

XYZ Company Buy-Sell Agreement

This XYZ Company Buy-Sell Agreement (*Agreement*) is made on _____, 20____, by Key Employee A, Key Employee B, and Founding Owner (individually, each the *Member* and collectively, the *Members*), and XYZ Company, LLC, a Utah limited liability company (the *Company*). For purposes of this Agreement, the term *Member* or *Members* also includes any other person who becomes or is required to become a party to this Agreement.

The purpose of this Agreement is to provide for the purchase and sale of a Member's interest in the Company.

In this Agreement, Key Employee A Key and Employee B are also referred to as the *Minority Members*. In this Agreement, Founding Owner is also referred to as the *Majority Member*.

The parties agree as follows:

Article One Company Ownership

Section 1.01 Membership Interests

For purposes of this Agreement, any ownership interest in the Company, including rights to distributions or allocations of profits and losses, management rights as a Member, or any ownership of any Capital Account in the Company, is referred to as an *Interest*. These ownership interests are detailed in the Company's Operating Agreement dated _____, 20____ (*Operating Agreement*).

Section 1.02 Ownership

Each Member's interest is set forth below:

Key Employee A owns 20% (20 units).

Key Employee B owns 20% (20 units).

Founding Owner owns 60% (60 units).

Section 1.03 After-Acquired Interests

If the Membership Interests changes due to membership interest dividends, membership interest splits, additional acquisitions or combinations of membership interests, reclassifications, recapitalizations, mergers, consolidations, or reorganizations, this Agreement applies to all of the resulting equity securities, but not to any resulting debt obligations.

Article Two

Membership Interest Transfer Restrictions

Section 2.01 General Prohibition on Membership Interest Transfers

While this Agreement is in effect, no party has any right to sell, issue, gift, assign, encumber, transfer, or otherwise dispose of his or her Membership Interests except as provided in this Agreement. Any sale, issuance, gift, assignment, encumbrance, transfer, or other disposition of the Membership Interests that violates this Agreement is void.

Section 2.02 Encumbrance Restrictions on Membership Interest

A Member must not mortgage, pledge, or otherwise encumber his or her Membership Interests without the prior written consent of Members owning 60% of the Membership Interests of the Company, including the Membership Interests that is proposed to be mortgaged, pledged, or otherwise encumbered. Each Member may grant or deny consent. This consent is not an amendment to this Agreement for purposes of Article Thirteen.

Article Three

Death

Section 3.01 Mandatory Redemption

After a Minority Member's death, his or her Estate must sell, and the Company must purchase, all of the units of the Company's Membership Interest that the Minority Member owned. The price will be determined by the operation of Article Ten and by the other terms in this Agreement.

Article Four

Disability

Section 4.01 Company's Option to Purchase Units

If a Member is totally disabled for a continuous period of 3 months, the Company has the option to purchase all, but not less than all, of the units of the Company's Membership Interest that the disabled Member owns for a period of 12 months after the 3-month period. The price is determined by operation of Article Ten and by the other terms in this Agreement. This option is exercised by giving the notice to the disabled Member within the time period provided. If not exercised, the option expires at the end of this period.

If the Member is totally disabled for a continuous period of three months and sells his or her Membership Interests as provided in this Article Four, then in addition to the disabled Member, the disabled Member's spouse, must sell, and the same purchaser must purchase, all of the units of the

Company's Membership Interest that the disabled Member's spouse owns. The Membership Interest price is determined by operation of Article Ten as of the date the disabled Member is first determined as totally disabled, and the sale is subject to the other terms in this Agreement.

Section 4.02 Total Disability Defined

For purposes of this Agreement, a Member is *totally disabled* when any insurance company, for the purposes of its disability buyout insurance policy on the Member's life owned by the purchaser, determines the Member is totally disabled. The Member's total disability continues until this insurance company no longer recognizes the Member as totally disabled for the purposes of this policy. If disability buyout insurance is not acquired or maintained, the term *totally disabled* or *total disability* refers to a condition resulting in a Member's incapacity due to a medically determinable physical or mental condition that causes an inability to perform substantially all of the duties for the Company that the Member performed before the incapacity. A Member's total disability begins on the date of the disabling injury or illness. Except as provided below, the Member's personal physician must make these determinations.

If any dispute between the parties arises with respect to the Member's personal physician's determinations, the alleged disabled Member and the Company acting together with the nondisabled Members will both select a physician licensed to practice medicine in the State of Utah. These two physicians, in turn, will jointly select a third physician licensed to practice medicine in the State of Utah. The third physician will make these determinations; the third physician's opinion as to the disputed matters will be final and will bind the parties. The Company bears the costs of obtaining this determination.

Section 4.03 Insurance Policies to Fund Buy-Sell Agreement

All life insurance policies owned by the Company or by the nondisabled Members on the life of a disabled Member must be kept in full force and effect during the buyout period under this Article. If the disabled Member dies after the buyout period referred to in this Article ends but before receiving full payment for his or her Membership Interests, the net death proceeds from any life insurance policy must be applied to the amounts owed to the disabled Member by the policy owner under this Article. Then the remaining net death proceeds of any policy owned by any nondisabled Members will be applied against any remaining balance owed to the disabled Member by the Company under this Article, and this amount paid will be considered a loan to the Company. If the total net death proceeds of all of these policies exceed the total amount owed to the disabled Member, the policy owner will retain all excess proceeds.

Article Five Retirement

Section 5.01 Retirement Defined

For purposes of this Agreement, *retirement* means ending employment with the Company after the Member's 70th birthday.

Section 5.02 The Company's Option to Purchase

After a Member's retirement, the Company has the option to purchase all, but not less than all, of the units of the Company's Membership Interest that the retiring Member owns for a period of 12 months after the retirement date of the retiring Member. The price is determined by operation of Article Ten and by the other terms in this Agreement. This option is exercised by giving notice to the retiring Member within the time period provided. If not exercised, the option expires at the end of this period.

Article Six

Employment Termination

Section 6.01 The Company's Option to Purchase

Except as provided in Section 6.03 below, if a Minority Member's employment with the Company is terminated for any reason, whether voluntarily or involuntarily, the Company has the option to purchase all, but not less than all, of the units of the Company's Membership Interest that the Minority Member owned for a period of 24 months after the Minority Member's employment with the Company was terminated. The price is determined by operation of Article Ten and by the other terms in this Agreement. This option is exercised by giving notice to the Minority Member within the time provided. If not exercised, the option expires at the end of this period.

Section 6.02 Majority Member's Decision to Terminate Employment

Despite anything to the contrary in this Agreement, the parties agree that the Company may terminate a Member's employment with the Company only by the decision of the Majority Member.

Section 6.03 Exceptions

Despite anything to the contrary in this Agreement, this Article will not apply to a Member whose employment with the Company is terminated:

simultaneously with or subsequent to his or her retirement, his or her death, a sale of all of his or her units triggered by an involuntary transfer, as that term is defined in Article Seven, or his or her lifetime transfer of all of his or her units under Article Nine; or

while a Member has a disabling injury or illness: a condition that, as long as it continues, meets the definition of *total disability* under Article Four.

Article Seven

Involuntary Transfers

Section 7.01 Offer to Sell

If a Member becomes bankrupt or insolvent and a levy on or attachment of his or her units of Membership Interest or related interests or rights in the Company occurs, or if any other involuntary transfer of his or her units occurs (including but not limited to a court order for transfer of units subject to divorce proceedings), this Member must immediately offer all of the units of Membership Interest in the Company that he or she owns at the time for sale by notice to the Company and the remaining Members. The price is determined by operation of Article Ten and by the other terms in this Agreement. This offer remains open for a period of 60 days after notice is given. The Member offering his or her Membership Interests for sale must not be allowed to vote, as a member or director, on the issue of the Company's purchase of the Membership Interests. For purposes of this Article, a court-ordered transfer of a Member's Membership Interests arising out of a marriage dissolution proceeding is an *involuntary transfer*.

Section 7.02 Accepting the Offer

To accept this offer, each Offeree must give notice to the Member offering his or her Membership Interests for sale within the time provided stating the number of units that the Offeree wants to purchase, subject to the other provisions of this Article. The Company has the first right to purchase any offered units, and then each remaining Member has the right to purchase a *pro rata* share of any remaining units. A remaining Member's *pro rata* share equals the number of units the Member owns divided by the total number of units that all remaining Members own, all determined immediately before the offer is made. If any remaining Member fails to accept the offer, or if any remaining Member accepts the offer for less than his or her *pro rata* share, then the Members who gave notice of a desire to purchase more than their *pro rata* shares will purchase the remaining units allocated among them so that each Member purchases that portion of the remaining units that equals the number he or she desired to purchase in his or her notice divided by the total number of units that all accepting Members gave notice of a desire to purchase. If not accepted, the offer expires at the end of this period.

Article Eight

First Right of Offer

Section 8.01 Notice of Offer to Sell to Third Party

If the Majority Member wants to sell all of his or her units or all or substantially all of the assets of the Company to a third party, then the Majority Member first must give notice to the Minority Members. The Minority Members have 30 days from the date of this notice to reach an agreement with the Majority Member to purchase all of the Majority Member's units or all or substantially all of the Company's assets. If the Majority Member and the Minority Members cannot agree within this 30-day period, the Majority Member may sell all of his or her units and all or substantially all of the Company's assets without further restriction under this Agreement.

Section 8.02 Conditions of Sale

Subject to the provisions of Section 8.01, if the Majority Member wants to sell all of the units of the Company's Membership Interest that he or she owns to a third party and if this third party wants to purchase all of the outstanding units of the Company's Membership Interest, the Minority Members must sell all of their units of the Company's Membership Interest to this third party on the same Membership Interests payment terms and conditions and at the same per unit price governing the sale between the Majority Member and this third party. Or, subject to the provisions of Section 8.01 above, if the Majority Member wants to sell all of his or her units of the Company's Membership Interest to the third party and if a Minority Member also wants to sell his or her Membership Interests to the third party, then the Majority Member must require the third party to purchase all of the units owned by the Minority Member as a condition to the purchase of the Majority Member's units. The same Membership Interest payment terms and conditions at the same per unit price govern the sale between the third party and the Majority Member and the third party and the Minority Member.

Article Nine Good-Faith Offers

Section 9.01 First Offer to Remaining Members and the Company

If the Minority Member receives a good-faith offer for the purchase of all or any part of his or her Membership Interests in the Company and wants to accept the offer, the Minority Member must first offer the Membership Interests for sale by notice to the Majority Member, the Company and the remaining Members on the same terms and per unit price as the good-faith offer. This offer must remain open for 30 days after notice is given. The Minority Member may not vote, as a member or director, on the issue of the Company's purchase of this Membership Interests.

Section 9.02 Acceptance

Each Offeree may only accept the offer by giving notice to the Minority Member within the time provided, stating the number of units that the Offeree wants to purchase. The acceptance is subject to the other provisions of this Article. The Majority Member has the first right to purchase any offered units. The Company will have the right to purchase any remaining units, and then each remaining Member will have the right to purchase his or her *pro rata* share of any remaining units. The *pro rata* share is the number of units the remaining Member owns divided by the total number of units that all remaining Members own, all determined immediately prior to the offer. If any remaining Member fails to accept the offer, or if any remaining Member accepts the offer for less than his or her *pro rata* share, the remaining units are available for purchase. The Members who requested to purchase more than their *pro rata* units may purchase the remaining units, up to the total number of units requested by notice. The remaining units will be allocated among them so that each Member purchases that portion of the remaining units equal to the number he or she requested to purchase by notice divided by the total number of units that all accepting Members requested to purchase by notice. If not accepted, the offer expires at the end of the 30-day period.

Section 9.03 All Units Purchased When Exercising Right of First Refusal

Despite anything in this document to the contrary, a condition subsequent to an offer made by the Minority Member requires the purchaser to purchase all of the units of Membership Interest offered.

Section 9.04 Third Parties Become Parties to This Agreement

Any units of Membership Interest offered for sale under this Article that are not purchased under the offers within the time allowed may be sold or otherwise disposed of to the good-faith Offeror for the price and on the terms set forth in the good-faith offer for 45 days beginning on the expiration of the offer period. As a condition of the sale or sales, the selling Member will require any third party to become a party to this Agreement at Closing. After the sale is consummated, these third parties are subject to all of this Agreement's terms.

Section 9.05 Drag Along

Subject to the provisions of this Article, if Members owning at least 60% of the outstanding units of the Company's Membership Interest want to sell all of their units of Membership Interest in the Company to a third party and if this third party wants to purchase all of the outstanding units of the Company's Membership Interest, then the other Members must sell all of their units of the Company's Membership Interest to the third party or parties on the same Membership Interests payment terms and at the same per unit price governing the sale between the original selling Members and the third party. Subject to the provisions of this Article, if Members owning at least 60% of the outstanding units of the Company's Membership Interest want to sell all of their units of the Company's Membership Interest to the third party, and if the other Members also want to sell their Membership Interests to the third party, then the original selling Members must require the third party, as a condition to the purchase of their units, to purchase all of the units owned by the other Members on the same Membership Interests payment terms and at the same per unit price governing the sale between the third party and the Members.

Article Ten Purchase Price

Section 10.01 Appraised Value

The total value of the outstanding Membership Interests of the Company is the *Value* (as defined below) of the Company's assets and business, including goodwill, less the amount of the Company's debts. These amounts are determined by the Company's regularly retained accounting firm, using generally accepted accounting principles. Amounts are determined as of the last day of the month immediately preceding the month the event triggering the purchase occurred. Except as otherwise provided in this Agreement, the purchase price for each unit is the Value divided by the number of units outstanding as of the closing date of any sale or transfer of Membership Interests under this Agreement (*Closing*). The *Value* of the Company's assets and business is determined as follows.

the purchaser and seller agree to the value within five business days after the date the purchaser becomes obligated to purchase the units of Membership Interest; or

if the purchaser and seller do not agree on the value, by determination of the Gross Appraised Value (as defined in Section 10.02) of the assets and business.

Section 10.02 Gross Appraised Value

For purposes of this Article, *Gross Appraised Value* means the price at which a willing seller would sell and a willing buyer would buy the Company's assets and business, free and clear of all liens, for cash, without time constraints, and without being under any compulsion to buy or sell.

Gross Appraised Value is determined by appraisal as provided in this paragraph. Each appraiser selected under this Agreement must be a professional with prior experience in appraising businesses and must not be an affiliate of any party to this Agreement. Each appraiser shall hold one or more professional appraiser designations including ABV (Accredited in Business Valuation), CBA (Certified Business Appraiser), or AVA (Accredited Valuation Analyst), or an equivalent designation. If any appraiser only provides a range in which Gross Appraised Value would exist, that appraiser's determination of Gross Appraised Value of the Company's business and assets will be the average of the highest and lowest values. The determination of the Gross Appraised Value in accordance with the following procedure is final and binds the Company and each Member.

The purchaser shall appoint an appraiser (*First Appraiser*) and shall notify the seller within five business days after the five-day period ends to agree on the Value, and the seller may appoint an appraiser (*Second Appraiser*) by giving notice to the purchaser within 30 business days of notice of the First Appraiser.

If the seller does not designate a Second Appraiser within the 30 business days, the First Appraiser determines the Gross Appraised Value.

If the purchaser fails to designate the First Appraiser within the designated time, the seller may designate the First Appraiser by notifying the purchaser within 15 business days after the five-day period to agree on the Value ends.

The First Appraiser, or the First Appraiser and the Second Appraiser if the Second Appraiser is timely designated by the seller, shall submit a determination of Gross Appraised Value to the Company, the Members, and the Company's accounting firm within 30 business days after being designated an appraiser.

If there are two appraisers and their respective Gross Appraised Value determinations vary by less than 10% of the value of the higher determination, the Gross Appraised Value is the average of the two determinations. If the determinations vary by 10% or more of the value of the higher determination, the two appraisers shall promptly designate a third appraiser (*Third Appraiser*). The Third Appraiser must not receive any information about the determinations of the First Appraiser and the Second Appraiser, and must not be influenced in any other way, directly or indirectly, by the Company, the Members, or the First and Second Appraisers. The Third Appraiser shall submit his or her Gross Appraised Value determination to the Company, the Members, and the Company's accounting firm within 30 business days of being designated the Third Appraiser.

If the third determination is higher or lower than both of the determinations of the First and Second Appraisers, then the Gross Appraised Value will be the average of the determinations of the First and

Second Appraisers. If the third determination falls within the highest and lowest Gross Appraised Values of the first and second determinations, the Gross Appraised Value is the average of all three determinations.

Section 10.03 Insurance Proceeds

For purposes of determining the Company's value, any insurance proceeds that the Company receives from life insurance policies that it owns on a deceased Member's life and disability buyout policies that it owns on a deceased Member are specifically excluded from the Company's assets.

Article Eleven Payment Terms

Section 11.01 Down Payment Due at Closing

Except as otherwise provided in this document, when a purchaser becomes obligated to purchase units of the Company's Membership Interest under this Agreement, the purchaser shall pay the seller the purchase price for the Membership Interests by delivering to the seller at Closing the Down Payment in cash, and a signed promissory note payable to the seller's order for the balance due (*Note*).

Section 11.02 Time to Close

Closing must take place within 60 days after the date the purchaser becomes obligated to purchase the Membership Interest. But if the purchaser becomes obligated to purchase as a result of an offer made under this Agreement, Closing must take place within 60 days after the date of the expiration or acceptance of the offer.

Section 11.03 Down Payment Amount

The Down Payment will be 10% of the purchase price for the units purchased. But if a purchase is due to the death of a Member, the Down Payment must not be less than the amount of the life insurance proceeds on the life of the deceased Member received by the purchaser, but not greater than the entire purchase price. If the purchaser receives these insurance proceeds after Closing, the proceeds in excess of the amount paid at Closing as the Down Payment must be paid to the Note holder as a prepayment on the Note.

Section 11.04 Promissory Note Payments

The Note must be paid in 20 consecutive quarterly payments of principal and interest. The Note bears interest from the date of its signing and must be in substantially the form attached to this document as **Exhibit A**.

The interest rate on the Note is 5% per year, compounded monthly.

Section 11.05 Security Interest

Each Note provided for in this Agreement must be secured by a valid and perfected security interest in all of the units of Membership Interest transferred by the seller to the purchaser under the terms of this Agreement. The purchaser shall execute a security and pledge agreement evidencing that interest at Closing. This security agreement must be substantially in the form attached to this document as **Exhibit B**.

Section 11.06 Complete Payment at Closing

When the purchaser pays the entire purchase price at Closing, the selling Member shall, at Closing, deliver the units to the purchaser, together with all instruments necessary to accomplish the transfer. These instruments include powers of attorney, letters testamentary, or letters of administration. The Manager of the Company shall immediately thereafter transfer the ownership of the units to the purchaser in the proportions set forth in this Agreement. The Company shall promptly issue a certificate or other appropriate legal document in the name of each purchaser evidencing the transferred units and deliver the certificate or document to the seller if he or she holds units as security for payment of a Note. Except as provided in this Agreement, transfer of the units must be made free and clear of all taxes, debts, claims, or other encumbrances other than those incurred for a corporate purpose and approved as provided in Section 2.02.

Article Twelve Insurance Policies

Section 12.01 Purchasing Insurance

Any party may purchase life and disability buyout insurance policies on the life of the Minority Member in order to provide for payment of any units of the Company's Membership Interest that that party is entitled or obligated to purchase under the terms of this Agreement. Except as provided in this Agreement, the party purchasing such policy or policies will be the owner and beneficiary of each such policy. The Minority Member agrees to cooperate in acquiring any such policy by performing all reasonably necessary acts, including submitting to medical examinations, supplying truthful information for applications for insurance, and signing insurance applications.

Section 12.02 Conditions

The insured under any life insurance policies that may be subject to this Agreement has the right to purchase such policies on his or her own life as follows:

from the estate of a deceased Member within 45 days after the appointment of a Personal Representative for the deceased Member;

from a withdrawing Member within 30 days after the sale or disposition of all of the Member's Membership Interest during his or her lifetime as provided in this Agreement;

from the policy owner within 30 days after the termination of this Agreement by written agreement of all parties or by dissolution, bankruptcy, or insolvency of the Company under Article Thirteen;

except as otherwise provided in this Section, from the policy owner within 30 days after the sale or disposition of all of the insured's Membership Interest during his or her lifetime as provided in this Agreement; and

with respect to those policies that must be kept in effect during the term of a buyout under Article Four, from the policy owner within 30 days of receipt of full payment in cash of the purchase price for the insured's units.

Section 12.03 Exercising Right of Purchase

This right of purchase must be exercised as to each policy by paying to the policy owner, in cash, within the time specified, an amount equal to the cash value on the date of the transfer of ownership plus the amount of any unused premiums, as determined by the insurance company that issues the policy, less any indebtedness secured by the value. The policy owner shall cooperate in obtaining and supplying the information and signing the documents as reasonably necessary to effect this transfer of ownership.

Article Thirteen Amendment and Termination of This Agreement

Except as otherwise provided in this document, this Agreement may be amended at any time and in any particular manner by a written instrument signed by all parties.

This Agreement terminates:

on the written agreement of all parties;

on the dissolution, bankruptcy, or insolvency of the Company;

with respect to any two or more Members, upon the death of the Members simultaneously, or upon the death of the first to die if the Members die within 10 days of each other;

on the sale of all of a Member's Membership Interests under this Agreement, but only with respect to the selling Member and except to the extent that this Agreement governs the terms and conditions of the sale; or

when all of the Membership Interests in the Company is owned by one person or entity, except to the extent that this Agreement governs the terms and conditions of any sale occurring prior to that time.

Article Fourteen

Further Assurances; Attorney in Fact

Section 14.01 Acting to Fully Effect Purpose of Agreement

Each party agrees that on the written request of any other party of this Agreement, he or she will meet the reasonable requests of any other party to this Agreement in order to fully effect the purpose of this Agreement. This includes signing and delivering additional documents and taking further actions or causing further actions to be taken by others.

Section 14.02 Appointment of Attorney in Fact

If a triggering event occurs that obligates a Member to sell or offer his or her units of the Company to either the Company or the other Members and the Company or the other Members are required or agree to purchase the units, then the selling Member and the purchaser appoint each Manager of the Company as attorney in fact for the selling Member and the purchaser, respectively. This appointment is for the purpose of signing documents or instruments, such as certificates and Membership Interest powers, and taking any other action that the Manager of the Company determines to be necessary to effect the sale and purchase of units under this Agreement. As a result of any such sale by the selling Member and purchase by the Company or the other Members, the selling Member will no longer be a member of the Company if the purchase price for the selling Member's units is deposited in a bank or with an escrow agent for delivery to the selling Member. This appointment of the Company's Managers as attorneys in fact is irrevocable and coupled with an interest. Each party releases the Managers from any claims, causes of action, and demands at any time arising out of or with respect to any actions taken by the Managers under this Section, except to the extent caused by a Manager's gross negligence or willful misconduct.

Section 14.03 Assumption of Responsibility

Nothing in Section 14.02 requires any Manager to take any action or to assume any responsibility with respect to the transactions contemplated by this Agreement. Before taking any of these actions, the Managers of the Company may give written notice to all parties, notifying them that the action will be taken, and giving them the right to object or to complete the transaction without the Manager's involvement. But failure to give this notice or to take action regardless of any objections or other requirements stated by a party will not affect the Managers' rights under this Article.

Section 14.04 Limitation on Authority of Attorney in Fact

Nothing in Section 14.02 allows any Manager of the Company to act as attorney in fact for any Member for any purpose other than to effect a sale and purchase as provided in this document. Therefore, for example, no Manager has any power to agree to any purchase price for a Member's Membership Interests, or to waive any of a Member's rights.

Article Fifteen Miscellaneous

Section 15.01 Company Inability to Purchase

If the Company becomes obligated to purchase units of its Membership Interest under this Agreement:

the Company will purchase and make payment for as many of the units as it may do so legally; and

the Company and any remaining Members agree to take all reasonable corporate action in order to maximize the number of units that the Company may purchase and to maximize the Company's ability to pay for the units.

The obligations under this Section will survive the closing of the Company's purchase of the units.

Section 15.02 Interest

If the Internal Revenue Service determines that any interest rate under any provision of this Agreement or any Note granted under this document is so low as to result in the imputation of interest under any provision of the Internal Revenue Code of 1986, as amended, the parties agree to adjust the rate to the lowest rate that will avoid the imputation of interest, and to execute all documents reasonably necessary to evidence this change. This adjustment is effective as of the earlier to occur of the date of agreement of the parties to the adjustment and the date the IRS issues a 30-day letter with respect to any such interest rate. This agreement to adjust survives the signing of this Agreement and the closing of any sale or transfer of Membership Interests under this Agreement.

Section 15.03 Agreement Binding

This Agreement binds the Minority Member, his legal representatives, successors, and assigns. The Minority Member, his Personal Representative if deceased, and all other parties bound by this Agreement must promptly execute and deliver all papers or instruments necessary or desired to carry out the provisions of this Agreement.

Section 15.04 Governing State Law

This Agreement and all collateral matters will be construed according to the laws of the State of Utah.

Section 15.05 Specific Performance

If any dispute arises regarding the rights and obligations of the parties to this Agreement including cooperating in the purchase of insurance, the right or obligation to purchase or sell any of the units of the Company's Membership Interest, and the sale or other disposition of units of the Company's Membership Interest in violation of the terms of this Agreement, the parties agree that they will be

irreparably harmed. Therefore, the parties agree that this Agreement may be specifically enforced and the conduct enjoined by decree of a court having jurisdiction over the subject matter and the parties to the controversy. The remedies provided by this Section are in addition to any other remedies that the parties to this Agreement may have.

Section 15.06 Jurisdiction and Venue

The parties agree that the State Courts of Utah has exclusive jurisdiction, including *in personam* jurisdiction, and will be the exclusive venue for all controversies and claims arising out of or relating to this Agreement or a breach thereof, except as otherwise unanimously agreed by the parties. Each party understands the constitutional right of due process that guarantees that each party must have minimum contacts with the State of Utah prior to the court's exercise of *in personam* jurisdiction over any party and each party specifically waives this constitutional right.

Section 15.07 Attorneys' Fees

If any party begins any action or proceeding against another party in order to enforce the provisions of this Agreement or to recover damages as the result of the alleged breach of any of the provisions of this Agreement, the prevailing party will be entitled to recover all reasonable costs incurred in connection with the action or proceeding, including reasonable attorneys' fees.

Section 15.08 Severability

If any provision of this Agreement becomes or is found to be illegal or unenforceable for any reason, the clause or provision must first be modified to the extent necessary to make this Agreement legal and enforceable and then, only if necessary, severed from the Agreement to allow the remainder of the Agreement to remain in full force.

Section 15.09 Captions

All captions, titles, headings, and divisions in this document are for purposes of convenience and reference only, and must not be construed to limit or affect the interpretation of this Agreement.

Section 15.10 Counterparts and Facsimile Signatures

This Agreement may be signed in one or more counterparts, all of which taken together constitute one instrument. A facsimile copy of a signature on this Agreement is acceptable and deemed to be an original signature.

Section 15.11 Exhibits Incorporated

All Exhibits referenced in this Agreement are by this reference incorporated and made a part of this Agreement.

The parties signed this Agreement on the date written above.

COMPANY:

XYZ Company, LLC

By: _____
Founding Owner, Manager

MEMBERS:

Key Employee A

Key Employee B

Founding Owner