

OPERATING AGREEMENT

For

GRAND HARBOR AND OAK HARBOR TRANSITION, LLC

OPERATING AGREEMENT

among

GRAND HARBOR AND OAK HARBOR TRANSITION, LLC

and

THE MEMBERS NAMED HEREIN

dated as of October __, 2018

This Operating Agreement (this “**Agreement**”) of **GRAND HARBOR AND OAK HARBOR TRANSITION, LLC**, a Florida limited liability company (the “**Company**”), is entered into as of October __, 2018 by and among the Company, the Initial Members executing this Agreement as of the date hereof, and each other Person who after the date hereof becomes a Member of the Company and becomes a party to this Agreement by executing a Joinder Agreement.

RECITALS

WHEREAS, the Company was formed as a limited liability company, for the purposes set forth in Section 2.05 of this Agreement, on October __, 2018 when the Company’s articles of organization (the “**Articles of Organization**”) became effective upon filing with the Florida Department of State, Division of Corporations pursuant to and in accordance with the RLLCA; and

WHEREAS, the parties wish to enter into this Agreement setting forth the terms and conditions governing the operation and management of the Company and the other matters set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions. Capitalized terms used herein and not otherwise defined shall have the respective meanings set forth in this Section 1.01 and when not otherwise defined herein shall have the meanings set forth in RLLCA:

”**Additional Capital Contribution**” has the meaning set forth in Section 3.02.

”**Adjusted Capital Account Deficit**” means, with respect to any Member, the deficit balance, if any, in such Member’s Capital Account as of the end of the relevant Fiscal Year, after giving effect to the following adjustments:

(a) crediting to such Capital Account any amount that such Member is obligated to restore or is deemed to be obligated to restore pursuant to Treasury Regulations Sections 1.704-1(b)(2)(ii)(c), 1.704-2(g)(1) and 1.704-2(i); and

(b) debiting to such Capital Account the items described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

“Adjusted Taxable Income” of a Member for a Fiscal Year (or portion thereof) with respect to the Membership Interest held by such Member means the federal taxable income allocated by the Company to the Member with respect to its Membership Interest (as adjusted by any final determination in connection with any tax audit or other proceeding) for such Fiscal Year (or portion thereof); **provided**, that such taxable income shall be computed (a) by subtracting any excess taxable loss or excess taxable credits of the Company for any prior period allocable to such Member with respect to its Membership Interest that were not previously taken into account for purposes of determining such Member’s Adjusted Taxable Income in a prior Fiscal Year to the extent such loss or credit would be available under the Code to offset income of the Member (or, as appropriate, the direct or indirect owners of the Member) determined as if the income, loss, and credits from the Company were the only income, loss, and credits of the Member (or, as appropriate, the direct or indirect owners of the Member) in such Fiscal Year and all prior Fiscal Years, and (b) taking into account any special basis adjustment with respect to such Member resulting from an election by the Company under Code Section 754.

“Affiliate” means, with respect to any Person, any other Person who, directly or indirectly (including through one or more intermediaries), controls, is controlled by, or is under common control with, such Person. For purposes of this definition, “control,” when used with respect to any specified Person, shall mean the power, direct or indirect, to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities or partnership or other ownership interests, by contract or otherwise; and the terms “controlling” and “controlled” shall have correlative meanings.

“Agreement” has the meaning set forth in the Preamble, as it may be amended, modified, supplemented, or restated from time to time, as provided herein.

“Applicable Law” means all applicable provisions of (a) constitutions, treaties, statutes, laws (including the common law), rules, regulations, decrees, ordinances, codes, proclamations, declarations, or orders of any Governmental Authority, (b) any consents or approvals of any Governmental Authority, and (c) any orders, decisions, advisory or interpretative opinions, injunctions, judgments, awards, decrees of, or agreements with, any Governmental Authority.

“Articles of Organization” has the meaning set forth in the Recitals.

“Associate” means a Person who has a relationship with another Person, by contract or otherwise, which is material to the Company or any Member.

“Board of Managers” has the meaning set forth in Section 7.01.

“Book Depreciation” means, with respect to any Company asset for each Fiscal Year, the Company’s depreciation, amortization or other cost recovery deductions determined for federal

income tax purposes, except that if the Book Value of an asset differs from its adjusted tax basis at the beginning of such Fiscal Year, Book Depreciation shall be an amount which bears the same ratio to such beginning Book Value as the federal income tax depreciation, amortization or other cost recovery deduction for such Fiscal Year bears to such beginning adjusted tax basis; **provided**, that if the adjusted basis for federal income tax purposes of an asset at the beginning of such Fiscal Year is zero and the Book Value of the asset is positive, Book Depreciation shall be determined with reference to such beginning Book Value using any permitted method selected by the Manager in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g)(3).

“**Book Value**” means, with respect to any Company asset, the adjusted basis of such asset for federal income tax purposes, except as follows:

- (a) the initial Book Value of any Company asset contributed by a Member to the Company shall be the gross Fair Market Value of such Company asset as of the date of such contribution;
- (b) immediately prior to the distribution by the Company of any Company asset to a Member, the Book Value of such asset shall be adjusted to its gross Fair Market Value as of the date of such distribution;
- (c) the Book Value of all Company assets may, in the sole discretion of the Manager, be adjusted to equal their respective gross Fair Market Values, as reasonably determined by the Manager, as of the following times:
 - (i) the acquisition of an additional Membership Interest in the Company by a new or existing Member in consideration for more than a *de minimis* Capital Contribution;
 - (ii) the distribution by the Company to a Member of more than a *de minimis* amount of property (other than cash) as consideration for all or a part of such Member’s Membership Interest in the Company; and
 - (iii) the liquidation of the Company within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g);
- (d) the Book Value of each Company asset shall be increased or decreased, as the case may be, to reflect any adjustments to the adjusted tax basis of such Company asset pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Account balances pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m); **provided**, that Book Values shall not be adjusted pursuant to this paragraph (d) to the extent that an adjustment pursuant to paragraph (c) above is made in conjunction with a transaction that would otherwise result in an adjustment pursuant to this paragraph (d); and
- (e) if the Book Value of a Company asset has been determined pursuant to paragraph (a) or adjusted pursuant to paragraphs (c) or (d) above, such Book Value shall thereafter be adjusted to reflect the Book Depreciation taken into account with respect to such Company asset for purposes of computing Net Income and Net Losses.

“Business Day” means a day other than a Saturday, Sunday or other day on which commercial banks in the state of Florida are authorized or required to close.

“Capital Account” has the meaning set forth in Section 3.03.

“Capital Contribution” means any Member’s contribution to the capital of the Company in cash and cash equivalents and the Book Value of any property contributed to the Company by such Member.

“Code” means the Internal Revenue Code of 1986, as amended.

“Company” has the meaning set forth in the Preamble.

“Company Minimum Gain” means “partnership minimum gain” as defined in Treasury Regulations Section 1.704-2(b)(2), substituting the term “Company” for the term “partnership” as the context requires.

“Covered Person” has the meaning set forth in Section 9.01(a).

“Default Rate” shall mean prime rate published in the Wall Street Journal plus two percent (2.0%) per annum.

“Developer” has the meaning set forth in Section 4.01(a).

“Electronic Transmission” means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient.

“Fair Market Value” of any asset as of any date means the purchase price that a willing buyer having all relevant knowledge would pay a willing seller for such asset in an arm’s length transaction, as determined in good faith by the Manager based on such factors as the Manager, in the exercise of its reasonable business judgment, considers relevant.

“Fiscal Year” means the calendar year, unless the Company is required to have a taxable year other than the calendar year, in which case Fiscal Year shall be the period that conforms to its taxable year.

“GAAP” means United States generally accepted accounting principles in effect from time to time.

“Governmental Authority” means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations, or orders of such organization or authority have the force of law), or any arbitrator, court, or tribunal of competent jurisdiction.

“Grand Harbor Community Association” means that entity created pursuant to Declaration of Covenants, Conditions, and Restrictions For Grand Harbor Community Association recorded in Official Records Book 796, Page 163 et seq of the Public Records of Indian River County as therein after amended.

“Homeowners’ Association” has the meaning set forth in section 4.01(a).

“Initial Member” has the meaning set forth in the term Member.

“Joinder Agreement” means the joinder agreement in form and substance attached hereto as Exhibit A.

“Lien” means any mortgage, pledge, security interest, option, right of first offer, encumbrance, or other restriction or limitation of any nature whatsoever.

“Liquidator” has the meaning set forth in Section 11.03(a).

“Losses” has the meaning set forth in Section 9.01(b).

“Manager” means the Board of Managers as may be designated pursuant to the terms of this Agreement. The Board of Managers shall collectively constitute a “manager” (as that term is defined in the RLLCA) of the Company.

“Member” means (a) each Person identified on the Members Schedule as of the date hereof as a Member and who has executed this Agreement or a counterpart thereof (each, an **“Initial Member”**), and (b) each Person who is hereafter admitted as a Member in accordance with the terms of this Agreement and the RLLCA, in each case so long as such Person is shown on the Company’s books and records as the owner of Membership Interests. The Members shall constitute “members” (as that term is defined in the RLLCA) of the Company.

“Member Nonrecourse Debt” means “partner nonrecourse debt” as defined in Treasury Regulations Section 1.704-2(b)(4), substituting the term “Company” for the term “partnership” and the term “Member” for the term “partner” as the context requires.

“Member Nonrecourse Debt Minimum Gain” means an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if the Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Treasury Regulations Section 1.704-2(i)(3).

“Member Nonrecourse Deduction” means “partner nonrecourse deduction” as defined in Treasury Regulations Section 1.704-2(i), substituting the term “Member” for the term “partner” as the context requires.

“Members Schedule” has the meaning set forth in Section 3.01.

“Membership Interest” means an interest in the Company owned by a Member, including such Member’s right (a) to its distributive share of Net Income, Net Losses, and other items of income, gain, loss, and deduction of the Company, (b) to its distributive share of the assets of the Company,

(c) to vote on, consent to, or otherwise participate in any decision of the Members as provided in this Agreement, and (d) to any and all other benefits to which such Member may be entitled as provided in this Agreement or the RLLCA. The Membership Interest of each Member shall be expressed as a percentage interest, initially determined by calculating the percentage which the numbers of units set forth on Schedule A opposite such Member's name bears to the total number of units set forth on Schedule A (rounded to the nearest hundredth), and upon making a Capital Contribution (either the initial Capital Contribution set forth in Section 3.01 or an additional Capital Contribution set forth in Section 3.02), such percentage interest shall be adjusted to be equal to the proportion that such Member's total Capital Contributions bear to the total Capital Contributions of all Members.

“Net Income” and **“Net Loss”** mean, for each Fiscal Year or other period specified in this Agreement, an amount equal to the Company's taxable income or taxable loss, or particular items thereof, determined in accordance with Code Section 703(a) (where, for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or taxable loss), but with the following adjustments:

- (a) any income realized by the Company that is exempt from federal income taxation, as described in Code Section 705(a)(1)(B), shall be added to such taxable income or taxable loss, notwithstanding that such income is not includable in gross income;
- (b) any expenditures of the Company described in Code Section 705(a)(2)(B), including any items treated under Treasury Regulations Section 1.704-1(b)(2)(iv)(I) as items described in Code Section 705(a)(2)(B), shall be subtracted from such taxable income or taxable loss, notwithstanding that such expenditures are not deductible for federal income tax purposes;
- (c) any gain or loss resulting from any disposition of Company property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Book Value of the property so disposed, notwithstanding that the adjusted tax basis of such property differs from its Book Value;
- (d) any items of depreciation, amortization and other cost recovery deductions with respect to Company property having a Book Value that differs from its adjusted tax basis shall be computed by reference to the property's Book Value (as adjusted for Book Depreciation) in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g);
- (e) if the Book Value of any Company property is adjusted as provided in the definition of Book Value, then the amount of such adjustment shall be treated as an item of gain or loss and included in the computation of such taxable income or taxable loss; and
- (f) to the extent an adjustment to the adjusted tax basis of any Company property pursuant to Code Sections 732(d), 734(b) or 743(b) is required, pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis).

“Nomination Committee” has the meaning set forth in Section 7.03.

“Non-Contributing Member” has the meaning set forth in Section 3.02.

“Nonrecourse Deductions” has the meaning set forth in Treasury Regulations Section 1.704-2(b).

“Nonrecourse Liability” has the meaning set forth in Treasury Regulations Section 1.704-2(b)(3).

“Officers” has the meaning set forth in Section 7.05.

“Partnership Representative” has the meaning set forth in Section 10.04(a).

“Permitted Transfer” means a Transfer of Membership Interests carried out pursuant to Section 8.02.

“Permitted Transferee” means a recipient of a Permitted Transfer.

“Person” means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association, or other entity.

“Pro Rata Share” means with respect to any non-contributing Member in an Additional Capital Contribution, on any date that an Additional Contribution is made, a fraction determined by dividing (i) such non-contributing Member’s Membership Interest immediately prior to the Additional Capital Contribution by (ii) the sum of (x) such non-contributing Member’s Membership Interest immediately prior to the Additional Capital Contribution and (y) the Membership Interest held by all other non-contributing Members immediately prior to such Additional Capital Contribution.

“Regulatory Allocations” has the meaning set forth in Section 5.02(e).

“Representative” means, with respect to any Person, any and all directors, officers, employees, consultants, financial advisors, counsel, accountants, and other agents of such Person.

“RLLCA” means the Florida Revised Limited Liability Company Act (§§ 605.0101 et seq., Fla. Stat.) and any successor statute, as amended from time to time.

“Taxing Authority” has the meaning set forth in Section 6.02(b).

“Transfer” means to, directly or indirectly, sell, transfer, assign, gift, pledge, encumber, hypothecate, or similarly dispose of, either voluntarily or involuntarily, by operation of law or otherwise, or to enter into any contract, option, or other arrangement or understanding with respect to the sale, transfer, assignment, gift, pledge, encumbrance, hypothecation, or similar disposition of, any Membership Interests owned by a Person or any interest (including a beneficial interest or “transferable interest” as defined by Section 605.0102(66) of the RLLCA) in any Membership Interests owned by a Person. **“Transfer”** when used as a noun, and **“Transferred”** when used to refer to the past tense, shall have correlative meanings. **“Transferor”** and **“Transferee”** mean a Person who makes or receives a Transfer, respectively.

“**Treasury Regulations**” means the final or temporary regulations issued by the United States Department of Treasury pursuant to its authority under the Code, and any successor regulations.

“**Withholding Advances**” has the meaning set forth in Section 6.02(b).

Section 1.02 Interpretation. For purposes of this Agreement: (a) the words “include,” “includes,” and “including” shall be deemed to be followed by the words “without limitation”, (b) the word “or” is not exclusive, and (c) the words “herein,” “hereof,” “hereby,” “hereto,” and “hereunder” refer to this Agreement as a whole. The definitions given for any defined terms in this Agreement shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine, and neuter forms. Unless the context otherwise requires, references herein: (i) to Articles, Sections, Exhibits and Schedules mean the Articles and Sections of, and Exhibits and Schedules attached to, this Agreement, (ii) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, restated, supplemented, and modified from time to time to the extent permitted by the provisions thereof, and (iii) to a statute or Applicable Law means such statute or Applicable Law as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Exhibits and Schedules referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

ARTICLE II

ORGANIZATION

Section 2.01 Formation.

(a) The Company was formed on October , 2018, pursuant to the provisions of the RLLCA, upon the filing of the Articles of Organization with the Department of State of the State of Florida.

(b) This Agreement shall constitute the “operating agreement” (as that term is used in the RLLCA) of the Company. The rights, powers, duties, obligations, and liabilities of the Members shall be determined pursuant to the RLLCA and this Agreement. To the extent that the rights, powers, duties, obligations and liabilities of any Member are different by reason of any provision of this Agreement than they would be under the RLLCA in the absence of such provision, this Agreement shall, to the extent permitted by the RLLCA, control.

Section 2.02 Name. The name of the Company is “GRAND HARBOR AND OAK HARBOR TRANSITION, LLC” or such other name or names as may be designated by the Manager; provided, that the name shall always contain the words “limited liability company” or the abbreviation “L.L.C.” or “LLC.” Amendments to the Articles of Organization to reflect any such name change approved in accordance with this Agreement may be made by the Manager without the consent of the Members. The Manager shall give prompt notice to the Members of any change to the name of the Company. The Company may conduct business under any fictitious name required by local law or otherwise deemed desirable by the Manager.

Section 2.03 Principal Office. The principal office of the Company is located at 5375 Sol Rue Circle, Vero Beach, Florida 32967, or such other place as may from time to time be determined by the Manager. The Manager shall give prompt notice of any such change to each of the Members. Amendments to the Articles of Organization to reflect any such principal office change in accordance with this Agreement may be made by the Manager without the consent of the Members.

Section 2.04 Registered Office; Registered Agent.

(a) The registered office of the Company shall be the office of the initial registered agent named in the Articles of Organization or such other office (which need not be a place of business of the Company) as the Manager may designate from time to time in the manner provided by the RLLCA and Applicable Law. Amendments to the Articles of Organization to reflect any such registered office change in accordance with this Agreement may be made by the Manager without the consent of the Members.

(b) The registered agent for service of process on the Company in the State of Florida shall be the initial registered agent named in the Articles of Organization or such other Person or Persons as the Manager may designate from time to time in the manner provided by the RLLCA and Applicable Law. Amendments to the Articles of Organization to reflect any such registered agent change in accordance with this Agreement may be made by the Manager without the consent of the Members.

Section 2.05 Purpose; Powers.

(a) The purpose of the Company is to engage in any lawful act or activity for which limited liability companies may be formed under the RLLCA and to engage in any and all activities necessary or incidental thereto.

(b) The Company shall have all the powers necessary or convenient to carry out the purposes for which it is formed, including the powers granted by the RLLCA.

Section 2.06 Term. The term of the Company commenced on the date the Articles of Organization were filed with the Department of State of the State of Florida and shall continue in existence perpetually until the Company is dissolved in accordance with the provisions of this Agreement or as provided by Applicable Law.

ARTICLE III

CAPITAL CONTRIBUTIONS; CAPITAL ACCOUNTS

Section 3.01 Initial Capital Contributions. Contemporaneously with the execution of this Agreement, each Member is deemed to own Membership Interests in the amounts set forth opposite such Member's name on Schedule A attached hereto (the "**Members Schedule**"). Promptly following a Member signing the Operating Agreement, such Member shall make an initial Capital Contribution in an amount of \$100 for each unit of such Member as set forth on Schedule A. The Manager shall update the Members Schedule upon the issuance or Transfer of any Membership Interests to any new or existing Member in accordance with this Agreement.

Section 3.02 Additional Capital Contributions. No Member shall be required, obligated or permitted to make additional Capital Contributions (an “**Additional Capital Contribution**”) to the Company without the consent of the Manager. However, the Members shall make additional Capital Contributions in cash, in proportion to their respective Membership Interests, as determined by the Manager and approved by Members holding a majority of the Membership Interests from time to time to be reasonably necessary to pay any operating, capital or other expenses relating to the Business. Upon the approval by Members holding a majority of the Membership Interests, the Manager shall deliver to the Members a written notice of the Company's need for Additional Capital Contributions, which notice shall specify in reasonable detail (i) the purpose for such Additional Capital Contributions, (ii) the aggregate amount of such Additional Capital Contributions, (iii) each Member's share of such aggregate amount of Additional Capital Contributions based upon such Member's Membership Interest, and (iv) the date (which date shall not be less than thirty (30) Business Days from the date that such notice is given) on which such Additional Capital Contributions shall be required to be made by the Members. Except as otherwise provided herein, no Member shall be obligated to make any contribution or other payment to the Company with respect to a deficit balance, if any, in such Member's Capital Account as provided in Section 3.05 below.

(a) If any Member shall fail to timely make, or notifies the other Member that it shall not make, all or any portion of any Additional Capital Contribution which such Member is obligated to make, then such Member shall be deemed to be a "Non-Contributing Member". For so long that a Member is a Non-Contributing Member, then the Member shall forfeit and no longer be entitled to any consent or voting rights granted in this Agreement.

(b) Notwithstanding any other provisions of this Agreement, any amount that otherwise would be paid or distributed to a Non-Contributing Member pursuant to this Agreement shall not be paid to the Non-Contributing Member but shall be deemed paid and applied on behalf of such Non-Contributing Member to any Additional Capital Contribution of such Non-Contributing Member that has not been paid and is not deemed to have been paid.

(c) Notwithstanding the foregoing, if a Non-Contributing Member fails to make its Additional Capital Contribution in accordance with Section 3.02, without limitation of any other available rights or remedies that may be available, the Company may:

(i) institute proceedings against the Non-Contributing Member to obtain payment of the Non-Contributing Member's portion of the Additional Capital Contributions, together with interest thereon at the Default Rate from the date that such Additional Capital Contribution was due until the date that such Additional Capital Contribution is made, at the cost and expense of the Non-Contributing Member; or

(ii) elect to dissolve and liquidate the Company pursuant to Article XI.

Section 3.03 Maintenance of Capital Accounts. The Company shall establish and maintain for each Member a separate capital account (a “**Capital Account**”) on its books and records in accordance with this Section 3.03. Each Capital Account shall be established and maintained in accordance with the following provisions:

(a) Each Member's Capital Account shall be increased by the amount of:

- (i) such Member's Capital Contributions, including such Member's initial Capital Contribution and any Additional Capital Contributions;
 - (ii) any Net Income or other item of income or gain allocated to such Member pursuant to Article V; and
 - (iii) any liabilities of the Company that are assumed by such Member or secured by any property distributed to such Member.
- (b) Each Member's Capital Account shall be decreased by:
- (i) the cash amount or Book Value of any property distributed to such Member pursuant to Article VI and Section 11.03(c);
 - (ii) the amount of any Net Loss or other item of loss or deduction allocated to such Member pursuant to Article V; and
 - (iii) the amount of any liabilities of such Member assumed by the Company or that are secured by any property contributed by such Member to the Company.

Section 3.04 Succession Upon Transfer. If any Membership Interests are Transferred in accordance with the terms of this Agreement, the Transferee shall succeed to the Capital Account of the Transferor to the extent it relates to the Transferred Membership Interests and, subject to Section 5.04, shall receive allocations and distributions pursuant to Article V, Article VI and Article XI in respect of such Membership Interests.

Section 3.05 Negative Capital Accounts. If any Member shall have a deficit balance in its Capital Account, such Member shall have no obligation, during the term of the Company or upon dissolution or liquidation thereof, to restore such negative balance or make any Capital Contributions to the Company by reason thereof, except as may be required by Applicable Law or in respect of any negative balance resulting from a withdrawal of capital; dissolution in contravention of this Agreement.

Section 3.06 No Withdrawals From Capital Accounts. No Member shall be entitled to withdraw any part of its Capital Account or to receive any distribution from the Company, except as otherwise provided in this Agreement. No Member, including the Manager, shall receive any interest, salary, or drawing with respect to its Capital Contributions or its Capital Account, except as otherwise provided in this Agreement. The Capital Accounts are maintained for the sole purpose of allocating items of income, gain, loss, and deduction among the Members and shall have no effect on the amount of any distributions to any Members, in liquidation or otherwise.

Section 3.07 Treatment of Loans From Members. Loans by any Member to the Company shall not be considered Capital Contributions and shall not affect the maintenance of such Member's Capital Account, other than to the extent provided in Section 3.03(a)(iii), if applicable.

Section 3.08 Modifications. The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations

Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such Treasury Regulations. If the Manager determines that it is prudent to modify the manner in which the Capital Accounts, or any increases or decreases to the Capital Accounts, are computed in order to comply with such Treasury Regulations, the Manager may authorize such modifications.

ARTICLE IV

MEMBERS

Section 4.01 Admission of New Members; Qualifications.

(a) New Members may be admitted from time to time (i) in connection with the issuance of Membership Interests by the Company, subject to compliance with the provisions of Section 7.02(b) and Section 8.01(b), and (ii) in connection with a Transfer of Membership Interests, subject to compliance with the provisions of Article VIII, and in either case, following compliance with the provisions of Section 4.01(b).

Notwithstanding any other provision in this Agreement, the only Persons that are eligible to be Members of the Company are Homeowner's Associations whose members are, by virtue of being such members, Class A members of Grand Harbor Community Association (**each a "Homeowners' Association"**). No Homeowners' Association which is or has among its officers or members, of any class, any individual or entity which is an Affiliate or Associate of Icahn Enterprises L.P. (**collectively, the "Developer"**) shall be admitted as a member of the Company unless the Company is satisfied that adequate provision has been made to ensure that, to the extent permitted by law, confidential information regarding the Company and its members is not made available to the Developer.

Notwithstanding the foregoing paragraph, an entity which is owned only by members of a Homeowners' Association which, by virtue of the previous paragraph, fails to qualify as a Member, may be admitted as a Member of the Company. If the associated Homeowners' Association qualifies to be a Member at a later date, then that such entity shall promptly transfer its Membership Interests to the associate Homeowners' Association in accordance with this Agreement.

(b) For any Person not already a Member of the Company to be admitted as a Member, whether pursuant to an issuance or Transfer of Membership Interests, such Person shall have executed and delivered to the Company a written undertaking substantially in the form of the Joinder Agreement. Upon the amendment of the Members Schedule by the Manager and the satisfaction of any other applicable conditions, including, if a condition, the receipt by the Company of payment for the issuance of Membership Interests, such Person shall be admitted as a Member and deemed listed as such on the books and records of the Company. The Manager shall also adjust the Capital Accounts of the Members as necessary in accordance with this Agreement shall be amended and restated to reflect the admission of such Person, who shall be a party thereto. For the avoidance of doubt, amendments to the Members Schedule following any new issuance, redemption, repurchase or Transfer of Membership Interests in accordance with this Agreement may be made by the Manager without the consent of or execution by the Members.

Section 4.02 No Personal Liability. Except as otherwise provided in the RLLCA, by Applicable Law, or expressly in this Agreement, no Member will be obligated personally for any debt, obligation or liability of the Company or other Members, whether arising in contract, tort, or otherwise, solely by reason of being or acting as a Member.

Section 4.03 Dissociation. No Member shall have the ability to dissociate or withdraw as a Member pursuant to Section 605.0601(1) or Section 605.0602(1) of the RLLCA, or otherwise, before the dissolution and winding up of the Company and any such dissociation or withdrawal or attempted dissociation or withdrawal by a Member before the dissolution or winding up of the Company shall be null and void. As soon as any Person who is a Member ceases to hold any Membership Interests, such Person shall no longer be a Member.

Section 4.04 No Interest in Company Property. No real or personal property of the Company shall be deemed to be owned by any Member individually, but shall be owned by, and title shall be vested solely in, the Company. Without limiting the foregoing, each Member hereby irrevocably waives during the term of the Company any right that such Member may have to maintain any action for partition with respect to the property of the Company.

Section 4.05 Membership Interests Ledger. The Manager shall record or cause to be recorded all issuances, exchanges, and other transactions in the Membership Interest involving the members in a ledger maintained as part of the books and records of the Company.

Section 4.06 Meetings.

(a) Meetings of the Members may be called by (i) the Manager or (ii) a Member or group of Members holding more than fifteen percent (20%) of the Membership Interests.

(b) Written notice stating the place, date and time of the meeting and, in the case of a meeting of the Members not regularly scheduled, describing the purposes for which the meeting is called, shall be delivered not fewer than ten (10) days and not more than sixty (60) days before the date of the meeting to each Member, by or at the direction of the Manager or the Member(s) calling the meeting, as the case may be. The Members may hold meetings at the Company's principal office or at such other place in Indian River County, Florida, as the Manager or the Member(s) calling the meeting may designate in the notice for such meeting.

(c) Any Member may participate in a meeting of the Members by means of conference telephone or other communications equipment by means of which all Persons participating in the meeting can talk to and hear each other. Participation in a meeting by such means shall constitute presence in person at such meeting.

(d) On any matter that is to be voted on by the Members, a Member may vote in person or by proxy, and such proxy may be granted in writing, by means of Electronic Transmission or as otherwise permitted by Applicable Law. Every proxy shall be revocable in the discretion of the Member executing it unless otherwise provided in such proxy; provided, that such right to revocation shall not invalidate or otherwise affect actions taken under such proxy before such revocation.

(e) The business to be conducted at such meeting need not be limited to the purpose described in the notice and can include other business to be conducted by the Members; provided, that the Members shall have been notified of the meeting in accordance with Section 4.06(b). Attendance of a Member at any meeting shall constitute a waiver of notice of such meeting, except where a Member attends a meeting for the express purpose of

objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

(f) A quorum of any meeting of the Members shall require the presence, whether in person or by proxy, of the Members holding a majority of the Membership Interests. Subject to Section 4.07, no action may be taken by the Members unless the appropriate quorum is present at a meeting.

(g) Subject to Section 4.07 and Section 12.09 and any other provision of this Agreement or the RLLCA requiring the vote, consent, or approval of a different percentage of the Membership Interests, no action may be taken by the Members at any meeting at which a quorum is present without the affirmative vote of the Members holding a majority of the Membership Interests.

Section 4.07 Action Without Meeting.

(a) Notwithstanding the provisions of Section 4.06, any matter that is to be voted on, consented to, or approved by the Members may be taken without a meeting, without prior notice, and without a vote if consented to, in writing or by Electronic Transmission, by a Member or the Members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting. A record shall be maintained by the Manager of each such action taken by written consent of a Member or the Members.

(b) The Manager shall give prompt notice of the taking of any action approved without a meeting by less than unanimous written consent to each Member who did not consent in writing to the action (regardless of whether that Member was entitled to vote on the action).

ARTICLE V

ALLOCATIONS

Section 5.01 Allocation of Net Income and Net Loss. For each Fiscal Year (or portion thereof), after giving effect to the special allocations set forth in Section 5.02, Net Income and Net Loss of the Company shall be allocated among the Members pro rata in accordance with their Membership Interests.

Section 5.02 Regulatory and Special Allocations. Notwithstanding the provisions of Section 5.01:

(a) If there is a net decrease in Company Minimum Gain (determined according to Treasury Regulations Section 1.704-2(d)(1)) during any Fiscal Year, each Member shall be specially allocated Net Income for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Member's share of the net decrease in Company Minimum Gain, determined in accordance with Treasury Regulations Section 1.704-2(g). The items to be so allocated shall be determined in accordance with Treasury Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 5.02 is intended to comply with the "minimum gain chargeback" requirement in Treasury Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(b) Member Nonrecourse Deductions shall be allocated in the manner required by Treasury Regulations Section 1.704-2(i). Except as otherwise provided in Treasury Regulations Section 1.704-2(i)(4), if there is a net decrease in Member Nonrecourse Debt Minimum Gain during any Fiscal Year, each Member that has a share of such Member Nonrecourse Debt Minimum Gain shall be specially allocated Net Income for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to that Member's share of the net decrease in Member Nonrecourse Debt Minimum Gain. Items to be allocated pursuant to this paragraph shall be determined in accordance with Treasury Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This Section 5.02(b) is intended to comply with the "minimum gain chargeback" requirements in Treasury Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(c) Nonrecourse Deductions shall be allocated to the Members in accordance with their Membership Interests.

(d) In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5), or (6), Net Income shall be specially allocated to such Member in an amount and manner sufficient to eliminate the Adjusted Capital Account Deficit created by such adjustments, allocations, or distributions as quickly as possible. This Section 5.02(d) is intended to comply with the "qualified income offset" requirement in Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(e) The allocations set forth in paragraphs Section 5.02(a), Section 5.02(b), Section 5.02(c), and Section 5.02(d) above (the "**Regulatory Allocations**") are intended to comply with certain requirements of the Treasury Regulations under Code Section 704. Notwithstanding any other provisions of this Article V (other than the Regulatory Allocations), the Regulatory Allocations shall be taken into account in allocating Net Income and Net Losses among Members so that, to the extent possible, the net amount of such allocations of Net Income and Net Losses and other items and the Regulatory Allocations to each Member shall be equal to the net amount that would have been allocated to such Member if the Regulatory Allocations had not occurred.

Section 5.03 Tax Allocations.

(a) Subject to Section 5.03(b), Section 5.03(c), and Section 5.03(d), all income, gains, losses, and deductions of the Company shall be allocated, for federal, state, and local income tax purposes, among the Members in accordance with the allocation of such income, gains, losses, and deductions pursuant to Section 5.01 and Section 5.02, except that if any such allocation for tax purposes is not permitted by the Code or other Applicable Law, the Company's subsequent income, gains, losses, and deductions shall be allocated among the Members for tax purposes, to the extent permitted by the Code and other Applicable Law, so as to reflect as nearly as possible the allocation set forth in Section 5.01 and Section 5.02.

(b) Items of Company taxable income, gain, loss, and deduction with respect to any property contributed to the capital of the Company shall be allocated among the Members in accordance with Code Section 704(c) and the traditional method with curative allocations of Treasury Regulations Section 1.704-3(c), so as to take account of any variation between the

adjusted basis of such property to the Company for federal income tax purposes and its Book Value.

(c) If the Book Value of any Company asset is adjusted pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(f) as provided in clause (c) of the definition of Book Value, subsequent allocations of items of taxable income, gain, loss, and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Book Value in the same manner as under Code Section 704(c).

(d) Allocations of tax credit, tax credit recapture, and any items related thereto shall be allocated to the Members according to their interests in such items as determined by the Manager taking into account the principles of Treasury Regulations Section 1.704-1(b)(4)(ii).

(e) Allocations pursuant to this Section 5.03 are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Net Income, Net Losses, distributions, or other items pursuant to any provisions of this Agreement.

(f) Corrective Allocations Caused by Application of Partnership Audit Rules. The Manager may make special allocations of income, gain, loss and/or deductions among the Members and former Members to correct distortions arising in connection with the audit of one or more of the Company's tax returns. Allocations made under this Section 5.03(f) shall preserve, to the greatest extent permitted by law, the after-tax economic arrangement of the Members.

Section 5.04 Allocations in Respect of Transferred Membership Interests. In the event of a Transfer of Membership Interests during any Fiscal Year made in compliance with the provisions of Article VIII, Net Income, Net Losses, and other items of income, gain, loss, and deduction of the Company attributable to such Membership Interests for such Fiscal Year shall be determined using the interim closing of the books method.

ARTICLE VI

DISTRIBUTIONS

Section 6.01 General.

(a) Distributions of available cash shall be made to the Members when and in such amounts as determined by both the Manager and the Members holding a majority of the Membership Interests. Distributions determined to be made by the Manager pursuant to this Section 6.01(a) shall be paid to the Members in accordance with their respective Membership Interests.

(b) Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make any distribution to Members if such distribution would violate Section 605.0405 of the RLLCA or other Applicable Law.

Section 6.02 Tax Withholding; Withholding Advances.

(a) Tax Withholding. Each Member agrees to furnish the Company with any representations and forms as shall be reasonably requested by the Company to assist it in determining the extent of, and in fulfilling, any withholding obligations it may have.

(b) Withholding Advances. The Company is hereby authorized at all times to make payments (“**Withholding Advances**”) with respect to each Member in amounts required to discharge any obligation of the Company (as determined by the Partnership Representative, based on the advice of legal or tax counsel to the Company), to withhold or make payments to any federal, state, local, or foreign taxing authority (a “Taxing Authority”) with respect to any distribution or allocation by the Company of income or gain to such Member, and to withhold the same from distributions to such Member. Any funds withheld from a distribution by reason of this Section 6.02(b) shall nonetheless be deemed distributed to the Member in question for all purposes under this Agreement. If the Company makes any Withholding Advance in respect of a Member hereunder that is not immediately withheld from actual distributions to the Member, then the Member shall promptly reimburse the Company for the amount of such payment, plus interest at a rate equal to the prime rate published in the Wall Street Journal on the date of payment, compounded annually, on such amount from the date of such payment until such amount is repaid (or deducted from a distribution) by the Member (any such payment shall not constitute a Capital Contribution). Each Member’s reimbursement obligation under this Section 6.02(b) shall continue after such Member transfers its Membership Interests.

(c) Indemnification. Each Member hereby agrees to indemnify and hold harmless the Company and the other Members from and against any liability with respect to the taxes, interest, or penalties that may be asserted by reason of the Company’s failure to deduct and withhold tax on amounts distributable or allocable to such Member. The provision of this Section 6.02(c) and the obligations of a Member pursuant to Section 6.02(b) shall survive the termination, dissolution, liquidation, and winding up of the Company or the Transfer of its Membership Interests. The Company may pursue and enforce all rights and remedies it may have against each Member under this Section 6.02, including bringing a lawsuit to collect repayment with interest of any Withholding Advances.

(d) Overwithholding. Neither the Company nor the Manager shall be liable for any excess taxes withheld in respect of any distribution or allocation of income or gain to a Member. In the event of an overwithholding, a Member’s sole recourse shall be to apply for a refund from the appropriate Taxing Authority.

Section 6.03 Distributions in Kind. The Manager is hereby authorized, as it may reasonably determine, to make distributions to the Members in the form of securities or other property held by the Company. In any non-cash distribution, the securities or property so distributed will be distributed among the Members in the same proportion and priority as cash equal to the Fair Market Value of such securities or property would be distributed among the Members pursuant to Section 6.01.

ARTICLE VII

MANAGEMENT

Section 7.01 Management of the Company. The Company shall be manager-managed with a Board of Managers (“**Board of Managers**”) collectively serving as the “Manager”. For all purposes under this Agreement, unless expressly stated otherwise, the term Manager shall refer to the Board of Managers as a collective body.

Subject to the provisions of Section 7.02 and except as otherwise provided by the RLLCA or this Agreement, the Manager shall have full and complete discretion to manage and control the activities and affairs of the Company, to make all decisions affecting the activities and affairs of the Company, and to take all such actions as it deems necessary or appropriate to accomplish the purposes of the Company set forth in Section 2.05. The actions of the Manager taken in accordance with the provisions of this Agreement shall bind the Company. No other Member of the Company shall have any authority or right to act on behalf of or bind the Company, unless otherwise provided herein or unless specifically authorized by the Manager pursuant to a resolution expressly authorizing such action which resolution is duly adopted by the Manager.

Section 7.02 Actions Requiring Approval of Members. Without the consent of the Members holding a majority of the Membership Interests, the Company or the Manager, on behalf of the Company, shall not, and shall not enter into any commitment to:

- (a) except as otherwise permitted in this Agreement or required by the RLLCA, amend, modify, or waive the Articles of Organization;
- (b) issue additional Membership Interests except in connection with a Transfer of Membership Interests that complies with the applicable provisions of Article VIII and Section 4.01(b) or admit additional Members to the Company;
- (c) incur any indebtedness, pledge, or grant Liens on any assets or guarantee, assume, endorse, or otherwise become responsible for the obligations of any other Person;
- (d) make any loan, advance, or capital contribution to any Person;
- (e) enter into or effect any transaction or series of related transactions involving the purchase, lease, license, exchange, or other acquisition (including by merger, consolidation, interest exchange, acquisition of shares or acquisition of assets) by the Company of any assets or equity interests of any Person, provided, that any merger or interest exchange in which any Member retains interest holder liability for the debts, obligations, and other liabilities that arise after the merger or interest exchange becomes effective, shall also require the written consent of such Member;
- (h) enter into or effect any transaction or series of related transactions involving the sale, lease, license, exchange, or other disposition (including by merger, consolidation, interest exchange, sale of shares, or sale of assets) by the Company of any assets; provided, that any merger or interest exchange in which any Member retains interest holder liability for the

debts, obligations, and other liabilities that arise after the merger or interest exchange becomes effective, shall also require the written consent of such Member;

(i) enter into any joint venture or similar business arrangement;

(j) initiate or settle any lawsuit, action, dispute, or other proceeding or otherwise assume any liability with a value in excess of Fifty Thousand Dollars (\$50,000) or agree to the provision of any equitable relief by the Company; provided, that if the lawsuit, claim, dispute, or other proceeding involves an indemnification claim pursuant to Article IX, such settlement shall also be approved in accordance with the terms of Section 9.01(c); or

(k) make any investments in any other Person.

Section 7.03 Appointments and Qualifications of Board of Managers and Nomination Committee.

(a) The Board of Managers shall be elected from the nominees presented by the Nomination Committee ("**Nomination Committee**") by the vote of Members holding a majority of the Membership Interests.

(i) There shall be not less than five (5) nor more than seven (7) members of the Board of Managers, at least one of whom shall be a member or Representative of a Homeowners' Association which is in the Oak Harbor community. The initial Board of Managers shall comprise five (5) members.

(ii) Members of the Board of Managers must be natural persons who are eighteen (18) years of age or older but need not be residents of Florida.

(iii) Members of the Board of Managers need not be residents of Florida but each shall be (a) a member of a Homeowners' Association or (b) an individual who is a Representative of a member of such a Homeowners' Association which member is a Person other than an individual and is not the Developer. No member of the Board of Managers shall be an Affiliate or associate of the Developer.

(iv) No more than one (1) member of the Board of Managers may be appointed from a Member Homeowners' Association.

(v) A member of the Board of Managers shall serve until such member resigns, is removed by Members holding a majority of the Membership Interests, becomes incapacitated, or no longer owns a residence in any Member Homeowners' Association.

(b) The Nomination Committee shall be appointed by Members holding a majority of the Membership Interests. However, the initial Nomination Committee may be formed prior to the organization of the Company and thereafter ratified by Members holding a majority of the Membership Interests. The election of Managers proposed by the initial Nomination Committee by the Members as set forth in Section 7.03(a) above shall conclusively evidence the approval of the initial Nomination Committee by Members holding a majority of the Membership Interests.

- (i) There shall be at least two (2) members of the Nomination Committee.
- (ii) Members of the Nomination Committee must be natural persons who are eighteen (18) years of age or older but need not be residents of Florida.
- (iii) No member of the Nomination Committee may serve on the Board of Managers.
- (iv) No more than one (1) member of the Nomination Committee may be appointed from a Member Homeowners' Association.
- (v) The member of the Nomination Committee shall serve until such member resigns, is removed by Members holding a majority of the Membership Interests, becomes incapacitated or no longer owns a residence in any Member Homeowners' Association. In the event of a vacancy, the Members may, but are not required to appoint a replacement unless the vacancy causes there to be less than the required minimum number of persons for the Nominations Committee.

Section 7.04 Administration and Operation of Board of Managers and Committees.

- (a) Place of Meetings. Meetings of the Manager and committees, regular or special, shall be held in Indian River County, Florida; provided that a committee may determine to hold one or more meetings elsewhere in Florida.
- (b) Quorum and Voting. A majority of the members of the Board of Managers or the committee shall constitute a quorum for the transaction of business. The act of a majority of members of the Board of Managers or committee present at a meeting at which a quorum exists shall be the act of the Board of Managers or the committee.
- (c) Duties of Board of Managers. A member of the Board of Managers shall discharge such member's duties as a member, including duties as a member of any committee of the Board of Managers on which such member may serve, in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner such director reasonably believes to be in the best interests of the Company.

In performing their duties, members of the Board of Managers are entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, prepared or presented by:

- (i) one or more officers or employees of the Company whom such members of the Board of Managers reasonably believes to be reliable and competent in the matters presented;
- (ii) legal counsel, public accountants or other persons as to matters such director reasonably believes are in such person's professional or expert competence; or
- (iii) a committee of the Board of Managers of which such person is not a member if such person reasonably believes such committee merits confidence.

In discharging their duties, members of the Board of Managers may consider such factors as the members deem relevant, including the long-term prospects and interests of the Company and its Members.

Members of the Board of Managers shall not be deemed to be acting in good faith if such member has knowledge concerning the matter in question that makes reliance on the information, opinions, reports or statements, including financial statements and other financial data, of others, as described in this Section 7.04(c), unwarranted.

Members of the Board of Managers shall not be liable for any action taken as a member, or any failure to take any action, if such members of the Board of Managers have performed the duties of their office in compliance with the provisions of this Section 7.04(c).

(d) **Presumption of Assent.** A member of the Board of Managers who is present at a meeting of the Board of Managers or a committee of the Board of Managers where Company action is taken is deemed to have assented to the action taken at such meeting unless such member objects at the beginning of the meeting (or promptly upon such member's arrival) to holding such meeting or transacting specified business at such meeting or such director votes against or abstains from the action taken.

(i) **Notice of Meetings.** Regular meetings of the Board of Managers, as established by resolution, may be held without notice of the date, time, place or purpose of the meeting. Written notice of the date, time and place of special meetings of the Board of Managers shall be given to each member of the Board of Managers at least two (2) days before the meeting.

Notice of a meeting of the Board of Managers need not be given to any member of the Board of Managers who signs a waiver of notice either before or after the meeting. The attendance of a member of the Board of Managers at a meeting shall constitute a waiver of notice of such meeting and a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which the meeting has been called or convened, except when a member of the Board of Managers states, at the beginning of the meeting or promptly upon arrival at the meeting, any objection to the transaction of business because the meeting is not lawfully called or convened.

The purpose of any regular or special meeting of the Board of Managers need not be specified in the notice or waiver of notice of such meeting.

A majority of the members of the Board of Managers present, whether or not a quorum exists, may adjourn any meeting of the Board of Managers to another time and place. Notice of such adjourned meeting shall be given to the members of the Board of Managers who were not present at the time of the adjournment and, unless the time and place of the adjourned meeting are announced at the time of the adjournment, to the other members of the Board of Managers.

Meetings of the Board of Managers may be called by the Chairman of the Board of any two (2) members of the Board of Managers.

(ii) Action Without a Meeting. Any action required or permitted by this Agreement or applicable law to be taken at a Board of Managers meeting or a committee meeting may be taken without a meeting if the action is taken by all members of the Board of Managers or of such committee. Such action must be evidenced by one or more written consents describing the action taken and signed by each member of the Board of Managers or committee.

(iii) Action taken under this Section 7.03(d) shall be effective when the last director signs the consent, unless the consent specifies a different effective date.

A consent signed under this Section 7.03(d) has the same effect as a meeting vote and may be described as such in any document.

(iv) Telephone and Similar Meetings. The member of the Board of Managers may participate in, and hold meetings by means of, conference telephone or similar communications equipment such that all persons participating in the meeting can hear each other. A member of the Board of Managers participating in a meeting by such means shall be deemed to be present in person at such meeting.

(v) Board of Managers Conflicts of Interest. No contract or other transaction between the Company and one or more members of the Board of Managers or any other corporation, firm, association, or entity in which one or more members of the Board of Managers are members of the Board of Managers or officers or are financially interested, shall be either void or voidable because of such relationship or interest because such member or members of the Board of Managers are present at the meeting of the Board or a committee thereof which authorizes, approves, or ratifies such contract or transaction, or because votes of such member or members of the Board of Managers are counted for such purposes; provided no votes of such member or members of the Board of Managers are counted for such purposes and such member or members do not participate in the discussion of the Board of Managers or committee with respect to such matter. The fact of such relationship or interest shall be disclosed to the Board of Managers or committee which authorizes, approves or ratifies the contract or transaction. Such interested member or members may be counted in determining the presence of a quorum at a meeting of the Board of Managers or a committee thereof which authorizes, approves or ratifies such contract or transaction.

(e) Chairman of the Board. The Manager shall designate from among its members, a Chairman of the Board who shall serve until his or her successor has been elected and qualified or until his or her death, resignation or removal. The Chairman of the Board shall preside at all meetings of the Manager, the Members, and any executive or other committees established by the Manager under the provisions of this Agreement. In addition, the Chairman of the Board shall perform such other duties as are given to the Chairman of the Board by this Agreement or as may be prescribed from time to time by the Board of Managers.

(f) Executive and Other Committees. The Manager may designate (1) an executive committee from among its members and (2) one or more other committees from among its and members of Homeowners' Associations that are Members. Each such committee shall

have and may exercise all the authority of the Manager to the extent provided in a resolution of the Manager, except that no such committee shall have the authority to:

- (i) approve or recommend to Members actions or proposals required by law to be approved by the Members;
- (ii) fill vacancies on the Nominations Committee;
- (iii) adopt, amend or repeal this Agreement;
- (iv) authorize or approve the reacquisition of Membership Interests unless pursuant to a general formula or method specified by the Manager; or
- (v) authorize or approve the issuance or sale or contract for the sale of Membership Interests, or determine the designation and relative rights, preferences, and limitations of the voting group, except that the Manager may authorize a committee (or a senior executive officer of the Company) to do so within limits specifically prescribed by the Board.

The provisions of this Agreement governing meetings, notice, waiver of notice and quorum and voting requirements for the Manager shall also apply to Nominations Committee, Executive Committee and other committees and their members.

Each committee established pursuant to this Section 7.04(g) must have two (2) or more members who shall serve at the pleasure of the Manager. The Manager may designate one (1) or more of its members directors as alternate members of any such committee who may act in the place and stead of any absent member or members at any meeting of such committee.

Neither the designation of any executive or other committee pursuant to this Section 7.03(f), the delegation thereto of authority, nor action by such committee pursuant to such authority, shall alone constitute compliance by any member of the Board of Managers who is not a member of such committee with such member's responsibility to act in good faith, in a manner such director reasonably believes is in the best interests of the Company, and with such care as an ordinarily prudent person in a like position would use under similar circumstances.

Section 7.05 Officers. The Manager may, but need not, appoint individuals as officers of the Company (the "**Officers**") as it deems necessary or desirable to carry on the business of the Company, and the Manager may delegate to such Officers such power and authority as the Manager deems advisable. No Officer need be a Member of the Company. Except as provided herein, any individual may hold two or more offices of the Company. Each Officer shall hold office until his or her successor is designated by the Manager or until his or her earlier death, resignation, or removal. Any Officer may resign at any time upon written notice to the Manager. Any Officer may be removed by the Manager with or without cause at any time. A vacancy in any office occurring because of death, resignation, removal, or otherwise, may, but need not, be filled by the Manager.

Section 7.06 Compensation and Reimbursement of Manager and Officers. Neither the Manager nor Officers shall be compensated for its services as such, but the Company shall reimburse the Manager and Officers for all ordinary, necessary, and direct expenses incurred by the Manager or Officers on behalf of the Company in carrying out the Company's business activities, including,

without limitation, salaries of employees of the Manager who are carrying out the Company's business activities. All reimbursements for expenses shall be reasonable in amount.

Section 7.07 Removal; Resignation; Vacancies.

- (a) The Members may remove one or more members of the Board of Managers or Nomination Committee, at any time, with or without cause by Members holding a majority of the Membership Interests.
- (b) The member of the Board of Managers or Nomination Committee may resign at any time by giving thirty (30) days' written notice to the Company. Any such resignation shall be effective upon receipt thereof unless it is specified to be effective at some other time or upon the occurrence of some other event. The Company's acceptance of a resignation shall not be necessary to make it effective.
- (c) In the event of a vacancy on the Board of Managers, the Nomination Committee will convene to identify and nominate a replacement member to the Board of Managers. In nominating the replacement member of the Board of Managers, the Nomination Committee shall seek candidates from among the Members and undertake such deliberations that the Nomination Committee deems appropriate. The Nomination Committee shall select a person to fill each such vacancy and submit their selection for approval by Members holding a majority of the Membership Interests. If Members holding a majority of the Membership Interests do not elect the person selected by the Nomination Committee, the Nomination Committee shall nominate a different person for approval by Members holding a majority of the Membership Interests.

Section 7.08 No Personal Liability. Except as otherwise provided in the RLLCA, by Applicable Law, or expressly in this Agreement, the Manager will not be obligated personally for any debt, obligation, or liability of the Company, whether arising in contract, tort, or otherwise, solely by reason of being or acting as a Manager.

ARTICLE VIII

TRANSFER

Section 8.01 General Restrictions on Transfer.

- (a) Except as permitted pursuant to Section 8.02 or, no Member shall Transfer all or any portion of its Membership Interest in the Company. No Transfer of Membership Interests to a Person not already a Member of the Company shall be deemed completed until the prospective Transferee is admitted as a Member of the Company in accordance with Section 4.01(b) hereof.
- (b) Notwithstanding any other provision of this Agreement (including Section 8.02), each Member agrees that it will not Transfer all or any portion of its Membership Interest in the Company, and the Company agrees that it shall not issue any Membership Interests:

- (i) except as permitted under the Securities Act and other applicable federal or state securities or blue sky laws, and then, with respect to a Transfer of Membership Interests, only upon delivery to the Company of an opinion of counsel in form and substance satisfactory to the Company to the effect that such Transfer may be effected without registration under the Securities Act;
 - (ii) if such Transfer or issuance would cause the Company to be considered a “publicly traded partnership” under Section 7704(b) of the Code within the meaning of Treasury Regulations Section 1.7704-1(h)(1)(ii), including the look-through rule in Treasury Regulations Section 1.7704-1(h)(3);
 - (iii) if such Transfer or issuance would affect the Company’s existence or qualification as a limited liability company under the RLLCA; or
 - (iv) if such Transfer or issuance would cause the Company to lose its status as a partnership for federal income tax purposes.
- (c) Any Transfer or attempted Transfer of any Membership Interest in violation of this Agreement shall be null and void, no such Transfer shall be recorded on the Company’s books and the purported Transferee in any such Transfer shall not be treated (and the purported Transferor shall continue to be treated) as the owner of such Membership Interest for all purposes of this Agreement.
- (d) Any Transfer of a Membership Interest permitted by this Agreement shall be deemed a sale, transfer, assignment, or other disposal of such Membership Interest in its entirety as intended by the parties to such Transfer, and shall not be deemed a sale, transfer, assignment, or other disposal of any less than all of the rights and benefits described in the definition of the term “Membership Interest,” unless otherwise explicitly agreed to by the parties to such Transfer.

Section 8.02 Permitted Transfers. The provisions of Section 8.01(a) shall not apply to any Transfer by any Member of all or any portion of its Membership Interest to any Affiliate of such Member.

ARTICLE IX

INDEMNIFICATION

Section 9.01 Covered Persons.

- (a) **Covered Persons.** As used herein, the term “**Covered Person**” shall mean (i) each Member, (ii) each officer, director, shareholder, partner, member, manager, Affiliate, employee, agent, or Representative of each Member, and each of their respective Affiliates, and (iii) each Manager, Officer, employee, agent, or Representative of the Company.
- (b) **Indemnification.** To the fullest extent permitted by the RLLCA (after waiving all RLLCA restrictions on indemnification other than those which cannot be eliminated or modified under the RLLCA), as the same now exists or may hereafter be amended, substituted or replaced (but, in the case of any such amendment, substitution, or replacement,

only to the extent that such amendment, substitution, or replacement permits the Company to provide broader indemnification rights than the RLLCA permitted the Company to provide prior to such amendment, substitution, or replacement), the Company shall indemnify, hold harmless, defend, pay, and reimburse any Covered Person against any and all losses, claims, damages, judgments, fines, or liabilities, including reasonable legal fees or other expenses incurred in investigating or defending against such losses, claims, damages, judgments, fines, or liabilities, and any amounts expended in settlement of any claims (collectively, "Losses") to which such Covered Person may become subject by reason of:

(i) any act or omission or alleged act or omission performed or omitted to be performed on behalf of the Company, any Member, the Manager, or any of their respective direct or indirect Subsidiaries in connection with the business of the Company; or

(ii) such Covered Person being or acting in connection with the business of the Company as a member, shareholder, partner, Affiliate, manager, director, officer, employee, agent, or Representative of the Company, any Member, the Manager or any of their respective Affiliates, or that such Covered Person is or was serving at the request of the Company as a member, manager, director, officer, employee, agent, or Representative of any Person including the Company;

provided, that such Loss did not arise from (A) the Covered Person's conduct involving bad faith, willful or intentional misconduct or a knowing violation of law, (B) a transaction from which such Covered Person derived an improper personal benefit, (C) a circumstance under which the liability provisions for improper distributions of Section 605.0406 of the RLLCA are applicable, or (D) a breach of such Covered Person's duties or obligations under Section 605.04091 of the RLLCA (taking into account any restriction, expansion or elimination of such duties and obligations provided for in this Agreement).

(c) Reimbursement. The Company shall promptly reimburse (or advance to the extent reasonably required) each Covered Person for reasonable legal or other expenses (as incurred) of such Covered Person in connection with investigating, preparing to defend, or defending any claim, lawsuit, or other proceeding relating to any Losses for which such Covered Person may be indemnified pursuant to this Section 9.01; provided, that if it is finally judicially determined that such Covered Person is not entitled to the indemnification provided by this Section 9.01, then such Covered Person shall promptly reimburse the Company for any reimbursed or advanced expenses.

(d) Entitlement to Indemnity. The indemnification provided by this Section 9.01 shall not be deemed exclusive of any other rights to indemnification to which those seeking indemnification may be entitled under any agreement or otherwise. The provisions of this Section 9.01 shall continue to afford protection to each Covered Person regardless of whether such Covered Person remains in the position or capacity pursuant to which such Covered Person became entitled to indemnification under this Section 9.01 and shall inure to the benefit of the executors, administrators, legatees, and distributees of such Covered Person.

(e) Insurance. To the extent available on commercially reasonable terms, the Company may purchase, at its expense, insurance (i) to cover Losses covered by the indemnification

provisions contained in this Article IX and (ii) to otherwise cover Losses for any breach or alleged breach by any Covered Person of such Covered Person's duties whether or not covered by the foregoing indemnifications, in each case, in such amount and with such deductibles as the Manager may reasonably determine; provided, that the failure to obtain such insurance shall not affect the right to indemnification of any Covered Person under the indemnification provisions contained herein, including the right to be reimbursed or advanced expenses or otherwise indemnified for Losses hereunder. If any Covered Person recovers any amounts in respect of any Losses from any insurance coverage, then such Covered Person shall, to the extent that such recovery is duplicative, reimburse the Company for any amounts previously paid to such Covered Person by the Company in respect of such Losses.

(f) **Funding of Indemnification Obligation.** Notwithstanding anything contained herein to the contrary, any indemnity by the Company relating to the matters covered in this Section 9.01 shall be provided out of and to the extent of Company assets only, and no Member (unless such Member otherwise agrees in writing) shall have personal liability on account thereof or shall be required to make additional Capital Contributions to help satisfy such indemnity by the Company.

(g) **Savings Clause.** If this Section 9.01 or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify and hold harmless each Covered Person pursuant to this Section 9.01 to the fullest extent permitted by any applicable portion of this Section 9.01 that shall not have been invalidated and to the fullest extent permitted by Applicable Law.

(h) **Amendment.** The provisions of this Section 9.01 shall be a contract between the Company, on the one hand, and each Covered Person who served in such capacity at any time while this Section 9.01 is in effect, on the other hand, pursuant to which the Company and each such Covered Person intend to be legally bound. No amendment, modification or repeal of this Section 9.01 that adversely affects the rights of a Covered Person to indemnification for Losses incurred or relating to a state of facts existing prior to such amendment, modification or repeal shall apply in such a way as to eliminate or reduce such Covered Person's entitlement to indemnification for such Losses without the Covered Person's prior written consent.

Section 9.02 Survival. The provisions of this Article IV shall survive the dissolution, liquidation, winding up and termination of the Company.

ARTICLE X

ACCOUNTING; TAX MATTERS

Section 10.01 Financial Statements. As soon as available, and in any event, the Company shall furnish to each Member within one hundred and twenty (120) days after the end of each Fiscal Year, unaudited consolidated balance sheets of the Company for the prior Fiscal Year and unaudited consolidated statements of income, cash flows, and Members' equity for such Fiscal Year, in each case setting forth in comparative form the figures for the corresponding periods of the previous Fiscal Year, all in reasonable detail and all prepared in accordance with GAAP, consistently applied

(subject to normal year-end audit adjustments and the absence of notes thereto), and certified by the Manager or the principal financial or accounting Officer of the Company.

Section 10.02 Inspection Rights. Upon reasonable written notice from a Member or Permitted Transferee, the Company shall afford each Member or Permitted Transferee and each of its respective Representatives reasonable access during regular business hours to: (a) the Company's properties, offices, plants and other facilities, (b) the corporate, financial, and similar records, reports, and documents of the Company, including, without limitation, all books and records, minutes of proceedings, internal management documents, reports of operations, reports of adverse developments, copies of any management letters, and communications with Members and Permitted Transferees (including the Manager), and permit each Member or Permitted Transferee and each of its respective Representatives to examine such documents and make copies thereof, and (c) any Officers, senior employees, and public accountants of the Company, and to afford each Member or Permitted Transferee and each of its respective Representatives the opportunity to discuss and advise on the affairs, finances, and accounts of the Company with such Officers, senior employees, and public accountants (and the Company hereby authorizes said accountants and other Persons to discuss with such Member or Permitted Transferee and its Representatives such affairs, finances, and accounts); in each case, to the extent such information is for a purpose reasonably related to the Member's or Permitted Transferee's interest as a Member or Permitted Transferee and such purpose is described with reasonable particularity in the notice.

Section 10.03 Income Tax Status. It is the intent of this Company and the Members that this Company shall be treated as a partnership for U.S., federal, state, and local income tax purposes. Neither of the Company, the Manager, nor any Member shall make an election for the Company to be classified as other than a partnership pursuant to Treasury Regulations Section 301.7701-3.

Section 10.04 Partnership Representative.

(a) **Appointment.** The Members hereby appoint the Chairperson of the Manager as the "partnership representative" (the "**Partnership Representative**") as provided in Code Section 6223(a). The Partnership Representative may resign at any time. The Partnership Representative can be removed at any time by a vote of Members holding a majority of the Membership Interests. In the event of the resignation or removal of the Partnership Representative, a Members holding a majority of the Membership Interests shall select a replacement Partnership Representative. If the resignation or removal of the Partnership Representative occurs prior to the effectiveness of the resignation or removal under applicable Treasury Regulations or other administrative guidance, the resignation or removal shall be effective upon the earliest date provided for in such Treasury Regulations or administrative guidance.

(b) **Tax Examinations and Audits.** The Partnership Representative is authorized and required to represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by Taxing Authorities, including resulting administrative and judicial proceedings, and to expend Company funds for professional services and costs associated therewith. The Partnership Representative shall have sole authority to act on behalf of the Company in any such examinations and any resulting administrative or judicial proceedings, and shall have sole discretion to determine whether the Company (either on its own behalf or on behalf of the Members) will contest or continue to

contest any tax deficiencies assessed or proposed to be assessed by any Taxing Authority. The Partnership Representative shall promptly notify the Members if any tax return of the Company is audited and upon the receipt of a notice of final partnership administrative adjustment or final partnership adjustment. Without the consent of the Members, the Partnership Representative shall not extend the statute of limitations, file a request for administrative adjustment, file suit relating to any Company tax refund or deficiency or enter into any settlement agreement relating to items of income, gain, loss or deduction of the Company with any Taxing Authority.

(c) **Elections.** To the extent permitted by applicable law and regulations, the Company will annually elect out of the partnership audit procedures under Code Section 6221(b). For any year in which applicable law and regulations do not permit the Company to elect out, within forty-five (45) days of any notice of final partnership adjustment, the Company will elect the alternative procedure under Code Section 6226 and furnish to the Internal Revenue Service and each Member during the year or years to which the notice of final partnership adjustment relates a statement of the Member's share of any adjustment set forth in the notice of final partnership adjustment.

(d) **Tax Returns and Tax Deficiencies.** Each Member agrees that such Member shall not treat any Company item inconsistently on such Member's federal, state, foreign, or other income tax return with the treatment of the item on the Company's return. Any deficiency for taxes imposed on any Member (including penalties, additions to tax, or interest imposed with respect to such taxes and taxes imposed pursuant to Code Section 6226) shall be paid by such Member and if required to be paid (and actually paid) by the Company, will be recoverable from such Member as provided in Section 6.02(c).

(e) **Exculpation and Indemnification of Tax Matters Representative.** To the fullest extent permitted by applicable law, the Partnership Representative shall not have any liability to any Member or former Member or to the Company as a result of, or in connection with, any action or omission on the part of such Partnership Representative in their capacity as such, except to the extent that such action or omission constitutes fraud or willful misconduct on the part of such Partnership Representative.

To the fullest extent permitted by applicable law, the Company and its Members (except, in the case of the Members, their obligations shall be several and pro rata, based upon their respective Percentage Interests) shall indemnify and hold harmless the Partnership Representative and any former Partnership Representative from and against any and all losses, claims, damages, liabilities, judgments, penalties, fines, settlements and reasonable expenses (including, without limitation, administrative expenses, court costs and attorneys' fees) actually incurred by such Partnership Representative in connection with its status as a Partnership Representative or any action or omission taken by such Person in its capacity as a Partnership Representative. Notwithstanding the foregoing, no current or former Partnership Representative will be indemnified or held harmless in connection with any action or inaction constituting fraud or willful misconduct by such Partnership Representative.

(f) **Survival of Rights and Obligations.** The rights and obligations under this Section 10.05 of the Company, the Members, former Members, unadmitted assignees of a Membership Interest who may be treated as a current or former tax partners of the Company, and current or

former Partnership Representatives shall survive the termination of such party's ownership of a Membership Interest, the termination of a Partnership Representative's status as such, and the termination of the Company. The provisions of this Section 10.04 will remain binding on the Members, former Members, current and former Partnership Representatives, current or former unadmitted assignees of a Member Interest who may be considered current or former tax partners of the Company, and the Company for a period of time necessary to resolve any and all matters regarding the federal and, if applicable, state or local income taxation of the Company and its Members and former Members and the resolution of all payment and reporting obligations created under this Section 10.04

(g) **Employment of Advisors.** The Partnership Representative shall employ experienced tax advisors to represent the Company in connection with any audit or investigation of the Company by the Internal Revenue Service or any other governmental tax authority and in connection with all subsequent administrative and judicial proceedings arising out of such audit. The fees and expenses of such tax advisors shall be a Company expense and shall be paid by the Company. Such advisors shall be responsible for representing the Company. It shall be the responsibility of the Members, at their own expense, to employ tax advisors to represent their respective separate interests.

Section 10.05 Tax Returns. At the expense of the Company, the Manager (or any Officer that it may designate pursuant to Section 7.05) shall endeavor to cause the preparation and timely filing (including extensions) of all tax returns required to be filed by the Company pursuant to the Code as well as all other required tax returns in each jurisdiction in which the Company owns property or does business. As soon as reasonably possible after the end of each Fiscal Year, the Manager or designated Officer will cause to be delivered to each Person who was a Member at any time during such Fiscal Year, IRS Schedule K-1 to Form 1065 and such other information with respect to the Company as may be necessary for the preparation of such Person's federal, state, and local income tax returns for such Fiscal Year.

Section 10.06 Company Funds. All funds of the Company shall be deposited in its name, or in such name as may be designated by the Manager, in such checking, savings or other accounts, or held in its name in the form of such other investments as shall be designated by the Manager. The funds of the Company shall not be commingled with the funds of any other Person. All withdrawals of such deposits or liquidations of such investments by the Company shall be made exclusively upon the signature or signatures of such Officer or Officers as the Manager may designate.

ARTICLE XI

DISSOLUTION AND LIQUIDATION

Section 11.01 Events of Dissolution. The Company shall be dissolved and its affairs wound up only upon the occurrence of any of the following events:

(a) An election to dissolve the Company made by the holders of a majority of the Membership Interests;

(b) The sale, exchange, involuntary conversion, or other disposition or Transfer of all or substantially all the assets of the Company; or

- (c) The entry of a decree of judicial dissolution under Section 605.0705 of the RLLCA.

Section 11.02 Effectiveness of Dissolution. Dissolution of the Company shall be effective on the day on which the event described in Section 11.01 occurs. Upon the occurrence of an event described in Section 11.01, the Liquidator (as defined below) shall file articles of dissolution with the Department of State of the State of Florida under Section 605.0707 of the RLLCA, but the Company shall not terminate until the winding up of the Company has been completed, the assets of the Company have been distributed as provided in Section 11.03, and the Articles of Organization shall have been cancelled as provided in Section 11.04.

Section 11.03 Liquidation. If the Company is dissolved pursuant to Section 11.01, the Company shall be liquidated and its business and affairs wound up in accordance with the RLLCA and the following provisions:

(a) **Liquidator.** The Manager shall act as liquidator to wind up the Company (the “**Liquidator**”), unless the Company is being dissolved pursuant to Section 11.01(b) based on the breach of the Manager, in which case the Liquidator shall be a Person selected by the unanimous consent of the non-defaulting Members, in their sole discretion. The Liquidator shall have full power and authority to sell, assign, and encumber any or all of the Company’s assets and to wind up and liquidate the affairs of the Company in an orderly and business-like manner.

(b) **Accounting.** As promptly as possible after dissolution and again after final liquidation, the Liquidator shall cause a proper accounting to be made by a recognized firm of certified public accountants of the Company’s assets, liabilities, and operations through the last day of the calendar month in which the dissolution occurs or the final liquidation is completed, as applicable.

(c) **Distribution of Proceeds.** The Liquidator shall liquidate the assets of the Company and distribute the proceeds of such liquidation in the following order of priority, unless otherwise required by mandatory provisions of Applicable Law:

(i) **First**, to the payment of all of the Company’s debts and liabilities to its creditors (including Members, if applicable) and the expenses of liquidation (including sales commissions incident to any sales of assets of the Company);

(ii) **Second**, to the establishment of and additions to reserves that are determined by the Liquidator to be reasonably necessary for any contingent or unknown liabilities or obligations of the Company; and

(iii) **Third**, to the Members or their designees in accordance with the positive balances in their respective Capital Accounts, as determined after taking into account all Capital Account adjustments for the taxable year of the Company during which the liquidation of the Company occurs.

(d) **Discretion of Liquidator.** Notwithstanding the provisions of Section 11.03(c) that require the liquidation of the assets of the Company, but subject to the order of priorities set

forth in Section 11.03(c), if upon dissolution of the Company the Liquidator reasonably determines that an immediate sale of part or all of the Company's assets would be impractical or could cause undue loss to the Members, the Liquidator may defer the liquidation of any assets except those necessary to satisfy Company liabilities and reserves, and may distribute to the Members, in lieu of cash, as tenants in common and in accordance with the provisions of Section 11.03(c), undivided interests in such Company assets as the Liquidator deems not suitable for liquidation. Any such distribution in kind shall be subject to such conditions relating to the disposition and management of such properties as the Liquidator deems reasonable and equitable and to any agreements governing the operating of such properties at such time. For purposes of any such distribution, any property to be distributed will be valued at its Fair Market Value.

Section 11.04 Statement of Termination; Cancellation of Foreign Qualifications. Upon completion of the distribution of the assets of the Company as provided in Section 11.03 hereof, the Company shall be terminated and the Liquidator shall file a statement of termination with the Department of State of the State of Florida as required under the RLLCA and shall cause the cancellation of all qualifications and registrations of the Company as a foreign limited liability company in jurisdictions other than the State of Florida and shall take such other actions as may be necessary to terminate the Company.

Section 11.05 Survival of Rights, Duties, and Obligations. Dissolution, liquidation, winding up, or termination of the Company for any reason shall not release any party from any Loss that at the time of such dissolution, liquidation, winding up, or termination already had accrued to any other party or thereafter may accrue in respect of any act or omission prior to such dissolution, liquidation, winding up, or termination. None of the foregoing shall replace, diminish, or otherwise adversely affect any Member's right to indemnification pursuant to Article IX.

Section 11.06 Recourse for Claims. Each Member shall look solely to the assets of the Company for all distributions with respect to the Company, such Member's Capital Account, and such Member's share of Net Income, Net Loss, and other items of income, gain, loss, and deduction, and shall have no recourse therefor (upon dissolution or otherwise) against the Liquidator or any other Member.

ARTICLE XII

MISCELLANEOUS

Section 12.01 Expenses. Except as otherwise expressly provided herein, all costs and expenses, including fees and disbursements of counsel, financial advisors, and accountants, incurred in connection with the preparation and execution of this Agreement, or any amendment or waiver hereof, and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses.

Section 12.02 Further Assurances. In connection with this Agreement and the transactions contemplated hereby, the Company and each Member hereby agrees, at the request of the Company, the Manager, or any other Member, to execute and deliver such additional documents, instruments, conveyances, and assurances, and to take such further actions, as may be required to carry out the provisions hereof and give effect to the transactions contemplated hereby.

Section 12.03 Notices and Reporting. Notices All notices, requests, consents, claims, demands, waivers, and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt), (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested), (c) on the date sent by facsimile or email of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient, or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section):

If to the Company:

GRAND HARBOR AND OAK HARBOR
TRANSITION, LLC
5375 Sol Rue Circle
Vero Beach, Florida 32967
Email: davidw76@bellsouth.net
Attention: David Warren

with a copy to:

Dean, Mead, Minton & Zwemer
Email: bgould@deanmead.com
Attention: Brad Gould

If to Manager:

Email: _____

If to a non-managing member, to such Member's respective mailing address as set forth on the Members Schedule.

The Company shall send a notice to each member, once a month, reporting on the affairs of the Company; provided that no such notice shall be required with respect to any period during which no material change occurs in the affairs of the Company.

Section 12.04 Headings. The headings in this Agreement are inserted for convenience or reference only and are in no way intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision of this Agreement.

Section 12.05 Severability. If any term or provision of this Agreement is held to be invalid, illegal, or unenforceable under Applicable Law in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Except as provided in Section 10.01(h), upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 12.06 Entire Agreement. This Agreement, together with the Articles of Organization and all related Exhibits and Schedules, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersedes all prior and contemporaneous understandings, agreements, records, representations and warranties, both written and oral, whether express or implied, with respect to such subject matter.

Section 12.07 Successors and Assigns; Assignment. Subject to the restrictions on Transfers set forth herein, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto

and their respective heirs, executors, administrators, legal representatives, successors and permitted assigns. This Agreement may not be assigned by any Member except as permitted in this Agreement (or as otherwise consented to in a prior writing by all of the other Members) and any such assignment in violation of this Agreement shall be null and void.

Section 12.08 No Third-Party Beneficiaries. Except as provided in Article IX, which shall be for the benefit of and enforceable by Covered Persons as described therein, this Agreement is for the sole benefit of the parties hereto (and their respective heirs, executors, administrators, legal representatives, successors and permitted assigns), and nothing herein, express or implied, is intended to or shall confer upon any other Person, including any creditor of the Company, any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

Section 12.09 Amendment. No provision of this Agreement may be amended or modified except by an instrument in writing executed by the Company and the Members holding sixty-six and two-thirds (66 2/3) of the Membership Interests. Any such written amendment or modification will be binding upon the Company and each Member. Notwithstanding the foregoing, amendments to the Members Schedule following any new issuance, redemption, repurchase, or Transfer of Membership Interests in accordance with this Agreement may be made by the Manager without the consent of or execution by the Members.

Section 12.10 Waiver. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. For the avoidance of doubt, nothing contained in this Section 12.10 shall diminish any of the explicit and implicit waivers described in this Agreement, including in Section 12.13 hereof.

Section 12.11 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of any legal or equitable action arising under this Agreement, the venue for such action shall lie exclusively within either the state courts of Florida located in Indian River County, Florida, or the United States District Court for the Southern District of Florida, Fort Pierce Division, as the case may be, and the parties hereto do hereby specifically waive any other jurisdiction and venue.

Section 12.12 Waiver of Jury Trial. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING ANY EXHIBITS AND SCHEDULES ATTACHED TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 12.13 Equitable Remedies. Each party hereto acknowledges that a breach or threatened breach by such party of any of its obligations under this Agreement would give rise to irreparable harm to the other parties, for which monetary damages would not be an adequate remedy, and hereby agrees that in the event of a breach or a threatened breach by such party of any such obligations, each of the other parties hereto shall, in addition to any and all other rights and remedies that may be available to them in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond).

Section 12.14 Attorneys' Fees. If any party hereto institutes any legal suit, action, or proceeding, including arbitration, against another party in respect of a matter arising out of or relating to this Agreement, the prevailing party in the suit, action, or proceeding shall be entitled to receive, and the non-prevailing party shall pay, in addition to all other damages to which the prevailing party may be entitled, the costs and expenses incurred by the prevailing party in conducting the suit, action, or proceeding, including reasonable attorneys' fees and expenses and court costs, even if not recoverable by law.

Section 12.15 Remedies Cumulative. The rights and remedies under this Agreement are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law or in equity or otherwise, except to the extent expressly provided herein to the contrary.

Section 12.16 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered pursuant to Sections 668.001 through Section 668.006, Florida Statutes, as the same may be amended from time to time, or under Section 668.50, Florida Statutes (the Uniform Electronic Transaction Act, as enacted in the State of Florida), as the same may be amended from time to time, by facsimile, e-mail or other means of Electronic Transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. The parties to this Agreement agree that the electronic signatures of the parties and/or witnesses included in this Agreement (if any are used) are intended to authenticate this writing and to have the same force and effect as the use of manual signatures.

Section 12.17 Independent Counsel. Each Member has read this Agreement and acknowledges that:

- (a) counsel for the Company prepared this Agreement on behalf of the Company;
- (b) such Member has been advised that a conflict may exist between such Member's interests, the interests of the other Members, and/or the interests of the Company;
- (c) this Agreement may have significant legal, financial planning, and/or tax consequences to such Member;
- (d) counsel for the Company has made no representations to such Member regarding such consequences;
- (e) such Member has been advised to seek the advice of independent counsel regarding such consequences; and

(f) such Member has had the opportunity to seek the advice of independent counsel.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

WITNESSES:

MEMBERS:

Coventry Island Property Owners' Association,
Inc., a Florida Not for Profit Corporation

Donald Iodice, President

Harbor Island at Grand Harbor Property Owners
Association, Inc., a Florida Not for Profit
Corporation

Ralph Schregardus, President

Harbor Links at Grand Harbor Property Owners
Association, Inc., a Florida Not for Profit
Corporation

Art Irvine, President

Harbor Side #1 at Grand Harbor Condominium
Association, Inc., a Florida Not for Profit
Corporation

Anne Forrester, President

Harbor Side #2 at Grand Harbor Condominium
Association, Inc., a Florida Not for Profit
Corporation

Glenn Rose, President

Harbor Side #3 at Grand Harbor Condominium Association, Inc., a Florida Not for Profit Corporation

Jessie Weyand, President

Harbor Side #4 at Grand Harbor Condominium Association, Inc., a Florida Not for Profit Corporation

Terry Leggett, President

Harbor Side #5 at Grand Harbor Condominium Association, Inc., a Florida Not for Profit Corporation

Richard Gaudy, President

Harbor Village at Grand Harbor Condominium Association, Inc., a Florida Not for Profit Corporation

Lorna Mitchell, President

Harbor's Edge #2 at Grand Harbor Condominium Association, Inc., a Florida Not for Profit Corporation

Bill Yunker, President

Harbor Pointe at Grand Harbor Property Owners Association, Inc., a Florida Not for Profit Corporation

Alice Johnson, President

Harmony Island Condominium Association, Inc., a
Florida Not for Profit Corporation

Susan Dailey, President

Marina Village at Grand Harbor Property Owners
Association, Inc., a Florida Not for Profit
Corporation

Pat Murphy, President

Marina Village Tower I at Grand Harbor
Condominium Association, Inc., a Florida Not for
Profit Corporation

Richard Brennan, President

Marina Village Tower II at Grand Harbor
Condominium Association, Inc., a Florida Not for
Profit Corporation

James Beede, President

Newport Island at Grand Harbor Condominium
Association, Inc., a Florida Not for Profit
Corporation

James Jensen, President

North Harbor Village Property Owners
Association, Inc., a Florida Not for Profit
Corporation

James Bowhers, President

Osprey Pointe at Grand Harbor Condominium
Association, Inc., a Florida Not for Profit
Corporation

Rock Tonkel, President

River Club Property Owners Association, Inc., a
Florida Not for Profit Corporation

Don Deless, President

River Pointe at Grand Harbor Condominium
Association, Inc., a Florida Not for Profit
Corporation

Horace Lindsay, President

River Village Estates at Grand Harbor Property
Owners Association, Inc., a Florida Not for Profit
Corporation

Dennis Byrne, President

River Village Tower I at Grand Harbor
Condominium Association, Inc., a Florida Not for
Profit Corporation

Richard B. Passen, President

River Village Tower II at Grand Harbor
Condominium Association, Inc., a Florida Not for
Profit Corporation

Robert Cashill, President

River Village Tower III at Grand Harbor
Condominium Association, Inc., a Florida Not for
Profit Corporation

Doug Baran, President

River Village Tower IV at Grand Harbor
Condominium Association, Inc., a Florida Not for
Profit Corporation

John Murphy, President

River Village Tower V at Grand Harbor
Condominium Association, Inc., a Florida Not for
Profit Corporation

James Brumbaugh, President

Riverview at Grand Harbor Condominium
Association, Inc., a Florida Not for Profit
Corporation

Virginia C. Tulloch, President

St. Andrews Island Property Owners' Association,
Inc., a Florida Not for Profit Corporation

Robert Van Saun, President

St. David's Island Property Owners Association,
Inc., a Florida Not for Profit Corporation

Bob Noe, President

St. Joseph's Island at Grand Harbor Property
Owners Association, Inc., a Florida Not for Profit

Brad Greer, President

St. Philip's Island at Grand Harbor Property
Owners Association, Inc., a Florida Not for Profit
Corporation

John Smith, President

Sunset Cove at Grand Harbor Property Owners
Association, Inc., a Florida Not for Profit
Corporation

David Warren, President

Victoria Island Property Owners Association, Inc.,
a Florida Not for Profit Corporation

Bob Garrison, President

Wood Duck Island Property Owners Association,
Inc., a Florida Not for Profit Corporation

Ralph Mace, President

Caldicott House at Oak Harbor Condominium
Association, Inc., a Florida Not for Profit
Corporation

Paul Bubendey, President

Camden House at Oak Harbor Condominium
Association, Inc., a Florida Not for Profit
Corporation

Madeleine Geoghegan, President

Mayfair House at Oak Harbor Condominium Association, Inc., a Florida Not for Profit Corporation

Mary Josephine Harley, President

Hamilton Island at Oak Harbor Homeowners Association, Inc., a Florida Not for Profit Corporation

Jeff Damavandi, President

St. Anne's Island at Oak Harbor Homeowners Association, Inc., a Florida Not for Profit Corporation

Arthur Spilios, President

St. Catherine's Island at Oak Harbor Homeowners Association, Inc., a Florida Not for Profit Corporation

Arthur Spilios, President

St. Elizabeth's Island at Oak Harbor Homeowners Association, Inc., a Florida Not for Profit Corporation

Langdon Mannion, President

St. George's Island at Oak Harbor Homeowners Association, Inc., a Florida Not for Profit Corporation

Arthur Spilios, President

St. James Island at Oak Harbor Homeowners
Association, Inc., a Florida Not for Profit
Corporation

Jeff Damavandi, President

St. Margaret's Island at Oak Harbor Condominium
Association, Inc., a Florida Not for Profit
Corporation

John Reynolds, President

EXHIBIT A
FORM OF JOINDER AGREEMENT

JOINDER AGREEMENT

Reference is hereby made to the Operating Agreement for Grand Harbor and Oak Harbor Transition, LLC dated _____, 2018 (as amended from time to time, the "Operating Agreement"), by and among the members of Grand Harbor and Oak Harbor Transition, LLC, a company organized under the laws of Florida (the "Company"). Pursuant to and in accordance with Section 4.01 of the Operating Agreement, the undersigned hereby agrees that upon the execution of this Joinder Agreement, it shall become a party to the Operating Agreement and shall be fully bound by, and subject to, all of the covenants, terms and conditions of the Operating Agreement as though an original party thereto and shall be deemed to be a Member of the Company for all purposes thereof.

Capitalized terms used herein without definition shall have the meanings ascribed thereto in the Operating Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Joinder Agreement as of

_____.

Name

**SCHEDULE A
MEMBERS SCHEDULE**

Member Name and Address	Capital Contribution (in Units)
Coventry Island Property Owners' Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	33
Harbor Island at Grand Harbor Property Owners Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	14
Harbor Links at Grand Harbor Property Owners Association, Inc. c/o Keystone Property Management 2001 9th Avenue, Suite #308 Vero Beach, FL 32960	36
Harbor Side #1 at Grand Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	6
Harbor Side #2 at Grand Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	6
Harbor Side #3 at Grand Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	6
Harbor Side #4 at Grand Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	6

Harbor Side #5 at Grand Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	6
Harbor Village at Grand Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	73
Harbor's Edge #2 at Grand Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	11
Harbor Pointe at Grand Harbor Property Owners Association, Inc. c/o Sam Speechly 4380 US Hwy 1 Vero Beach, FL 32967	37
Harmony Island Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	183
Marina Village at Grand Harbor Property Owners Association, Inc. c/o Sam Speechly 4380 US Hwy 1 Vero Beach, FL 32967	14
Marina Village Tower I At Grand Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	6
Marina Village Tower II at Grand Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	6

Newport Island at Grand Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	46
North Harbor Village Property Owners Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	18
Osprey Pointe at Grand Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	6
River Club Property Owners Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	62
River Pointe at Grand Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	9
River Village Estates at Grand Harbor Property Owners Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	16
River Village Tower I at Grand Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	6
River Village Tower II at Grand Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	6

River Village Tower III at Grand Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	6
River Village Tower IV at Grand Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	6
River Village Tower V at Grand Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	6
Riverview at Grand Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	9
St. Andrews Island Property Owners' Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	27
St. David's Island Property Owners Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	73
St. Joseph's Island at Grand Harbor Property Owners Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	14
St. Philip's Island at Grand Harbor Property Owners Association, Inc. c/o Sam Speechly 4380 US Hwy 1 Vero Beach, FL 32967	12

Sunset Cove at Grand Harbor Property Owners Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	15
Victoria Island Property Owners Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	97
Wood Duck Island Property Owners Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	67
Caldicott House at Oak Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	24
Camden House at Oak Harbor Condominium Association, Inc. c/o Vesta Property Services 333 17th Street, Suite A Vero Beach, FL 32960	24
Mayfair House at Oak Harbor Condominium Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	12
Hamilton Island at Oak Harbor Homeowners Association, Inc. c/o Arthur Spilios 4755 South Harbor Drive Vero Beach, FL 32967	13
St. Anne's Island at Oak Harbor Homeowners Association, Inc. c/o Arthur Spilios 4755 South Harbor Drive Vero Beach, FL 32967	21

St. Catherine's Island at Oak Harbor Homeowners Association, Inc. c/o Arthur Spilios 4755 South Harbor Drive Vero Beach, FL 32967	17
St. Elizabeth's Island at Oak Harbor Homeowners Association, Inc. c/o AR Choice Management 100 Vista Royale Blvd Vero Beach, FL 32962	20
St. George's Island at Oak Harbor Homeowners Association, Inc. c/o Arthur Spilios 4755 South Harbor Drive Vero Beach, FL 32967	18
St. James Island at Oak Harbor Homeowners Association, Inc. c/o Arthur Spilios 4755 South Harbor Drive Vero Beach, FL 32967	45
St. Margaret's Island at Oak Harbor Condominium Association, Inc. c/o Vesta Property Services 333 17th Street, Suite A Vero Beach, FL 32960	7
TOTAL	1145