Operating Agreement of [LLC NAME]

This Operating Agreement (this “Agreement”) of [LLC NAME], a New York limited liability company (the “Company”), effective as of [DATE] (the “Effective Date”), is entered into by and between the Company and [MEMBER NAME], as the sole member of the Company (the “Member”).

**WHEREAS**, the Company was formed as a limited liability company [on [DATE]] by the filing of articles of organization (as amended or restated, the “Articles of Organization”) with the New York State Department of State (“DOS”) pursuant to and in accordance with the New York Limited Liability Company Law (as amended from time to time, the “NY LLCL”); and

**WHEREAS**, the Member and the Company agrees that the membership in and management of the Company shall be governed by the terms set forth herein.

**NOW**, **THEREFORE**, the Member and the Company agree as follows:

1. Name. The name of the Company is [LLC NAME].
2. Purpose. The purpose of the Company is to engage in any lawful business purpose for which limited liability companies may be formed under the NY LLCL and to engage in any and all necessary or incidental activities.
3. Powers. The Company shall have all the powers necessary or convenient to carry out the purposes for which it is organized, including the powers granted by the NY LLCL.
4. Principal Office. The location of the principal office of the Company shall be [ADDRESS], New York, or such other location in New York as the Member may from time to time designate.
5. [Address[es] for Process; Registered Agent and Office.
	1. Address[es] for Process. The post office address to which the Secretary of State of the State of New York (“SOS”) shall mail a copy of any process against the Company served upon the SOS shall be that address reflected in the Articles of Organization, or such other post office address within or without New York as the Member may from time to time designate. [The email address to which the SOS shall email notice of any process against the Company served electronically upon the SOS shall be that address reflected in the Articles of Organization, or such other email address as the Member may from time to time designate.] In the event such address[es] shall change, the Member shall promptly file with the DOS any certificates or statements as required by law.
	2. Registered Agent and Office. The registered agent of the Company for service of process in the State of New York and the registered office of the Company in the State of New York shall be that person or entity and location reflected in the Articles of Organization, if any, or such other agent as the Member may from time to time designate as provided by the NY LLCL. In the event the registered agent ceases to act as such for any reason and the Member does not designate a replacement agent or the registered agent or office shall change, the Member shall promptly file any certificates and statements with the DOS as required by law.]
6. Members.
	1. Initial Member. The Member owns 100% of the membership interests in the Company. The name and the mailing address of the Member are as follows:

|  |  |
| --- | --- |
| **Name** | **Address** |
| [MEMBER NAME] | [MEMBER ADDRESS] |

* 1. Additional Members. One or more additional members may be admitted to the Company with the [written] consent of the Member. Prior to the admission of any such additional members to the Company, the Member shall amend this Agreement or adopt a new operating agreement to make such changes as the Member shall determine to reflect the fact that the Company shall have such additional members. Each member shall execute and deliver a counterpart to any such amendment to this Agreement or new operating agreement, as applicable.
	2. Membership Interests; Certificates. The Company [shall/shall not] issue any certificates to evidence ownership of membership interests.
1. Management.
	1. Authority; Powers, and Duties of the Member. The Company shall be member-managed. The Member shall have exclusive and complete authority and discretion to manage the operations and affairs of the Company and to make all decisions regarding the business of the Company. Any action taken by the Member shall constitute the act of and serve to bind the Company. Persons dealing with the Company are entitled to rely conclusively on the power and authority of the Member as set forth in this Agreement. The Member shall have all rights and powers of a manager under the NY LLCL, and shall have such authority, rights, and powers in the management of the Company to do any and all other acts and things necessary, proper, convenient, or advisable to effectuate the purposes of this Agreement.
	2. Election of Officers; Delegation of Authority. The Member may, from time to time, designate one or more officers with such titles as may be designated by the Member to act in the name of the Company with such authority as may be delegated to such officers by the Member (each such designated person, an “Officer”). Any such Officer shall act pursuant to such delegated authority until the Officer is removed by the Member. Any action taken by an Officer pursuant to authority delegated to such Officer shall constitute the act of and serve to bind the Company. Persons dealing with the Company are entitled to rely conclusively on the power and authority of any Officer set forth in this Agreement and any instrument designating such Officer and the authority delegated to such Officer.
2. Liability of Member; Indemnification.
	1. Liability of Member. Except as otherwise required in the NY LLCL, the debts, obligations, and liabilities of the Company, whether arising in contract, tort, or otherwise, shall be solely the debts, obligations, and liabilities of the Company, and the Member shall not be personally liable for any such debt, obligation, or liability of the Company solely by reason of being the Member or participating in the management or conduct of the business of the Company.
	2. Indemnification. To the fullest extent permitted under the NY LLCL, the Member (irrespective of the capacity in which such Member acts) shall be entitled to indemnification and advancement of expenses from the Company for and against any loss, damage, judgment, fine, liability, claim, or expense (including attorneys’ fees or other expenses incurred in investigating or defending against such loss, damage, judgment, fine, liability, or claim, and any amounts expended in settlement of any claims) whatsoever incurred by the Member relating to or arising out of any act or omission or alleged act or omission (whether or not constituting negligence or gross negligence) performed or omitted by the Member on behalf of the Company; *provided*, *however*, that any indemnity under this Section 8(b) shall be provided out of and to the extent of the assets of the Company only, and neither the Member nor any other person or entity shall have any personal liability on account thereof.
3. Term. The term of the Company shall be perpetual unless the Company is dissolved and liquidated in accordance with Section 13.
4. Capital Contributions. The Member hereby agrees to contribute to the Company such cash, property, or services from time to time, or loan funds to the Company, in each case as the Member may determine in the Member’s sole and absolute discretion; *provided*, that absent such determination, the Member is under no obligation whatsoever, either express or implied, to make any such contribution or loan to the Company.
5. Tax Status; Income and Deductions.
	1. Tax Status. As long as the Company has only one member, it is the intention of the Company and the Member that the Company be treated as a disregarded entity for federal and all relevant state tax purposes and neither the Company nor the Member shall take any action or make any election that is inconsistent with such tax treatment. All provisions of this Agreement are to be construed so as to preserve the Company’s tax status as a disregarded entity.
	2. Income and Deductions. All items of income, gain, loss, deduction, and credit of the Company (including, without limitation, items not subject to federal or state income tax) shall be treated for federal and all relevant state income tax purposes as items of income, gain, loss, deduction, and credit of the Member.
6. Distributions. Distributions shall be made to the Member at the times and in the amounts determined by the Member.
7. Dissolution; Liquidation.
	1. Dissolution Events. The Company shall dissolve, and its affairs shall be wound up, upon the first to occur of the following: (i) the written consent of the Member or (ii) any other event or circumstance giving rise to the dissolution of the Company under Section 701 of the NY LLCL, unless the Company’s existence is continued pursuant to the NY LLCL.
	2. Winding Up. Upon dissolution of the Company, the Company shall, unless restricted by Section 703 of the NY LLCL, immediately commence to wind up its affairs and the Member shall promptly liquidate the business of the Company. During the period of the winding up of the affairs of the Company, the rights and obligations of the Member under this Agreement shall continue.
	3. Distribution of Proceeds. In the event of dissolution, the Company shall, unless restricted by Section 703 of the NY LLCL, conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Company in an orderly manner), and the assets of the Company shall be applied as follows: (i) first, to creditors, to the extent permitted by law, in satisfaction of liabilities of the Company (whether by payment or the making of reasonable provision for payment thereof); and (ii) second, to the Member.
	4. Articles of Dissolution. Upon the completion of the winding up of the Company, the Member shall file articles of dissolution with the DOS in accordance with the NY LLCL.
8. Miscellaneous.
	1. Amendments. Amendments to this Agreement may be made only with the [written] consent of the Member.
	2. Governing Law. This Agreement shall be governed by the laws of the State of New York.
	3. Severability. In the event that any provision of this Agreement shall be declared to be invalid, illegal, or unenforceable, such provision shall survive to the extent it is not so declared and the validity, legality, and enforceability of the other provisions hereof shall not in any way be affected or impaired thereby, unless such action would substantially impair the benefits to any party of the remaining provisions of this Agreement.
	4. No Third-Party Beneficiaries. Nothing in this Agreement, either express or implied, is intended to or shall confer upon any person other than the parties hereto, and their respective successors and permitted assigns, any rights, benefits, or remedies of any nature whatsoever under or by reason of this Agreement.

**IN WITNESS WHEREOF**, the undersigned have executed this Agreement to be effective as of the Effective Date.

MEMBER:

[MEMBER NAME]

COMPANY:
[LLC NAME], a New York limited liability company

By
[MEMBER NAME], its sole member