

**PLEASE READ THIS LETTER IN
ITS ENTIRETY**

BREGGIO LAW OFFICE
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March 13, 2018

RE: 365 Reed Ave, LLC
2751 E Fort Union Blvd
Cottonwood Heights, UT 84121

Dear Client:

Thank you for asking Breggio Law Office to help with forming your new LLC. Enclosed is your company's legal documentation. These are important documents AND this is information regarding running your new business.

FIRST, Please go to the Client Info page on our website (www.breggiolaw.com/client-info/) and download a copy of our **Corporate Governance Guidebook**. This has great information about keeping your LLC in compliance.

You can also download our **Self-Direction Guidebook** there for more information specific to self-directing your retirement account.

You can also download our **Limited Liability Guidebook** if you don't already have it. There is information specific to Series LLCs.

On this Client Info page, you can also review our policies concerning the documents we create for our clients, including policies regarding this LLC.

You can also visit the **REI EDUCATION CENTER** on our website (under the Real Estate Tab) for even more the information and videos that answer many common questions! Here are two links to video education on self-direction. Please view these!

<http://breggiolaw.com/self-direction-super-class/>
<http://breggiolaw.com/ira-and-401k-examples-webinar/>

Please review all available resources before contacting our office with questions. There may be FEES associated with speaking with someone about your new LLC.

We do NOT keep or send out signed copies of your documents to anyone. Please keep these documents in a safe place. There may also be fees to replace lost documents.

IMPORTANT NOTE: As an IRA, LLC, this company is owned by your retirement account(s), not you. There are rules about how distributions and contributions are made to your retirement account (through the custodian), your role in the company and possible taxation. You are responsible for staying in compliance with all IRS regulations.

ENCLOSURES:

1. **Certificate of Organization:** Your Certificate of Organization will be included here. If we are only completing your operating agreement, you should already have a copy of your Certificate/Articles and we may not have included that in this binder.
2. **EIN:** IF this is a new filing, or you never received one, your employer identification number (EIN) is included here. You will need this to open bank accounts. **PLEASE NOTE**, we only obtain the EIN through the IRS online process. There are certain circumstances, however, that prevent an online application. If this is the case, you will receive instructions on how to mail or fax in a paper application (IRS Form SS-4). It can take a couple of weeks to receive. Due to the time it takes for the paper application, we cannot obtain the EIN for you if this is the case. Also, your accountant can help with this task.
3. **Operating Agreement:** This is the most important legal document of your company! Please make sure to **READ** thoroughly and have all Members (owners) and Manager(s) **SIGN** the document on the last page! You can use this last page to show third parties who the owners and managers are in lieu of showing them the entire operating agreement.
4. **Series Creation Minutes:** PLEASE MAKE COPIES AS NEEDED! This is the document to create “series” within your Series LLC. You will need to make copies of this and re-use as needed. You simply fill out and sign. This document is NOT filed with the state. If you need us to create a series, there is a fee associated with that work.
5. **Comfort Letter:** This letter is often required by your custodian before they will fund your new IRA, LLC. They may also require a purchase agreement. If they do, please let us know as that is also something we can provide for you.

ADDITIONAL INFORMATION

1. **Find an accountant:** An accountant can be indispensable in helping you understand the possible tax implications of self-directing your retirement account, run your company efficiently and answer questions regarding taxes and deductions. **Please consult an accountant for all tax advice.** Your accountant can also help with getting your EIN, if necessary.
2. **Management:** Your company is set up as “managed” by the Manager(s) of the company. **Therefore, always ACT and SIGN in the capacity as a Manager when representing your company to others or having a manager meeting.** Meetings of

the Company are held with the Members and therefore you always sign those minutes as the Members. There is additional information on our website's **REI Education Center**. Also, if you would like assistance in corporate governance, please speak with one of our attorneys about our consulting packages.

3. **Meetings and Minutes:** Your Operating Agreement is written so MAY hold Annual Meetings, and Special Meeting. However, the “Members” of an IRA, LLC are your IRA accounts. So, it’s pretty difficult for those to hold a meeting. So, you probably won’t have meetings of the members of your IRA, LLC.
4. **Member Transfer Restrictions:** This Operating Agreement includes restrictions on the transfer of Membership due to the nature of IRA, LLCs. You should consult with an attorney before making any membership change to this LLC.
5. **Transfer Property:** All real estate and assets belonging to the company should be transferred into the name of the company. If you have contracts, including lease agreements, those need to be transferred to the company as well. You must also notify insurance agents of the change in ownership of these assets to ensure your coverage. Please contact our office if you need any help with the transfer of assets. Make sure you transfer real estate correctly into the series! Please review our LLC Guidebook for more information.
6. **Obtain City Business License:** You can usually do this at your city hall. This should be the city where your main office is located. If you own a rental property, some cities require that you also get a license where the rental is located.
7. **Business Bank Account:** Most banks will require your Certificate of Organization and the EIN to get an account set up. Set up the account and use it exclusively for the business expenses—not personal!! Do NOT comingle funds!
8. **Professional License:** Make sure that you have any required professional licensing you need (e.g., realtor’s license, contractors license, etc.). The license should be in the name of the company, if allowed by law.
9. **Signature and Contracting:** All contracts should be in the NAME of your company. Also make sure that you always represent yourself and your LLC as being a “LLC” or “Company,” (not a Corporation!) specifically in conversations, business cards, letterhead, invoices, contracting, etc.
10. **Visit our website: We have many forms that small business owners need. The REI EDUCATION CENTER has numerous videos and pages and pages of instructional information. Please check us out!**

Sincerely,

The Team at Breglio Law Office.

CERTIFICATE OF ORGANIZATION

CERTIFICATE OF ORGANIZATION FOR
365 Reed Ave, LLC

The undersigned to this Certificate of Organization, being a natural person or entity competent to contract, hereby forms a limited liability company under the laws of the State of Utah.

ARTICLE I: NAME

The name and principal address of the Company are:

365 Reed Ave, LLC
2751 E Fort Union Blvd
Cottonwood Heights, UT 84121

ARTICLE II: SERIES

The Company reserves the right to establish one or more designated Series of members, managers or interests in the Company each having a limitation on liabilities with respect to separate rights, powers or duties and with respect to specified property, obligations and debts of the Company or each Series, or with respect to profits and losses associated with specified obligations of the Company or Series in accordance with State legislative authorization. No Series is established with these Articles.

ARTICLE III: MANAGEMENT

The Company shall be managed by the manager(s) of the Company. The name and address of the initial Manager of the Company shall be:

Robin Flinchbaugh
2751 E Fort Union Blvd
Cottonwood Heights, UT 84121

ARTICLE IV: REGISTERED OFFICE AND AGENT

The Company will maintain an agent in the State of Utah for service of process. The name and address of the initial registered agent shall be:

BLO Registered Agency (7331683-0250)
32 W. 200 South, #307
Salt Lake City, UT 84101

SIGNATURE:

One Manager of the Company shall electronically sign this Certificate of Organization:

/s/ Robin Flinchbaugh
By: Robin Flinchbaugh

OPERATING AGREEMENT

COMPANY OPERATING AGREEMENT

This Operating Agreement of 365 Reed Ave, LLC is entered into by its Initial Member(s) as defined by this Agreement and being effective as of March 15, 2018.

RECITALS

- A. A Limited Liability Company, in accordance with the Laws of the State of Organization, has been formed by the Organizer of the Company.
- B. The Company, 365 Reed Ave, LLC, has been formed for the purposes and on the terms, covenants and conditions set forth herein.
- C. Pursuant to the Act, and all other pertinent laws of the State of Organization and its political subdivisions, and in exchange for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged by the parties hereto, the Initial Member(s) of the Company, shall mutually agree and covenant as follows:

ARTICLE 1 – DEFINITIONS

1.1 **Scope:** For the purposes of this Agreement, unless the language or context clearly indicates that a different meaning is intended, capitalized terms have the meanings specified in Article 1.

1.2 **Defined Terms:**

(a) “Act” means the state Act or Statute or Title, including any amendments or revisions thereto, governing the formation of a limited liability company in the State of Organization of the Company.

(b) “Administrator” means the administrator of a Retirement Plan engaged by the Owner to maintain certain records and file certain reports necessary to keep the Retirement Plan in compliance with the Internal Revenue Code and/or ERISA.

(c) “Affiliate” with respect to a person, means (1) a Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with the Person, (2) a Person who owns or controls at least ten percent outstanding voting interests of the Person, (3) a Person who is an officer, director, manager, general partner, trustee or owns at least ten percent of the outstanding voting interests of a Person described in the clauses (1) through (3) of this sentence.

(d) “Agreement” means this Operating Agreement, including any amendments thereto.

- (e) “Capital Account” means the Company the account established for each Member of the Company for that Member’s Contributions and Distributions.
- (f) “Certificate” the Certificate of Organization filed with the Division of the State of Organization, or the Articles of Organization so filed, to organize the Company as a limited liability company, including any amendments thereto.
- (g) “Code” means the Internal Revenue Code of 1986, as amended.
- (h) “Company” means 365 Reed Ave, LLC and any successor limited liability company.
- (i) “Competing Activity” means an activity that competes with or is benefited by the Company’s present or prospective activities. A passive investment in an entity engaged in a Competing Activity is itself a Competing Activity only if the investor and the Entity are Affiliates.
- (j) “Contribution” means a Member’s financial investment in the Company.
- (k) “Custodian” means the custodian of a Retirement Plan as defined and required by the Code.
- (l) “Designated Office” means the Company’s office in the State of Organization where the Company’s records are required to be maintained.
- (m) “Dissolution,” with respect to the Company, means (1) the filing of articles of dissolution on the Company’s behalf, (2) the Company’s administrative dissolution, unless the Company is reinstated within the time period prescribed by applicable law or (3) any other event that initiates the Company’s winding up under applicable law.
- (n) “Distribution” means the Company’s direct or indirect transfer of money or other property to the Members.
- (o) “Division” means any such Office, Division or Department of the state of organization for the due and proper filing of Certificate to establish a limited liability company in said state.
- (p) “Entity” means an association, relationship or artificial person through or by means of which an enterprise or activity may be lawfully conducted, including, without limitation, a domestic or foreign corporation, nonprofit corporation, limited liability company, general partnership, limited partnership, business trust, association, trust, estate, joint venture, cooperative or governmental unit.
- (q) “ERISA” means The Employee Retirement and Income Security Act and the rules and regulations promulgated thereunder.

(r) “Filing Date” means the date the Organizer filed a Certificate with the Division.

(s) “Incapacity,” with respect to a Member means impairment by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication or other cause to the extent the Member lacks sufficient understanding or capacity to make or communicate responsible decisions.

(t) “IRA” means Individual Retirement Account, Annuity or Arrangement.

(u) “Manager” means either the Member(s) or Appointed Manager(s) who are authorized to manage the affairs of the Company as defined in Article 5 of this Agreement.

(v) “Member(s)” means, collectively or individually, the Initial Member(s). No other member may be admitted to the Company without amendment to this Agreement. If a Member is a Retirement Plan, the Member is the Custodian or Administrator engaged by the Owner.

(w) “Membership Interest” means a Member’s percentage interest in the Company, consisting of the Member’s right to share in Profits, receive Distributions, participate in the Company’s governance, approve the Company’s acts and receive information pertaining to the Company’s affairs. Changes in Membership Interests after the Filing Date, including those necessitated by the admission and Dissociation of Members, will be reflected in the Company’s records. The allocation of Membership Interests reflected in the Company’s records from time to time is presumed to be correct for all purposes of this Agreement and the Act.

(x) “Organizer” means the member or manager or representative of the Company who filed the Certificate with the Division.

(y) “Owner” means the individual who is the owner of a Retirement Plan as defined by this Agreement.

(z) “Person” means a natural person or an entity.

(aa) “Profit,” as to a positive amount, or “Loss,” as to a negative amount, means, for a Taxable Year, the Company’s net taxable income or loss for the Taxable Year, as determined in accordance with section 703(a) of the Code, with the following adjustments: (1) all items required to be separately stated pursuant to section 703(a)(1) of the Code will be accounted for in the aggregate, (2) any income that is exempt for federal income tax purposes will be included; and (3) any item that is specially allocated pursuant to this Agreement.

(bb) “Regulations” means proposed, temporary or final regulations promulgated under the Code by the Department of the Treasury, as amended.

(cc) “Retirement Plan” means ERISA or IRS qualified retirement plan such as defined benefit plans, 401(k), 403(b) and 457 plans, plus KEOGH plans, SIMPLE, SEP, Traditional and Roth IRAs.

(dd) “Series” means any one or more designated series established by the Manager(s) of the Company.

(ee) “State of Organization” means the state in which the Organizer files a Certificate with the Division.

(ff) “Taxable Year” means the Company’s taxable year that shall be calculated on the calendar year ending with December 31.

(gg) “Transfer,” as a noun, means a transaction or event by which ownership of a Membership Interest is changed, including, without limitation, a sale, exchange, distribution, abandonment, gift, devise or foreclosure. “Transfer,” as a verb, means to affect a Transfer. There shall be no transfer of Membership Interest without amendment to this Agreement.

(hh) “Version Date,” means March 15, 2018 and is the effective date of this Operating Agreement.

ARTICLE 2 – THE COMPANY

2.1 **Status:** The Company is a limited liability company organized in the State of Organization and under the Act and the Organizer has caused to be filed a Certificate of Organization with the requisite Division of the State of Organization.

2.2 **Name:** The Company’s Name is 365 Reed Ave, LLC.

2.3 **Version Date:** The Version Date of this Agreement is March 15, 2018. The Version Date shall be the effective date of this Agreement and identify this Agreement for purposes of amendment and restatement.

2.4 **Amendment and Restatement:** In the event the Company has prior operating agreements, then this Operating Agreement of the Company dated as of the Version Date hereby amends and restates all prior operating agreements, including any Original Operating Agreement and any and all subsequent amendments, changes, modifications or revisions thereto up until the Version Date. All previous operating agreements and amendments shall be null and void and of no legal effect.

2.5 **Management Statement:** The Company shall be managed by the Manager of the Company who shall be appointed after formation of the Company.

2.6 **Designated and Registered Agent and Office:** The name and address of the Designated and Registered Agent and Office of the Company are:

(a) Designated Agent and Office:
Robin Flinchbaugh
2751 E Fort Union Blvd
Cottonwood Heights, UT 84121

(b) Registered Agent and Office:
BLO Registered Agency (7331683-0250)
32 W. 200 South, #307
Salt Lake City, UT 84101

(c) The Company at any time may change the location of its designated and registered offices or the identity of its designated and registered agents by filing a statement of change with the Division after the effective date of the change.

2.7 **Term:** The Company's existence as a limited liability company will commence on the date on which the Certificate of Organization were filed with the state of organization, and continue indefinitely or until terminated under the terms of this Agreement or the Act or otherwise limited.


2.8 **Fiscal Year:** The Company's fiscal year shall end on December 31 unless otherwise required by the Internal Revenue Code of 1986.

2.9 **Purposes:** The Company's purpose is to real estate investment and do any and all lawful business activities in furtherance of that purpose and for which a limited liability company may be organized under the laws of the State of Organization, and when required, in compliance with the Code and/or ERISA.

2.10 **Foreign Qualification:** The Company may act in any other jurisdiction in addition to the State of Organization. The management shall cause the Company to comply with any and all requirements and make such filings as necessary to qualify the Company and maintain good standing to act as a foreign limited liability company in any such state.

2.11 **Establishment of Authorization and Limitation of Liability:** The Company reserves the right to establish one or more designated Series of members, managers or interests in the Company each having a limitation on liabilities with regard to the separate rights, powers, or duties with respect to specified property or obligations of the Series or Company or profits and losses associated with specified obligations of the Series or Company in accordance with state law. For clarification purposes, it is the intent of the Company and each and every Series is separate and distinct from each and every other Series and Company for purposes of liability and obligations.

2.12 **Establishment of Series:** In order to establish a Series, the Members hereby authorize the Manager(s) of the Company to hold a meeting as representatives of the Members and record the following in the Minutes of said Meeting: 1) The Series Name, 2) The Series Purpose, 3) The Series Members and 4) The Series Managers. As the Member(s) is/are retirement accounts held by the Custodian, the Managers are specifically authorized by this

Agreement, for purposes of efficiency, to create any number of series for asset and liability protection purposes and to hold title to property owned by the Company hereunder without Member approval 

2.13 **Series Operating Agreement:** Absent written terms to the contrary in the Minutes to the Meeting of the Managers in which the Series was created, each Series shall be run in accordance to the terms of this Agreement.

2.14 **First Organizational Meeting:** The Members of the Company shall be deemed to have met for the Company's First Organizational Meeting upon the signing of this Agreement. No other initial meeting is required.

ARTICLE 3 – MEMBERS

3.1 **Identification:**

(a) Initial Member(s): The name and address of each Member at the time of the Effective Date of this Agreement are listed in Article 9 (Membership Interest and Signatures) of this Agreement and shall constitute the Membership List of the Company. The Company shall cause Article 9 to reflect all current membership interests and changes thereto.

The Custodian/Administrator of the Member(s) is:

IRA Express, Inc.
PO Box 9
Cedar City, UT 84721

(b) Change of Member Representation: In the event that any Member be an entity other than an individual then such Member may not change its representative without amendment to this Agreement. If such Member changes its representative without amendment to this Agreement, then such Member shall be immediately deemed a transferee and removes such Member's rights as a Member, including but not limited to managerial or voting rights, and shall have only the right to receive such Member's distribution, if any, as authorized by the Managers.

(c) Additional Members: The Company may not admit additional members except by way of amendment to this Agreement and with an opinion of counsel that adding an additional member would not be a prohibited transaction.

3.2 **Membership Interest of the Company:** The initial allocation of Membership Interest in the Company among the Member(s) as of the Effective Date of this Agreement is listed in Article 9 of this Agreement of the same Effective Date.


3.3 **Nature of Members' Interest:** The interests of the Members in the Company shall be intangible personal property for all purposes. Legal title to all Company assets shall be held in the name of the Company. Neither any Member nor a successor, representative or

assignee of such Member shall have any right, title or interest in or to any property or the right to partition any real property owned by the Company.


3.4 **Transfer of Membership Interest:**

(a) Non-Permitted Transfers:

(1) Any Transfer of Membership Interest not in compliance with this Agreement is a non-permitted transfer.

(2) This Agreement does not permit the voluntary transfer of any Membership Interest in the Company except by Amendment to this Agreement 

(b) Effect of Non-Permitted Transfers: An attempted Transfer of any portion or all of a Membership Interest that is not in compliance with this Agreement is null and void.

(c) Involuntary Transfer: In the event of any involuntary transfer by the Act, law, bankruptcy or death of the Member, or any other event triggering the involuntary transfer of any Member's Membership Interest, then any assignee or transferee of such Member's Membership Interest shall be an assignee or transferee only and such involuntary transfer does not confer any rights of a Member, including but not limited to managerial or voting rights, but only the right to receive such Member's distribution, if any, as authorized by the Manager 

(d) Transferee Membership: For a transferee to become a member of the Company with all rights of a member (beyond the rights to distributions), then the Company shall hold a meeting and the remaining Members shall approve by unanimous vote the admittance of transferee and the recording of minutes with the Company admitting the transferee who will acknowledge receipt of a copy of this Agreement.

3.5 **Withdrawal of a Member:** No Member shall have the right to resign or withdraw from the Company without the consent of the other Members or to receive any distribution or repayment of his or her contribution except as provided by this Agreement. The return of a Member's capital contribution, if authorized, shall only be in the form of cash and not other Company property.

3.6 **Disassociation:** A Member who is a Retirement Plan shall be disassociated from the Company upon the liquidation of 100% of that Member's Membership Interest. The death or incapacity of the Owner of the Retirement Plan shall not constitute an event of disassociation but shall be subject to: 1) In the event of incapacity of an Owner, the agent of the Owner appointed under a Durable General Power of Attorney or appointed by a court of competent jurisdiction shall act in the stead of that Member; or 2) in the event of death of an Owner, that Membership Interest will succeed to the named beneficiary or beneficiaries of that Retirement Plan or such beneficiaries as appointed under the last will and testament of the deceased Owner or appointed by a court of competent jurisdiction.

3.7 **Preemptive Rights:** In the event the Company shall issue additional or future interests, each Member shall be entitled to full preemptive or preferential rights, as such rights are defined by law, to subscribe for or purchase his or her proportional part.

3.8 **Voting Rights of Members:** Whenever a vote of Members is required or allowed by this Agreement or by the Act or law, Members shall have a vote according to their respective Membership Interest in the Company.

3.9 **Meetings of Members:** The Company may hold Annual Meetings and any such Special Meeting of Members according to the guidelines set forth in this Section.

(a) Annual Meeting of Members: An Annual Meeting of Members may be held once per year. The Members shall present the details of the date, time and location of the meeting by communicating such details to all Members at a reasonable time before the occurrence of the Annual Meeting. The Members waive any formalities of notice for the Annual Meeting. The filing and renewal of the Company with the state shall constitute a meeting of the Company fulfill any requirement for the holding of meetings.

(b) Special Meeting of Members: The Members shall have the authority to call a Special Meeting of Members. The calling Member shall inform the Members of the Special Meeting with details of the date, time and location of the meeting and include the purpose of the meeting at a reasonable time before the occurrence of the Special Meeting. The Members waive any formalities of notice for any Special Meeting.

(c) Other Matters: The Members may submit any other matter before the Company during any Meeting by way of presentation.

(d) Quorum: All Members must be present in person, by phone or by proxy for a quorum to be held.

(e) Voting: Any proposal, motion or amendment to this Agreement at any meeting of Members shall be passed only upon the unanimous (100% of Membership Interest) approval of Members.

(f) Proxy: Any Member may give proxy to any other Member without formality for compliance with holding any meeting to discuss the affairs of the Company. If there shall be a vote among the members at any meeting of the Company, then the proxy shall be in writing and specific to the referenced meeting and vote.

(g) Voting Trusts: Voting trusts are not permitted under this Agreement.

3.10 **Limitation on Individual Authority:** A Member who is not a manager has no authority to bind the Company according to the terms of this Agreement.

3.11 **Negation of Fiduciary Duties and Waiver:** No Member, to the extent permitted by law, owes any fiduciary duty to the Company or any of the other Members solely by reason of

being a Member. Each Member, to the extent permitted by law, hereby and irrevocably waives any and all claims, actions, causes of action, damage, loss and expense including any and all court costs and attorney's fees, arising out of or in connection with any breach of any fiduciary duty owed by any Member to the Company or any other Member, excepting any breach of the terms of this Agreement.

3.12 **Member Guaranties:** No Member shall guarantee or otherwise become liable for any obligation of the Company.

3.13 **Limitation of Liability, Further Contribution and Third Party Liability:**

(a) Limitation of Liability and Fiduciary Care: No Member shall have any personal liability whatsoever to the Company or to any creditor of the Company for the debts of the Company or any of its losses beyond the amount of that Member's Contribution to the Company. A Member owes no fiduciary care or loyalty to the Company by virtue of being a Member.

(b) Additional Contribution and Distributions: No Member shall be required to furnish additional capital contributions to the Company. No Member shall have any responsibility to restore a negative balance in its Capital Account, or contribute to or in respect of the liabilities or obligations of the Company, or to return distributions made by the Company except as required by the Act or other applicable law. Notwithstanding, any Member may furnish additional capital and such capital shall be duly recorded as a Contribution to the Company. Notwithstanding, no Member which is a Retirement Account may undertake any guarantee or make a contribution that is a prohibited transaction under 26 U.S.C 4975.

(c) Ratification of Acts of Manager: The Members have the authority to ratify, after full disclosure of all material facts, any act of a Manager that may violate or be prohibited by this Agreement or the Act.

(d) Third Party Liability: No Member, by sole reason of being a Member, shall be liable for the debts, obligations or liabilities, whether arising in contract, tort or otherwise, of any other Member. Except as otherwise provided in the Act or by law, no Member shall have fiduciary duty to another Member with respect to the business and affairs of the Company, and no Member shall be liable to the Company or other Member for acting in good faith reliance upon the provisions of this Agreement. No creditor of any Member may force a liquidation or dissolution of the Company. And no creditor of any Member has any other rights to the Company except those that are specifically allocated to that Member. A Member's Creditor's sole recourse may be a charging order against that Member's interest as defined or allowed by law. In the event a charging order is levied against said Member's interest, the party taking such charging order shall be subject to the same terms and limitations of this Agreement defined herein.

(e) Indemnity: The Company shall indemnify and hold harmless each of the Members acting on behalf of the Company pursuant to the terms of this Agreement from and

against any claim by any third party seeking monetary damages against such Member arising out of such Member's performance of its duties in good faith consistent with the terms of this Agreement. Such indemnity shall continue unless and until a court of competent jurisdiction adjudicates that such conduct constituted gross negligence, willful misconduct or fraud of the Member. Notwithstanding the foregoing, no Member is authorized to act on behalf of the Company except in accordance with this Agreement.

(f) Charging Order Protection: To the fullest extent allowable under the Act or law, a Member's creditors or judgment creditors shall only be afforded a charging order against the debtor Member's transferrable interest, and any such purchaser in a foreclosure of the charging order shall be a lien against the debtor-Member's Membership Interest and only be granted rights as a transferee of the debtor Member's interest and shall not be a Member, shall not be eligible to become a Manager, nor have any rights pertaining to membership in the Company. This charging order is the exclusive remedy by which a person seeking to enforce a judgment against a Member or transferee may satisfy the judgment from debtor-Member's transferable interest.

(g) Redemption by Non-Debtor Member: Any non-debtor Member or combination of non-debtor Members may purchase the entirety of a debtor-Member's Membership Interest subject to a charging order by paying the amount to extinguish the charging order and satisfy the judgment. Such Member purchaser(s) succeed to the rights of the debtor Member including all rights of membership in the Company without amendment to this Agreement.

(h) Charging Order Distributions Withheld and Tax Allocations: In the event the Company is presented with a valid charging order against a debtor-Member or such charging order has been foreclosed, then any distribution to such debtor-Member vests in the debtor-Member or transferee at foreclosure for the allocation of tax gains and the Manager(s) of the Company may withhold any distributions from the debtor-Member's transferee until such time as the Manager(s) dictate.

3.14 Right of Continuance of Company: The remaining Members have the right to continue the business of the Company on the death, retirement, resignation, transfer, expulsion, bankruptcy or dissolution of a Member, or the occurrence of any other event that terminates the continued membership of a Member in the Company. Such events shall not terminate the Company.

3.15 Reports and Audit: The Company shall issue an annual report to the Members of the Company regarding all assets, liabilities and financial obligations of the Company. If more than 50% of the Members of the Company request an audited financial report, the Company shall provide such an audited financial report within one hundred and twenty (120) days of the request. If the results from the audited report vary by more than twenty percent (20%) from the Company-issued report, then the Company shall pay for the audited financial report; however, if the audited report does not vary by more than twenty percent (20%) from the Company-issued report, then the requesting Member(s) shall pay for the costs of the audited financial report.

ARTICLE 4 – FINANCE

4.1 **Allocation of Profit and Loss:**

(a) Allocations:

(1) Profits: The Company's Profit for a Taxable Year, including the Taxable Year in which the Company is dissolved, will be allocated among the Members in proportion to each Member's Membership Interest.

(2) Losses: The Company's Loss for a Taxable Year, including the Taxable Year in which the Company is dissolved, will be allocated among the Members in proportion to each Member's Membership Interest.

(b) Special Allocations: Any special allocation shall be according to the Code and Regulations and entered onto the Company's books according to the Generally Accepted Accounting Principles.

4.2 **Tax Allocations:** For federal income tax purposes, unless the Code or Regulations otherwise requires, each item of the Company's income, gain, loss or deduction will be allocated to the Members in proportion to their allocations of the Company's Profit or Loss.

4.3 **Distributions:**


(a) Distributable Revenues: The Company will distribute to the Members any Distributable Revenues from time to time and according to the Manager's discretion. Any and all Distributions shall be according to each Member's Membership Interest. With respect to a Member that is a Retirement Plan, the Manager will comply with the request by that Member for Distributions up to the full value of that Member's Capital Account. In making such Distributions, the Manager may make the Distribution in-kind or cash. That Member's Capital Account will be adjusted for the Distributions. The Profits and Losses and the Membership Interests will be adjusted to reflect these distributions.

(b) Distribution Withholding: The Company may withhold any Distributable Revenue according to the Manager's discretion.

(c) Prohibited Distributions: The Company may not make a Distribution if, after giving effect to the Distribution, (1) the Company would not be able to pay its debts as they become due in the usual and regular course of its business or (2) the fair market value of the Company's total assets would be less than the sum of its total liabilities. The Company's determination of its capacity to make a Distribution under this Article will be made as of the date and in accordance with a method authorized by the Act.

4.4 Capital Accounts:

(a) General Maintenance: The Company will establish and maintain a Capital Account for each Member. A Member's Capital Account will be governed according to the Code and Regulations and to Generally Accepted Accounting Principles.

(b) Contributions: The Members have made contributions to the Company as listed in Exhibit  of this Agreement.

(c) Additional Contributions: The Company may authorize, but not require, additional contributions at such times and on such terms and conditions as it determines to be in the Company's best interest and to which the Members unanimously agree. There shall be no required additional contributions by a Member. All contributions are voluntary. With regard to a Member that is a Retirement Plan, that Member may make additional lawful IRA or Qualified Retirement Plan contributions without the approval of the Members or Managers and the Capital Accounts of the Members will be adjusted to reflect said contributions.

(d) Acquisition of Debt: An Owner of a Member that is a Retirement Plan may not personally guarantee a debt or portion of a debt obligation that is for the benefit of a Member that is a Retirement Plan. The Owner may only guarantee his proportionate share of the debt represented by his Membership Interest but no portion that is the obligation of the Retirement Plan Member. All debt obligations of the Company will be presumed to be the obligation of the Members based on Membership Interest.

(e) Legal Contribution Limits: A Member that is a Retirement Plan shall not make any contributions that violate maximum contribution limits in effect under the applicable laws for that year.

(f) Compliance with the Code: The requirement of this Section 4.4 are intended and will be construed to ensure that the allocations of the Company's income, losses, gain, deductions and credits have substantial economic effect under the Regulations promulgated under Section 704 (b) of the Code.

(g) Adjustments to Capital Accounts: Each Member's Capital Account shall be adjusted as follows:

(1) **Increases**: Each Member's Capital Account shall be increased by 1) a capital contribution of cash and/or property at its agreed upon fair market value and 2) all items of LLC income and gain.

(2) **Decreases**: Each Member's Capital Account shall be decreased by 1) a distribution of cash and/or property at its agreed upon fair market value and 2) all items of LLC deduction and loss.

(3) Non-retirement plan Member's Capital Account shall not be increased in any way due to the contributions of a Member that is a Retirement Plan.


4.5 UBIT and UDFI: With respect to a Member that is a Retirement Plan, the Retirement Plan Custodian or Administrator disclaims any responsibility for payment of Unrelated Business Income Tax ("UBIT") or Unrelated Debt Financed Income ("UDFI"). It is the sole responsibility of the Owner of the Retirement Plan to determine if said taxes are due. In the event there are taxes due resulting from UBIT or UDFI, said taxes must be paid from the resources of the Retirement Plan and not from Non-IRA or Non-Qualified Plan resources. Additionally, the Owner of the Retirement Plan is responsible for preparing any necessary tax returns to report UBIT or UDFI.

4.6 Qualified Income Offset: Notwithstanding the above, if a Member unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6) or any amendment thereto, or receives an allocation of loss which produces a negative capital account for any Member while any other Member has a positive capital account, then items of LLC income shall be specifically allocated to such Member such that the deficit Capital Account is eliminated. The paragraph is intended to constitute a "qualified income offset" within the meaning of Treasury Regulation Section 1.704-1(b)(2)(ii)(d).

4.7 Minimum Gain Chargeback: Notwithstanding the above, if there is a net decrease in the LLC "minimum gain" during a taxable year, each Member shall be specifically allocated, before any other allocation, items of income and gain for such taxable year (and, if necessary, subsequent year) in proportion to each Member's share of the net decrease in the LLC "minimum gain" as determined in accordance with Treasury Regulation Section 1/704-2(g)(2). This paragraph is intended to comply with the "minimum gain chargeback" provisions of the Treasury Regulation Section 1.704-3(f).

4.8 Section 704(c) Allocation: Notwithstanding the above, to the extent that Code Section 704(c) is applicable to any item of income, gain, loss, and deduction with respect to any property (other than cash) that has been contributed by a Member and which is required to be allocated to such Member for income tax purposes, the item shall be allocated to such Member in accordance with Code Section 704(c).

ARTICLE 5 – MANAGEMENT

5.1 Representative Management: The Company will be managed by the designated Manager(s) of the Company. The Initial Manager(s) of the Company shall be appointed by the Member(s) after the formation and funding of the Company and named in Article 10 of this Agreement. In the event any Manager of the Company be any entity other than an individual, then said entity shall appoint an individual, which may be changed from time to time, to manage the Company on said entity's behalf. The Initial Manager, while validly serving, may appoint a second manager without the Members' approval 

5.2 **Time Devoted to Business:** A Manager will devote only the amount of time to the Company's activities as is reasonably necessary to discharge the Manager's responsibilities.

5.3 **Powers and Authority:** Except for matters on which Company Members' approval is required by this Agreement, a Manager has full power, authority and discretion to manage and direct the Company's business, affairs and properties, including, without limitation, the specific powers conferred by the Act. Also, a Manager has, but is not limited to, the sole and exclusive power and authority to incur, assign, and contract for deferred costs, payments and fees in association with directing the Company's affairs, and to pay, discharge or assign those deferred costs, payments and fees from allocations and distributions.

5.4 **Prohibited Transactions:** Notwithstanding any other Section of this Agreement, the Managers may not enter into any asset purchase on behalf of the Company that is considered a "Prohibited Transaction" under tax law statutes and regulations regarding a Retirement Plan, such as (1) borrowing money from the Company (2) selling property to the Company, (3) receiving unreasonable compensation from the Company, (4) personally guaranteeing a loan to the Company, and (5) buying property for personal use, present or future. The Managers may not purchase life insurance policies, or collectibles such as artworks, rugs, antiques, metals, gems, stamps and coins and certain other personal property.

5.5 **Recourse Debt:** Any Manager that is also the Owner of a Member that is a Retirement Plan and any Member that is the Owner of a Retirement Plan shall not guarantee any debt obligations of the Company. The Manager may not enter into any obligations that would obligate the Company beyond the assets of the Company or would create a "Prohibited Transaction" under tax law and regulations governing Retirement Plans.

5.6 **Sale of Assets without Member Approval:** The Manager(s) shall be authorized to, subject to Section 5.5, purchase, sell, license, lease, distribute or otherwise exploit or dispose of any property, real or otherwise, acquired by the Company.


5.7 **Single Manager Authorization NOT Required:** In the event that there is ever more than one (1) Manager, then either manager, acting alone, may bind the Company.

5.8 **Limitation on Powers:** Except by the unanimous written agreement of the Members, no Manager of the Company shall have the authority to:

- (a) Enter into any agreement, contract, or commitment on behalf of the Company which would increase a Member's personal liability either to the Company or to a third party;
- (b) Materially alter the business of the Company, deviate from any approved business plan of the Company as set forth in this Agreement, or perform any action which would make it impossible to carry on the business of the Company;
- (c) Perform any action that is contrary to this agreement;

- (d) Comingle Company funds with the funds of any other person or entity;
- (e) Confess a judgment against the Company;
- (f) Admit any person as a Member, except as otherwise provided in this Agreement; or
- (g) Attempt to dissolve the Company.

5.9 **Manner of Acting:** A Manager may act with respect to any matter within the scope of his, her or its authority.

5.10 **Required Member Approval:** Notwithstanding any other provision of this Agreement, without the approval of Members whose aggregate Membership Interest is at least one hundred percent (100%), no Manager may take any action with respect to the 1) Company's merger with or conversion into another entity, 2) the Transfer of a majority of Company Interest to any third party, 3) the filing of bankruptcy, 4) the admittance of a new member, 5) the transfer of any part or all of a Member's Membership Interest or 6) appoint, remove or replace any Manager. 

5.11 **Agency Power and Authority:** A Manager apparently acting for the Company in the usual course of its business has the power to bind the Company and no person has an obligation to inquire into their actual authority to act on the Company's behalf. However, if a Manager acts outside the scope of his/her/its actual authority, that Manager will indemnify the Company for any costs or damages it incurs as a result of the unauthorized act.

5.12 **Delegation of Authority:** A Manager may not, at any time, delegate to any other Person who is not a Manager, in whole or in part, their authority and powers to manage the Company's business, affairs and properties except by way of limited power of attorney specific to a transaction and submitted in advance and in writing to the Members of the Company.

5.13 **Liability to Third Parties:** No Manager shall be liable for the debt, obligations or liabilities of the Company to a third party or Member's creditor unless such Manger has agreed in writing to be liable.

5.14 **Separation of Roles:** In the event any Member is also a manager of the Company, such dual roles shall not have the effect of attributing any liability to such Member-Manager.

5.15 **Fiduciary Duties:**

(a) Standard of Care: A Manager only has the following standard of care to the Company:

(1) Exculpation: A Manager will not be liable to the Company or any Member for an act or omission done in good faith to promote the Company's best interests, unless the act or omission constitutes intentional misconduct, a knowing violation of law or such act or omission is adjudged to be unconscionable or against public policy.

(2) Justifiable Reliance: A Manager may rely on the Company's records maintained in good faith and on information, opinions, reports or statements received from any Person pertaining to matters the Manager reasonably believes to be within the Person's expertise or competence.

(3) Confidentiality: The Managers are prohibited from disclosing the Members, Membership Interest, financial reports, minutes of meetings or any other information of a personal or confidential nature to any third party without the advance, written consent of the Members or court order. In the event of a court order to disclose such confidential information, the Manager(s) shall first inform the Member(s) of said order, and that if the Member(s) do not take action to stay said order within seven (7) business days of the receipt of the order (or such shorter time as the order may require), the Manager(s) shall comply in full with the order.

(b) Duty of Loyalty: A Manager only has the following duties, subject to Section 5.15(c), (d) and (e), of loyalty to the Company: to account to the Company and hold as trustee any property, profit or benefit on behalf of the Members.

(c) Competing Activities: A Manager may participate in any business or activity or act on behalf of another person or entity outside of the Manager's duties and obligations to the Company without accounting to the Company or the Members even if that business, activity, person or entity is competing with the purposes of the Company except that if such competing business or activity would have a direct affect upon the affairs of the Company, then such Manager shall notify the Company of such business affect.

(d) Adverse Interests: A Manager may participate in any business or activity or act on behalf of another person or entity outside of the Manager's duties and obligation to the Company without accounting to the Company or the Members even if that business, activity, person or entity has an interest adverse to the Company except that if such adverse interest would have a direct affect upon the affairs of the Company, then such Manager shall notify the Company of such effect.

(e) Direct Affect Defined: Any such business or activity or act on behalf of another person or entity shall not have a direct affect upon the Company simply by being competing or adverse to the Company.

5.16 **Indemnification and Advancement of Costs:**

(a) Indemnification:

(1) **Mandatory:** The Company will indemnify a Manager for all expenses, losses, liabilities and damages a Manager actually and reasonably incurs in connection with Manager's successful defense of any claim, action or proceeding arising out of or relating to Manager's conduct of the Company's activities.

(2) **Permissive:** The Company may, but is not required to, indemnify a Manager for all expenses, losses, liabilities and damages a Manager actually and reasonably incurs in connection with the a Manager's unsuccessful defense of any claim, action or proceeding arising out of or relating to the Manager's conduct of the Company's activities, but only if (i) Manager's conduct was in good faith, (ii) the Manager reasonably believed that Manager's conduct was in, or not opposed to, the Company's best interests, (iii) in the case of a criminal proceeding, the Manager had no reason to believe Manager's conduct was unlawful, (iv) in the case of a proceeding by or in the right of the Company, the Manager was not adjudged liable to the Company and (v) in the case of any other proceeding, the Manager was not adjudged liable to any Person on the basis that the Manager derived an improper personal benefit.

(b) **Advancement of Costs:** The Company may, but is not required to, pay for or reimburse the expenses a Manager actually and reasonably incurs in connection with a proceeding arising out of or relating to Manager's conduct of the Company's activities in advance of final disposition of the proceeding, but only if (1) the Manager furnishes to the Company a written affirmation of Manager's good faith belief that Manager has met the applicable standards of conduct described in this Agreement, (2) the Manager furnishes to the Company a written, signed undertaking to repay the advance if it is ultimately determined that Manager did not meet such standards of conduct and (3) the Company determines that the facts then known by it would not preclude indemnification under this Article.

5.17 Compensation: The Company may not compensate any Manager for services to manage or act on behalf of the Company. However, the Company may reimburse each Manager for reasonable expenses properly incurred on the Company's behalf and for any duties performed under hire or contract for the provision of specific services relating to operations. The Company may compensate such Custodian or Administrator rendered in accordance with C.F.R. Section 2550.408b-2.

5.18 Death and Incapacity: In the event of the death or incapacity of a Manager who is also an Owner of a Member that is a Retirement Plan, then 1) In the event of incapacity of an Manager, the agent of the Manager appointed under a Durable General Power of Attorney or appointed by a court of competent jurisdiction shall act in the stead of that Manager; or 2) in the event of death of an Manager, the duties of manager will succeed to the named beneficiary, if a single beneficiary, or a beneficiary elected by a majority vote of the beneficiaries, if multiple beneficiaries, of that Retirement Plan or such Manager as appointed by a court of competent jurisdiction in the event the beneficiaries cannot reach an agreement.

5.19 Registered Agent: In the event the Company has retained Breglio Law Office, LLC, aka BLO Registered Agency, a DBA of Breglio Law Office, LLC as its registered agent, the BLO Registered Agency shall be named the Registered Agent of the Company for state

identification purposes only. This designation does not confer any rights, vote, membership, benefits or income of the Company, nor does Breglio Law Office, LLC, aka, BLO Registered Agency, a DBA of Breglio Law Office, LLC incur any liability or become responsible for any debt or liability of the Company.

5.20 **Waiver of Conflicts:** The undersigned parties agree and recognize that Breglio Law Office, and/or other attorney(ies) at Breglio Law Office (collectively, “Attorney”) has been asked by one or more of the parties to this Agreement to draft and deliver this Agreement. The undersigned parties agree that Attorney did not participate in or represent any party in the negotiation of the terms of this Agreement and does not represent any party to the Agreement, but that Attorney has only been retained to draft and construct this Agreement. The undersigned do agree and hereby waive any liability, claim, cause of action, suit or damages that any party has or may have against the other or Attorney.

ARTICLE 6 – RECORDS AND ACCOUNTING

6.1 **Maintenance of Records:**

(a) Required Records: The Company will maintain at its Designated Office such books, records and other materials as are reasonably necessary to document and account for its activities, including, without limitation:

- (1) a current list, in alphabetical order, of the full name and last-known business, residence or mailing address of each Member;
- (2) a copy of the Certificate;
- (3) copies of any signed powers of attorney, if any, pursuant to which the Certificate were signed;
- (4) copies of the Company’s federal, state and local income tax returns and reports for the three most recent Taxable Years;
- (5) copies of the Company’s financial statements, if any;
- (6) copy of this Agreement, including any amendments thereto; and
- (7) copies of any minutes of each meeting of the Members and of any written consents of the Members.

(b) Authorized Access:

(1) Each current or former Member is entitled to inspect and copy, **not more than once per year during** regular business hours at the Company’s Designated Office, any of the records described in Article after first giving the Company written notice at least five business days before the inspection and copying is to occur. However, a former Member

is entitled to inspect and copy only those records that pertain to the period of the former Member's tenure as a Member or are reasonably necessary to enable the former Member to establish a claim or defense in a controversy with the Company, any Member or any other Person.

(2) An authorized agent or attorney of a current or former Member has the same rights of inspection and copying as such current or former Member.

(3) Any costs associated with the production or reproduction of the Company's records will be borne and paid in advance by the requesting current or former Member.

(c) Confidentiality: No current or former Member will disclose any information relating to the Company or its activities to any unauthorized person or use any such information for his or her or any other Person's personal gain or for any other improper purpose.

6.2 Bank Account and Investments: The Manager(s) shall establish one (1) or more bank accounts in the name of the Company into which all company funds shall be deposited. No other funds shall be deposited into these accounts. Funds deposited in the Company's bank accounts may be withdrawn only to pay company debts or to be distributed to the Members pursuant to this Agreement. However, pending their withdrawal for such purposes, company funds may be invested (in the name of the Company) in such federally insured bank, savings and/or money market accounts, as the Managers may select.

6.3 Financial Accounting:

(a) Accounting Method: The Company will account for its financial transactions using a method of accounting determined by the Manager(s) in compliance with the Code.

(b) Taxable Year: The Company's Taxable Year is the calendar year ending with December 31.

6.4 Tax Compliance:

(a) Withholding: If the Company is required by law or regulation to withhold and pay over to a governmental agency any part or all of a Distribution or allocation of Profit to a Member:

(1) the amount withheld will be considered a Distribution to the Member;
and

(2) if the withholding requirement pertains to a Distribution in kind or an allocation of Profit, the Company will pay the amount required to be withheld to the governmental agency and promptly take such action as it considers necessary or appropriate

to recover a like amount from the Member, including offset against any Distributions to which the Member would otherwise be entitled.

(b) Tax Matters Partner: The Initial Manager(s) as defined by this Agreement shall be the "Tax Matters Partner" pursuant to the Code.

ARTICLE 7 – DISSOLUTION

7.1 **Events of Dissolution:**

(a) Enumeration: The Company will dissolve upon the first to occur of:

- (1) Ninety-nine (99) years from the Effective Date;
- (2) the vote of the Members to dissolve the Company, unless such dissolution is revoked in accordance with the provisions of the Act;
- (3) any event that makes the Company ineligible to conduct its activities as a limited liability company under the Act;
- (4) the Company's administrative dissolution under the Act, unless the Company is reinstated within the time prescribed by the Act;
- (5) entry of a decree of judicial dissolution pursuant to the Act; or
- (6) any event or circumstance that makes it unlawful or impossible for the Company to carry on its business, unless the Company's incapacity to carry on its business is cured within 90 days after such event or circumstance.
- (7) the dissolution or incapacity or death, as the case may be, of any Member of the Company that is not a Person that is an Owner of a Member that is a Retirement Plan.
- (8) The death or incapacity of a Person that is the Owner of a Member that is a Retirement Plan shall not be an event of dissolution.

(b) Exclusivity of Events: Unless specifically referred to in this Article 7.1, no event will result in the Company's dissolution.

7.2 **Effect of Dissolution:**

(a) Appointment of Liquidator: Upon the Company's dissolution, the Members will appoint a liquidator, who may, but need not be, a Member. A Member or Manager may serve as the liquidator. The liquidator will wind up and liquidate the Company in an orderly, prudent and expeditious manner in accordance with the following provisions of this Article.

(b) Final Accounting: The liquidator will make proper accountings (1) to the end of the month in which the event of dissolution occurred and (2) to the date on which the Company is finally and completely liquidated. Any gain or loss recognized on the sale of assets will be allocated to the Capital Account of each Member subject to the following directive: upon dissolution, a Retirement Plan that is a Member shall receive its investment back before any equity distributions are made to other Members. With respect to any asset that the liquidator determines to retain for distribution in-kind, the liquidator will allocate to the Member's Capital Accounts the amount of gain or loss that would have been recognized had the asset been sold at its fair market value.

(c) Duties and Authority of Liquidator: The liquidator will make adequate provision for the discharge of all of the Company's debts, obligations and liabilities. The liquidator may sell, encumber or retain for distribution in kind any of the Company's assets. Any gain or loss recognized on the sale of assets will be allocated to the Members' Capital Accounts in accordance with the provisions of Article 4. With respect to any asset the liquidator determines to retain for distribution in kind, the liquidator will allocate to the Members' Capital Accounts the amount of gain or loss that would have been recognized had the asset been sold at its fair market value.

(d) Final Distribution: The liquidator will distribute any assets remaining after the discharge or accommodation of the Company's debts, obligations and liabilities to the Members in proportion to their Capital Accounts. The liquidator will distribute any assets distributable in kind to the Members in undivided interests as tenants in common. A Member whose Capital Account is negative will have no liability to the Company, the Company's creditors or any other Member with respect to the negative balance.

(e) Required Filings: The liquidator will file articles of dissolution with the Division and take such other actions as are reasonably necessary or appropriate to effectuate and confirm the cessation of the Company's existence.

ARTICLE 8 – GENERAL PROVISIONS

8.1 **Amendments:**


(a) Required Amendments: The Company shall amend the Certificate and file such amendment with the appropriate state agency when (1) there is a change in the Company's name, (2) there is a change in the character of the Company's business, as specified in the Articles, (3) there is a false or erroneous statement in the Articles, (4) there is a change in the Company's period of duration, (5) there is a change in the Company's management structure or (6) there is a change in the identity of any Member. If any such amendment results in inconsistencies between the Articles and this Agreement, this Agreement will be considered to have been amended in the specifics necessary to eliminate the inconsistencies.

(b) Other Amendments: Any Member may propose for consideration and action an amendment to this Agreement or to the Articles. A proposed amendment will become effective at such time that it is approved by unanimous consent of all Members.

8.2 **Title**: Title to the Company's assets shall be held in the name of the Company. The Company shall be the legal and equitable owner of any Company Property.

8.3 **Resolution of Disputes**:

(a) Mediation: The parties will endeavor in good faith to resolve all disputes arising under or related to this Agreement by mediation according to the then prevailing rules and procedures of the American Arbitration Association.

(b) Arbitration  If the parties fail in their attempt to resolve a dispute by mediation, they will submit the dispute to arbitration according to the then prevailing rules and procedures of the American Arbitration Association. State of Organization law will govern the rights and obligations of the parties with respect to the matters in controversy. The arbitrator will allocate all costs and fees attributable to the arbitration between the parties equally. The arbitrator's award will be final and binding and judgment may be entered in any court of competent jurisdiction.

8.4 **Notices**: Any notice contemplated by this Agreement may be sent by any commercially reasonable means, including hand delivery, first class mail, facsimile, e-mail or private courier. The notice must be prepaid and addressed as set forth in the Company's records. The notice will be effective on the date of receipt or, in the case of notice sent by first class mail, the fifth day after mailing. If notice is required to be given to a Member a written waiver signed by the Member and delivered to the Company, whether before or after the time the notice is required to be given, is the equivalent of timely notice.

8.5 **Resolution of Inconsistencies**: If there are inconsistencies between this Agreement and the Articles, the Articles will control. If there are inconsistencies between this Agreement and the Act, this Agreement will control, except to the extent the inconsistencies relate to provisions of the Act that the Members cannot alter by agreement. Without limiting the generality of the foregoing, unless the language or context clearly indicates a different intent, the provisions of this Agreement pertaining to the Company's governance and financial affairs and the rights of the Members upon withdrawal and dissolution will supersede the provisions of the Act relating to the same matters.

8.6 **Additional Instruments**: Each Member will execute and deliver any document or statement necessary to give effect to the terms of this Agreement or to comply with any law, rule or regulation governing the Company's formation and activities.

8.7 **Computation of Time**: In computing any period of time under this Agreement, the day of the act or event from which the specified period begins to run is not included. The last day of the period is included, unless it is a Saturday, Sunday or legal holiday, in which case

the period will run until the end of the next day that is not a Saturday, Sunday or legal holiday.

8.8 **Entire Agreement:** This Agreement and the Articles comprise the entire agreement among the parties with respect to the Company. This Agreement and the Articles supersede any prior agreements or understandings with respect to the Company. No representation, statement or condition not contained in this Agreement or the Articles has any force or effect.

8.9 **Waiver:** No right under this Agreement may be waived, except by an instrument in writing signed by the party sought to be charged with the waiver.

8.10 **General Construction Principles:** The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event of ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party hereto by virtue of the authorship of any of the provision of this Agreement. Words in any gender are deemed to include the other genders. The singular is deemed to include the plural and vice versa. The headings, paragraph titles in bold and underlined paragraph titles are for guidance only and have no significance in the interpretation of this Agreement.

8.11 **Binding Effect:** Subject to the provisions of this Agreement relating to the transferability of Membership Interests and the rights of Transferees, this Agreement is binding on and will inure to the benefit of the Company, the Members and their respective distributees, successors and assigns.

8.12 **Governing Law:** Laws of the State of Organization govern the construction and application of the terms of this Agreement.

8.13 **Counterparts:** This Agreement may be executed in counterparts, each of which will be considered an original.

[Remainder of Page Intentionally Left Blank – Signature page to follow]

ARTICLE 9 – SIGNATURES AND MEMBERSHIP INTEREST

The Member(s) shall enter their current address and affix his or her signature(s) below as notification and acceptance of this Agreement. This shall also constitute the Initial Company Membership Interest as of the Effective Date.

Member's Name	Member's Address	Membership Interest	MEMBER'S SIGNATURE (or Member's Representative & Title)
Strata Three, LLC	2751 E Ft Union Blvd. Cottonwood Heights, UT 84121	88.00 %	
IRA Express, Inc as agent for Custodian for the benefit of Wei Lun Hsu, Roth IRA #0100718	PO Box 9 Cedar City, UT 84721	6.00 %	
Scott Flinchbaugh	2751 E Ft Union Blvd. Cottonwood Heights, UT 84121	3.00 %	
Christopher B. Bingham	9229 S Keith Drive Sandy, UT 84094	3.00%	

ARTICLE 10 – MANAGER APPOINTMENT

As the Company is Manager-Managed, the Members above hereby appoint and unanimously approve of the following Initial Manager(s) of the Company as of the Effective Date.

Manager's Name	MANAGER'S SIGNATURE (or Manager's Representative & Title)
Robin Flinchbaugh	

READ AND APPROVED BY: _____
Wei Lun Hsu

HERE IS YOUR COMFORT LETTER. YOUR CUSTODIAN MAY REQUIRE THIS AS A CONDITION BEFORE FUNDING THIS LLC WITH YOUR IRA MONEY.

YOUR CUSTODIAN MAY ALSO REQUIRE A PURCHASE AND SALE AGREEMENT IN ORDER TO FUND YOUR LLC. IF THIS IS THE CASE, LET OUR OFFICE KNOW. THERE IS A FEE FOR THIS DOCUMENT.

Breglio Law Office

32 W 200 South, Suite 307
Salt Lake City, UT 84101

December 20, 2017

RE: 365 Reed Ave, LLC

To Whom It May Concern:

365 Reed Ave, LLC was newly formed under the laws of the state of organization and prior to the anticipated funding of the LLC by the IRA. The LLC is owned by the below IRA account members, and at no time was the LLC owned by a disqualified person. The LLC complies with IRS SSC 4975 and that this letter is to confirm that the funding of the LLC or the IRA's contribution to the LLC is not a prohibited transaction.

Sincerely

/s/ Jeffrey S. Breglio

By: Jeffrey S. Breglio, President

For: Breglio Law Office

MEMBERS:

Strata Three, LLC 88.00 %

IRA Express, Inc as agent for Custodian for the benefit of Wei Lun Hsu, Roth IRA #0100718
6.00 %

Scott Flinchbaugh 3.00 %

Christopher B Bingham 3.00%

Here is your “Series Creation Minutes” form.

Please **make copies** of this form before using it.

There may be additional fees to recreate this form or create the series for you. If you would like a PDF version to use, you may request one from our office for a small fee.

**OFFICIAL MINUTES OF A MEETING OF THE MANAGERS OF
365 Reed Ave, LLC**

These Minutes (“Minutes”) of a meeting of the Managers of 365 Reed Ave, LLC (“Company”) held at the Company office at the Company’s office or other locations, pursuant to and in compliance with the Operating Agreement (“Agreement”) of 365 Reed Ave, LLC. These Minutes shall also serve as a Supplement (“Supplement”) to the Agreement as amended and supplemented.

In this meeting of the Managers of the Company held on _____, the Managers, being duly authorized by the Company Operating Agreement, approved and established this this Series under the Company pursuant to the Utah Limited Liability Company Act as amended (“Act”) as follows:

1. Those Managers present:
Robin Flinchbaugh
2. Waiver of Notice: Those present at the meeting then stated their understanding and consents that the minutes of this meeting acknowledges and constitutes receipt and waiver of any notice of the time and place of the meeting required under the Agreement.
3. Series Name. The name of the Series shall be “ _____, a Series of 365 Reed Ave, LLC”.
4. Limitation of Liability. It is the intent that this Series of the Company be a separate and distinct entity with separate and distinct liability from 365 Reed Ave, LLC and any other series of Company as per UCA 48-2c-606.
5. Series Agreement of Operation. This Series created hereby and the rights and obligations of the Series Members and Series Managers shall be governed by this Supplement and the Agreement, referenced hereby and incorporated herein.
6. Series Purpose. The purpose of this Series is to engage in real estate investment and management. The Company may take any action incidental and conducive to the furtherance of that purpose. The Company may not engage in any other business or activity without amendment to this Agreement.
7. Series Members. The Members of this Series and their respective Membership Interests are:

<u>Name:</u>	<u>Membership Interest</u>
Strata Three, LLC	88.00 %
IRA Express, Inc as agent for Custodian for the benefit of Wei Lun Hsu, Roth IRA #0100718	6.00%
Scott Flinchbaugh	3.00 %
Christopher B Bingham	3.00%

ORGANIZATIONAL DOCUMENTS FOR:

365 REED AVE, LLC

A UTAH LIMITED LIABILITY COMPANY

Breglio Law Office
234 East 2100 South ♦ South Salt Lake, Utah 84115
O: 801.560.2180 ♦ F: 801.907.7813