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**AMENDED AND RESTATED
OPERATING AGREEMENT
ELKS TEMPLE PROPERTIES LLC**

A WASHINGTON LIMITED LIABILITY COMPANY

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**AMENDED AND RESTATED
OPERATING AGREEMENT
OF
ELKS TEMPLE PROPERTIES LLC**

THIS AMENDED AND RESTATED OPERATING AGREEMENT, whose date for reference purposes is _____, 2016 (the "Effective Date"), is entered into by and among Elks Temple Properties LLC, a Washington limited liability company (the "Company"), and the parties identified on Exhibit A to this Agreement (the "Members").

1. THE LIMITED LIABILITY COMPANY

1.1 Formation; Amendment and Restatement. The Company was formed on July 21, 2009 (the "Formation Date"), as a Washington limited liability company under the name Elks Temple Properties LLC, on the terms and conditions of an operating agreement dated October 11, 2011, as amended (the "Original Agreement") among the Company Dance on Air Properties LLC ("DAP") and 2G's LLC. Although 2G's LLC was named as a member of the Company, it never made a capital contribution and was not admitted as a member of the Company. As of the Effective Date, (a) the parties other than DAP identified on Exhibit A to this Agreement are admitted as new Members of the Company and (b) the Members have amended and restated the Company's operating agreement in the form of this Amended and Restated Operating Agreement (this "Agreement") pursuant to the Washington Limited Liability Company Act (the "Act"). This Agreement replaces and entirely supersedes the Original Agreement. This Agreement is intended to serve as the "limited liability company agreement" of the Company within the meaning of the Act. Except as otherwise expressly provided in this Agreement, the rights and obligations of the Members will be as provided in the Act.

1.2 Name. The business of the Company will be conducted under the name Elks Temple Properties LLC.

1.3 Purpose. The purpose of the Company will be to acquire, own, develop, lease, and sell certain real property in Tacoma, Washington, known as the Elks Temple property (the "Property"), to engage in any activities incidental to carrying on such purpose, and to engage in any other activities that may be carried on by a limited liability company under the Act.

1.4 Offices. The Company will maintain its principal business office at 430 N. Killingsworth Street, Portland, Oregon 97217.

1.5 Registered Agent. JGB Service Corporation is the Company's registered agent in Washington and the address of the registered office is 600 University Street, Suite 3600, Seattle, WA 98101. The registered agent or registered office may be changed from time to time by the Manager.

1.6 Term. The term of the Company commenced or will commence on the Formation Date and will continue until terminated as provided in this Agreement.

1.7 Names, Addresses, and Capital Commitments of Members. The name, address, and maximum amount agreed to be contributed to the Company ("Capital Commitment") of each Member is set forth on Exhibit A attached to this Agreement. Exhibit A may be updated from time to time by the Manager to reflect any changes necessary to reflect matters that do not by the terms of this Agreement require Member approval.

1.8 Admission of Additional Members. Except as otherwise expressly provided in this Agreement (including, without limitation, Section 2.8), no additional Members may be admitted to the Company without the prior consent of the Members. If such approval is provided, the Manager will determine the capital contribution and nature and number of Units of the new Member. Notwithstanding the foregoing, for a 180-day period beginning on the Effective Date, the Manager may, in its sole discretion, admit additional Class A Members until all authorized Class A Units have been issued. Each new Member will agree in writing to be bound by this Agreement.

1.9 Tax Credits. The development of the Property is expected to generate rehabilitation tax credits pursuant to Code Section 47. It is the intent of the Members that the Company will elect to have any such tax credits generated by the development of the Property assigned to the lessee under the lease described in Section 4.1.6 in return for investment in other consideration or to the Company, and to the extent not assigned will be allocated to the Members pro rata based on Class A Membership Percentages, subject to the requirements of Treasury Regulation § 1.704-1(b)(4)(ii).

2. UNITS AND CAPITAL CONTRIBUTIONS

2.1 Units of Membership Interest. Except as otherwise provided in this Agreement, the interest of each Member in the capital and profits of the Company will be in the form of units of membership interest ("Units"). The Company is authorized to issue up to 700 Units, consisting of up to 500 Class A Units, 50 Class B Units, and 150 undesignated Units. No certificates will be issued to represent Units. References in this Agreement to Units include all classes of Units.

2.2 Class A Units. Class A units will be issued to investor Members in exchange for their capital contributions. Initially, Class A units will be issued for \$25,000 per Class A Unit. Each Class A Unit will be entitled to one vote. Each Member holding Class A Units is sometimes referred to as a "Class A Member," which term includes DAP with respect to those Class A Units it holds.

2.3 Class B Units. All 50 Class B Units will be issued to DAP for its services as Manager of the Company. DAP will not be required to make any capital contribution to the Company with respect to the Class B Units and its initial Capital Account balance with respect to the Class B Units will be zero. DAP, in its capacity as the "Class B Member," will have no voting rights.

2.4 Class A Membership Percentages. Each Class A Member will have a "Class A Membership Percentage" equal to the ratio, expressed as a percentage rounded to the nearest

one-hundredth of a percent, of the number of Class A Units owned by the Member divided by the total number of issued and outstanding Class A Units.

2.5 Capital Contribution of DAP. As of immediately prior to the Effective Date, DAP has been credited with capital contributions to the Company in an amount equal to the costs expended, up to the Effective Date, by the Company to acquire and develop the Property. Upon the admission to the Company of additional Class A Members on the Effective Date, the Company shall distribute cash to DAP in an amount necessary to reduce DAP's capital account to \$500,000. For purposes of this Agreement only, DAP will be treated as having made a \$500,000 capital contribution on the Effective Date, which will fully satisfy its Capital Commitment, and will be issued 20 Class A Units.

2.6 Initial Capital Contribution of the Members. Each new Member admitted on the Effective Date shall make an initial contribution, in cash, to the Company payable by wire transfer or check in an aggregate amount equal 25 percent of such Member's Capital Commitment, or such higher amount determined by the Manager.

2.7 Subsequent Capital Contributions by the Members. Each Member's Capital Commitment represents the aggregate amount of capital that such Member has agreed to contribute to the Company in accordance with the terms hereof. Each Member shall make additional capital contributions (up to the amount of such Member's Capital Commitment) to the Company, in cash payable by wire transfer or check, or in such other form as agreed upon by the Manager, in installments upon ten days' prior written notice from the Manager. The amount of each installment shall be as determined by the Manager and shall be contributed by the Members in proportion to their respective Class A Membership Percentages.

2.8 Additional Capital Contributions. The Members intend that, to the maximum extent possible, Company obligations are to be paid from operating cash flow and from Company borrowings, whether short-term or long-term. To the extent cash flow from operations and borrowings are not sufficient to meet the obligations of the Company as they become due, the Manager may sell additional Units ("New Units") in the Company. In doing so, the Manager will utilize the undesignated Units described in Section 2.1, and in its discretion may designate the New Units as additional Class A Units or an entirely new class of Units, with the economic preferences and voting rights determined by Manager in its sole discretion, which may be more favorable than the preferences and rights of the Class A Units. The Manager shall also determine the purchase price for the New Units, the number available to be sold, and the closing date for the sale of New Units. Once these determinations have been made, the Manager shall provide written notice to the Class A Members of the number, purchase price, rights/preferences, and closing date for the New Units. Each Class A Member will have 30 days (or such longer period set by the Manager) to respond to the Manager's notice by stating (A) whether the Class A Member agrees to purchase its pro rata (based on Class A Membership Percentages) share of the New Units and (B) if there are unallocated New Units (because one or more Class A Members did not elect to purchase their pro rata share), what is the maximum number of unallocated New Units that the Class A Member is willing to purchase. Any unallocated New Units will be allocated based on the Class A Membership Percentage of the Class A Members electing to purchase unallocated New Units up to the maximum elected by each Member until the entire pool of New Units is allocated or the maximum purchase limit is met for every Member. If the

Class A Members do not purchase all of the New Units, the Manager may sell the remaining New Units to investors who are not current Members, and such investors will automatically be admitted to the Company as Members upon execution of a counterpart to this Agreement.

2.9 No Interest on Capital Contributions. Members will not be entitled to interest or other compensation for their capital contributions except as expressly provided in this Agreement.

2.10 Non-Payment of Capital Contributions. In the event any Class A Member (a "Defaulting Member") fails to pay the full amount of a capital contribution called for under Section 2.7 on the date on which such capital contribution is due and such default is not cured by such Class A Member within 10 days after written notice by the Manager, the following provisions shall apply:

2.10.1 Whenever the vote or consent of the Defaulting Member would otherwise be required or permitted under this Agreement, the Defaulting Member shall not be entitled to participate in such vote or consent, and such vote or consent shall be calculated as if such Defaulting Member were not a Member.

2.10.2 The Manager may commence legal proceedings against the Defaulting Member to collect the due and unpaid amount of capital contributions, together with interest thereon from the date due at the Default Rate, plus the costs and expenses of collection (including reasonable attorneys' fees and expenses). For purposes of this Agreement, the "Default Rate" means a rate per annum that is equal to the lesser of (i) a rate that is five percent above the prime rate of interest of the Company's primary bank, as announced or published by such bank from time to time (adjusted from time to time to reflect any changes in such rate determined hereunder), or (ii) the maximum rate from time to time permitted by applicable law.

2.10.3 The Manager may, but shall not be obligated to, advance all or a portion of the Defaulting Member's unpaid capital contribution to the Company on behalf of the Defaulting Member, and such advance shall be repaid by the Defaulting Member to the Manager with interest commencing on the date of the advance at the Default Rate. To the extent the Manager advances funds to the Company on behalf of a Defaulting Member, all Company distributions that would otherwise be made to the Defaulting Member shall be paid to the Manager (with any such amounts being applied first against accrued but unpaid interest and then against principal) until all amounts payable by the Defaulting Member to the Manager under this Section 2.10.3 (including interest) have been paid in full.

2.10.4 The Manager may elect, upon notice to the Defaulting Member, to reduce the Defaulting Member's (i) capital account balance and Undistributed Capital (as defined in Exhibit B) by an amount equal to 50 percent of the respective amount existing as of the date of the default and (ii) Capital Commitment to an amount equal to the amount of capital contributions theretofore made by such Defaulting Member. Thereupon, the unpaid Capital Commitment of the Defaulting Member shall be zero, the Defaulting Member shall not be obligated to make any further capital contributions, the number of Class A Units and Class A Membership Percentage of such Defaulting Member shall be redetermined as of the date of such default to reflect the new Capital Commitment of the Defaulting Member, and the Manager shall

revise Exhibit A to reflect the reduction of the Capital Commitment, number of Class A Units, and Class A Membership Percentage of the Defaulting Member. The Members agree (A) that the damages suffered by the Company as the result of a failure by a Member to pay a capital contribution to the Company that is required by this Agreement cannot be estimated with reasonable accuracy and (B) that the foregoing provisions of this Section 2.10.4 shall act as liquidated damages for the default by the Defaulting Member (which each Member hereby agrees are reasonable).

2.10.5 The Manager may offer to all the nondefaulting Class A Members, pro rata in proportion to their Class A Membership Percentages, the option of purchasing the Defaulting Member's Class A Units on such terms as the Manager determines, in its sole discretion, represent the reasonable fair market value of such interest, but in no event less than the purchaser's agreement to assume the Defaulting Member's obligation to pay the unpaid capital contribution plus that portion of the Defaulting Member's Capital Commitment then remaining.

2.10.6 At the election of the Manager, distributions of the Company otherwise payable to the Defaulting Member hereunder shall not be paid to the Defaulting Member, but instead shall be applied against the amount of the unpaid capital contribution (plus interest at the Default Rate and related costs); provided, that any amounts so applied shall be deemed to have been distributed to the Defaulting Member for purposes of Section 3.2.

2.10.7 Except as otherwise provided herein, no right, power, or remedy conferred upon the Company or the Manager under this Section 2.10 shall be exclusive, and each such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy, whether conferred under this Section 2.10 or now or hereafter available at law or in equity or by statute or otherwise. The Defaulting Member shall be liable for the costs and expenses (including reasonable attorneys' fees and expenses) incurred by the Company or the Manager in enforcing any of the remedies or rights set forth in this Section 2.10. Each Member acknowledges by its execution of this Agreement that it has been admitted to the Company in reliance upon its agreement that the Company and the Manager may have and exercise any and all rights, powers and remedies provided for in this Section 2.10 or otherwise available at law or in equity or by statute or otherwise, and furthermore specifically acknowledges and agrees that, notwithstanding anything to the contrary in this Agreement, the Manager shall have the right and power to take such other action as it in its sole discretion may deem necessary or advisable to protect the interests of the Company and the other Members upon a Member's default.

3. ALLOCATIONS OF INCOME AND LOSS AND PROVISIONS FOR DISTRIBUTIONS

3.1 Definitions. Definitions relating primarily to this Section 3 are located in Exhibit B.

3.2 Distributions of Net Cash Flow. Net Cash Flow of the Company, if any, will be distributed to the Members at such times and in such amounts as determined by the Manager and will be allocated to the Members as follows:

3.2.1 First, to the Class A Members, an amount equal to each Class A Member's 8 Percent Preferred Return to the extent not previously received, until each Class A Member has received the Class A Member's entire 8 Percent Preferred Return.

3.2.2 Next, to the Class A Members, 33 Percent of all remaining Net Cash Flow, and to the Class B Member, 67 Percent of all remaining Net Cash Flow.

3.3 Distributions of Capital Events Proceeds. Capital Events Proceeds of the Company, if any, will be distributed to the Members as follows:

3.3.1 First, to the Class A Members, an amount equal to each Class A Member's 8 Percent Preferred Return to the extent not previously received, until each Class A Member has received the Class A Member's entire 8 Percent Preferred Return.

3.3.2 Next, to the Class A Members, each Class A Member's Undistributed Capital.

3.3.3 Next, to the Class B Member, the amount of the Class B Member's Undistributed Capital.

3.3.4 Next, to the Class A Members, 33 Percent of all remaining Capital Events Proceeds, and to the Class B Member, 67 Percent of all remaining Capital Events Proceeds.

3.4 Allocation Rules. When Net Cash Flow or Capital Events Proceeds are distributed to Members, the following rules will apply:

3.4.1 If insufficient cash or assets are available to fully pay a tier, all subordinate tiers will receive no funds.

3.4.2 If insufficient cash or assets are available to full pay a tier, the cash or assets will be distributed pro-rata to the Members based on the amount the Members would have received if the full amount had been available to distribute.

3.4.3 Except with respect to distributions of a Class A Member's 8 Percent Preferred Return or of Undistributed Capital, any distribution within a tier to all Class A Members will be allocated among the Class A Members based on Class A Membership Percentages.

3.4.4 Any distribution to a Member will be subject to any applicable tax withholding. All tax withholdings with respect to distributions to a Member will be treated as an amount distributed to that Member.

3.5 Tax Distributions. Notwithstanding Section 3.2, the Company shall distribute to each Member, to the extent of available Net Cash Flow and without borrowing additional funds, an amount equal to the federal and state income taxes that would be payable by such Member as a result of the allocation of Profit or Loss to such Member, based on the highest combined federal and state individual income tax rate for an individual resident of California, as reasonably determined by the Manager. Such amounts shall be distributed no later than 14 days prior to the date a payment of federal income tax is due. For purposes of determining whether the Company has satisfied its distribution obligation under this Section 3.5, all cash distributions made during a fiscal year (or through a particular tax installment date) shall be treated as distributions made pursuant to this Section 3.5 with respect to such fiscal year (except to the extent that such distributions were required to satisfy the obligations of the Company under this Section 3.5 with respect to one or more prior fiscal years). Any distribution made to a Member pursuant to this Section 3.5 shall be considered to be an advance of, and shall reduce the amount of, the next available distribution that would otherwise be made to that Member under Section 3.2 or 3.3.

3.6 Determination of Profit and Loss. The Company's Profits and Losses for each Allocation Period will be determined as of the end of that Allocation Period by the Company's accountants in accordance with federal income tax accounting principles, consistently applied, utilizing that method of accounting employed in the federal income tax informational return filed by the Company for that Allocation Period.

3.7 Allocation of Profits and Losses. Subject to the special allocations and limitations set forth in Section 3.8 and Exhibit B, the Profits and Losses of the Company for each fiscal year or other Allocation Period will be allocated among the Members as follows:

3.7.1 General. The Members acknowledge that allocations pursuant to this Section 3.7.1 are intended to result in each Member having a final Capital Account balance equal to the amount that will be distributed to the Member pursuant to Section 9.2. Except as otherwise provided in this Section 3, Profit and Loss for each Allocation Period will be allocated among the Members to reduce, proportionately, the difference between each Member's Target Capital Account and such Member's Partially Adjusted Capital Account as of the end of such Allocation Period. If the Company has a Profit for an Allocation Period and a Member's Partially Adjusted Capital Account for such Allocation Period is greater than such Member's Target Capital Account for such Allocation Period, then such Member will be specially allocated items of Company Loss or items of deduction and expense for such Allocation Period (to the extent available) equal to the difference between such Member's Partially Adjusted Capital Account for such Allocation Period and such Member's Target Capital Account for such Allocation Period and, if the Company has a Loss for an Allocation Period and a Member's Partially Adjusted Capital Account for such Allocation Period is less than such Member's Target Capital Account for such Allocation Period, then such Member will be specially allocated items of Company Profit or items of income or gain for such Allocation Period (to the extent available) equal to the difference between such Member's Partially Adjusted Capital Account for such Allocation Period and such Member's Target Capital Account for such Allocation Period.

3.7.2 Limitation on Allocation of Losses.

3.7.2.1 Any Losses allocated pursuant to Section 3.7.1 may not exceed the maximum amount of Losses that can be allocated without causing any Member to have an Adjusted Capital Account Deficit at the end of any Allocation Period. In the event some but not all the Members would have Adjusted Capital Account Deficits as a consequence of an allocation of Losses pursuant to Section 3.7.1, the limitation set forth in this Section 3.7.2.1 will be applied on a Member-by-Member basis so as to allocate the maximum permissible Losses to each Member under Treasury Regulation § 1.704-1(b)(2)(ii)(d).

3.7.2.2 All Losses in excess of the limitations set forth in Section 3.7.2.1 will be allocated to those Members (if any) that do not have an Adjusted Capital Account Balance Deficit, and allocated among them pro rata in proportion to their respective positive Adjusted Capital Account Balances, and thereafter to all the Members in accordance with their interests in the Company as determined by the Manager in the reasonable discretion of the Manager.

3.8 Special Allocations and Limitations. The Members intend that all allocations will be as described in Section 3.7. However, in order to comply with federal income tax regulations regarding the substantial economic effect of Company allocations, all allocations of the Company income, gain, loss, and deductions are subject to the special allocations and limitations described in Exhibit B in the special circumstances described in such provisions.

3.9 No Right to Demand Return of Capital. No Member will have any right to any distribution except as expressly provided in this Agreement. No Member will have any drawing account in the Company.

3.10 Limitations on Distributions. Notwithstanding any other provisions of this Agreement, no distribution will be declared and paid unless, as reasonably determined by the Manager, (a) after the distribution is made, the assets of the Company will be in excess of all liabilities of the Company, except liabilities to Members on account of their contributions, and (b) the Company is able to pay its debts as they become due in the ordinary course of business.

3.11 Transfer of Units by Member During Allocation Period. If, after compliance with the requirements of Section 8, any Member transfers any Units during any Allocation Period of the Company, the income, gain, loss or expense of the Company allocable to the transferred Units will be prorated between the transferor and the transferee by closing the books of the Company on the date of the transfer of the Units.

4. POWERS AND DUTIES OF MANAGER

4.1 Management of Company Business. The management and control of the Company and its business and affairs will be vested exclusively in DAP, a Washington limited liability company, as the manager of the Company (the "Manager"). The Manager does not need to be a Member. The Manager will have all the rights and powers that may be possessed by a manager in a limited liability company with managers pursuant to the Act and such rights and powers as are otherwise conferred by law or are necessary, advisable, or convenient to the discharge of the Manager's duties under this Agreement and to the management of the business

and affairs of the Company. Without limiting the generality of the foregoing, but subject only to the limitations of Section 4.2, the Manager will have the following rights and powers (which the Manager may exercise at the cost, expense, and risk of the Company):

4.1.1 To expend the funds of the Company in furtherance of the Company's business.

4.1.2 To perform all acts necessary to manage and operate the Company's business and properties, including engaging such persons as the Manager will deem advisable for such purposes.

4.1.3 To execute, deliver, and perform on behalf of and in the name of the Company any and all agreements and documents deemed necessary or desirable by the Manager to carry out the business of the Company, including any lease, deed, easement, bill of sale, mortgage, trust deed, security agreement, contract of sale, or other document conveying, leasing, or granting a security interest in the interest of the Company in any of its assets, or any part thereof, whether held in the Company's name, the name of the Manager, or otherwise. No other signature or signatures will be required.

4.1.4 To borrow or raise monies on behalf of the Company in the Company's name or in the name of the Manager for the benefit of the Company, including without limitation from the Manager and affiliates of the Manager, and, from time to time, to draw, make, accept, endorse, execute, and issue promissory notes, drafts, checks, and other negotiable or non-negotiable instruments and evidences of indebtedness, and to secure the payment thereof by mortgage, security agreement, pledge, or conveyance or assignment in trust of the whole or any part of the assets of the Company, including contract rights.

4.1.5 To take all steps necessary or appropriate to obtain construction and permanent financing in the Company's name for the development of the Property.

4.1.6 To cause the Company to enter into a Development Services Agreement with DAP, pursuant to which DAP will provide the services set forth on Exhibit C.

4.1.7 To take all steps necessary to lease the Property to McMEnamin's Brew Pubs, Inc., an affiliate of Manager, who will operate the Property.

4.2 Limitations on Authority of the Manager. Without first obtaining the approval of the Class A Members, the Manager will not have the authority to:

4.2.1 Enter into any sale or other disposition of the Company (but not the Property);

4.2.2 Convert the Company to another type of entity;

4.2.3 Merge the Company with another entity;

4.2.4 Do any act in contravention of this Agreement;

4.2.5 Amend this Agreement or the Company's Certificate of Formation, except as specifically provided for in this Agreement; or

4.2.6 After it is entered into, amend the lease referred to in Section 4.1.6, if such amendment would materially and adversely change the economic terms of the lease to the Company.

4.3 Duties of the Manager. The Manager will manage and control the Company's business and affairs and will carry out the business of the Company. The Manager will devote such time to the business and affairs of the Company as is reasonable, necessary, or appropriate. Whenever reasonably requested by Members holding 25 percent of the Class A Units, the Manager will render a full and complete accounting of all dealings and transactions relating to the business of the Company. The Manager will have a fiduciary responsibility for the safekeeping and use of all funds and assets of the Company, whether or not in the Manager's immediate possession or control, and the Manager will not employ or permit another to employ such funds or assets in any manner except for the exclusive benefit of the Company.

4.4 Dealing With the Company. The Manager may deal with the Company by providing or receiving property and services to or from it, and may receive from others or from the Company normal profits, salary, compensation, commissions, or other income incident to such dealings.

4.5 Limitation on Liability of the Manager. Subject to the restrictions of Section 4.7, the Manager will not have any liability to the Company or to any Member for any loss suffered by the Company or any Member which arises out of any action or inaction of the Manager if the Manager, in good faith, determined that such course of conduct was in the best interest of the Company and such course of conduct did not constitute gross negligence or willful misconduct of the Manager.

4.6 Indemnification of the Manager. Subject to the restrictions of Section 4.7, the Manager will be indemnified by the Company against any losses, judgments, liabilities, expenses, and amounts paid in settlement of any claims sustained against the Company or against the Manager in connection with the Company, provided that the same were not the result of gross negligence or willful misconduct on the part of the Manager. The satisfaction of any indemnification and any saving harmless will be from, and limited to, Company assets, and the Members will not have any personal liability on account thereof.

4.7 Restrictions. The Manager will not be relieved of liability pursuant to Section 4.5 and will not be entitled to indemnification pursuant to Section 4.6 for:

4.7.1 Any breach of the Manager's duty of loyalty to the Company or its Members;

4.7.2 Any act or omission not in good faith that involves intentional misconduct or a knowing violation of law;

4.7.3 Any unlawful distribution to Members in violation of the Act; or

4.7.4 Any transaction from which the Manager derives an improper benefit.

4.8 Other Business. Nothing in this Agreement will be deemed to restrict in any way the freedom of the Manager or any Member to conduct any other business or activity whatsoever without any accountability to the Company or any Member, even if such investments or activities compete with the business of the Company. Without limitation, the Manager may serve as manager of other entities established to acquire, develop, operate, and lease other facilities and locations providing goods and services similar to those to be offered on the Property, and such activities shall not constitute a breach of the Manager's duty of loyalty to the Company

4.9 Removal of Manager. The Members will have no right to remove the Manager.

4.10 Resignation of Manager. The Manager may resign from the position of Manager at any time upon not less than 10 days' prior written notice to the Members.

4.11 Successor Manager. In the event that the Manager resigns or otherwise ceases to serve as Manager, the Members may select a successor Manager.

5. PROVISIONS APPLICABLE TO ALL MEMBERS

5.1 Limitations on Powers of the Members. Except for voting and approval rights provided in this Agreement, and except as otherwise expressly stated in this Agreement, no Member who is not also a Manager will:

5.1.1 Be permitted to take part in the control of the business or affairs of the Company;

5.1.2 Have any direct voice in the management or operation of the Company;
or

5.1.3 Have any authority or power in the capacity of a Member to act as agent for or on behalf of the Company, to do any act which would be binding on the Company, or to incur any expenditures with respect to the Company or its property.

5.2 Liability of the Members. Except to the limited extent provided in the Act and this Agreement, no Member, including the Manager, will have any personal liability for any Company obligation, expense, or liability. Notwithstanding anything in this Agreement to the contrary, each Member will only be liable to make capital contributions in the amount of the Member's Capital Commitment.

5.3 Withdrawal of a Member. Any Member may voluntarily withdraw as a Member upon six months' prior written notice to the Manager. Upon the effectiveness of a withdrawal by a Member (the "Withdrawing Member"), the Company will treat the Withdrawing Member as an assignee of the economic rights and benefits of the Units of the Withdrawing Member, but the Withdrawing Member will cease to have any voting or other rights under this Agreement with respect to such Units. A Withdrawing Member will have no right to receive any distribution in

liquidation of the Withdrawing Member's Units prior to the dissolution of the Company pursuant to Section 9.

5.4 Dealing With the Company. Any Member may deal with the Company by providing or receiving property and services to or from it, and may receive from others or from the Company normal profits, salary, compensation, commissions, or other income incident to such dealings; provided, however, in each such case, the dealing or transaction, and the profit or compensation, is approved in advance by the Manager.

5.5 Loans. Any Member may, but will not be obligated to, make loans to the Company to cover the Company's cash requirements. Any such loans will bear interest at a reasonable rate to be determined by the Manager.

6. MANAGEMENT FEES AND EXPENSES

6.1 Management Fee. The Company shall pay to the Manager an annual management fee ("Management Fee") equal to 0.5 percent of the aggregate Capital Commitments of the Class A Members other than DAP. The Management Fee shall be paid annually in arrears on each anniversary of the Effective Date. The Management Fee shall not be considered a distribution of profits or return of capital for the purposes of any provision of this Agreement, but shall be considered a deduction in determining Profits and Losses.

6.2 Manager's Expenses. The Manager shall be responsible for all of its own normal day-to-day operating expenses, including, without limitation, compensation of its professional staff and the cost of office space, office equipment, communications, utilities and such other normal overhead expenses related to the management of the Company.

6.3 Company Organization and Administrative Expenses. The Company shall pay or reimburse the Manager for (A) all out-of-pocket fees, costs and expenses associated with the formation of the Company and the offering and sale of Units, including all legal, accounting, printing, mailing and courier fees and expenses, filing fees, and travel and other start-up costs and expenses and (B) all direct, out-of-pocket costs and expenses reasonably incurred by either the Company or by the Manager or an affiliate thereof on behalf of the Company relating to the conduct and operation of Company business, including without limitation the fees and expenses associated with the preparation of the Company's financial statements, reports, tax returns, and Forms K-1, printing expenses, mailing and courier expenses, fees and expenses of establishing bank or custodial accounts, and insurance costs and expenses.

6.4 Development Fee. DAP reserves the right to be paid a one-time development fee equal to 1 percent of the total cost to acquire and develop the Property. Any development fee will be payable pursuant to a Development Services Agreement between the Company and DAP.

7. BOOKS OF ACCOUNT, ACCOUNTING REPORTS, TAX RETURNS, FISCAL YEAR, BANKING

7.1 Books of Account. The Company's books and records, a register showing the names of the Members and the respective interests held by each of them, and this Agreement will be maintained at the principal office of the Company. Each Member will have access to such

records at all reasonable times. The Manager will keep and maintain books and records of the operations of the Company which are appropriate and adequate for the Company's business and for carrying out this Agreement.

7.2 Accounting Reports. Within 120 days after the end of each taxable year of the Company, each Member will be furnished with copies of the Company's internally prepared financial statements.

7.3 Tax Returns. The Manager will cause to be prepared and timely filed with the appropriate authorities as necessary all federal and state income tax returns for the Company. Within 105 days after the end of each taxable year, or such lesser time if prescribed by the Internal Revenue Service, each Member will be furnished with a statement that may be used by the Member in the preparation of the Member's income tax returns, showing the amounts of any distributions, gains, profits, losses, or credits allocated to or against the Member during such taxable year.

7.4 Method of Accounting. The Company will utilize the method or methods of accounting for financial reporting and tax purposes selected by the Manager after consulting with the Company's accountants.

7.5 Tax Matters Partner. DAP is hereby designated and approved as the Tax Matters Partner ("TMP") as defined in Internal Revenue Code § 6231(a)(7). The TMP is authorized to participate in any audit of the Company's federal income tax return, and in connection with such an audit, to negotiate, settle, and make agreements and adjustments with respect to the Company's federal income tax return that will be binding on all the Members; provided, however, that the TMP must first consult with and obtain the approval of the other Members concerning any audit adjustments proposed to be made to the Company's federal income tax return. The TMP must notify all Members of any final Company audit adjustments. The TMP will use the TMP's reasonable efforts to comply with the responsibilities outlined in Internal Revenue Code § 6221 through 6233 (including the treasury regulations promulgated under such sections), and in doing so will incur no liability to any other Member.

7.6 Fiscal Year; Taxable Year. The fiscal year and the taxable year of the Company will be the calendar year.

7.7 Capital Accounts. The Company will maintain a Capital Account for each Member on a cumulative basis in accordance with the following provisions:

7.7.1 Each Member's Capital Account will be increased by the following:

7.7.1.1 The amount of money and the Gross Asset Value (as defined in Exhibit B to this Agreement) of property contributed by the Member to the Company (net of liabilities secured by such contributed property that the Company assumes or is considered to assume or take subject to under Code Section 752); and

7.7.1.2 The Member's distributive share of Profits and any items in the nature of income or gain that are specially allocated to the Member pursuant to Exhibit B to this Agreement.

7.7.2 Each Member's Capital Account will be decreased by the following items:

7.7.2.1 The amount of money and the Gross Asset Value of any Company asset (net of liabilities secured by such distributed property that the Member assumes or is considered to assume or take subject to under Code Section 752) distributed to the Member pursuant to any provision of this Agreement; and

7.7.2.2 The Member's distributive share of Losses and any items in the nature of expenses or losses that are specially allocated to the Member pursuant to Exhibit B to this Agreement.

7.7.3 Transfer of Capital Accounts. In the event that all or a portion of a Member's Units in the Company is transferred in accordance with the terms of this Agreement, the transferee will succeed to the Capital Account of the transferor to the extent it relates to the transferred Units.

7.7.4 Tax Law Compliance. The manner in which Capital Accounts are to be maintained pursuant to this Section 7.7 is intended to comply with Treasury Regulations § 1.704-1(b), and will be interpreted and applied in a manner consistent with such Treasury Regulations. In the event the Manager determines that it is prudent to modify the manner in which the Capital Accounts, or any debts or credits to Capital Accounts (including, without limitation, debits or credits relating to liabilities that are secured by contributed or distributed property or that are assumed by the Company or a Member), are computed in order to comply with such Treasury Regulations, the Manager may make such modification, provided that it is not likely to have a material effect on the economic arrangement among the Members.

7.7.5 No Deficit Restoration Obligation. Except as otherwise expressly required in the Act or this Agreement, no Member will have any liability to restore all or any portion of a deficit balance in such Member's Capital Account.

7.8 Banking. All funds of the Company will either (a) be deposited in a separate account or (b) in a master account with one or more other legal entities affiliated with the Company, provided that both the Company and each affiliated entity maintain separate accounting and records of the separate funds of the Company. The accounts may be a bank account or in an account or accounts of a savings and loan association as determined by the Manager. Such funds will be invested or deposited with an institution, the accounts or deposits of which are insured or guaranteed by an agency of the United States Government. Such funds may be withdrawn from such account or accounts upon the signature of such person or persons as are designated by the Manager.

7.9 Management of Funds. The Manager must hold and disburse all funds of the Company in accordance with the terms of this Agreement and must account for all funds as a fiduciary. Except as provided in Section 7.8, all funds of the Company held by a Member must (a) be held in trust for the benefit of the Company and must not be commingled with other funds of a Member, (b) not be the personal property of a Member, and, (c) to the maximum extent permitted by law, not be vulnerable to inclusion in the bankruptcy estate of a Member.

8. TRANSFER OF UNITS

8.1 Restrictions on Transfers. Except as expressly set forth in this Agreement, no Member may directly or indirectly transfer, assign, pledge, hypothecate, or in any way alienate ("Transfer," which may be used as a verb or a noun) all or any portion of the Member's Units. Nothing herein shall be construed to prohibit or otherwise restrict DAP or its members from Transferring an ownership interest in DAP.

8.2 Permitted Transfers.

8.2.1 Subject to the conditions and restrictions set forth in Section 8.3, the Class B Member may at any time Transfer all but not less than all, of its Class B Units to (i) any affiliate of the Class B Member, (ii) a transferee that succeeds to the Class B Member's Units as a result of the Class B Member's bankruptcy, death, dissolution or legal incompetency; or (iii) any other transferee upon the approval of the Members.

8.2.2 Subject to the conditions and restrictions set forth in Section 8.3, a Member (other than the Class B Member) may at any time Transfer all or any portion of its Units to (i) a transferee that succeeds to the Member's Units as a result of the Member's bankruptcy, death, dissolution or legal incompetency; (ii) a Member's immediate family member, (iii) another Member, or (iv) any other transferee upon the Manager's prior written consent, which consent may be given or withheld in the Manager's sole and absolute discretion. A change in any trustee or fiduciary of a Member, or the change in control of a Member, shall not be considered to be a Transfer for purposes of this Section 8, provided that written notice of such change is given to the Manager within a reasonable time after the effective date thereof. For purposes of this Section 8.2.2, "change in control" shall mean a change in the persons owning a majority interest of the Member.

8.2.3 Any Transfer permitted under this Section 8.2 shall be referred to in this Agreement as a "Permitted Transfer."

8.3 Conditions Precedent to Permitted Transfers. Any Transfer of Units shall not be treated as a Permitted Transfer under Section 8.2 hereof unless and until the following conditions are satisfied:

8.3.1 Except in the case of a Transfer involuntarily by operation of law, the transferor and transferee shall execute and deliver to the Company such documents and instruments of conveyance as may be necessary or appropriate in the opinion of counsel to the Company to effect such Transfer. In the case of a Transfer of Units involuntarily by operation of law, the Transfer shall be confirmed by presentation to the Company of legal evidence of such Transfer, in form and substance satisfactory to the Company's counsel. In all cases, the Company shall be reimbursed by the transferor or transferee for all costs and expenses that the Company reasonably incurs in connection with such Transfer.

8.3.2 The transferor and transferee shall furnish the Company with the transferee's taxpayer identification number, sufficient information to determine the transferee's initial tax basis in the Units transferred, and any other information reasonably necessary to permit the Company to file all required federal and state tax returns and other legally required

information statements or returns. Without limiting the generality of the foregoing, the Company shall not be required to make any distribution otherwise provided for in this Agreement with respect to any transferred Units until it has received such information.

8.3.3 The Company shall have received an opinion of counsel satisfactory to it (or shall have waived such requirement) that the effect of such transfer or disposition would not:

- i. Result in termination of the Company under Section 708 of the Code;
- ii. Result in violation of the Securities Act or any comparable state law;
- iii. Require the Company to register as an investment company under the Investment Company Act of 1940, as amended;
- iv. Require the Company, the Manager or any member of the Manager to register as an investment advisor under the Investment Advisors Act of 1940, as amended;
- v. Result in a violation of any law, rule or regulation by the Member, the Company, the Manager or any member of the Manager; or
- vi. Cause the Company to be deemed to be a publicly traded partnership as such term is defined in Section 7704(b) of the Code.

Such legal opinion shall be provided to the Company by the transferring Member or the proposed transferee. Any costs associated with such opinion shall be borne by the transferring Member or the proposed transferee. Upon request, the Manager will use its good faith diligent efforts to provide any information it possesses as reasonably requested by a transferring Member to enable it to render the foregoing opinion.

8.4 Prohibited Transfers. Any purported Transfer of Units that is not a Permitted Transfer shall be null and void and of no force or effect whatever; provided that, if the Company is required to recognize a Transfer that is not a Permitted Transfer (or if the Manager, in its sole discretion, elects to recognize a Transfer that is not a Permitted Transfer), the Units Transferred shall be limited solely to the transferor's rights to allocations and distributions as provided by this Agreement with respect to the transferred Units, which allocations and distributions may be applied (without limiting any other legal or equitable rights of the Company) to satisfy any debts, obligations or liabilities for damages that the transferor or transferee of such Units may have to the Company. In the case of a Transfer or attempted Transfer of Units that is not a Permitted Transfer, the parties engaging or attempting to engage in such Transfer shall be liable to indemnify and hold harmless the Company, the Manager, and the other Members from all cost, liability and damages that any of such indemnified parties may incur (including, without limitation, incremental tax liabilities, attorneys' fees and expenses) as a result of such Transfer or attempted Transfer and efforts to enforce the indemnity granted hereby.

8.5 Rights of Unadmitted Assignees. A person who acquires Units but who is not admitted as a substituted Member pursuant to Section 8.6 shall be entitled only to allocations and distributions with respect to such Units in accordance with this Agreement, and shall have no right to any information or accounting of the Company's affairs, shall not be entitled to inspect the Company's books or records, and shall not have any of the rights of a Member under the Act or this Agreement.

8.6 Admission of Substituted Members. Subject to the other provisions of this Section 8, a transferee of Units may be admitted to the Company as a substituted Member only upon satisfaction of the conditions set forth in this Section 8.6:

8.6.1 The Units with respect to which the transferee is being admitted were acquired by means of a Permitted Transfer;

8.6.2 If the Transfer of Units is not to another Member, then the Manager consents to such admission, which consent may be given or withheld in the Manager's sole and absolute discretion;

8.6.3 The transferee of Units shall, by written instrument in form and substance reasonably satisfactory to the Manager, (i) accept and adopt the terms and provisions of this Agreement, including this Section 8, and (ii) assume the obligations of the transferor Member under this Agreement with respect to the transferred Units; and

8.6.4 The transferee pays or reimburses the Company for all reasonable legal, filing and publication costs that the Company incurs in connection with the admission of the transferee as a Member with respect to the transferred Units.

8.7 Option to Buy Class A Units. Beginning on the eighth anniversary of the first day that rent begins to accrue under the lease described in Section 4.1.6, the Company will have a perpetual option to purchase all or any Class A Units at a per Unit purchase price equal to 105 percent of Unit Value. "Unit Value" means the amount the selling Class A Unitholder would receive per Class A Unit if all of the Company's assets were sold for the "Formula Fair Market Value," all liabilities of Company were paid, and the remaining proceeds were distributed to the Members in accordance with Section 9.2. The "Formula Fair Market Value" of the Company's assets will be determined by dividing the annual rent under the lease described in Section 4.1.6 by the fair market value capitalization rate for hotel and retail space determined by a certified real estate professional selected by the Company. If the lease described in Section 4.1.6 is not in effect at the time the option is exercised, the Formula Fair Market Value will be the fair market value of the Company's assets as determined by a certified real estate appraiser acceptable to both the purchaser and the selling Member. The option set forth in this Section 8.7 may be assigned by the Company to any person in the sole discretion of the Manager. The purchase price for any Units purchased pursuant to the option set forth in this Section 8.7 shall be paid in cash on a closing date designated by the purchaser.

8.8 Put to Require Company to Buy Class A Units. Beginning in the first calendar year following the eighth anniversary of the first day that rent begins to accrue under the lease described in Section 4.1.6, during each calendar year the Manager will designate a 60-day period

during which any Class A Unitholder will have the option to cause the Company to purchase all (but not less than all) of the Class A Unitholder's Class A Units. The purchase price per Unit will be 95 percent of Unit Value, and the purchase price will be paid in cash within 180 days following the expiration of the 60-day option period; provided, however, that in the event that Class A Unitholders with Class A Membership Percentages exceeding 10 percent exercise the option described in this Section 8.8 in any given calendar year, the purchase price may at the Company's election be payable by a promissory note with the following terms:

8.8.1 Interest shall be set at the publicly announced prime or similar reference rate quoted in *The Wall Street Journal* on the expiration of the 60-day option period.

8.8.2 No down payment will be required.

8.8.3 The purchase price will be paid in 60 substantially equal monthly payments of principal and interest beginning 30 days after the expiration of the 60-day option period.

8.8.4 The Company will have the right, but not the obligation, to prepay the balance of principal and interest due on the promissory note in whole or in part at any time. Any prepayment of the promissory note will not reduce the amount of the monthly payments, until the note and all accrued interest are paid in full.

8.8.5 The promissory note will be unsecured.

8.8.6 The promissory note will provide that the holder of the note may recover the holder's attorney fees in connection with enforcement of the holder's rights under the note.

8.8.7 The promissory note will require 15 days' prior written notice to declare the maker of the note in default.

8.8.8 The promissory note will also provide that a payment not paid within 15 days of the due date will result in a 5 percent late payment penalty.

9. DISSOLUTION AND WINDING UP OF THE COMPANY

9.1 Dissolution. The Company will be dissolved upon the happening of any of the following events:

9.1.1 The determination of the Members to dissolve the Company voluntarily; or

9.1.2 Otherwise by operation of law.

9.2 Winding Up. Upon the dissolution of the Company, the Manager will take full account of the Company's assets and liabilities, and the assets will be liquidated as promptly as is consistent with obtaining the fair market value of the assets, and the proceeds, to the extent sufficient to pay the Company's obligations with respect to such liquidation, will be applied and

distributed in the following order, after any gain or loss realized in connection with the liquidation has been allocated in accordance with this Agreement, and the Members' Capital Accounts have been adjusted to reflect such allocation and all other transactions through the date of such distribution:

9.2.1 To payment and discharge of the expenses of liquidation and of all the Company's debts and liabilities to creditors including Members and former Members; and

9.2.2 To the Members in accordance with Section 3.3.

10. GENERAL PROVISIONS

10.1 Amendments. Any Member may propose one or more amendments to this Agreement. A proposed amendment will be adopted and become effective as an amendment to this Agreement only upon the written approval or consent of the Members and the Manager. No amendment may be adopted that would alter the income or capital interests of a Member unless such Member voted for the amendment. Notwithstanding the foregoing, the Manager, without any approval of the Members, is authorized to amend this Agreement (A) as provided in Section 1.7 and (B) to reflect the economic preferences and voting rights of New Units issued or to be issued pursuant to Section 2.8.

10.2 Governing Law. This Agreement and the rights of the parties pursuant to this Agreement will be governed by and interpreted in accordance with the laws of the state of Washington (without regard to principles of conflicts of law).

10.3 Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same counterpart. All counterparts will be construed together and will constitute one Agreement. A single counterpart may be introduced as evidence of the Agreement. Execution of this Agreement by fax, PDF file, or similar electronic transmission will have the same effect as an original.

10.4 Parties in Interest. Subject to the limitations on Transfers of Units set forth in Section 8 of this Agreement, each and every covenant, term, provision, and agreement contained in this Agreement will be binding upon and inure to the benefit of the parties and the parties' respective heirs, successors, assigns, and legal representatives.

10.5 Member Approval. Except as otherwise provided in this Agreement, any provision requiring the decision, consent, approval, judgment, or act of the Members requires the approval of Members holding a majority of the Class A Units.

10.6 Entire Agreement. This Agreement constitutes the entire understanding and agreement among the Company and the Members with respect to the subject matter of this Agreement, and there are no agreements, understandings, restrictions, representations, or warranties between the Members other than those set forth, referred to, or provided for in this Agreement.

10.7 Arbitration. Any dispute or claim that arises out of or that relates to this Agreement, including the formation, interpretation, breach, termination, validity, or enforcement

of this Agreement, including whether such dispute or claim is subject to arbitration, will be resolved by mandatory, confidential, and final arbitration in the Seattle, Washington, metropolitan area before one arbitrator. The arbitration will be administered by "JAMS, The Resolution Experts" in accordance with its then-effective comprehensive arbitration rules and procedures, and any judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction.

10.8 Attorney Fees. In the event of any suit or action or arbitration proceeding to enforce or interpret any provision of this Agreement (or which is based on this Agreement), including, without limitation, any proceeding under the U.S. Bankruptcy Code, the prevailing party will be entitled to recover, in addition to other costs, reasonable attorney fees in connection with such suit, action, arbitration, and in any appeal. The determination of who is the prevailing party and the amount of reasonable attorney fees to be paid to the prevailing party will be decided by the arbitrator or arbitrators (with respect to attorney fees incurred prior to and during the arbitration proceedings) and by the court or courts, including any appellate courts, in which the matter is tried, heard, or decided, including the court which hears any exceptions made to an arbitration award submitted to it for confirmation as a judgment (with respect to attorney fees incurred in such confirmation proceedings).

10.9 Representation. This Agreement was prepared by Miller Nash Graham & Dunn LLP, which represented DAP. Each party to this Agreement acknowledges and represents that the party had an opportunity to consult with separate legal counsel prior to executing this Agreement.

10.10 Further Effect. The parties agree to execute other documents reasonably necessary to further effect and evidence the terms of this Agreement, as long as the terms and provisions of the other documents are fully consistent with the terms of this Agreement.

10.11 Severability. If any term or provision of this Agreement is held to be void or unenforceable, that term or provision will be severed from this Agreement, the balance of the Agreement will survive, and the balance of this Agreement will be reasonably construed to carry out the intent of the parties as evidenced by the terms of this Agreement.

10.12 Captions. The captions used in this Agreement are for the convenience of the parties only and will not be interpreted to enlarge, contract, or alter the terms and provisions of this Agreement.

10.13 Notices. All notices required to be given by this Agreement will be in writing. For notices sent by the various methods detailed below, the notice must be sent to the address, fax or email address shown on Exhibit A or to any other updated Exhibit A information that a party to this Agreement may specify by notice given in conformance with these provisions to the other parties to this Agreement. Notices will be effective when actually delivered or: (a) if mailed, five days after being deposited as mail, postage prepaid, (b) if sent by nationally recognized overnight courier, one business day after being sent, or (c) if sent by facsimile or email, when sent, but only if promptly confirmed by mail, postage prepaid. Notices to the Manager are to be addressed to the last address for the Manager appearing in the Company's records (including notices from the Manager to the Company of a change in address).

COMPANY:

Elks Temple Properties LLC

By: Dance on Air Properties LLC, Manager

By: _____
Name: _____
Title: _____

MANAGER:

Dance on Air Properties LLC, a Washington
limited liability company

By: _____
Name: _____
Title: _____

CLASS B MEMBER:

Dance on Air Properties LLC, a Washington
limited liability company

By: _____
Name: _____
Title: _____

[Class A Member Signature Pages Follow]

EXHIBIT A

[Available upon request]

EXHIBIT B

SPECIAL ALLOCATIONS AND LIMITATIONS

1. DEFINITIONS

1.1 **"8 Percent Preferred Return"** means an amount, computed in the same manner as simple interest, equivalent to an 8 Percent per annum cumulative non-compounded return on a Member's Undistributed Capital. The 8 Percent Preferred Return may be distributed to the Member from Net Cash Flow or Capital Events Proceeds.

1.2 **"Adjusted Capital Account Balance"**—The balance in any Member's Capital Account at the end of any Allocation Period, after adjustments to reflect (a) any Adjustment Item, (b) a credit for the amount (if any) that the Member would be obligated to restore to the Company upon liquidation of the Company or termination of the Member's ownership interest in the Company, and (c) a credit for the amount (if any) of the Member's share of Company Minimum Gain and Member Nonrecourse Debt Minimum Gain and any amount that the Member is deemed to be obligated to restore to the Company pursuant to Treasury Regulation § 1.704-2(g)(1) and 1.704-2(i)(5).

1.3 **"Adjusted Capital Account Deficit"**—A deficit in a Member's Adjusted Capital Account Balance.

1.4 **"Adjustment Items"**—Adjustments, allocations, and distributions described in Treasury Regulation § 1.704-1(b)(2)(ii)(d)(4),(5), and (6).

1.5 **"Allocation Period"**—A fiscal year or other fiscal year period of the Company for which allocations of Profits or Losses are made.

1.6 **"Capital Account"**—The account maintained for each Member pursuant to Section 7.7 of the Agreement.

1.7 **"Capital Events Proceeds"**—For any given Allocation Period of the Company, the amount by which (a) the gross cash receipts from any capital event (sale of a capital asset or borrowing funds) occurring during the Allocation Period exceed (b) the sum, without duplication, of (i) the expenses and costs, including, but not limited to, sales and broker commissions, retirement of debt, prepayment fees and penalties associated with such capital event, and (ii) all proceeds from a capital event allocated during that Allocation Period, in the reasonable judgment of the Manager, to reserves for unknown or unfixed liabilities or contingencies of the Company related to the capital event. In the event that the Company is liquidated, Capital Events Proceeds includes, without limitation, all other assets of the Company such as bank accounts and any deficit Capital Account restoration obligations that a Member may have to the Company.

1.8 **"Code"**—The Internal Revenue Code of 1986, as amended from time to time.

1.9 **"Company Minimum Gain"**—As of any date, the amount of gain, if any, that would be recognized by the Company for federal income tax purposes, as if it disposed of property in a taxable transaction on that date in full satisfaction of any nonrecourse liability secured by the property, computed in accordance with Treasury Regulation § 1.704-2(d)(1).

1.10 **"Depreciation"**—For each Allocation Period, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable for federal income tax purposes with respect to an asset for such Allocation Period, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such Allocation Period, Depreciation will be an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such Allocation Period bears to such beginning adjusted tax basis; provided, however, that if the adjusted basis for federal income tax purposes of an asset at the beginning of such Allocation Period is zero, Depreciation will be determined with reference to such beginning Gross Asset Value using any reasonable method.

1.11 **"Gross Asset Value"**—With respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

1.11.1 The initial Gross Asset Value of any asset contributed by a Member to the Company will be the gross fair market value of such asset, as determined by the contributing Member and the Manager, provided that, if the contributing Member is a Manager, the determination of the fair market value of a contributed asset will require approval of all the Members.

1.11.2 The Gross Asset Values of all Company assets will be adjusted to equal their respective gross fair market values, as reasonably determined by the Manager, as of the following times:

- (a) a capital contribution of property to the Company;
- (b) a distribution by the Company of property to a Member including a distribution in liquidation of the Company within the meaning of Treasury Regulations § 1.704-1(b)(2)(ii)(g);
- (c) a non pro rata capital contribution of money to the Company, provided that this adjustment need not be made if the Manager reasonably determines that such adjustment is not necessary or appropriate to reflect the relative economic interests of the Members in the Company;
- (d) a non pro rata capital distribution of money to a Member provided that this adjustment need not be made if the Manager reasonably determines that such adjustment is not necessary or appropriate to reflect the relative economic interests of the Members in the Company; and
- (e) a grant of an interest in the Company as consideration for the provision of services to or for the benefit of the Company by an existing Member (acting in a

Member capacity) or by a new Member (acting in a Member capacity or in anticipation of being a Member).

1.11.3 The Gross Asset Value of any Company asset distributed to any Member will be adjusted to equal the gross fair market value of such asset on the date of distribution as determined by the distributee and the Manager, provided that, if the distributee is a Manager, the determination of the fair market value of the distributed asset will require approval of the Members; and

1.11.4 The Gross Asset Values of Company assets will be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulation § 1.704-1(b)(2)(iv)(m) and Section 1.19.6 of the definition of Profits and Losses; provided, however, that Gross Asset Values will not be adjusted pursuant to this Section 1.11.4 to the extent the Manager reasonably determines that an adjustment pursuant to Section 1.11.2 of this definition is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this Section 1.11.4.

If the Gross Asset Value of an asset has been determined or adjusted pursuant to Section 1.11.1, 1.11.2, or 1.11.4 of this definition, such Gross Asset Value will thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

1.12 **"Member Nonrecourse Debt"**—Has the same meaning as "partner nonrecourse debt" set forth in Treasury Regulation § 1.704-2(b)(4).

1.13 **"Member Nonrecourse Debt Minimum Gain"**—An amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if such Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined pursuant to Treasury Regulation § 1.704-2(i)(2) and (3).

1.14 **"Member Nonrecourse Deductions"**—Has the same meaning as "partner nonrecourse deductions" set forth in Treasury Regulation § 1.704-2(i)(2). The amount of Member Nonrecourse Deductions with respect to a Member Nonrecourse Debt for a Company Allocation Period equals the excess, if any, of (a) the net increase, if any, in the amount of the Company Minimum Gain attributable to such Member Nonrecourse Debt during the Allocation Period over (b) the aggregate amount of any distribution during the Allocation Period to the Member that bears the economic risk of loss for such Member Nonrecourse Debt to the extent the distributions are from proceeds of the Member Nonrecourse Debt and are allocable to an increase in Member Nonrecourse Debt Minimum Gain attributable to the Member Nonrecourse Debt, determined pursuant to Treasury Regulation § 1.704-2(i).

1.15 **"Net Cash Flow"**—For any given Allocation Period of the Company, the amount by which (a) the gross cash receipts received by the Company during that Allocation Period (excluding capital contributions and loan proceeds) exceeds (b) the sum, without duplication, of (i) all cash operating expenses of the Company during that Allocation Period, (ii) debt service

payments made during that Allocation Period on all indebtedness of the Company, (iii) payments made during that Allocation Period on account of the maintenance, leasing, repair, replacement, or improvement of property of the Company, and (iv) all amounts allocated during that Allocation Period, in the reasonable judgment of the Manager, to reserves established to meet the reasonable needs of the business, including working capital and capital improvement requirements and reserves for unknown or unfixed liabilities or contingencies of the Company.

1.16 **"Nonrecourse Deductions"**—Has the meaning set forth in Treasury Regulation § 1.704-2(c). The amount of Nonrecourse Deduction for a Company Allocation Period equals excess, if any, of the net increase, if any, in the amount of Company Minimum Gain during that Allocation Period over the aggregate amount of any distributions during that Allocation Period of proceeds of a Nonrecourse Liability that are allocable to an increase in Company Minimum Gain, determined pursuant to Treasury Regulation § 1.704-2(c).

1.17 **"Nonrecourse Liability"**—Has the meaning set forth in Treasury Regulation § 1.704-2(b)(3).

1.18 **"Partially Adjusted Capital Account"** means, with respect to a Member for an Allocation Period, the Member's Capital Account at the end of the Allocation Period, after taking into account all activity during the Allocation Period (but prior to allocation of any Profit or Loss for the Allocation Period), adjusted for all special allocations under Sections 2, 3, 4, and 5 of Exhibit B.

1.19 **"Profits"** and **"Losses"**—For each Allocation Period of the Company, an amount equal to the Company's taxable income or loss for such Allocation Period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) will be included in taxable income or loss), with the following adjustments:

1.19.1 Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this definition will be added to such taxable income or loss;

1.19.2 Any expenditures of the Company described in Code Section 705(a)(2)(b) or treated as Code Section 705(a)(2)(b) expenditures pursuant to Treasury Regulations § 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this definition will be subtracted from such taxable income or loss;

1.19.3 In the event the Gross Asset Value of any Company asset is adjusted pursuant to Section 1.11.2 or 1.11.3 of the definition of Gross Asset Value the amount of such adjustment will be taken into account as gain or loss from the disposition of such asset for purposes of computing Profits or Losses;

1.19.4 Gain or loss resulting from any disposition of any Company asset with respect to which gain or loss is recognized for federal income tax purposes will be computed by reference to the Gross Asset Value of the asset, notwithstanding that the adjusted tax basis of such asset differs from its Gross Asset Value;

1.19.5 In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, Depreciation will be taken into account for such Allocation Period, computed as provided in the definition of Depreciation;

1.19.6 To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Treasury Regulations § 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a distribution other than in complete liquidation of a Member's interest in the Company, the amount of such adjustment will be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and will be taken into account for purposes of computing Profits or Losses; and

1.19.7 Notwithstanding any other provision of this definition, any items that are specially allocated pursuant to Exhibit B of this Agreement will not be taken into account in computing Profits or Losses.

1.20 **"Target Capital Account"** means with respect to any Allocation Period, an amount (which may be either a positive or a deficit balance) equal to the hypothetical distribution such Member would receive pursuant to Section 1.20.1, minus the hypothetical contribution such Member would be required to make pursuant to Section 1.20.2, and minus the Member's share of the Company Minimum Gain, and minus the Member Nonrecourse Debt Minimum Gain, all computed immediately prior to the hypothetical sale described in Section 1.20.1.

1.20.1 The hypothetical distribution to a Member at any time is equal to the amount, if any, that would be received by such Member if all the Company's assets were sold for an amount of cash equal to their Gross Asset Values, all Company liabilities were satisfied to the extent required by their terms (limited, with respect to each nonrecourse liability or "partner nonrecourse debt" as defined in Treasury Regulation § 1.704 2(b)(4), to the Gross Asset Values of the Company assets securing such liability), and the net proceeds of such sale of the Company were distributed in full to the Members pursuant to Section 9.2.2 of the Agreement upon liquidation of the Company.

1.20.2 The hypothetical contribution by a Member is equal to the amount, if any, that such Member would be obligated to contribute, if any, pursuant to this Agreement upon the hypothetical sale described in Section 1.20.1 above in liquidation of the Company.

1.21 **"Undistributed Capital"** means the aggregate capital contributions made by the Member reduced only by distributions designated as distributions of Undistributed Capital.

2. COMPANY MINIMUM GAIN CHARGEBACK. If there is a net decrease in company minimum gain during any company taxable year, each member will be specially allocated, before any other allocation of company income, gain, loss, or deduction for the taxable year, items of company income and gain for the taxable year (and, if necessary, subsequent years) in proportion to and to the extent of an amount equal to each member's share of the net

decrease in company minimum gain determined in accordance with Treasury Regulation § 1.704-2(g)(2). This Section 2 of Exhibit B is intended to comply with, and will be interpreted consistently with, the "minimum gain chargeback" provisions of Treasury Regulation § 1.704-2(f).

3. MEMBER NONRECOURSE DEBT MINIMUM GAIN CHARGEBACK.

Notwithstanding any other provision of this agreement, except Section 2 of this Exhibit B, if there is a net decrease in member nonrecourse debt minimum gain attributable to a member nonrecourse debt during any taxable year of the company, each member who has a share of the member nonrecourse debt minimum gain attributable to such member nonrecourse debt, determined in accordance with Treasury Regulation § 1.704-2(i)(5), will be specially allocated items of company income and gain for such year (and, if necessary, subsequent years) in an amount equal to such member's share of the net decrease in member nonrecourse debt, determined in accordance with Treasury Regulation § 1.704-2(i)(4). Allocations pursuant to this Section 3 of Exhibit B will be made in proportion to the respective amounts required to be allocated to each member pursuant thereto. The items to be so allocated will be determined in accordance with Treasury Regulation § 1.704-2(i)(4). This Section 3 of Exhibit B is intended to comply with, and will be interpreted consistently with, the partner nonrecourse debt minimum gain chargeback provisions of Treasury Regulation § 1.704-2(i)(4).

4. QUALIFIED INCOME OFFSET. Notwithstanding any other provision of the agreement except Sections 2 and 3 of this Exhibit B, in the event any member for any reason receives an adjustment item for any allocation period that results in an adjusted capital account deficit for that member, the member will be specially allocated items of company income and gain, including gross income, in an amount and manner sufficient to eliminate the adjusted capital account deficit created by such adjustment item as quickly as possible. This Section 4 of Exhibit B is intended to comply with the "qualified income offset" requirements of Treasury Regulation § 1.704-1(b)(2)(i)(d) and will be interpreted and applied consistently therewith.

5. OFFSETTING ALLOCATIONS. Any special allocation of items of income, gain, loss, or deduction pursuant to Sections 2, 3, or 4 of this Exhibit B will be taken into account in computing subsequent allocations of profits and losses so that the net amount of any items so allocated and all other income, gain, loss, deductions, and items thereof allocated to each member will, to the extent possible, be equal to the net amount that would have been allocated to each member if the special allocation had not occurred.

6. ALLOCATIONS FOR INCOME TAX PURPOSES WITH RESPECT TO CONTRIBUTED OR REVALUED PROPERTY.

6.1 Contributed Property. In the event a Member contributes property with an initial Gross Asset Value that differs from its adjusted basis for federal income tax purposes ("Adjusted Tax Basis") at the time of contribution, income, gain, loss, and deductions with respect to the property will, solely for federal income tax purposes, be allocated among the Members in accordance with Code Section 704(c)(1)(a) and Treasury Regulation § 1.704-1(b)(2)(i)(iv) so as to take account of any variation between the Adjusted Tax Basis of such property to the Company and its Gross Asset Value at the time of contribution.

6.2 Revalued Property. In the event the Gross Asset Value of any Company asset is adjusted pursuant to the definition of Gross Asset Value, subsequent allocations of income, gain, loss, and deduction with respect to such asset will, solely for federal income tax purposes, take account of any variation between the Adjusted Tax Basis of such asset and its Gross Asset Value in the same manner as under Code Section 704(c) and the Treasury Regulations under that section.

6.3 Allocation Methods. Unless otherwise agreed to by the Members, the Members agree to use the "traditional method with curative allocations" pursuant to the Treasury Regulations under Code Section 704(c)(1)(A). Any other elections or other decisions relating to allocations pursuant to Sections 6.1 or 6.2 of this Exhibit B will be made by the Manager in any manner that reasonably reflects the purpose and intention of this Agreement.

6.4 Distributions of Contributed Property.

6.4.1 Pursuant to Code Section 704(c)(1)(B), if any contributed property is distributed by the Company other than to the contributing Member within seven years of being contributed, then, except as provided in Code Section 704(c)(2), the contributing Member will, solely for federal income tax purposes, be treated as recognizing gain or loss from the sale of such property in an amount equal to the gain or loss that would have been allocated to such Member under Code Section 704(c)(1)(a) if the property had been sold at its fair market value at the time of the distribution.

6.4.2 In the case of any distribution by the Company to a Member, such Member will, solely for federal income tax purposes, be treated as recognizing gain in an amount equal to the lesser of:

(a) the excess (if any) of (a) the fair market value of the property (other than money) received in the distribution over (b) the adjusted basis of such Member's membership interest immediately before the distribution reduced (but not below zero) by the amount of money received in the distribution; or

(b) the Net Precontribution Gain (as defined in Code Section 737(b)) of the Member. The Net Precontribution Gain means the net gain (if any) that would have been recognized by the distributee Member under Code Section 704(c)(1)(b) if all property that (a) had been contributed to the Company within seven years of the distribution, and (b) was held by the Company immediately before the distribution, had been distributed by the Company to another Member. If any portion of the property distributed consists of property that had been contributed by the distributee Member to the Company, then such property will not be taken into account under this Section 6.4.2(b) of Exhibit B and will not be taken into account in determining the amount of the Net Precontribution Gain. If the property distributed consists of an interest in an entity, the preceding sentence will not apply to the extent that the value of such interest is attributable to the property contributed to such entity after such interest had been contributed to the Company.

6.5 Recapture. All recapture of income tax deductions resulting from sale or disposition of Company property will be allocated to the Members to whom the deduction that

gave rise to such recapture was allocated under this Agreement to the extent that such Member is allocated any gain from the sale or other disposition of such property.

6.6 Effect of Tax Allocations. Allocations pursuant to this Section 6 of Exhibit B are solely for purposes of federal, state, and local income taxes and will not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses, or distributions pursuant to any provision of this Agreement.

EXHIBIT C

Description of the Services to be Provided by DAP

DAP shall advise the Company with respect to the overall development of the Property including development, construction, renovation and refurbishment, financing, and leasing in accordance with the Property development plan to be created by the Company in consultation with DAP. DAP's duties specifically include the following:

1. Prepare Budget and Schedule. Assist and advise the Company in the preparation, updating, and revising of a budget and schedule for development of the Property and adhere to the budget and the schedule to the extent commercially reasonable.
2. Select Consultants and Contractors. Assist and advise the Company in the selection of architects, contractors, engineers, consultants, managers, and other consultants or contractors, and assist and advise the Company with regard to negotiating contracts with such service providers.
3. Plans and Specifications. Consult with the Company, the architect, and the other consultants in the preparation, development, and refinement of the plans and specifications as necessary to construct the Property.
4. Permits. Use commercially reasonable efforts to obtain, or cause to be obtained, and maintain, or cause to be maintained, all permits and approvals required for the lawful construction of the Property, including, but not limited to, any required site plan and land development approval.
5. Oversee Development. Coordinate, manage, direct, and supervise the general contractor, the architect, and all other engineers, testing and design consultants, managers, and other contractors and consultants retained in connection with the development of the Property.
6. Records and Reports. Maintain records relating to the costs and expenditures for the Property and regularly keep the Company informed of the progress of the design and construction of the Property, including the preparation of the reports that may reasonably be requested by the Company.
7. Financing. To the extent necessary, assist the Company in identifying sources of construction and other financing and negotiate the financing terms with lenders and administer the construction loan.
8. Insurance. Assist the Company in obtaining and maintaining property insurance coverage for the Property.