

**SECOND~~THIRD~~ AMENDED AND RESTATED OPERATING AGREEMENT
OF
MIDWEST INTERNET COOPERATIVE EXCHANGE LLC**

MEMBERS

1.1 Membership Qualifications.

(a) In order to qualify for membership, a member shall be: (i) an operator of an internet protocol network which has one or more direct, or approved indirect, connections to Midwest Internet Cooperative Exchange LLC's (the "Company") switches; or (ii) an operator of equipment providing approved indirect connections; or (iii) an operator of a colocation data center in which the Company's switches are located. A member may be elected by the membership or appointed to membership by the Board of Governors of the Company (the "Board" or "Board of Governors"). Members may have such other qualifications as the Board may prescribe by amendment to this Operating Agreement.

(b) Each member shall have an affirmative duty to disclose the identity each of its Affiliates that is a member of the Company. "Affiliate" means, with respect to any entity, (i) any other entity directly or indirectly controlling, controlled by, or under common control with such specified entity, or (ii) any other person or entity owning or controlling fifty percent (50%) or more of the outstanding voting securities of such entity. For purposes of the foregoing, the term "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as applied to any entity, means the possession, directly or indirectly, of the power to cause the direction of the management and policies of such entity, whether through the ownership of voting or other securities, by contract or otherwise. The Board may refuse to admit any entity that is an Affiliate of a member or may condition such admission on the acknowledgment that such entity and each of its Affiliates, will only have one member vote which may only be exercised by one of the affiliated members.

1.2 Time and Place of Meetings. Each meeting of the members shall be held at the principal executive office of the Company or at such other place as may be designated by the Board of Governors; provided, however, that any meeting called by or at the demand of a member or members shall be held in the county where the principal executive office of the Company is located. The Board of Governors may determine that a meeting of members be held by means of remote communication.

1.3 Regular Meetings. Regular meetings of the members may be held on an annual or other less frequent basis as determined by the Board of Governors; provided, however, that if a regular meeting has not been held during the immediately preceding fifteen (15) months, a member or members representing three percent (3%) or more of the voting power of all membership interests entitled to vote or at least fifty (50) members, whichever is less, may demand a regular meeting of members by written demand given to the Chief Manager or Treasurer of the Company. At each regular meeting, the members entitled to vote shall elect qualified successors for governors who serve for an indefinite term or whose terms have expired or are due to expire within six (6) months after the date of the meeting, shall hear a report on the activities and financial condition of the Company, and may transact any other business; provided, however, that no business with respect to which special notice is required by law shall be transacted unless such notice shall have been given.

1.4 Special Meetings. A special meeting of the members may be called for any purpose or purposes at any time by the Board of Governors, by two (2) or more governors, or by one (1) or more members representing not less than ten percent (10%) of the voting power of all membership interests of the Company entitled to vote, or at least fifty (50) members, whichever is less. In the case of a meeting called by any party or parties other than the Board of Governors, such party or parties shall demand such special meeting by written notice given to the Chief Manager or the Treasurer of the Company specifying the purposes of such meeting.

1.5 Meeting Held Upon Member Demand. Within thirty (30) days after receipt by the Chief Manager or the Treasurer of a demand from any member, or members entitled to call a meeting of the members, it shall be the duty of the Board of Governors of the Company to cause a special or regular meeting of members, as the case may be, to be duly called and held on notice no later than sixty (60) days after receipt of such demand. If the Board fails to cause such a meeting to be called and held as required by this Section, the member or members making the demand may call the meeting by giving notice as provided in Section 1.6 hereof at the expense of the Company.

1.6 Adjournments. Any meeting of the members may be adjourned from time to time to another date, time, and place. If any meeting of the members is so adjourned, no notice as to such adjourned meeting need be given if the date, time, and place at which the meeting will be reconvened are announced at the time of adjournment.

1.7 Notice of Meetings. Except as allowed in Section 1.13, or unless otherwise required by law, notice of each meeting of the members, stating the date, time, and place and, in the case of a special meeting, the purpose or purposes, shall be given at least ten (10) days and not more than sixty (60) days prior to the meeting to every owner of membership interests entitled to vote at such meeting except as specified in Section 1.5 or as otherwise permitted by law. The business transacted at a special meeting of members is limited to the purposes stated in the notice of the meeting.

1.8 Waiver of Notice. A member may waive notice of the date, time, place, and purpose or purposes of a meeting of members. A waiver of notice by a member entitled to notice is effective whether given before or after the meeting, and whether given in writing, orally, or by attendance. Attendance by a member at a meeting is a waiver of notice of that meeting, unless the member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item may not lawfully be considered at that meeting and does not participate in the consideration of the item at that meeting.

1.9 Voting Rights. Each member shall have one vote. There shall be no cumulative voting. The members shall vote on the following matters:

(a) election of the Board of Governors who shall serve until the succeeding annual meeting and until their successors shall have been elected and commenced their terms of office and may transact such other business as may be desired, whether or not the same was specified in the notice of the meeting;

(b) if a matter or matters required by the Minnesota Nonprofit Corporation Act to be approved by the members pursuant to Section 317A.255 (relating to a conflict of interest transaction), Section 317A.521 (relating to indemnification), Section 317A.133 (relating to an amendment to the Company's articles of organization), Section 317A.181 (relating to an

amendment to the Company's bylaws), Section 317A.613 (relating to a plan of merger), Section 317A.661 (relating to a disposition of all or substantially all of the Company's property), or Section 317A.721 (relating to dissolution) will be voted upon at an annual or special meeting, the notice of the meeting must include a description of such matter or matters and (ii) unless ten percent (10%) or more of the voting power (as defined in Section 317A.451 of the Minnesota Nonprofit Corporation Act) is present in person or by proxy, the only matters that may be voted upon at an annual meeting of the members are those matters that are described in the meeting notice. At each annual meeting of the members, the Chief Manager and the Treasurer shall report on the activities and financial condition of the Company.

1.10 Proxies. A member may cast or authorize the casting of a vote by filing a written appointment of a proxy with the Chief Manager of the Company at or before the meeting at which the appointment is to be effective. The member may sign or authorize the written appointment by telegram, means of electronic transmission setting forth or submitted with information sufficient to determine that the member authorized such transmission. Any copy, facsimile, telecommunication, or other reproduction of the original of either the writing or transmission may be used in lieu of the original, provided that it is a complete and legible reproduction of the entire original.

1.11 Quorum. Members representing the lesser of (i) ten (10) members entitled to vote or (ii) ten percent (10%) of the voting power of the membership interests entitled to vote at a meeting of the members are a quorum for the transaction of business. If a quorum is present when a duly called or held meeting is convened, the members present may continue to transact business until adjournment, even though the withdrawal of members originally present leaves less than the proportion otherwise required for a quorum.

1.12 Acts of Members. Except as otherwise required by law or specified in the Articles of Organization of the Company, the members shall take action by the affirmative vote of the owners of the greater of: (a) a majority of the voting power of the membership interests present and entitled to vote on that item of business; or (b) a majority of the voting power that would constitute a quorum for the transaction of business at a duly held meeting of members.

1.13 Action Without a Meeting. Any action required or permitted to be taken at a meeting of the members of the Company may be taken without a meeting by written action signed by the members who own voting power equal to the voting power that would be required to take the same action at a meeting of the members at which all members were present. The written action is effective when signed by the required members, unless a different effective time is provided in the written action. When written action is permitted to be taken by less than all members, all members shall be notified immediately of its text and effective date.

1.14 Remote Communications.

(a) Member Meetings held by Remote Communication. A regular or special meeting of members may be held solely by any combination of means of remote communication through which the members may participate in the meeting, if notice of the meeting is given to every owner of membership interests entitled to vote, and if the membership interests held by the members participating in the meeting would be sufficient to constitute a quorum at a meeting. Participation by a member by that means constitutes presence at the meeting in person.

(b) Participation in Member Meetings by Remote Communication. A member not physically present in person or by proxy at a regular or special meeting of members may, by means of remote communication, participate in a meeting of members held at a designated place. Participation by a member by that means constitutes presence at the meeting in person.

(c) Requirements for Meetings and Participation by Remote Communication. In any meeting of members held solely by means of remote communication or in any meeting of members held at a designated place in which one or more members participate by means of remote communication:

(1) the Company will implement measures to verify that each person deemed present and entitled to vote at the meeting by means of remote communication is a member; and

(2) the Company will implement measures to provide each member participating by means of remote communication with a reasonable opportunity to participate in the meeting, including an opportunity to: (i) read or hear the proceedings of the meeting substantially concurrently with those proceedings; (ii) if allowed by the procedures governing the meeting, have the member's remarks heard or read by other participants in the meeting substantially concurrently with the making of those remarks; and (iii) if otherwise entitled, vote on matters submitted to the members.

(d) Notice to Members.

(1) Any notice to members given by the Company under any provision of this chapter, the Articles of Organization, or this Operating Agreement by a form of electronic communication consented to by the member to whom the notice is given is effective when given. The notice is deemed given by:

(i) facsimile communication, when directed to a telephone number at which the member has consented to receive notice;

(ii) electronic mail, when directed to an electronic mail address at which the member has consented to receive notice;

(iii) a posting on an electronic network on which the member has consented to receive notice, together with separate notice to the member of the specific posting, upon the later of: (i) the posting; and (ii) the giving of the separate notice; and

(iv) any other form of electronic communication by which the member has consented to receive notice, when directed to the member.

(2) Consent by a member to notice given by electronic communication may be given in writing or by authenticated electronic communication. The Company is entitled to rely on any consent so given until revoked by the member, provided that no revocation affects the validity of any notice given before receipt by the Company of revocation of the consent.

(e) Waiver. Waiver of notice by a member of a meeting by means of authenticated electronic communication may be given in the manner provided in Section 1.7. Participation in a meeting by means of remote communication is a waiver of notice of that meeting, except where the member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item may not lawfully be considered at the meeting and does not participate in the consideration of the item at that meeting.

1.15 No Transfer of Membership. No member may transfer a membership in this Company or any right derived therefrom.

1.16 Resignation, Expulsion or Suspension of Members.

(a) Any member may resign as a member. Such resignation shall be in writing addressed to the Secretary of the Company and shall be effective immediately or upon the time specified, as such resignation may provide. The resignation of a member does not relieve the member from any obligations the member may have to the Company as a result of obligations incurred or commitments made prior to resignation. The member port shall be disconnected immediately or upon the time specified, as such resignation may provide.

(b) The Board of Governors of the Company may expel or suspend a member or terminate or suspend a membership in accordance with the following procedures:

(i) the Company shall give at least fifteen (15) days' prior written notice to the affected member of the expulsion, suspension, or termination and the reasons therefor;

(ii) the Board of Governors shall provide an opportunity for the affected member to be heard, orally or in writing, by the Board of Governors not less than five (5) days before the effective date of the expulsion, suspension, or termination; and

(iii) any written notice given to the member by mail shall be given by first class or certified mail sent to the last address of the member shown on the Company's records.

(c) Notwithstanding the foregoing, if a member fails to pay any dues, assessments, or other monetary amounts due to the Company when such amounts become due, such member may be expelled or suspended, and such member's membership may be terminated or suspended, in accordance with the following procedures:

(i) the Company shall give at least fifteen (15) days' prior written notice to the affected member of the expulsion, suspension, or termination and the reasons therefor;

(ii) any written notice given to the member by mail shall be given by first class or certified mail sent to the last address of the member shown on the Company's records; and

(iii) if payment of the amount due is not received by this corporation within the period specified in such notice, the Company may expel or suspend such member, and may terminate or suspend such member's membership, without providing an opportunity for the affected member to be heard.

(d) Notwithstanding the foregoing, the Board may terminate the membership of one or more members who are Affiliates, such that such Affiliates shall only have one member vote. The intention of this provision is to prevent the concentration of voting power in members who are under common ownership or common control.

1.17 Purchase of Memberships. The Company shall not purchase any of its memberships or any right arising therefrom.

1.18 Member Lists. After fixing a record date for notice of a meeting, the Company shall prepare an alphabetical list of the name, address, and number of votes of each member who is entitled to vote at the meeting. The list of members shall be available for inspection by any member for the purpose of communication with other members concerning the meeting, beginning two (2) business days after notice is given of the meeting for which the list was prepared and continuing through the meeting, at the Company's principal office or at a reasonable place identified in the meeting notice in the city where the meeting will be held. A member, a member's agent, or a member's attorney is entitled on written demand to inspect the list, at a reasonable time, during the period it is available for inspection. The Company shall make the list of members available at the meeting, and any member, a member's agent, or a member's attorney is entitled to inspect the list at any time during the meeting or any adjournment.

Without the consent of the Board of Governors, a membership list or any part thereof may not be obtained or used by any person for any purpose unrelated to a member's interest as a member. Without limiting the generality of the foregoing, without the consent of the Board of Governors, a membership list or any part thereof may not be:

- (a) used to solicit money or property unless such money or property will be used solely to solicit the votes of the members in an election to be held by the Company;
- (b) used for any commercial purpose; or
- (c) sold to or purchased by any person.

GOVERNORS

2.1 General Powers. The business and the affairs of the Company shall be managed by or under the direction of its Board of Governors which may exercise all such powers of the Company and do all such lawful acts and things as are not limited by the Minnesota Limited Liability Company Act, the Minnesota Nonprofit Corporation Act, the Articles of Organization, or this Operating Agreement.

2.2 Number; Qualifications. ~~Governors shall be natural persons.~~ There shall be no less than three (3) governors. The members at each regular meeting (or at a special meeting called to elect governors) shall determine the number of governors to constitute the Board, provided, however that

thereafter the authorized number of governors may be increased by the members or the Board and decreased by the members. ~~Governors need not be members.~~

2.3 Qualification and Disqualification. ~~Governors shall be natural persons. Governors need not be members. No person may be elected or continue to serve as a governor if (a) such person is a Family Member of another governor or (b) such election or service as a governor would result in either a natural person or organization having Multiple Representation on the Board of Governors.~~

~~“Family Member” means an individual’s spouse, parent, grandparent, child (natural or by adoption), sibling, uncle, aunt, first cousin and their respective spouses.~~

~~There will be deemed to be “Multiple Representation” if two governors shall either be an employee, officer, director, governor, or manager of or shall have a controlling interest in a single organization or its Affiliates. The term “Affiliate” means an organization controlling, controlled by or under common control another organization. The term “control” means owning or controlling a majority of the voting interests of an organization, or the ability to directly or indirect control the management decisions of an organization.~~

~~In the event that two or more Governors are Family Members or there shall be Multiple Representation, one of the Governors shall be removed by the affirmative vote of the Governor(s) who are not either a Family Member or causing Multiple Representation. If neither is removed within ten (10) days, both shall be removed. Neither of the affected governors may vote on matters, until the removal or resignation of them. Any open position shall be filled in accordance with the provisions hereof.~~

2.34 Term. Each governor shall serve for a three (3) year term. A governor shall hold office until a successor is elected and has qualified or until the earlier death, resignation, removal, or disqualification of the governor.

2.45 Vacancies. Vacancies on the Board of Governors resulting from the death, resignation, removal, or disqualification of a governor may be filled by the affirmative vote of a majority of the remaining governors, even though less than a quorum. Vacancies on the Board resulting from newly-created governorships may be filled by the affirmative vote of a majority of the governors serving at the time such governorships are created. Each person elected to fill a vacancy shall hold office until a qualified successor is elected by the members at the next regular meeting or at any special meeting duly called for that purpose.

2.56 Place of Meetings. Each meeting of the Board of Governors shall be held at the principal executive office of the Company or at such other place as may be designated from time to time by a majority of the governors. A meeting may be held by conference among the governors using any means of communication through which the governors may simultaneously hear each other during the conference. The Board of Governors may determine that a meeting of the Board of Governors be held by means of remote communication.

2.67 Regular Meetings. Regular meetings of the Board of Governors for the election of managers and the transaction of any other business shall be held without notice at the place of and immediately after each regular meeting of the members.

2.78 Special Meetings. A special meeting of the Board of Governors may be called for any purpose or purposes at any time by any governor by giving at least seven (7) days' notice to all governors of the date, time, and place of the meeting. The notice need not state the purpose of the meeting unless the Company's Articles of Organization or this Operating Agreement require it.

2.89 Waiver of Notice; Previously Scheduled Meetings.

(a) A governor of the Company may waive notice of the date, time, and place of a meeting of the Board. A waiver of notice by a governor entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, orally, or by attendance. Attendance by a governor at a meeting is a waiver of notice of that meeting unless the governor objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and thereafter does not participate in the meeting.

(b) If the day or date, time, and place of a Board meeting have been provided herein or announced at a previous meeting of the Board, no notice is required. Notice of an adjourned meeting need not be given other than by announcement at the meeting at which adjournment is taken of the date, time, and place at which the meeting will be reconvened.

2.910 Quorum. A majority of the governors currently holding office shall be necessary to constitute a quorum for the transaction of business. In the absence of a quorum, a majority of the governors present may adjourn a meeting from time to time without further notice until a quorum is present.

2.101 Acts of Board. Except as otherwise required by law or in the Articles of Organization of the Company, the Board shall take action by the affirmative vote of a majority of the governors present at a duly held meeting.

2.142 Meeting and Participation by Remote Communications.

(a) Any meeting among governors may be conducted solely by one or more means of remote communication through which all of the governors may participate with each other during the meeting, if the same notice is given of the meeting as would be required by Sections 2.6 or 2.7, and if the number of governors participating in the meeting would be sufficient to constitute a quorum. Participation in a meeting by that means constitutes presence at the meeting.

(b) A governor may participate in a Board of Governors meeting by means of telephone conference, or, if authorized by the board, by such other means of remote communication, in each case through which the governor, other governors so participating, and all governors physically present at the meeting may participate with each other during the meeting. Participation in a meeting by that means constitutes presence at the meeting.

(c) Any notice to governors given by the Company or the Board by a form of electronic communication consented to by the governor to whom the notice is given is effective when given. The notice is deemed given by:

- (i) facsimile communication, when directed to a telephone number at which the governor has consented to receive notice;
- (ii) electronic mail, when directed to an electronic mail address at which the governor has consented to receive notice;
- (iii) a posting on an electronic network on which the governor has consented to receive notice, together with separate notice to the governor of the specific posting, upon the later of: (i) the posting; and (ii) the giving of the separate notice; and
- (iv) any other form of electronic communication by which the governor has consented to receive notice, when directed to the governor.

Consent by a governor to notice given by electronic communication may be given in writing or by authenticated electronic communication. The Company and the Board is entitled to rely on any consent so given until revoked by such governor, provided that no revocation affects the validity of any notice given before receipt by the Company or the Board of revocation of the consent.

2.123 Absent Governors. A governor of the Company may give advance written consent or opposition to a proposal to be acted on at a Board meeting. If the governor is not present at the meeting, consent or opposition to a proposal does not constitute presence for purposes of determining the existence of a quorum, but consent or opposition shall be counted as a vote in favor of or against the proposal and shall be entered in the minutes or other record of action at the meeting, if the proposal acted on at the meeting is substantially the same or has substantially the same effect as the proposal to which the governor has consented or objected.

2.134 Action Without a Meeting. An action required or permitted to be taken at a Board of Governors meeting may be taken by written action signed, or consented to by authenticated electronic communication, by all of the governors. If the Articles of Organization of the Company so provide, any action, other than an action requiring member approval, may be taken by written action signed, or consented to by authenticated electronic communication, by the number of governors that would be required to take the same action at a meeting of the Board of Governors at which all governors were present. The written action is effective when signed, or consented to by authenticated electronic communication, by the required number of governors, unless a different effective time is provided in the written action.

2.145 Committees.

(a) A resolution approved by the affirmative vote of a majority of the Board may establish committees having the authority of the Board in the management of the business of the Company only to the extent provided in the resolution. Committees shall be subject at all times to the direction and control of the Board, except as provided in Section 2.15.

(b) A committee shall consist of one (1) or more natural persons, who need not be governors, appointed by affirmative vote of a majority of the governors present at a duly held Board meeting.

(c) Section 2.5 and Sections 2.7 to 2.13 hereof shall apply to committees and members of committees to the same extent as those sections apply to the Board of Governors.

(d) Minutes, if any, of committee meetings shall be made available upon request to members of the committee and to any governor.

2.156 Special Litigation Committee. Pursuant to the procedure set forth in Section 2.14, the Board may establish a committee composed of one or more independent governors or other independent persons to determine whether it is in the best interests of the Company to pursue a particular legal right or remedy of the Company and whether to cause, to the extent permitted by law, the dismissal or discontinuance of a particular proceeding that seeks to assert a right or remedy on behalf of the Company. The committee, once established, is not subject to the direction or control of, or termination by, the Board. A vacancy on the committee may be filled by a majority vote of the remaining committee members. The good faith determinations of the committee are binding upon the Company and its governors, managers, and members to the extent permitted by law. The committee terminates when it issues a written report of its determinations to the Board.

2.167 Compensation. The Board may fix the compensation, if any, of governors.

2.178 Removal of Governors.

(a) Removal for Cause or Disability by the Governors. The Board may remove a governor for Cause or Disability by the unanimous vote of the governors, excluding the governor to be removed (the "Voting Governors"). "Cause" shall exist if the Voting Governors determine in good faith that the governor to be removed (i) has failed to discharge his, her, or their duties as governor in good faith, (ii) has breached his, her, or their fiduciary duties to the Company or its members, (iii) has committed theft, embezzlement or conversion of Company property, (iv) has engaged in any illegal activity or fraud in connection with the Company, (v) has been convicted of a felony or other crime involving moral turpitude, while a governor; (vi) has engaged in a conflict of interest without complying with Section 5.1 and 5.2 of this operating agreement or (vii) has engaged in acts or omissions which the Board reasonably deems to be materially damaging to the name, reputation, or business of the Company or which could jeopardize the good will or relationship with its member or other persons and entities important to its mission. "Disability" a physical or mental impairment which prevents the governor from performing his, her, or their duties as a governor for a period of not less than 6 months. The Board shall send a written notice to the removed governor stating the basis for their removal under this Section 2.17(a), within three (3) business days following a Board vote removing a such governor.

(b) Retention Vote by Members. In the event the Board has removed a governor solely for the reasons stated in Section 2.17(a)(i) or (vii) (and not for any other reason constituting Cause or Disability), the removed governor within ten (10) business days following the dispatch of the notice of removal may provide a notice of disagreement with such removal and a request to submit such matters to the vote of the Members. The Board shall call a meeting of the Members to vote on the retention of such governor to be held within 30 days. Prior to such meeting, the governor shall continue to be removed subject to later reinstatement by the Members by affirmative vote. If the governor is not reinstated by affirmative vote, the position shall be filled by a vote of the Members. If notice by the removed governor is not given within

ten (10) business days, the removed governor shall have waived his or her right to challenge the removal. No governor shall have the right to appeal or challenge a removal by the Board under Section 2.17(a), except as expressly set forth in this Section 2.17(b)

(c) Removal by Members. Any one or all of the governors may be removed at any time, with or without cause, by the affirmative vote of a majority of the voting power of all membership interests entitled to vote at an election of governors.

MANAGERS

3.1 Number and Designation. The Company shall have one or more natural persons exercising the functions of the position of Chief Manager and Treasurer. The Board of Governors may elect or appoint such other managers (also known as officers) or agents as it deems necessary for the operation and management of the Company, with such powers, rights, duties, and responsibilities as may be determined by the Board, each of whom shall have the powers, rights, duties, and responsibilities set forth in these Bylaws unless otherwise determined by the Board. Any of the positions or functions of those positions may be held by the same person.

3.2 Chief Manager. Unless provided otherwise by a resolution adopted by the Board of Governors, the Chief Manager (a) may maintain records of and certify proceedings of the Board and members; and (b) shall perform such other duties as may from time to time be prescribed by the Board.

3.3 Treasurer. Unless provided otherwise by a resolution adopted by the Board of Governors, the Treasurer: (a) shall keep accurate financial records for the Company; (b) shall deposit all monies, drafts, and checks in the name of and to the credit of the Company in such banks and depositories as the Board shall designate from time to time; (c) shall endorse for deposit all notes, checks, and drafts received by the Company as ordered by the Board, making proper vouchers therefor; (d) shall disburse company funds and issues checks and drafts in the name of the Company, as ordered by the Board; (e) shall render to the Board, whenever requested, an account of all of such manager's transactions as Treasurer and of the financial condition of the Company; and (f) shall perform such other duties as may be prescribed by the Board from time to time.

3.4 President. Unless otherwise determined by the Board of Governors, the President shall be the Chief Manager of the Company. If a manager other than the President is designated Chief Manager, the President shall perform such duties as may from time to time be assigned by the Board.

3.5 Secretary. The Secretary, unless otherwise determined by the Board of Governors, shall attend all meetings of the members and all meetings of the Board, shall record or cause to be recorded all proceedings thereof in a book to be kept for that purpose, and may certify such proceedings. Except as otherwise required or permitted by law or by this Operating Agreement, the Secretary shall give or cause to be given notice of all meetings of the members and all meetings of the Board.

3.6 Authority and Duties. In addition to the foregoing authority and duties, all managers of the Company shall respectively have such authority and perform such duties in the management of the business of the Company as may be designated from time to time by the Board of Governors. Unless prohibited by a resolution approved by the affirmative vote of a majority of the governors present, a manager elected or appointed by the Board may, without the approval of the Board, delegate some or all of the duties and powers of a position to other persons.

3.7 Term. Subdivision 1. All managers of the Company shall hold office until their respective successors are chosen and have qualified or until their earlier death, resignation, or removal.

Subdivision 2. A manager may resign at any time by giving written notice to the Company. The resignation is effective without acceptance when the notice is given to the Company, unless a later effective date is specified in the notice.

Subdivision 3. A manager may be removed at any time, with or without cause, by a resolution approved by the affirmative vote of a majority of the governors present at a duly held Board meeting.

Subdivision 4. A vacancy in a position because of death, resignation, removal, disqualification, or other cause may, or in the case of a vacancy in the position of Chief Manager or Treasurer shall, be filled for the unexpired portion of the term by the Board.

3.8 Salaries. The salaries of all managers of the Company shall be fixed by the Board of Governors.

GOVERNOR STANDARD OF CONDUCT; INDEMNIFICATION

4.1 Standard of Conduct. A governor shall discharge the duties of the position of governor in good faith, in a manner the governor reasonably believes to be in the best interests of the Company, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. A person who so performs those duties is not liable by reason of being or having been a governor of the Company.

4.2 Indemnification. The Company shall indemnify its managers and governors for such expenses and liabilities, in such manner, under such circumstances, and to such extent, as required or permitted by provisions of Minnesota law.

4.3 Insurance. The Company may purchase and maintain insurance on behalf of any person in such person's official capacity against any liability asserted against and incurred by such person in or arising from that capacity, whether or not the Company would otherwise be required to indemnify the person against the liability.

CONFLICTS OF INTEREST

5.1 Procedure when conflict arises. A contract or other transaction between this Company and: its governor or a member of the family of its governor; a director/governor of a related organization, or a member of the family of a director/governor of a related organization; or an organization in or of which the Company's governor, or a member of the family of its governor, is a director/governor, officer, or legal representative or has a material financial interest; is not void or voidable because the governor or the other individual or organization are parties or because the governor is present at the meeting of the members or the board or a committee at which the contract or transaction is authorized, approved, or ratified, if a requirement below is satisfied.

5.2 A contract or transaction described in paragraph 5.1 is not void or voidable if:

(a) the contract or transaction was, and the person asserting the validity of the contract or transaction has the burden of establishing that the contract or transaction was, fair and reasonable as to the corporation when it was authorized, approved, or ratified;

(b) the material facts as to the contract or transaction and as to the governor's interest are fully disclosed or known to the members and the contract or transaction is approved in good faith by two-thirds (2/3) of the members entitled to vote, not counting any vote that the interested governor might otherwise have, or the unanimous affirmative vote of all members, whether or not entitled to vote;

(c) the material facts as to the contract or transaction and as to the governor's interest are fully disclosed or known to the board or a committee, and the board or committee authorizes, approves, or ratifies the contract or transaction in good faith by a majority of the governors or committee members currently holding office, provided that the interested governor or governors may not vote and are not considered present for purposes of a quorum. If, as a result, the number of remaining governors is not sufficient to reach a quorum, a quorum for the purpose of considering the contract or transaction is the number of remaining governors or committee members; or

(d) the contract or transaction is a merger or consolidation described in Minnesota Statutes Section 317A.601.

GENERAL TERMS

6.1 Execution of Instruments.

(a) All deeds, mortgages, bonds, checks, contracts, and other instruments pertaining to the business and affairs of the Company shall be signed on behalf of the Company by such person or persons as may be designated from time to time by the Board of Governors.

(b) If a document must be executed by persons holding different positions or functions and one person holds such positions or exercises such functions, that person may execute the document in more than one capacity if the document indicates each such capacity.

6.2 Advances. The Company may, without a vote of the governors, advance money to its governors, managers, or employees to cover expenses that can reasonably be anticipated to be incurred by them in the performance of their duties and for which they would be entitled to reimbursement in the absence of an advance.

6.3 Company Seal. The Company shall have no seal.

6.4 Fiscal Year. The fiscal year of the Company shall be determined by the Board of Governors.

6.5 Amendments. The Board of Governors shall have the power to adopt, amend, or repeal the Operating Agreement of the Company, subject to the power of the members to change or repeal the same; provided, however, that the Board shall not adopt, amend, or repeal any Section fixing a quorum for meetings of members, prescribing procedures for removing governors or filling vacancies in the

Board, or fixing the number of governors or their classifications, qualifications, or terms of office, but may adopt or amend a Section that increases the number of governors.