at meetings of the Members, as described in Article VII hereof, specifically including the election of a Manager and those items of Company business and governance not delegated to the Manager in Article V above.

**6.6 Rights, Roles of Economic Interest Owner.** An Economic Interest Owner shall:

(a) Be entitled to share in the profits and losses and to receive the distributions to which the transferor was entitled, to the extent assigned.

(b) Shall not participate in the management and affairs of the Company or to become or exercise any rights of a Member unless admitted as a Member.

(c) Shall not be entitled to vote on any question regarding the Company.

## **ARTICLE VII. MEETINGS OF MEMBERS**

**7.1 Meetings.** Meetings of the Members, for any purpose or purposes, may only be called by the Manager or a Member or Members holding at least 25% of the Membership Interests then outstanding.

**7.2 Place of Meetings.** The Persons calling any meeting may designate any place, within, the State of Georgia, as the place of meeting for any meeting of the Members. If no designation is made the place of meeting shall be the principal executive office of the Company in the State of Georgia.

**7.3 Notice of Meetings.** Written notice stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called shall be delivered not less than five (5) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the Manager or Person calling the meeting, to each Member entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered two calendar days after being deposited in the United States mail, addressed to the Member at his or her address as it appears on the books of the Company, with postage thereon prepaid. Notice provided in accordance with this Section shall be effective notwithstanding anything in Section 14-11-311 of the Georgia Act to the contrary.

**7.4 Meeting of all Members.** If all of the Members shall meet at any time and place, and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice, and at such meeting any lawful action may be taken.

**7.5 Record Date.** For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or Members entitled to receive payment of any distribution, or in order to make a determination of Members for any other purpose, the date on which notice of the meeting is mailed or the date on which such distribution is made, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section, such determination shall apply to any adjournment thereof.

**7.6 Quorum.** Members holding a Majority Interest represented in person or by proxy, shall constitute a quorum at any meeting of Members. In the absence of a quorum at any such meeting, a majority of the Membership Interests so represented may adjourn the meeting from time to time for a period not to exceed sixty (60) days without further notice. However, if at the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each Member of record entitled to vote at the meeting. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal during such meeting of that number of Membership Interests whose absence would cause less than a quorum to be present. Because

Economic Interest Owners have no vote and no role in the meetings of the Company, the number of outstanding Economic Interests shall not be considered in determining a quorum of the Company.

**7.7 Manner of Acting.** Except as hereinafter provided, the affirmative vote of Members holding a Majority Interest shall be the act of the Members.

**7.8 Proxies.** A Member may vote in person or by proxy executed in writing by the Member or by a duly authorized attorney-in-fact. Such written proxy shall be delivered to the Company with a copy to the Manager(s).

**7.9 Action by Members Without a Meeting.** Action required or permitted to be taken by the Members at a meeting may be taken without a meeting if the action is evidenced by one or more written consents describing the action taken, signed by a majority of the Members entitled to vote. Action taken under this Section is effective when the Members required to approve such action have signed the consent, unless the consent specifies a different effective date. The record date for determining Members entitled to take action without a meeting shall be the date the first Member signs a written consent.

**7.10 Waiver of Notice.** In lieu of any procedures contained in Section 14-11-312 of the Georgia Act, when any notice is required to be given to any Member, a waiver thereof in writing signed by the person entitled to such notice, whether before, at, or after the time stated therein, shall be equivalent to the giving of such notice.

**7.11 Meeting by Telephone.** In lieu of any procedures contained in Section 14-11-310(b)(3) of the Georgia Act, Members may also meet by conference telephone call if all Members can hear one another on such call and the requisite notice is given or waived.

## **ARTICLE VIII. CONTRIBUTIONS TO THE COMPANY AND CAPITAL ACCOUNTS**

**8.1 Interest Holders' Capital Contributions.** The Capital Contribution of each of the Interest Holders shall be maintained in the records of the Company as both Members and Economic Interest Holders make capital contributions to the Company.

**8.2 Additional Contributions.** Except as set forth in Section 8.1, no Interest Holder shall be required to make any additional Capital Contributions. To the extent approved by the Members, from time to time, one or more Interest Holders may be permitted to make additional Capital Contributions if and to the extent such Interest Holders so desire, and if the Manager determines that such additional Capital Contributions are necessary or appropriate in connection with the conduct of the Company's business (including without limitation, expansion or diversification). In such event, the Interest Holders shall have the opportunity (but not the obligation) to participate in such additional Capital Contributions on a pro rata basis in accordance with the Ownership Percentages of the Company in totality. If an Interest Holder elects not to make such additional Capital Contribution and other

Interest Holders do make such Contribution, the ownership percentage of the Interest Holders shall be adjusted accordingly to reflect the same percentages in the Capital Accounts of the Interest Holders. Each Interest Holder acknowledges that failure to make additional Capital Contributions when such are called for by the Manager may result in a decrease in their Ownership Interest of the Company. The contribution of, or lack of contribution, additional capital by a Member or an Economic Interest Owner does not alter the rights of the Interest Holder within the Company or convert the type of Interest held.

**8.3 Loans to Company.** To the extent approved by a majority of the Members, any Member may make a secured or unsecured loan to the Company.

#### **8.4 Capital Account.**

##### **8.4.1 Basic Definition.**

**“Capital Account”** means an account that shall be maintained for each Interest Holder and which, as of any given date, shall be an amount equal to the sum of the following:

(a) The aggregate amount of cash that has been contributed to the capital of the Company as of such date by or on behalf of such Interest Holder; plus

(b) The agreed upon Gross Asset Value (as of the date of contribution) of any property other than cash that has been contributed to the capital of the Company as of such date by or on behalf of such Interest Holder and the amount of liabilities assumed by any such Interest Holder under Regulations Section 1.752 or which are secured by any Company property distributed to such Interest Holder; plus

(c) The aggregate amount of the Company's Net Profit that has been allocated to such Interest Holder as of such date pursuant to the provisions of Section 10.1 or any items of income or gain which are specially allocated to such Interest Holder or other positive adjustments required by the Regulations and which have not been previously taken into account in determining Capital Accounts; minus

(d) The aggregate amount of the Company's Net Loss that has been allocated to such Interest Holder as of such date pursuant to Section 10.2 or Section 10.3 and the amount of any item of expense, deduction or loss which is specially allocated to such Interest Holder; and Minus

(e) The aggregate amount of cash and the agreed upon Gross Asset Value of all other property (as of the date of distribution) that has been distributed to or on behalf of such Interest Holder and the amount of any liabilities of such Interest Holder assumed by the Company under Regulations Section 1.752 or which are secured by any property contributed by such Interest Holder to the Company, and any other negative adjustments required by the Regulations and which have not been previously taken into account in determining Capital Accounts.

##### **8.4.2 Additional Adjustments.**

(a) Upon the sale, transfer, assignment or other disposition of an Interest in the Company after the date of this Agreement, the Capital Account of the transferor Interest Holder that is attributable to the transferred Interest will be carried over to the transferee Interest Holder.

(b) The Capital Accounts shall be adjusted as and to the extent required by Regulation Section 1.704-1(b)(2)(iv)(m) in connection with the adjustment to the tax basis of any Company asset pursuant to Section 734(b) or Section 743(b) of the Code.

(c) The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Regulations.

**8.5 Resignations, Withdrawals of Capital.** Except as provided in Article 12 below, no Interest Holder shall have the right to withdraw any portion of the capital of the Company at any time or to elect to have his or her Interests redeemed or acquired by the Company. Upon termination of the Company, the Interest Holder's capital shall be distributed pursuant to Section 14.4 hereof. Except as specifically provided herein, no Interest Holder shall be entitled to receive any Company property (other than cash) in return for his or her Capital Contribution.

## **ARTICLE IX. DISTRIBUTIONS**

**9.1 Distributions.** All distributions of Distributable Cash or other Company property shall be made to the Interest Holders in proportion to their respective Ownership Percentages at the time of the distribution; provided, that following the dissolution of the Company as provided in Section 14.1 hereof, distributions shall be made in accordance with Section 14.3 hereof.

**9.2 Limitation Upon Distributions.** No distribution shall be made to Interest Holders if prohibited by Section 14-11-407 of the Georgia Act.

**9.3 Interest On and Return of Capital Contributions.** No Interest Holder shall be entitled to interest on such Interest Holder's Capital Contribution or to a return of this Capital Contribution, except as otherwise specifically provided for herein.

**9.4 Priority and Return of Capital.** No Member shall have priority over any other Member, either as to the return of Capital Contributions or as to distributions of Distributable Cash. Members shall have priority over Economic Interest Holders as to the return of Capital Contributions and distributions of Distributable Cash.

**9.5 Distributions for Taxes.** If at any time the Members or Economic Interest Owners are responsible under federal, state, or other tax laws for the payment of income taxes on net income or net gains received or realized by the Company, whether allocated to income or principal, the Manager is authorized, but not required, to reimburse the Members or Economic Interest Owners, or to pay directly to the appropriate taxing authorities, an amount equal to all or a portion of such taxes attributable to each Member or Economic Interest Owner.

## **ARTICLE X. ALLOCATIONS OF NET PROFITS AND NET LOSSES**

**10.1 Allocation of Net Profit.** After giving effect to the special allocations as provided in Sections 10.5, 10.6 and 10.7 and subject to the overall directions of Section 10.4, all Net Profit of the Company for each Fiscal Year shall be allocated to the Interest holders as follows:

(a) First, to the Interest Holders, in proportion to and to the extent of the negative balances, if any, in the Interest holders' respective Capital Accounts (as of the last day of such Fiscal Year, but adjusted to reflect any allocations to the Interest holders pursuant to Sections 10.5, 10.6 and 10.7);

(b) Next, to the Interest Holders pro rata in proportion to and to the extent of the excess, if any, of the cumulative Net Loss allocated to each Interest holder pursuant to Section 10.2(a) over the cumulative Net Profit allocated to such Interest holder pursuant to this Section 10.1(b) until such excess is reduced to zero, in each case since the inception of the Company; and

(c) The balance of Net Profits, if any, shall be allocated to the Interest Holders, pro rata, in proportion to their respective Ownership Percentages.

**10.2 Allocation of Net Loss.** Except as provided in Section 10.3, after giving effect to the special allocations as provided in Sections 10.5, 10.6 and 10.7 and subject to the overall directions of Section 10.4, all Net Loss of the Company for each Fiscal Year shall be allocated to the Interest Holders as follows:

(a) First, to Interest holders pro rata in proportion to and to the extent of the excess, if any, of the cumulative Net Profit allocated to each Interest Holder pursuant to Section 10.1(c) over the cumulative Net Loss allocated to such Interest Holder pursuant to this Section 10.2(a), until such excess is reduced to zero, in each case since the inception of the Company; and

(b) The balance, of Net Losses, if any, shall be allocated to the Interest Holders, pro rata, in proportion to their respective Ownership Percentages.

**10.3 Net Loss Limitation.** Notwithstanding any provision of this Agreement to the contrary, except as otherwise specifically provided in this Section 10.3, in no event shall Net Loss be allocated to an Interest Holder if such allocation would result in such Interest Holder having a negative Adjusted Capital Account Balance at the end of any Fiscal Year. All Net Loss in excess of the limitation set forth in this Section 10.3 shall be allocated to any remaining Interest Holder with a positive Adjusted Capital Account Balance, and if all such Adjusted Capital Account Balances are zero or negative, to the Interest Holders pursuant to Section 10.2(b) above.

**10.4 Intentions and Construction of Allocations.** It is the intention of the Members to allocate Net Profit and Net Loss in such a manner as to cause each Interest Holder's Capital Account as of the last day of each Fiscal Year to always equal the amount of cash such Interest Holder would be entitled to receive if the Company sold its assets for their adjusted Gross Asset Values and, after satisfying all Company liabilities (limited to the Gross Asset Value of any asset that the lender's sole recourse with respect to such liability is such asset), the proceeds from such sale, as well as

all other funds of the Company, were then distributed to the Interest Holders pursuant to Section 9.1. This Article 10 shall be interpreted as necessary to accomplish such result.

#### **10.5 Special Allocations.**

The following special allocations shall be made in the following order:

(a) Minimum Gain Chargeback. To the extent required by Section 1.704-2(f) of the Regulations, if there is a net decrease in “partnership minimum gain” (within the meaning of Section 1.704-2(b)(2) of the Regulations) in a Fiscal Year, then each Interest holder will be allocated items of income and gain for that Fiscal Year, before any other allocation of Net Profit or Net Loss, equal to that Interest Holder’s share of the net decrease in partnership minimum gain.

(b) Interest Holder Minimum Gain Chargeback. If an Interest Holder suffers a net decrease in “partner non-recourse debt minimum gain” (within the meaning of Section 1.704-2(i)(4) of the Regulations) in any Fiscal Year, then that Interest Holder will be allocated items of income and gain to the extent required by Section 1.704-2(i)(4) of the Regulations.

(c) Qualified Income Offset. In the event any Interest Holder unexpectedly receives any adjustments, allocations, or distributions described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), Sections 1.704-1(b)(2)(ii)(d)(5) or Sections 1.704-1(b)(2)(ii)(d)(6), items of Company income and gain shall be specially allocated to each such Interest Holder in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the negative Adjusted Capital Account Balance of such Interest Holder as quickly as possible, provided that an allocation pursuant to this Section 10.5(c) shall be made if and only to the extent that such Interest Holder would have a negative Adjusted Capital Account Balance after all other allocations provided for in this Article have been tentatively made as if this Section 10.5(c) were not in the Agreement.

(d) Non-recourse Deductions. If there are any “non-recourse deductions” (within the meaning of Sections 1.704-2(b)(1) and 1.704-2(c) of the Regulations) in a Fiscal Year, then such deductions shall be allocated to the Interest Holders pro rata in proportion to their then respective Residual Interests.

(e) Member Non-recourse Deductions. If there are any “partner non-recourse deductions” (within the meaning of Section 1.704-2(i)(1) of the Regulations) in a Fiscal Year, then such deductions will be allocated to the Interest Holder who bears the economic risk of loss for the “partner non-recourse liability” (within the meaning of Section 1.704-2(b)(4) of the Regulations) to which the deductions are attributable.

**10.6 Curative Allocations.** The allocations set forth in Sections 10.5(a) through 10.5(e) (the “Regulatory Allocations”) are intended to comply with certain requirements of Regulations Sections 1.704-1(b) and 1.704-2(b). Notwithstanding any other provisions of this Agreement, other than the Regulatory Allocations, with the Approval of the Members the Regulatory Allocations shall be taken into account in allocating other items of income, gain, loss and deduction among the Interest Holders so that, to the extent possible, the net amount of such allocations of other items and the Regulatory Allocations to each Interest Holder shall be equal to the net amount that would have been allocated to such Interest Holder if the Regulatory Allocations had not occurred.

**10.7 Other Allocations Rules.** The following rules shall apply for purposes of making tax allocations:

(a) For purposes of determining the Net Profit, Net Loss, or any other items allocable to any period, Net Profit, Net Loss, and any such other items shall be determined on a daily, monthly, or other basis, using any permissible method under Code Section 706 and the Regulations as reasonably selected by the Manager and Approved by the Members.

(b) If an amount paid or deemed paid by the Company to an Interest Holder (or any other Person) as interest, a guaranteed payment, or a payment for property or services, is treated for federal income tax purposes as a distribution to such Interest Holder in his or her capacity as a partner for tax purposes and is neither a guaranteed payment under Section 707(c) of the Code nor a payment under Section 707(a) of the Code to a partner not acting in his or her capacity as a partner, such Interest Holder shall be allocated as soon as possible an amount of Company's gross income or gain equal to the amount of such payment.

(c) For purposes of determining the amount of Net Profit and Net Loss to be allocated pursuant to Sections 10.1 and 10.2 for any Fiscal Year, the Capital Account of each Interest Holder shall be increased by such Interest Holder's share of "partnership minimum gain" as of the last day of such Fiscal Year, determined pursuant to Regulation Section 1.704-2(g)(1), and by such Interest Holder's share of "partner non-recourse debt minimum gain" as of the last day of such Fiscal Year, determined pursuant to Regulation Section 1.704-2(i)(5).

(d) The Interest Holders are aware of the income tax consequences of the allocations made by this Article 10 and hereby agree to be bound by the provisions of this Article 10 in reporting their shares of Company income and loss for income tax purposes.

**10.8 Code Section 704(c) Allocations.** Notwithstanding any other provision of this Agreement to the contrary, any gain or loss and any depreciation and cost recovery deductions recognized by the Company for income tax purposes in any Fiscal Year with respect to all or any part of the Company's property that is required or permitted to be allocated among the Interest Holders in accordance with Section 704(c) of the Code and any Regulations promulgated thereunder so as to take into account the variation, if any, between the adjusted tax basis of such property and the initial Gross Asset Value of such property at the time of its contribution, or following the adjustment to the Gross Asset Value of Company property pursuant to this Agreement, shall be allocated to the Interest holders for income tax purposes in the manner so required or permitted. Any elections or other decisions relating to such allocations shall be Approved by the Members.

## **ARTICLE XI. BOOKS AND RECORDS**

**11.1 Accounting Period.** The Company's accounting period shall be the Calendar Year.

**11.2 Records and Reports.** At the expense of the Company, the Manager shall maintain records and accounts of all operations and expenditures of the Company. The Company shall keep at its principal place of business the following records:



(a) A current list of the full name and last known address of each Member, Economic Interest Owner and Manager;

(b) Copies of records to enable a Member to determine the relative voting rights, if any, of the Members;

(c) A copy of the Articles of Organization of the Company and all amendments thereto;

(d) Copies of the Company's federal, state, and local income tax returns and reports, if any, for the three most recent years;

(e) Copies of this Operating Agreement, together with any amendments thereto;

(f) Copies of any financial statements of the Company for the three most recent years.

The books and records shall at all times be maintained either at the principal office of the Company or at the office of a Manager and shall be open to the reasonable inspection and examination of the Members, Economic Interest Owners, or their duly authorized representatives during reasonable business hours upon the giving of 30 days advance written notice to the Manager.

**11.3 Tax Returns.** The Manager shall cause the preparation and timely filing of all tax returns required to be filed by the Company pursuant to the Code and all other tax returns deemed necessary and required in each jurisdiction in which the Company does business. Copies of such returns, or pertinent information therefrom, shall be furnished to the Members within a reasonable time after the end of the Company's fiscal year.

## **ARTICLE XII. WITHDRAWAL, CESSATION OR TRANSFERABILITY OF MEMBERSHIP INTERESTS**

**12.1 General Prohibition.** Except as set forth herein, no Member may assign, convey, sell, transfer, liquidate, encumber, or in any way alienate (collectively a "Transfer"), all or any part of its Interest, without the prior written consent of all of the Managers and all of the Members, which consent may be given or withheld in the sole discretion of each Manager and/or Member. Any attempted Transfer of all or any portion of an Interest without the necessary consent, or as otherwise permitted hereunder, shall be null and void and shall have no effect whatsoever.

**12.2 Option to Purchase Upon Bankruptcy.** To the fullest extent allowed by law, upon the Bankruptcy of a Member, the other Members shall have the right and option to purchase such bankrupt Member's entire Membership Interest in the Company. The purchase price shall be, the Fair Market Value as determined in accordance with Section 12.4 as of the date of such Member's Bankruptcy. The purchase price shall be paid in cash at the closing. The Company may exercise this right and option at any time after or during the pendency of the bankrupt Member's Bankruptcy, by sending written notice thereof to the bankrupt Member. The purchase and sale shall take place no later than one hundred and eighty (180) days from the date of the exercise of

the option and right to purchase on a date agreed to by the parties, or in the absence of any such agreement, on the one hundred eightieth (180<sup>th</sup>) day after such notice.

**12.3 Conditions of Membership.** A transferee of an Interest shall become a Member only if all the Managers and Members consent in writing thereto and the following conditions have been satisfied:

(a) the transferor, his legal representative or authorized agent must have executed a written instrument of transfer of such Interest in form and substance satisfactory to the Members;

(b) the transferee must have executed a written agreement, in form and substance satisfactory to the Members to assume all of the duties and obligations of the transferor under this Operating Agreement with respect to the transferred Interest and to be bound by and subject to all of the terms and conditions of this Operating Agreement;

(c) the transferee must have executed such other documents and instruments as the Members may deem necessary to effect the admission of the transferee as a Member; and

(d) unless waived by the Members, the transferee or the transferor must have paid the expenses incurred by the Company in connection with the admission of the transferee to the Company.

A permitted transferee of an Economic Interest who does not become a Member shall be an Economic Interest Owner only and shall be entitled only to the transferor's Economic Interest to the extent assigned. Such transferee shall not be entitled to vote on any question regarding the Company, and the Ownership Percentage associated with the transferred Economic Interest shall not be considered to be outstanding for voting purposes.

**12.4 Fair Market Value.** For the purposes of this Agreement, the "Fair Market Value" shall be the fair market value of Membership Interests in the Company as of a given date, without reference to any discount for lack of marketability of such interests and the fact that such interests may represent a minority interest in the Company. The Fair Market Value shall be determined by the accounting firm for the Company. The cost of the valuation shall be paid by the Company. Said accounting firm is authorized to hire such appraisers or other professionals as needed to make this determination.

**12.5 Permitted Transferees.** A Member or Economic Interest Owner may assign, convey, sell, or transfer (collectively a "Transfer"), all or any part of its Interest to the spouse or lineal descendant of the Member or to any trust for the benefit of the spouse or lineal descendant of the Member without the prior written consent of all of the Managers and Members. Furthermore, a Member who desires to make a testamentary bequest of his or her Membership Interest by will or trust may do so, but such testamentary bequest shall only be to or in trust for the benefit of the spouse or lineal descendants of the Member. A transferee of an Interest under this paragraph 12.5 shall become a Member only if the conditions set forth in subparagraphs (a) through (e) in paragraph 12.3 have been satisfied.

### **ARTICLE XIII. ISSUANCE OF ADDITIONAL MEMBERSHIP INTERESTS**

Any Person approved by all the Members may become a Member in the Company by the issuance by the Company of Membership Interests for such consideration as the Members holding all of the Membership Interest shall determine.

#### **ARTICLE XIV. DISSOLUTION AND TERMINATION**

**14.1 Dissolution.** The Company shall not be dissolved as provided in O.C.G.A. §14-11-602(b)(4). The Company shall be dissolved upon the occurrence of any of the following events:

(a) by the Vote of all of the Members; or

(b) the sale of all or substantially all of the Company's assets and the collection of all proceeds therefrom; or

(c) the in-kind distribution of all or substantially all of the Company's assets.

**14.2 Effect of Dissolution.** Upon dissolution, the Company shall cease to carry on its business, except as permitted by the Georgia Act. Upon dissolution, the Manager shall file a statement of commencement of winding up and publish the notice permitted by the Georgia Act.

**14.3 Winding-Up, Liquidation and Distribution of Assets.** (a) Upon dissolution, an accounting shall be made by the Company's accountants of the accounts of the Company and of the Company's assets, liabilities and operations, from the date of the last previous accounting until the date of dissolution. The Manager, or if none, the Persons or Persons selected by Majority Vote of the Members (the "Liquidators") shall immediately proceed to wind up the affairs of the Company.

(b) If the Company is dissolved and its affairs are to be wound up, the Liquidators shall:

(i) Sell, otherwise liquidate or distribute in-kind all of the Company's assets as promptly as practicable (except to the extent the Liquidators may determine to distribute any assets to the Members in kind);

(ii) Allocate any profit or loss resulting from such sales or distributions to the Interest Holders in accordance with Article X hereof;

(iii) Discharge all liabilities of the Company, including liabilities to Interest Holders who are creditors, to the extent otherwise permitted by law, other than liabilities to Interest Holders for distributions, and establish such Reserves as may be reasonably necessary to provide for contingent or liabilities of the Company;

(iv) Distribute the remaining assets to the Interest Holders, either in cash or in kind.

(v) If any assets of the Company are to be distributed in kind, the net fair market value of such assets shall be determined by independent appraisal or by agreement of the Members. Such assets shall be deemed to have been sold as of the date of dissolution for their fair market value, and the

Capital Accounts of the Members and Economic Interest Owners shall be adjusted pursuant to the provisions of this Operating Agreement to reflect such deemed sale.

(vi) Notwithstanding anything to the contrary in this Operating Agreement, upon a liquidation within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations, if any Interest holder has a deficit Capital Account (after giving effect to all contributions, distributions, allocations and other Capital Account adjustments for all taxable years, including the year during which such liquidation occurs), such Interest holder shall have no obligation to make any Capital Contribution to reduce or eliminate the negative balance of such Interest holder's Capital Account.

(vii) Upon completion of the winding-up, liquidation and distribution of the assets, the Company shall be deemed terminated.

**14.4 Certificate of Termination.** When all debts, liabilities and obligations have been paid and discharged or adequate provisions have been made therefor and all of the remaining property and assets have been distributed to the Members, a certificate evidencing such termination may be executed and filed with the Secretary of State of Georgia in accordance with the Georgia Act.

**14.5 Return of Contribution Nonrecourse to Other Members.** Except as provided by law or as expressly provided in this Operating Agreement, upon dissolution, each Member shall look solely to the assets of the Company for the return of the Member's Capital Account. If the Company property remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the Capital Account of one or more Members, including, without limitation, all or any part of that Capital Account attributable to Capital Contributions, then such Member or Members shall have no recourse against any other Member.

## **ARTICLE XV. MISCELLANEOUS PROVISIONS**

**15.1 Application of Georgia Law.** This Operating Agreement, and the application or interpretation hereof, shall be governed exclusively by its terms and by the Georgia Act.

**15.2 No Action for Partition.** No Member has any right to maintain any action for partition with respect to the property of the Company.

**15.3 Execution of Additional Instruments.** Each Member hereby agrees to execute such other and further statements of interest and holdings, designations, powers of attorney and other instruments necessary to comply with any laws, rules or regulations.

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

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

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

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

**15.8 Exhibits.** All exhibits referred to in this Operating Agreement and attached hereto are incorporated herein by this reference.

**15.9 Heirs, Successors and Assigns.** Each and all of the covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Operating Agreement, their respective heirs, legal representatives, successors and assigns.

**15.10 Creditors.** None of the provisions of this Operating Agreement shall be for the benefit of or enforceable by any creditors of the Company or by any Person not a party hereto.

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

**15.12 Federal Income Tax Elections; Tax Matters Partner.** All elections required or permitted to be made by the Company under the Code shall be made by the Manager. For all purposes permitted or required by the Code, the Members constitute and appoint the Manager as Tax Matters Partner. The provisions on limitations of liability of the Manager and Members and indemnification set forth in Article V hereof shall be fully applicable to the Tax Matters Partner in his or her capacity as such. The Tax Matters Partner may resign at any time by giving written notice to the Company and each of the other Members. Upon the resignation of the Tax Matters Partner, a new Tax Matters Partner may be elected by Majority Vote of the Members.

**15.13 Notices.** Any and all notices, offers, demands or elections required or permitted to be made under this Operating Agreement ("Notices") shall be in writing, signed by the party giving such Notice, and shall be deemed given and effective (i) when hand-delivered (either in person by the party giving such notice, or by its designated agent, or by commercial courier) or (ii) on the third (3<sup>rd</sup>) business day (which term means a day when the United States Postal Service, or its legal successor ("Postal Service") is making regular deliveries of mail following the day (as evidenced by proof of mailing) upon which such notice is deposited, postage pre-paid, certified mail, return receipt requested, with the Postal Service, and addressed to the other party at such party's respective address as set forth on Exhibit "A", or at such other address as the other party may hereafter designate by Notice.

**15.14 Certification of Non-Foreign Status.** In order to comply with §1445 of the Code and the applicable Treasury Regulations thereunder, in the event of the disposition by the Company of a

United States real property interest as defined in the Code and Treasury Regulations, each Member shall provide to the Company an affidavit stating, under penalties of perjury, (i) the Member's address, (ii) United States taxpayer identification number, and (iii) that the Member is not a foreign person as that term is defined in the Code and Treasury Regulations. Failure by any Member to provide such affidavit by the date of such disposition shall authorize the Manager to withhold ten percent (10%) of each such Member's distributive share of the amount realized by the Company on the disposition.

**15.15 Amendments.** Any amendment to this Operating Agreement shall be made in writing and signed by all of the Members.

**15.16 Invalidity.** The invalidity or unenforceability of any particular provision of this Operating Agreement shall not affect the other provisions hereof, and the Operating Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted. If any particular provision herein is construed to be in conflict with the provisions of the Georgia Act, the provisions of this Operating Agreement shall control to the fullest extent permitted by applicable law. Any provision found to be invalid or unenforceable shall not affect or invalidate the other provisions hereof, and this Operating Agreement shall be construed in all respects as if such conflicting provision were omitted.

**15.17 Mediation.**

A. The parties agree to utilize the following procedure with regard to any contention or claim arising out of or relating to this Agreement (a "Dispute") if any such Dispute cannot be settled through direct discussions.

(a) Initiation of Procedure: The initiating party shall give written notice to the other parties describing the nature of the Dispute, its claim for relief and identifying one or more individuals with authority to resolve the Dispute on such party's behalf. The other parties shall each have five business days from receipt of such notice within which to designate in writing one or more individuals with authority to resolve the Dispute on each other party's behalf.

(b) Selection of Mediator: Within ten business days from the last date of designation by the non-initiating parties, the parties shall make a good faith effort to select a person to mediate the Dispute. If no mediator has been selected under this procedure, the parties shall jointly request a State or Federal District Judge of their choosing to supply within ten business days a list of potential qualified attorney-mediators in Brunswick, Georgia. Within five business days of receipt of the list, the parties shall rank the proposed mediators in numerical order of preference, simultaneously exchange such lists and select as the mediator the individual receiving the highest combined ranking. If such mediator is not available to serve, they shall proceed to contact the mediator who was next highest in ranking until they select a mediator.

(c) Time and Place of Mediation; Parties Represented: In consultation with the mediator selected, the parties shall promptly designate a mutually convenient time in Brunswick, Georgia, for the mediation, such time to be no later than sixty (60) days after selection by the mediator. In the mediation, each party shall be represented by a person with authority and discretion to negotiate a resolution of the Dispute, and may be represented by counsel.

(d) Conduct of Mediation: The mediator shall determine the format for the meetings and the mediation sessions shall be private. The mediator will keep confidential all information

learned in private caucus with any party unless specifically authorized by such party to make disclosure of the information to the other parties. The parties agree that the mediation shall be governed by such rules as the mediator shall reasonably prescribe.

(e) Fees of Mediator; Disqualification: The reasonable fees and expenses of the mediator shall be shared equally by the parties. The mediator shall be disqualified as a witness, consultant, expert or counsel for any party with respect to the Dispute and any related matters.

(f) Confidentiality: Mediation is a compromise negotiation for purposes of Federal and state rules of evidence and constitutes privileged communication. The entire mediation process is confidential, and such conduct, statements, promises, offers, views and opinions shall not be discoverable or admissible in any legal proceeding for any purpose.

**B. Binding Arbitration.** If any Dispute cannot be settled through mediation as set forth in Section 15.17A above, such Dispute shall be settled solely by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered and enforced in any court having jurisdiction thereof. The parties agree to execute a complete written Arbitration Agreement (requiring binding arbitration and setting forth in detail procedures for arbitration) within ten days of the close of any unsuccessful mediation proceeding. If the parties cannot agree on a binding Arbitration Agreement, such agreement shall, within twenty (20) days of the close of the unsuccessful mediation proceedings, be prepared and submitted to each party by the mediator and such agreement in the form submitted by the mediator shall be binding on both parties as to all arbitration procedures. Notwithstanding the foregoing, any and all arbitration proceedings shall take place in Brunswick, Georgia.

**15.18 Determination of Matters Not Provided For In This Operating Agreement.** The Manager shall decide any and all questions arising with respect to the Company and this Operating Agreement which are not specifically or expressly provided for in this Operating Agreement.

**15.19 Further Assurances.** The Members each agree to cooperate, and to execute and deliver in a timely fashion any and all additional documents necessary to effectuate the purposes of the Company and this Operating Agreement.

**15.20 No Partnership Intended for Non-Tax Purposes.** The Members have formed the Company under the Georgia Act, and expressly disavow any intention to form a partnership under Georgia's Uniform Partnership Act, Georgia's Uniform Limited Partnership Act or the partnership act or laws of any other state. The Members do not intend to be partners one to another or partners as to any third party. To the extent any Member, by word or action, represents to another person that any other Member is a partner or that the Company is a partnership, the Member making such wrongful representation shall be liable to any other Member who incurs personal liability by reason of such wrongful representation.

**15.21 Time.** Time is of the essence of this operating agreement, and to any payments, allocations and distributions provided for under this operating agreement.

IN WITNESS WHEREOF, the undersigned have set their hands and seals as of the 11<sup>th</sup> day of September, 2023.

The Laurie P. Meskin 2021 Family Legacy Trust

By:   
Jeffrey B. Meskin, Trustee

Laurie P. Meskin 2013 Family Trust

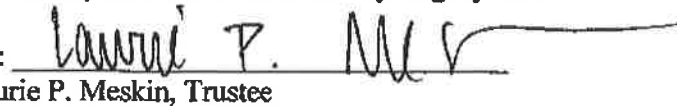
By:   
Jeffrey B. Meskin, Trustee

Jeffrey B. Meskin 2012 Family Trust

By:   
Laurie P. Meskin, Trustee

By:   
Edward Elkan Scheidt, Trustee

The Jeffrey B. Meskin 2021 Family Legacy Trust

By:   
Laurie P. Meskin, Trustee



# EXHIBIT "A"

## MEMBERS, ADDRESSES AND PERCENTAGES

<u>NAME &amp; ADDRESS</u>	<u>MEMBERSHIP INTEREST</u>	<u>MEMBERSHIP UNITS HELD</u>	<u>COMPANY OWNERSHIP PERCENTAGE</u>
The Laurie P. Meskin 2021 Family Legacy Trust	5.00%	5,000.00	5.00%
Laurie P. Meskin 2013 Family Trust	13.00%	13,000.00	13.00%
Jeffrey B. Meskin 2012 Family Trust	17.00%	17,000.00	17.00%
The Jeffrey B. Meskin 2021 Family Legacy Trust	25.00%	25,000.00	25.00%
Jeffrey B Meskin	20.00%	20,000.00	20.00%
Laurie P. Meskin	20.00%	20,000.00	20.00%

The Membership Interest of a Member shall be that number, or fraction thereof, determined by taking the value of capital contributed to the Company by the designated Member and dividing that value by the value of all capital contributed to the Limited Liability Company by all Members and Economic Interest Owners.

NOTE: All Interests are subject to the terms, conditions and restrictions set forth in that certain "OPERATING AGREEMENT OF 21<sup>st</sup> Street Partners, LLC" dated September 11, 2023, as such Agreement now exists or may hereafter be amended. Each Assignment of an Interest shall specifically incorporate the terms, conditions and restrictions of the Operating Agreement and note that a copy of such Agreement is on file at the principal office of the Limited Liability Company.

NOTE: The computed Membership Interests shall be reflected on the Membership's books and records.

# EXHIBIT "B"

## ECONOMIC INTEREST OWNERS, ADDRESSES AND OWNERSHIP PERCENTAGE

<u>NAME</u>	<u>ADDRESS</u>	<u>ECONOMIC INTEREST</u>	<u>INTEREST UNITS HELD</u>	<u>COMPANY OWNERSHIP PERCENTAGE</u>
The Laurie P. Meskin 2021 Family Legacy Trust		5.00%	5,000.00	5.00%
Laurie P. Meskin 2013 Family Trust		13.00%	13,000.00	13.00%
Jeffrey B. Meskin 2012 Family Trust		17.00%	17,000.00	17.00%
The Jeffrey B. Meskin 2021 Family Legacy Trust		25.00%	25,000.00	25.00%
Jeffrey B. Meskin		20.00%	20,000.00	20.00%
Laurie P. Meskin		20.00%	20,000.00	20.00%

The Interest of Economic Interest Owner shall be that number, or fraction thereof, determined by taking the value of capital contributed to the Company by the designated Economic Interest Owner and dividing that value by the value of all capital contributed to the Limited Liability Company by all Members and Economic Interest Owners. The liability of an Economic Interest Owner shall be limited to the capital contribution made by the Economic Interest Owner.

NOTE: All Interests are subject to the terms, conditions and restrictions set forth in that certain "OPERATING AGREEMENT 21<sup>st</sup> Street Partners, LLC" dated September 11, 2023, as such Agreement now exists or may hereafter be amended. Each Assignment of an Interest shall specifically incorporate the terms, conditions and restrictions of the Operating Agreement and note that a copy of such Agreement is on file at the principal office of the Limited Liability Company.

NOTE: The computed Membership Interests shall be reflected on the Membership's books and records.