

Member, such subsequent Member or any such employee or agent and their respective heirs, personal representatives, and successors the costs of defending any claim, suit or action against such person if such person undertakes to repay the funds advanced, with interest, if the person is not entitled to indemnification under this Section.

2. To the extent that the Sole Member, such subsequent Member, or any such employee or agent of the Company has been successful on the merits or otherwise in defense of an action, suit or proceeding or in defense of any claim, issue or other matter in the action, suit or proceeding, such person shall be indemnified against actual and reasonable expenses, including, without limitation, attorneys' fees, incurred by such person in connection with the action, suit or proceeding and any action, suit or proceeding brought to enforce the mandatory indemnification provided herein.

3. Any indemnification permitted under this Section, unless ordered by a court, shall be made by the Company only as authorized in the specific case upon a determination that the indemnification is proper under the circumstances because the person to be indemnified has met the applicable standard of conduct and upon an evaluation of the reasonableness of expenses and amounts paid in settlement. This determination and evaluation shall be made by the vote of the majority of the percentage Membership Interests. Notwithstanding the foregoing to the contrary, no indemnification shall be provided to any Member, employee or agent of the Company for or in connection with the receipt of a financial benefit to which such person is not entitled, voting for or assenting to a distribution to the Members in violation of this Agreement or the LLC Law, or a knowing violation of other law.

SECTION VII **LIQUIDATION**

The Company shall be dissolved, and shall terminate and wind up its affairs, upon the determination of the Sole Member to do so.

SECTION VIII **MISCELLANEOUS PROVISIONS**

A. Section Headings. The Section headings and numbers contained in this Agreement have been inserted only as a matter of convenience and for reference, and in no way shall be construed to define, limit or describe the scope or intent of any provision of this Agreement.

B. Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

C. Amendment. This Agreement may be amended or revoked at any time, in writing, with the consent of the Sole Member. No change or modification to this Agreement shall be valid unless in writing and signed by the Sole Member.